IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT, IN AND FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO.: 2020-024374-CA-01

400 SUNNY ISLES MASTER ASSOCIATION, INC., 400 SUNNY ISLES CONDOMINIUM WEST ASSOCIATION, INC., AND 400 SUNNY ISLES CONDOMINIUM EAST ASSOCIATION, INC.,

Plaintiffs,

v.

400 SUNNY ISLES, LLC, MOSS & ASSOCIATES, LLC, KOBI KARP ARCHITECTURE AND INTERIOR DESIGN, INC., and B & J CONSULTING ENGINEERS, INC., VSN ENGINEERING, INC.,

Defendants.
_____/

**NOTICE OF FILING**
**EXHIBITS "A" THROUGH "E" OF COMPLAINT**

The Plaintiffs, 400 SUNNY ISLES MASTER ASSOCIATION, INC. (the "Master Association"), 400 SUNNY ISLES CONDOMINIUM WEST ASSOCIATION, INC. (the "West Association"), and 400 SUNNY ISLES CONDOMINIUM EAST ASSOCIATION, INC. (the "East Association") (collectively, the "Associations"), by and through their undersigned counsel, hereby file Exhibits "A" through "E" of their Complaint.

Respectfully submitted,

**GURSKY RAGAN, P.A.**
141 N.E. 3rd Avenue, Fifth Floor
Miami, Florida 33132
Telephone: (786)369-8879
Facsimile: (305)405-7104

By: /s/ Darrin Gursky
Darrin Gursky, Esq.

Fla. Bar No. 0606251
E-mail: Darrin@grcondolaw.com
Nicolas M. Jimenez, Esq.
Fla. Bar No. 123575
E-mail: Nicolas@grcondolaw.com
***Counsel for the Associations***

# EXHIBIT “A”

ROBERT L. KAYE
MICHAEL S. BENDER
JEFFREY A. REMBAUM
PETER C. MOLLENGARDEN
DEBORAH S. SUGARMAN
ANDREW B. BLACK
GERARD S. COLLINS
JEFFREY D. GREEN
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ALLISON L. HERTZ
ASHLEY R. TULLOCH
KERSTIN HENZE, OF COUNSEL
LISA A. MAGILL, OF COUNSEL

Kaye Bender Rembaum, P.L.
Attorneys At Law

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FAX (954) 772-0319
(800) 974-0680

WITH AN ADDITIONAL OFFICE
IN PALM BEACH GARDENS

*KBRLegal.Com*

October 11, 2017

**VIA CERTIFIED MAIL # 91 7199 9991 7036 5937 2268**
**RETURN RECEIPT REQUESTED**
**AND FIRST CLASS U.S. MAIL**
Kobi Karp Architecture &
Interior Design, Inc.
c/o Kobi Karp
2915 Biscayne Blvd.,
Suite 200,
Miami, FL 33137

***Re: 400 Sunny Isles Condominium East Association, Inc.***
***Section 558.04, Florida Statutes, Notice of Claim of Construction Defects***

Dear Mr. Karp:

Please be advised that Kaye Bender Rembaum, P.L. serves as Counsel for the 400 Sunny Isles East Condominium Association, Inc., ("400 Sunny Isles East"), which your company designed. Turnover to the unit owners recently occurred.

After Turnover, 400 Sunny Isles East discovered significant problems concerning the proper design, construction and installation of the common element improvements of the Sunny Isles East Condominium ("the East Condominium"), which constitute construction defects as defined pursuant to Section 558 *et. seq.*, Florida Statutes. This correspondence serves as formal Notice to you by 400 Sunny Isles East of these defects.

The Board of Directors of 400 Sunny Isles East has recently undertaken an independent review and inspection of the East Condominium by a Professional Engineer, which has verified the claim of defects in the construction of the common element improvements of the East Condominium. I have enclosed herewith a copy of the engineer's report, addendum and elevator report for your review and records.

With regard to the defects present at the East Condominium, said defects include, but are not limited to, the following: (1) Roof: Corrosion taking place along duct junctures and fasteners at various locations on the roof; standing water observed at certain locations; rusting rods; corrosion in the duct work; corroding louver fins; hardward cloth is corroding; corrosion of cabinet sheet metal; corrosion at the corner of the roof; deterioration of insulation foam placed on chilled tubing of AC coolant lines; poor waterproofing near mechanical elements on roof; and improperly terminated stucco; (2) East Building Roof Area Over Core 3: Standing water on roof membrane surface; Standing water on roof membranes is non-conforming with FBC requirement; Organic Growth; Standing water in shaded locations under pipes and mechanical equipment is particularly sensitive to organic growth development; Ductwork sheet metal should be properly broken to provide slope to prevent standing water and associated corrosion; Incorrectly flashed gaps around concrete pads; Organic growth in door thresholds; Polystyrene foam between the wall and concrete slab is not waterproof and will entrap moisture; Moisture is evidenced by the organic growth at the bottom of concrete pad and roof membrane juncture.

(3) East Building Roof Area Over Core 4: Concrete landing with a tapered concrete material on the roof membrane which will entrap water under it; tapered cementitious topping is seen to be cracking and maintaining a perpetually moist condition; Standing water in shaded areas; Incorrectly sloping roof surface; concrete landings have penetrations about 3 inches above the membrane, which are subject to water intrusion; water intrusion within the East building (core 4) electrical room; Stucco roof parapet was cracked at the top, interior stucco face and at the exterior stucco face; The opposite side of the small roof has a similar parapet crack; Heavy rust staining was observed just below the exit sign mounted beside the exit door at the top of the stair; inadequately sloped roof made more acute by the addition of a secondary slab that dams the moisture as well; Loose railing was found in the east building roof top terraces which had deflected beyond the code permitted distance and which were no longer fixed at the railing-post to deck juncture. This condition is considered a life safety concern which should be reconstructed as soon as possible; The door thresholds at the wall juncture between the terrace side and the mechanical side, are open to water penetration at the un-waterproofed juncture.

(4) East Building Stair 7: Water intrusion occurring at the juncture of the block stairwell wall with the cast in place wall below; water accumulation on the stair treads; Landing was also subjected to moisture entry under the roof access door threshold; Water progressing down the side of the upper stair landing structure; Water flowing to lower level landings; Water entering through the wall penetration associated with the emergency phone plate at the upper stair area; (5) East Building Stair 6: Water entering near the hinge side of the door; water accumulating at the landing at the 20$^{th}$ floor; Water running under stair structures and flowing to lower levels; (6) East Building Hallway at 7th Floor Flooded: Flooding at the west end of the corridor at east building 7th floor. The source of the water intrusion was found to be the mechanical room where the air handler was not provided with a condensation pan.

(7) Tennis Court Over Marina Dry Storage Building Roof: Large number of ponded areas; Iron oxide or other chemicals carried in water draining from the planters on the roof will have acidic pH and could expose the polymer roof membrane; Moisture running downhill to the west, eventually dams along the knee wall under the fence. This standing water is subject to organic growth and the associated deterioration affects; Pooled water on tennis court surfaces; (8) East Building Railing Installation Failure: The east building roof level terraces along the south façade are provided with glass and aluminum railings that have become loose; Large gaps between the railing posts and the surrounding pockets resulted in loss of adhesion at the base; The railing post grout material had failed to set correctly. The installed condition fails to prevent FBC requirements for lateral deflection of the railing, and more importantly, fails to provide adhesion of the railing post within the concrete base. This is considered a serious structural and life safety concern

(9) Exterior walls: Caulking of the expansion joints near the windows, indicating it leaked in the past. The M shaped expansion joint has been surface filled with sealant. This joint type cannot be repaired by filling the solid backed void in the expansion joint. This is considered an ineffective repair of an apparent leak at the corner of the window; (10) Elevator area: Gaps were present in the elevator between the wood and stone finishes; staining at joints inside elevator cab; broken Greenfield flex cables; oil in the elevator pit; dirty car tops and components; improper overhead clearance; and dirty hoistway and components; (11) Building Stairwell: Rust stain on the fire exit stairs leading from the penthouse; rust was found all over the railing inside the fire exit stairwell leading from the penthouse; severe rusting in the gap between the fire exit stair railing and the concrete slab; staining on the tread surfaces of certain stairwells; (12) Lobby: Many blocks in the lobby walls were not flush with the surrounding blocks, leaving gaps and lips where they join; and (13) Maintenance Room: Poorly applied fireproofing around pipes.

In addition to the above, significant problems concerning the proper design, construction and installation of the East Condominium units were observed, which include, but are not limited to the following:

| | |
|---|---|
| 117E: | Rubber gasket on the glass railing on the balcony is coming apart, allowing for water intrusion and corroding of the aluminum frame. The water heater was found to have no drainage pan underneath it to collect moisture. |
| 519E: | Unit does not have a pan under the water heater. Dark areas on the unit's balcony indicate water ponding. |
| 619E: | There is a noticeable and inconsistent gap between the tile floor and the wall inside the unit; Stucco at the corner is projecting from the wall, leaving a hole susceptible to water intrusion. A large rust stain also visible behind the railing post; there is a large crack in the stucco wall on the patio; the floor drain on the unit's patio is beginning to calcify due to water entrapment within and under the tile. Significant gaps were observed around the railing posts on the balcony. |

| | |
|---|---|
| 620E: | Gaps and cracks were noticed around the railing posts on the balcony. Dark areas around drain closest to the sliding glass door show signs of significant ponding; Open penetrations and tear of waterproof membrane of concrete terrace slab were observed; Cracks in the concrete at the sliding glass door trench drain adjoining the linear trench drain were considered to be excessive. Multiple instances of the concrete waterproofing cracking and breaking were found. |
| 621E: | Ponding areas on balcony; multiple shrinkage cracks were found in the concrete curb between the drain and the sliding glass door; cracks in the concrete near the base of the railing. Large crack spanning the width of the dividing wall between the unit and the neighboring unit. |
| 717E: | Water intrusion in unit. |
| 721E: | Excess waterproofing appeared to have been adding to the top surface in front of the balcony railing. |
| 916E: | A significant gap was commonly noted between the concrete slab transition and the interior window frame; water test was performed on the balcony in three different locations. The areas did not drain well, instead ponding water in the middle of the balcony and near the sliding glass door. |
| 1015E: | Dark deposits, appearing to be organic growth (possibly mildew), were found at the corner of the balcony above this unit. There was a large gap between the window frame and the concrete slab. |
| 1022E: | Concrete recess in front of the window was filled but cracks have formed. The glass in the master bedroom was found with two large cracks in it; metal flashing was found sticking out from underneath the wall next to the sliding glass door to the balcony; dark area on the balcony surface indicating ponding and improper drainage. Stucco on the unit's balcony is not flush with the exterior wall corner; cracks were noticed in the stucco ceiling and walls, allowing water to penetrate beneath the stucco and eventually the concrete |
| 1216E: | Broken window crank handle was found at one window; Black organic growth was observed on the ceiling of the balcony of the unit; |
| 1416E: | Water test was performed on the balcony of the unit. Water tended to pond in the center of the balcony. |
| 1419E: | Excess mortar from flooring consistently found underneath the entire length of the railing on the balcony. Rubber gaskets in the glass railing were often missing or did not run the entire length of the glass panel. |
| 1508E: | Rubber gasket on the balcony distended out of place. |
| 1517E: | Large gap between divider and concrete, the condition allows water entry under the tile. Dark areas on the balcony, especially near the sliding glass doors indicate water is ponding in those locations. |
| 1619E: | Wire penetrating the concrete floor slab; Moisture was found underneath the doorway. The drywall underneath and around the PVC |

valve is cracked and damaged. Collection of dirt in this area of the balcony suggests ponding may be occurring.

1819E: Areas of dirt collection in front of the glass railing indicate ponding and improper drainage of water from the balcony.

1920E: Concrete patching next to electrical outlet on the floor is extensive. Fastener on the dividing wall between the unit's balcony and the neighboring balcony is rusting, considered caused by dissimilar metals; Low spot in balcony indicates inadequate slope.

1921E: Dark areas in the center and near the sliding glass doors indicate the balcony is not draining properly, causing water to pond in these locations.

In addition to the above, the vast majority of the units are experiencing objectionable sound transmission through the walls at adjoining or neighboring units; objectionable problems with the air conditioning/mechanical ventilation system in terms of temperature issues; objectionable problems with the air conditioning/mechanical ventilation system in terms of noise issues; and objectionable problems with the functionality and condition of appliances and fixtures.

There are also many additional deficiencies present throughout the East Condominium, including those that are described in more detail in the attached engineer's report, addendum and elevator report, to which reference is hereby made.

As such, the above described problems concerning the East Condominium are properly considered "construction defects" pursuant to Section 558.01(5) *et seq.*, Florida Statutes. Your immediate attention and investigation of the issues described above is hereby demanded as there are significant health and safety concerns due to the above described defective design, construction and installation issues. Further, 400 Sunny Isles East has incurred significant costs investigating this matter, and is facing further significant costs to repair and remediate the problems and bring the common elements of the East Condominium to an acceptable condition.

Pursuant to Section 558.04, Florida Statutes, you are hereby notified of the defective design, construction and installation issues at the East Condominium. Chapter 558 of the Florida Statutes provides a very limited amount of time for you to perform a reasonable inspection of the property subject to the claim to assess each alleged construction defect. 400 Sunny Isles East will cooperate with you and/or your representative for the scheduling of a mutually convenient time for any such inspection. Chapter 558 of the Florida Statutes further provides very limited deadlines for you to make claims on your contractors, subcontractors, suppliers and design professionals for the defects specified in this Notice of Claim, and for otherwise serving a written response to this Notice of Claim.

Demand is hereby made upon you to undertake the appropriate investigation and repair requirements set forth by Statute. If you fail to respond in an acceptable manner, the Association shall have no alternative but to pursue all remedies available to it under the law.

**PLEASE BE GOVERNED ACCORDINGLY.**

Very truly yours,

JEFFREY D, GREEN, ESQ.

JDG/
Enclosure (Engineer's Report, Addendum and Elevator Report)
cc: Michael S. Bender, Esq.
Board of Directors

ROBERT L. KAYE
MICHAEL S. BENDER
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Kaye Bender Rembaum, P.L.
Attorneys At Law

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October 11, 2017

**VIA CERTIFIED MAIL # 91 7199 9991 7036 5937 2251**
**RETURN RECEIPT REQUESTED**
**AND FIRST CLASS U.S. MAIL**
VSN Engineering, Inc.
c/o Deanna Resq Hurt
9265 SW 9th Terrace
Miami, FL 33174

***Re: 400 Sunny Isles Condominium East Association, Inc.***
***Section 558.04, Florida Statutes, Notice of Claim of Construction Defects***

Dear Deanna Resq Hurt:

Please be advised that Kaye Bender Rembaum, P.L. serves as Counsel for the 400 Sunny Isles East Condominium Association, Inc., ("400 Sunny Isles East"), which your company civilly engineered. Turnover to the unit owners recently occurred.

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rusting rods; corrosion in the duct work; corroding louver fins; hardward cloth is corroding; corrosion of cabinet sheet metal; corrosion at the corner of the roof; deterioration of insulation foam placed on chilled tubing of AC coolant lines; poor waterproofing near mechanical elements on roof; and improperly terminated stucco; (2) East Building Roof Area Over Core 3: Standing water on roof membrane surface; Standing water on roof membranes is non-conforming with FBC requirement; Organic Growth; Standing water in shaded locations under pipes and mechanical equipment is particularly sensitive to organic growth development; Ductwork sheet metal should be properly broken to provide slope to prevent standing water and associated corrosion; Incorrectly flashed gaps around concrete pads; Organic growth in door thresholds; Polystyrene foam between the wall and concrete slab is not waterproof and will entrap moisture; Moisture is evidenced by the organic growth at the bottom of concrete pad and roof membrane juncture.

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621E: Ponding areas on balcony; multiple shrinkage cracks were found in the concrete curb between the drain and the sliding glass door; cracks in the concrete near the base of the railing. Large crack spanning the width of the dividing wall between the unit and the neighboring unit.

717E: Water intrusion in unit.

721E: Excess waterproofing appeared to have been adding to the top surface in front of the balcony railing.

916E: A significant gap was commonly noted between the concrete slab transition and the interior window frame; water test was performed on the balcony in three different locations. The areas did not drain well, instead ponding water in the middle of the balcony and near the sliding glass door.

1015E: Dark deposits, appearing to be organic growth (possibly mildew), were found at the corner of the balcony above this unit. There was a large gap between the window frame and the concrete slab.

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1508E: Rubber gasket on the balcony distended out of place.

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1619E: Wire penetrating the concrete floor slab; Moisture was found underneath the doorway. The drywall underneath and around the PVC valve is cracked and damaged. Collection of dirt in this area of the balcony suggests ponding may be occurring.

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and improper drainage of water from the balcony.

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**PLEASE BE GOVERNED ACCORDINGLY.**

Very truly yours,

JEFFREY D, GREEN, ESQ.

JDG/
Enclosure (Engineer's Report, Addendum and Elevator Report)
cc: Michael S. Bender, Esq.
Board of Directors

ROBERT L. KAYE
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Kaye Bender Rembaum, P.L.
Attorneys At Law

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October 11, 2017

**VIA CERTIFIED MAIL # 91 7199 9991 7036 5937 2381**
**RETURN RECEIPT REQUESTED**
**AND FIRST CLASS U.S. MAIL**
Moss & Associates, LLC.
c/o Bob L. Moss
2101 North Andrews Avenue
Fort Lauderdale, FL 33311

***Re: 400 Sunny Isles Condominium East Association, Inc.***
***Section 558.04, Florida Statutes, Notice of Claim of Construction Defects***

Dear Mr. Moss:

Please be advised that Kaye Bender Rembaum, P.L. serves as Counsel for the 400 Sunny Isles East Condominium Association, Inc., ("400 Sunny Isles East"), which your company constructed. Turnover to the unit owners recently occurred.

After Turnover, 400 Sunny Isles East discovered significant problems concerning the proper design, construction and installation of the common element improvements of the Sunny Isles East Condominium ("the East Condominium"), which constitute construction defects as defined pursuant to Section 558 *et. seq.,* Florida Statutes. This correspondence serves as formal Notice to you by 400 Sunny Isles East of these defects.

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With regard to the defects present at the East Condominium, said defects include, but are not limited to, the following: (1) Roof: Corrosion taking place along duct junctures

and fasteners at various locations on the roof; standing water observed at certain locations; rusting rods; corrosion in the duct work; corroding louver fins; hardward cloth is corroding; corrosion of cabinet sheet metal; corrosion at the corner of the roof; deterioration of insulation foam placed on chilled tubing of AC coolant lines; poor waterproofing near mechanical elements on roof; and improperly terminated stucco; (2) East Building Roof Area Over Core 3: Standing water on roof membrane surface; Standing water on roof membranes is non-conforming with FBC requirement; Organic Growth; Standing water in shaded locations under pipes and mechanical equipment is particularly sensitive to organic growth development; Ductwork sheet metal should be properly broken to provide slope to prevent standing water and associated corrosion; Incorrectly flashed gaps around concrete pads; Organic growth in door thresholds; Polystyrene foam between the wall and concrete slab is not waterproof and will entrap moisture; Moisture is evidenced by the organic growth at the bottom of concrete pad and roof membrane juncture.

(3) East Building Roof Area Over Core 4: Concrete landing with a tapered concrete material on the roof membrane which will entrap water under it; tapered cementitious topping is seen to be cracking and maintaining a perpetually moist condition; Standing water in shaded areas; Incorrectly sloping roof surface; concrete landings have penetrations about 3 inches above the membrane, which are subject to water intrusion; water intrusion within the East building (core 4) electrical room; Stucco roof parapet was cracked at the top, interior stucco face and at the exterior stucco face; The opposite side of the small roof has a similar parapet crack; Heavy rust staining was observed just below the exit sign mounted beside the exit door at the top of the stair; inadequately sloped roof made more acute by the addition of a secondary slab that dams the moisture as well; Loose railing was found in the east building roof top terraces which had deflected beyond the code permitted distance and which were no longer fixed at the railing-post to deck juncture. This condition is considered a life safety concern which should be reconstructed as soon as possible; The door thresholds at the wall juncture between the terrace side and the mechanical side, are open to water penetration at the un-waterproofed juncture.

(4) East Building Stair 7: Water intrusion occurring at the juncture of the block stairwell wall with the cast in place wall below; water accumulation on the stair treads; Landing was also subjected to moisture entry under the roof access door threshold; Water progressing down the side of the upper stair landing structure; Water flowing to lower level landings; Water entering through the wall penetration associated with the emergency phone plate at the upper stair area; (5) East Building Stair 6: Water entering near the hinge side of the door; water accumulating at the landing at the 20th floor; Water running under stair structures and flowing to lower levels; (6) East Building Hallway at 7th Floor Flooded: Flooding at the west end of the corridor at east building 7th floor. The source of the water intrusion was found to be the mechanical room where the air handler was not provided with a condensation pan.

(7) Tennis Court Over Marina Dry Storage Building Roof: Large number of ponded areas; Iron oxide or other chemicals carried in water draining from the planters on the roof will have acidic pH and could expose the polymer roof membrane; Moisture running downhill to the west, eventually dams along the knee wall under the fence. This standing water is subject to organic growth and the associated deterioration affects; Pooled water on tennis court surfaces; (8) East Building Railing Installation Failure: The east building roof level terraces along the south façade are provided with glass and aluminum railings that have become loose; Large gaps between the railing posts and the surrounding pockets resulted in loss of adhesion at the base; The railing post grout material had failed to set correctly. The installed condition fails to prevent FBC requirements for lateral deflection of the railing, and more importantly, fails to provide adhesion of the railing post within the concrete base. This is considered a serious structural and life safety concern

(9) Exterior walls: Caulking of the expansion joints near the windows, indicating it leaked in the past. The M shaped expansion joint has been surface filled with sealant. This joint type cannot be repaired by filling the solid backed void in the expansion joint. This is considered an ineffective repair of an apparent leak at the corner of the window; (10) Elevator area: Gaps were present in the elevator between the wood and stone finishes; staining at joints inside elevator cab; broken Greenfield flex cables; oil in the elevator pit; dirty car tops and components; improper overhead clearance; and dirty hoistway and components; (11) Building Stairwell: Rust stain on the fire exit stairs leading from the penthouse; rust was found all over the railing inside the fire exit stairwell leading from the penthouse; severe rusting in the gap between the fire exit stair railing and the concrete slab; staining on the tread surfaces of certain stairwells; (12) Lobby: Many blocks in the lobby walls were not flush with the surrounding blocks, leaving gaps and lips where they join; and (13) Maintenance Room: Poorly applied fireproofing around pipes.

In addition to the above, significant problems concerning the proper design, construction and installation of the East Condominium units were observed, which include, but are not limited to the following:

| | |
|---|---|
| 117E: | Rubber gasket on the glass railing on the balcony is coming apart, allowing for water intrusion and corroding of the aluminum frame. The water heater was found to have no drainage pan underneath it to collect moisture. |
| 519E: | Unit does not have a pan under the water heater. Dark areas on the unit's balcony indicate water ponding. |
| 619E: | There is a noticeable and inconsistent gap between the tile floor and the wall inside the unit; Stucco at the corner is projecting from the wall, leaving a hole susceptible to water intrusion. A large rust stain also visible behind the railing post; there is a large crack in the stucco wall on the patio; the floor drain on the unit's patio is beginning to calcify due to water entrapment within and under the |

tile. Significant gaps were observed around the railing posts on the balcony.

620E: Gaps and cracks were noticed around the railing posts on the balcony. Dark areas around drain closest to the sliding glass door show signs of significant ponding; Open penetrations and tear of waterproof membrane of concrete terrace slab were observed; Cracks in the concrete at the sliding glass door trench drain adjoining the linear trench drain were considered to be excessive. Multiple instances of the concrete waterproofing cracking and breaking were found.

621E: Ponding areas on balcony; multiple shrinkage cracks were found in the concrete curb between the drain and the sliding glass door; cracks in the concrete near the base of the railing. Large crack spanning the width of the dividing wall between the unit and the neighboring unit.

717E: Water intrusion in unit.

721E: Excess waterproofing appeared to have been adding to the top surface in front of the balcony railing.

916E: A significant gap was commonly noted between the concrete slab transition and the interior window frame; water test was performed on the balcony in three different locations. The areas did not drain well, instead ponding water in the middle of the balcony and near the sliding glass door.

1015E: Dark deposits, appearing to be organic growth (possibly mildew), were found at the corner of the balcony above this unit. There was a large gap between the window frame and the concrete slab.

1022E: Concrete recess in front of the window was filled but cracks have formed. The glass in the master bedroom was found with two large cracks in it; metal flashing was found sticking out from underneath the wall next to the sliding glass door to the balcony; dark area on the balcony surface indicating ponding and improper drainage. Stucco on the unit's balcony is not flush with the exterior wall corner; cracks were noticed in the stucco ceiling and walls, allowing water to penetrate beneath the stucco and eventually the concrete

1216E: Broken window crank handle was found at one window; Black organic growth was observed on the ceiling of the balcony of the unit;

1416E: Water test was performed on the balcony of the unit. Water tended to pond in the center of the balcony.

1419E: Excess mortar from flooring consistently found underneath the entire length of the railing on the balcony. Rubber gaskets in the glass railing were often missing or did not run the entire length of the glass panel.

| | |
|---|---|
| 1508E: | Rubber gasket on the balcony distended out of place. |
| 1517E: | Large gap between divider and concrete, the condition allows water entry under the tile. Dark areas on the balcony, especially near the sliding glass doors indicate water is ponding in those locations. |
| 1619E: | Wire penetrating the concrete floor slab; Moisture was found underneath the doorway. The drywall underneath and around the PVC valve is cracked and damaged. Collection of dirt in this area of the balcony suggests ponding may be occurring. |
| 1819E: | Areas of dirt collection in front of the glass railing indicate ponding and improper drainage of water from the balcony. |
| 1920E: | Concrete patching next to electrical outlet on the floor is extensive. Fastener on the dividing wall between the unit's balcony and the neighboring balcony is rusting, considered caused by dissimilar metals; Low spot in balcony indicates inadequate slope. |
| 1921E: | Dark areas in the center and near the sliding glass doors indicate the balcony is not draining properly, causing water to pond in these locations. |

In addition to the above, the vast majority of the units are experiencing objectionable sound transmission through the walls at adjoining or neighboring units; objectionable problems with the air conditioning/mechanical ventilation system in terms of temperature issues; objectionable problems with the air conditioning/mechanical ventilation system in terms of noise issues; and objectionable problems with the functionality and condition of appliances and fixtures.

There are also many additional deficiencies present throughout the East Condominium, including those that are described in more detail in the attached engineer's report, addendum and elevator report, to which reference is hereby made.

As such, the above described problems concerning the East Condominium are properly considered "construction defects" pursuant to Section 558.01(5) *et seq.*, Florida Statutes. Your immediate attention and investigation of the issues described above is hereby demanded as there are significant health and safety concerns due to the above described defective design, construction and installation issues. Further, 400 Sunny Isles East has incurred significant costs investigating this matter, and is facing further significant costs to repair and remediate the problems and bring the common elements of the East Condominium to an acceptable condition.

Pursuant to Section 558.04, Florida Statutes, you are hereby notified of the defective design, construction and installation issues at the East Condominium. Chapter 558 of the Florida Statutes provides a very limited amount of time for you to perform a reasonable inspection of the property subject to the claim to assess each alleged construction defect. 400 Sunny Isles East will cooperate with you and/or your

representative for the scheduling of a mutually convenient time for any such inspection. Chapter 558 of the Florida Statutes further provides very limited deadlines for you to make claims on your contractors, subcontractors, suppliers and design professionals for the defects specified in this Notice of Claim, and for otherwise serving a written response to this Notice of Claim.

Demand is hereby made upon you to undertake the appropriate investigation and repair requirements set forth by Statute. If you fail to respond in an acceptable manner, the Association shall have no alternative but to pursue all remedies available to it under the law.

**PLEASE BE GOVERNED ACCORDINGLY.**

Very truly yours,

JEFFREY D, GREEN, ESQ.

JDG/
Enclosure (Engineer's Report, Addendum and Elevator Report)
cc: Michael S. Bender, Esq.
Board of Directors

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IN PALM BEACH GARDENS

*KBRLegal.Com*

October 11, 2017

**VIA CERTIFIED MAIL # 91 7199 9991 7036 5937 2374**
**RETURN RECEIPT REQUESTED**
**AND FIRST CLASS U.S. MAIL**
400 Sunny Isles LLC
c/o Arthur Amron
411 West Putnam Avenue
Greenwich, CT 06830

***Re: 400 Sunny Isles Condominium East Association, Inc.***
***Section 558.04, Florida Statutes, Notice of Claim of Construction Defects***

Dear Mr. Amron:

Please be advised that Kaye Bender Rembaum, P.L. serves as Counsel for the 400 Sunny Isles East Condominium Association, Inc., ("400 Sunny Isles East"), which your company developed. Turnover from your company to the unit owners recently occurred.

After Turnover, 400 Sunny Isles East discovered significant problems concerning the proper design, construction and installation of the common element improvements of the Sunny Isles East Condominium ("the East Condominium"), which constitute construction defects as defined pursuant to Section 558 *et. seq.,* Florida Statutes. This correspondence serves as formal Notice to you by 400 Sunny Isles East of these defects.

The Board of Directors of 400 Sunny Isles East has recently undertaken an independent review and inspection of the East Condominium by a Professional Engineer, which has verified the claim of defects in the construction of the common element improvements of the East Condominium. I have enclosed herewith a copy of the engineer's report, addendum and elevator report for your review and records.

With regard to the defects present at the East Condominium, said defects include, but are not limited to, the following: (1) Roof: Corrosion taking place along duct junctures and fasteners at various locations on the roof; standing water observed at certain locations;

rusting rods; corrosion in the duct work; corroding louver fins; hardward cloth is corroding; corrosion of cabinet sheet metal; corrosion at the corner of the roof; deterioration of insulation foam placed on chilled tubing of AC coolant lines; poor waterproofing near mechanical elements on roof; and improperly terminated stucco; (2) East Building Roof Area Over Core 3: Standing water on roof membrane surface; Standing water on roof membranes is non-conforming with FBC requirement; Organic Growth; Standing water in shaded locations under pipes and mechanical equipment is particularly sensitive to organic growth development; Ductwork sheet metal should be properly broken to provide slope to prevent standing water and associated corrosion; Incorrectly flashed gaps around concrete pads; Organic growth in door thresholds; Polystyrene foam between the wall and concrete slab is not waterproof and will entrap moisture; Moisture is evidenced by the organic growth at the bottom of concrete pad and roof membrane juncture.

(3) East Building Roof Area Over Core 4: Concrete landing with a tapered concrete material on the roof membrane which will entrap water under it; tapered cementitious topping is seen to be cracking and maintaining a perpetually moist condition; Standing water in shaded areas; Incorrectly sloping roof surface; concrete landings have penetrations about 3 inches above the membrane, which are subject to water intrusion; water intrusion within the East building (core 4) electrical room; Stucco roof parapet was cracked at the top, interior stucco face and at the exterior stucco face; The opposite side of the small roof has a similar parapet crack; Heavy rust staining was observed just below the exit sign mounted beside the exit door at the top of the stair; inadequately sloped roof made more acute by the addition of a secondary slab that dams the moisture as well; Loose railing was found in the east building roof top terraces which had deflected beyond the code permitted distance and which were no longer fixed at the railing-post to deck juncture. This condition is considered a life safety concern which should be reconstructed as soon as possible; The door thresholds at the wall juncture between the terrace side and the mechanical side, are open to water penetration at the un-waterproofed juncture.

(4) East Building Stair 7: Water intrusion occurring at the juncture of the block stairwell wall with the cast in place wall below; water accumulation on the stair treads; Landing was also subjected to moisture entry under the roof access door threshold; Water progressing down the side of the upper stair landing structure; Water flowing to lower level landings; Water entering through the wall penetration associated with the emergency phone plate at the upper stair area; (5) East Building Stair 6: Water entering near the hinge side of the door; water accumulating at the landing at the 20th floor; Water running under stair structures and flowing to lower levels; (6) East Building Hallway at 7th Floor Flooded: Flooding at the west end of the corridor at east building 7th floor. The source of the water intrusion was found to be the mechanical room where the air handler was not provided with a condensation pan.

(7) Tennis Court Over Marina Dry Storage Building Roof: Large number of ponded areas; Iron oxide or other chemicals carried in water draining from the planters on the roof will have acidic pH and could expose the polymer roof membrane; Moisture running

downhill to the west, eventually dams along the knee wall under the fence. This standing water is subject to organic growth and the associated deterioration affects; Pooled water on tennis court surfaces; (8) East Building Railing Installation Failure: The east building roof level terraces along the south façade are provided with glass and aluminum railings that have become loose; Large gaps between the railing posts and the surrounding pockets resulted in loss of adhesion at the base; The railing post grout material had failed to set correctly. The installed condition fails to prevent FBC requirements for lateral deflection of the railing, and more importantly, fails to provide adhesion of the railing post within the concrete base. This is considered a serious structural and life safety concern

(9) Exterior walls: Caulking of the expansion joints near the windows, indicating it leaked in the past. The M shaped expansion joint has been surface filled with sealant. This joint type cannot be repaired by filling the solid backed void in the expansion joint. This is considered an ineffective repair of an apparent leak at the corner of the window; (10) Elevator area: Gaps were present in the elevator between the wood and stone finishes; staining at joints inside elevator cab; broken Greenfield flex cables; oil in the elevator pit; dirty car tops and components; improper overhead clearance; and dirty hoistway and components; (11) Building Stairwell: Rust stain on the fire exit stairs leading from the penthouse; rust was found all over the railing inside the fire exit stairwell leading from the penthouse; severe rusting in the gap between the fire exit stair railing and the concrete slab; staining on the tread surfaces of certain stairwells; (12) Lobby: Many blocks in the lobby walls were not flush with the surrounding blocks, leaving gaps and lips where they join; and (13) Maintenance Room: Poorly applied fireproofing around pipes.

In addition to the above, significant problems concerning the proper design, construction and installation of the East Condominium units were observed, which include, but are not limited to the following:

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| 117E: | Rubber gasket on the glass railing on the balcony is coming apart, allowing for water intrusion and corroding of the aluminum frame. The water heater was found to have no drainage pan underneath it to collect moisture. |
| 519E: | Unit does not have a pan under the water heater. Dark areas on the unit's balcony indicate water ponding. |
| 619E: | There is a noticeable and inconsistent gap between the tile floor and the wall inside the unit; Stucco at the corner is projecting from the wall, leaving a hole susceptible to water intrusion. A large rust stain also visible behind the railing post; there is a large crack in the stucco wall on the patio; the floor drain on the unit's patio is beginning to calcify due to water entrapment within and under the tile. Significant gaps were observed around the railing posts on the balcony. |
| 620E: | Gaps and cracks were noticed around the railing posts on the balcony. Dark areas around drain closest to the sliding glass door show signs of significant ponding; Open penetrations and tear of waterproof |

membrane of concrete terrace slab were observed; Cracks in the concrete at the sliding glass door trench drain adjoining the linear trench drain were considered to be excessive. Multiple instances of the concrete waterproofing cracking and breaking were found.

621E: Ponding areas on balcony; multiple shrinkage cracks were found in the concrete curb between the drain and the sliding glass door; cracks in the concrete near the base of the railing. Large crack spanning the width of the dividing wall between the unit and the neighboring unit.

717E: Water intrusion in unit.

721E: Excess waterproofing appeared to have been adding to the top surface in front of the balcony railing.

916E: A significant gap was commonly noted between the concrete slab transition and the interior window frame; water test was performed on the balcony in three different locations. The areas did not drain well, instead ponding water in the middle of the balcony and near the sliding glass door.

1015E: Dark deposits, appearing to be organic growth (possibly mildew), were found at the corner of the balcony above this unit. There was a large gap between the window frame and the concrete slab.

1022E: Concrete recess in front of the window was filled but cracks have formed. The glass in the master bedroom was found with two large cracks in it; metal flashing was found sticking out from underneath the wall next to the sliding glass door to the balcony; dark area on the balcony surface indicating ponding and improper drainage. Stucco on the unit's balcony is not flush with the exterior wall corner; cracks were noticed in the stucco ceiling and walls, allowing water to penetrate beneath the stucco and eventually the concrete

1216E: Broken window crank handle was found at one window; Black organic growth was observed on the ceiling of the balcony of the unit;

1416E: Water test was performed on the balcony of the unit. Water tended to pond in the center of the balcony.

1419E: Excess mortar from flooring consistently found underneath the entire length of the railing on the balcony. Rubber gaskets in the glass railing were often missing or did not run the entire length of the glass panel.

1508E: Rubber gasket on the balcony distended out of place.

1517E: Large gap between divider and concrete, the condition allows water entry under the tile. Dark areas on the balcony, especially near the sliding glass doors indicate water is ponding in those locations.

1619E: Wire penetrating the concrete floor slab; Moisture was found underneath the doorway. The drywall underneath and around the PVC valve is cracked and damaged. Collection of dirt in this area of the balcony suggests ponding may be occurring.

1819E: Areas of dirt collection in front of the glass railing indicate ponding

and improper drainage of water from the balcony.

1920E: Concrete patching next to electrical outlet on the floor is extensive. Fastener on the dividing wall between the unit's balcony and the neighboring balcony is rusting, considered caused by dissimilar metals; Low spot in balcony indicates inadequate slope.

1921E: Dark areas in the center and near the sliding glass doors indicate the balcony is not draining properly, causing water to pond in these locations.

In addition to the above, the vast majority of the units are experiencing objectionable sound transmission through the walls at adjoining or neighboring units; objectionable problems with the air conditioning/mechanical ventilation system in terms of temperature issues; objectionable problems with the air conditioning/mechanical ventilation system in terms of noise issues; and objectionable problems with the functionality and condition of appliances and fixtures.

There are also many additional deficiencies present throughout the East Condominium, including those that are described in more detail in the attached engineer's report, addendum and elevator report, to which reference is hereby made.

As such, the above described problems concerning the East Condominium are properly considered "construction defects" pursuant to Section 558.01(5) *et seq.*, Florida Statutes. Your immediate attention and investigation of the issues described above is hereby demanded as there are significant health and safety concerns due to the above described defective design, construction and installation issues. Further, 400 Sunny Isles East has incurred significant costs investigating this matter, and is facing further significant costs to repair and remediate the problems and bring the common elements of the East Condominium to an acceptable condition.

Pursuant to Section 558.04, Florida Statutes, you are hereby notified of the defective design, construction and installation issues at the East Condominium. Chapter 558 of the Florida Statutes provides a very limited amount of time for you to perform a reasonable inspection of the property subject to the claim to assess each alleged construction defect. 400 Sunny Isles East will cooperate with you and/or your representative for the scheduling of a mutually convenient time for any such inspection. Chapter 558 of the Florida Statutes further provides very limited deadlines for you to make claims on your contractors, subcontractors, suppliers and design professionals for the defects specified in this Notice of Claim, and for otherwise serving a written response to this Notice of Claim.

Please also accept this letter as 400 Sunny Isles East's communication of the requirements and restrictions set forth in the Uniform Fraudulent Transfer Act (Florida Statute 726.01, *et. seq.*), and other related acts which restrict you, the Developer, any related or apparent companies, and subsidiaries, partnerships, partners, associates, etc., from rendering any such entity and/or the Developer itself without sufficient funds to satisfy the

debt which may be owed to 400 Sunny Isles East Condominium Association, Inc., as a "present and future creditor" under the Statute, or otherwise.

These restrictions include, but are not limited to, the transference, liquidation, sale, acquisition, merger or any other means of asset depletion or secreting which serves to leave any such entity or person without sufficient funds to satisfy the debt which will be owed to 400 Sunny Isles East. Note that under these circumstances, the statute entirely restricts any attempt to liquidate a Florida corporation in order to transfer any balance to a foreign or domestic corporation or other person or entity. In accordance with the statutes, demand is hereby made upon you to ensure that sufficient funds exist and remain to satisfy the debt which may be owed to 400 Sunny Isles East as a "present and future creditor" under the statute, or otherwise.

Demand is hereby made upon you to undertake the appropriate investigation and repair requirements set forth by Statute. If you fail to respond in an acceptable manner, the Association shall have no alternative but to pursue all remedies available to it under the law.

**PLEASE BE GOVERNED ACCORDINGLY.**

Very truly yours,

JEFFREY D, GREEN, ESQ.

JDG/
Enclosure (Engineer's Report, Addendum and Elevator Report)
cc: Michael S. Bender, Esq.
Board of Directors

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October 11, 2017

**VIA CERTIFIED MAIL # 91 7199 9991 7036 5937 2367**
**RETURN RECEIPT REQUESTED**
**AND FIRST CLASS U.S. MAIL**
B&J Consulting Engineers., Inc.,
c/o Jaime H. Jaramillo
10881 NW 73rd Terrace
Doral, FL 33178

***Re: 400 Sunny Isles Condominium East Association, Inc.***
***Section 558.04, Florida Statutes, Notice of Claim of Construction Defects***

Dear Mr. Jaramillo:

Please be advised that Kaye Bender Rembaum, P.L. serves as Counsel for the 400 Sunny Isles East Condominium Association, Inc., ("400 Sunny Isles East"), which your company structurally engineered. Turnover to the unit owners recently occurred.

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(9) Exterior walls: Caulking of the expansion joints near the windows, indicating it leaked in the past. The M shaped expansion joint has been surface filled with sealant. This joint type cannot be repaired by filling the solid backed void in the expansion joint. This is considered an ineffective repair of an apparent leak at the corner of the window; (10) Elevator area: Gaps were present in the elevator between the wood and stone finishes; staining at joints inside elevator cab; broken Greenfield flex cables; oil in the elevator pit; dirty car tops and components; improper overhead clearance; and dirty hoistway and components; (11) Building Stairwell: Rust stain on the fire exit stairs leading from the penthouse; rust was found all over the railing inside the fire exit stairwell leading from the penthouse; severe rusting in the gap between the fire exit stair railing and the concrete slab; staining on the tread surfaces of certain stairwells; (12) Lobby: Many blocks in the lobby walls were not flush with the surrounding blocks, leaving gaps and lips where they join; and (13) Maintenance Room: Poorly applied fireproofing around pipes.

In addition to the above, significant problems concerning the proper design, construction and installation of the East Condominium units were observed, which include, but are not limited to the following:

| | |
|---|---|
| 117E: | Rubber gasket on the glass railing on the balcony is coming apart, allowing for water intrusion and corroding of the aluminum frame. The water heater was found to have no drainage pan underneath it to collect moisture. |
| 519E: | Unit does not have a pan under the water heater. Dark areas on the unit's balcony indicate water ponding. |
| 619E: | There is a noticeable and inconsistent gap between the tile floor and the wall inside the unit; Stucco at the corner is projecting from the wall, leaving a hole susceptible to water intrusion. A large rust stain also visible behind the railing post; there is a large crack in the stucco wall on the patio; the floor drain on the unit's patio is beginning to calcify due to water entrapment within and under the tile. Significant gaps were observed around the railing posts on the balcony. |
| 620E: | Gaps and cracks were noticed around the railing posts on the balcony. Dark areas around drain closest to the sliding glass door show signs of significant ponding; Open penetrations and tear of waterproof |

membrane of concrete terrace slab were observed; Cracks in the concrete at the sliding glass door trench drain adjoining the linear trench drain were considered to be excessive. Multiple instances of the concrete waterproofing cracking and breaking were found.

621E: Ponding areas on balcony; multiple shrinkage cracks were found in the concrete curb between the drain and the sliding glass door; cracks in the concrete near the base of the railing. Large crack spanning the width of the dividing wall between the unit and the neighboring unit.

717E: Water intrusion in unit.

721E: Excess waterproofing appeared to have been adding to the top surface in front of the balcony railing.

916E: A significant gap was commonly noted between the concrete slab transition and the interior window frame; water test was performed on the balcony in three different locations. The areas did not drain well, instead ponding water in the middle of the balcony and near the sliding glass door.

1015E: Dark deposits, appearing to be organic growth (possibly mildew), were found at the corner of the balcony above this unit. There was a large gap between the window frame and the concrete slab.

1022E: Concrete recess in front of the window was filled but cracks have formed. The glass in the master bedroom was found with two large cracks in it; metal flashing was found sticking out from underneath the wall next to the sliding glass door to the balcony; dark area on the balcony surface indicating ponding and improper drainage. Stucco on the unit's balcony is not flush with the exterior wall corner; cracks were noticed in the stucco ceiling and walls, allowing water to penetrate beneath the stucco and eventually the concrete

1216E: Broken window crank handle was found at one window; Black organic growth was observed on the ceiling of the balcony of the unit;

1416E: Water test was performed on the balcony of the unit. Water tended to pond in the center of the balcony.

1419E: Excess mortar from flooring consistently found underneath the entire length of the railing on the balcony. Rubber gaskets in the glass railing were often missing or did not run the entire length of the glass panel.

1508E: Rubber gasket on the balcony distended out of place.

1517E: Large gap between divider and concrete, the condition allows water entry under the tile. Dark areas on the balcony, especially near the sliding glass doors indicate water is ponding in those locations.

1619E: Wire penetrating the concrete floor slab; Moisture was found underneath the doorway. The drywall underneath and around the PVC valve is cracked and damaged. Collection of dirt in this area of the balcony suggests ponding may be occurring.

1819E: Areas of dirt collection in front of the glass railing indicate ponding

and improper drainage of water from the balcony.

1920E: Concrete patching next to electrical outlet on the floor is extensive. Fastener on the dividing wall between the unit's balcony and the neighboring balcony is rusting, considered caused by dissimilar metals; Low spot in balcony indicates inadequate slope.

1921E: Dark areas in the center and near the sliding glass doors indicate the balcony is not draining properly, causing water to pond in these locations.

In addition to the above, the vast majority of the units are experiencing objectionable sound transmission through the walls at adjoining or neighboring units; objectionable problems with the air conditioning/mechanical ventilation system in terms of temperature issues; objectionable problems with the air conditioning/mechanical ventilation system in terms of noise issues; and objectionable problems with the functionality and condition of appliances and fixtures.

There are also many additional deficiencies present throughout the East Condominium, including those that are described in more detail in the attached engineer's report, addendum and elevator report, to which reference is hereby made.

As such, the above described problems concerning the East Condominium are properly considered "construction defects" pursuant to Section 558.01(5) *et seq.*, Florida Statutes. Your immediate attention and investigation of the issues described above is hereby demanded as there are significant health and safety concerns due to the above described defective design, construction and installation issues. Further, 400 Sunny Isles East has incurred significant costs investigating this matter, and is facing further significant costs to repair and remediate the problems and bring the common elements of the East Condominium to an acceptable condition.

Pursuant to Section 558.04, Florida Statutes, you are hereby notified of the defective design, construction and installation issues at the East Condominium. Chapter 558 of the Florida Statutes provides a very limited amount of time for you to perform a reasonable inspection of the property subject to the claim to assess each alleged construction defect. 400 Sunny Isles East will cooperate with you and/or your representative for the scheduling of a mutually convenient time for any such inspection. Chapter 558 of the Florida Statutes further provides very limited deadlines for you to make claims on your contractors, subcontractors, suppliers and design professionals for the defects specified in this Notice of Claim, and for otherwise serving a written response to this Notice of Claim.

Demand is hereby made upon you to undertake the appropriate investigation and repair requirements set forth by Statute. If you fail to respond in an acceptable manner, the Association shall have no alternative but to pursue all remedies available to it under the law.

**PLEASE BE GOVERNED ACCORDINGLY.**

Very truly yours,

JEFFREY D. GREEN, ESQ.

JDG/
Enclosure (Engineer's Report, Addendum and Elevator Report)
cc: Michael S. Bender, Esq.
Board of Directors

ROBERT L. KAYE
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Attorneys At Law

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FAX (954) 772-0319
(800) 974-0680

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October 11, 2017

**VIA CERTIFIED MAIL # 91 7199 9991 7036 5937 2350**
**RETURN RECEIPT REQUESTED**
**AND FIRST CLASS U.S. MAIL**
Kobi Karp Architecture &
Interior Design, Inc.
c/o Kobi Karp
2915 Biscayne Blvd.,
Suite 200,
Miami, FL 33137

***Re: 400 Sunny Isles Master Association, Inc.***
***Section 558.04, Florida Statutes, Notice of Claim of Construction Defects***

Dear Mr. Karp:

Please be advised that Kaye Bender Rembaum, P.L. serves as Counsel for the 400 Sunny Isles Master Association, Inc., ("400 Sunny Isles Master"), which your company designed. Turnover to the unit owners recently occurred.

After Turnover, 400 Sunny Isles Master discovered significant problems concerning the proper design, construction and installation of the common element improvements of the Sunny Isles Master Property ("the Master Property), which constitute construction defects as defined pursuant to Section 558 *et. seq.*, Florida Statutes. This correspondence serves as formal Notice to you by 400 Sunny Isles Master of these defects.

The Board of Directors of 400 Sunny Isles Master has recently undertaken an independent review and inspection of the Master Property by a Professional Engineer, which has verified the claim of defects in the construction of the common element improvements of the Master Property. I have enclosed herewith a copy of the engineer's report for your review and records.

With regard to the defects present at the Master Property, said defects include, but are not limited to, the following:

Parking Garage: Electrical box and wires not covered properly; Ponding water at various locations caused by water seeping down through the storm water leader pipes from the 4th level of the garage; Water has been entrapped and ponded in the corner of garage ramp and is not draining properly. This moisture will seep damage the concrete in the column, wall, and slab as corrosion of the reinforcing occurs; Corroding present at galvanized steel connections; Garage Air Evacuation Fans were making an extraordinary amount of noise during normal operations; Certain doors improperly opening directly into the main driveway of the parking garage and certain doors do not include recessed area or safety barriers; Issue with smoke detector in fire pump room; Many instances of defective or damaged fireproofing were found throughout the fire pump room area; Issues with electrical outlets that require further investigation from electrical contractor.

Pool deck: The north side of the pool deck is provided with a glass and aluminum fall-prevention railing system. The railing has an integrally cast concrete curb that creates a step condition rising to an elevation above the main deck level. This is highly dangerous because it fails to provide adequate fall protection; The expansion joint located between the concrete pavers and the vertical stucco walls of the towers was failing in terms of adhesion. Failure of the expansion joint at the paver surface elevation will allow water to enter into the space below the pavers above the waterproofing membrane, which is a problem at tile in the spa pool and in pavers in lower areas; Areas of cracks and efflorescence were noticed in the cobblestone waterfall surface at the spa, indicating that water may be intruding behind the stones. Organic growth was also found between the tiles, at the soft expansion joint, indicating that the moisture is under the joint and the concrete tiles are not draining properly; Cracking in the textured waterproof coating on the pool deck surface was found to occur at regular intervals along the north side of the Lanai Level (6th floor); Water is coming into the interior from under the door threshold leading into the stairwell and underneath the waterproof texture coating. The moisture is ponding on the concrete, unable to drain. This will cause damage to the concrete and reinforcing if not mitigated; Tiles on the 6th floor terrace level show signs of water not draining correctly. Tile grout has become stained or blackened in areas; The tiles to the south of the pool have similar staining throughout the pool deck. The slab that the tile sits on is improperly sloped; The tiles on the pool deck have also become blackened in the

tile joints. Staining is particularly worse around drain, indicating it may not be draining correctly; The slab underneath the tiles are improperly sloped, which is causing water to stay under the tiles indefimitely; The tiles around the pool shower also have particularly dark grout joint staining, caused as a result of moisture under the tile wearing surface; In other locations, organic growth has begun to form as well as mineral deposits along expansion joints and other structural systems; Tiles are out of plane and have lips throughout. These can be hazardous to children or the elderly due to the possible trip hazard they pose; Cracked tile, which is considered to most likely be caused by problems of deterioration of the grout bed and the bedding not being due to properly support the tile uniformly. Further investigation of this condition is highly recommended; This roof drain has poorly cut tiles all around, leaving a space for organic material and water to accumulate; The slope of some of the tiles are pitched away from the drain, which will direct water away from the drain in a rain event and not allow the floor to drain properly; Spa tiles are cracking at the grout line. Water underneath the deck tiles is draining into the spa and causing severe damage to the tile grout. Moisture is dissolving the grout and mortar behind these tiles; The cabana bar drain for the sink surrounded by rusted rebar in the concrete tile. As the rebar continues to rust it will break the concrete tiles. This condition should be reconstructed; Counter edge at cabana bar was completed with poor workmanship. The seams are not completely sealed, which will allow water to seep into the joint and dissolve the bond; Cracked areas of parapets, knee walls and curbs observed throughout that are subject to water intrusion; Rail post pockets are not properly waterproofed; Spalling, which is the result of water intrusion in concrete, is occurring at the pool deck edge; Expansion joint at the drain also has issues with water intrusion; Recommend that wood present on pool deck be replaced with a high quality through body porcelain, large format material.

There are also many additional deficiencies present throughout the Master Property, including those that are described in more detail in the attached Engineer's report, to which reference is hereby made.

As such, the above described problems concerning Master Property are properly considered "construction defects" pursuant to Section 558.01(5) *et seq.*, Florida Statutes. Your immediate attention and investigation of the issues described above is hereby demanded as there are significant health and safety concerns due to the above described defective design, construction and installation issues. Further, 400 Sunny Isles Master has incurred significant costs investigating this matter, and is facing further significant costs to repair and remediate the problems and bring the common elements of the Master Property

to an acceptable condition.

Pursuant to Section 558.04, Florida Statutes, you are hereby notified of the defective design, construction and installation issues at the Master Property. Chapter 558 of the Florida Statutes provides a very limited amount of time for you to perform a reasonable inspection of the property subject to the claim to assess each alleged construction defect. 400 Sunny Isles Master will cooperate with you and/or your representative for the scheduling of a mutually convenient time for any such inspection. Chapter 558 of the Florida Statutes further provides very limited deadlines for you to make claims on your contractors, subcontractors, suppliers and design professionals for the defects specified in this Notice of Claim, and for otherwise serving a written response to this Notice of Claim.

Demand is hereby made upon you to undertake the appropriate investigation and repair requirements set forth by Statute. If you fail to respond in an acceptable manner, the Association shall have no alternative but to pursue all remedies available to it under the law.

**PLEASE BE GOVERNED ACCORDINGLY.**

Very truly yours,

JEFFREY D, GREEN, ESQ.

JDG/
Enclosure (Engineer's Report)
cc: Michael S. Bender, Esq.
Board of Directors

ROBERT L. KAYE
MICHAEL S. BENDER
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October 11, 2017

**VIA CERTIFIED MAIL # 91 7199 9991 7036 5937 2343**
**RETURN RECEIPT REQUESTED**
**AND FIRST CLASS U.S. MAIL**
VSN Engineering, Inc.
c/o Deanna Resq Hurt
9265 SW 9th Terrace
Miami, FL 33174

***Re: 400 Sunny Isles Master Association, Inc.***
***Section 558.04, Florida Statutes, Notice of Claim of Construction Defects***

Dear Deanna Resq Hurt:

Please be advised that Kaye Bender Rembaum, P.L. serves as Counsel for the 400 Sunny Isles Master Association, Inc., ("400 Sunny Isles Master"), which your company civilly engineered. Turnover to the unit owners recently occurred.

After Turnover, 400 Sunny Isles Master discovered significant problems concerning the proper design, construction and installation of the common element improvements of the Sunny Isles Master Property ("the Master Property), which constitute construction defects as defined pursuant to Section 558 *et. seq.,* Florida Statutes. This correspondence serves as formal Notice to you by 400 Sunny Isles Master of these defects.

The Board of Directors of 400 Sunny Isles Master has recently undertaken an independent review and inspection of the Master Property by a Professional Engineer, which has verified the claim of defects in the construction of the common element improvements of the Master Property. I have enclosed herewith a copy of the engineer's report for your review and records.

With regard to the defects present at the Master Property, said defects include, but are not limited to, the following:

Parking Garage: Electrical box and wires not covered properly; Ponding water at various locations caused by water seeping down through the storm water leader pipes from the 4th level of the garage; Water has been entrapped and ponded in the corner of garage ramp and is not draining properly. This moisture will seep damage the concrete in the column, wall, and slab as corrosion of the reinforcing occurs; Corroding present at galvanized steel connections; Garage Air Evacuation Fans were making an extraordinary amount of noise during normal operations; Certain doors improperly opening directly into the main driveway of the parking garage and certain doors do not include recessed area or safety barriers; Issue with smoke detector in fire pump room; Many instances of defective or damaged fireproofing were found throughout the fire pump room area; Issues with electrical outlets that require further investigation from electrical contractor.

Pool deck: The north side of the pool deck is provided with a glass and aluminum fall-prevention railing system. The railing has an integrally cast concrete curb that creates a step condition rising to an elevation above the main deck level. This is highly dangerous because it fails to provide adequate fall protection; The expansion joint located between the concrete pavers and the vertical stucco walls of the towers was failing in terms of adhesion. Failure of the expansion joint at the paver surface elevation will allow water to enter into the space below the pavers above the waterproofing membrane, which is a problem at tile in the spa pool and in pavers in lower areas; Areas of cracks and efflorescence were noticed in the cobblestone waterfall surface at the spa, indicating that water may be intruding behind the stones. Organic growth was also found between the tiles, at the soft expansion joint, indicating that the moisture is under the joint and the concrete tiles are not draining properly; Cracking in the textured waterproof coating on the pool deck surface was found to occur at regular intervals along the north side of the Lanai Level (6th floor); Water is coming into the interior from under the door threshold leading into the stairwell and underneath the waterproof texture coating. The moisture is ponding on the concrete, unable to drain. This will cause damage to the concrete and reinforcing if not mitigated; Tiles on the 6th floor terrace level show signs of water not draining correctly. Tile grout has become stained or blackened in areas; The tiles to the south of the pool have similar staining throughout the pool deck. The slab that the tile sits on is improperly sloped; The tiles on the pool deck have also become blackened in the tile joints. Staining is particularly worse around drain, indicating it may not be draining correctly; The slab underneath the tiles are

improperly sloped, which is causing water to stay under the tiles indefinitely; The tiles around the pool shower also have particularly dark grout joint staining, caused as a result of moisture under the tile wearing surface; In other locations, organic growth has begun to form as well as mineral deposits along expansion joints and other structural systems; Tiles are out of plane and have lips throughout. These can be hazardous to children or the elderly due to the possible trip hazard they pose; Cracked tile, which is considered to most likely be caused by problems of deterioration of the grout bed and the bedding not being due to properly support the tile uniformly. Further investigation of this condition is highly recommended; This roof drain has poorly cut tiles all around, leaving a space for organic material and water to accumulate; The slope of some of the tiles are pitched away from the drain, which will direct water away from the drain in a rain event and not allow the floor to drain properly; Spa tiles are cracking at the grout line. Water underneath the deck tiles is draining into the spa and causing severe damage to the tile grout. Moisture is dissolving the grout and mortar behind these tiles; The cabana bar drain for the sink surrounded by rusted rebar in the concrete tile. As the rebar continues to rust it will break the concrete tiles. This condition should be reconstructed; Counter edge at cabana bar was completed with poor workmanship. The seams are not completely sealed, which will allow water to seep into the joint and dissolve the bond; Cracked areas of parapets, knee walls and curbs observed throughout that are subject to water intrusion; Rail post pockets are not properly waterproofed; Spalling, which is the result of water intrusion in concrete, is occurring at the pool deck edge; Expansion joint at the drain also has issues with water intrusion; Recommend that wood present on pool deck be replaced with a high quality through body porcelain, large format material.

There are also many additional deficiencies present throughout the Master Property, including those that are described in more detail in the attached Engineer's report, to which reference is hereby made.

As such, the above described problems concerning Master Property are properly considered "construction defects" pursuant to Section 558.01(5) *et seq.*, Florida Statutes. Your immediate attention and investigation of the issues described above is hereby demanded as there are significant health and safety concerns due to the above described defective design, construction and installation issues. Further, 400 Sunny Isles Master has incurred significant costs investigating this matter, and is facing further significant costs to repair and remediate the problems and bring the common elements of the Master Property to an acceptable condition.

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**PLEASE BE GOVERNED ACCORDINGLY.**

Very truly yours,

JEFFREY D. GREEN, ESQ.

JDG/
Enclosure (Engineer's Report)
cc: Michael S. Bender, Esq.
Board of Directors

ROBERT L. KAYE
MICHAEL S. BENDER
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October 11, 2017

**VIA CERTIFIED MAIL # 91 7199 9991 7036 5937 2336**
**RETURN RECEIPT REQUESTED**
**AND FIRST CLASS U.S. MAIL**
Moss & Associates, LLC.
c/o Bob L. Moss
2101 North Andrews Avenue
Fort Lauderdale, FL 33311

***Re: 400 Sunny Isles Master Association, Inc.***
***Section 558.04, Florida Statutes, Notice of Claim of Construction Defects***

Dear Mr. Moss:

Please be advised that Kaye Bender Rembaum, P.L. serves as Counsel for the 400 Sunny Isles Master Association, Inc., ("400 Sunny Isles Master"), which your company constructed. Turnover to the unit owners recently occurred.

After Turnover, 400 Sunny Isles Master discovered significant problems concerning the proper design, construction and installation of the common element improvements of the Sunny Isles Master Property ("the Master Property), which constitute construction defects as defined pursuant to Section 558 *et. seq.*, Florida Statutes. This correspondence serves as formal Notice to you by 400 Sunny Isles Master of these defects.

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**PLEASE BE GOVERNED ACCORDINGLY.**

Very truly yours,

JEFFREY D, GREEN, ESQ.

JDG/
Enclosure (Engineer's Report)
cc: Michael S. Bender, Esq.
Board of Directors

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Kaye Bender Rembaum, P.L.
Attorneys At Law

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October 11, 2017

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**RETURN RECEIPT REQUESTED**
**AND FIRST CLASS U.S. MAIL**
400 Sunny Isles LLC
c/o Arthur Amron
411 West Putnam Avenue
Greenwich, CT 06830

***Re: 400 Sunny Isles Master Association, Inc.***
***Section 558.04, Florida Statutes, Notice of Claim of Construction Defects***

Dear Mr. Amron:

Please be advised that Kaye Bender Rembaum, P.L. serves as Counsel for the 400 Sunny Isles Master Association, Inc., ("400 Sunny Isles Master"), which your company developed. Turnover from your company to the unit owners recently occurred.

After Turnover, 400 Sunny Isles Master discovered significant problems concerning the proper design, construction and installation of the common element improvements of the Sunny Isles Master Property ("the Master Property), which constitute construction defects as defined pursuant to Section 558 *et. seq.*, Florida Statutes. This correspondence serves as formal Notice to you by 400 Sunny Isles Master of these defects.

The Board of Directors of 400 Sunny Isles Master has recently undertaken an independent review and inspection of the Master Property by a Professional Engineer, which has verified the claim of defects in the construction of the common element improvements of the Master Property. I have enclosed herewith a copy of the engineer's report for your review and records.

With regard to the defects present at the Master Property, said defects include, but are not limited to, the following:

Parking Garage: Electrical box and wires not covered properly; Ponding water at various locations caused by water seeping down through the storm water leader pipes from the 4th level of the garage; Water has been entrapped and ponded in the corner of garage ramp and is not draining properly. This moisture will seep damage the concrete in the column, wall, and slab as corrosion of the reinforcing occurs; Corroding present at galvanized steel connections; Garage Air Evacuation Fans were making an extraordinary amount of noise during normal operations; Certain doors improperly opening directly into the main driveway of the parking garage and certain doors do not include recessed area or safety barriers; Issue with smoke detector in fire pump room; Many instances of defective or damaged fireproofing were found throughout the fire pump room area; Issues with electrical outlets that require further investigation from electrical contractor.

Pool deck: The north side of the pool deck is provided with a glass and aluminum fall-prevention railing system. The railing has an integrally cast concrete curb that creates a step condition rising to an elevation above the main deck level. This is highly dangerous because it fails to provide adequate fall protection; The expansion joint located between the concrete pavers and the vertical stucco walls of the towers was failing in terms of adhesion. Failure of the expansion joint at the paver surface elevation will allow water to enter into the space below the pavers above the waterproofing membrane, which is a problem at tile in the spa pool and in pavers in lower areas; Areas of cracks and efflorescence were noticed in the cobblestone waterfall surface at the spa, indicating that water may be intruding behind the stones. Organic growth was also found between the tiles, at the soft expansion joint, indicating that the moisture is under the joint and the concrete tiles are not draining properly; Cracking in the textured waterproof coating on the pool deck surface was found to occur at regular intervals along the north side of the Lanai Level (6th floor); Water is coming into the interior from under the door threshold leading into the stairwell and underneath the waterproof texture coating. The moisture is ponding on the concrete, unable to drain. This will cause damage to the concrete and reinforcing if not mitigated; Tiles on the 6th floor terrace level show signs of water not draining correctly. Tile grout has become stained or blackened in areas; The tiles to the south of the pool have similar staining throughout the pool deck. The slab that the tile sits on is improperly sloped; The tiles on the pool deck have also become blackened in the tile joints. Staining is particularly worse around drain, indicating it may not be draining correctly; The slab underneath the tiles are

improperly sloped, which is causing water to stay under the tiles indefinitely; The tiles around the pool shower also have particularly dark grout joint staining, caused as a result of moisture under the tile wearing surface; In other locations, organic growth has begun to form as well as mineral deposits along expansion joints and other structural systems; Tiles are out of plane and have lips throughout. These can be hazardous to children or the elderly due to the possible trip hazard they pose; Cracked tile, which is considered to most likely be caused by problems of deterioration of the grout bed and the bedding not being due to properly support the tile uniformly. Further investigation of this condition is highly recommended; This roof drain has poorly cut tiles all around, leaving a space for organic material and water to accumulate; The slope of some of the tiles are pitched away from the drain, which will direct water away from the drain in a rain event and not allow the floor to drain properly; Spa tiles are cracking at the grout line. Water underneath the deck tiles is draining into the spa and causing severe damage to the tile grout. Moisture is dissolving the grout and mortar behind these tiles; The cabana bar drain for the sink surrounded by rusted rebar in the concrete tile. As the rebar continues to rust it will break the concrete tiles. This condition should be reconstructed; Counter edge at cabana bar was completed with poor workmanship. The seams are not completely sealed, which will allow water to seep into the joint and dissolve the bond; Cracked areas of parapets, knee walls and curbs observed throughout that are subject to water intrusion; Rail post pockets are not properly waterproofed; Spalling, which is the result of water intrusion in concrete, is occurring at the pool deck edge; Expansion joint at the drain also has issues with water intrusion; Recommend that wood present on pool deck be replaced with a high quality through body porcelain, large format material.

There are also many additional deficiencies present throughout the Master Property, including those that are described in more detail in the attached Engineer's report, to which reference is hereby made.

As such, the above described problems concerning Master Property are properly considered "construction defects" pursuant to Section 558.01(5) *et seq.*, Florida Statutes. Your immediate attention and investigation of the issues described above is hereby demanded as there are significant health and safety concerns due to the above described defective design, construction and installation issues. Further, 400 Sunny Isles Master has incurred significant costs investigating this matter, and is facing further significant costs to repair and remediate the problems and bring the common elements of the Master Property to an acceptable condition.

Pursuant to Section 558.04, Florida Statutes, you are hereby notified of the defective design, construction and installation issues at the Master Property. Chapter 558 of the Florida Statutes provides a very limited amount of time for you to perform a reasonable inspection of the property subject to the claim to assess each alleged construction defect. 400 Sunny Isles Master will cooperate with you and/or your representative for the scheduling of a mutually convenient time for any such inspection. Chapter 558 of the Florida Statutes further provides very limited deadlines for you to make claims on your contractors, subcontractors, suppliers and design professionals for the defects specified in this Notice of Claim, and for otherwise serving a written response to this Notice of Claim.

Please also accept this letter as 400 Sunny Isles Master's communication of the requirements and restrictions set forth in the Uniform Fraudulent Transfer Act (Florida Statute 726.01, *et. seq.*), and other related acts which restrict you, the Developer, any related or apparent companies, and subsidiaries, partnerships, partners, associates, etc., from rendering any such entity and/or the Developer itself without sufficient funds to satisfy the debt which may be owed to 400 Sunny Isles Master, as a "present and future creditor" under the Statute, or otherwise.

These restrictions include, but are not limited to, the transference, liquidation, sale, acquisition, merger or any other means of asset depletion or secreting which serves to leave any such entity or person without sufficient funds to satisfy the debt which will be owed to 400 Sunny Isles Master. Note that under these circumstances, the statute entirely restricts any attempt to liquidate a Florida corporation in order to transfer any balance to a foreign or domestic corporation or other person or entity. In accordance with the statutes, demand is hereby made upon you to ensure that sufficient funds exist and remain to satisfy the debt which may be owed to 400 Sunny Isles Master as a "present and future creditor" under the statute, or otherwise.

Demand is hereby made upon you to undertake the appropriate investigation and repair requirements set forth by Statute. If you fail to respond in an acceptable manner, the Association shall have no alternative but to pursue all remedies available to it under the law.

**PLEASE BE GOVERNED ACCORDINGLY.**

Very truly yours,

JEFFREY D, GREEN, ESQ.

JDG/
Enclosure (Engineer's Report)
cc: Michael S. Bender, Esq.
Board of Directors

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Kaye Bender Rembaum, P.L.
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WITH AN ADDITIONAL OFFICE
IN PALM BEACH GARDENS

*KBRLegal.Com*

October 11, 2017

**VIA CERTIFIED MAIL # 91 7199 9991 7036 5937 2282**
**RETURN RECEIPT REQUESTED**
**AND FIRST CLASS U.S. MAIL**
B&J Consulting Engineers., Inc.,
c/o Jaime H. Jaramillo
10881 NW 73rd Terrace
Doral, FL 33178

***Re: 400 Sunny Isles Master Association, Inc.***
***Section 558.04, Florida Statutes, Notice of Claim of Construction Defects***

Dear Mr. Amron:

Please be advised that Kaye Bender Rembaum, P.L. serves as Counsel for the 400 Sunny Isles Master Association, Inc., ("400 Sunny Isles Master"), which your company structurally engineered. Turnover to the unit owners recently occurred.

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Pursuant to Section 558.04, Florida Statutes, you are hereby notified of the defective design, construction and installation issues at the Master Property. Chapter 558 of the Florida Statutes provides a very limited amount of time for you to perform a reasonable inspection of the property subject to the claim to assess each alleged construction defect. 400 Sunny Isles Master will cooperate with you and/or your representative for the scheduling of a mutually convenient time for any such inspection. Chapter 558 of the Florida Statutes further provides very limited deadlines for you to make claims on your contractors, subcontractors, suppliers and professionals for the defects specified in this Notice of Claim, and for otherwise serving a written response to this Notice of Claim.

Demand is hereby made upon you to undertake the appropriate investigation and repair requirements set forth by Statute. If you fail to respond in an acceptable manner, the Association shall have no alternative but to pursue all remedies available to it under the law.

**PLEASE BE GOVERNED ACCORDINGLY.**

Very truly yours,

JEFFREY D. GREEN, ESQ.

JDG/
Enclosure (Engineer's Report)
cc: Michael S. Bender, Esq.
Board of Directors

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October 11, 2017

**VIA CERTIFIED MAIL # 91 7199 9991 7036 5937 2299**
**RETURN RECEIPT REQUESTED**
**AND FIRST CLASS U.S. MAIL**
Kobi Karp Architecture &
Interior Design, Inc.
c/o Kobi Karp
2915 Biscayne Blvd.,
Suite 200,
Miami, FL 33137

***Re: 400 Sunny Isles Condominium West Association, Inc.***
***Section 558.04, Florida Statutes, Notice of Claim of Construction Defects***

Dear Mr. Karp:

Please be advised that Kaye Bender Rembaum, P.L. serves as Counsel for the 400 Sunny Isles West Condominium Association, Inc., ("400 Sunny Isles West"), which your company designed. Turnover from the Developer to the unit owners recently occurred.

After Turnover, 400 Sunny Isles West discovered significant problems concerning the proper design, construction and installation of the common element improvements of the Sunny Isles West Condominium ("the West Condominium"), which constitute construction defects as defined pursuant to Section 558 *et. seq.*, Florida Statutes. This correspondence serves as formal Notice to you by 400 Sunny Isles West of these defects.

The Board of Directors of 400 Sunny Isles West has recently undertaken an independent review and inspection of the West Condominium by a Professional Engineer, which has verified the claim of defects in the construction of the common element improvements of the West Condominium. I have enclosed herewith a copy of the engineer's report for your review and records.

With regard to the defects present at the West Condominium, said defects include,

but are not limited to, the following: (1) Roof: Improper water proofing at various locations, rusting and corrosion at HVAC ducts; HVAC ducts improperly sealed; corrosion at anchor rods; improperly constructed steps; improper sloping that can cause water intrusion; inadequate roof drain; stucco cracking at scuppers; missing and loose bolts at safety rails; cracking at base of three separate wall mounted HVAC compressors; parapets on roof not constructed in accordance with architectural details; significant cracking at the stucco base along the electrical conduits; water ponding around drains; electrical conduits improperly constructed; roof membrane is wet due to improper sloping; rusting of the smoke exhaust system; and fire caulking in electoral room has fallen away from wall.

(2) Corridors: Gaps underneath various elevator thresholds. (3) Stairwell: Cracks formed above various doors and door frames and severe rusting on doors. (4) Fitness Room: Gaps between baseboards and floor. (5) Lobby: Gaps in the walls; staining on the walls and HVAC vent; and gaps between the stairs and adjacent walls. (6) Maintenance room: Water was found entering the boiler room and ponding on the floor; walls in room are not properly sealed; and boiler room ceiling has openings in concrete ceiling and sheetrock. (7) Exterior walls: Cracking at upper floors; irregular stucco surface finishes at window openings; cracking of window stacks; waterproofing concerns at exhaust vents; and cracked flashing.

In addition to the above, significant problems concerning the proper design, construction and installation of the West Condominium units were observed, which include, but are not limited to the following:

305W: A ponding area on the balcony surface was noted as a the dark stain coloration. In addition, pieces of mortar from underneath the tiles in the neighboring patio are washing/blowing onto this patio. Depressed area in front of sliding glass door track which is not acceptable as water retained in this area can degrade waterproofing. Gaps also appear to have formed between the stucco and the frame and the concrete and the frame.

501W: Cracks and holes in the stucco and waterproofing were prominent underneath the glass railing and on the edges of the balcony slab. Holes/penetrations were noted in the balcony waterproofing, allowing for water to intrude into the concrete structure. The corner of the balcony slab damaged with cracks or holes. The edges of the balcony are jagged at the upper edge of the stucco application. Voids and cracks of stucco perimeters are allowing moisture to seep into the concrete slab and stucco at the bonding surface

601W: Sliding glass door to patio is bent (dented on upper surface) on the inside. A significant void and crack was found at the juncture of the wall and terrace surface, which allows water intrusion into the concrete below. The concrete below the knee walls below the railings on the balcony is cracking in several locations. Cracking in the stucco below the railing next to the pool. The joint between the pool tiling

and the concrete/stucco wall underneath the railing is supporting organic growth. Cracks are forming along the edge of the concrete and at the locations of the organic growth. A crack has formed across the top of the planter wall and down the entire face of the wall of the planter. The exterior balcony walls also have cracking in the stucco where the planter wall joins the exterior wall, due to a lack of expansion joints in the concrete. Cracks from the base of the outside wall on the patio due to the lack of an expansion joint. Patches of the surface in the concrete of the patio slab are considered significant. In addition, dark areas around the drains is deposits of waterborne sediments that show that the terraces typically do not properly drain. The drains installed have minimal drainage area in the lower segment of the bi-level design, and consistently performed inadequately throughout the project, indicating that water was ponding around them instead of draining properly. The waterproofing membrane underneath the backer bar in the planter is coming apart and no longer protecting the cement from the moisture and soil.

605W: Paint on the dividing wall is chipping. Glass panels are misaligned at the railing. Concrete is incorrectly sloped towards the sliding glass door instead of the drain and the patio, causing water to pond at the base of the door instead of properly running to the drain.

704W: A recessed area below the window seems to have been filled with cementitious material. The material appears to be a grout and dissimilar from the normal slab concrete. The infill material boundary in this case is extremely irregular and is a concern because of the cold joint resulting at the juncture.

706W: A water test was performed on the balcony of the unit. Water was poured onto the balcony near the doorway to see if it would drain properly. While some of the water was shown to drain off the edge of the balcony, the majority of the water remained ponded near the sliding glass door. The patio does not have a uniform or adequate slope indicated on the design drawings. The drain in the shower does not appear to be draining properly, as it is set too high.

805W: Gaskets were either coming out or loose along the windows. Mortar or balcony surfacing material has collected on the railing. A water test was performed on the balcony. While the water flowed to the railing, it began to pond before flowing off.

901W: The interior floor slab should be at least ¾" higher than the balcony slab to deter water from entering inside. There is not a difference in elevation between interior and exterior elevation. A water test was performed on the balcony of the unit. After 10 minutes, the water had ponded in the middle of the balcony and therefore did not drain properly, indicating that the balcony is not sloped correctly to allow for proper drainage.

1104W: Dark area near the sliding glass door on the balcony shows apparent ponding area. A water test was performed, showing that the water ponds in front of the door and in the center of the balcony instead of draining over the edge. This indicates that the balcony is not be sloped properly to allow for proper drainage.

1205W: Excess waterproofing was applied around the rail posts and near the sliding glass door. A water test was performed on the balcony. Only a small amount of water was able to drain over the edge while most of the water ponded in the center of the balcony. This indicates that the balcony is not sloped correctly to allow for proper drainage. An area of tiles in the bathroom was wet and very slippery, suggesting water may be leaking up through the tile or dripping from the ceiling. The wood door to the HVAC closet was painting was poorly performed.

1207W: A recessed area of concrete was not filled in all the way, leaving a gap between the window frame and the floor slab. The stucco wall adjacent to the sliding glass door jamb was cracked and contained holes, allowing water intrusion into the concrete. A water test was performed on the balcony. None of the water flowed off the edge, instead ponding along the exterior wall. This indicates that the balcony was not be sloped to allow for proper drainage. Water frequently traveled under demising wall panels onto other adjoining balconies, and often under adjoining tile installations. Low water pressure was found throughout the entire unit.

1208W: A crack was found in the corners of the baseboard. Gaps were also detected between the baseboard and the floor. Additionally, a dark reddish stain was noticed in the corner where the wall meets the baseboard, considered due to moisture and rust. Windows in the unit all had multiple, large scratches across them.

1401W: Water intrusion has caused rusting to occur in a cement recess beneath this window. Cement has not been completely filled in this area, as also indicated by the gap between the cement and the wall. Dark areas on the balcony indicate ponding near the sliding glass doors and in the center of the balcony. Balcony is not be sloped properly to allow for drainage.

1402W: Discoloration around the railing posts on the balcony indicate possible water damage to the floor tiles or patching during tile installation. The glass on the balcony railing was extremely loose. The owner of the unit needs to put cardboard between the frame and the glass to secure it. Rubber gaskets were also found missing in the railing structure. Gaps were noticed between the dividing wall on the balcony and the tile flooring, allowing for water intrusion underneath the divider. Mortar underneath tiling on balcony is loose and not

sealed properly, allowing water to intrude underneath the tile and between the concrete. Cracks were also found at the base of the railing posts, also allowing for water intrusion.

1408W: A hairline crack in the floor slab, about 4 feet long, was noticed in one of the rooms. Gaps between the concrete slab and the wall were also noticed.

1505W: The dividing walls between units, shown here in unit 1505, do not provide enough privacy. In addition to the dividing panels not being tall enough, there is also a significant gap between them. Mortar from underneath the tiling on the balcony is loose, allowing water to get between the tiles and the concrete. The shower does not appear to be correctly sloped to allow for proper drainage. An open area in the wall under the sink was noticed in the bathroom.

1508W: Mortar was found along the bottom edge of the glass panels on the railing. The mortar under the tiling on the balcony is loose, allowing water and moisture in. The concrete finish underneath the railing is cracked and curled up, allowing water intrusion and possible promoting future corroding of the rebars.

1605W: There is a problem with the demising panel design. The depressed area will collect water (and likely fill) from the relatively higher tile surfaces. The balconies also have a common problem where many of the balconies drain water toward the demising panel and not to the exterior edge balcony of the balcony. Rubber gaskets on the railing posts on the unit balcony are coming out. Gaps were noticed in the rubber gaskets, as in the case shown here. These gaps allow water and particulates to get in between the glass and the aluminum, possibly leading to corrosion of the metal. Drip molding was noticed coming from the unit directly above (1801) in the corners of the balcony roof. This was observed as a common condition of many (or most) balconies where due to non-uniform provision of correct and uniform slope to the balcony edge, small areas were caused to drain large areas of poorly sloped balcony surface over long time periods. The result is development of organic growth where edges remain moist for long periods.

1705W: A rubber gasket was broken/missing pieces in the glass railing on the balcony, allowing water intrusion between the glass and the aluminum frame. Failing silicone was used between the glass and the walls in the bathroom.

1804W: There was a significant and inconsistent gap between the dividing wall and the tile floor of the unit's balcony. The dividing wall on the other end of the balcony had a uniform gap for the entire length of the divider. The slab and tile cannot be sloping correctly.

1805W: Mold was found growing on the roof of the balcony/floor of the balcony above. Bathroom sink had no backsplash to protect the wall from water intrusion. One of the window openings was inoperable.

2001W: A gap between one of the railing posts and the balcony floor is allowing water to intrude and corrode the concrete rebars and the aluminum post support. Exterior expansion joint near the window of the unit appears to have been patched. Water and organic material is able to intrude under the sliding glass door track, as evidence by this plant growing from underneath. Rubber gaskets in the glass railing did not cover entire length, allowing for water intrusion and possible corrosion of the aluminum frame. Ponding was noticed around drains, indicating they are not directing water along the surface or draining properly, allowing water to absorb into the concrete and corrode the rebars. Stress cracks in the concrete walls of the roof patio were found. Gap between the two slabs of concrete forming the exterior wall on the roof was only partially patched. Water intrusion sourcewas found in the doorway of the roof patio access door. Gaps were observed and and unbonded stucco was identified by sounding at the juncture of the stucco wall and the roof membrane. Ponding evidence was also found near the jacuzzi on the patio.

PH-1W: Dirt collecting on the balcony indicates rain water is not draining properly over the balcony edge. Darker areas also show evidence of ponding. The waterproofing underneath the roof railing is cracking, allowing water to penetrate into the concrete below. The drain under the dividing wall on the roof is not secured and easily removed. A corner of the dividing wall was patched but gaps can still be seen between the concrete slab and the wall. Glass railing on the roof patio is of different heights. The corner of the building is also badly damaged, as holes can be seen, that will allow water to intrude into the concrete structure.

In addition to the above, the vast majority of the units are experiencing objectionable sound transmission through the walls at adjoining or neighboring units; objectionable problems with the air conditioning/mechanical ventilation system in terms of temperature issues; objectionable problems with the air conditioning/mechanical ventilation system in terms of noise issues; and objectionable problems with the functionality and condition of appliances.

There are also many additional deficiencies present throughout the West Condominium, including those that are described in more detail in the attached Engineer's report, to which reference is hereby made.

As such, the above described problems concerning West Condominium are properly considered "construction defects" pursuant to Section 558.01(5) *et seq.*, Florida Statutes. Your immediate attention and investigation of the issues described above is hereby demanded as there are significant health and safety concerns due to the above described defective design, construction and installation issues. Further, 400 Sunny Isles West has incurred significant costs investigating this matter, and is facing further significant costs to repair and remediate the problems and bring the common elements of the West Condominium to an acceptable condition.

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Very truly yours,

JEFFREY D, GREEN, ESQ.

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KERSTIN HENZE, OF COUNSEL
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WITH AN ADDITIONAL OFFICE
IN PALM BEACH GARDENS

*KBRLegal.Com*

October 11, 2017

**VIA CERTIFIED MAIL # 91 7199 9991 7036 5937 2305**
**RETURN RECEIPT REQUESTED**
**AND FIRST CLASS U.S. MAIL**
VSN Engineering, Inc.
c/o Deanna Resq Hurt
9265 SW 9th Terrace
Miami, FL 33174

***Re: 400 Sunny Isles Condominium West Association, Inc.***
***Section 558.04, Florida Statutes, Notice of Claim of Construction Defects***

Dear Deanna Resq Hurt:

Please be advised that Kaye Bender Rembaum, P.L. serves as Counsel for the 400 Sunny Isles West Condominium Association, Inc., ("400 Sunny Isles West"), which your company civilly engineered. Turnover from the Developer to the unit owners recently occurred.

After Turnover, 400 Sunny Isles West discovered significant problems concerning the proper design, construction and installation of the common element improvements of the Sunny Isles West Condominium ("the West Condominium"), which constitute construction defects as defined pursuant to Section 558 *et. seq.*, Florida Statutes. This correspondence serves as formal Notice to you by 400 Sunny Isles West of these defects.

The Board of Directors of 400 Sunny Isles West has recently undertaken an independent review and inspection of the West Condominium by a Professional Engineer, which has verified the claim of defects in the construction of the common element improvements of the West Condominium. I have enclosed herewith a copy of the engineer's report for your review and records.

With regard to the defects present at the West Condominium, said defects include, but are not limited to, the following: (1) Roof: Improper water proofing at various locations,

rusting and corrosion at HVAC ducts; HVAC ducts improperly sealed; corrosion at anchor rods; improperly constructed steps; improper sloping that can cause water intrusion; inadequate roof drain; stucco cracking at scuppers; missing and loose bolts at safety rails; cracking at base of three separate wall mounted HVAC compressors; parapets on roof not constructed in accordance with architectural details; significant cracking at the stucco base along the electrical conduits; water ponding around drains; electrical conduits improperly constructed; roof membrane is wet due to improper sloping; rusting of the smoke exhaust system; and fire caulking in electoral room has fallen away from wall.

(2) Corridors: Gaps underneath various elevator thresholds. (3) Stairwell: Cracks formed above various doors and door frames and severe rusting on doors. (4) Fitness Room: Gaps between baseboards and floor. (5) Lobby: Gaps in the walls; staining on the walls and HVAC vent; and gaps between the stairs and adjacent walls. (6) Maintenance room: Water was found entering the boiler room and ponding on the floor; walls in room are not properly sealed; and boiler room ceiling has openings in concrete ceiling and sheetrock. (7) Exterior walls: Cracking at upper floors; irregular stucco surface finishes at window openings; cracking of window stacks; waterproofing concerns at exhaust vents; and cracked flashing.

In addition to the above, significant problems concerning the proper design, construction and installation of the West Condominium units were observed, which include, but are not limited to the following:

305W: A ponding area on the balcony surface was noted as a the dark stain coloration. In addition, pieces of mortar from underneath the tiles in the neighboring patio are washing/blowing onto this patio. Depressed area in front of sliding glass door track which is not acceptable as water retained in this area can degrade waterproofing. Gaps also appear to have formed between the stucco and the frame and the concrete and the frame.

501W: Cracks and holes in the stucco and waterproofing were prominent underneath the glass railing and on the edges of the balcony slab. Holes/penetrations were noted in the balcony waterproofing, allowing for water to intrude into the concrete structure. The corner of the balcony slab damaged with cracks or holes. The edges of the balcony are jagged at the upper edge of the stucco application. Voids and cracks of stucco perimeters are allowing moisture to seep into the concrete slab and stucco at the bonding surface

601W: Sliding glass door to patio is bent (dented on upper surface) on the inside. A significant void and crack was found at the juncture of the wall and terrace surface, which allows water intrusion into the concrete below. The concrete below the knee walls below the railings on the balcony is cracking in several locations. Cracking in the stucco below the railing next to the pool. The joint between the pool tiling and the concrete/stucco wall underneath the railing is supporting

organic growth. Cracks are forming along the edge of the concrete and at the locations of the organic growth. A crack has formed across the top of the planter wall and down the entire face of the wall of the planter. The exterior balcony walls also have cracking in the stucco where the planter wall joins the exterior wall, due to a lack of expansion joints in the concrete. Cracks from the base of the outside wall on the patio due to the lack of an expansion joint. Patches of the surface in the concrete of the patio slab are considered significant. In addition, dark areas around the drains is deposits of waterborne sediments that show that the terraces typically do not properly drain. The drains installed have minimal drainage area in the lower segment of the bi-level design, and consistently performed inadequately throughout the project, indicating that water was ponding around them instead of draining properly. The waterproofing membrane underneath the backer bar in the planter is coming apart and no longer protecting the cement from the moisture and soil.

605W: Paint on the dividing wall is chipping. Glass panels are misaligned at the railing. Concrete is incorrectly sloped towards the sliding glass door instead of the drain and the patio, causing water to pond at the base of the door instead of properly running to the drain.

704W: A recessed area below the window seems to have been filled with cementitious material. The material appears to be a grout and dissimilar from the normal slab concrete. The infill material boundary in this case is extremely irregular and is a concern because of the cold joint resulting at the juncture.

706W: A water test was performed on the balcony of the unit. Water was poured onto the balcony near the doorway to see if it would drain properly. While some of the water was shown to drain off the edge of the balcony, the majority of the water remained ponded near the sliding glass door. The patio does not have a uniform or adequate slope indicated on the design drawings. The drain in the shower does not appear to be draining properly, as it is set too high.

805W: Gaskets were either coming out or loose along the windows. Mortar or balcony surfacing material has collected on the railing. A water test was performed on the balcony. While the water flowed to the railing, it began to pond before flowing off.

901W: The interior floor slab should be at least ¾" higher than the balcony slab to deter water from entering inside. There is not a difference in elevation between interior and exterior elevation. A water test was performed on the balcony of the unit. After 10 minutes, the water had ponded in the middle of the balcony and therefore did not drain properly, indicating that the balcony is not sloped correctly to allow for proper drainage.

1104W: Dark area near the sliding glass door on the balcony shows apparent ponding area. A water test was performed, showing that the water ponds in front of the door and in the center of the balcony instead of draining over the edge. This indicates that the balcony is not be sloped properly to allow for proper drainage.

1205W: Excess waterproofing was applied around the rail posts and near the sliding glass door. A water test was performed on the balcony. Only a small amount of water was able to drain over the edge while most of the water ponded in the center of the balcony. This indicates that the balcony is not sloped correctly to allow for proper drainage. An area of tiles in the bathroom was wet and very slippery, suggesting water may be leaking up through the tile or dripping from the ceiling. The wood door to the HVAC closet was painting was poorly performed.

1207W: A recessed area of concrete was not filled in all the way, leaving a gap between the window frame and the floor slab. The stucco wall adjacent to the sliding glass door jamb was cracked and contained holes, allowing water intrusion into the concrete. A water test was performed on the balcony. None of the water flowed off the edge, instead ponding along the exterior wall. This indicates that the balcony was not be sloped to allow for proper drainage. Water frequently traveled under demising wall panels onto other adjoining balconies, and often under adjoining tile installations. Low water pressure was found throughout the entire unit.

1208W: A crack was found in the corners of the baseboard. Gaps were also detected between the baseboard and the floor. Additionally, a dark reddish stain was noticed in the corner where the wall meets the baseboard, considered due to moisture and rust. Windows in the unit all had multiple, large scratches across them.

1401W: Water intrusion has caused rusting to occur in a cement recess beneath this window. Cement has not been completely filled in this area, as also indicated by the gap between the cement and the wall. Dark areas on the balcony indicate ponding near the sliding glass doors and in the center of the balcony. Balcony is not be sloped properly to allow for drainage.

1402W: Discoloration around the railing posts on the balcony indicate possible water damage to the floor tiles or patching during tile installation. The glass on the balcony railing was extremely loose. The owner of the unit needs to put cardboard between the frame and the glass to secure it. Rubber gaskets were also found missing in the railing structure. Gaps were noticed between the dividing wall on the balcony and the tile flooring, allowing for water intrusion underneath the divider. Mortar underneath tiling on balcony is loose and not sealed properly, allowing water to intrude underneath the tile and

between the concrete. Cracks were also found at the base of the railing posts, also allowing for water intrusion.

1408W: A hairline crack in the floor slab, about 4 feet long, was noticed in one of the rooms. Gaps between the concrete slab and the wall were also noticed.

1505W: The dividing walls between units, shown here in unit 1505, do not provide enough privacy. In addition to the dividing panels not being tall enough, there is also a significant gap between them. Mortar from underneath the tiling on the balcony is loose, allowing water to get between the tiles and the concrete. The shower does not appear to be correctly sloped to allow for proper drainage. An open area in the wall under the sink was noticed in the bathroom.

1508W: Mortar was found along the bottom edge of the glass panels on the railing. The mortar under the tiling on the balcony is loose, allowing water and moisture in. The concrete finish underneath the railing is cracked and curled up, allowing water intrusion and possible promoting future corroding of the rebars.

1605W: There is a problem with the demising panel design. The depressed area will collect water (and likely fill) from the relatively higher tile surfaces. The balconies also have a common problem where many of the balconies drain water toward the demising panel and not to the exterior edge balcony of the balcony. Rubber gaskets on the railing posts on the unit balcony are coming out. Gaps were noticed in the rubber gaskets, as in the case shown here. These gaps allow water and particulates to get in between the glass and the aluminum, possibly leading to corrosion of the metal. Drip molding was noticed coming from the unit directly above (1801) in the corners of the balcony roof. This was observed as a common condition of many (or most) balconies where due to non-uniform provision of correct and uniform slope to the balcony edge, small areas were caused to drain large areas of poorly sloped balcony surface over long time periods. The result is development of organic growth where edges remain moist for long periods.

1705W: A rubber gasket was broken/missing pieces in the glass railing on the balcony, allowing water intrusion between the glass and the aluminum frame. Failing silicone was used between the glass and the walls in the bathroom.

1804W: There was a significant and inconsistent gap between the dividing wall and the tile floor of the unit's balcony. The dividing wall on the other end of the balcony had a uniform gap for the entire length of the divider. The slab and tile cannot be sloping correctly.

1805W: Mold was found growing on the roof of the balcony/floor of the balcony above. Bathroom sink had no backsplash to protect the wall from water intrusion. One of the window

openings was inoperable.

2001W: A gap between one of the railing posts and the balcony floor is allowing water to intrude and corrode the concrete rebars and the aluminum post support. Exterior expansion joint near the window of the unit appears to have been patched. Water and organic material is able to intrude under the sliding glass door track, as evidence by this plant growing from underneath. Rubber gaskets in the glass railing did not cover entire length, allowing for water intrusion and possible corrosion of the aluminum frame. Ponding was noticed around drains, indicating they are not directing water along the surface or draining properly, allowing water to absorb into the concrete and corrode the rebars. Stress cracks in the concrete walls of the roof patio were found. Gap between the two slabs of concrete forming the exterior wall on the roof was only partially patched. Water intrusion sourcewas found in the doorway of the roof patio access door. Gaps were observed and and unbonded stucco was identified by sounding at the juncture of the stucco wall and the roof membrane. Ponding evidence was also found near the jacuzzi on the patio.

PH-1W: Dirt collecting on the balcony indicates rain water is not draining properly over the balcony edge. Darker areas also show evidence of ponding. The waterproofing underneath the roof
railing is cracking, allowing water to penetrate into the concrete below. The drain under the dividing wall on the roof is not secured and easily removed. A corner of the dividing wall was patched but gaps can still be seen between the concrete slab and the wall. Glass railing on the roof patio is of different heights. The corner of the building is also badly damaged, as holes can be seen, that will allow water to intrude into the concrete structure.

In addition to the above, the vast majority of the units are experiencing objectionable sound transmission through the walls at adjoining or neighboring units; objectionable problems with the air conditioning/mechanical ventilation system in terms of temperature issues; objectionable problems with the air conditioning/mechanical ventilation system in terms of noise issues; and objectionable problems with the functionality and condition of appliances.

There are also many additional deficiencies present throughout the West Condominium, including those that are described in more detail in the attached Engineer's report, to which reference is hereby made.

As such, the above described problems concerning West Condominium are properly considered "construction defects" pursuant to Section 558.01(5) *et seq.*, Florida Statutes. Your immediate attention and investigation of the issues described above is hereby demanded as there are significant health and safety concerns due to the above described

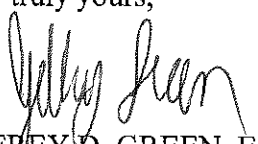
defective design, construction and installation issues. Further, 400 Sunny Isles West has incurred significant costs investigating this matter, and is facing further significant costs to repair and remediate the problems and bring the common elements of the West Condominium to an acceptable condition.

Pursuant to Section 558.04, Florida Statutes, you are hereby notified of the defective design, construction and installation issues at the West Condominium. Chapter 558 of the Florida Statutes provides a very limited amount of time for you to perform a reasonable inspection of the property subject to the claim to assess each alleged construction defect. 400 Sunny Isles West will cooperate with you and/or your representative for the scheduling of a mutually convenient time for any such inspection. Chapter 558 of the Florida Statutes further provides very limited deadlines for you to make claims on your contractors, subcontractors, suppliers and design professionals for the defects specified in this Notice of Claim, and for otherwise serving a written response to this Notice of Claim.

Demand is hereby made upon you to undertake the appropriate investigation and repair requirements set forth by Statute. If you fail to respond in an acceptable manner, the Association shall have no alternative but to pursue all remedies available to it under the law.

**PLEASE BE GOVERNED ACCORDINGLY.**

Very truly yours,



JEFFREY D, GREEN, ESQ.

JDG/
Enclosure (Engineer's Report)
cc: Michael S. Bender, Esq.
Board of Directors

ROBERT L. KAYE
MICHAEL S. BENDER
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October 11, 2017

**VIA CERTIFIED MAIL # 91 7199 9991 7036 5937 2329**
**RETURN RECEIPT REQUESTED**
**AND FIRST CLASS U.S. MAIL**
Moss & Associates, LLC.
c/o Bob L. Moss
2101 North Andrews Avenue
Fort Lauderdale, FL 33311

***Re: 400 Sunny Isles Condominium West Association, Inc.***
***Section 558.04, Florida Statutes, Notice of Claim of Construction Defects***

Dear Mr. Moss:

Please be advised that Kaye Bender Rembaum, P.L. serves as Counsel for the 400 Sunny Isles West Condominium Association, Inc., ("400 Sunny Isles West"), which your company constructed. Turnover from the Developer to the unit owners recently occurred.

After Turnover, 400 Sunny Isles West discovered significant problems concerning the proper design, construction and installation of the common element improvements of the Sunny Isles West Condominium ("the West Condominium"), which constitute construction defects as defined pursuant to Section 558 *et. seq.*, Florida Statutes. This correspondence serves as formal Notice to you by 400 Sunny Isles West of these defects.

The Board of Directors of 400 Sunny Isles West has recently undertaken an independent review and inspection of the East Condominium by a Professional Engineer, which has verified the claim of defects in the construction of the common element improvements of the West Condominium. I have enclosed herewith a copy of the engineer's report for your review and records.

With regard to the defects present at the West Condominium, said defects include, but are not limited to, the following: (1) Roof: Improper water proofing at various locations, rusting and corrosion at HVAC ducts; HVAC ducts improperly sealed; corrosion at anchor

rods; improperly constructed steps; improper sloping that can cause water intrusion; inadequate roof drain; stucco cracking at scuppers; missing and loose bolts at safety rails; cracking at base of three separate wall mounted HVAC compressors; parapets on roof not constructed in accordance with architectural details; significant cracking at the stucco base along the electrical conduits; water ponding around drains; electrical conduits improperly constructed; roof membrane is wet due to improper sloping; rusting of the smoke exhaust system; and fire caulking in electoral room has fallen away from wall.

(2) Corridors: Gaps underneath various elevator thresholds. (3) Stairwell: Cracks formed above various doors and door frames and severe rusting on doors. (4) Fitness Room: Gaps between baseboards and floor. (5) Lobby: Gaps in the walls; staining on the walls and HVAC vent; and gaps between the stairs and adjacent walls. (6) Maintenance room: Water was found entering the boiler room and ponding on the floor; walls in room are not properly sealed; and boiler room ceiling has openings in concrete ceiling and sheetrock. (7) Exterior walls: Cracking at upper floors; irregular stucco surface finishes at window openings; cracking of window stacks; waterproofing concerns at exhaust vents; and cracked flashing.

In addition to the above, significant problems concerning the proper design, construction and installation of the West Condominium units were observed, which include, but are not limited to the following:

305W: A ponding area on the balcony surface was noted as a the dark stain coloration. In addition, pieces of mortar from underneath the tiles in the neighboring patio are washing/blowing onto this patio. Depressed area in front of sliding glass door track which is not acceptable as water retained in this area can degrade waterproofing. Gaps also appear to have formed between the stucco and the frame and the concrete and the frame.

501W: Cracks and holes in the stucco and waterproofing were prominent underneath the glass railing and on the edges of the balcony slab. Holes/penetrations were noted in the balcony waterproofing, allowing for water to intrude into the concrete structure. The corner of the balcony slab damaged with cracks or holes. The edges of the balcony are jagged at the upper edge of the stucco application. Voids and cracks of stucco perimeters are allowing moisture to seep into the concrete slab and stucco at the bonding surface

601W: Sliding glass door to patio is bent (dented on upper surface) on the inside. A significant void and crack was found at the juncture of the wall and terrace surface, which allows water intrusion into the concrete below. The concrete below the knee walls below the railings on the balcony is cracking in several locations. Cracking in the stucco below the railing next to the pool. The joint between the pool tiling and the concrete/stucco wall underneath the railing is supporting organic growth. Cracks are forming along the edge of the concrete

and at the locations of the organic growth. A crack has formed across the top of the planter wall and down the entire face of the wall of the planter. The exterior balcony walls also have cracking in the stucco where the planter wall joins the exterior wall, due to a lack of expansion joints in the concrete. Cracks from the base of the outside wall on the patio due to the lack of an expansion joint. Patches of the surface in the concrete of the patio slab are considered significant. In addition, dark areas around the drains is deposits of waterborne sediments that show that the terraces typically do not properly drain. The drains installed have minimal drainage area in the lower segment of the bi-level design, and consistently performed inadequately throughout the project, indicating that water was ponding around them instead of draining properly. The waterproofing membrane underneath the backer bar in the planter is coming apart and no longer protecting the cement from the moisture and soil.

605W: Paint on the dividing wall is chipping. Glass panels are misaligned at the railing. Concrete is incorrectly sloped towards the sliding glass door instead of the drain and the patio, causing water to pond at the base of the door instead of properly running to the drain.

704W: A recessed area below the window seems to have been filled with cementitious material. The material appears to be a grout and dissimilar from the normal slab concrete. The infill material boundary in this case is extremely irregular and is a concern because of the cold joint resulting at the juncture.

706W: A water test was performed on the balcony of the unit. Water was poured onto the balcony near the doorway to see if it would drain properly. While some of the water was shown to drain off the edge of the balcony, the majority of the water remained ponded near the sliding glass door. The patio does not have a uniform or adequate slope indicated on the design drawings. The drain in the shower does not appear to be draining properly, as it is set too high.

805W: Gaskets were either coming out or loose along the windows. Mortar or balcony surfacing material has collected on the railing. A water test was performed on the balcony. While the water flowed to the railing, it began to pond before flowing off.

901W: The interior floor slab should be at least ¾" higher than the balcony slab to deter water from entering inside. There is not a difference in elevation between interior and exterior elevation. A water test was performed on the balcony of the unit. After 10 minutes, the water had ponded in the middle of the balcony and therefore did not drain properly, indicating that the balcony is not sloped correctly to allow for proper drainage.

1104W: Dark area near the sliding glass door on the balcony shows apparent ponding area. A water test was performed, showing that the water ponds in front of the door and in the center of the balcony instead of draining over the edge. This indicates that the balcony is not be sloped properly to allow for proper drainage.

1205W: Excess waterproofing was applied around the rail posts and near the sliding glass door. A water test was performed on the balcony. Only a small amount of water was able to drain over the edge while most of the water ponded in the center of the balcony. This indicates that the balcony is not sloped correctly to allow for proper drainage. An area of tiles in the bathroom was wet and very slippery, suggesting water may be leaking up through the tile or dripping from the ceiling. The wood door to the HVAC closet was painting was poorly performed.

1207W: A recessed area of concrete was not filled in all the way, leaving a gap between the window frame and the floor slab. The stucco wall adjacent to the sliding glass door jamb was cracked and contained holes, allowing water intrusion into the concrete. A water test was performed on the balcony. None of the water flowed off the edge, instead ponding along the exterior wall. This indicates that the balcony was not be sloped to allow for proper drainage. Water frequently traveled under demising wall panels onto other adjoining balconies, and often under adjoining tile installations. Low water pressure was found throughout the entire unit.

1208W: A crack was found in the corners of the baseboard. Gaps were also detected between the baseboard and the floor. Additionally, a dark reddish stain was noticed in the corner where the wall meets the baseboard, considered due to moisture and rust. Windows in the unit all had multiple, large scratches across them.

1401W: Water intrusion has caused rusting to occur in a cement recess beneath this window. Cement has not been completely filled in this area, as also indicated by the gap between the cement and the wall. Dark areas on the balcony indicate ponding near the sliding glass doors and in the center of the balcony. Balcony is not be sloped properly to allow for drainage.

1402W: Discoloration around the railing posts on the balcony indicate possible water damage to the floor tiles or patching during tile installation. The glass on the balcony railing was extremely loose. The owner of the unit needs to put cardboard between the frame and the glass to secure it. Rubber gaskets were also found missing in the railing structure. Gaps were noticed between the dividing wall on the balcony and the tile flooring, allowing for water intrusion underneath the divider. Mortar underneath tiling on balcony is loose and not sealed properly, allowing water to intrude underneath the tile and

between the concrete. Cracks were also found at the base of the railing posts, also allowing for water intrusion.

1408W: A hairline crack in the floor slab, about 4 feet long, was noticed in one of the rooms. Gaps between the concrete slab and the wall were also noticed.

1505W: The dividing walls between units, shown here in unit 1505, do not provide enough privacy. In addition to the dividing panels not being tall enough, there is also a significant gap between them. Mortar from underneath the tiling on the balcony is loose, allowing water to get between the tiles and the concrete. The shower does not appear to be correctly sloped to allow for proper drainage. An open area in the wall under the sink was noticed in the bathroom.

1508W: Mortar was found along the bottom edge of the glass panels on the railing. The mortar under the tiling on the balcony is loose, allowing water and moisture in. The concrete finish underneath the railing is cracked and curled up, allowing water intrusion and possible promoting future corroding of the rebars.

1605W: There is a problem with the demising panel design. The depressed area will collect water (and likely fill) from the relatively higher tile surfaces. The balconies also have a common problem where many of the balconies drain water toward the demising panel and not to the exterior edge balcony of the balcony. Rubber gaskets on the railing posts on the unit balcony are coming out. Gaps were noticed in the rubber gaskets, as in the case shown here. These gaps allow water and particulates to get in between the glass and the aluminum, possibly leading to corrosion of the metal. Drip molding was noticed coming from the unit directly above (1801) in the corners of the balcony roof. This was observed as a common condition of many (or most) balconies where due to non-uniform provision of correct and uniform slope to the balcony edge, small areas were caused to drain large areas of poorly sloped balcony surface over long time periods. The result is development of organic growth where edges remain moist for long periods.

1705W: A rubber gasket was broken/missing pieces in the glass railing on the balcony, allowing water intrusion between the glass and the aluminum frame. Failing silicone was used between the glass and the walls in the bathroom.

1804W: There was a significant and inconsistent gap between the dividing wall and the tile floor of the unit's balcony. The dividing wall on the other end of the balcony had a uniform gap for the entire length of the divider. The slab and tile cannot be sloping correctly.

1805W: Mold was found growing on the roof of the balcony/floor of the balcony above. Bathroom sink had no backsplash to protect the wall from water intrusion. One of the window

openings was inoperable.

2001W: A gap between one of the railing posts and the balcony floor is allowing water to intrude and corrode the concrete rebars and the aluminum post support. Exterior expansion joint near the window of the unit appears to have been patched. Water and organic material is able to intrude under the sliding glass door track, as evidence by this plant growing from underneath. Rubber gaskets in the glass railing did not cover entire length, allowing for water intrusion and possible corrosion of the aluminum frame. Ponding was noticed around drains, indicating they are not directing water along the surface or draining properly, allowing water to absorb into the concrete and corrode the rebars. Stress cracks in the concrete walls of the roof patio were found. Gap between the two slabs of concrete forming the exterior wall on the roof was only partially patched. Water intrusion sourcewas found in the doorway of the roof patio access door. Gaps were observed and and unbonded stucco was identified by sounding at the juncture of the stucco wall and the roof membrane. Ponding evidence was also found near the jacuzzi on the patio.

PH-1W: Dirt collecting on the balcony indicates rain water is not draining properly over the balcony edge. Darker areas also show evidence of ponding. The waterproofing underneath the roof
railing is cracking, allowing water to penetrate into the concrete below. The drain under the dividing wall on the roof is not secured and easily removed. A corner of the dividing wall was patched but gaps can still be seen between the concrete slab and the wall. Glass railing on the roof patio is of different heights. The corner of the building is also badly damaged, as holes can be seen, that will allow water to intrude into the concrete structure.

In addition to the above, the vast majority of the units are experiencing objectionable sound transmission through the walls at adjoining or neighboring units; objectionable problems with the air conditioning/mechanical ventilation system in terms of temperature issues; objectionable problems with the air conditioning/mechanical ventilation system in terms of noise issues; and objectionable problems with the functionality and condition of appliances and other fixtures.

There are also many additional deficiencies present throughout the West Condominium, including those that are described in more detail in the attached Engineer's report, to which reference is hereby made.

As such, the above described problems concerning the West Condominium are properly considered "construction defects" pursuant to Section 558.01(5) *et seq.*, Florida Statutes. Your immediate attention and investigation of the issues described above is hereby demanded as there are significant health and safety concerns due to the above described

defective design, construction and installation issues. Further, 400 Sunny Isles West has incurred significant costs investigating this matter, and is facing further significant costs to repair and remediate the problems and bring the common elements of the West Condominium to an acceptable condition.

Pursuant to Section 558.04, Florida Statutes, you are hereby notified of the defective design, construction and installation issues at the West Condominium. Chapter 558 of the Florida Statutes provides a very limited amount of time for you to perform a reasonable inspection of the property subject to the claim to assess each alleged construction defect. 400 Sunny Isles West will cooperate with you and/or your representative for the scheduling of a mutually convenient time for any such inspection. Chapter 558 of the Florida Statutes further provides very limited deadlines for you to make claims on your contractors, subcontractors, suppliers and design professionals for the defects specified in this Notice of Claim, and for otherwise serving a written response to this Notice of Claim.

Demand is hereby made upon you to undertake the appropriate investigation and repair requirements set forth by Statute. If you fail to respond in an acceptable manner, the Association shall have no alternative but to pursue all remedies available to it under the law.

**PLEASE BE GOVERNED ACCORDINGLY.**

Very truly yours,

JEFFREY D. GREEN, ESQ.

JDG/
Enclosure (Engineer's Report)
cc: Michael S. Bender, Esq.
Board of Directors

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ALLISON L. HERTZ
ASHLEY R. TULLOCH
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WITH AN ADDITIONAL OFFICE
IN PALM BEACH GARDENS

*KBRLegal.Com*

October 11, 2017

**VIA CERTIFIED MAIL # 91 7199 9991 7036 5937 2312**
**RETURN RECEIPT REQUESTED**
**AND FIRST CLASS U.S. MAIL**
400 Sunny Isles LLC
c/o Arthur Amron
411 West Putnam Avenue
Greenwich, CT 06830

***Re: 400 Sunny Isles Condominium West Association, Inc.***
***Section 558.04, Florida Statutes, Notice of Claim of Construction Defects***

Dear Mr. Amron:

Please be advised that Kaye Bender Rembaum, P.L. serves as Counsel for the 400 Sunny Isles West Condominium Association, Inc., ("400 Sunny Isles West"), which your company developed. Turnover from your company to the unit owners recently occurred.

After Turnover, 400 Sunny Isles West discovered significant problems concerning the proper design, construction and installation of the common element improvements of the Sunny Isles West Condominium ("the West Condominium"), which constitute construction defects as defined pursuant to Section 558 *et. seq.*, Florida Statutes. This correspondence serves as formal Notice to you by 400 Sunny Isles West of these defects.

The Board of Directors of 400 Sunny Isles West has recently undertaken an independent review and inspection of the West Condominium by a Professional Engineer, which has verified the claim of defects in the construction of the common element improvements of the West Condominium. I have enclosed herewith a copy of the engineer's report and elevator report for your review and records.

With regard to the defects present at the West Condominium, said defects include, but are not limited to, the following: (1) Roof: Improper water proofing at various locations, rusting and corrosion at HVAC ducts; HVAC ducts improperly sealed; corrosion at anchor

rods; improperly constructed steps; improper sloping that can cause water intrusion; inadequate roof drain; stucco cracking at scuppers; missing and loose bolts at safety rails; cracking at base of three separate wall mounted HVAC compressors; parapets on roof not constructed in accordance with architectural details; significant cracking at the stucco base along the electrical conduits; water ponding around drains; electrical conduits improperly constructed; roof membrane is wet due to improper sloping; rusting of the smoke exhaust system; and fire caulking in electoral room has fallen away from wall.

(2) Corridors: Gaps underneath various elevator thresholds; (3) Stairwell: Cracks formed above various doors and door frames and severe rusting on doors. (4) Fitness Room: Gaps between baseboards and floor; (5) Lobby: Gaps in the walls; staining on the walls and HVAC vent; and gaps between the stairs and adjacent walls; (6) Maintenance room: Water was found entering the boiler room and ponding on the floor; walls in room are not properly sealed; and boiler room ceiling has openings in concrete ceiling and sheetrock; (7) Exterior walls: Cracking at upper floors; irregular stucco surface finishes at window openings; cracking of window stacks; waterproofing concerns at exhaust vents; and cracked flashing; and (8) Elevators: Broken Greenfield flex cables; oil in the elevator pit; dirty car tops and components; improper overhead clearance; and dirty hoistway and components.

In addition to the above, significant problems concerning the proper design, construction and installation of the West Condominium units were observed, which include, but are not limited to the following:

305W: Ponding area on the balcony surface as a dark stain coloration. In addition, pieces of mortar from underneath the tiles in the neighboring patio are washing/blowing onto this patio. Depressed area in front of sliding glass door track which is not acceptable as water retained in this area can degrade waterproofing. Gaps also appear to have formed between the stucco and the frame and the concrete and the frame.

501W: Cracks and holes in the stucco and waterproofing were prominent underneath the glass railing and on the edges of the balcony slab. Holes/penetrations were noted in the balcony waterproofing, allowing for water to intrude into the concrete structure. The corner of the balcony slab damaged with cracks or holes. The edges of the balcony are jagged at the upper edge of the stucco application. Voids and cracks of stucco perimeters are allowing moisture to seep into the concrete slab and stucco at the bonding surface

601W: Sliding glass door to patio is bent (dented on upper surface) on the inside. A significant void and crack was found at the juncture of the wall and terrace surface, which allows water intrusion into the concrete below. The concrete below the knee walls below the railings on the balcony is cracking in several locations. Cracking in the stucco below the railing next to the pool. The joint between the pool tiling and the concrete/stucco wall underneath the railing is supporting organic growth. Cracks are forming along the edge of the concrete and

at the locations of the organic growth. A crack has formed across the top of the planter wall and down the entire face of the wall of the planter. The exterior balcony walls also have cracking in the stucco where the planter wall joins the exterior wall, due to a lack of expansion joints in the concrete. Cracks from the base of the outside wall on the patio due to the lack of an expansion joint. Patches of the surface in the concrete of the patio slab are considered significant. In addition, dark areas around the drains is deposits of waterborne sediments that show that the terraces typically do not properly drain. The drains installed have minimal drainage area in the lower segment of the bi-level design, and consistently performed inadequately throughout the project, indicating that water was ponding around them instead of draining properly. The waterproofing membrane underneath the backer bar in the planter is coming apart and no longer protecting the cement from the moisture and soil.

605W: Paint on the dividing wall is chipping. Glass panels are misaligned at the railing. Concrete is incorrectly sloped towards the sliding glass door instead of the drain and the patio, causing water to pond at the base of the door instead of properly running to the drain.

704W: A recessed area below the window seems to have been filled with cementitious material. The material appears to be a grout and dissimilar from the normal slab concrete. The infill material boundary in this case is extremely irregular and is a concern because of the cold joint resulting at the juncture.

706W: A water test was performed on the balcony of the unit. Water was poured onto the balcony near the doorway to see if it would drain properly. While some of the water was shown to drain off the edge of the balcony, the majority of the water remained ponded near the sliding glass door. The patio does not have a uniform or adequate slope indicated on the design drawings. The drain in the shower does not appear to be draining properly, as it is set too high.

805W: Gaskets were either coming out or loose along the windows. Mortar or balcony surfacing material has collected on the railing. A water test was performed on the balcony. While the water flowed to the railing, it began to pond before flowing off.

901W: The interior floor slab should be at least ¾" higher than the balcony slab to deter water from entering inside. There is not a difference in elevation between interior and exterior elevation. A water test was performed on the balcony of the unit. After 10 minutes, the water had ponded in the middle of the balcony and therefore did not drain properly, indicating that the balcony is not sloped correctly to allow for proper drainage.

1104W: Dark area near the sliding glass door on the balcony shows apparent ponding area. A water test was performed, showing that the water ponds in front of the door and in the center of the balcony instead of

draining over the edge. This indicates that the balcony is not be sloped properly to allow for proper drainage.

1205W: Excess waterproofing was applied around the rail posts and near the sliding glass door. A water test was performed on the balcony. Only a small amount of water was able to drain over the edge while most of the water ponded in the center of the balcony. This indicates that the balcony is not sloped correctly to allow for proper drainage. An area of tiles in the bathroom was wet and very slippery, suggesting water may be leaking up through the tile or dripping from the ceiling. The wood door to the HVAC closet was painting was poorly performed.

1207W: A recessed area of concrete was not filled in all the way, leaving a gap between the window frame and the floor slab. The stucco wall adjacent to the sliding glass door jamb was cracked and contained holes, allowing water intrusion into the concrete. A water test was performed on the balcony. None of the water flowed off the edge, instead ponding along the exterior wall. This indicates that the balcony was not be sloped to allow for proper drainage. Water frequently traveled under demising wall panels onto other adjoining balconies, and often under adjoining tile installations. Low water pressure was found throughout the entire unit.

1208W: A crack was found in the corners of the baseboard. Gaps were also detected between the baseboard and the floor. Additionally, a dark reddish stain was noticed in the corner where the wall meets the baseboard, considered due to moisture and rust. Windows in the unit all had multiple, large scratches across them.

1401W: Water intrusion has caused rusting to occur in a cement recess beneath this window. Cement has not been completely filled in this area, as also indicated by the gap between the cement and the wall. Dark areas on the balcony indicate ponding near the sliding glass doors and in the center of the balcony. Balcony is not be sloped properly to allow for drainage.

1402W: Discoloration around the railing posts on the balcony indicate water damage to the floor tiles or patching during tile installation. The glass on the balcony railing is extremely loose. Rubber gaskets were also found missing in the railing structure. Gaps were noticed between the dividing wall on the balcony and the tile flooring, allowing for water intrusion underneath the divider. Mortar underneath tiling on balcony is loose and not sealed properly, allowing water to intrude underneath the tile and between the concrete. Cracks were also found at the base of the railing posts, also allowing for water intrusion.

1408W: A hairline crack in the floor slab, about 4 feet long, was noticed in one of the rooms. Gaps between the concrete slab and the wall were also noticed.

1505W: The dividing walls between units do not provide enough privacy. In addition to the dividing panels not being tall enough, there is also a significant gap between them. Mortar from underneath the tiling on the balcony is loose, allowing water to get between the tiles and the concrete. The shower does not appear to be correctly sloped to allow for proper drainage. An open area in the wall under the sink was noticed in the bathroom.

1508W: Mortar was found along the bottom edge of the glass panels on the railing. The mortar under the tiling on the balcony is loose, allowing water and moisture in. The concrete finish underneath the railing is cracked and curled up, allowing water intrusion and possible promoting future corroding of the rebars.

1605W: There is a problem with the demising panel design. The depressed area will collect water (and likely fill) from the relatively higher tile surfaces. The balconies also have a common problem where many of the balconies drain water toward the demising panel and not to the exterior edge balcony of the balcony. Rubber gaskets on the railing posts on the unit balcony are coming out. Gaps were noticed in the rubber gaskets, as in the case shown here. These gaps allow water and particulates to get in between the glass and the aluminum, possibly leading to corrosion of the metal. Drip molding was noticed coming from the unit directly above (1801) in the corners of the balcony roof. This was observed as a common condition of many (or most) balconies where due to non-uniform provision of correct and uniform slope to the balcony edge, small areas were caused to drain large areas of poorly sloped balcony surface over long time periods. The result is development of organic growth where edges remain moist for long periods.

1705W: A rubber gasket was broken/missing pieces in the glass railing on the balcony, allowing water intrusion between the glass and the aluminum frame. Failing silicone was used between the glass and the walls in the bathroom.

1804W: There was a significant and inconsistent gap between the dividing wall and the tile floor of the unit's balcony. The dividing wall on the other end of the balcony had a uniform gap for the entire length of the divider. The slab and tile cannot be sloping correctly.

1805W: Mold was found growing on the roof of the balcony/floor of the balcony above. Bathroom sink had no backsplash to protect the wall from water intrusion. One of the window openings is inoperable.

2001W: A gap between one of the railing posts and the balcony floor is allowing water to intrude and corrode the concrete rebars and the aluminum post support. Exterior expansion joint near the window of the unit appears to have been patched. Water and organic material is able to intrude under the sliding glass door track, as evidence by this plant growing from underneath. Rubber gaskets in the glass railing

did not cover entire length, allowing for water intrusion and possible corrosion of the aluminum frame. Ponding was noticed around drains, indicating they are not directing water along the surface or draining properly, allowing water to absorb into the concrete and corrode the rebars. Stress cracks in the concrete walls of the roof patio were found. Gap between the two slabs of concrete forming the exterior wall on the roof was only partially patched. Water intrusion source was found in the doorway of the roof patio access door. Gaps were observed and unbonded stucco was identified by sounding at the juncture of the stucco wall and the roof membrane. Ponding evidence was also found near the jacuzzi on the patio.

PH-1W: Dirt collecting on the balcony indicates rain water is not draining properly over the balcony edge. Darker areas also show evidence of ponding. The waterproofing underneath the roof railing is cracking, allowing water to penetrate into the concrete below. The drain under the dividing wall on the roof is not secured and easily removed. A corner of the dividing wall was patched but gaps can still be seen between the concrete slab and the wall. Glass railing on the roof patio is of different heights. The corner of the building is also badly damaged, as holes can be seen, that will allow water to intrude into the concrete structure.

In addition to the above, the vast majority of the units are experiencing objectionable sound transmission through the walls at adjoining or neighboring units; objectionable problems with the air conditioning/mechanical ventilation system in terms of temperature issues; objectionable problems with the air conditioning/mechanical ventilation system in terms of noise issues; and objectionable problems with the functionality and condition of appliances and fixtures.

There are also many additional deficiencies present throughout the West Condominium, including those that are described in more detail in the attached Engineer's report and Elevator Report, to which reference is hereby made.

As such, the above described problems concerning West Condominium are properly considered "construction defects" pursuant to Section 558.01(5) *et seq.*, Florida Statutes. Your immediate attention and investigation of the issues described above is hereby demanded as there are significant health and safety concerns due to the above described defective design, construction and installation issues. Further, 400 Sunny Isles West has incurred significant costs investigating this matter, and is facing further significant costs to repair and remediate the problems and bring the common elements of the West Condominium to an acceptable condition.

Pursuant to Section 558.04, Florida Statutes, you are hereby notified of the defective design, construction and installation issues at the West Condominium. Chapter 558 of the Florida Statutes provides a very limited amount of time for you to perform a reasonable

inspection of the property subject to the claim to assess each alleged construction defect. 400 Sunny Isles West will cooperate with you and/or your representative for the scheduling of a mutually convenient time for any such inspection. Chapter 558 of the Florida Statutes further provides very limited deadlines for you to make claims on your contractors, subcontractors, suppliers and design professionals for the defects specified in this Notice of Claim, and for otherwise serving a written response to this Notice of Claim.

Please also accept this letter as 400 Sunny Isles West's communication of the requirements and restrictions set forth in the Uniform Fraudulent Transfer Act (Florida Statute 726.01, *et. seq.*), and other related acts which restrict you, the Developer, any related or apparent companies, and subsidiaries, partnerships, partners, associates, etc., from rendering any such entity and/or the Developer itself without sufficient funds to satisfy the debt which may be owed to 400 Sunny Isles West , as a "present and future creditor" under the Statute, or otherwise.

These restrictions include, but are not limited to, the transference, liquidation, sale, acquisition, merger or any other means of asset depletion or secreting which serves to leave any such entity or person without sufficient funds to satisfy the debt which will be owed to 400 Sunny Isles West . Note that under these circumstances, the statute entirely restricts any attempt to liquidate a Florida corporation in order to transfer any balance to a foreign or domestic corporation or other person or entity. In accordance with the statutes, demand is hereby made upon you to ensure that sufficient funds exist and remain to satisfy the debt which may be owed to 400 Sunny Isles West as a "present and future creditor" under the statute, or otherwise.

Demand is hereby made upon you to undertake the appropriate investigation and repair requirements set forth by Statute. If you fail to respond in an acceptable manner, the Association shall have no alternative but to pursue all remedies available to it under the law.

**PLEASE BE GOVERNED ACCORDINGLY.**

Very truly yours,

JEFFREY D, GREEN, ESQ.

JDG/
Enclosure (Engineer's Report, Elevator Report)
cc: Michael S. Bender, Esq.
Board of Directors

ROBERT L. KAYE
MICHAEL S. BENDER
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October 11, 2017

**VIA CERTIFIED MAIL # 91 7199 9991 7036 5938 8276**
**RETURN RECEIPT REQUESTED**
**AND FIRST CLASS U.S. MAIL**
B&J Consulting Engineers., Inc.,
c/o Jaime H. Jaramillo
10881 NW 73rd Terrace
Doral, FL 33178

***Re: 400 Sunny Isles Condominium West Association, Inc.***
***Section 558.04, Florida Statutes, Notice of Claim of Construction Defects***

Dear Mr. Jaramillo:

Please be advised that Kaye Bender Rembaum, P.L. serves as Counsel for the 400 Sunny Isles West Condominium Association, Inc., ("400 Sunny Isles West"), which your company structurally engineered. Turnover from the Developer to the unit owners recently occurred.

After Turnover, 400 Sunny Isles West discovered significant problems concerning the proper design, construction and installation of the common element improvements of the Sunny Isles West Condominium ("the West Condominium"), which constitute construction defects as defined pursuant to Section 558 *et. seq.,* Florida Statutes. This correspondence serves as formal Notice to you by 400 Sunny Isles West of these defects.

The Board of Directors of 400 Sunny Isles West has recently undertaken an independent review and inspection of the West Condominium by a Professional Engineer, which has verified the claim of defects in the construction of the common element improvements of the West Condominium. I have enclosed herewith a copy of the engineer's report for your review and records.

With regard to the defects present at the West Condominium, said defects include, but are not limited to, the following: (1) Roof: Improper water proofing at various locations,

rusting and corrosion at HVAC ducts; HVAC ducts improperly sealed; corrosion at anchor rods; improperly constructed steps; improper sloping that can cause water intrusion; inadequate roof drain; stucco cracking at scuppers; missing and loose bolts at safety rails; cracking at base of three separate wall mounted HVAC compressors; parapets on roof not constructed in accordance with architectural details; significant cracking at the stucco base along the electrical conduits; water ponding around drains; electrical conduits improperly constructed; roof membrane is wet due to improper sloping; rusting of the smoke exhaust system; and fire caulking in electoral room has fallen away from wall.

(2) Corridors: Gaps underneath various elevator thresholds. (3) Stairwell: Cracks formed above various doors and door frames and severe rusting on doors. (4) Fitness Room: Gaps between baseboards and floor. (5) Lobby: Gaps in the walls; staining on the walls and HVAC vent; and gaps between the stairs and adjacent walls. (6) Maintenance room: Water was found entering the boiler room and ponding on the floor; walls in room are not properly sealed; and boiler room ceiling has openings in concrete ceiling and sheetrock. (7) Exterior walls: Cracking at upper floors; irregular stucco surface finishes at window openings; cracking of window stacks; waterproofing concerns at exhaust vents; and cracked flashing.

In addition to the above, significant problems concerning the proper design, construction and installation of the West Condominium units were observed, which include, but are not limited to the following:

305W: A ponding area on the balcony surface was noted as a the dark stain coloration. In addition, pieces of mortar from underneath the tiles in the neighboring patio are washing/blowing onto this patio. Depressed area in front of sliding glass door track which is not acceptable as water retained in this area can degrade waterproofing. Gaps also appear to have formed between the stucco and the frame and the concrete and the frame.

501W: Cracks and holes in the stucco and waterproofing were prominent underneath the glass railing and on the edges of the balcony slab. Holes/penetrations were noted in the balcony waterproofing, allowing for water to intrude into the concrete structure. The corner of the balcony slab damaged with cracks or holes. The edges of the balcony are jagged at the upper edge of the stucco application. Voids and cracks of stucco perimeters are allowing moisture to seep into the concrete slab and stucco at the bonding surface

601W: Sliding glass door to patio is bent (dented on upper surface) on the inside. A significant void and crack was found at the juncture of the wall and terrace surface, which allows water intrusion into the concrete below. The concrete below the knee walls below the railings on the balcony is cracking in several locations. Cracking in the stucco below the railing next to the pool. The joint between the pool tiling and the concrete/stucco wall underneath the railing is supporting

organic growth. Cracks are forming along the edge of the concrete and at the locations of the organic growth. A crack has formed across the top of the planter wall and down the entire face of the wall of the planter. The exterior balcony walls also have cracking in the stucco where the planter wall joins the exterior wall, due to a lack of expansion joints in the concrete. Cracks from the base of the outside wall on the patio due to the lack of an expansion joint. Patches of the surface in the concrete of the patio slab are considered significant. In addition, dark areas around the drains is deposits of waterborne sediments that show that the terraces typically do not properly drain. The drains installed have minimal drainage area in the lower segment of the bi-level design, and consistently performed inadequately throughout the project, indicating that water was ponding around them instead of draining properly. The waterproofing membrane underneath the backer bar in the planter is coming apart and no longer protecting the cement from the moisture and soil.

605W: Paint on the dividing wall is chipping. Glass panels are misaligned at the railing. Concrete is incorrectly sloped towards the sliding glass door instead of the drain and the patio, causing water to pond at the base of the door instead of properly running to the drain.

704W: A recessed area below the window seems to have been filled with cementitious material. The material appears to be a grout and dissimilar from the normal slab concrete. The infill material boundary in this case is extremely irregular and is a concern because of the cold joint resulting at the juncture.

706W: A water test was performed on the balcony of the unit. Water was poured onto the balcony near the doorway to see if it would drain properly. While some of the water was shown to drain off the edge of the balcony, the majority of the water remained ponded near the sliding glass door. The patio does not have a uniform or adequate slope indicated on the design drawings. The drain in the shower does not appear to be draining properly, as it is set too high.

805W: Gaskets were either coming out or loose along the windows. Mortar or balcony surfacing material has collected on the railing. A water test was performed on the balcony. While the water flowed to the railing, it began to pond before flowing off.

901W: The interior floor slab should be at least ¾" higher than the balcony slab to deter water from entering inside. There is not a difference in elevation between interior and exterior elevation. A water test was performed on the balcony of the unit. After 10 minutes, the water had ponded in the middle of the balcony and therefore did not drain properly, indicating that the balcony is not sloped correctly to allow for proper drainage.

1104W: Dark area near the sliding glass door on the balcony shows apparent ponding area. A water test was performed, showing that the water ponds in front of the door and in the center of the balcony instead of draining over the edge. This indicates that the balcony is not be sloped properly to allow for proper drainage.

1205W: Excess waterproofing was applied around the rail posts and near the sliding glass door. A water test was performed on the balcony. Only a small amount of water was able to drain over the edge while most of the water ponded in the center of the balcony. This indicates that the balcony is not sloped correctly to allow for proper drainage. An area of tiles in the bathroom was wet and very slippery, suggesting water may be leaking up through the tile or dripping from the ceiling. The wood door to the HVAC closet was painting was poorly performed.

1207W: A recessed area of concrete was not filled in all the way, leaving a gap between the window frame and the floor slab. The stucco wall adjacent to the sliding glass door jamb was cracked and contained holes, allowing water intrusion into the concrete. A water test was performed on the balcony. None of the water flowed off the edge, instead ponding along the exterior wall. This indicates that the balcony was not be sloped to allow for proper drainage. Water frequently traveled under demising wall panels onto other adjoining balconies, and often under adjoining tile installations. Low water pressure was found throughout the entire unit.

1208W: A crack was found in the corners of the baseboard. Gaps were also detected between the baseboard and the floor. Additionally, a dark reddish stain was noticed in the corner where the wall meets the baseboard, considered due to moisture and rust. Windows in the unit all had multiple, large scratches across them.

1401W: Water intrusion has caused rusting to occur in a cement recess beneath this window. Cement has not been completely filled in this area, as also indicated by the gap between the cement and the wall. Dark areas on the balcony indicate ponding near the sliding glass doors and in the center of the balcony. Balcony is not be sloped properly to allow for drainage.

1402W: Discoloration around the railing posts on the balcony indicate possible water damage to the floor tiles or patching during tile installation. The glass on the balcony railing was extremely loose. The owner of the unit needs to put cardboard between the frame and the glass to secure it. Rubber gaskets were also found missing in the railing structure. Gaps were noticed between the dividmg wall on the balcony and the tile flooring, allowing for water intrusion underneath the divider. Mortar underneath tiling on balcony is loose and not sealed properly, allowing water to intrude underneath the tile and

between the concrete. Cracks were also found at the base of the railing posts, also allowing for water intrusion.

1408W: A hairline crack in the floor slab, about 4 feet long, was noticed in one of the rooms. Gaps between the concrete slab and the wall were also noticed.

1505W: The dividing walls between units, shown here in unit 1505, do not provide enough privacy. In addition to the dividing panels not being tall enough, there is also a significant gap between them. Mortar from underneath the tiling on the balcony is loose, allowing water to get between the tiles and the concrete. The shower does not appear to be correctly sloped to allow for proper drainage. An open area in the wall under the sink was noticed in the bathroom.

1508W: Mortar was found along the bottom edge of the glass panels on the railing. The mortar under the tiling on the balcony is loose, allowing water and moisture in. The concrete finish underneath the railing is cracked and curled up, allowing water intrusion and possible promoting future corroding of the rebars.

1605W: There is a problem with the demising panel design. The depressed area will collect water (and likely fill) from the relatively higher tile surfaces. The balconies also have a common problem where many of the balconies drain water toward the demising panel and not to the exterior edge balcony of the balcony. Rubber gaskets on the railing posts on the unit balcony are coming out. Gaps were noticed in the rubber gaskets, as in the case shown here. These gaps allow water and particulates to get in between the glass and the aluminum, possibly leading to corrosion of the metal. Drip molding was noticed coming from the unit directly above (1801) in the corners of the balcony roof. This was observed as a common condition of many (or most) balconies where due to non-uniform provision of correct and uniform slope to the balcony edge, small areas were caused to drain large areas of poorly sloped balcony surface over long time periods. The result is development of organic growth where edges remain moist for long periods.

1705W: A rubber gasket was broken/missing pieces in the glass railing on the balcony, allowing water intrusion between the glass and the aluminum frame. Failing silicone was used between the glass and the walls in the bathroom.

1804W: There was a significant and inconsistent gap between the dividing wall and the tile floor of the unit's balcony. The dividing wall on the other end of the balcony had a uniform gap for the entire length of the divider. The slab and tile cannot be sloping correctly.

1805W: Mold was found growing on the roof of the balcony/floor of the balcony above. Bathroom sink had no backsplash to protect the wall from water intrusion. One of the window

openings was inoperable.

2001W: A gap between one of the railing posts and the balcony floor is allowing water to intrude and corrode the concrete rebars and the aluminum post support. Exterior expansion joint near the window of the unit appears to have been patched. Water and organic material is able to intrude under the sliding glass door track, as evidence by this plant growing from underneath. Rubber gaskets in the glass railing did not cover entire length, allowing for water intrusion and possible corrosion of the aluminum frame. Ponding was noticed around drains, indicating they are not directing water along the surface or draining properly, allowing water to absorb into the concrete and corrode the rebars. Stress cracks in the concrete walls of the roof patio were found. Gap between the two slabs of concrete forming the exterior wall on the roof was only partially patched. Water intrusion sourcewas found in the doorway of the roof patio access door. Gaps were observed and and unbonded stucco was identified by sounding at the juncture of the stucco wall and the roof membrane. Ponding evidence was also found near the jacuzzi on the patio.

PH-1W: Dirt collecting on the balcony indicates rain water is not draining properly over the balcony edge. Darker areas also show evidence of ponding. The waterproofing underneath the roof
railing is cracking, allowing water to penetrate into the concrete below. The drain under the dividing wall on the roof is not secured and easily removed. A corner of the dividing wall was patched but gaps can still be seen between the concrete slab and the wall. Glass railing on the roof patio is of different heights. The corner of the building is also badly damaged, as holes can be seen, that will allow water to intrude into the concrete structure.

In addition to the above, the vast majority of the units are experiencing objectionable sound transmission through the walls at adjoining or neighboring units; objectionable problems with the air conditioning/mechanical ventilation system in terms of temperature issues; objectionable problems with the air conditioning/mechanical ventilation system in terms of noise issues; and objectionable problems with the functionality and condition of appliances and other fixtures.

There are also many additional deficiencies present throughout the 400 Sunny Isles West Condominium, including those that are described in more detail in the attached Engineer's report, to which reference is hereby made.

As such, the above described problems concerning 400 Sunny Isles West Condominium are properly considered "construction defects" pursuant to Section 558.01(5) *et seq.*, Florida Statutes. Your immediate attention and investigation of the issues described above is hereby demanded as there are significant health and safety concerns due to the

above described defective design, construction and installation issues. Further, 400 Sunny Isles West has incurred significant costs investigating this matter, and is facing further significant costs to repair and remediate the problems and bring the common elements of the 400 Sunny Isles West Condominium to an acceptable condition.

Pursuant to Section 558.04, Florida Statutes, you are hereby notified of the defective design, construction and installation issues at the West Condominium. Chapter 558 of the Florida Statutes provides a very limited amount of time for you to perform a reasonable inspection of the property subject to the claim to assess each alleged construction defect. 400 Sunny Isles West will cooperate with you and/or your representative for the scheduling of a mutually convenient time for any such inspection. Chapter 558 of the Florida Statutes further provides very limited deadlines for you to make claims on your contractors, subcontractors, suppliers and design professionals for the defects specified in this Notice of Claim, and for otherwise serving a written response to this Notice of Claim.

Demand is hereby made upon you to undertake the appropriate investigation and repair requirements set forth by Statute. If you fail to respond in an acceptable manner, the Association shall have no alternative but to pursue all remedies available to it under the law.

**PLEASE BE GOVERNED ACCORDINGLY.**

Very truly yours,

JEFFREY D. GREEN, ESQ.

JDG/
Enclosure (Engineer's Report)
cc: Michael S. Bender, Esq.
Board of Directors

# EXHIBIT “B”

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# Master Report

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400 Sunny Isles Master Condominium Association, Inc.
Condition Assessment Report
Report Date: July 18th, 2017

# 1 Introduction

This evaluation was authorized by the Board of Directors of the 400 Sunny Isles Master Condominium Association, Inc. The purpose of this evaluation was to provide opinions regarding the general condition of the property improvements, with regard to the turnover of the property from the developer to the Association. The comments, conclusions, and recommendations presented in this "Condition Assessment Report" are the professional opinions of Archetype Engineering & Architecture, Inc. This Condition Assessment Report was assisted by the Property Manager, Atlantic Pacific Association Management Inc.

Donald J. Atkinson, P.E., Architect, principal of Archetype Engineering & Architecture, Inc. conducted site observations of the property improvements located at 400 Sunny Isles Boulevard. Property Management staff provided access to all mechanical/utility spaces, common use areas, roof, garages and residential units. Archetype Engineering & Architecture, Inc. is the author of this report which was based on site observations of the building, review of construction documents and interviews with property management staff. The document review includes drawings provided by the Association and are listed within the report. Opinions regarding conditions of the subject property were based on visual observations, soundings of material, and non-destructive diagnostics, as deemed appropriate by the engineer.

Major building systems were reviewed, including architectural, structural, mechanical, electrical, plumbing, elevators, and fire safety. Additionally, certain components such as the seawall and site conditions that are not considered an Association-owned asset may be noted, *not as a developer issue*, but as an adjacent condition that could affect the Association(s), and which may be of value for

informational purposes. The Report seeks to identify to the extent reasonable, construction conditions that fail to conform with approved permitted documents, fail to conform to Florida Building Code requirements, fail to conform to Construction Standards included in the Florida Building Code as reference standards (and which are therefore required by the Code), or that are considered design or construction defects failing to meet the standards of design care or standards of accepted construction practices, or workmanship. Conditions that are constructed in a manner that are considered to impose an unreasonable, extraordinary maintenance burden may also be noted. General recommendations for correction of items of concern noted in this report may also be provided, or the need for additional investigation may be advised. This Turnover Report documents the findings of the site observations and investigations by the engineer. The project as-built drawings were provided, and reviewed. These documents were provided to Archetype by the Client or its property manager. The year of occupancy of the building is considered to be 2016. The project design was generally governed by the 2010 Florida Building Code and local amendments. Kobi Karp Architects was the lead designer of record.

## 1.1 Building Description

The project structure is based on a six-story structure, primarily consisting of parking areas with multiple floors of residential units on the south (waterfront) façade. The six-story base structure also contains lobby, commercial, circulation and other ancillary spaces. Two 17 story residential condominium towers rise above the base structure. The two residential condominium towers each are provided with 4 elevators each, (eight total). Two additional elevators serve the seven-story structure.

The column foundations of the building are constructed of circular piles and pile caps, typically in the range of 4 to 4.5 feet thick. Shear walls are supported on piles and heavier combined matt foundation caps ranging from approximately 4 up to 7 feet thick. The concrete piles and pile caps foundations are topped by an 8-inch thick reinforced concrete slab on grade. Lateral Load resistance is provided by an extensive collection of shear walls in the core vertical circulation areas of the building, and others running parallel to the south elevation. The remainder of the vertical load carrying components of the building are concrete columns. Exterior walls are concrete block, typically reinforced with #6 bars at 24 inches on center and galvanized joint reinforcing at 16 inch block course intervals.

The building slabs are typically post tensioned concrete slabs. The sixth-floor garage structure has a four-foot interstitial space and post tensioned pool deck slab structure superimposed above where pools, spas and fountains are provided. The exterior cladding of the building is painted stucco from grade to top of parapet and at elevator shaft overruns. The building has a modified bitumen membrane roof with granulated cap sheet. There are numerous flat terraces in addition to many flat roof areas that depend on bi-level drainage.

## 1.2 Construction Codes and Standards

The following code listing was provided on the Architectural Project Documents.

### SCOPE OF WORK

THE EXTENT OF THE BUILDING PERMIT SET PACKAGE CONSIST OF ALL SITE, STRUCTURAL, LANDSCAPE, SHELL, INTERIOR, BUILT OUT WITH M/E/P/PP/FA AND SECURITY FOR A RESIDENTIAL MIXED USE OCCUPANCY DECORATOR READY HIGH-RISE TOWER

### APPLICABLE CODES

| | |
|---|---|
| BUILDING: | FLORIDA BUILDING CODE, 2010 |
| MECHANICAL: | FLORIDA PLUMBING CODE, 2010 |
| ELECTRICAL: | NATIONAL ELECTRICAL CODE, 2011 |
| PLUMBING: | FLORIDA PLUMBING CODE, 2010 |
| LIFE SAFETY: | NFPA 101 |
| OTHER: | FLORIDA FIRE PREVENTION CODE, 2010<br>FLORIDA ACCESSIBILITY CODE<br>FOR CONSTRUCTION, 2012 |

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| | S1.10B | 20TH LEVEL W. TWR - FRAMING & REINF. PLAN | |
| | S1.11A | 21ST LEVEL E. TWR - FRAMING & REINF. PLAN | |
| | S1.11B | 21ST LEVEL W. TWR - FRAMING & REINF. PLAN | |
| | S1.12A | MECHANICAL LEVEL W. TWR - FRAMING & REINF. PLAN | |
| | S1.12B | MECHANICAL LEVEL E. TWR - FRAMING & REINF. PLAN | |
| | S1.13A | ROOF W. TWR - FRAMING & REINF. PLAN | |
| | S1.13B | ROOF E. TWR - FRAMING & REINF. PLAN | |
| | S2.0 | FOUNDATION DETAILS | • |
| | S2.1 | FOUNDATION DETAILS | • |
| | S2.2 | FOUNDATION DETAILS | |
| | S3.0 | SHEAR WALL DETAILS | • |
| | S3.1 | SHEAR WALL DETAILS | • |
| | S3.2 | SHEAR WALL DETAILS | • |
| | S3.3 | SHEAR WALL DETAILS | • |
| | S3.4 | SHEAR WALL DETAILS | • |
| | S3.5 | SHEAR WALL DETAILS | • |
| | S3.6 | SHEAR WALL DETAILS | • |
| | S3.7 | SHEAR WALL ELEVATIONS | |
| | S3.8 | SHEAR WALL ELEVATIONS | |
| | S4.0 | COLUMN/ BEAM SCHEDULE | |
| | S5.0A | STAIR SECTIONS | |
| | S5.0B | STAIR SECTIONS | |
| | S5.0C | STAIR SECTIONS | |
| | S5.0D | STAIR SECTIONS | |
| | S5.1 | SECTIONS | |
| | S5.2 | SECTIONS | |
| | S5.3 | SECTIONS | |
| | S6.0 | WIND CLADDING PRESSURES | |
| | S6.1 | WIND CLADDING PRESSURES | |
| | S6.2 | WIND CLADDING PRESSURES | |

| | | | |
|---|---|---|---|
| **Civil*** | C-0 | COVER SHEET AND LOCATION MAP | • |
| VSN Engineering | C-1 | SITE AND PAVING PLAN | • |
| | C-2 | SITE AND PAVING DETIALS | • |
| | C-3 | OVERALL GRAING AND DRAINAGE PLAN | • |
| | C-4 | DRAINAGE PLAN | • |
| | C-5 | DRAINAGE PLAN | • |
| | C-6 | GRADING PLAN | • |
| | C-7 | GRADING PLAN | • |
| | C-8 | STORM DRAINAGE DETAILS | • |
| | C-9 | SEDIMENT TANK AND DRAINAGE WELL NO 1 | • |
| | C-10 | SEDIMENT TANK AND DRAINAGE WELL NO 2 | • |
| | C-11 | SEDIMENT TANK AND DRAINAGE WELL NO 3 | • |
| | C-12 | SEDIMENT TANK AND DRAINAGE WELL NO 4 | • |
| | C-13 | SEDIMENT TANK AND DRAINAGE WELL NO 5 | • |
| | C-14 | WATER DISTRIBUTION SYSTEM COVER SHEET | • |
| | C-15 | SEWER COLLECTION SYSTEM COVER SHEET | • |
| | C-16 | SITE UTILITITES PLAN | • |
| | C-17 | SITE UTILITITES PLAN | • |
| | C-18 | WATER DETAILS | • |
| | C-19 | WATER DETAILS | • |
| | C-20 | WATER PROFILES | |
| | C-21 | SEWER PROFILES | |

MEP, FS, L IRR, D and other sheets were reviewed but not listed here.

# 2 Observations and Recommendations

The following sections provide detailed photographs and descriptions of issues found and noted in the Master Building. Recommendations have also been provided for remediating and future mitigation.

## 2.1 Parking Garage

The parking garage is located beneath the main structure, behind residence floors 1-5, on the north side of the complex.

*Photo is informational only.*

*Figure 1*

This electrical box was not covered even though it contains high-voltage equipment. All equipment must be stored according to code.

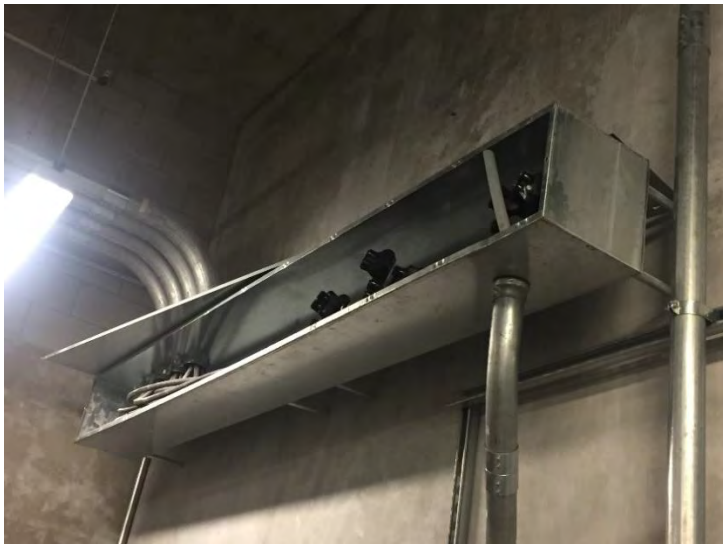


*Figure 2*

Wires were not covered properly by this electrical plate on the ceiling, creating a possible electrical hazard.

*Figure 3*

It appears that a pipe hole was added after-the-fact into the concrete (circled). Cracking and/or another possible hole added later can also be seen (arrows). This location should be sleeved through the slab.
The sleeved penetrations should also be fire caulked.

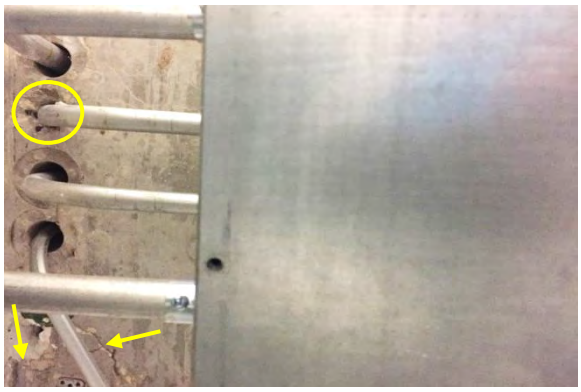


*Figure 4*

Metal sheet covering overhead electrical box was missing screws and was bowing and open at edges. The condition should be remedied by adding fastener locations.

*Figure 5*

Water is seeping down through the storm water leader pipes from the 4th level of the garage. The water was found dripping down the pipes on the lower level garage floors below.

*Figure 6*

Another view of the ponding water on the 4th level. The exact location of the issue can be noted by the parking space 4043.

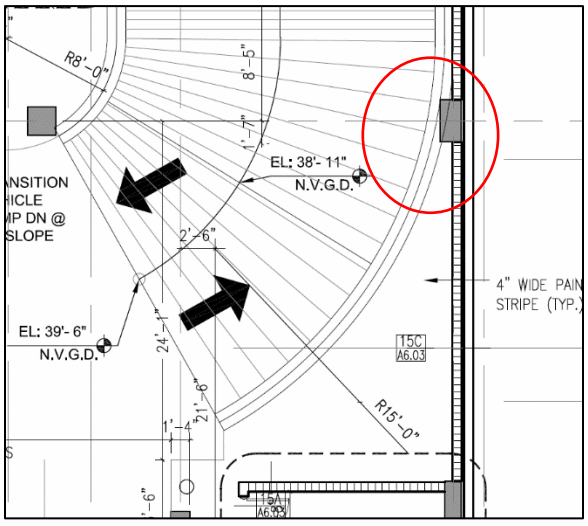

*Figure 7*

Close view of the water seeping down this storm drain pipe, pooling on the garage surface, and the continuing down to other levels of the garage.

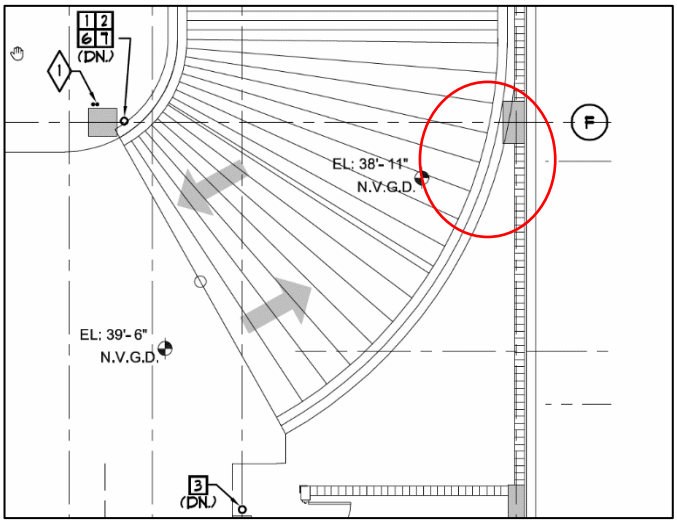
*Figure 8*

Water has been entrapped and ponded in the corner of garage ramp and is not draining properly. This moisture will seep damage the concrete in the column, wall, and slab as corrosion of the reinforcing occurs.
Neither the architectural plans nor the plumbing plans included a way for this water to drain. Improvised tubing was found to have been installed in some locations, but often was not performing adequately in terms of drainage.

*Figure 9*




Architectural Plan – Garage Level 5




Plumbing Plan – Garage Level 5

An improvised conduit for water to drain from the ponding location noted above can be seen here. It does not appear to be draining, likely due to clogging.
A possible solution might be the installation of a stainless steel or PVC pipe sleeved through the exterior wall to drip water away from the façade. This would also prevent the deposition of black water onto the driving surface of the deck as is seen elsewhere (see picture below).

*Figure 10*

Another location of ponding water in a corner of the parking ramp. Cracking has already begun in the concrete. While there does appear to be a channel for the water to drain from this location, it is not draining properly and therefore the water is still ponding (see at right).

*Figure 11*

This galvanized steel connection is for the aluminum grid union with the concrete parking garage north and west façade.
The weld joint has started to corrode, as is common where the galvanized zinc coating is destroyed during the wilding process. Rust had formed at the weld location. Note that stainless steel bolt, nut and washer had been properly employed at the aluminum attachment.
These connections should be corrected by removal of as much oxidized iron as possible at the weld and then applying a PPG Zinc rich slurry coating (or similar) over the weld areas.

*Figure 12*

Garage Air Evacuation Fan - GEF-1G and some others were making an extraordinary amount of noise during normal operations.

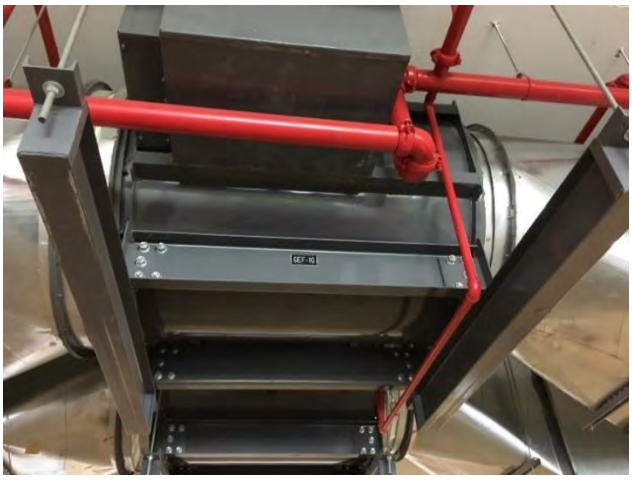


*Figure 13*

While other doorways in the garage are clearly marked and barricaded off with posts, this stairwell door (left) and storage room door (right) opens directly into the main driveway of the parking garage.

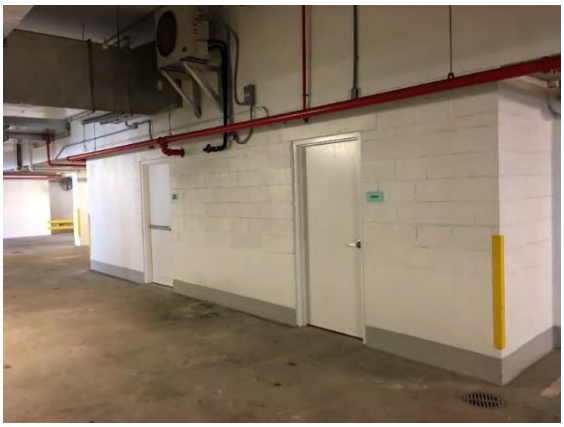


*Figure 14*

Another view of the doorways opening at the driveway of the parking garage. This angle clearly shows the ramp in the background and the location of the doors in relation to where cars would normally drive by.
Code research of this issue is required, as this is not a fire egress pathway, but as an exit from the elevator lobby 10, and the pedestrian corridor to the south, users are stepping from an interior corridor lobby space, directly into the pathway of vehicles as they step through the door.
Even if allowed by the code, Archetype would like to suggest modification of this condition.

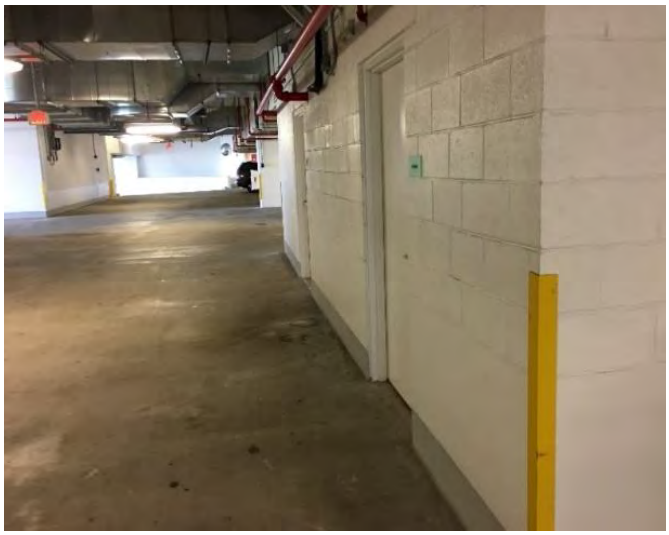


*Figure 15*

The figure below shows the architectural plans which include no recessed area or safety barriers for anyone entering or exiting through the two doors.

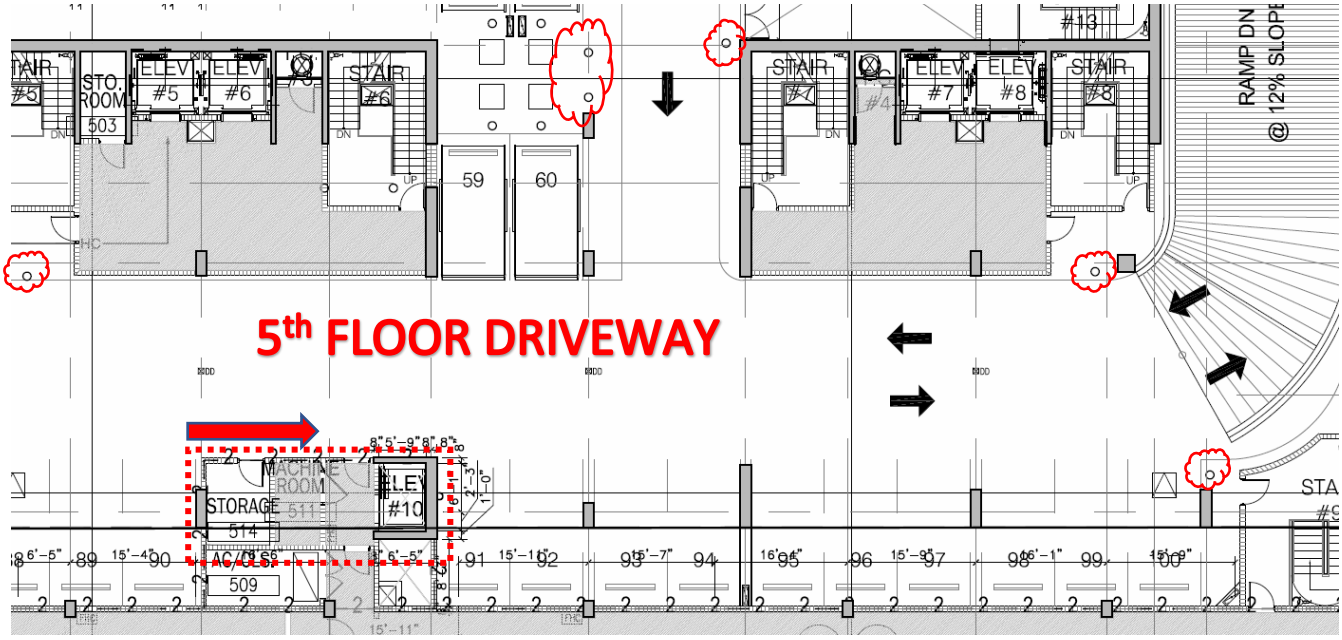



*Figure 16*

Another doorway, clearly marked and blocked off.

*Photo is informational only.*

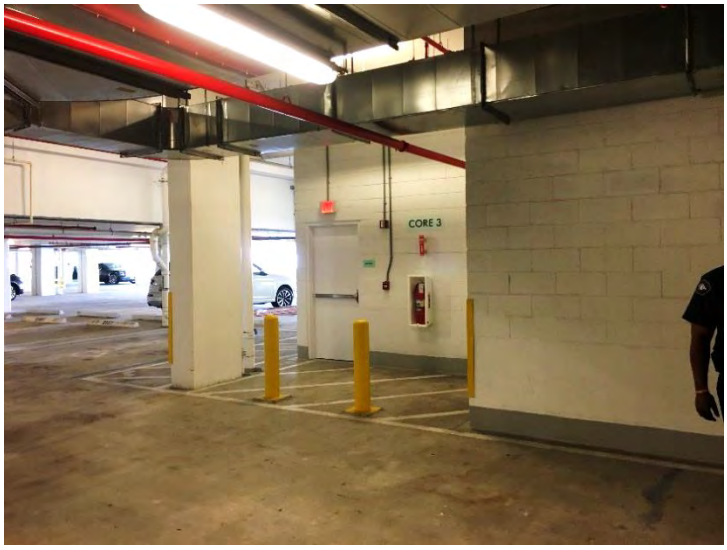



*Figure 17*

There appears to be two smoke detectors in the fire pump room. One of the two smoke detectors is taped. It is possible that the smoke detector in question was beeping at one point and this was a quick solution.

*Figure 18*

Fireproofing around this pipe has gapped at the perimeter of the pipe. Many instances of defective or damage fireproofing were found throughout the fire pump room area.


*Figure 19*

Fireproofing around this pipe has failed, exposing the insulation on the inside.

*Figure 20*

A close-up view of the cracked fireproofing from the location above.

*Figure 21*

This hole in the wall appears to be the intended location of an electrical outlet. This outlet should be installed as indicated on electrical drawings. Verification of the fireproofing of this condition should also be performed.
The electrical contractor should survey all outlets.
All similar cases throughout the building should also be properly verified for completeness per plans, fire rated where appropriate, and provided with covers.

*Figure 22*

An overview of the fire pump just outside the fire pump room. Side view at right.

*Figure 24* *Figure 23*

The fire pump just outside the fire pump room, above right. The fireproofing has cracked along the perimeter of the pipe.

In the event of a fire, this fire damper shutter must be able to close in order to prevent the fire from spreading further. However, the air filter placed and folded in the opening obstructs the door from closing. Proper storage of these filters is necessary to ensure proper fire safety.

*Figure 25*

## 2.2 Pool Deck

The Pool Deck is located above the parking structure and extends around both east and west condominium towers. The south, central area of the level is provided with a large pool and a circumferential deck. The deck wearing surface consists of large, square concrete pavers.

*Photo is informational only.*

*Figure 26*

The north side of the pool deck is provided with a glass and aluminum fall-prevention railing system. Unfortunately, the railing has an integrally cast concrete curb. The curb creates a step condition rising to an elevation above the main deck level. This creates a step to top of railing dimension of only 33 inches (approximately 10 inches less than the desired 42 to 44-inch dimension). This is highly dangerous because it fails to provide adequate fall protection. It is not considered reasonable that children or careless persons would not be in danger of falling.

*Figure 27*

*Figure 28*

Note that someone had installed a second, higher railing of proper height located only at the planter areas.

*Figure 29*

The pool deck level between the two towers features a large spa, fountains, arbors, and a cabana bar area.

*Photo is informational only*.

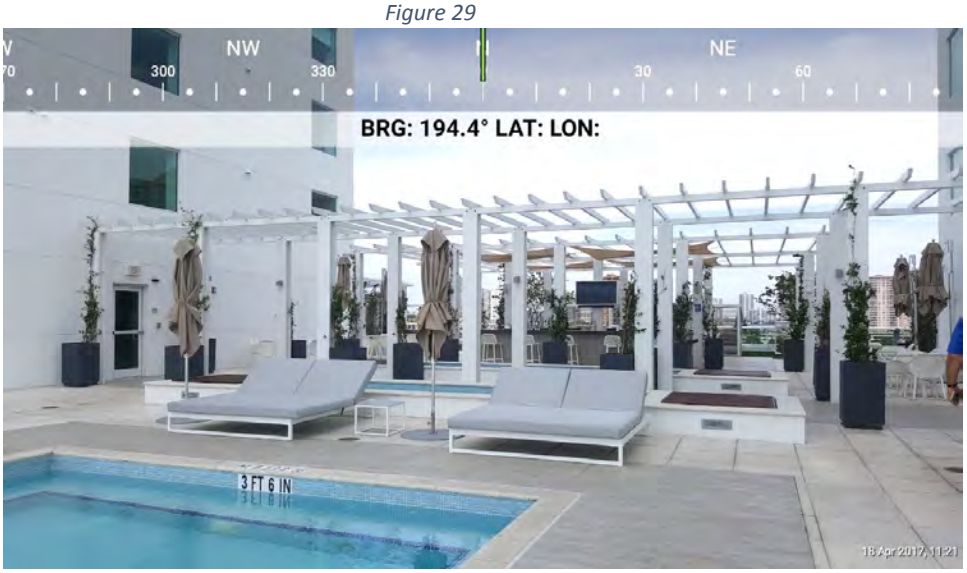



*Figure 30*

The expansion joint located between the concrete pavers and the vertical stucco walls of the towers was failing in terms of adhesion. The joint is considered aesthetic only, as the tiles are not a watertight surface and therefore any openings do not compromise the flooring. These areas of adhesive failure are expected where backer rod and caulk is used at a wearing surface, as this is not a recommended horizontal joint.

*Figure 31*

This is a close-up view of the adhesion failure shown above. The gap was measured to be about 5 inches in length.
Failure of the expansion joint at the paver surface elevation will allow water to enter into the space below the pavers above the waterproofing membrane, where the lower level of a bi-level drain must remove the water. This has shown to be a problem at tile in the spa pool and at pavers in lower areas around drains.

*Figure 32*

This is an overview of the spa on the pool deck. Areas of cracks and efflorescence were noticed in the cobblestone waterfall surface, indicating that water may be intruding behind the stones.

*Figure 33*

The following photos are close-up views of the problem areas on both the spa and the plunge pool, both constructed similarly. Cracks and efflorescence can clearly be seen in these photos.


*Figure 34*


*Figure 35*

*Figure 36*

*Figure 37*

Organic growth was also found between the tiles, at the soft expansion joint, indicating that the moisture is under the joint and the concrete tiles are not draining properly. Areas on both the spa and the plunge pool are not draining properly, giving rise to these organic growth areas.

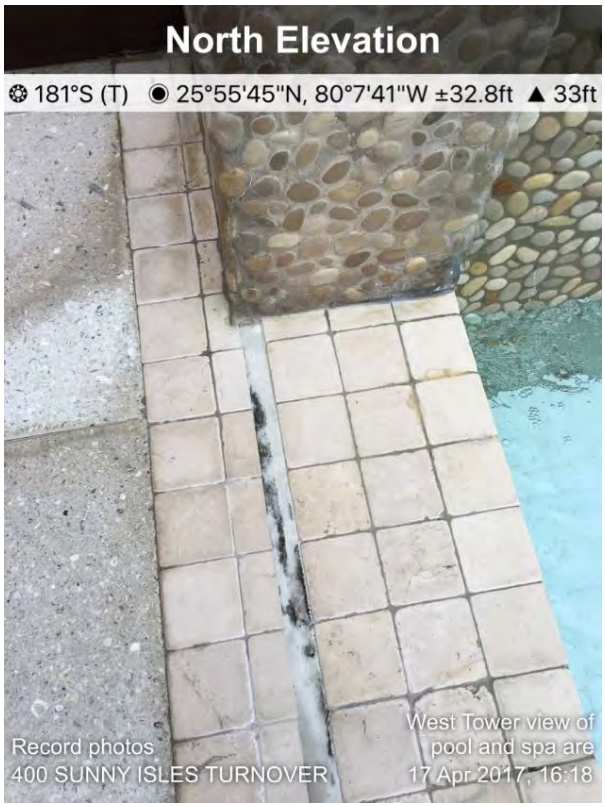



*Figure 38*

*Figure 39*

Cracking in the textured waterproof coating on the pool deck surface was found to occur at regular intervals along the north side of the Lanai Level (6th floor).
The coating typically should have jointing at regular intervals to relieve stress. Manufacturer requirements for the actual material used should be identified and requirements for both jointing and adhesion should be evaluated for conformance.

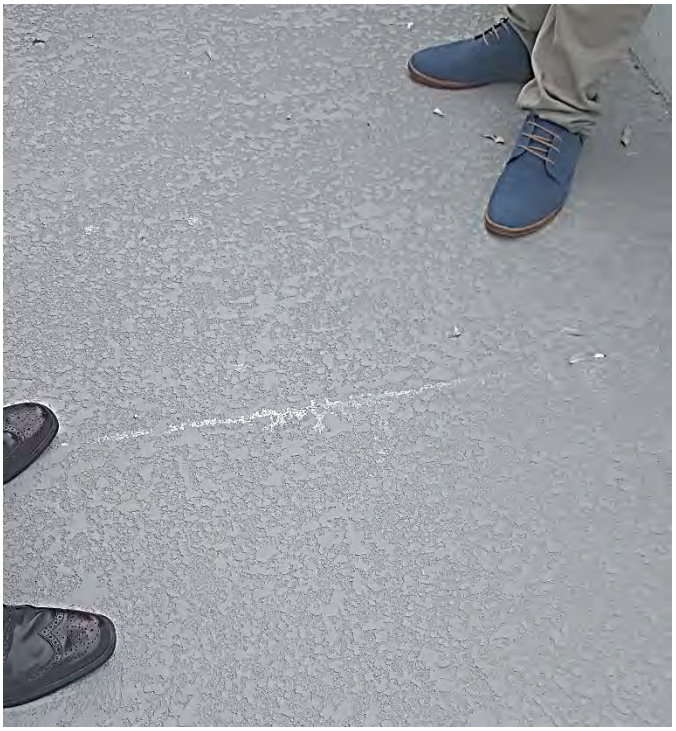


*Figure 40*

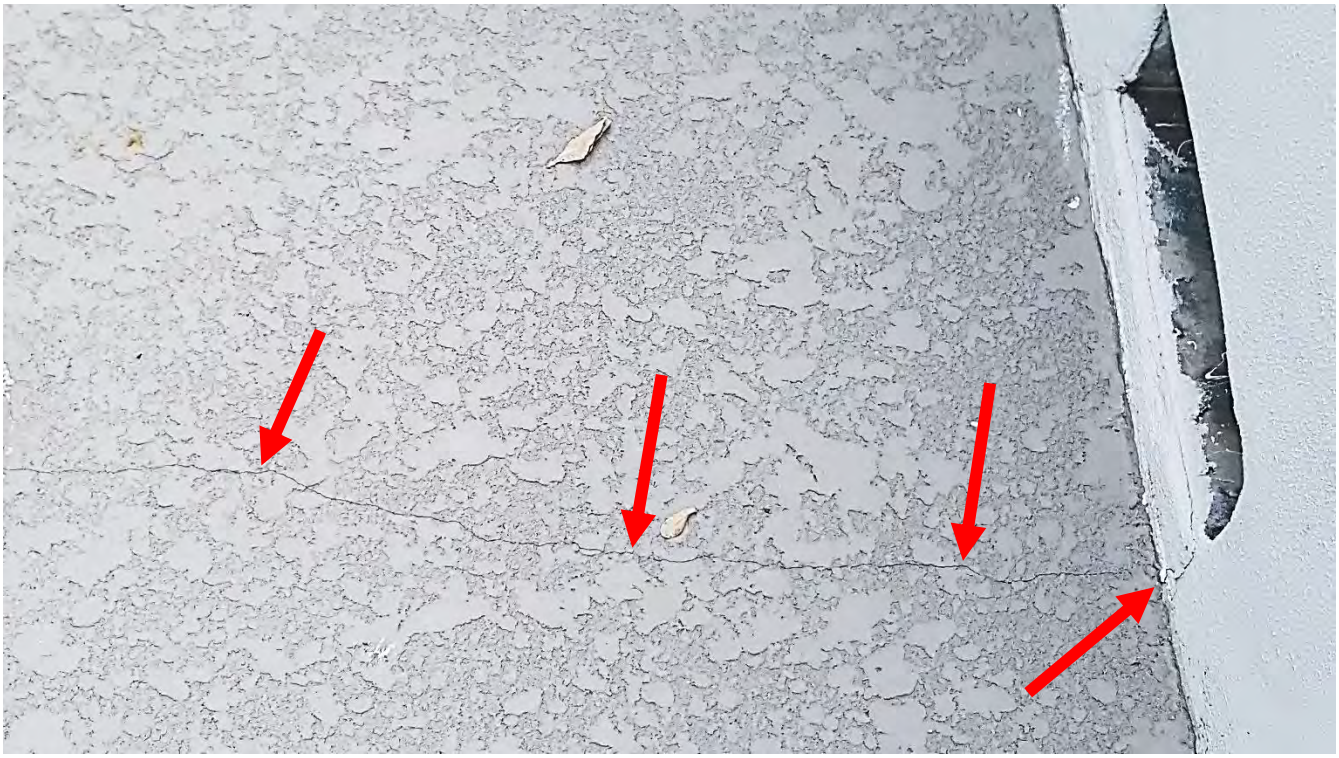


*Figure 41*

This stain was noticed just inside the doorway leading into the stairwell (yellow box). This indicates that water is coming into the interior from under the door threshold and underneath the waterproof texture coating. The moisture is ponding on the concrete, unable to drain. This will cause damage to the concrete and reinforcing if not mitigated.
Note in the photo below that the coating is cracked and delaminating (red arrows).

*Figure 42*

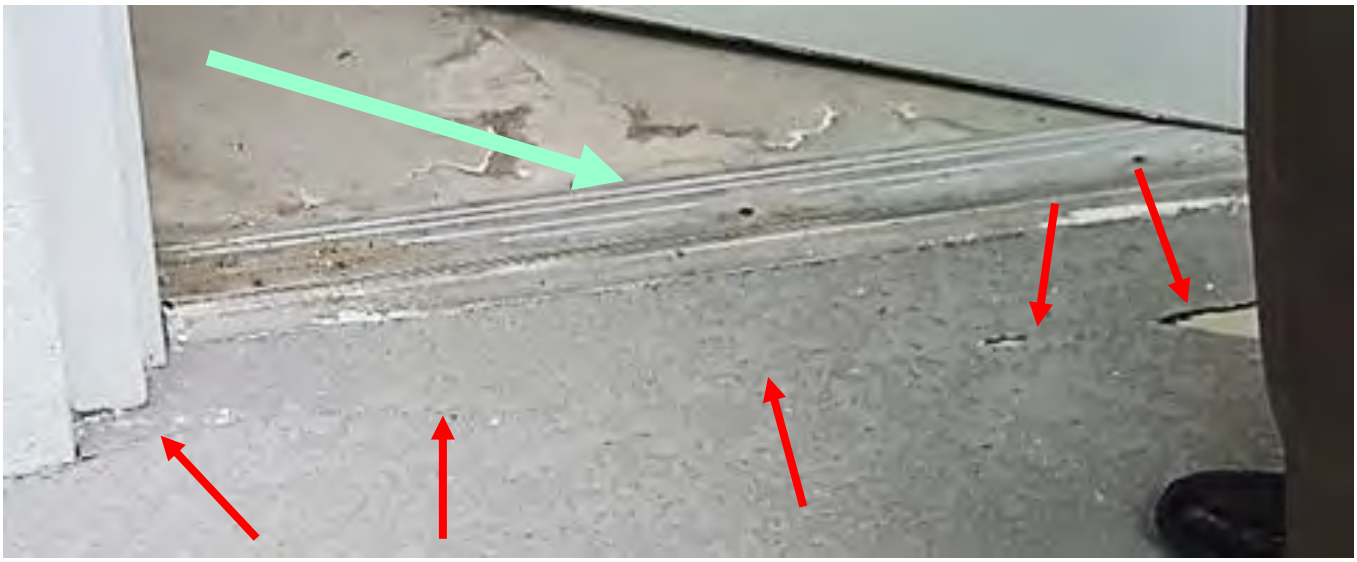


*Figure 43*

Tiles on the 6th floor terrace level show signs of water not draining correctly. Tile grout has become stained or blackened in areas. These conditions were considered to be caused by excessive moisture under the tile wearing surface.

*Figure 44*

The tiles to the south of the pool have similar staining throughout the pool deck. The slab that the tile sits on is improperly sloped.

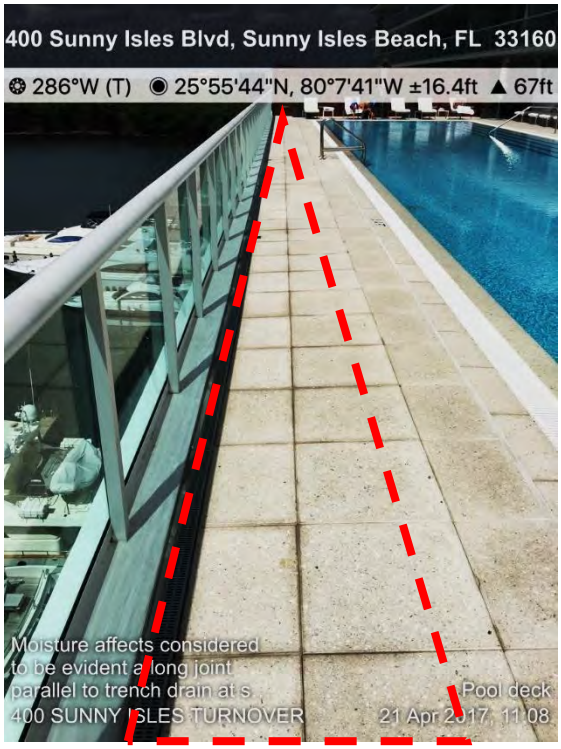



*Figure 45*

The tiles on the pool deck have also become blackened in the tile joints. Staining is particularly worse around drain, indicating it may not be draining correctly. The slab underneath the tile is believed to be improperly sloped, which is causing water to stay under the tile indefinitely. This is causing the water to leach minerals out of the deck tiles and deposit dirt and other materials on the surface.

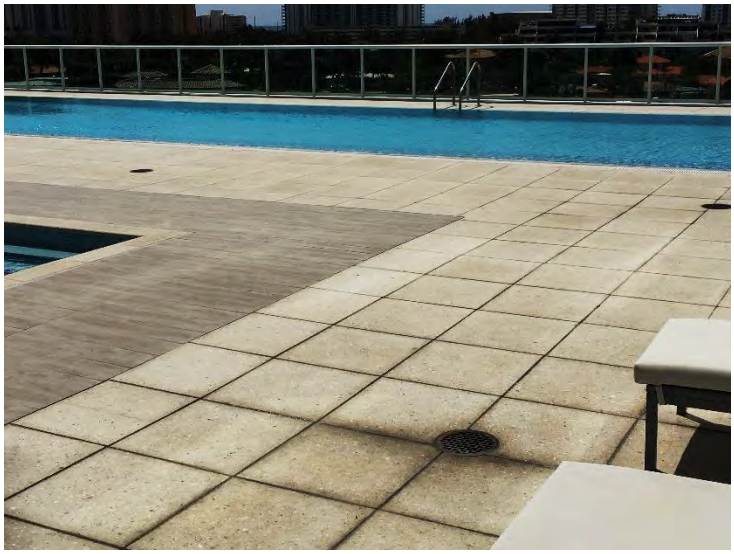


*Figure 46*

This is a close-up view of the drain shown above. The joints around the drain are darker than the surrounding area suggesting that the drain may be clogged on the lower bi-level, inhibiting the water from flowing into the drain from under the tile.

*Figure 47*

The tiles around the pool shower also have particularly dark grout joint staining. This dark grout in and adjacent to the joints were considered to have been caused as a result of moisture under the tile wearing surface. Grouted joints remaining moist or saturated due to retainage of excessive moisture was considered to be caused by poor/inadequate drainage.

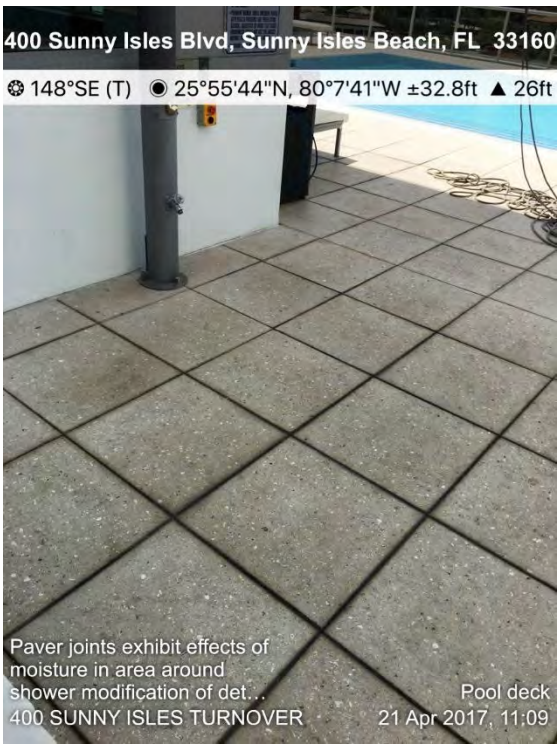



*Figure 48*

When the shower pictured above is used, more water is added to the surrounding area which explains why the grout around it is generally darker than other areas.


*Figure 49*

In other locations, organic growth has begun to form as well as mineral deposits along expansion joints and other structural systems.


*Figure 50*

This saturated joint is acting as on outlet for moisture onto the expansion joints between the two structures. The moisture under the tile is causing efflorescence on the expansion joint, which confirms that moisture is dissolving the grout and tile from underneath and depositing the particles on to the expansion joint as it evaporates.

*Figure 51*

This is a similar example of efflorescence on the expansion joint. This example is an accelerated case compared to the last. The deposits have become so thick that they have spread up and down the joint.

*Figure 52*

The tiles are out of plane and have lips throughout. These can be hazardous to children or the elderly due to the possible trip hazard they pose.

*Figure 53*

This tile has cracked. This is considered to most likely be caused by problems of deterioration of the grout bed and the bedding not being due to properly support the tile uniformly. This suggests that water may have dissolved/eroded the grout underneath. It is also possible that the bedding was not installed properly. Further investigation of this condition is highly recommended.

*Figure 54*

This roof drain has poorly cut tiles all around, leaving a space for organic material and water to accumulate. This is considered poor workmanship by the contractor.
A close-up view is shown below, detailing the half-inch thick gap between the tile and the drain.


*Figure 55*

*Figure 56*

This is another view of the gap pictured above. The gap is approximately 1/2 inch across, which is excessively large for a small drain. Further investigation of the condition is recommended.

*Figure 57*

The slope of some of the surrounding tiles are also pitched away from the drain, which will direct water away from the drain in a rain event and not allow the floor to drain properly.

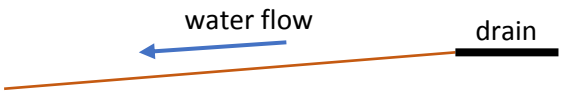



*Figure 58*

Spa tiles are cracking at the grout line. Water underneath the deck tiles is draining into the spa and causing severe damage to the tile grout. Moisture is dissolving the grout and mortar behind these tiles. The evidence of moisture is the dissolved grout left as particles, known as efflorescence, on and behind the tile. The grout being dissolved away loses strength which causes cracks and tiles to fall away from the wall. The runoff generated from the pool shower is believed to contribute to the decay of the spa since it is the most active contributor of water to the pool deck, besides normal rain events.

*Figure 59*

*Figure 60*

*Figure 61*

*Figure 62*


*Figure 63*


*Figure 64*

*Figure 65*

*Figure 66*

*Figure 67*

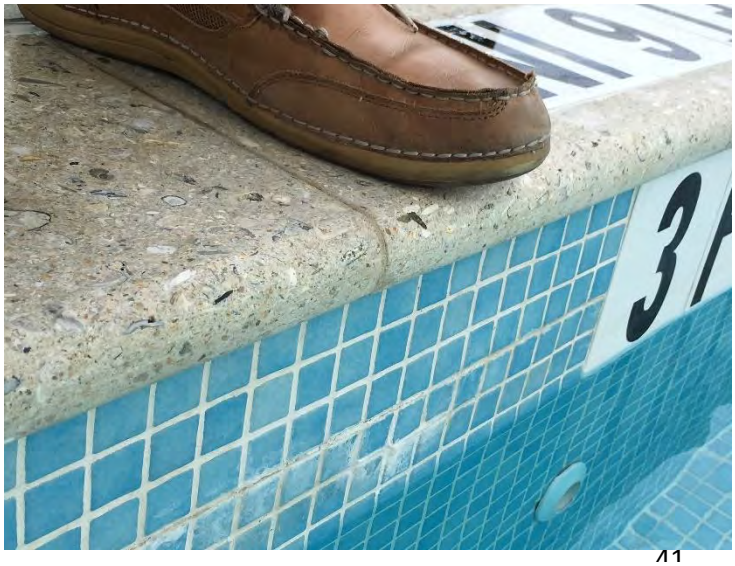


*Figure 68*

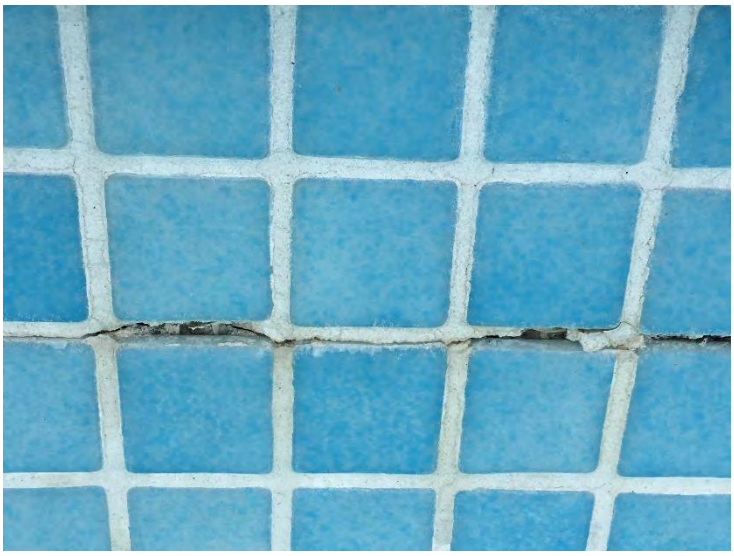


*Figure 69*

Bar area on the pool deck.

*Photo is informational only.*


*Figure 70*

The cabana bar drain for the sink surrounded by rusted rebar in the concrete tile. As the rebar continues to rust it will break the concrete tiles.
This condition should be reconstructed.


*Figure 71*

Rebar/steel should be fully imbedded in concrete to protect them from rusting and spalling.

*Figure 72*

Counter edge was completed with poor workmanship. The seams are not completely sealed, which will allow water to seep into the joint and dissolve the bond.
A close-up view is shown below for clarity.
This counter should be refabricated with thicker through body porcelain, properly diamond cut and assembled with beveled corners.


*Figure 73*

*Figure 74*

Cracks in the top of the concrete edge are a result of an unsealed penetration, such as the rail post pocket. Once open, the cracks allow more moisture to enter the concrete, causing more cracks to form.
This photo taken next to the wood-panel partition.

All cracked areas of parapets, knee walls and curbs that are subject to water intrusion should be repaired with an approved architectural protocol.

*Figure 75*

This is another view of a crack in the concrete underneath the railing on the marina side of the pool deck.

All cracked areas of parapets, knee walls and curbs that are subject to water intrusion should be repaired with an approved architectural protocol.


*Figure 76*

Rail post pockets are a typical location for water intrusion. Figure 78 shows a rail post pocket on the pool deck that has cracking running from the corner of the rail post, perpendicular to the concrete edge.

All cracked areas of parapets, knee walls and curbs that are subject to water intrusion should be repaired with an approved architectural protocol.

*Figure 78*

Another example of cracking in the concrete perpendicular to the edge.

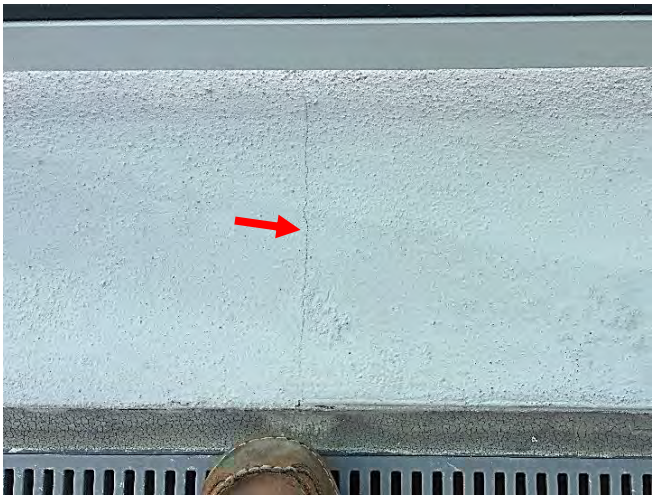


*Figure 80*

Rail post pockets are considered surface penetrations and should be waterproofed so that water cannot intrude into the surrounding concrete. The several images shown are just a few examples on the pool deck where rail post pockets are not properly waterproofed.
All open voids of parapets, knee walls and curbs that are subject to water intrusion should be repaired with an approved architectural protocol.

*Figure 81*

*Figure 83*

*Figure 85*

*Figure 87*


*Figure 88*

Spalling, which is the result of water intrusion in concrete, is occurring at the pool deck edge. The moisture in the concrete expands and contracts with temperature, causing the surface to peel off.
All open areas around drains, or at parapets, knee walls or curbs that are subject to water intrusion should be repaired with an approved architectural protocol.

*Figure 89*

Expansion joint at the drain also has issues with water intrusion. The expansion joint has lost adhesion with south wall pool deck, causing a large gap to form. Water running off the horizontal top of the railing curb/parapet must enter the gap and become entrapped within the wall/deck assembly (water path indicated by red curved arrow).
All open areas around drains, or at parapets, knee walls or curbs that are subject to water intrusion should be repaired with an approved architectural protocol.

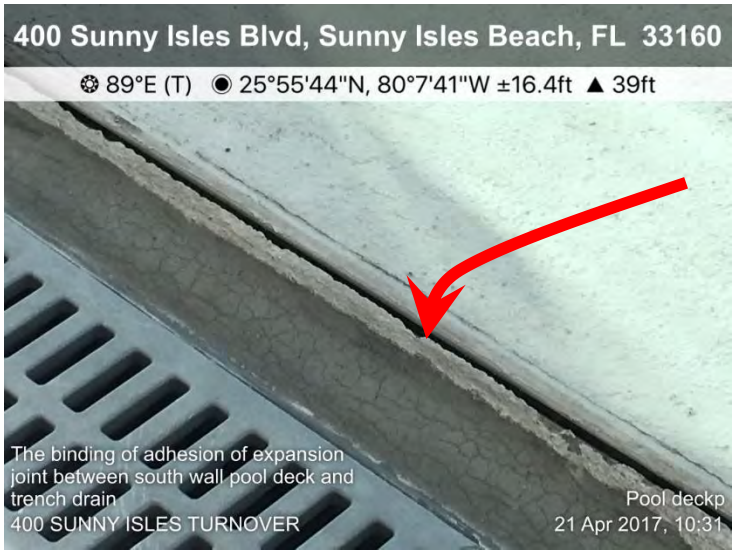



*Figure 90*

The opening is approximately ¼” wide at its maximum gap and will allow moisture into the joint. This expansion joint may be aesthetic, but if so the actual expansion joint below will be susceptible to water damage.
All open areas around drains, or at parapets, knee walls or curbs that are subject to water intrusion should be repaired with an approved architectural protocol. Cracked and failing backer rod and caulk joints should be replaced with Emseal joints.

*Figure 91*

Joint between tile and drainage grate has a large gap approximately 3/8” wide. This is due to poor workmanship during construction.
All open areas around drains, or at parapets, knee walls or curbs that are subject to water intrusion should be repaired with an approved architectural protocol.


*Figure 92*

The edges of some of the wood planks are beginning to turn green, possibly due to being detreated or never treated in the first place.
Recommend that this wood should be replaced with a high quality through body porcelain, large format material.
The wood will require an unreasonable amount of maintenance, and will never provide the intended finish.

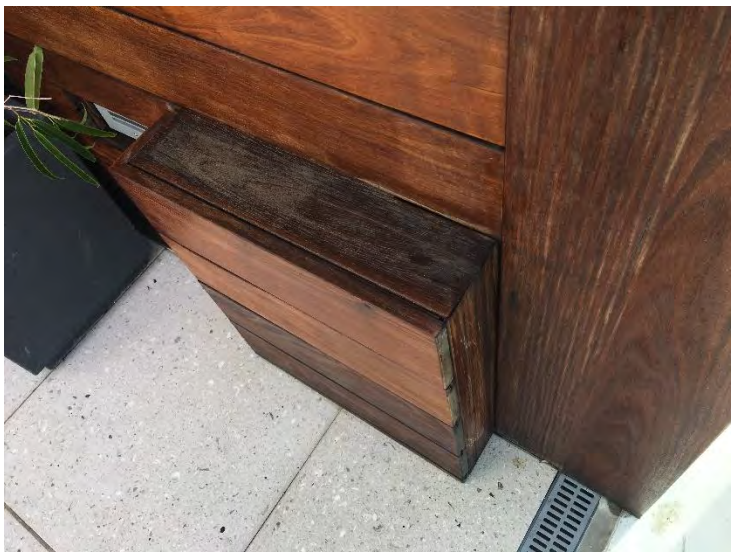


*Figure 93*

Wood structure finish surfaces deteriorated and separating, especially in the corners as shown in this photo.  Note fasteners staining wood at side due to corrosion.

*Figure 94*

The top of wood façade is unfinished.

The wood should be replaced with a wood style, high quality, through body porcelain tile.

*Figure 95*

Areas where the finishing is rubbing or coming off were present over the wood façade, such as this area shown to the right.

*Figure 96*

## 2.3 Yacht Dock

The yacht dock is located on the south side of the property. While the association may not be responsible for this area as an owner, areas of concern have been pointed out in this report as they would appear to impact the Master Association in terms of maintenance.
We recommend that consideration and corrective measures should to be taken in order to mitigate these maintenance issues at an early stage.

*Photo is informational only.*

*Figure 97*

It appears that some of the exposed reinforcing bars were welded off (red arrows) while others were not (yellow arrows). None of the bars, whether welded off or not, seem to have a coating applied in order to mitigate corrosion between the bars and the piling, and thus severe rusting has started in these locations.

*Figure 98*

A different texture of the concrete surface and discoloration that appears to be efflorescence around perimeter of the area indicates it may have been patched in the past. These areas should be monitored in the next few months for changes that may indicate the patch remains a problem.

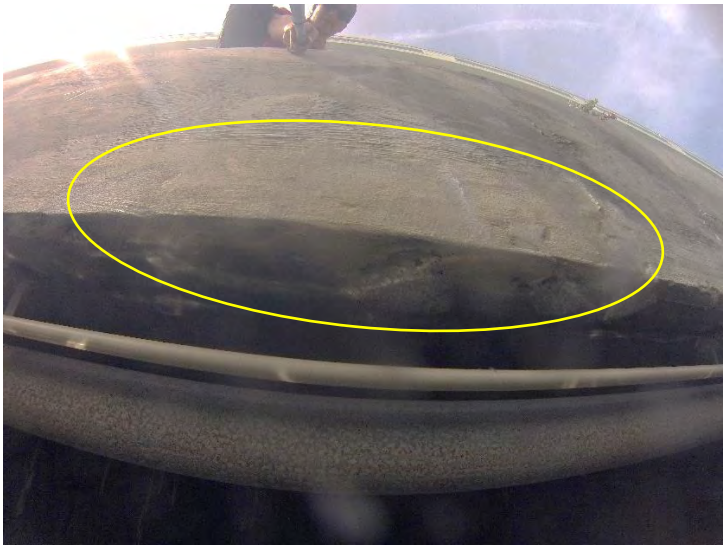


*Figure 99*

The metal strap holding the PVC piping has begun to rust. Elbow of steel pipe is also corroded and thus a potential area for failure.
A coating of a Zinc rich, thick surface application may extend the life of the pipe hanger and pipe fittings. This should be periodically monitored post re-coating.
The best solution would be to replace the pipe hanger with ones made of a noncorrosive material.

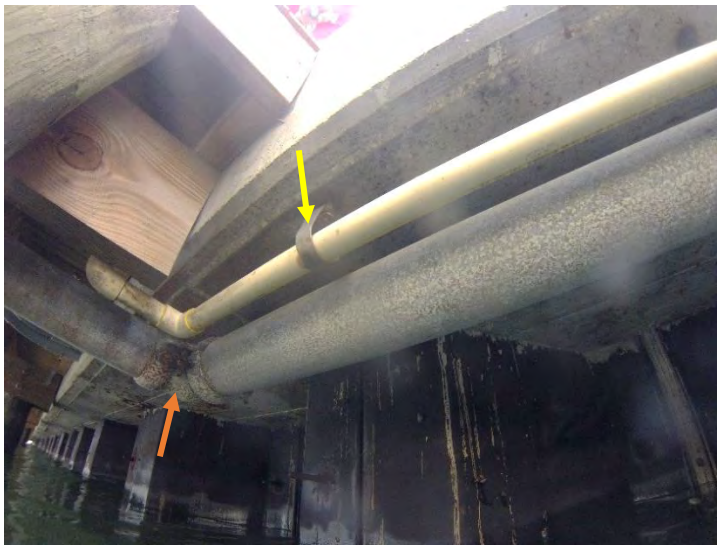


*Figure 101*

Bracket holding the pipe is severely corroded, as was common along the length of the pip underneath the dock area.
The best solution would be to replace the pipe hanger with ones made of a noncorrosive material.

*Figure 103*

Another corroded bracket, as was common along the length of the pipe on the dock. In addition, there is another case of corrosion on the strap holding the PVC pipe. The best solution would be to replace the pipe hanger with ones made of a noncorrosive material.

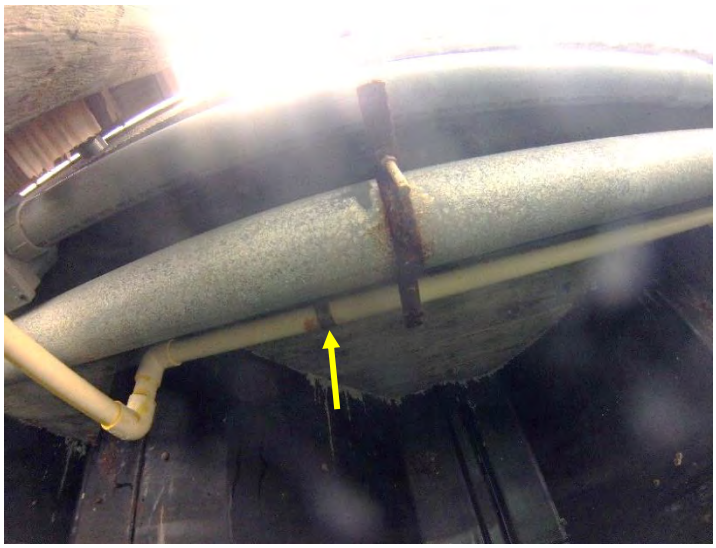


*Figure 104*

In this case, the bracket that was intended to hold the larger pipe is completely missing, possibly due to extensive corrosion, as evidenced by the exposed rods where the bracket would be mounted (yellow arrows). More corrosion effects on the PVC piping is also noted.
The best solution would be to replace the pipe hangers with ones made of a noncorrosive material.

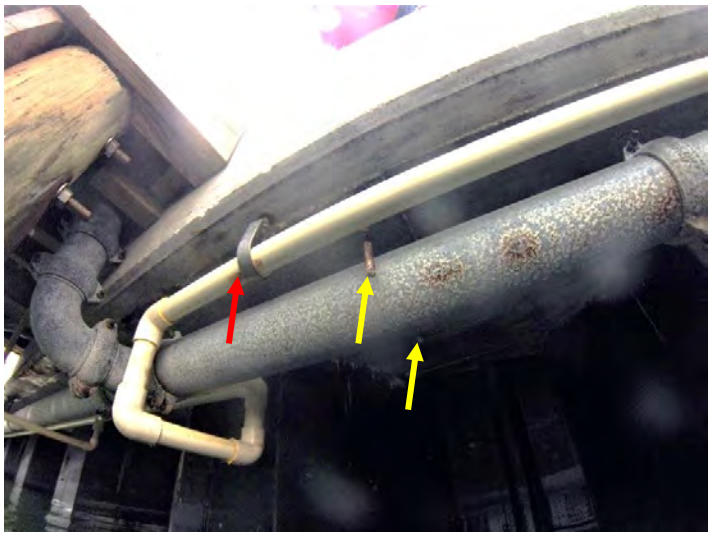


*Figure 106*

Another view of the rods intended for a bracket to hold the pipe (yellow arrows). Rusting along the length of the pipe was also observed.

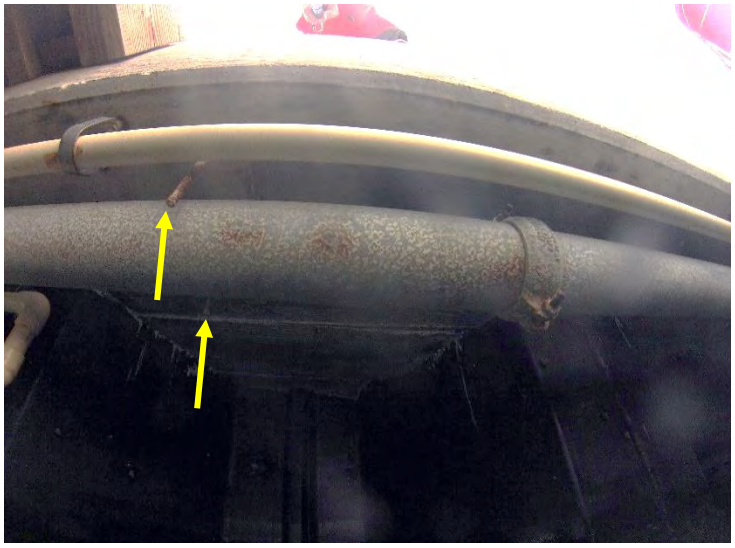


*Figure 108*

Rusting has begun on the nails holding the hurricane straps (yellow arrows).
It also appears that the washers and nuts of the larger bolts are stainless steel, while the threaded rods are carbon steel. These dissimilar metals have caused accelerated corrosion to occur behind the washers as can be seen running down the wood.

*Figure 109*

Only one hurricane strap appears to be in place, also held by rusty nails (yellow). Where a strap would normally be in the center is instead a small section of wood (orange), possibly intended to help brace the beam above. The right side is completely missing a hurricane strap. Once again, the bolts in the wood are corroding. The Association should engage a marine engineer to inspect the entire dock and seawall.

*Figure 111*

Close-up view of the rust forming on the threaded rods and behind the washers.

*Figure 113*

More corrosion is observed in the bolts.
In this case, nails have been driven into the wood plank and a crack appears to have begun forming (yellow arrows). Nails near the end of a wood member will expand if they corrode and will split the wood if too near the end.
Once again, the hurricane straps have rusty nails. Hardware and fasteners used on chemically treated wood or in a marine environment should not be dissimilar metals and should be made of highly corrosion resistant material.

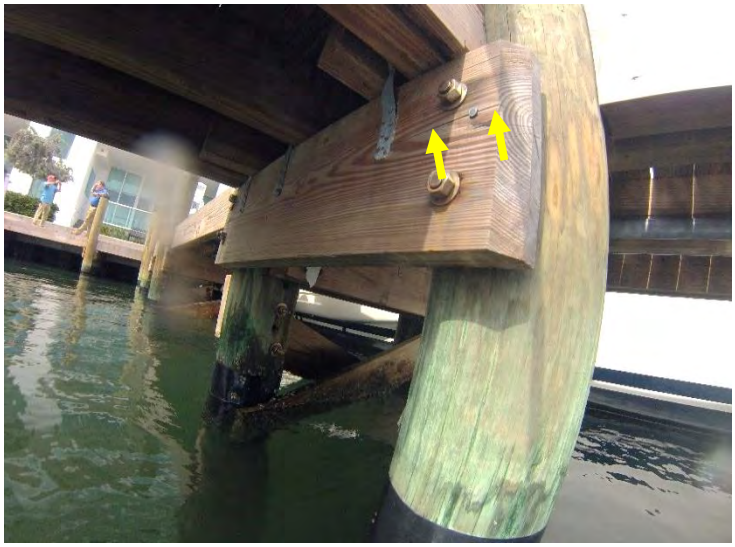


*Figure 114*

Another view of the crack beginning to propagate along the wood and through to the other side of the hurricane strap.
Red arrow indicates the current length of the crack. The inspecting engineer could not see the purpose for the large nails driven (too) close to the end of the wood beam unless this was a temporary spike to hold the wood member until the bolting could be accomplished. (Subsequently left in place.)

*Figure 116*

The ladder from the water onto the yacht dock is covered in barnacles, posing a risk of injury if someone needed to use it.
A different design or material might be a consideration.

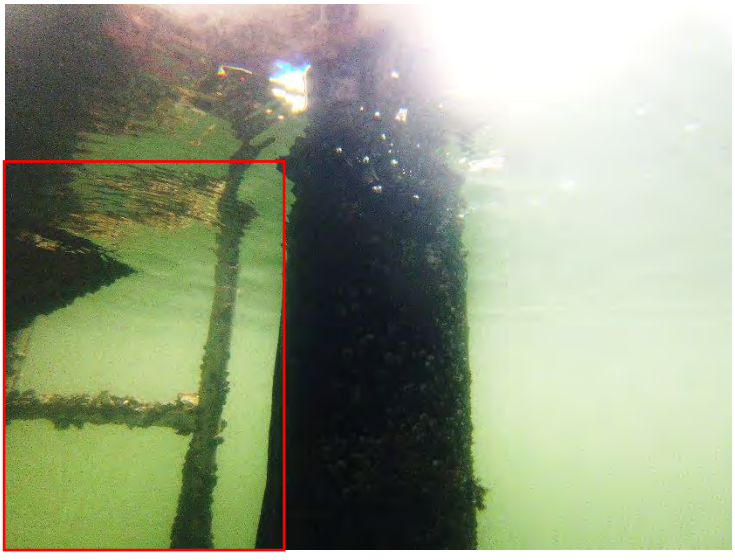


*Figure 118*

# EXHIBIT “C”

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# West Report

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ARCHETYPE ENGINEERING & ARCHITECTURE, INC. 900 US HWY 0NE, SUITE 108, JUPITER FL 33477

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## Table of Figures

# West Common Spaces

## West Corridors

There is a gap between the carpet in the corridor and the elevator structure, here on the 9th floor.


*Figure 1*

Another view of the gap between the elevator door jamb and the carpet in the corridor, here on the 12th floor.


*Figure 2*

Gaps underneath the metal thresholds of doors, including the elevators, were noticed throughout the building.


*Figure 3*

Another example of gaps between the elevator door jamb and the floor, here on the 15th floor.


*Figure 5*

Another gap between the elevator door jamb and the carpet, here on the 14th floor. The pencil shows the significant size of the gap.

Areas of poor fit and finish should be corrected. The means and methods to be determined.


*Figure 4*

## West Stairwells

A crack has formed above the door on the inside of the stairwell 4, 21st floor. The crack seems to be following the perimeter of a bond beam in the wall.

A joint segregating the different finish materials should be provided and filled with an elastomeric sealant.


*Figure 6*

Cracks were noticed just outside the 6th floor, stairwell 12 door, as well as rusting on the door frame. This knock down textured coating appears to have been installed over another coating or waterproofing coating that was incompatible in terms of bond. The coatings would have to be investigated, and, if incompatible, the installations would have to be both removed and a new coating system properly applied.


*Figure 7*

Severe rusting on the door catch for the 6th floor exit of stairwell 12. The door catch itself is entirely corroded while the metal plate screwed into the door frame is rusting especially on the edge that most rubs against the door when opening/closing. Exterior door hardware in marine environments should be stainless steel or other highly corrosion resistant material.


*Figure 8*

## West Fitness Room

The fitness room is located at the base of the West Tower on the pool and outdoor bar level. The floor was finished with a highly elastic tile.

*Photo is informational only.*

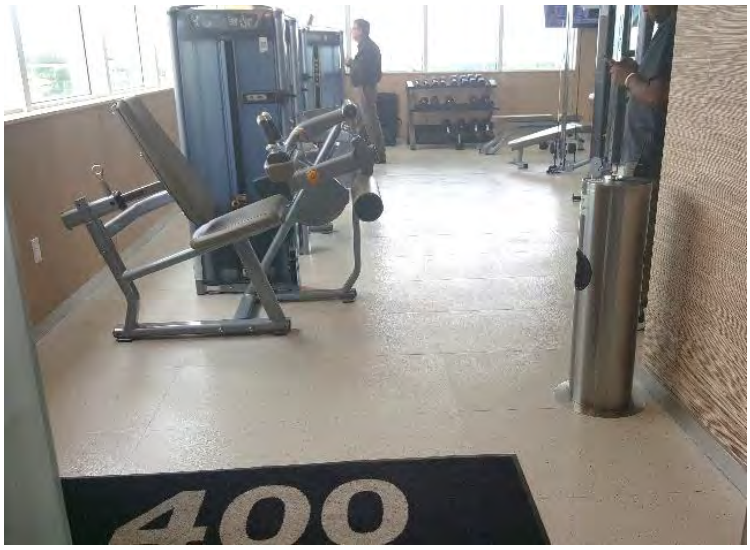



*Figure 9*

There is a gap between the vinyl baseboard and the floor. The floor is out of conformance with ACI flatness criteria of ¼" in 10 ft. horizontal distance.

*Figure 10*

This is another instance of a gap between the baseboard and the floor, as was common along the perimeter of the fitness room.

*Figure 11*

## West Lobby

Overview of the West Lobby.

*Photo is informational only.*

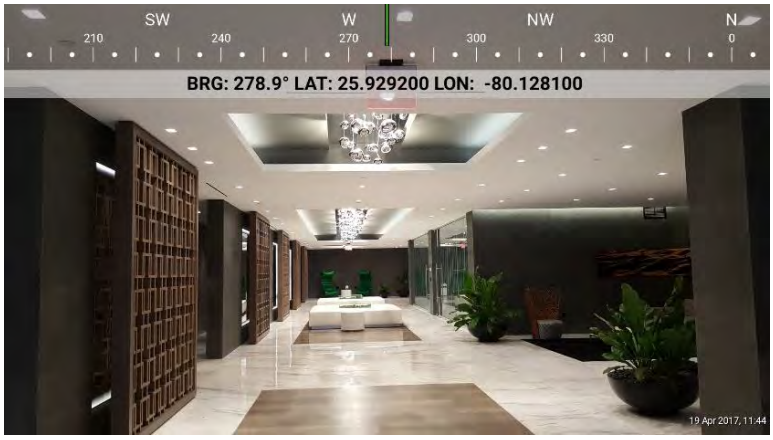



*Figure 12*

A significant gap is shown in the corner of the lobby walls. It appears that there is also a waxy stained area that appeared to have dripped from above. The material should be identified and remediated.

*Figure 13*

A dark stain is noted on the sheetrock at the top of the HVAC vent above the West Lobby reception desk. This appears to be moisture related and should be investigated.

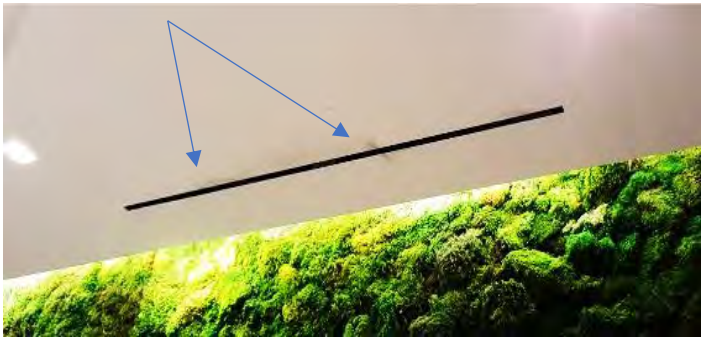


*Figure 14*

There are significant gaps between the stairs and the wall leading to the West Lobby. As these stairs are wet cleaned on a regular basis, the stucco at the end wall might be better finished with a white tile or other durable waterproof coating, that should be sealed with polyurethane sealant at the wall juncture with tread and risers.

*Figure 15*

A close-up view of the gap between the stairs and the adjacent wall.

Water entry during regular cleaning of tile surfaces will allow water to enter and over time is expected to deteriorate the painted stucco.

*Figure 16*

## West Maintenance

Water was found entering into the boiler room (shown), coming from the adjacent steam room, near the sauna. The water is ponding on the floor, as can be seen by the reflection of the boiler on the floor's surface.

The bottom left side of the left wall has also been opened, causing insulation to fall out. The walls in this room are therefore not sealed in several different places.


*Figure 17*

A close-up view of the water on the boiler room floor and the insulation on the left.

The property manager stated that planned repairs of this area were in process.

*Figure 18*

Boiler room ceiling has openings in concrete ceiling and sheetrock in several locations. The walls are not rated for fire, per A206, wall type

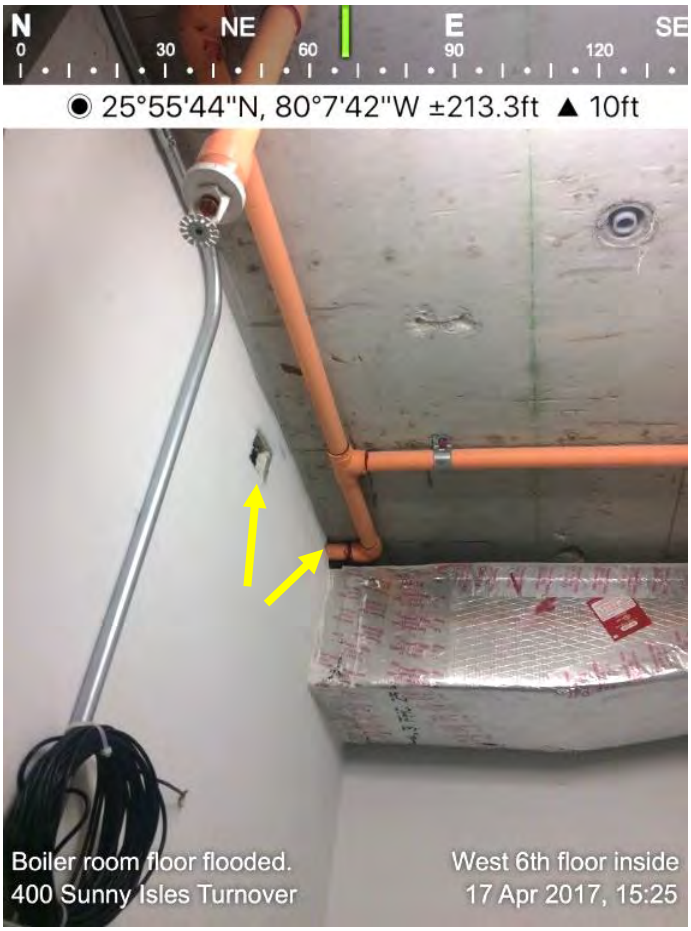



*Figure 19*

## West Exterior

The top 3 floors of the west tower (west façade) have sealant along stucco joints, seen in these photos as darker horizontal joint lines. The cracking at the upper floors may be related to higher levels of creep in post tensioned slabs that could be related to inadequate curing prior to tensioning of cables. This could be reviewed in tensioning logs. The contractor should disclose if the sealant was applied to fill cracking or to address water intrusion problems, so the condition could be defined, and evaluated for future concerns.

*Figure 20*

Stucco surface finish appears to be irregular at window openings where the slab meets block wall substrate. Also the entire joint appears to have been surfaced with sealant over a solid expansion control joint, which would not normally require sealant. This area should be sounded and repaired if subject to water intrusion or de-bonded stucco.

Scuppers at 6$^{th}$ floor terrace knee-wall (note there is no slab to joint juncture problem).

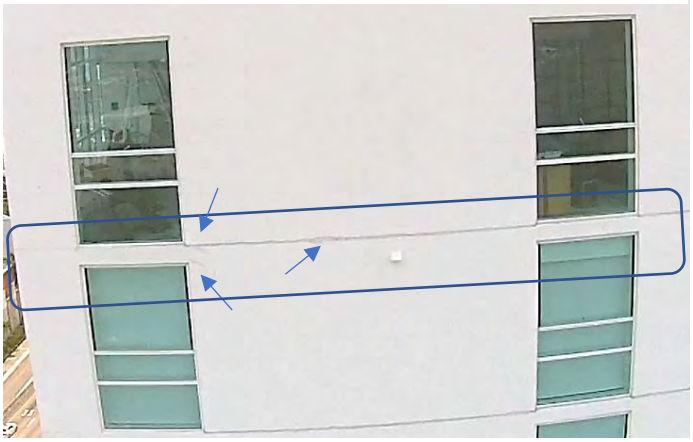


*Figure 21*

Window stacks on west wall up to the 17th floor are in good condition with no defects noted. Windows on floors 18, 19, and 20 are all questionable due to caulking of stucco joints, indicating there may have been cracking (see above photos and comments on the caulking).

*Figure 22*

This photo shows balconies and windows on east side of west tower.

No problems noted; generally this façade was free of the joint irregularities noted at the west façade (see below).

*This photo is informational only.*

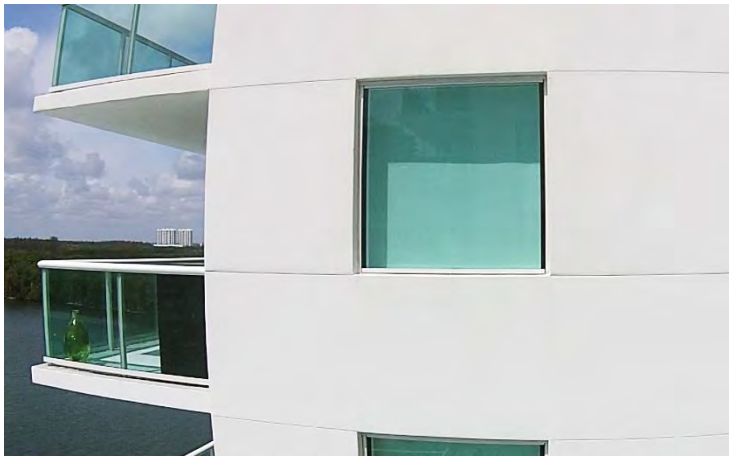


*Figure 23*

Cracking of stucco on west wall of tower below unit 601 W terrace.

Two cracks are present in this location. The most prominent at label 1. Another fainter crack is circled at label 2.

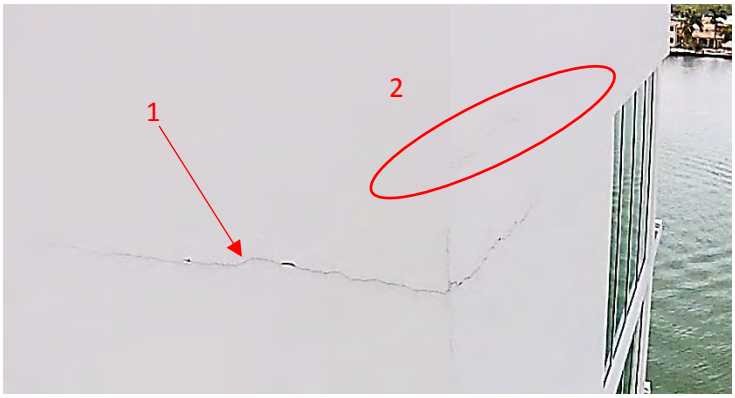



*Figure 24*

Another view of the more prominent crack shown above, below 601 W terrace west facade.

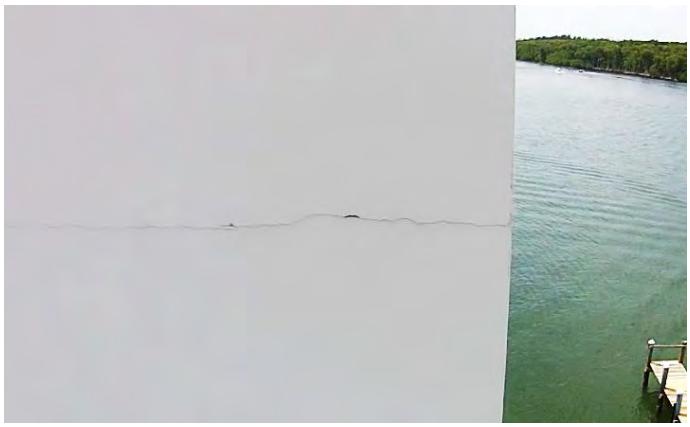


*Figure 25*

Location of exhaust vent hoods coinciding with architectural reveal joints is a waterproofing concern. The location of the sheet metal hoods penetrating the building envelope cladding at a PVC joint that experiences greater than normal movement with expansion and contraction, and even greater movement at the sheet metal is expected to experience stucco cracking and waterproofing challenges, or coating problems ith differential materials and movement. Arrow is at black sediment above vent.

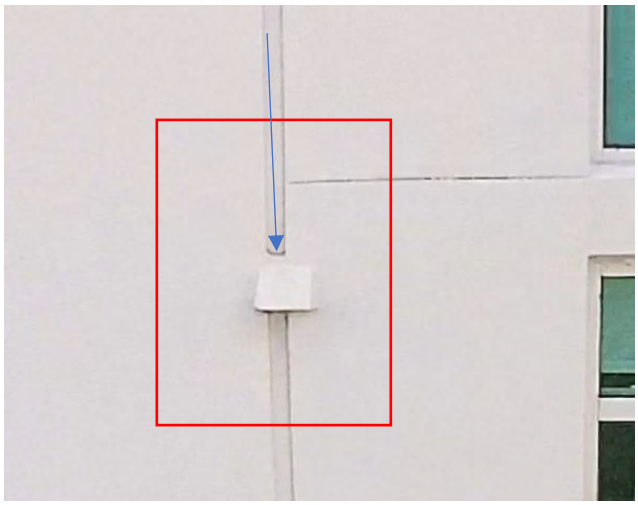


*Figure 26*

*Figure 27*

Looking down the architectural trim from the roof, the building corners and trim details appear to not be straight. This is a sign of poor workmanship and may suggest that the stucco thickness may vary along the exterior walls. The writer of this report has no recommendations for repairs, but the condition should be monitored for signs of cracking or delamination that might require investigation.

## West Roof

Flashing at corner of wall is capped by a caulk which is not considered long-term waterproofing. The stucco above the flashing at the corner is open and cracked with paint covering the added caulk. This flashing was not done according to architectural plans detailed on page A7.06.

Door bracket mounting door to wall has also caused a stucco penetration, which according to ASTM C926 should be protected via a flashing detail or sealant to provide watertight condition.

Note also that the water running down the door will enter the crack at the concrete landing/metal flashing juncture, (see red arrow) that will be a perpetually wet problem under the landing.


*Figure 28*

HVAC ducts are rusted at the closure metal flanges and at the threaded hanger rods. The duct flanges were coated in a black roofing sealant in an unsuccessful attempt to stop corrosion.

Both the hanger rod and the flange problem appear to be due to dissimilar metal use. The galvanized material should be utilized throughout the assembly.


*Figure 29*

Underside of HVAC ducts are also rusting underneath the black roof sealant.


*Figure 30*

Another close-up example of where the zinc coating was most likely ground off and rust has begun forming as a result.


*Figure 31*

Closer example of corrosion on the duct sheet metal edges. The sealant applied to the duct work is a failed attempt to prevent corrosion.


*Figure 32*

HVAC ducts are improperly sloped. The top surface should have a break in the sheet metal in an X-shaped sloped pattern that is sloped and directs water off the surface during rain events. The red arrow is a residue left from an evaporated puddle. Over time, this will cause rusting and a hole to form on the surface of the duct.


*Figure 33*

More examples of the sealant that was applied to the ducts. The sealant was applied in patches that appear to be located were more of these evaporated puddles have formed. The sealant was presumably added to reduce the spread of the corrosion at these points.


*Figure 34*

This figure shows that the threaded anchor rod is rusting above the bolt, but not below. This is due to galvanic corrosion from dissimilar metals between the rod and the bolt. All anchor hardware should be replaced with anti-corrosive hardware.


*Figure 35*

This is another anchor rod rusting above the bolt while the rest of the bolt is fine. Note that this image was taken in a different core roof than the figure above, which means that this is a typical, recurring issue and that all anchor hardware should be checked and replaced with anti-corrosive hardware.


*Figure 36*

This rusted anchor if a tie-down anchoring cable is again the result of galvanic corrosion due to dissimilar metals. In the event of a hurricane, the reduced strength due to the rusting could cause the anchor to fail which would make the machinery held down by the anchor lift away from the building or become damaged.


*Figure 37*

The anchor for HVAC duct base was rusted at the bolt. Again, this is due to galvanic corrosion between the anchor rod and the bolt. Over time, if this continues to corrode, it will significantly reduce the strength of the anchor which can cause failure during storm or high-wind events.


*Figure 38*

Caulk sealant was also applied at the corner of the flashing where the flashing was not completely sealed. Sealant should be applied at the lap of abutting sheets of flashing. It appears that this installation depends on the sealant to form the watertight condition in lieu of a sealed lap of flashing material. Note the open point and wide bead of visible sealant on the surface. This caulk is not considered a long-term waterproofing solution, and will allow water to intrude behind the flashing and cause roof damage over time.

Similar cases were noted at many of the other flashing corners.

This flashing was not done according to the architectural details on page A7.06.


*Figure 39*

The corner of the wall under the HVAC condensate lines is open at the juncture between the stucco wall and the metal flashing. The metal flashing wraps around the corner but then stops. This is incorrect, as the entire wall should be flashed to prevent water from entering behind the roof granules.

This flashing was not done according to architectural details on page A7.06.


*Figure 40*

Another view of the opening shown above. The roof granules in asphalt do not provide a proper watertight condition of the building's structure. The gap at the base of the stucco was approximately ½ to 1 inch wide.

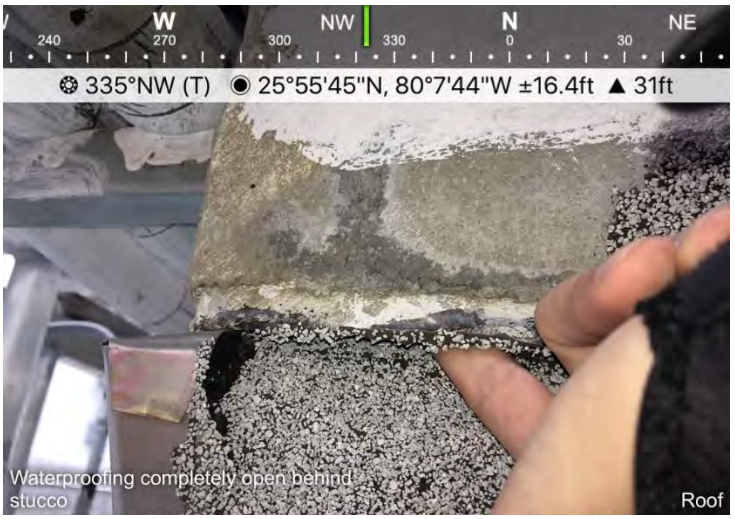



*Figure 41*

This entire section of wall should have metal flashing to prevent water from entering behind the roof granules. This is not considered to be waterproofed and should be corrected. There does not appear to be a cant strip provided at the roof to wall juncture (typical condition).

This flashing was not constructed according to the architectural details on page A7.06.

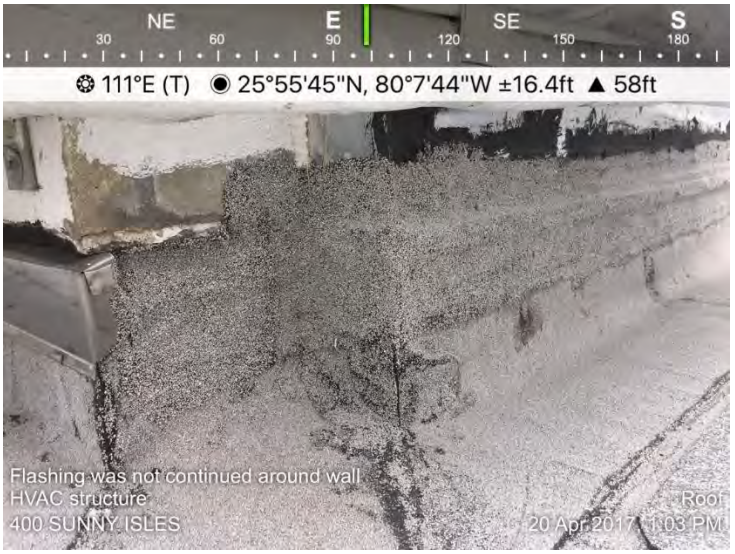



*Figure 42*

This concrete step should not be level with the roof membrane, as seen in **Error! Reference source not found.**. Water will penetrate the porous concrete surface as a result. Visible cracking of concrete step has already begun to form, as indicated by the arrows.

This will produce a perpetually wet condition under the roof membrane.

*Figure 43*

A foam board was found between the wall and the concrete step as highlighted by the arrow in Figure 44. This foam runs from the edge of the step to the turn of the stucco wall.

This will produce a perpetually wet condition under the roof membrane.

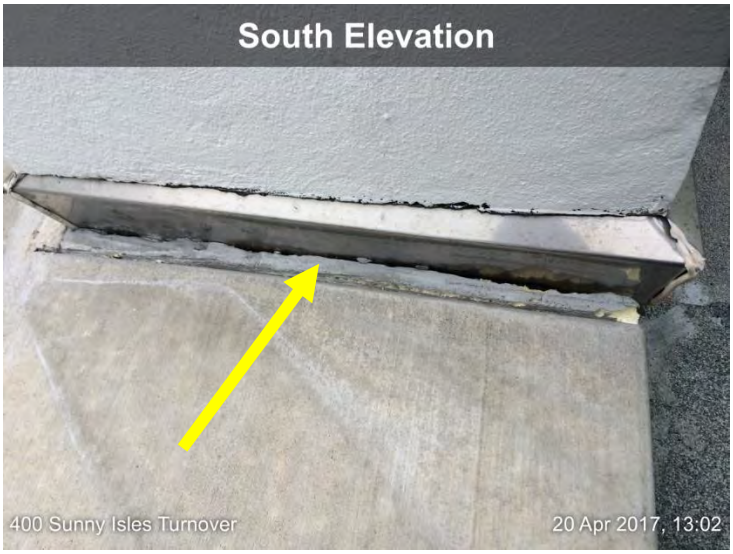



*Figure 44*

The foam board is in between the concrete step and the roofing membrane that has turned up the wall. This appears to be the result of adding the step after construction of the roof. The concrete is already cracking at the base of the concrete step where the concrete meets the granules (circled).

Since this board is made of foam it will also soak up and hold water, therefore restricting the water from evaporating, allowing the water to penetrate the roof membrane. Note that the roof membrane is not designed to be perpetually wet.


*Figure 45*

This is an area where the roofing membrane is not sloped properly towards the roof drain. This creates debris fields and damages the roof membrane. Over time, this can cause water intrusion or organic growth to occur.

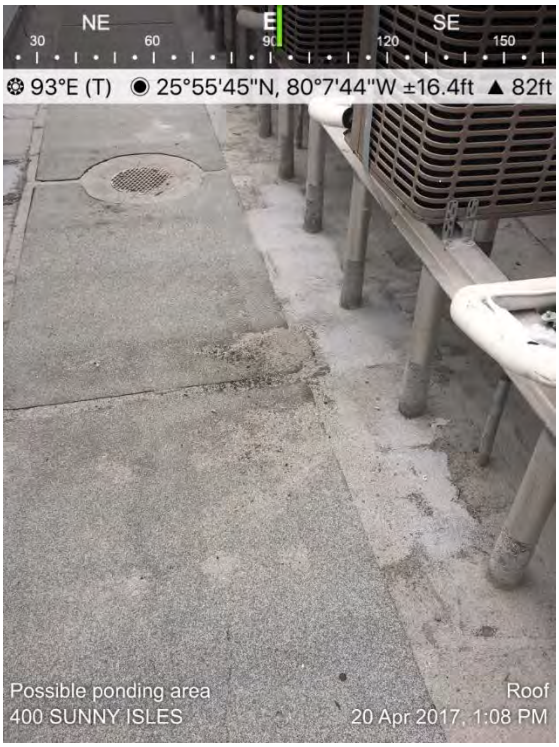



*Figure 46*

This style of roof drain was determined to be inadequate. The roofing granules have been clogging the holes for drainage as well. The bolts inside the drain are rusting due to galvanic corrosion from dissimilar metals. Roof drains in the mechanical area are not as specified in the architectural drawings as shown below.

Drains should be provided with a drain dome, such as the one scheduled as ZURN Z-121-E. A diagram for this drain is shown in Figure 49.


*Figure 47*

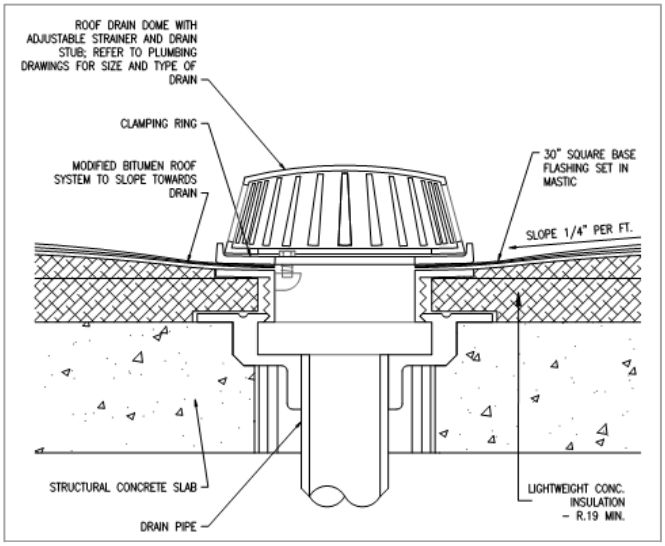



*Figure 49*

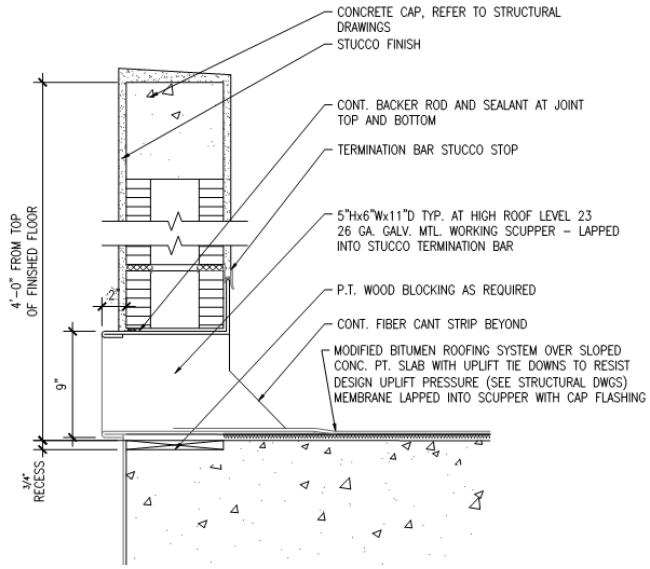



*Figure 48*

Patch over roof scupper where yellow caulk is present. The stucco around the scupper is cracking in contrast to the stucco in the surrounding field. This appears to be a situation where the stucco fractures at the laps over the underlying metal counter-flashing. The stucco will not adhere to metal and, therefore, the lath should be provided and extend within the plane of the stucco, 4" on either side of the metal edge transition. The arrow in Figure 51 points to a location where the stucco patch has already begun to crack. Note that the scuppers are not constructed to architectural detail 5-A7.06 as shown in Figure 48. Note the cant strip is not provided nor detailed at the scupper as indicated.

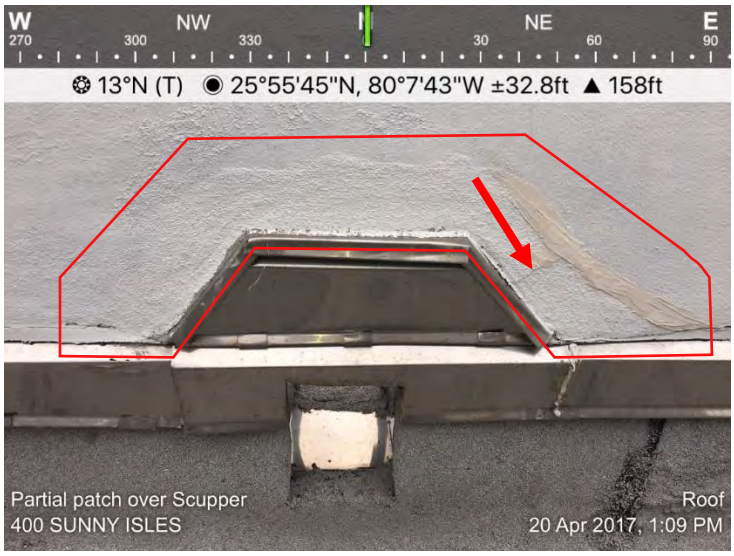



*Figure 51*


*Figure 50*

The safety rail at the roof access was found to have both missing and loose bolts. Confirm all fasteners are present and completely screwed fast, (throughout the project).


*Figure 52*

Flashing at the corner is both dented and open. The open flashing at the corner will allow water to intrude past the roofing membrane. Yellow caulk was added post-construction as an attempt at waterproofing. Caulk is not considered a long-term waterproofing solution nor was the opening completely closed. This flashing was not done according to architectural details on page A7.06.


*Figure 53*

A situation was found where three separate wall-mounted HVAC compressor brackets were causing similar cracking at their bases. Figure 54 shows the locations of three that were documented, all of which were on the same wall. Figure 55 shows close-up views of these cracks at the bases of the brackets. Cracks in the stucco finish will allow water intrusion into the porous concrete which may result in damage over time. Cracking may be due to friction and force applied to stucco as the aluminum expands. A washer behind the angles might relieve this stress. Flashing in photo 2 does not have lap of metal flashing as required in design detail.

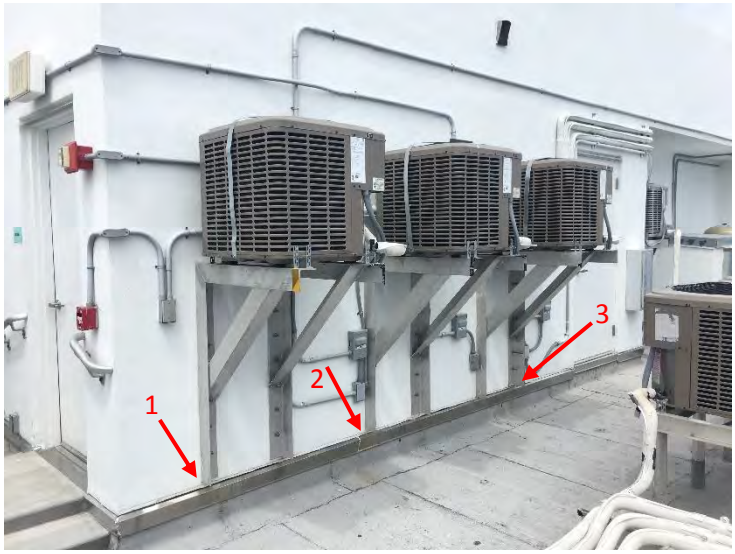
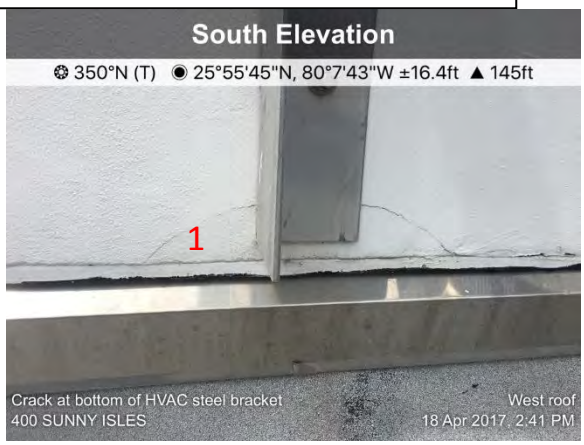
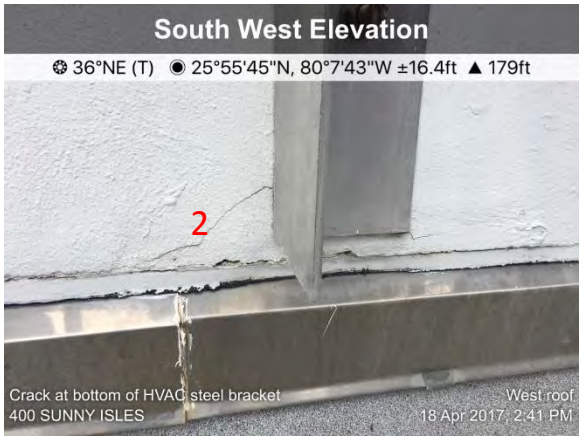



*Figure 54*



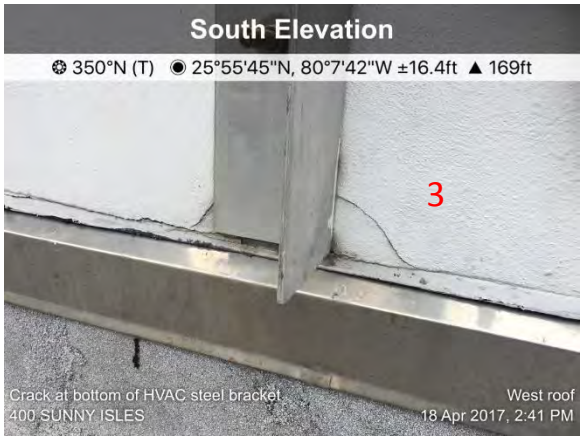




*Figure 55 (1, 2, above, 3 at right)*

The wall was open at the juncture of the stucco base and the roof flashing. Normally, flashing turns up behind the stucco for several inches. It appears, as pointed out in (Figures 57 and 58) that the flashing turns up very little. Upon reviewing the architectural drawings, it was discovered that none of the parapets on the roof were done according to the architectural detail on page A7.06 (Figure 56).

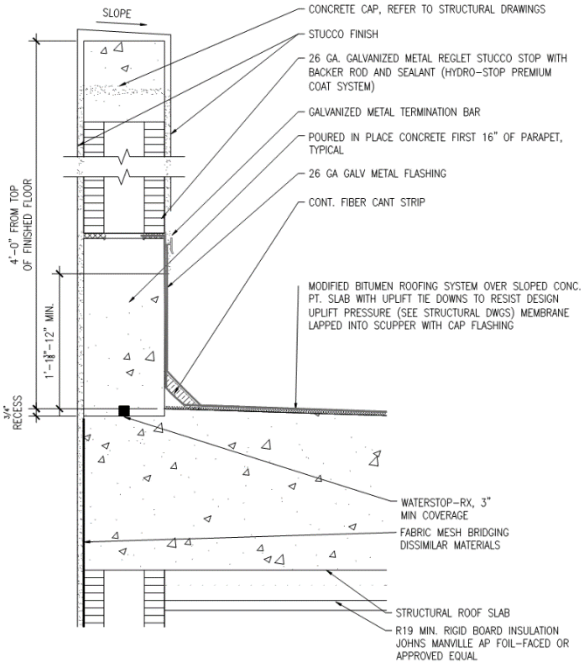



*Figure 56*

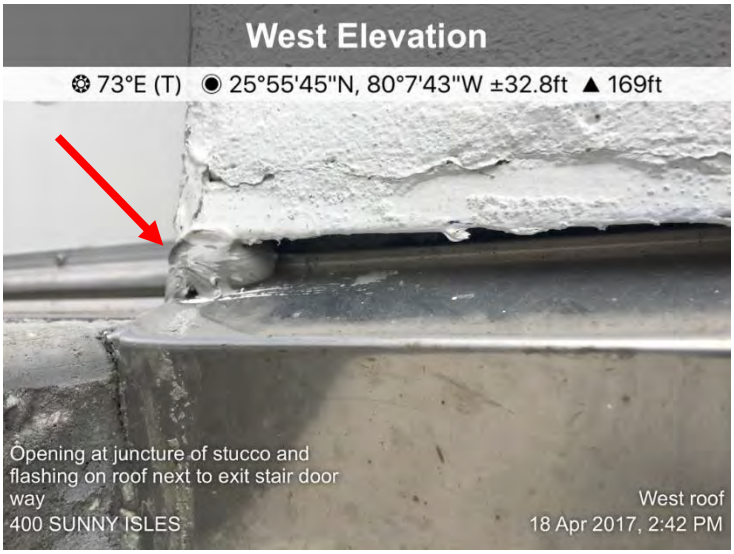



*Figure 57*

*Figure 58*

Significant cracking was found at the stucco base along this electrical conduit. The blue tap-con fastener in Figure 59 will corrode, expand and widen the crack and also provide reduced fastening strength as a result. These fasteners should also be sealed to ensure water cannot penetrate the stucco and underlying metal flashing that is thought to be turned up behind the stucco.

Note the metal counterflashing is different from the depiction above.


*Figure 59*

The discolored and dirty area around the roof drain is a clear indication that water is ponding around this area. The roofing membrane is not intended to be perpetually wet. An improperly sloped roof around the drain appeared to be the problem. The drain was not considered to be clogged.

Note: This was also the only drain on the entire roof that had a strainer cover.


*Figure 60*

During construction, it appeared that the flashing was cut too short at the corner. This ended in a large opening that was then retroactively filled with caulk (the same caulk that was found in other repair patches around the roof). Again, note that caulk is not considered a long-term waterproofing solution. This flashing was not done according to the architectural details on page A7.06.


*Figure 61*

This is another example of the poor construction of the flashing and caulking shown above. In addition, the stucco at the base is also cracked in the corners in both Figure 63 and Figure 62. It is considered poor workmanship and might allow entry of wind driven rain. The flashing was not done according to the architectural details on page A7.06.


*Figure 63*


*Figure 62*

This electrical conduit penetration is not properly constructed. Due to expansion and contraction of materials at different rates, these two materials will pull away from each other and cause cracking to form in the wall. It appears that this area has been patched before in attempt to fix this same cracking but failed to add an expansion joint detail to mitigate further cracking. The penetration should be performed with the box located outside the stucco field, and the penetration of the stucco field should be properly made watertight with sealant.


*Figure 64*

As with the previous image, the expansion and contraction of these two different materials will cause cracking. The area has already received prior repair attempts. The yellow caulk sealant should be installed with a V groove filled with sealant around the inset box (at left). The surface mounted box (at right) should be mounted a bit off the stucco surface and have top and sides sealed between the box and the stucco surface, and the bottom left open for drying. This box appears to have a missing knock-out and may be an inside work box which was not intended for exterior use. Repaired stucco suggests that this has already cracked multiple times around these two boxes. The yellow caulk trail leading to the top of the parapet also suggests that a crack is present at this location for potential water entry. Routing and sealant or other sealant band repair would be recommended at the top of the parapet.


*Figure 65*

After following the caulk trail in Figure 65 to the top of the parapet, the same crack was found extending down the exterior face of the parapet as shown in Figure 66. Routing and sealant / or other repair recommended for the top of the parapet would also lessen the likelihood of deterioration at the exterior stucco face.


*Figure 66*

The stucco penetration by this electrical conduit was not properly sealed and has left a large hole on the interior side of the tubing. This hole will allow water or organic material to penetrate the wall and damage the building's structure. Note that this penetration also fails to utilize a correct expansion detail.

Note the detail on page E-7.00 of the electrical plans shows that this penetration is inconsistent with the provided detail.


*Figure 67*

The roofing membrane is not intended to be perpetually wet, which can happen due to an improperly sloped roof or a clogged drain. This area of the roof, shown in Figure 69 and Figure 68, both have organic growth forming throughout. The roof is improperly sloped to the scupper on the west side of the cooling tower. Architectural drawings and plumbing plans call for overflow scuppers, yet they are not properly installed. This cant condition at wall flashing installation was not done according to architectural details on page A7.06.

The roof area shown in Figure 68 does not have a gutter on that side of the roof so the roofing membrane needs to be sloped around the cooling towers to the scupper on the opposite side. The architectural plans also confirm this. There is also an emergency overflow scupper specified in the plans that was not installed during construction. This flashing was not done according to architectural details on page A7.06.


*Figure 69*


*Figure 68*

Directly next to the ponding area in Figure 70 is a large water bubble underneath the roofing membrane. The bubble is directly beneath a patched crack which may have been the cause of the bubble. This flashing was not done according to the architectural details on page A7.06.

*Figure 70*


*Figure 71*

This yellow caulk was present in various patchwork locations around the roof, as indicated in previous images. Therefore, it can be said that it was applied post-construction. The duct to the smoke exhaust has had sealant applied to the surrounding area. This patch was used over the cracks that would have been caused by a failure to use a proper stucco penetration detail. A reglet and counterflashing might be considered for lapping over the turned up edge of this duct.

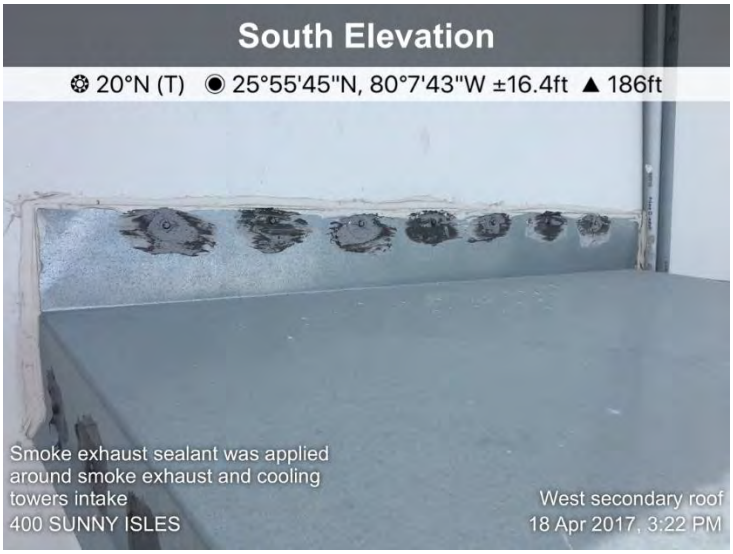



*Figure 72*

Rusting of the smoke exhaust system due to galvanic corrosion of the fasteners.

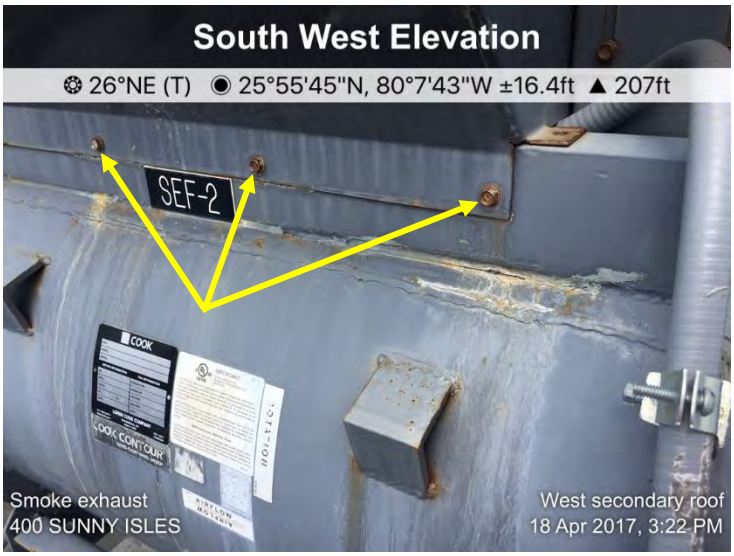



*Figure 73*

Fire caulking in the electrical room has fallen away from the wall. This needs to be repaired in order to remain compliant with fire safety protocols.


*Figure 74*

This drill hole was observed in an electrical conduit in the electrical room.  Fire caulking should be reviewed and adjusted.


*Figure 75*

# West Units

## 305 W

A ponding area on the balcony surface was noted as a the dark stain coloration. In addition, pieces of mortar from underneath the tiles in the neighboring patio appear to be washing/blowing onto this patio.

An edge termination should be required on the perimeter of tile installations at the demising wall panel.

The fastener at the connection angles of the panel penetrate the waterproofing. The entire base connector should be coated on all sides with the waterproofing coating below the bottom of the panel frame.

(This applies at all panels throughout the project.)

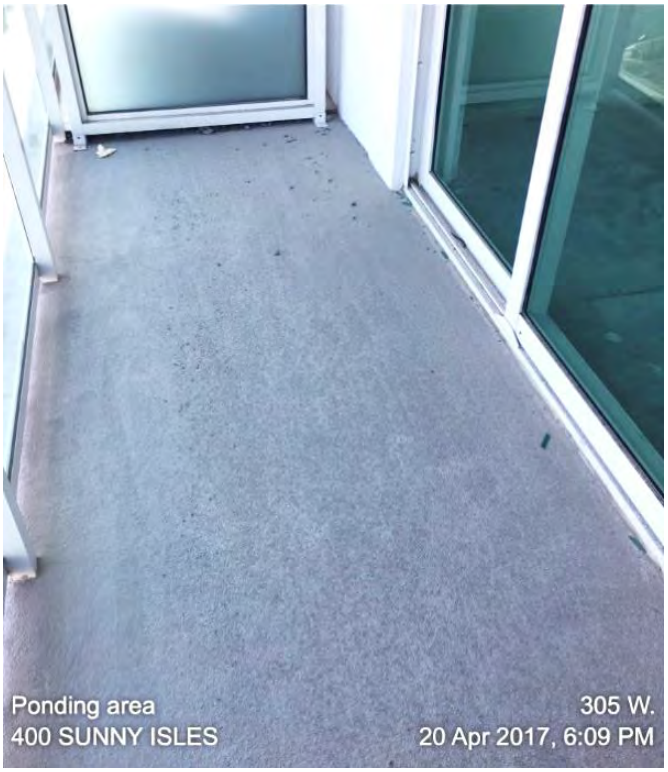



*Figure 76*

A close-up view of the particles from underneath the neighboring patio tiles.

The red arrow indicates a depressed area just in front of the sliding glass door track. This is not acceptable as water retained in this area can degrade the waterproofing coating and cause deterioration under the door area if water enters but is entrapped by coating on the surface.

Recommend that the slope be corrected and waterproofing is repaired afterward.

*Figure 77*

Thick poured patches of waterproofing material was noticed around the posts of the railing on the balcony as well as small gaps between the concrete and the post, allowing water to get inside.

The waterproofing coating should be turned up the vertical sides of the railing posts. Voids around the post are considered potential water intrusion sources.

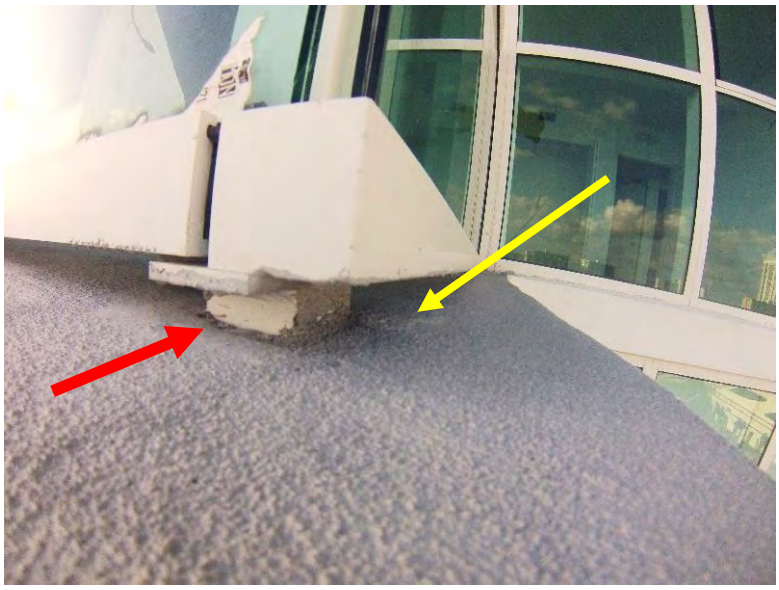


*Figure 78*

The exterior frame of this window appears to be spladhed with cementitious material and/or waterproofing. The painted stucco is required to be provided with sealant at the juncture of the aluminum.

Gaps also appear to have formed between the stucco and the frame and the concrete and the frame.

*Figure 79*

## 501 W

Cracks and holes in the stucco and waterproofing were prominent underneath the glass railing and on the edges of the balcony slab.

Added thicknesses of localized excess waterproofing was also found underneath the railing.

It is a concern that metals or other surface defects may have been covered by simply pouring additional waterproofing material over to cover the condition.


*Figure 80*

Holes/penetrations were noted in the balcony waterproofing, allowing for water to intrude into the concrete structure.

The corner of the balcony slab also appears to be damaged with possible cracks or holes.

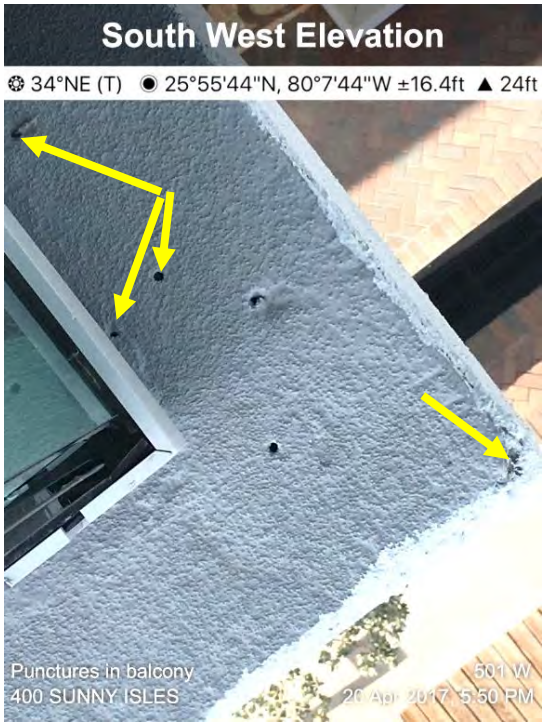



*Figure 81*

The edges of the balcony are jagged at the upper edge of the stucco application. voids and cracks of stucco perimeters will allowing moisture to seep into the concrete slab and stucco at the bonding surface. Note that these edges can be seen on the balcony below as well (circled in red).

This condition is considered to be a workmanship problem and also fails conformance with ASTM C926. That requires stucco to be of uniform thickness and watertight at perimeter conditions.

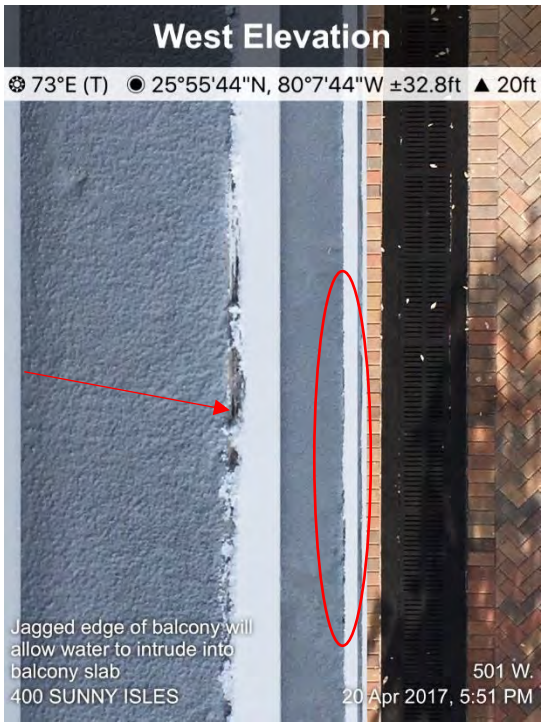



*Figure 82*

## 601 W

Sliding glass door to patio is bent (dented on upper surface) on the inside.


*Figure 83*

A significant void and crack was found at the juncture of the wall and terrace surface. This area would allow water intrusion into the concrete below. Electrical work was located on the wall between the floor and the wall.


*Figure 84*

The concrete below the knee walls below the railings on the balcony were cracking in several locations.

These cracks should be repaired and slope on the top surface of the parapet should be verified such that water does not stand. Cracks on horizontal surfaces are subject to moisture intrusion to a much greater degree than vertical surfaces. ASTM C926 requires that horizontal surfaces be sloped to prevent standing water.

This should be performed at all flat surfaces throughout the project.


*Figure 85*

Another crack in the concrete below the railing posts. This crack appears to be originating at the corner of the post itself.

Cracks on horizontal surfaces are subject to moisture intrusion to a much greater degree than vertical surfaces. ASTM C926 requires that horizontal surfaces be sloped to prevent standing water.

This should be performed at all flat surfaces throughout the project.


*Figure 86*

Cracking in the stucco below the railing next to the pool.

Cracks on horizontal surfaces are subject to moisture intrusion to a much greater degree than vertical surfaces. ASTM C926 requires that horizontal surfaces be sloped to prevent standing water.

This should be performed at all flat surfaces throughout the project.


*Figure 87*

The joint between the pool tiling and the concrete/stucco wall underneath the railing is supporting organic growth. Cracks are forming along the edge of the concrete and at the locations of the organic growth (yellow arrow).

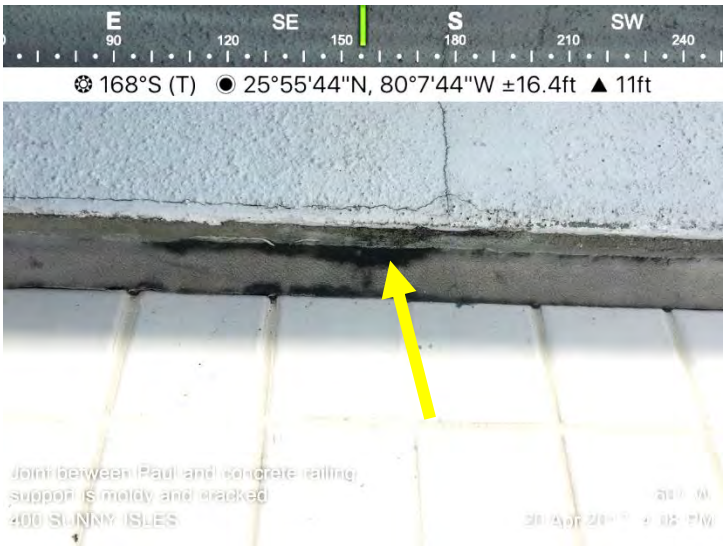



*Figure 88*

Another view of the organic growth between the pool and concrete/stucco wall below the railing.


*Figure 89*

A crack has formed across the top of the planter wall and down the entire face of the wall of the planter.


*Figure 90*

This is a downward view of the cracks on the planter wall on the inside. (see blue arrow) Cracks can be seen in multiple locations propagating down the stucco wall.

Root Barrier and waterproofing termination bar distressed at the interior planter wall, (vertical surface, see yellow arrow)

At the bottom of the photo the top flat surface of the wall is seen to be cracked perpendicular to the stucco corner bead.

(red arrow)


*Figure 91*

The exterior balcony walls also have cracking in the stucco where the planter wall joins the exterior wall, due to a lack of expansion joints in the concrete. This particular crack extends from both the inside wall to the outside wall. An expansion joint should be placed at the juncture of the planter wall and knee wall continuation due to thermal and moisture differential conditions.


*Figure 92*

This is another view of the crack shown above, as it continues down the exterior face of the wall. The top of the knee wall is at the bottom of the photo. Note that cracking stucco that would eventually be expected to de-bond at the exterior of the wall would fall to walkway and ramp far below.

Cracks on horizontal surfaces are subject to moisture intrusion to a much greater degree than vertical surfaces. ASTM C926 requires that horizontal surfaces be sloped to prevent standing water. This should be performed at all flat surfaces throughout the project.

This area should be corrected with addition of an expansion joint and stucco repair.


*Figure 93*

Cracks appear to be propagating from the base of the outside wall on the patio due to the lack of an expansion joint.

An expansion joint should be added as the stress will allow moisture to enter cracks and debonding of stucco will eventually develop at the interior and exterior surfaces of the wall.


*Figure 94*

Patches of the surface in the concrete of the patio slab were considered significant. Additional investigation is warranted to determine the cause of the waterproofing membrane.

In addition, dark areas around the drains is deposits of waterborne sediments that show that the terraces typically do not properly drain. The bi-level drains used in this condition should be promenade drains with extensive drainage capacity at the lower slab elevation. The drains installed have minimal drainage area in the lower segment of the bi-level design, and consistently performed inadequately throughout the project. them, indicating that water was ponding around them instead of draining properly.

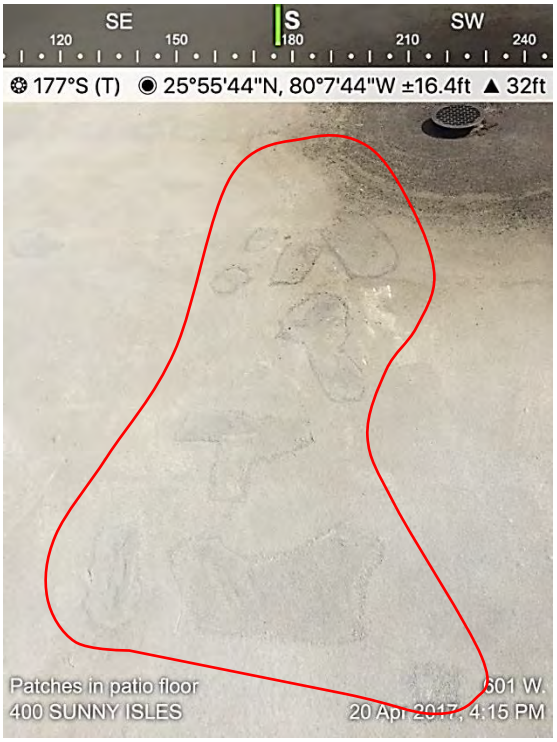



*Figure 95*

Another view of the significant ponding around the drain above.


*Figure 96*

Below is an overhead view of the 601 W unit and the two lanais.

Note that at the pictured west terraces, only two of the drains do not have dark areas (indicating ponding).

Drawings were reviewed and all require correct slope for adequate drainage. Therefore, poor construction and/or drains clogging due to inadequate openings at lower level (surface of slab elevation) are considered the cause.

*Figure 97*

The waterproofing membrane underneath the backer bar in the planter is coming apart and no longer protecting the cement from the moisture and soil.


*Figure 98*

A downward view of the corner section of the backer bar in the planter. Holes in the waterproofing membrane can be seen along the entire corner section.


*Figure 99*

## 605 W

Paint on the dividing wall is chipping. This condition is considered to be caused by water entry at the top of the wall and moisture being entrapped under the paint coating resulting in adhesion failure.


*Figure 100*

Glass panels are misaligned at the railing. This downward view shows the attachment point is skewed and out of conformance with the railing tolerances.


*Figure 101*

Concrete is incorrectly sloped towards the sliding glass door instead of the drain and the patio, causing water to pond at the base of the door instead of properly running to the drain. This will lead to development of organic growth on the surface, and concrete deterioration at the sliding glass door.

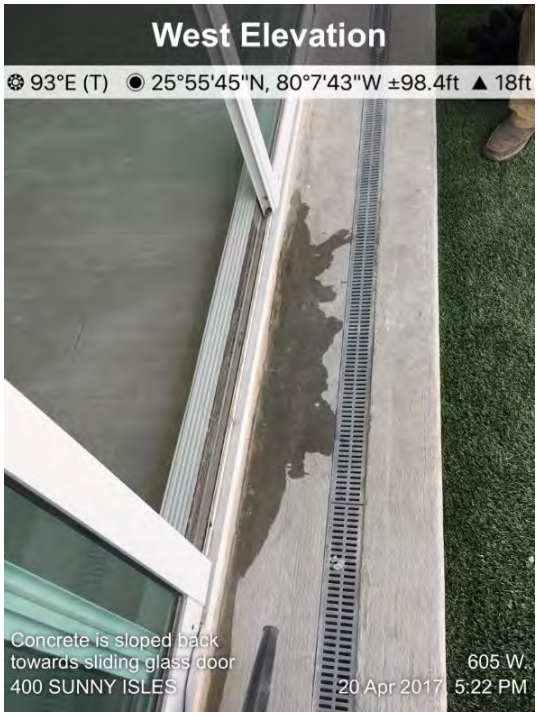



*Figure 102*

## 704 W

A recessed area below the window seems to have been filled with cementitious material. The material appears to be a grout and dissimilar from the normal slab concrete. The infill material boundary in this case is extremely irregular and is a concern because of the cold joint resulting at the juncture. Shrinkage of some installations and cracking could negate the intention of the depressed slab under the exterior wall and allow water to channel to the interior. Also, the aluminum window should not be subjected to contact with uncured concrete/cement as this negatively affects the aluminum finish as often occurs with concrete repairs of slabs that damage the finish of aluminum balcony rails.


*Figure 103*

A similar recessed area as above but concrete is not filled. If the void space under the window is not filled, the exterior moisture would be expected to be absorbed by the interior infill material

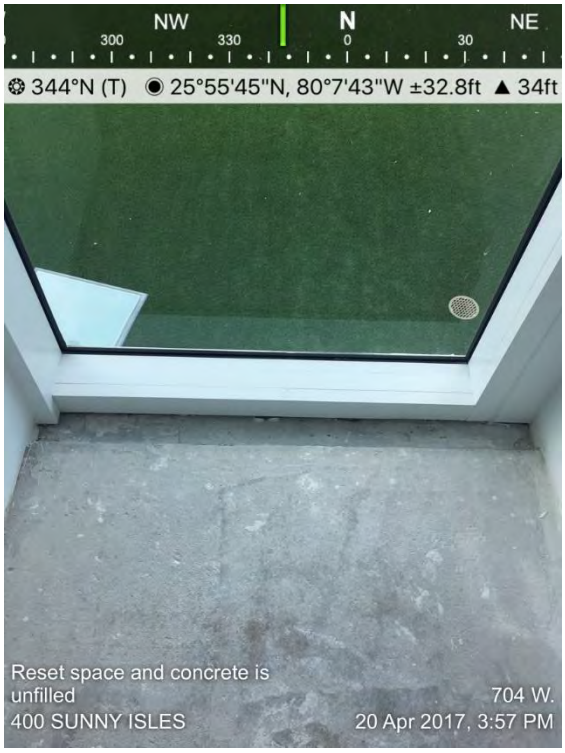



*Figure 104*

## 706 W

A water test was performed on the balcony of the unit. Water was poured onto the balcony near the doorway to see if it would drain properly. While some of the water was shown to drain off the edge of the balcony, the majority of the water remained ponded near the sliding glass door. The patio does not have a uniform or adequate slope indicated on the design drawings.


*Figure 105*

Another photo of water testing on the unit balcony. This particular image shows the water unable to drain properly from the center. The majority of the water ponded in front of the door.


*Figure 106*

The drain in the shower does not appear to be draining properly, as it is set too high.

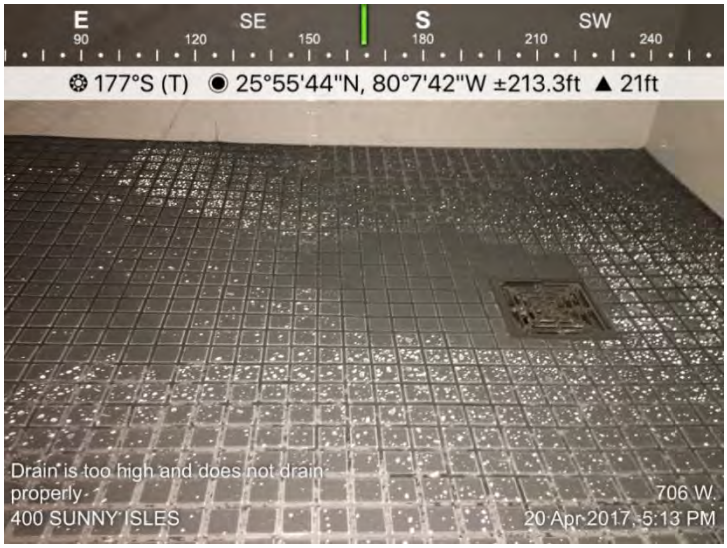



*Figure 107*

## 805 W

Gaskets were either coming out or loose along the windows.

(The straight line shows the unevenness)

All the rubber gaskets for the entire project should be carefully inspected by the glass railing fabricator and installer, along with the owner's engineering representative.

Many locations were observed where the gaskets were loose or hanging down.


*Figure 108*

Mortar or balcony surfacing material has collected on the railing. Cementitious material is highly alkaline, and will damage aluminum railing finishes (eventually accelerating corrosion of the aluminum surfaces).

Railings must always be protected during construction to prevent contact with cementitious material.

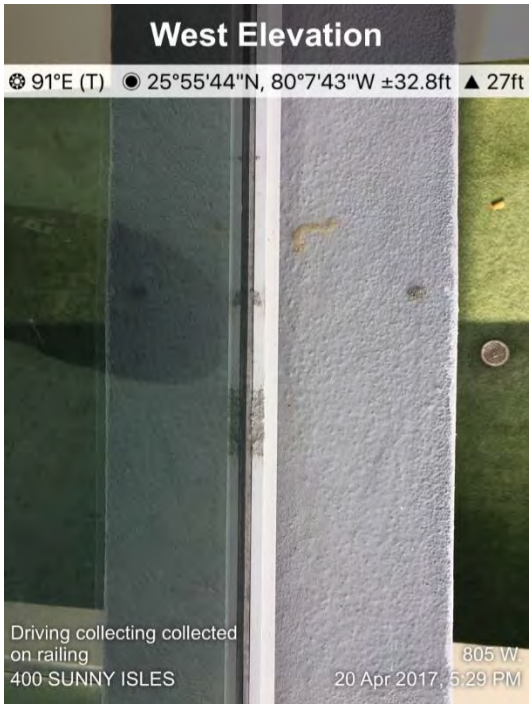



*Figure 109*

A water test was performed on the balcony. While the water flowed to the railing, it began to pond before flowing off (drainage was observed only in one small spot, indicated between the two red arrows). This area is much too small for significant amounts of water to properly drain uniformly from the balcony. Many balconies were observed where a thicker application of waterproofing had been applied (usually appeared to have been poured) along the edge of the slab.


*Figure 110*

## 901 W

The interior floor slab should be at least ¾" higher than the balcony slab to deter water from entering inside. It was immediately discernable that there was not a difference in elevation between interior and exterior elevation. In less than a foot of horizontal distance, as it was senseably indistinguishable from a flat floor. In this photo, you can see that the inspector's feet are at the same height, as there is little or no height difference between the two slabs. If tile is installed as is typical, the moisture would migrate downward and to the unit interior after rain events.


*Figure 111*

A water test was performed on the balcony of the unit. After 10 minutes, the water had ponded in the middle of the balcony and therefore did not drain properly, indicating that the balcony is not sloped correctly to allow for proper drainage.

It was noted that many of the balcony slab edges appeared to have been built up to a slightly higher elevation, often by the heavy (thicker) placement of waterproof coating.

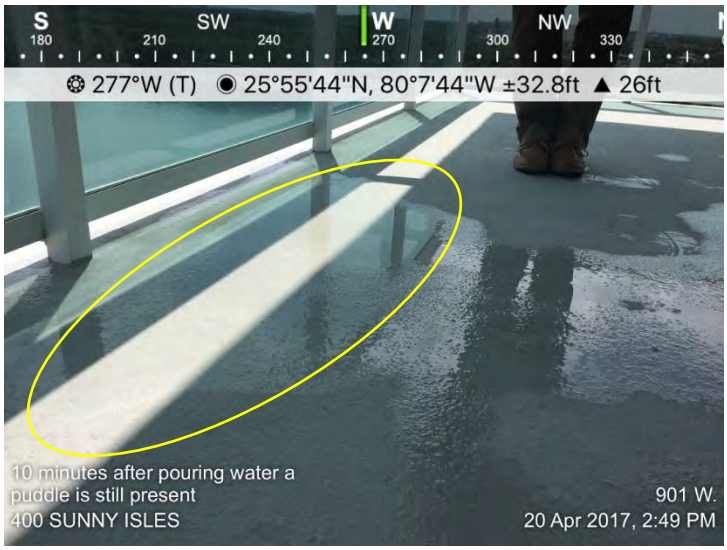



*Figure 112*

## 1104 W

Dark area near the sliding glass door on the balcony shows apparent ponding area.


*Figure 113*

A water test was performed, showing that the water ponds in front of the door and in the center of the balcony instead of draining over the edge. This indicates that the balcony is not be sloped properly to allow for proper drainage.

This unit drains some of the water under the neighbors tile and setting bed under the demising panel.


*Figure 114*

## 1205 W

Excess waterproofing was applied around the rail posts and near the sliding glass door, as indicated by the smoother circular area.


*Figure 115*

A water test was performed on the balcony. Only a small amount of water was able to drain over the edge while most of the water ponded in the center of the balcony. This indicates that the balcony is not sloped correctly to allow for proper drainage.


*Figure 116*

An area of tiles in the bathroom was wet and very slippery, suggesting water may be leaking up through the tile or dripping from the ceiling. This area should be re-checked after rain events and periodically to determine if this moisture problem is repetitive. If the facility staff verifies a recurring problem, further investigation will be required.

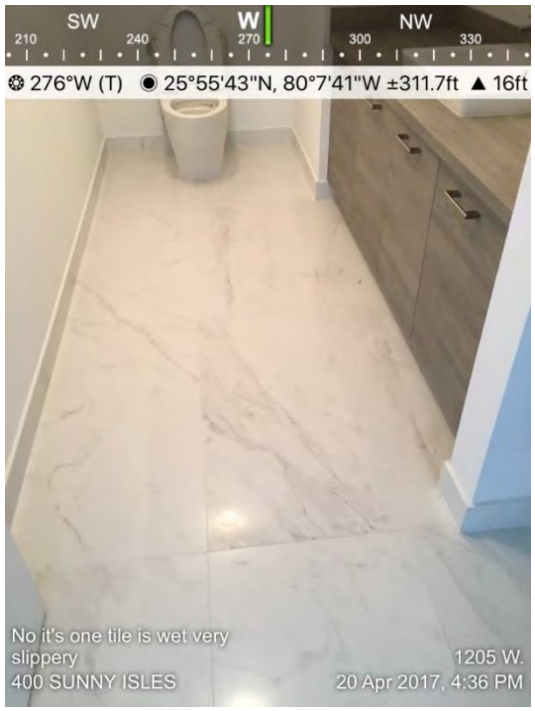



*Figure 117*

The wood door to the HVAC closet was painting was poorly performed. Beads of paint collected at the bottom of most of the slats. As slats were almost touching, the amount of air through this louver may be considered inadequate, and could hinder proper system air flow and operation.


*Figure 118*

## 1207 W

A recessed area of concrete was not filled in all the way, leaving a gap between the window frame and the floor slab.

The concern is that the rough, irregular juncture is prone to cracking at the cold joint between the new fill and the older slab placement. Secondary cracking could cause moisture to enter this area and this would be expected to cause spalling or other concrete damage over time. It was not possible to discern if or how the space under the window frame was placed, how it was terminated. It is a concern in how the added concrete placement could be sealed against moisture entry at cracks or cold joints.

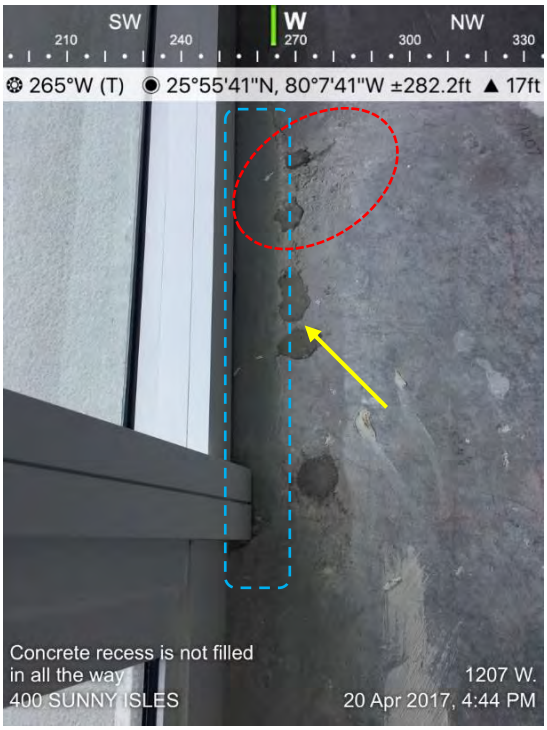



*Figure 119*

The stucco wall adjacent to the sliding glass door jamb was cracked and contained holes, allowing water intrusion into the concrete.


*Figure 120*

A water test was performed on the balcony. None of the water flowed off the edge, instead ponding along the exterior wall. This indicates that the balcony was not be sloped to allow for proper drainage. Water frequently traveled under demising wall panels onto other adjoining balconies, and often under adjointing tile installations.

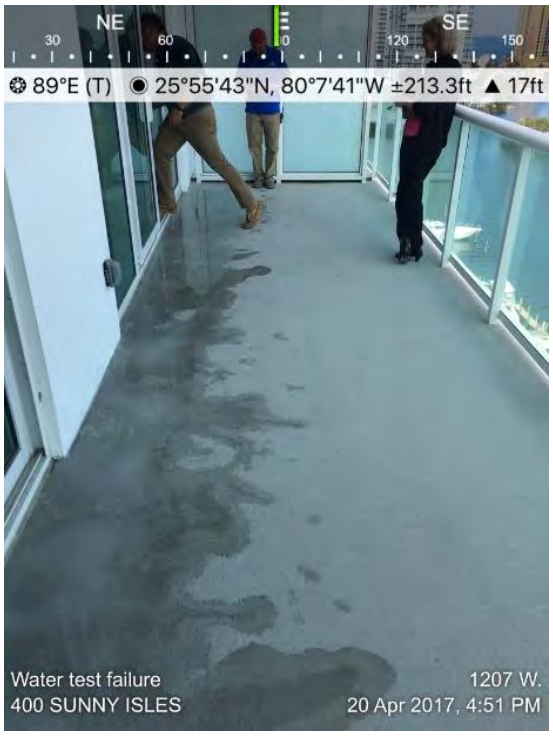



*Figure 121*

Low water pressure was found throughout the entire unit.


*Figure 122*

## 1208 W

A crack was found in the corners of the baseboard (arrows). Gaps were also occasionally noticed between the baseboard and the floor.

Additionally, a dark reddish stain was noticed in the corner where the wall meets the baseboard, considered due to moisture and rust.

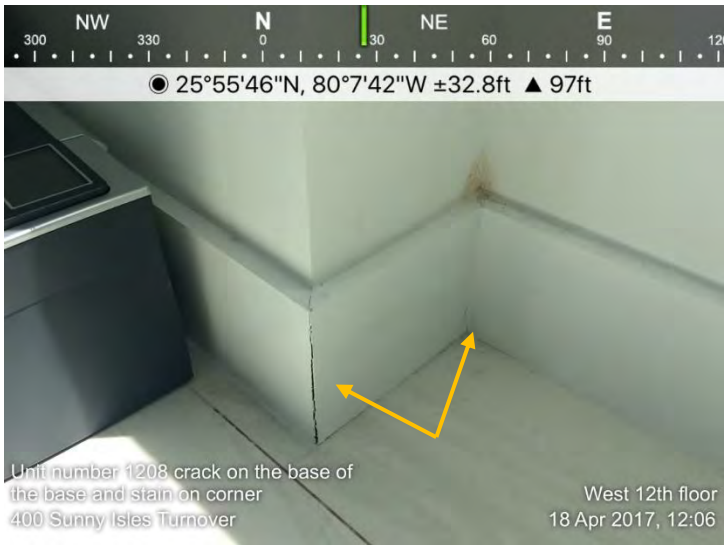



*Figure 123*

It appears that the window frame opening was ground down by the window arms. This was a field modification which would alter the back dam provided at the back side of the window. This would logically change the effectiveness of the window design in terms of inhibiting water intrusion. Additionally, the Miami Dade NOA may have been invalidated.

A water test could be conducted to see if window waterightness was compromised.

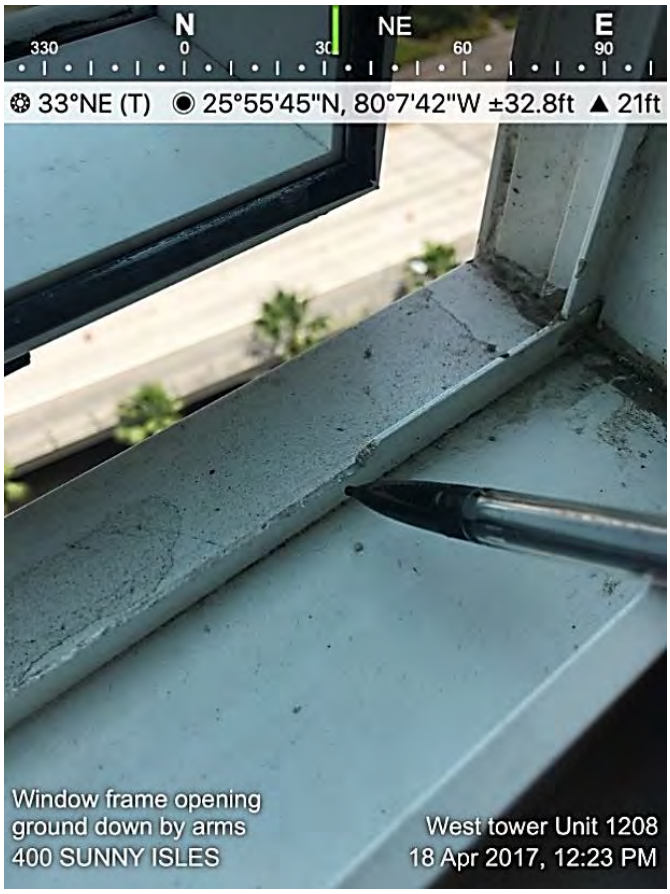



*Figure 124*

On the exterior wall near the window, it appears that sealant was applied to the expansion joint.

Typically the expansion- control joints in stucco are continuous PVC at the mid-section, and adding sealant in this location would not provide additional waterproofing.

The contractor should be able to provide information regarding water intrusion problems, what remedial work was done on this area, and any water testing that was performed. Maintenance reords and close observation of these areas, and possible future water testing could be considered as an option if further investigation is warranted.


*Figure 125*

Windows in the unit all had multiple, large scratches across them, possibly caused by swing stage contact.


*Figure 126*

## 1401 W

Water intrusion has caused rusting to occur in a cement recess beneath this window. Cement has not been completely filled in this area, as also indicated by the gap between the cement and the wall.

Further investigation and water testing is recommended.

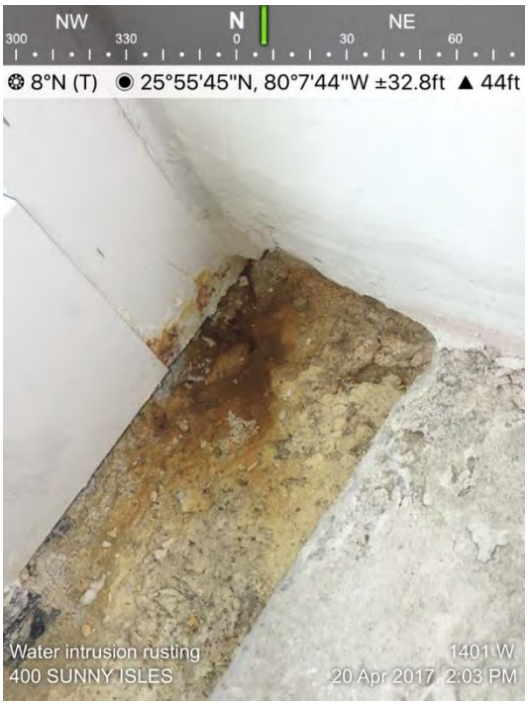



*Figure 127*

Another view of the water intrusion area. The gap between the wall and cement is much more noticeable from this angle and the extent of the rusting is significant.


*Figure 128*

Dark areas on the balcony indicate ponding near the sliding glass doors and in the center of the balcony.


*Figure 129*

A water test was performed on the balcony after noticing evidence of ponding. Water did indeed pond in the center of the balcony and even flowed into the neighboring balcony instead of draining properly over the edge, as indicated in this photo. Balcony is not be sloped properly to allow for drainage.


*Figure 130*

## 1402 W

Discoloration around the railing posts on the balcony indicate possible water damage to the floor tiles or patching during tile installation.

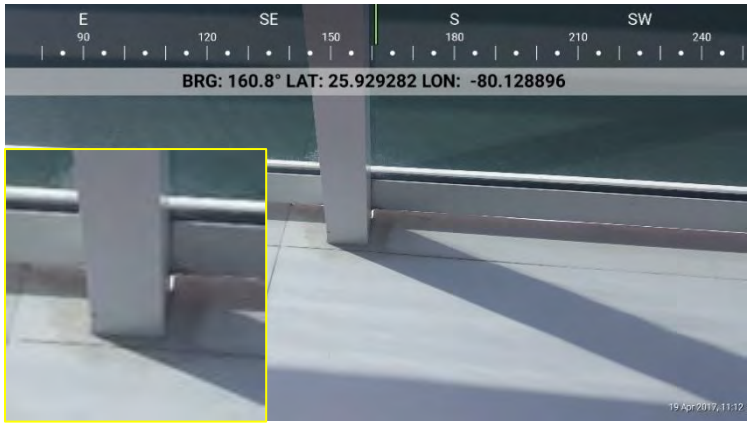



*Figure 131*

The glass on the balcony railing was extremely loose. The owner of the unit needs to put cardboard between the frame and the glass to secure it. Rubber gaskets were also found missing in the railing structure.

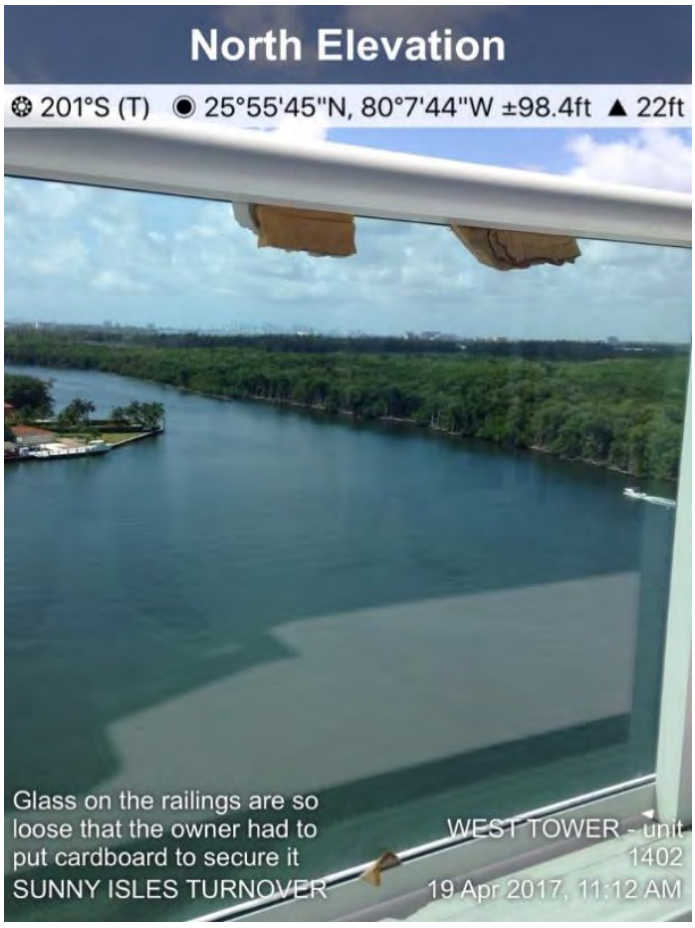



*Figure 132*

This is a close-up view of a rubber gasket at the base of one of the glass panels on the railing, showing there is a significant gap between the glass and the gasket. This may be allowing water intrusion into the structure.


*Figure 133*

Gaps were noticed between the dividing wall on the balcony and the tile flooring, allowing for water intrusion underneath the divider.

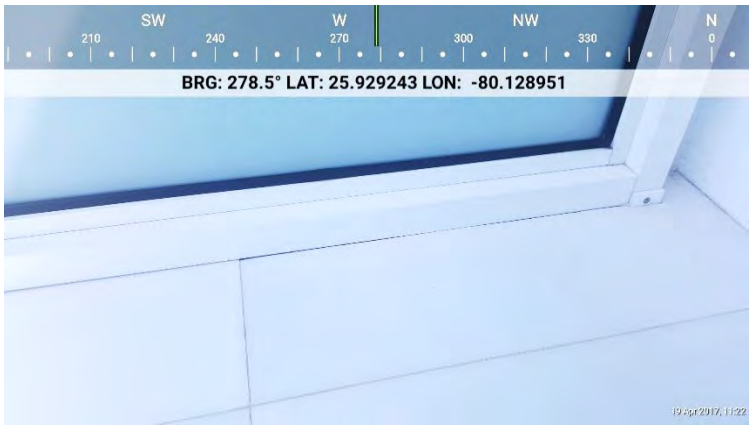



*Figure 134*

Mortar underneath tiling on balcony is loose and not sealed properly, allowing water to intrude underneath the tile and between the concrete. Cracks were also found at the base of the railing posts, also allowing for water intrusion.

*Figure 135*

## 1408 W

A hairline crack in the floor slab, about 4 feet long, was noticed in one of the rooms, shown in this picture to the left of the measuring tape. Gaps between the concrete slab and the wall were also noticed, shown here at the top end of the measuring tape.

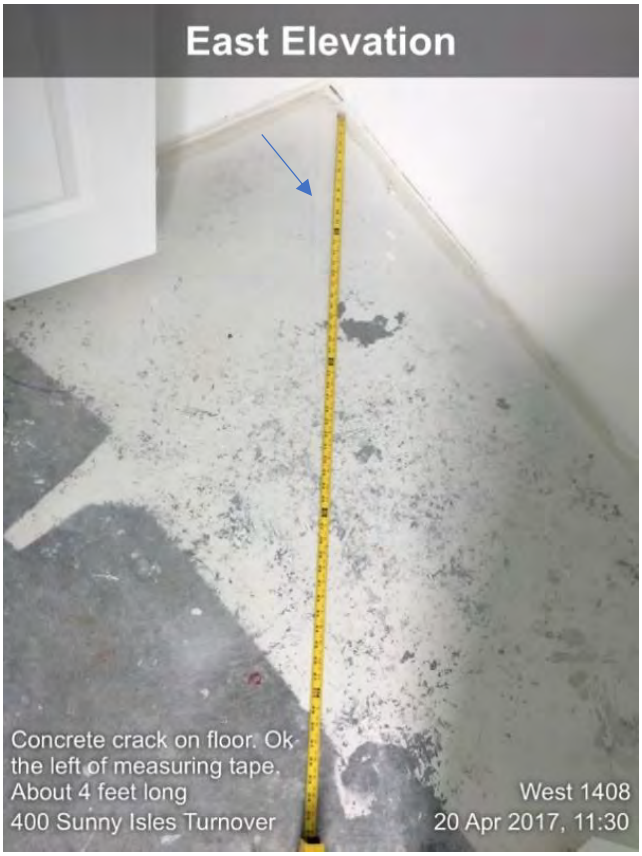



*Figure 136*

A close-up view of the above crack. The gaps between the wall and the concrete slab are clearly seen. Small diagonal cracks are not uncommon in post tensioned slabs. This crack should be noted in location and inspected in the ceiling of the unit below for additional problems. Initially, the crack in ceiling should be filled and monitored.

*Figure 137*

## 1505 W

The dividing walls between units, shown here in unit 1505, do not provide enough privacy. A person can easily stand on a stepping stool, as the person in this picture is showing, and look over to the neighboring unit's balcony. Persons on the adjoining balcony have also climbed over the wall on one past occasion. The Original design of the balcony demising wall has been changed since the original design drawings were distributed during project development. The recommendation is to provide a secondary upper glassed panel above the existing panel location.

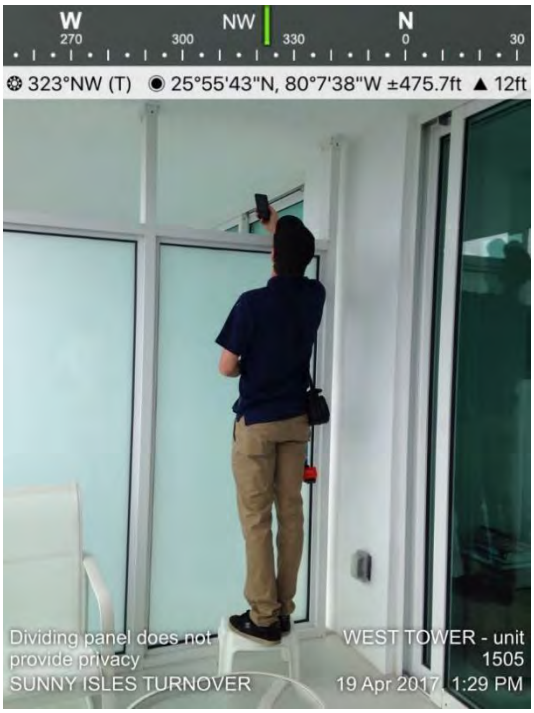



*Figure 138*

In addition to the dividing panels not being tall enough, there is also a significant gap between them as indicated here. One can clearly look through the gap between the wall and the divider and see down several units.

This amount of gap is also found between the divider and the balcony railing.

This is considered a privacy concern, and is not a code issue but may be a design problem for unit owners.


*Figure 139*

Mortar from underneath the tiling on the balcony is loose, allowing water to get between the tiles and the concrete. Tile Council of North America Requirements are that exteriorinstallations of tile must be fully bedded in mortar bed.  Failure to do so creates volumes of space where moisture can accumulate and where moisture damage to concrete slabs can commense.

It is unclear whether the tile work for various units can be identified as having been done by the developer or by independent contractors hired by the unit owners.

*Figure 140*

The shower does not appear to be correctly sloped to allow for proper drainage, as indicated by the dark area where water seems to be ponding.

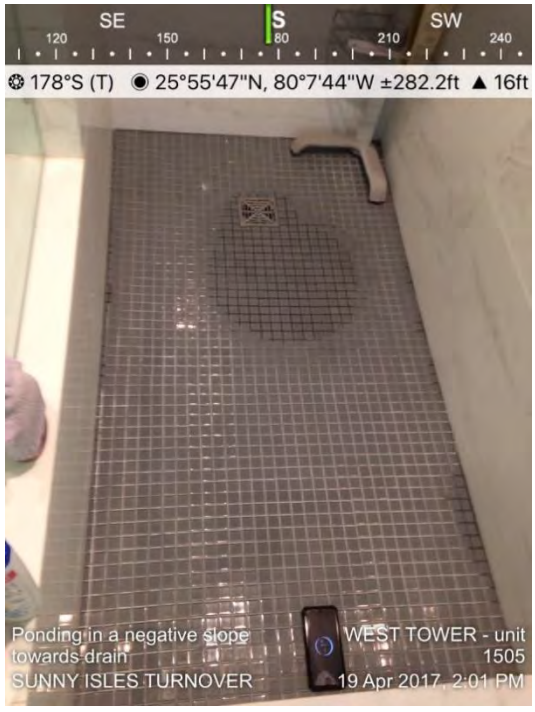



*Figure 141*

An open area in the wall under the sink was noticed in the bathroom.

This area can be closed with plaster and peiced with base mold.


*Figure 142*

## 1508 W

Mortar was found along the bottom edge of the glass panels on the railing. The mortar is highly alkaline and will damage aluminum coatings and begin to corrode both the aluminum railing material..


*Figure 143*

Windows in this unit were found to have much better soundproofing than the unit investigated on the 12th floor.


*Figure 144*

The mortar under the tiling on the balcony is loose, allowing water and moisture in. The concrete finish underneath the railing is cracked and curled up, allowing water intrusion and possible promoting future corroding of the rebars.

*Figure 145*

## 1605 W

Pieces of dried mortar are shown washing and/or blowing into this unit's balcony from the neighboring balcony. (see yellow inset enlarged below).

*Figure 146*

There is a problem with the demising panel design. As can be seen, when tile is installed on one balcony, a dammed condition is created under the panel. When (future) tile is added at the second side of the demising panel, an area under the panel is left which is an depressed area relative to the adjoining tile surfaces. The depressed area will collect water (and likely fill) from the relatively higher tile surfaces. The balconies also have a common problem where many of the balconies drain water toward the demising panel and not to the exterior edge balcony of the balcony.


*Figure 148*

An enlarged view of the dividing wall support connections shows the fasteners and hardware that will be in this highly moist environment. The aluminum panels will expand and contract more than the concrete and the fasteners and angled feet of the panel will be moving relative to the concrete, which will open up the waterproofing in these locations. At right the photo shows the pieces of mortar trickling into this unit's balcony, (yellow arrows) carried by moisture flow, originating from under the tile of the neighboring balcony. The concern is the area under the demising panel will be perpetually wet, have openings in the waterproofing, and be unaccessible for observation, inspection, maintenance and repair.

*Figure 147*

Rubber gaskets on the railing posts on the unit balcony are coming out.

Glass gaskets throughout project should be inspected and repaired.


*Figure 149*

Gaps were noticed in the rubber gaskets, as in the case shown here. These gaps allow water and particulates to get in between the glass and the aluminum, possibly leading to corrosion of the metal.


*Figure 150*

Drip molding was noticed coming from the unit directly above (1801) in the corners of the balcony roof.

This was observed as a common condition of many (or most) balconies where due to non-uniform provision of correct and uniform slope to the balcony edge, small areas were caused to drain large areas of poorly sloped balcony surface over long time periods. The result is development of organic growth where edges remain moist for long periods. This is considered demonstration of the deleterious effect of improper slope of the balcony surfaces. Note that slope provided on tile dows not help solve problems with underlying slab and waterproofed surfaces improperlyand non-uniformly sloped.

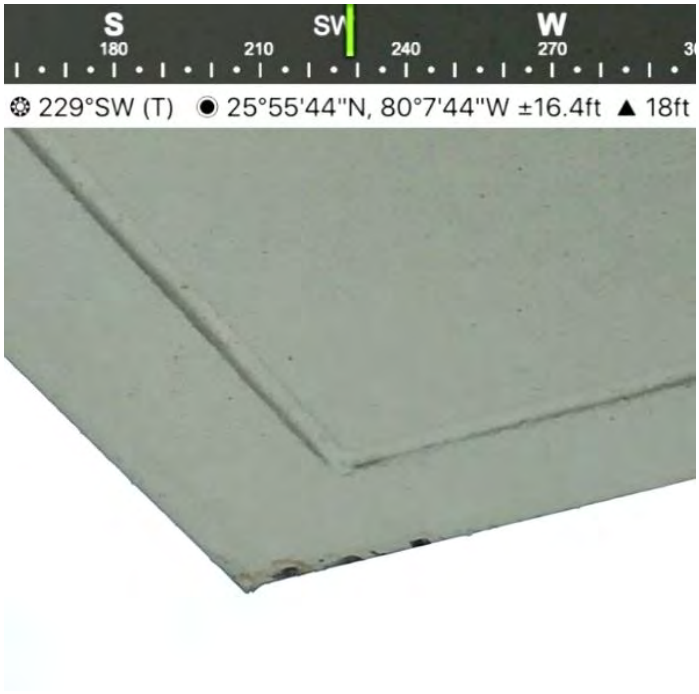



*Figure 151*

## 1705 W

A rubber gasket was broken/missing pieces in the glass railing on the balcony, allowing water intrusion between the glass and the aluminum frame.

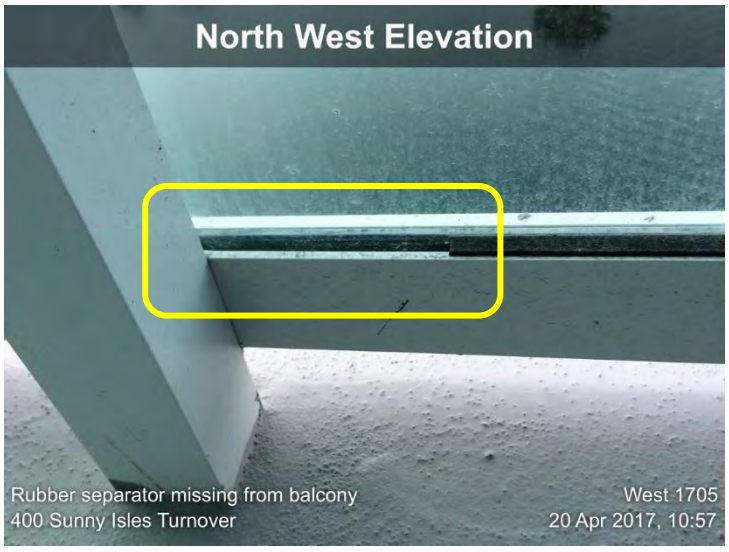



*Figure 152*

Failing silicone was used between the glass and the walls in the bathroom. This may have been used in other units and could possibly fail in the future. This is considered possibly a interior upfit contractor problem (hired by a unit owner) or work that was performed by the developer's contractor, as yet to be determined.

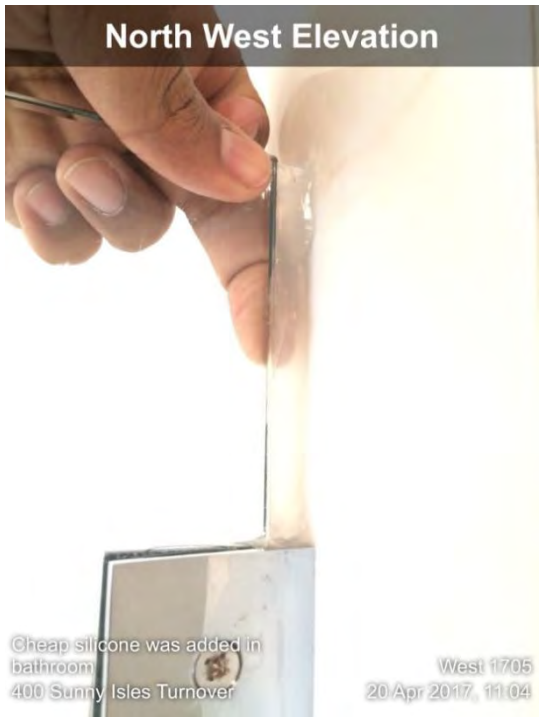



*Figure 153*

## 1804 W

There was a significant and inconsistent gap between the dividing wall and the tile floor of the unit's balcony.

Water will enter these conditions, but how will it exit? How will the waterproofing below be monitored? How will waterproofing maintenance be performed at damp support and fastener locations prior to possible concrete spall development?


*Figure 154*

The dividing wall on the other end of the balcony had a uniform gap for the entire length of the divider. The slab and tile cannot be sloping correctly. How will the support posts that penetrate the ile and setting bed be waterproofed to prevent rainwater from draining down around the support posts? Since many or most of the balcony surfaces do not drain well, what damage due to the water infiltration without secondary drainage of the slab surface will result?


*Figure 155*

## 1805 W

Mold was found growing on the roof of the balcony/floor of the balcony above.

Due to non-uniform provision of correct and uniform slope to the balcony edge, small areas must drain large areas of poorly sloped balcony surface over long time periods. The result is development of organic growth where edges remain moist for long periods.


*Figure 156*

Bathroom sink had no backsplash to protect the wall from water intrusion.

This is a design error.


*Figure 157*

One of the window openings was inoperable.

The window installer should correct this condition.

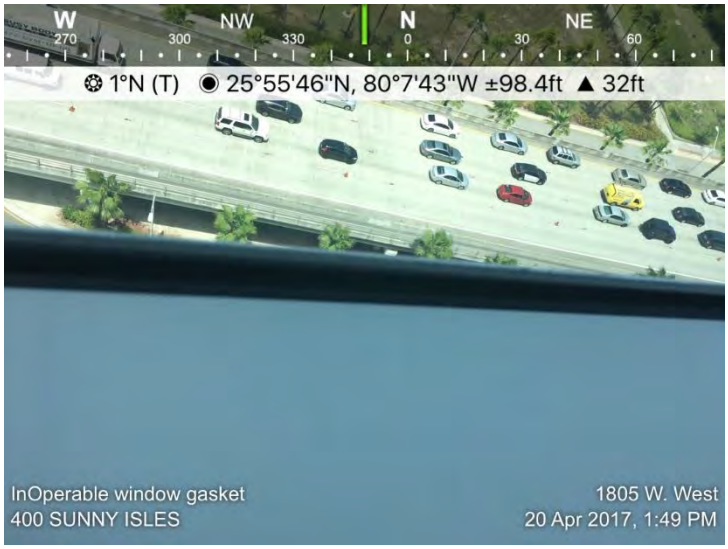



*Figure 158*

## 2001 W

A gap between one of the railing posts and the balcony floor is allowing water to intrude and corrode the concrete rebars and the aluminum post support.

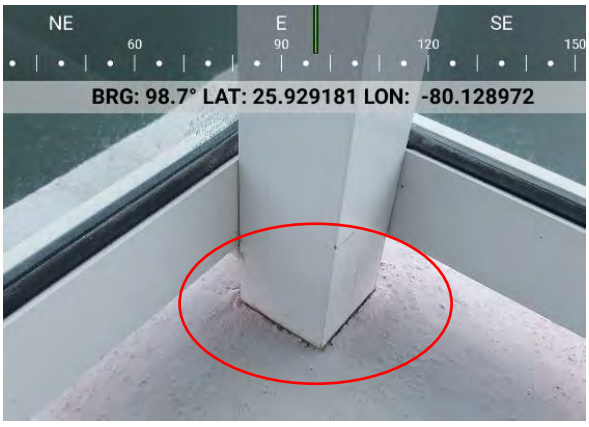



*Figure 159*

Exterior expansion joint near the window of the unit appears to have been patched.

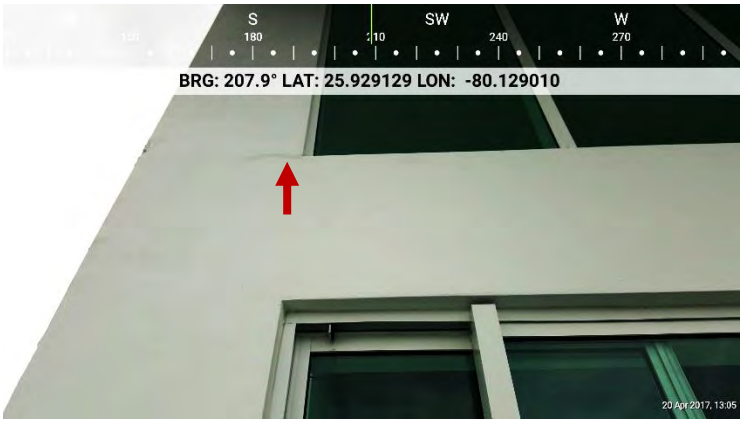



*Figure 160*

Water and organic material is able to intrude under the sliding glass door track, as evidence by this plant growing from underneath it.


*Figure 161*

Large cracks were noticed in this <u>temporary</u> concrete step at the base of the spiral staircase. This is not considered a turnover issue as this was part of an ongoing interior upfit.


*Figure 162*

A significant gap was found between the concrete slab of the loft and the aluminum staircase landing. Verify this temporary condition has been corrected. Not considered a turnover issue.


*Figure 163*

Rubber gaskets in the glass railing did not cover entire length, allowing for water intrusion and possible corrosion of the aluminum frame.


*Figure 164*

Ponding was noticed around drains, indicating they are not directing water along the surface or draining properly, allowing water to absorb into the concrete and corrode the rebars.

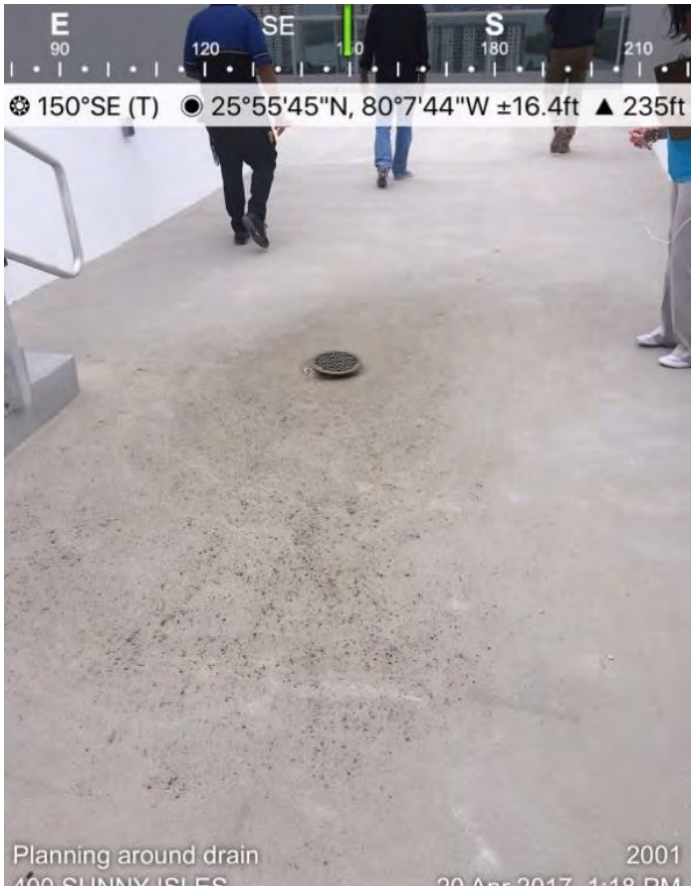



*Figure 165*

Stress cracks in the concrete walls of the roof patio were found. This crack runs all the way up the wall and over to the other side, originating from the scupper.


*Figure 166*

Gap between the two slabs of concrete forming the exterior wall on the roof was only partially patched.

*Figure 167*

Water intrusion sourcewas found in the doorway of the roof patio access door. Note the gaps between the walls/doorframe and the concrete. Rust was observed coming out of these areas.


*Figure 168*

Gaps were observed and  and unbonded stucco was identified by sounding at the juncture of the stucco wall and the roof membrane.


*Figure 169*

Ponding evidence was also found near the jacuzzi on the patio, This was considered an indication that the area is not draining properly.


*Figure 170*

## PH-1 W

Dirt collecting on the balcony indicates rain water is not draining properly over the balcony edge. Darker areas also show evidence of ponding.

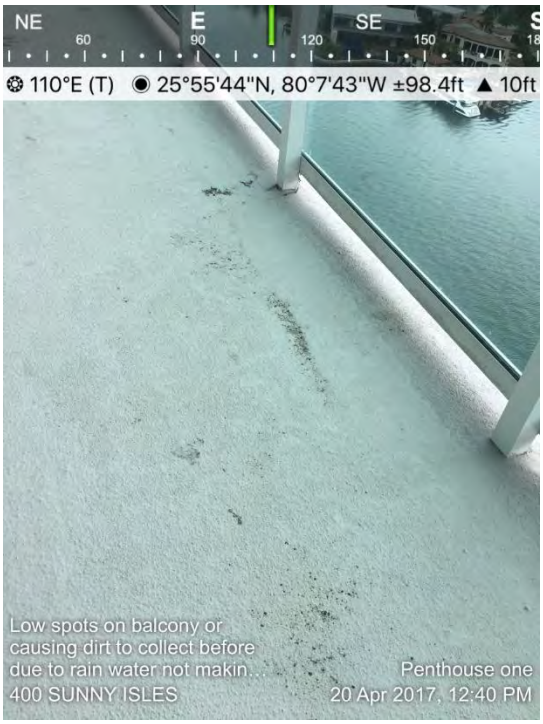



*Figure 171*

Another instance of dirt collection and water ponding, shown here at the base of the spiral staircase leading to the roof. Water is trapped in these areas and unable to drain. Bolted penetrations of the waterproofing membrane are a concern.

These areas should have bolts bedded in sealant and/or have a secondary waterproofing applied over the metal components.


*Figure 172*

The waterproofing underneath the roof railing is cracking, allowing water to penetrate into the concrete below.

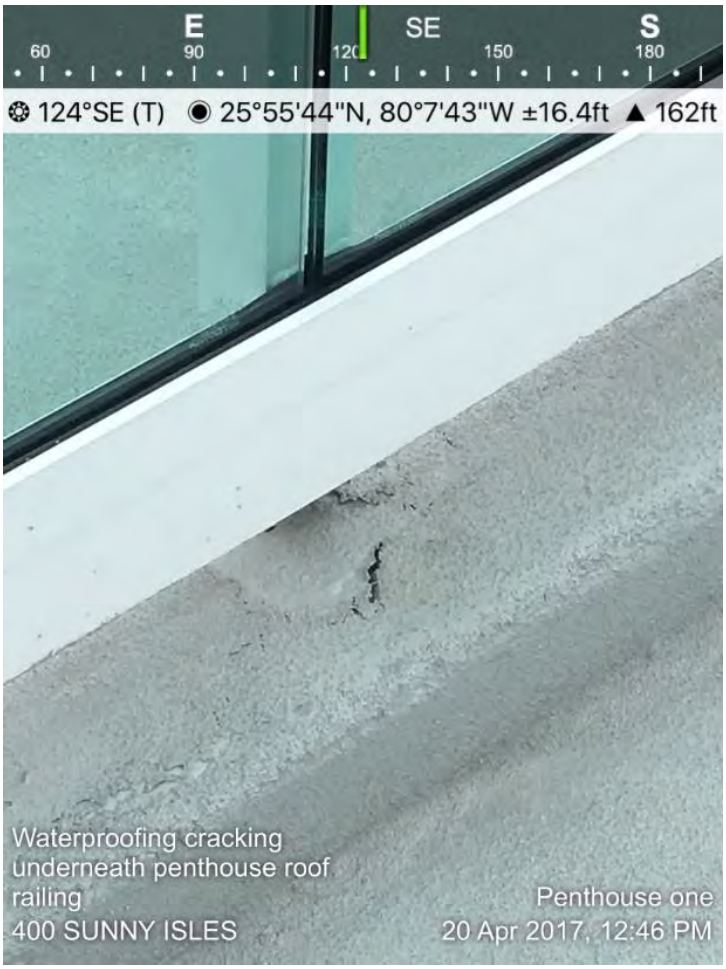



*Figure 173*

The drain under the dividing wall on the roof is not secured and easily removed. The drain itself is also rusting, most likely due to a dielectric union issue.

In addition, the Coordination Set plans do not reflect the drains being underneath the divising walls. Instead, they are shown in the center of the terrace.


*Figure 174*

To the right are the plans for the drains on the penthouse terrace. The drain (circled in red) can clearly be seen in the center and not underneath either of the dividing walls (blue lines).

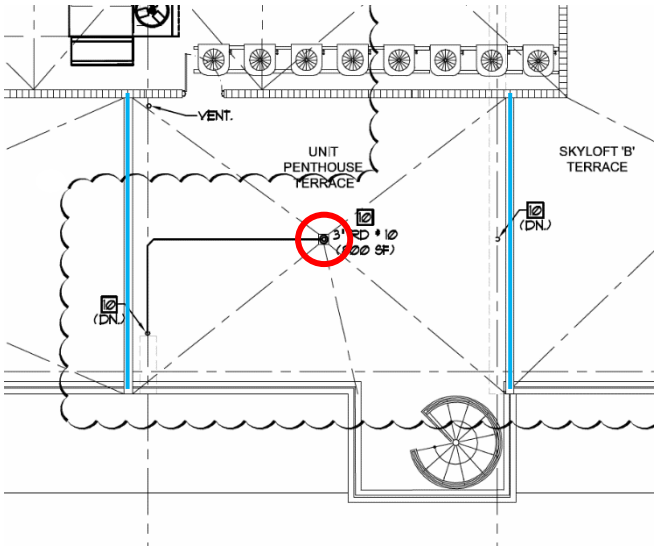



*Figure 175*

A close-up view of the drain above, after it was easily removed due to not being secured to the floor.


*Figure 176*

A corner of the dividing wall was patched but gaps can still be seen between the concrete slab and the wall.

Sealant is considered a tempory measure, not a permanent waterproofing. The waterproofing membrane on the terrace should turn up the wall 4 to 6 inches, and the wall finish should extend down over the upper voundary of the waterproofing.

The same principle shouldbe applied at the curb detail.


*Figure 177*

Glass railing on the roof patio is of different heights. All railing sections need to be checked to ensure they meet railing height requirements to prevent the error identified at the pool deck railing.

*Figure 178*

The corner of the railing shown above has recessed areas around the posts, allowing water to collect and stand in these areas. The corner of the building is also badly damaged, as holes can be seen, that will allow water to intrude into the concrete structure.

*Figure 179*

# EXHIBIT “D”

ENGINEERING & ARCHITECTURE INC.
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Email: Info@Archetype-FL.com

# Addenda Report

October 11, 2017

DONALD J. ATKINSON, P.E., ARCHITECT

ARCHETYPE ENGINEERING & ARCHITECTURE, INC. 900 US HWY ONE, SUITE 108, JUPITER FL 33477

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# Table of Figures

400 Sunny Isles East Condominium Association, Inc.
Condition Assessment Report
Report Date: October 10th, 2017

# 1 Introduction

This evaluation was authorized by the Board of Directors of the 400 Sunny Isles East Condominium Association, Inc. The purpose of this evaluation was to update opinions regarding the general condition of the property improvements following the impact of Hurricane Irma, and other issues that had arisen since the initial site observations.

Donald J. Atkinson, P.E., Architect, principal of Archetype Engineering & Architecture, Inc. conducted site observations of the property improvements located at 400 Sunny Isles Boulevard. Property Management staff provided access to all mechanical/utility spaces, common use areas, roof, garages and residential units. Archetype Engineering & Architecture, Inc. is the author of this report which was based on site observations of the building, review of construction documents and interviews with property management staff. The document review includes drawings provided by the Association and are listed within the report. Opinions regarding conditions of the subject property were based on visual observations, soundings of material, and non-destructive diagnostics, as deemed appropriate by the engineer.

The comments, conclusions, and recommendations presented in this "Condition Assessment Report" are the professional opinions of Archetype Engineering & Architecture, Inc. This Condition Assessment Report was assisted by the Property Manager, Atlantic Pacific Association Management Inc.

## 1.1 East Building Roof Area Over Core 3

| |
|---|
| Standing water on roof membrane surface. |


*Figure 1*

Standing water on roof membranes is non-conforming with FBC requirement of 1/4” per foot to drains.

The expected useful life of the roof system is expected to be significantly reduced when organic growth and standing water are present.

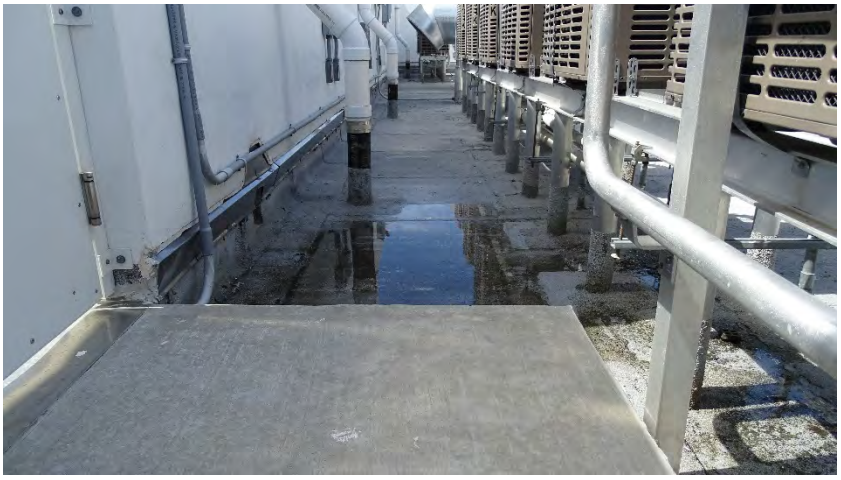

*Figure 2*

Standing water on roof membrane surface.

*Figure 3*

Organic Growth.

*Figure 4*

Standing water in shaded locations under pipes and mechanical equipment is particularly sensitive to organic growth development. (Figures 5 and 6)

*Figure 5*

*Figure 6*

Ductwork sheet metal should be properly broken to provide slope to prevent standing water and associated corrosion. (Figures 7 and 8)

*Figure 7*

*Figure 8*

Incorrectly flashed gaps around concrete pads will allow water to enter and become entrapped within the assembly.

*Figure 9*

Organic growth in the door threshold is evidenced by the dense growth of organic material.

*Figure 10*

Polystyrene foam between the wall and concrete slab is not waterproof and will entrap moisture.

*Figure 11*

Moisture is evidenced by the organic growth at the bottom of concrete pad and roof membrane juncture.

*Figure 12*

## 1.2 East Building Roof Area Over Core 4

This concrete landing has a tapered concrete material on the roof membrane which will entrap water under it.

*Figure 13*

The tapered cementitious topping is seen to be cracking and maintaining a perpetually moist condition. (Figures 14 and 15)

*Figure 14*

*Figure 15*

Moisture meter reading in this area were 4 times higher than the dry concrete areas adjacent.


*Figure 16*

Standing water in shaded areas are detrimental to the roofing assembly.

*Figure 17*

Incorrectly sloping roof surface.

*Figure 18*

Incorrectly sloping roof surface.

*Figure 19*

Incorrectly sloping roof surface.

Note also the continuation of the deterioration of the insulation placed on coolant lines. The white paint is applied here to prevent UV radiation. (Figures 20-22)

*Figure 20*

*Figure 21*

*Figure 22*

The concrete landing has a penetration about 3 inches above the membrane, which is subject to water intrusion. Note the organic growth at the bottom of the concrete pad.

*Figure 23*

The similar condition observed from the opposite side.

*Figure 24*

The white stucco wall is the exterior wall area which is experiencing water intrusion within the East building (core 4) electrical room. Within the electrical room water has routinely been accumulating on the floor.

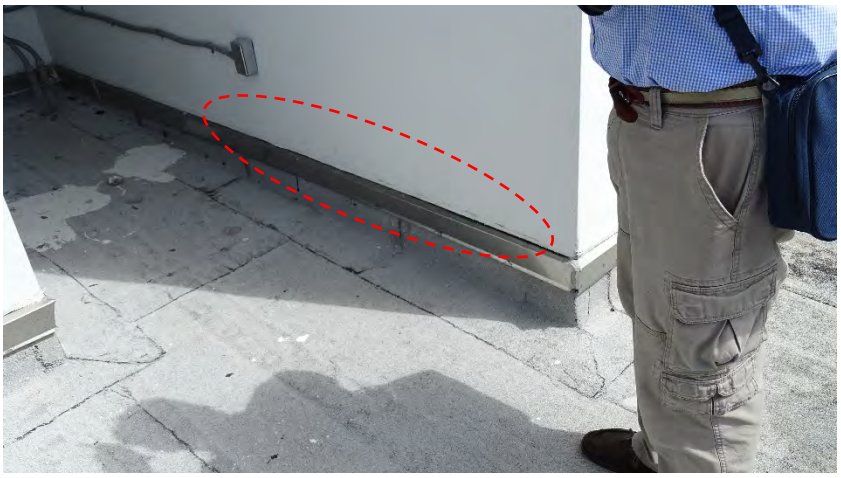

*Figure 25*

The stucco area just above the metal counter-flashing had a moisture meter reading four times higher than the typical condition.


*Figure 26*

The stucco roof parapet was cracked at the top, interior stucco face and at the exterior stucco face. This would be susceptible to moisture intrusion, particularly at the flat upper surface where precipitation can accumulate.

This area is immediately above the electrical room with the water intrusion issue.

*Figure 27*

Top view of stucco parapet crack.

This area is immediately above the electrical room with the water intrusion issue.

*Figure 28*

The opposite side of the small roof has a similar parapet crack (top, interior face, exterior face) which is also located above the electrical room where the water intrusion occurs.

*Figure 29*

This view shows the top and exterior face of the wall. Again this is also located above the electrical room with the water accumulation on the floor.

*Figure 30*

Heavy rust staining was observed just below the exit sign mounted beside the exit door at the top of the stair. The rust is likely due to the installation of a metal fixture that is not appropriate for use in an exterior marine environment. This presents an unreasonable maintenance problem.


*Figure 31*

The photo at right is a inadequately sloped roof made more acute by the addition of a secondary slab that dams the moisture as well.

*Figure 32*

Loose railing was found in the east building roof top terraces which had deflected beyond the code permitted distance and which were no longer fixed at the railing-post to deck juncture.

This condition is considered a life safety concern which should be reconstructed as soon as possible.

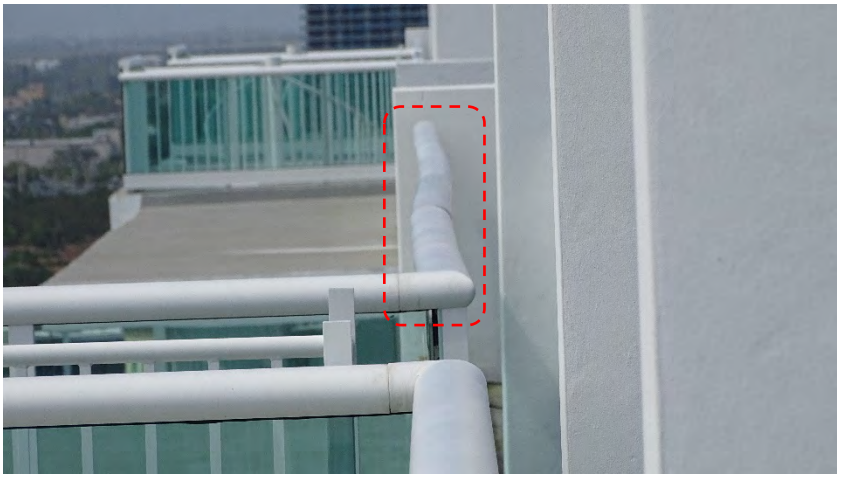

*Figure 33*

The door thresholds at the wall juncture between the terrace side and the mechanical side, are open to water penetration at the un-waterproofed juncture.

*Figure 34*

The wider view of the concrete pad at the door (pictured above) shows the result of the concrete surface that is subject to water absorption, along with the two arrows pointing out additional moisture entry locations. The heavy moisture laden zone at the bottom of the concrete pad, where the organic growth developed at the juncture with the roof membrane.

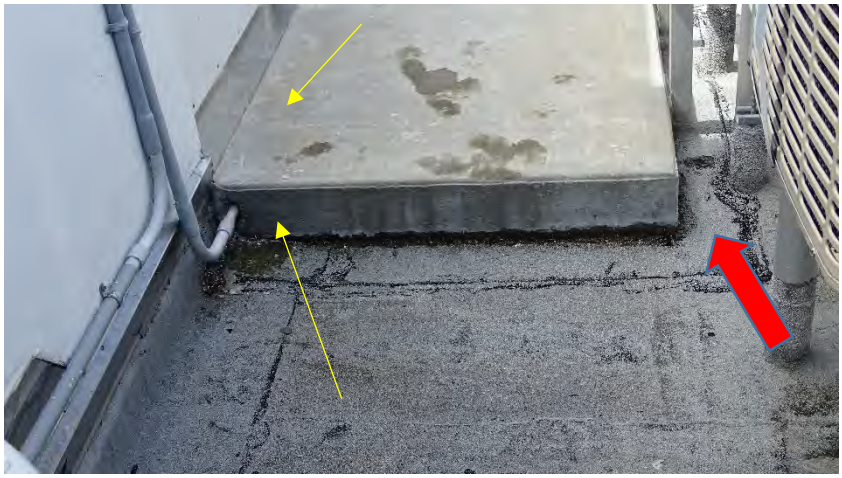

*Figure 35*

The corner detail of metal counter-flashing between the roof assembly and the stucco cladding appeared to have developed a substantial organic growth in the corner. The topical application of sealant on a condition where moisture is present is considered counterproductive.

*Figure 36*

Waterproofing should be turned up from the horizontal cementitious surface where it would be applied horizontally to the surface.

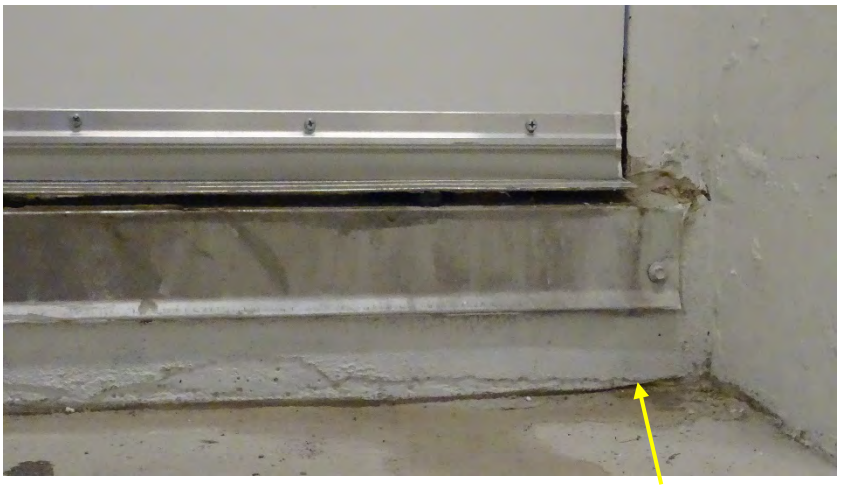

*Figure 37*

## 1.3 East Building Stair 7


*Figure 38*

Water intrusion was occurring at the juncture of the block stairwell wall with the cast in place wall below.

*Figure 39*

Below this wall area, water accumulation on the stair treads was observed.

*Figure 40*

Landing was also subjected to moisture entry under the roof access door threshold.

*Figure 41*

Water was progressing down the side of the upper stair landing structure.

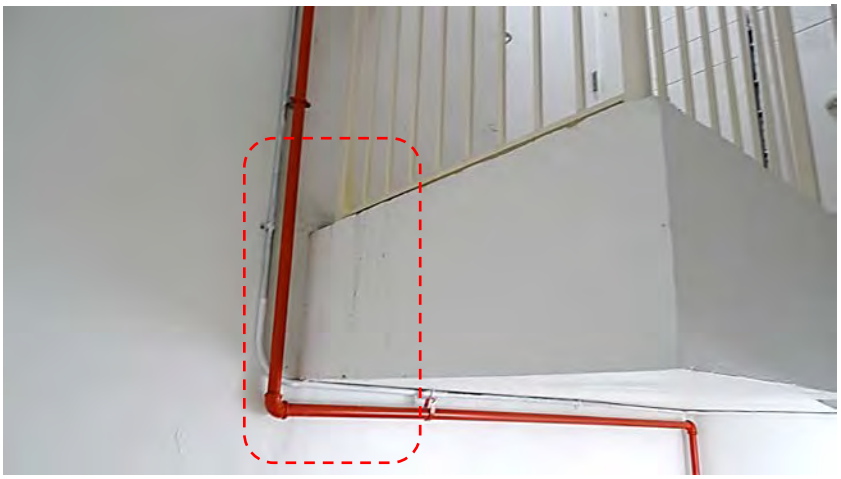

*Figure 42*

Water was flowing to lower level landings.

*Figure 43*

Water was entering through the wall penetration associated with the emergency phone plate at the upper stair area.


*Figure 44*

## 1.4 East Building Stair 6

Water was entering near the hinge side of the door.


*Figure 45*

View of the landing at the 20th floor where water was accumulating.

*Figure 46*

Water was running under the stair structure and flowing to lower levels.

*Figure 47*

## 1.5 East Building Hallway at 7th Floor Flooded

The east building 7th floor was accessed and was immediately found to have a musty odor. Further investigation discovered the west end of the corridor was flooded with standing water above the carpet.


*Figure 48*

The source of the water intrusion was found to be the mechanical room where the air handler was not provided with a condensation pan.

*Figure 49*

Although the units were equipped with a safety cut off, it seems to be a reasonable consideration that in high rise buildings a condensate collection pan and drainage would still be a prudent recommendation.

*Figure 50*

## 1.6 Tennis Court Over Marina Dry Storage Building Roof

There is a large steel frame boat storage facility located at the east end of the sunny isles structure.

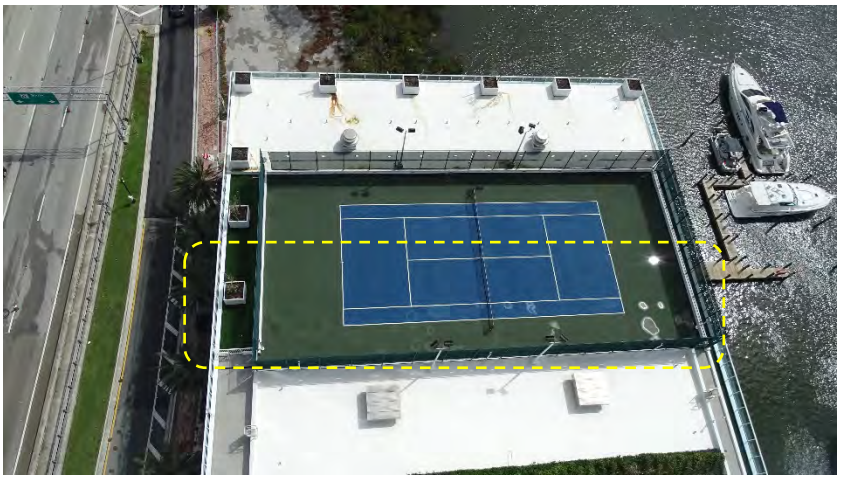

*Figure 51*

Large number of ponded areas is generally not desirable on roof assemblies.

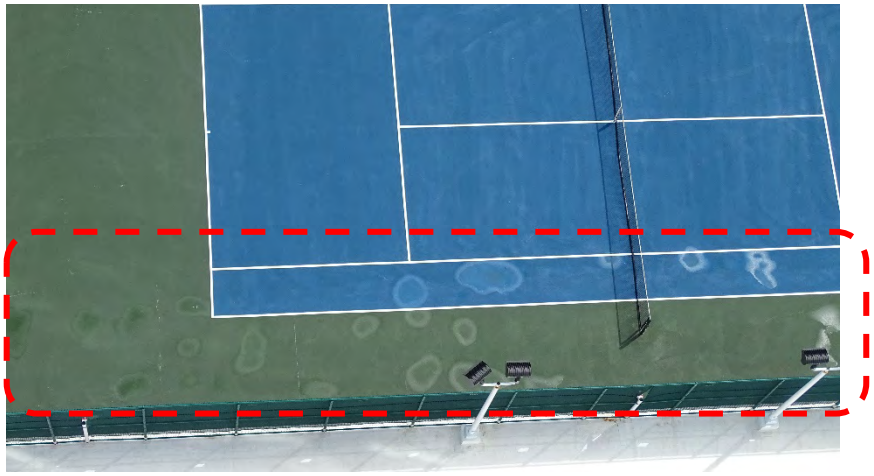

*Figure 52*

Iron oxide or other chemicals carried in water draining from the planters on the roof will have acidic pH and could expose the polymer roof membrane. Other problems related to chemical exposure could also occur.

*Figure 53*

Moisture running downhill to the west, eventually dams along the knee wall under the fence. This standing water is subject to organic growth and the associated deterioration affects. (Figures 54 and 55)

*Figure 54*

*Figure 55*

Pooled water on the otherwise hot tennis court surface are visible and considered a concern in terms of the effective useful life of the roof membrane.

*Figure 56*

## 1.7 Unit 717

This unit experienced a water intrusion event during hurricane Irma. The location is a dozen floors below the roof, and far from the exterior walls.

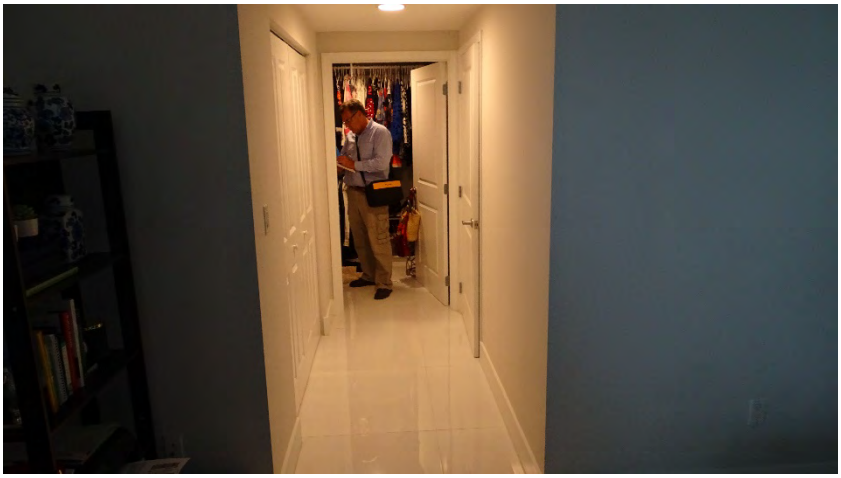

*Figure 57*

Water damage was noted, but the areas has not been wetted by precipitation events since Irma.

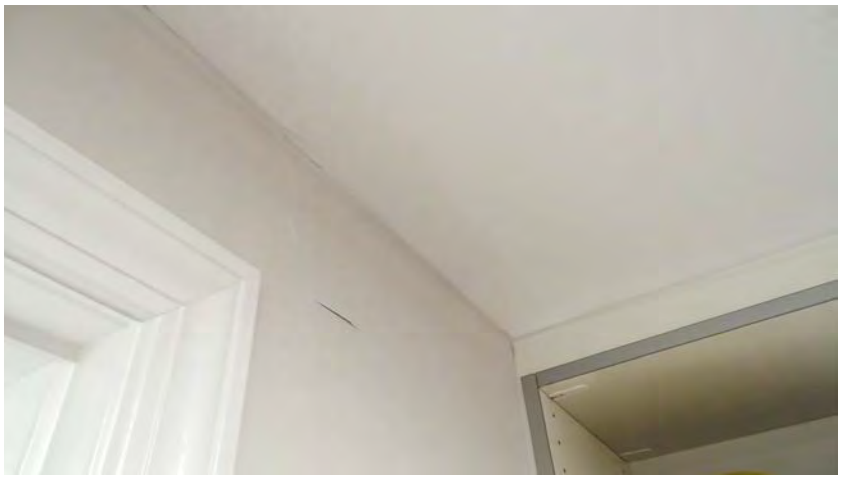

*Figure 58*

Further investigation of this leak problem might entail testing the drain lines by camera scoping, or failing to find visual issues, by water testing the drain stacks.

*Figure 59*

## 1.8 Unit 2008

Further investigation of this leak problem might entail testing the drain lines by camera scoping, or failing to find visual issues, by water testing the drain stacks.

*Figure 60*

Further investigation of this leak problem might entail testing the drain lines by camera scoping, or failing to find visual issues, by water testing the drain stacks.

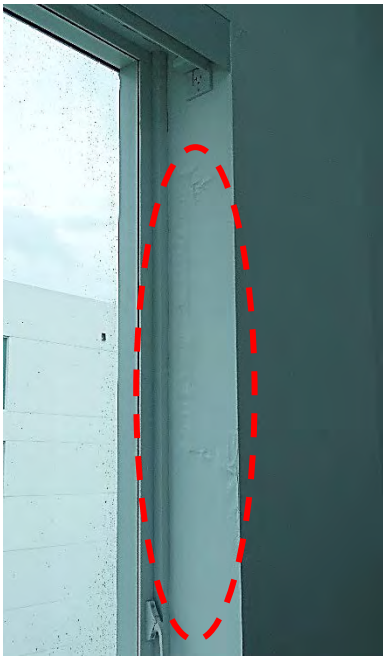

*Figure 61*

Further investigation of this leak problem might entail testing the drain lines by camera scoping, or failing to find visual issues, by water testing the drain stacks.

*Figure 62*

Further investigation of this leak problem might entail testing the drain lines by camera scoping, or failing to find visual issues, by water testing the drain stacks.

*Figure 63*

Further investigation of this leak problem might entail testing the drain lines by camera scoping, or failing to find visual issues, by water testing the drain stacks.

*Figure 64*

## 1.9 Unit PH 2

Further investigation of this leak problem might entail testing the drain lines by camera scoping, or failing to find visual issues, by water testing the drain stacks.

*Figure 65*

Further investigation of this leak problem might entail testing the drain lines by camera scoping, or failing to find visual issues, by water testing the drain stacks.

*Figure 66*

## 1.10 East Building Railing Installation Failure

The east building roof level terraces along the south façade are provided with glass and aluminum railings that have become loose. The problems with the railings having become severely loose were reported after hurricane Irma.

*Figure 67*

It was observed that light grey powdery residue was found around the railing post pockets where the loose conditions occurred.

*Figure 68*

Large gaps between the railing posts and the surrounding pockets resulted in loss of adhesion at the base.

*Figure 69*

The railing post grout material had failed to set correctly. It seems quite possible that sand or other inappropriate material (other than the proper high strength/low shrinkage grout) had been placed in the railing post pockets.

*Figure 70*

It is recommended that additional destructive investigation should be performed by the Association's engineer. The defect here should be identified with material testing and dissection of the condition. This is important so that other railing post conditions can be compared and inspected after the failure mechanism is well understood.

The installed condition fails to prevent FBC requirements for lateral deflection of the railing, and more importantly, fails to provide adhesion of the railing post within the concrete base.

*Figure 72*

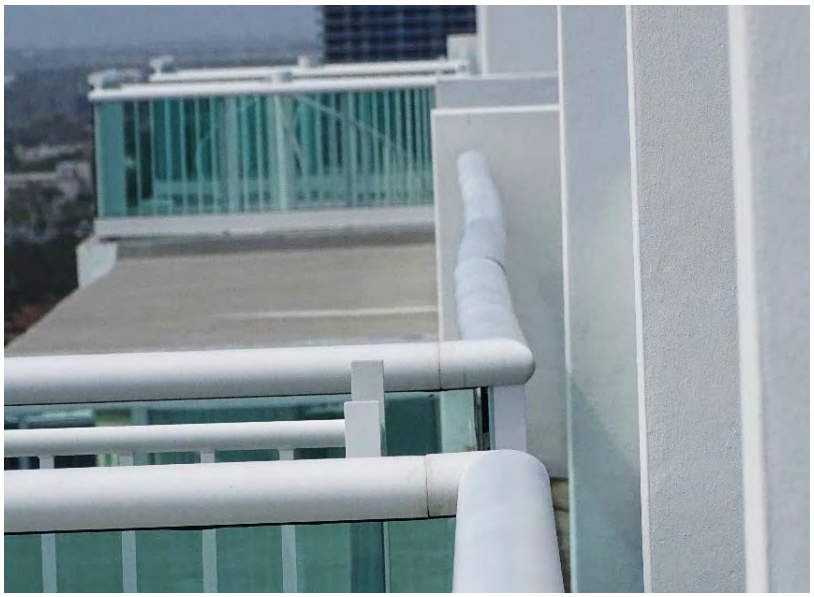

*Figure 73*

The photo at right documents the misalignment of the loose railing. This is considered a serious structural and life safety concern. The condition should be destructively investigated, samples collected, and a test protocol developed to test all the railing posts in the entire building.

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# East Report

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400 Sunny Isles East Condominium Association, Inc.
Condition Assessment Report
Report Date: June 23rd, 2017

# 1 Introduction

This evaluation was authorized by the Board of Directors of the 400 Sunny Isles East Condominium Association, Inc. The purpose of this evaluation was to provide opinions regarding the general condition of the property improvements, with regard to the turnover of the property from the developer to the Association. The comments, conclusions, and recommendations presented in this "Condition Assessment Report" are the professional opinions of Archetype Engineering & Architecture, Inc. This Condition Assessment Report was assisted by the Property Manager, Atlantic Pacific Association Management Inc.

Donald J. Atkinson, P.E., Architect, principal of Archetype Engineering & Architecture, Inc. conducted site observations of the property improvements located at 400 Sunny Isles Boulevard. Property Management staff provided access to all mechanical/utility spaces, common use areas, roof, garages and residential units. Archetype Engineering & Architecture, Inc. is the author of this report which was based on site observations of the building, review of construction documents and interviews with property management staff. The document review includes drawings provided by the Association and are listed within the report. Opinions regarding conditions of the subject property were based on visual observations, soundings of material, and non-destructive diagnostics, as deemed appropriate by the engineer.

Major building systems were reviewed, including architectural, structural, mechanical, electrical, plumbing, elevators, and fire safety. Additionally, certain components such as the seawall and site conditions that are not considered an Association-owned asset may be noted, *not as a developer issue*, but as an adjacent condition that could affect the Association(s), and which may be of value for informational purposes. The Report seeks to identify to the extent reasonable, construction conditions that fail to conform with approved permitted documents, fail to conform to Florida Building Code requirements, fail to conform to Construction Standards included in the Florida Building Code as reference standards (and which are therefore required by the Code), or that are considered design or construction defects failing to meet the standards of design care or standards of accepted construction practices, or workmanship. Conditions that are constructed in a manner that are considered to impose an unreasonable, extraordinary maintenance burden may also be noted. General recommendations for correction of items of concern noted in this report may also be provided, or the need for additional investigation may be advised. This Turnover Report documents the findings of the site observations and investigations by the engineer.

The project as-built drawings were provided, and reviewed. These documents were provided to Archetype by the Client or its property manager. The year of occupancy of the building is considered

to be 2016. The project design was generally governed by the 2010 Florida Building Code and local amendments. Kobi Karp Architects was the lead designer of record.

## 1.1 Building Description

The project structure is based on a six-story structure, primarily consisting of parking areas with multiple floors of residential units on the south (waterfront) façade. The six-story base structure also contains lobby, commercial, circulation and other ancillary spaces. Two 17 story residential condominium towers rise above the base structure. The two residential condominium towers each are provided with 4 elevators each, (eight total). Two additional elevators serve the seven-story structure.

The column foundations of the building are constructed of circular piles and pile caps, typically in the range of 4 to 4.5 feet thick. Shear walls are supported on piles and heavier combined matt foundation caps ranging from approximately 4 up to 7 feet thick. The concrete piles and pile caps foundations are topped by an 8-inch thick reinforced concrete slab on grade. Lateral Load resistance is provided by an extensive collection of shear walls in the core vertical circulation areas of the building, and others running parallel to the south elevation. The remainder of the vertical load carrying components of the building are concrete columns. Exterior walls are concrete block, typically reinforced with #6 bars at 24 inches on center and galvanized joint reinforcing at 16 inch block course intervals.

The building slabs are typically post tensioned concrete slabs. The sixth-floor garage structure has a four-foot interstitial space and post tensioned pool deck slab structure superimposed above where pools, spas and fountains are provided. The exterior cladding of the building is painted stucco from grade to top of parapet and at elevator shaft overruns. The building has a modified bitumen membrane roof with granulated cap sheet. There are numerous flat terraces in addition to many flat roof areas that depend on bi-level drainage.

## 1.2 Construction Codes and Standards

The following code listing was provided on the Architectural Project Documents.

### SCOPE OF WORK

THE EXTENT OF THE BUILDING PERMIT SET PACKAGE CONSIST OF ALL SITE, STRUCTURAL, LANDSCAPE, SHELL, INTERIOR, BUILT OUT WITH M/E/P/PP/FA AND SECURITY FOR A RESIDENTIAL MIXED USE OCCUPANCY DECORATOR READY HIGH-RISE TOWER

### APPLICABLE CODES

| | |
|---|---|
| BUILDING: | FLORIDA BUILDING CODE, 2010 |
| MECHANICAL: | FLORIDA PLUMBING CODE, 2010 |
| ELECTRICAL: | NATIONAL ELECTRICAL CODE, 2011 |
| PLUMBING: | FLORIDA PLUMBING CODE, 2010 |
| LIFE SAFETY: | NFPA 101 |
| OTHER: | FLORIDA FIRE PREVENTION CODE, 2010<br>FLORIDA ACCESSIBILITY CODE<br>FOR CONSTRUCTION, 2012 |

## 1.3 Construction Drawings Provided and Reviewed

| | | | |
|---|---|---|---|
| **Arch.** | A0.00 | COVER SHEET | • |
| KKAID | A1.00 | DRAWING INDEX VOLUME 1 | • |
| | A1.01A | DRAWING INDEX VOLUME 2 (SHEET 1 OF 2) | |
| | A1.01B | DRAWING INDEX VOLUME 2 (SHEET 2 OF 2) | |
| | A1.03 | PROJECT DATA | |
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| | A1.05 | FAR DIAGRAMS | |
| | A1.06 | FAR DIAGRAMS | |
| | A1.07 | FIRE STAGING | |
| | A1.08 | GENERAL NOTES | |
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| | A2.05 | LIFE SAFETY PLAN - LEVEL 5 | |
| | A2.06 | LIFE SAFETY PLAN - LEVEL 6 | |
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| | A2.13 | LIFE SAFETY PLAN - LEVEL 22 MAIN TERRACE | |
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| | A2.20 | GEOMETRY PLAN - LEVEL 6 | |
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| | A2.23 | GEOMETRY PLAN - LEVELS 9,12,16,19 | |
| | A2.24 | GEOMETRY PLAN - LEVELS 10,14,17 | |
| | A2.25 | GEOMETRY PLAN - LEVEL 20 PENTHOUSE | |
| | A2.26 | GEOMETRY PLAN - LEVEL 21 PENTHOUSE | |
| | A2.27 | GEOMETRY PLAN - LEVEL 22 MAIN TERRACE | |

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| | A3.00 | OVERALL GROUND FLOOR PLAN - LEVEL 1 | • |
| | A3.01 | PARTIAL GROUND FLOOR PLAN - LEVEL 1 | |
| | A3.02 | PARTIAL GROUND FLOOR PLAN - LEVEL 1 | |
| | A3.03 | PARTIAL GROUND FLOOR PLAN - LEVEL 1 | |
| | A3.01A | PARTIAL GROUND FLOOR RCP - LEVEL 1 | |
| | A3.02A | PARTIAL GROUND FLOOR RCP - LEVEL 1 | |
| | A3.03A | PARTIAL GROUND FLOOR RCP - LEVEL 1 | |
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| | A3.14 | PARTIAL PARKING/LINER FLOOR PLAN - LEVEL 4 | |
| | A3.15 | PARTIAL PARKING/LINER FLOOR PLAN - LEVEL 4 | |
| | A3.16 | OVERALL PARKING/LINER FLOOR PLAN - LEVEL 5 | • |
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| | A3.22 | PARTIAL LANAI UNITS FLOOR PLAN - LEVEL 6 | |
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| | A3.34 | TYPICAL UNITS FLOOR PLAN - LEVELS 8, 11, 15, 18 | • |
| | A3.35 | TYPICAL UNITS FLOOR PLAN - LEVELS 9, 12, 16, 19 | • |
| | A3.36 | TYPICAL UNITS FLOOR PLAN - LEVELS 10, 14, 17 | • |
| **Not provided in "AS-BUILT" Set of Dwgs.** | A3.37 | SKYLOFT UNITS FLOOR PLAN - LEVEL 20 (E. TWR) | • |
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| | A4.03 | SOUTH ELEVATION | • |
| | A4.04 | SOUTH ELEVATION (W. TWR) | |
| | A4.05 | SOUTH ELEVATION (E. TWR) | |
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| | A5.11 | PARTIAL BUILDING SECTION | |
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| | A5.22 | WALL SECTIONS 6,7 AND 8 | |
| | A5.23 | WALL SECTIONS 9 AND 10 | |
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| | A5.32 | STAIR SECTIONS - W. TWR - STAIRS 3 & 4 | |
| | A5.33 | STAIR SECTIONS - E. TWR - STAIRS 5,6,7 & 8 | |
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| | A5.36 | STAIR/RAMP PLANS AND SECTIONS - ENTRY LEVEL | |
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MEP, FS, L IRR, D and other sheets were reviewed but not listed here.

# 2 Observations and Recommendations

The following sections provide detailed photographs and descriptions of issues found and noted in the East Building. Recommendations have also been provided for remediating and future mitigation.

## 2.1 East Exterior Walls

The exterior of the east building was inspected with an aerial drone. The north façade has stucco finish on slab edges and windows running floor to ceiling.

*This picture is informational only.*

*Figure 1*

Caulking of the expansion joints near the windows, indicating it may have leaked in the past. The M shaped expansion joint has been surface filled with sealant. This joint type cannot be repaired by filling the solid backed void in the expansion joint. This is considered an ineffective repair of an apparent leak at the corner of the window.

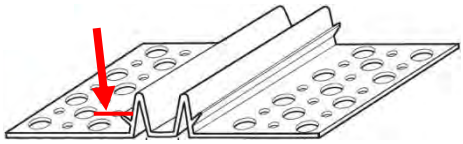


*Figure 2*

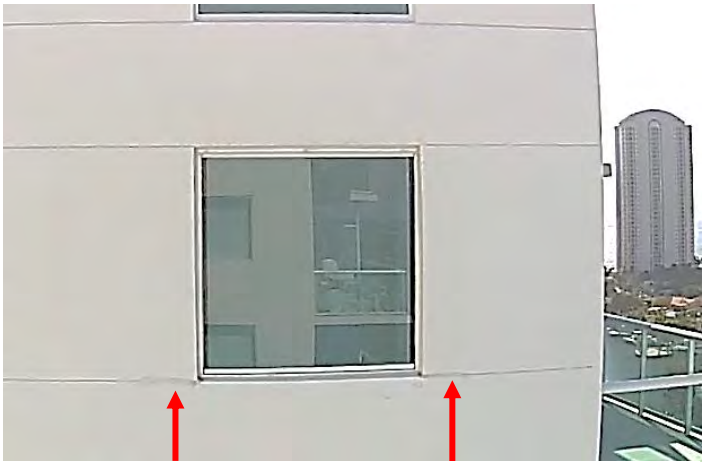


*Figure 3*

Another view of the expansion joints on the exterior wall of the east building. These joints are much more noticeable on the top levels shown here than on the lower levels (not shown). This was also noticed and documented much clearer for the west building.

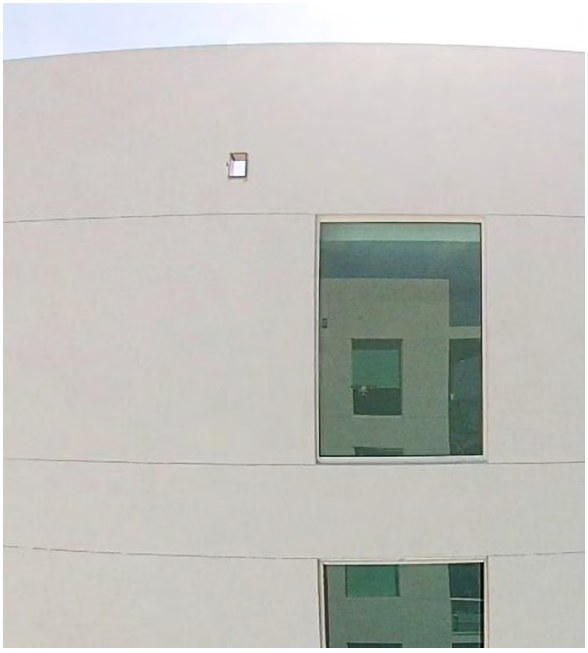


*Figure 4*

## 2.2 East Roof

The unit fan coil units are mounted on metal stands above the roof membrane. Individual stand legs are flashed at roof penetrations. The fan coil units are strapped down.

*This picture is informational only.*

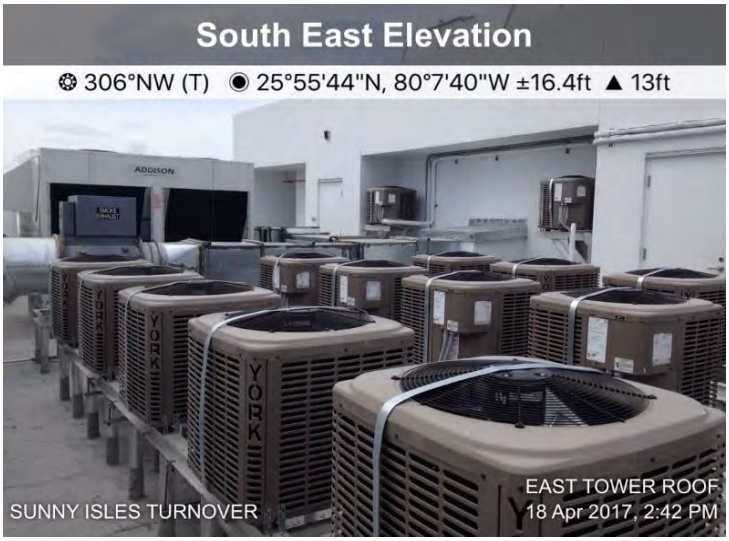



*Figure 5*

Each Residential condominium tower has two cores (sides with independent elevators and mechanical systems). Each core has been provided with its own large air handler unit for common spaces such as lobbies, fire stairs, and corridors. These units cool hallways and common spaces within each core.

*This picture is informational only.*

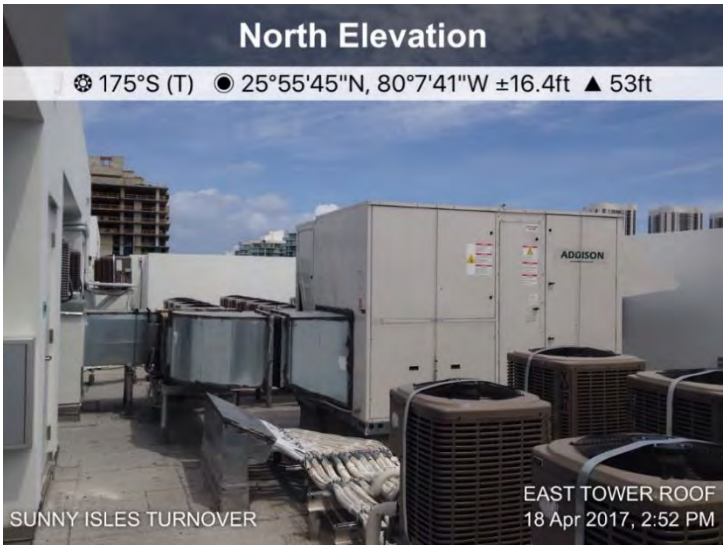



*Figure 6*

Roof top unit 3 (RTU-3, similar to RTU 1, 2 and 4) pictured at right was reported to have had a preponderance of service calls (estimated as 80% of mechanical service calls by Property Manager). This situation is under further investigation.

Note that the black mastic on the junctures of the ductwork do not provide any corrosion resistance. This material appeared to be roof mastic of asphaltic base chemistry.


*Figure 7*

The junctures at right show corrosion taking place along duct junctures and fasteners.

It was noted that, in the vast majority of locations, no top surface break (providing slope to evacuate water) was provided.

*Figure 8*

Enlarged view of corrosion taking place at sheet metal junctures and fasteners. Standing water at the upper surfaces of essentially level sheet metal was considered to be subject to concentrating moisture and salt. This is expected to compromise the galvanized coating and corrode the steel ductwork at an accelerated rate.

*Figure 9*

Threaded rod that secures ductwork is rusting above the fastener (red arrow) and below the uni-strut (yellow arrow). Dissimilar metal incongruence connecting a carbon steel threaded rod to a galvanized uni-strut/stainless steel washer and nut. See enlarged view below.

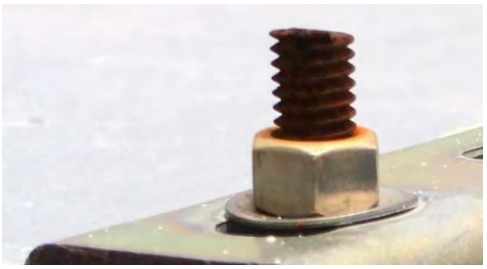


*Figure 10*

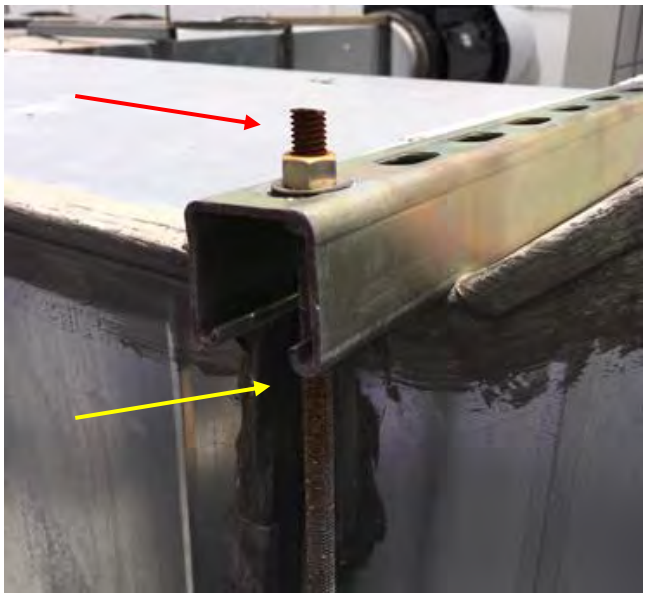


*Figure 11*

The rough-cut sheet metal shown at right resulted in the zinc coating on the zinc metal being destroyed at the ragged-cut edge.
The application of black mastic failed to restore this ineffective workmanship detail. The resulting corrosion problem will shortly compromise the waterproof integrity of the ductwork.

*Figure 12*

These power actuated louver fins were corroding severely. The finish of this equipment was considered inadequate for the coastal marine environment. Note the fasteners at the equipment box (red arrow) are also corroding.

The hardware cloth (metal mesh) was also severely corroding.

*Figure 13*

This enlarged view shows the rapid progression of corrosion at the protective hardware cloth mesh, and the inadequacy of the protective coating of the mechanical louver and the fastener beyond the mesh grid.

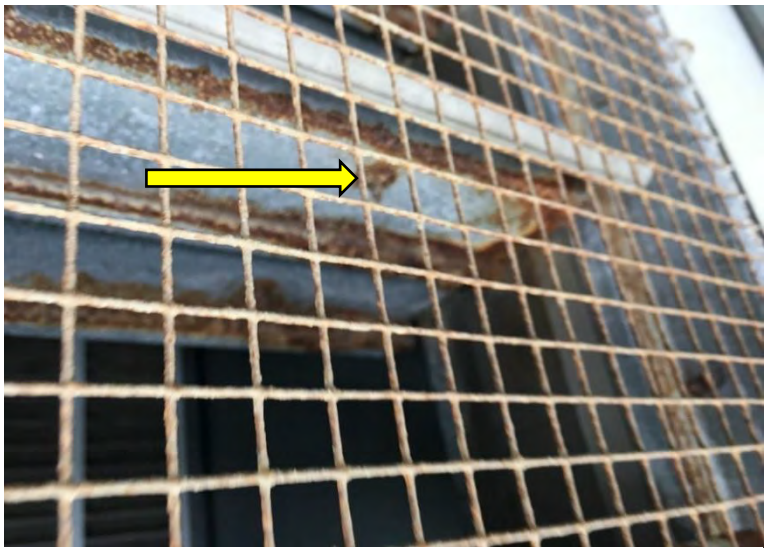


*Figure 14*

Corrosion of cabinet sheet metal at AHU-3 due to dissimilar metal galvanic corrosion.

*Figure 15*

The parapet area pictured at right appears to have had a swing stage support installed at the time of painting. The corner at the outside of the parapet has some corrosion that is likely metal debris left from the stage support. The front exterior vertical surface of the wall (see yellow arrow) that is out of view in this photo, was also missing the finish coating.

*Figure 16*

Photos on this page are views of the deterioration of insulation foam placed on chilled tubing of AC coolant lines. The cause is considered to be U.V. light exposure. The insulation should be U.V. resistant foam or have a reasonable quality protective coating that could prevent the failure of the insulation. White paint provided was inadequate. Replacement with new and proper type of foam or replacement with new, improper type foam with UV protection is recommended.


*Figure 17*

*Figure 18*


*Figure 19*

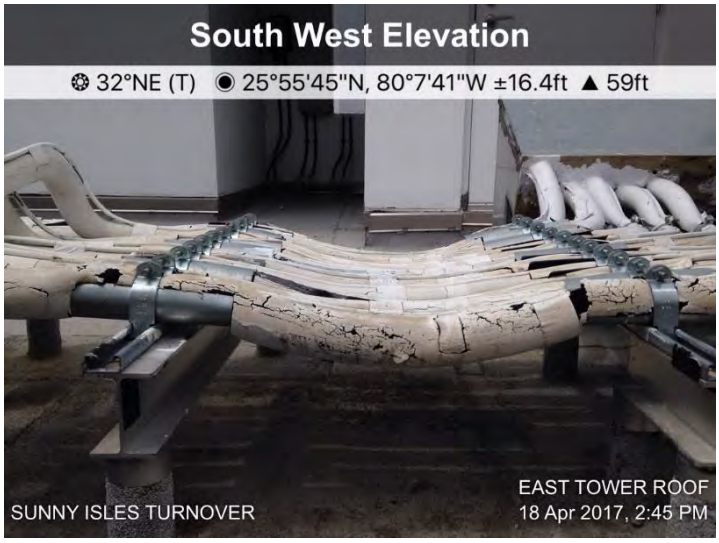



*Figure 20*

The space shown at right is the north side of the mechanical roof. The wall to the left separates the mechanical roof from the north parapet and adjoining roof space.

*This picture is informational only.*

The photo below is the threshold of the gate/door that segregates the parapet area from the mechanical roof area.

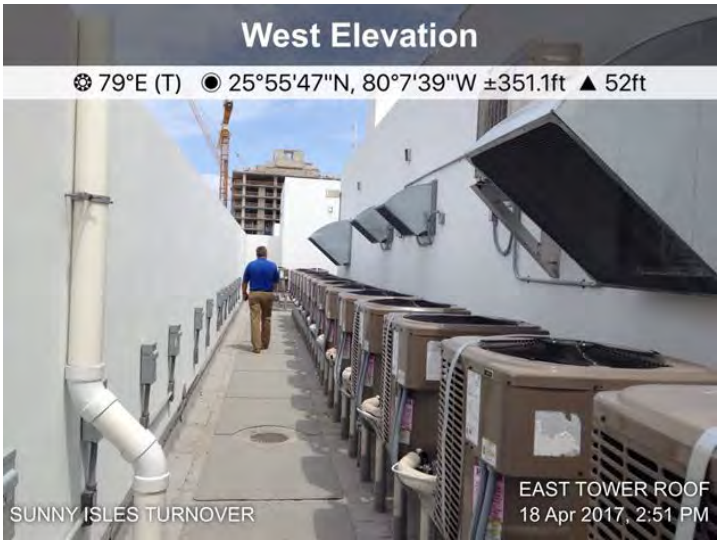



*Figure 21*

The gate/doorway condition at right is not considered to be water tight. The sealant application of surface caulk is not considered to be permanent nor is this a proper application procedure.
A fragment of the flange of a PVC corner bead is visible within the yellow box. The bottom right area is the horizontal surface at the concrete step at the door threshold that separates the north parapet from the mechanical areas of the roof. No waterproofing on this flat exposed concrete is considered a location for water absorption under the adjoining roof membrane.

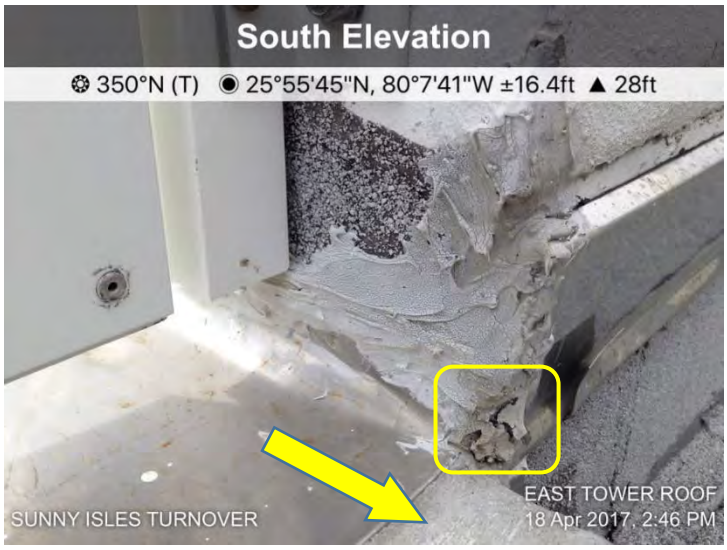



*Figure 22*

Improperly terminated stucco field at the bottom of the metal counterflashing was not considered a permanent watertight installation.

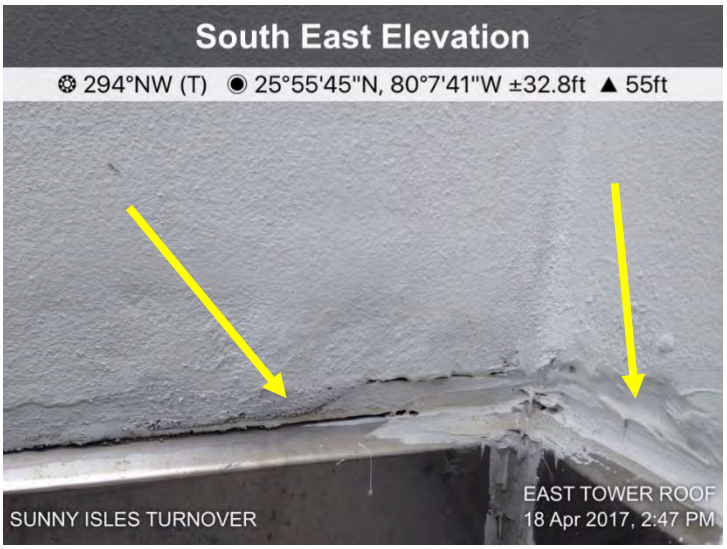



*Figure 23*

## 2.3 East Common Areas

### 2.3.1 East Corridors

The lights in the hallway in front of unit 922 East make loud buzzing noises. This issue was considered a maintenance issue and reported to staff.

Not considered an issue for any action.

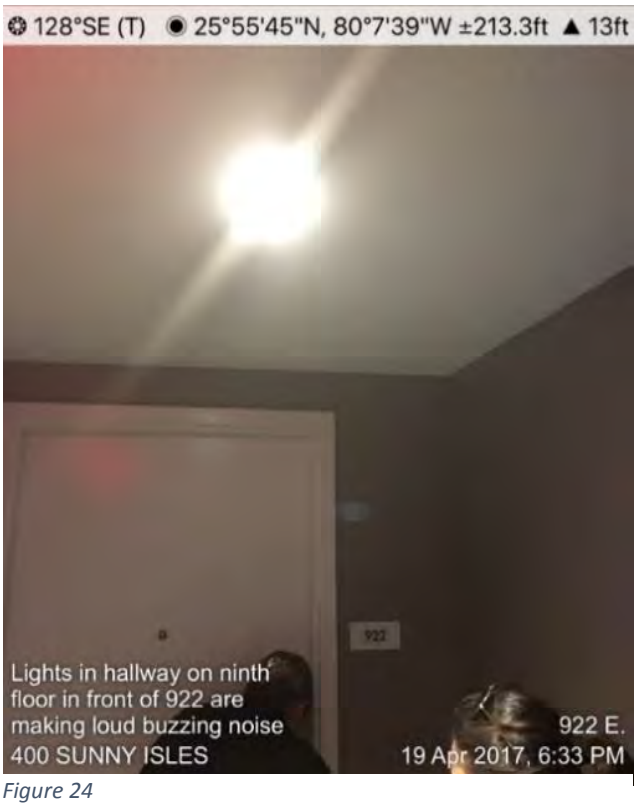



*Figure 24*

### 2.3.2 East Elevators

Gaps were present in the elevator between the wood and stone finishes. The wood panels finish was deteriorating, see inset box. It appears there is a connection where humidity or normal application of cleaning liquids is expected, that shrinkage/swelling of the edge of the wood panel is occurring. This would appear to be a material specification problem, as typical modern elevator cab materials (such as wide format thin porcelain sheet or waterproof phenolic) or other materials would provide a serviceable finish without unreasonable maintenance requirements or surface failure.

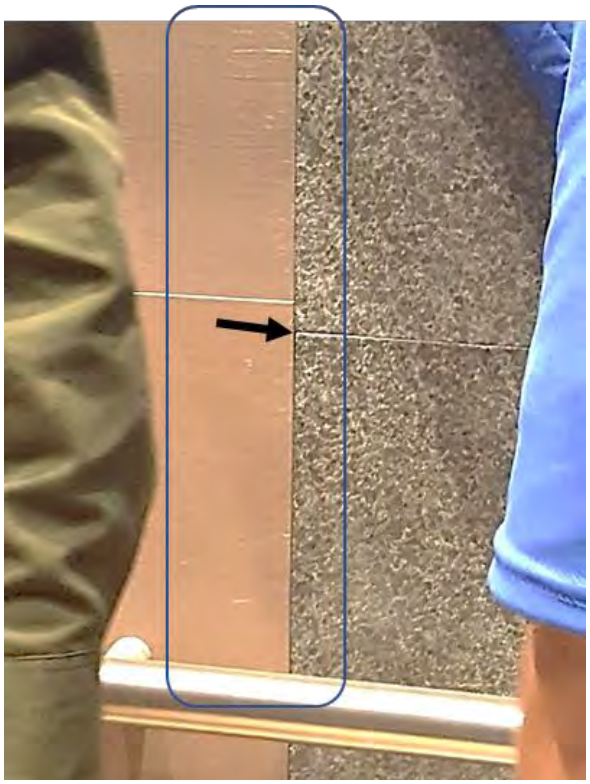


*Figure 25*

Inside Elevator Cabs:

Staining at the joint between adjoining stones (yellow arrow), and at the sides beginning just above the metal lower cove (blue box). Excessive lippage in some of the stone blocks was evident at the upper condition. The dark areas appear to be a chemical infiltration into the stone matrix that will be researched further to try to identify the cause of the staining. The material specification problem as discussed previously would have avoided this condition.

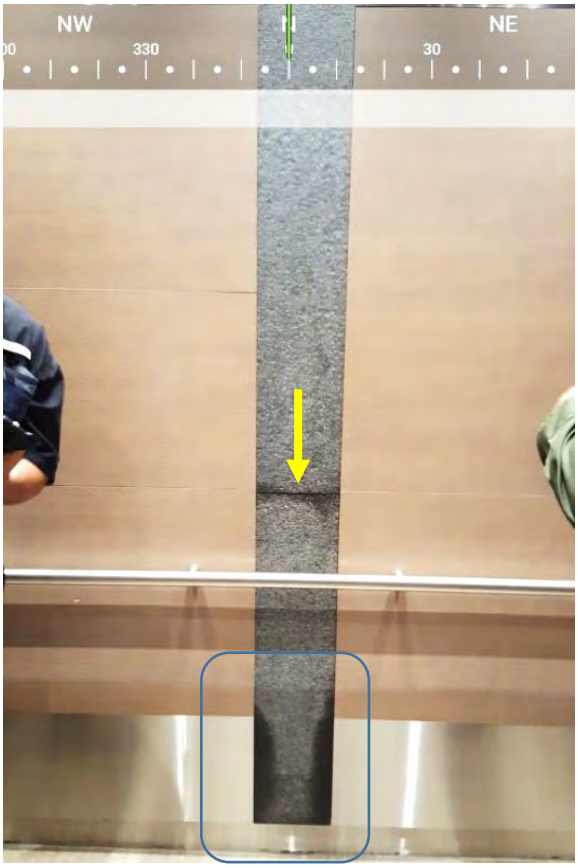



*Figure 26*

*Figure 28*

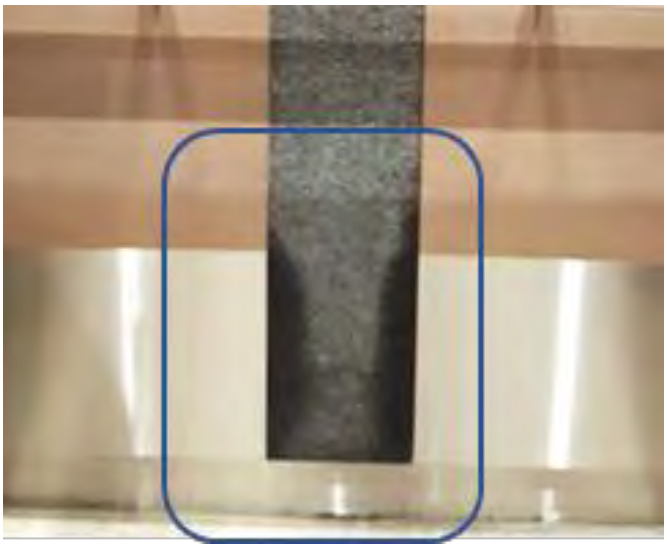


*Figure 27*

### 2.3.3 East Building Stairwells

Apparent rust stain on the fire exit stairs leading from the penthouse (21st floor).

This is considered a water intrusion issue. Concrete nosing reinforcing appears to be positioned too close to the surface and ACI cover requirements to protect reinforcing steel from corrosion have not been met.

*Figure 29*

Rust was found all over the railing inside the fire exit stairwell leading from the penthouse (21st floor). Based on observed staining, water intrusion has occurred. The problem cause is the unpainted steel railing post (circled) and the corrosion of steel pickets at the weld locations.
It could not be verified that the steel had been primed. Corrosion-resistant zinc or another system should be provided or an aluminum railing should be installed.

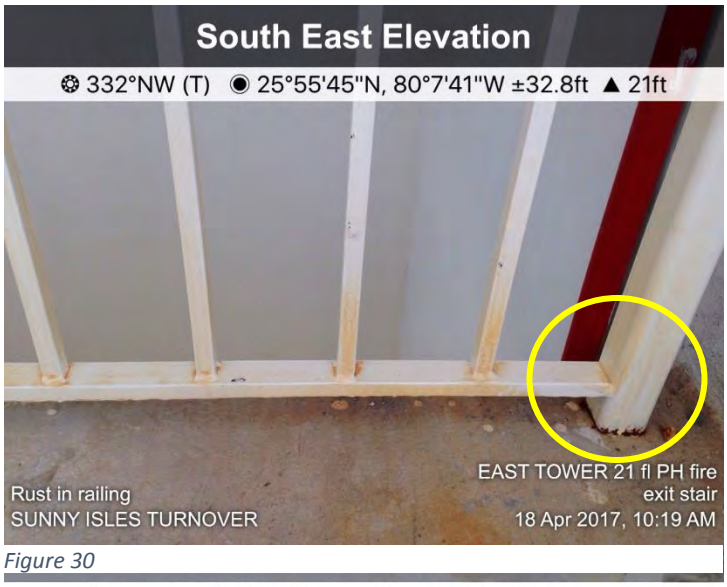



*Figure 30*

Severe rusting in the gap between the fire exit stair railing and the concrete slab, zoomed in from location shown above.

(Enlarged view of condition above.)


*Figure 31*

Dark staining on the tread surfaces of the below deck fire stair (next to the marina) was noted. The stair treads appeared to be steel. Rusting on this steel staircase indicates that ponding has been occurring in all of the darkened locations, causing possible slips and falls and premature material failure.

If the stairs are concrete or steel, the situation below the deck elevation is dark and exposed to rainwater entry. The organic growth due to moisture and lack of sun and air movement will result in the build-up of slippery organic material. This situation requires re-design and construction in a manner that provides code required slope to remove water from stair treads.


*Figure 32*

### 2.3.4 East Lobby

This is an overview of the East Lobby. The lobby is finished with stone wall and floor tiles, and is illuminated in exemplary fashion.

*This picture is informational only.*

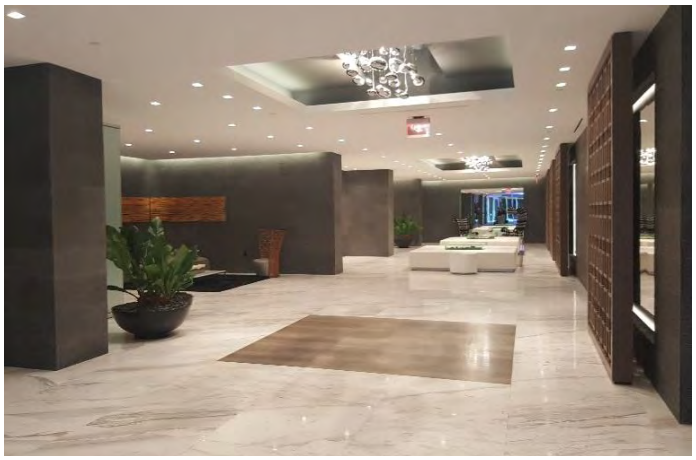


*Figure 33*

Stone tile in lobby:

Many blocks in the lobby walls were not flush with the surrounding blocks, leaving gaps and lips where they join, as pointed out in this picture. This workmanship is considered to exhibit excessive lippage (out of plane dimension beyond tolerance) and should be corrected.


*Figure 34*

Stone tile in lobby:

Another example of gaps in the blocks in the east lobby walls. Both the lippage and inconsistent joint spacing and provision of joint material were considered poor workmanship.


*Figure 35*

Stone tile in lobby:

This is a close-up of a gap in the blocks in the corner of one of the east lobby walls, creating a possible location for moisture to intrude into the wall.
Both the inconsistent joint spacing and provision of joint material were considered poor workmanship.

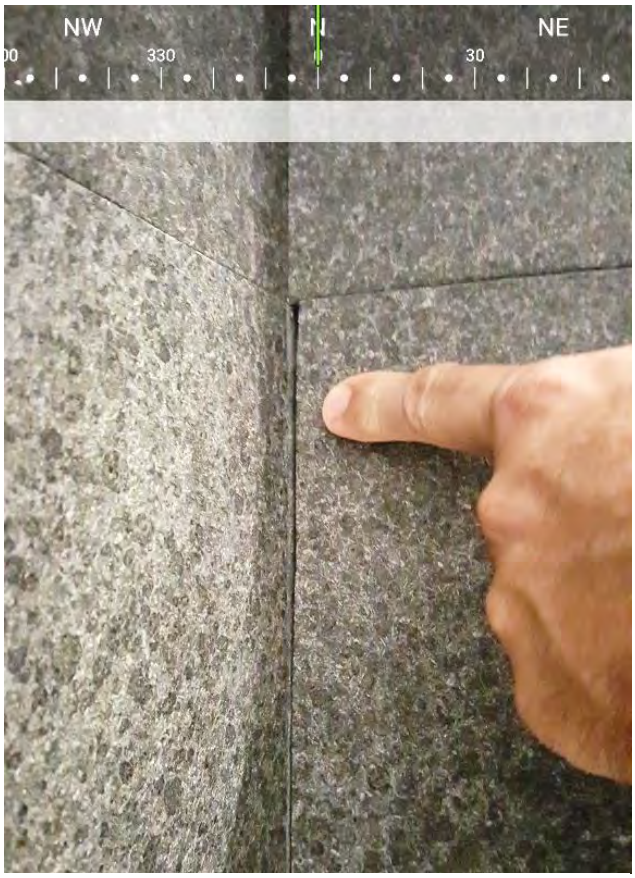



*Figure 36*

### 2.3.5 East Maintenance Room

Poorly applied fireproofing around this pipe in the electrical room has caused gaps and openings to occur. This allows for a possible fire to exit through these holes and into the next room or area.


*Figure 37*

## 2.4 East Units

### 117 E

Rubber gasket on the glass railing on the balcony is coming apart, allowing for water intrusion and possible corroding of the aluminum frame.

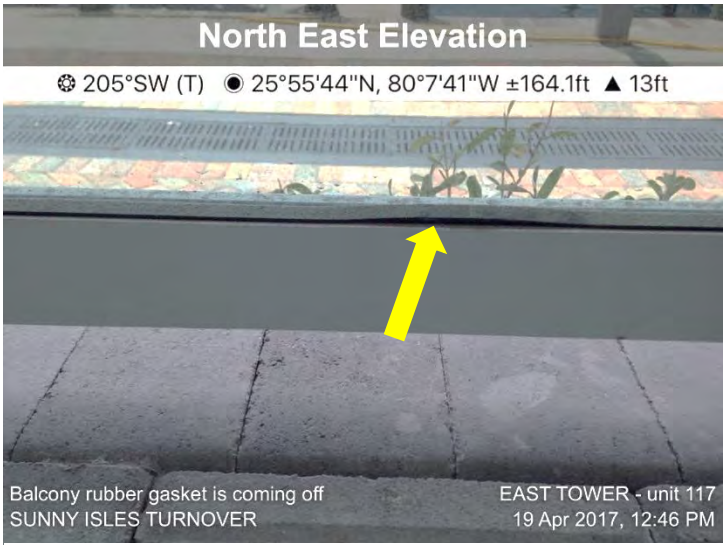



*Figure 38*

The water heater was found to have no drainage pan underneath it to collect moisture.
This unit does have a pan under the water heater.


*Figure 39*

## 519 E

This unit does have a pan under the water heater, while many units were found to not have pans, such as unit 117 E above.

Unsure about the inconsistency regarding this issue.

*Figure 40*

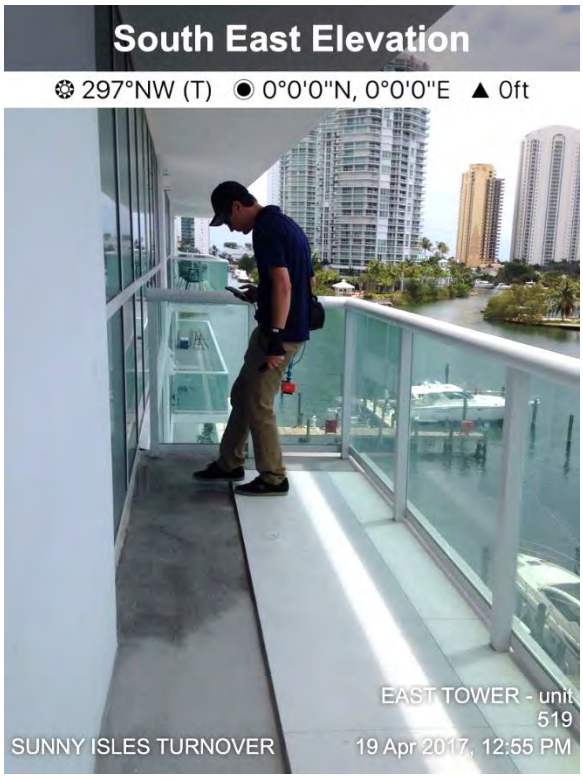



*Figure 42*


*Figure 41*

Dark areas on the unit's balcony indicate water ponding. In this photo, standing water is clearly seen in the corner between the window and the glass railing.

*Figure 43*

## 618 E

The slope of the patio floor is almost level in some areas, not conforming to the architectural plans for proper drainage.

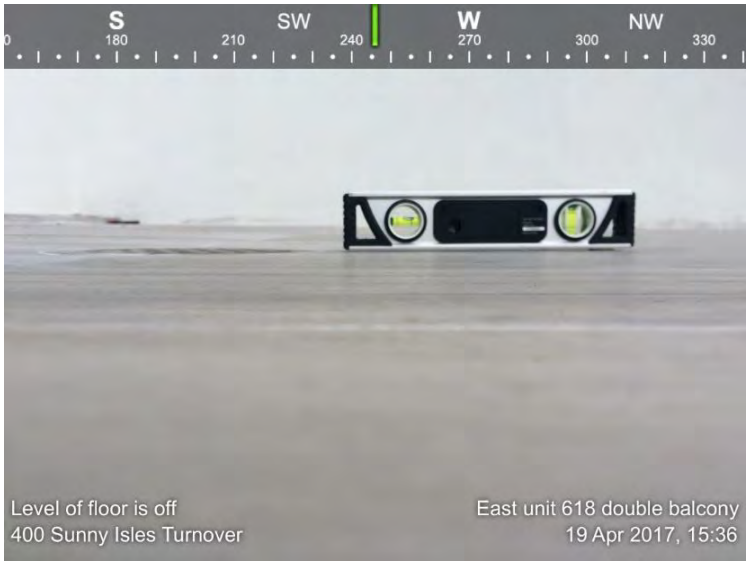



*Figure 44*

Drains were calcifying on the inside and unable to drain properly. Note the white areas around the drains as well.

*Figure 46*


*Figure 45*

## 619 E

There is a noticeable and inconsistent gap between the tile floor and the wall inside the unit. Verification of whether this was original construction was not available at the time of this site visit. Further inquiry is required.

*Figure 47*

Stucco at the corner is projecting from the wall, leaving a hole susceptible to water intrusion. Note the improperly installed PVC corner bead improperly installed has caused the cavity for likely water intrusion. Note also this location has no cant or flashing turned up the wall.

A large rust stain also visible behind the railing post. Further investigation to determine the amount of water entry/damage that may have developed, and whether the rust is associated with the stucco/flashing problem is required.


*Figure 48*

There is a large crack in the stucco wall on the patio. Pieces of the stucco have already fallen off and several cracks can be seen propagating from the area.

Further investigation and repair are required.


*Figure 49*

The floor drain on the unit's patio is beginning to calcify due to water entrapment within and under the tile. The keystone (porous limestone) tiles freely absorb water and the drains are not considered to be adequately bi-level. The drains have very small capacity to drain water below the level of the terrace wearing surface. Mineral deposits from the keystone and mortar bed are considered to have also blocked the small amount of openings in the drain.


*Figure 51*

This photo shows a view of the exterior-side intersection of the railing post and pocket (red ellipse) into the slab. Significant gaps were observed around the railing posts on the balcony. This condition will allow water entry into the slab, where it will facilitate corrosion of the concrete slab reinforcing bars. Rust formation can also be seen on the interior side, underneath the railing (see blue arrow).

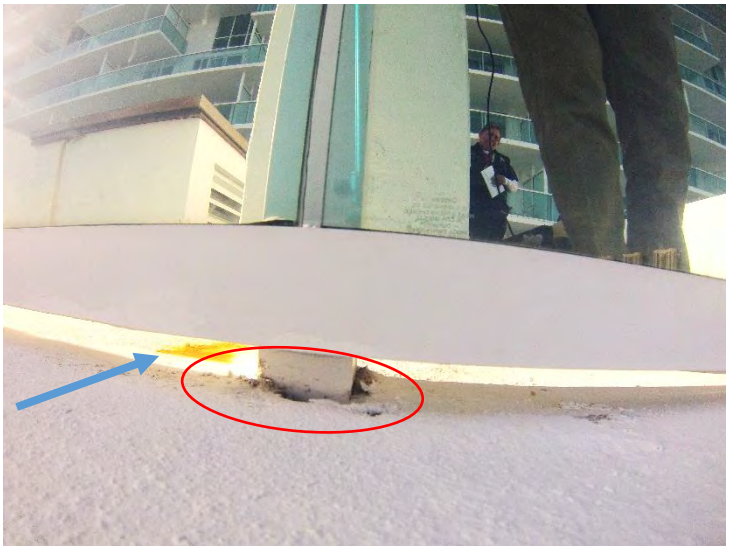


*Figure 52*

This is a similar area to the one above, where the yellow arrow indicates similar areas of inconsistencies around the railing post pocket where water may intrude.

*Figure 53*

## 620 E

Gaps and cracks were noticed around the railing posts on the balcony. Water can thus freely flow between the concrete surface and aluminum post, causing corrosion to occur.
Another crack can be seen propagating from the corner of the railing post as well.

Terrace slab membrane had been patched (below) where the initial waterproof membrane appeared to be distressed. This area should be water tested to verify that the drainage of the surface is positive to the drain locations, and that is conforms to the architectural requirements.

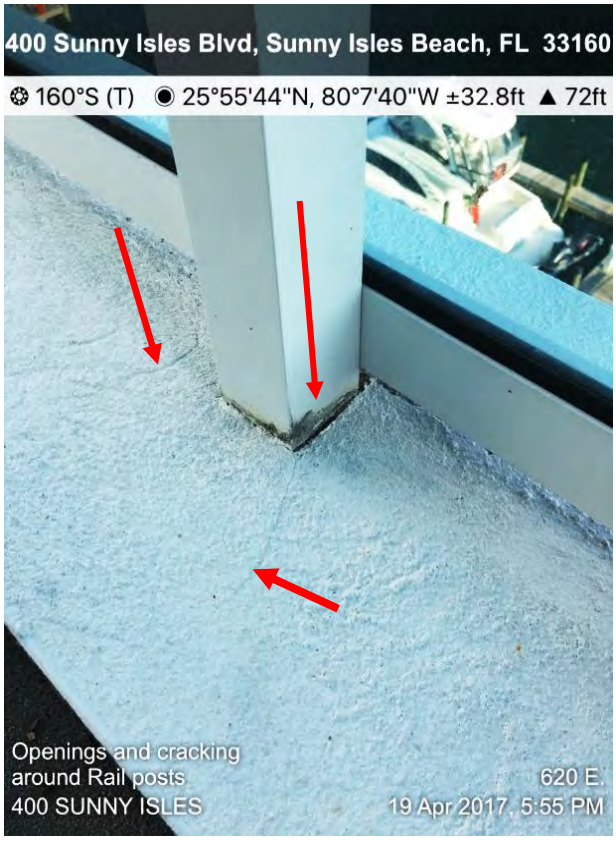



*Figure 56*

*Figure 54*


*Figure 55*

Dark areas around drain closest to the sliding glass door show signs of significant ponding. Repairs involving addition of waterproof coatings appeared to have taken place. The drain location installed under the waterproofing did not appear to have the bi-level capacity of a promenade-type bi-level drain that would typically be utilized. Note below that the turned-up inner pipe flange of the provided drain would not effectively drain water at the membrane elevation. The corroded drain was not considered a suitable substrate for the waterproof membrane.


*Figure 57*


*Figure 59*

*Figure 58*

Open penetrations and tear of waterproof membrane of concrete terrace slab were observed.

*Figure 61*

*Figure 60*

Sliding Glass Door Trench Drain:

Cracks in the concrete adjoining the linear trench drain were considered to be excessive. The concrete may be lacking sufficient crack control reinforcing. Additional investigation is recommended for verification, while associated repair of the cracked material is performed.

This particular photo was at a location in from of the living room sliding door. The crack spans the entire width of this section of concrete from the drain to the edge. Moisture entering porous, cracked concrete migrates below the adjoining Waterproof membrane seen at bottom of photo (white arrow).

How can water on concrete surface run in to trench drain and not run **down** into segregating crack at plastic drain/concrete juncture (yellow arrows)?

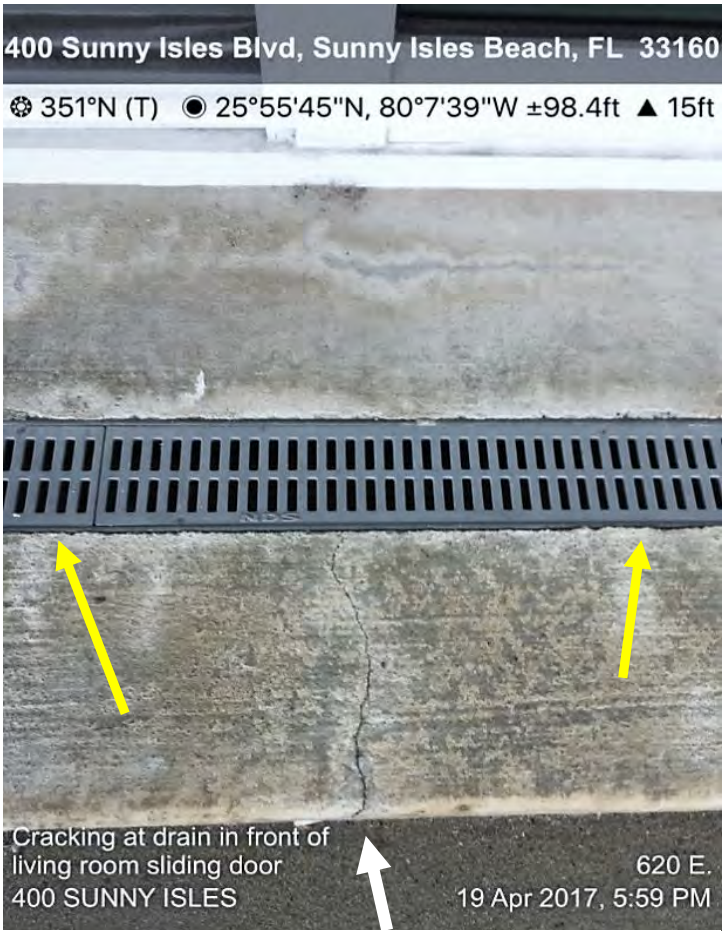



*Figure 62*

Multiple instances of the concrete waterproofing cracking and breaking were found. This shows the juncture between the wall and the concrete floor of the patio. Waterproofing turned up the wall from the terrace should be verified by further investigation and repaired/provided if found lacking.

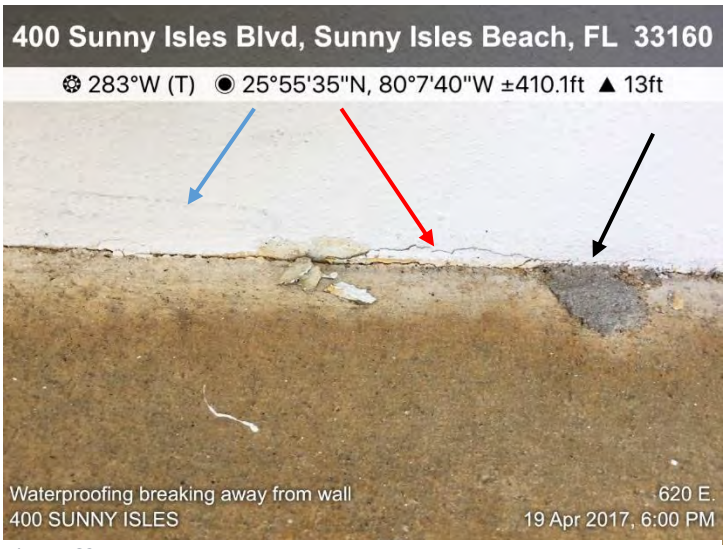



*Figure 63*

## 621 E

The ponding areas are evident here (black surface staining considered due to mildew/organic growth) around the drain (red circle) as wells as the large area on the left half of the photo (yellow arrows). Ponding was also found around the drain furthest from the sliding glass doors.


*Figure 64*

This electrical system conduit appears to have been placed too close to the edge of the concrete step containing the drain. The concrete seems to be cracking along the edge of the slab (yellow arrow).
The smaller conduit is also unfortunately located, away from the wall. Both locations appear to have some corrosion issues at the slab penetration. Slab penetration in an exposed marine environment should be installed in a watertight manner as was seen on the roof, but these conditions fail in this regard.

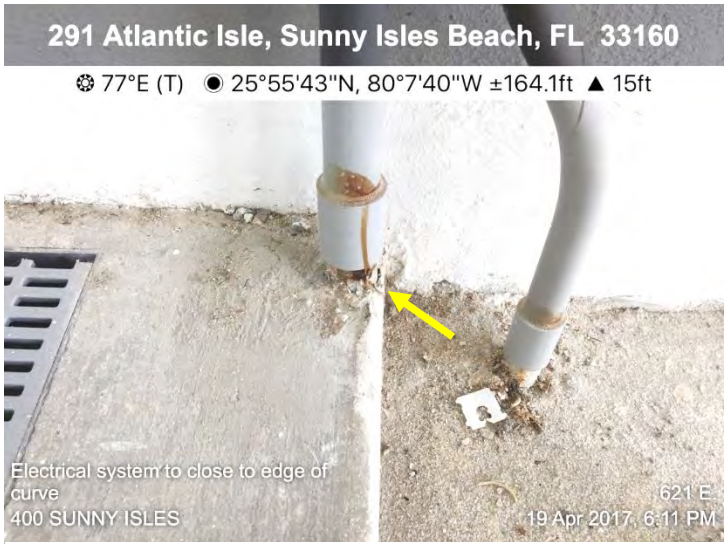



*Figure 65*

Multiple shrinkage cracks were found in the concrete curb between the drain and the sliding glass door. This was most likely caused by a lack of an expansion joint for the concrete to shrink and expand without cracking, and lack of crack control reinforcing. The vertical plastic drain would effectively dam moisture outside the door that could get through the membrane (not seen here) or the cracks perpendicular or along the drain edges.


*Figure 66*

The two architectural plans shown below either label the area as “trench drain” with no further details (left), or leave the trench drain area off the plans (right). No indication of sloping is present for the trench drain, whereas all other slopes are present for the terrace slab. Neither drawing resembles the constructed condition detail or jointing. Further investigation of is recommended.

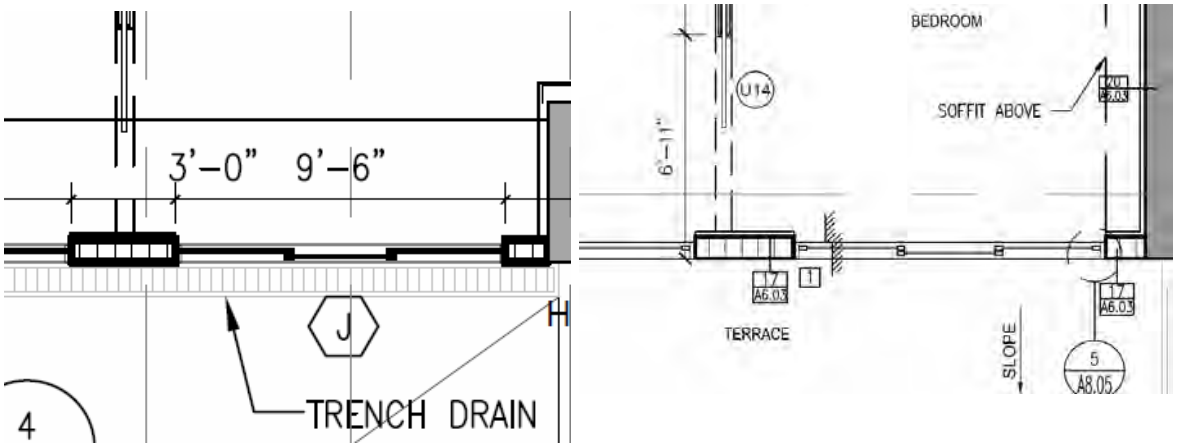



*Figure 67*

Cracks in the concrete near the base of the railing has darkened, stained areas around railing post base. This is considered an indication that organic growth has collected in the area as a result of moisture entry around rail post/pocket.

*Figure 68*

There was a large crack spanning the width of the dividing wall between the unit and the neighboring unit, with cracks propagating up the wall as well. This intersection of large counter-oriented concrete members would be expected to crack at the juncture. The overlapping material of the vertical face over the horizontal may also be stucco excess.
A sealant bead cast into the juncture for a base depression (such as a V groove) for sealant fill would be a consideration for repair inclusion during repair of this juncture.

*Figure 70*

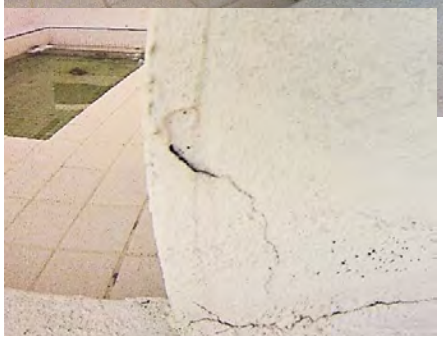


*Figure 69*

## 721 E

Excess waterproofing appeared to have been adding to the top surface in front of the balcony railing (red ellipse) which appears to impede water to drain properly over the edge. The condition where waterproofing would be excessively applied, thereby wasting expensive material, and defeats the water drainage slope requirement seems curious. The other possibility is that the deck pour was short on material and the edge was built up to appear to be the correct depth, while the interior area of the deck was thinned a bit of material. Additional examination is recommended.

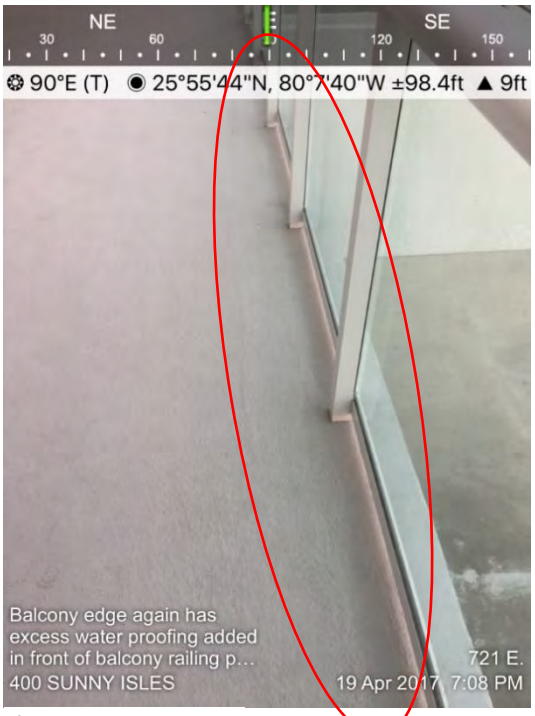



*Figure 71*

This area seems to be a low point in the concrete floor of the balcony, which can lead to or has already caused ponding to occur here. Dirt spots may be indicative of ponding having already occurred (blue area).

The area within the red ellipse appeared to be high and several balconies were water tested and found to have counter-slope near the perimeter edge (which impeded water flow/drainage).

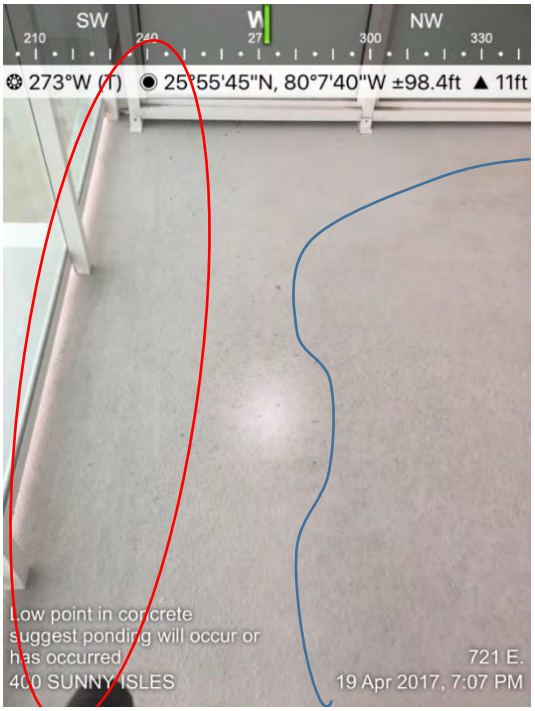



*Figure 72*

916 E

Patching was noted at floor elevation transitions (interior/exterior depressions) shown here. A significant gap was commonly noted between the concrete slab transition and the interior SGD/window frame. The slab depressed transition (typical under exterior walls or sliding glass door thresholds) appeared to have been oversized a bit, likely to accommodate the deeper dimension of the vertical framing members as seen here. Some areas at the step in the slab edge were noted to have been broken out (for unknown reasons, but perhaps by hammers to facilitate door installation) or due to floor slab placement problems. These slab patches occur at critical wet/dry boundaries and the repair should conform to ICRI/ACI standards.


*Figure 73*

A water test was performed on the balcony in three different locations. This area did not drain well, instead ponding water in the middle of the balcony and near the sliding glass door. Tile and mortar bedding do not correct improperly placed concrete slab, as the puddles seen here would similarly persist as moist areas of the tile-setting bed. These perpetually wet mortar bed areas, under damp conditions and entrapped below nearly impenetrable porcelain tile, would possibly void the membrane warranty if not detailed to allow water to exit the assembly.

*Figure 74*

The other two water tests displayed some drainage, however it was confined to two small areas indicated by the arrows which concentrated the water at railing post pocket locations. Therefore, a lot of the water was still ponding in the center and near the sliding glass doors, and a couple of post pockets will likely remain perpetually wet as porcelain tile almost perfectly retains water below its surface.

Also, when the water from the balcony drips slowly at only a few small locations, these areas will develop the black organic growth we observed at the bottom lower edge of the balcony slabs (see 1015 E, 1st photo).

*Figure 75*

## 1015 E

Dark deposits, appearing to be organic growth (possibly mildew), were found at the corner of the balcony above this unit (1115).

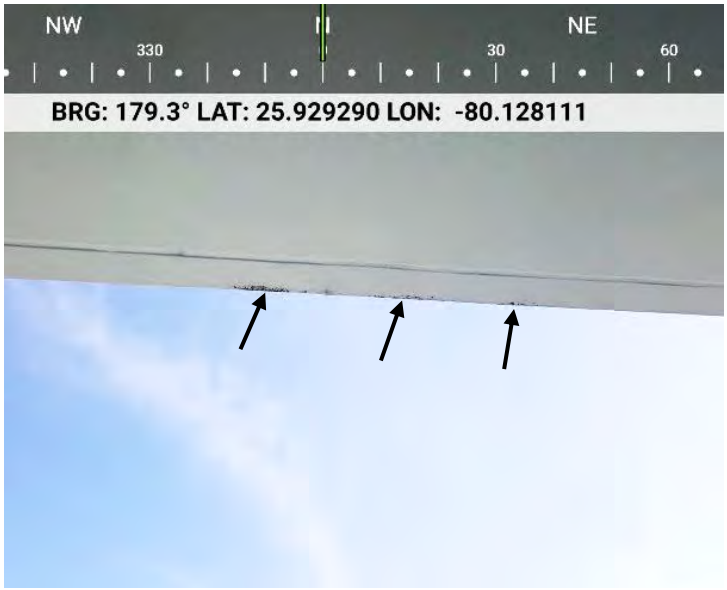



*Figure 76*

There was a large gap between the window frame and the concrete slab. This appeared to be intentionally done to allow clearance for the large vertical framing member as well as the working space to shim the window. Because this transition in elevation is the wet/dry or interior/exterior boundary, the patching of the area should be performed as a concrete repair in keeping with the importance of this boundary. If block mortar or gypsum mortar was used or if concrete is haphazardly infilled (or patched in the case of an irregularly broken out area) moisture and related concrete damage would be expected to occur at this critical transition line.


*Figure 77*

If the intent of the code requiring stepped elevation change is to define moisture to the under wall area and not the interior, the wrong patch material would thwart this intent, and spalling prevalent at slab edges would have greater likelihood of extending inside the window/door line.

## 1022 E

Concrete recess in front of the window was filled but cracks have formed.
If the intent of the code-required elevation change is to define moisture to the under wall area and not the interior, the wrong patch material could thwart this intent.
As described above, this would be considered a problem if the concrete is being repaired, as the repair does not follow ICRI/ACI repair standards and does not have any crack control bars in the patched material. Water intrusion and spalling to interior slab is a concern. The orange arrows point out shrinkage cracks.

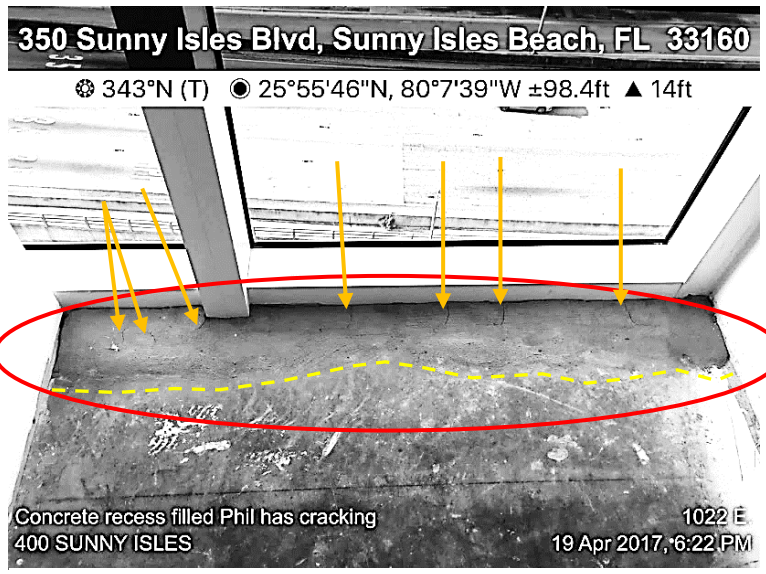



*Figure 79*

A close-up view of the cracks in the filled concrete is shown to the right.

*Figure 78*

The glass in the master bedroom was found with two large cracks in it. The cracks do not appear to be impact related, but do appear to be stress induced. Recommend the window supplier visit site to meet with Association's engineer.

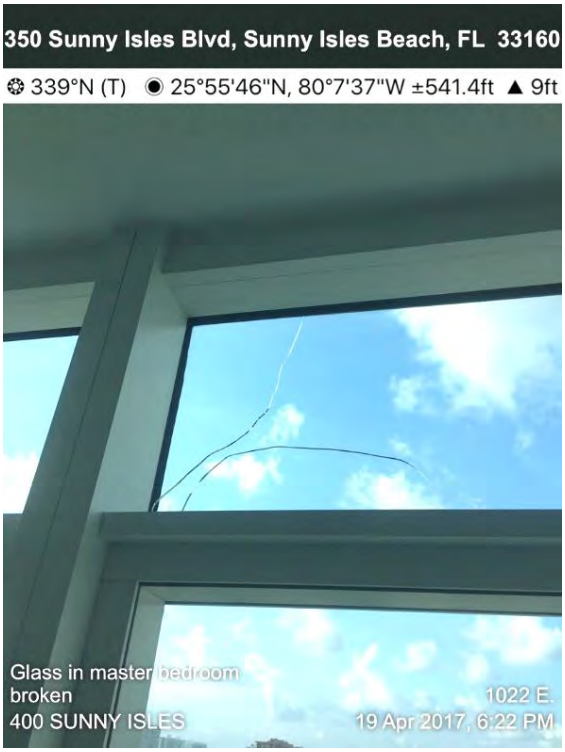



*Figure 80*

The metal flashing was found sticking out from underneath the wall next to the sliding glass door to the balcony.
This is not considered a watertight condition.

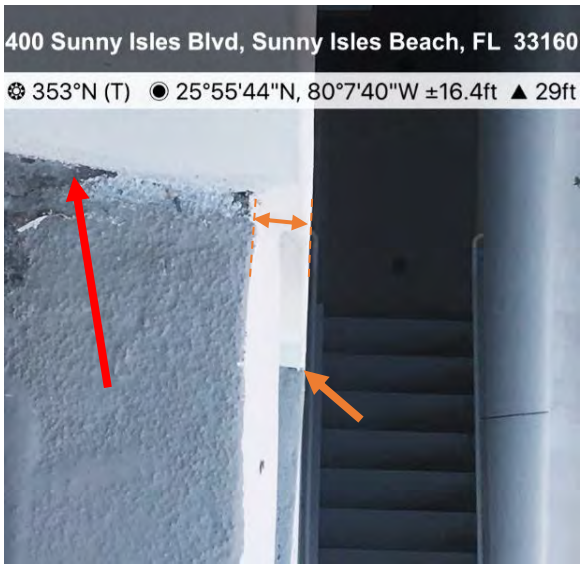

*Figure 81*

A dark area on the balcony surface indicating ponding and improper drainage, due to a low point in the concrete and incorrect slope.


Stucco on the unit's balcony is not flush with the exterior wall corner, while the balcony below is flush.

The red arrow points out the poor juncture between the wall and balcony surface.

The structural plan for this area shown below clearly has the outside wall flush with the balcony slab.



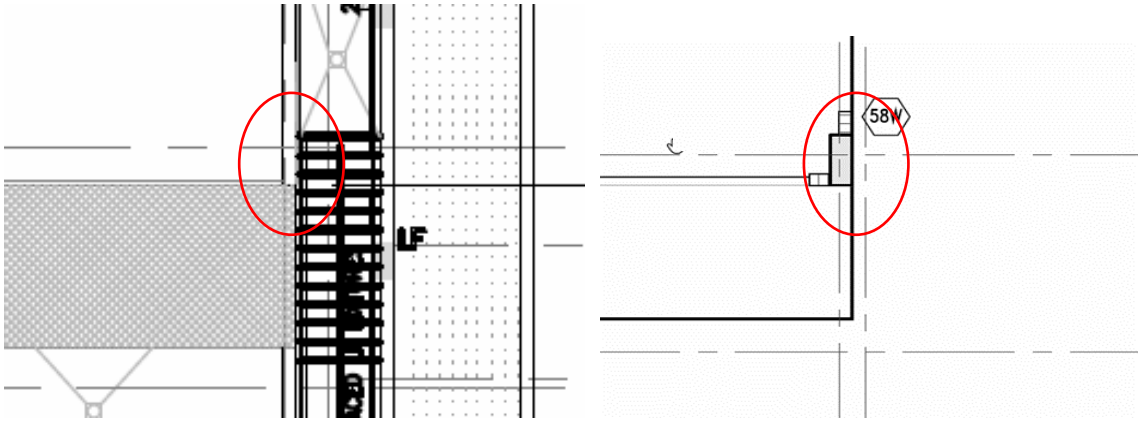




*Figure 82*

Cracks were noticed in the stucco ceiling and walls, allowing water to penetrate beneath the stucco and eventually the concrete. This will the cause corrosion damage to the slab reinforcing bars.


*Figure 83*

## 1216 E

A broken window crank handle was found at one window.

*Figure 84*

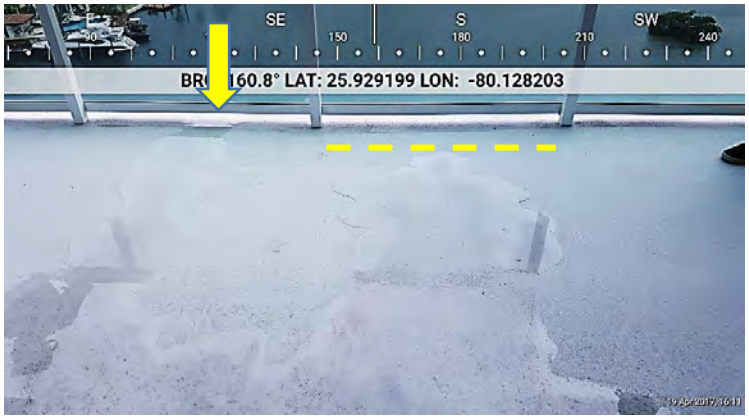
Black organic growth was observed on the ceiling of the balcony of the unit (on the balcony slab of the unit above, 1416). This is considered typical where drainage from balcony surfaces is slow and limited to small areas (as was observed). This causes long periods where moisture lingers in certain areas.

*Figure 85*

## 1416 E

A water test was performed on the balcony of the unit. Water tended to pond in the center of the balcony while only a small area on the edge was able to drain the water. Some areas did not drain at all, such as the area furthest from where this photo was taken.


Another view of the water test from above. The area on the left shows drainage at the location of the yellow arrow, while the area on the right has stopped before reaching the glass railing (dashed line).



## 1419 E

Excess mortar from flooring consistently found underneath the entire length of the railing on the balcony.

*Figure 86*

Rubber gaskets in the glass railing were often missing or did not run the entire length of the glass panel, leaving a gap.

*Figure 88*

Several gaskets where found hanging out of the aluminum frame as well.

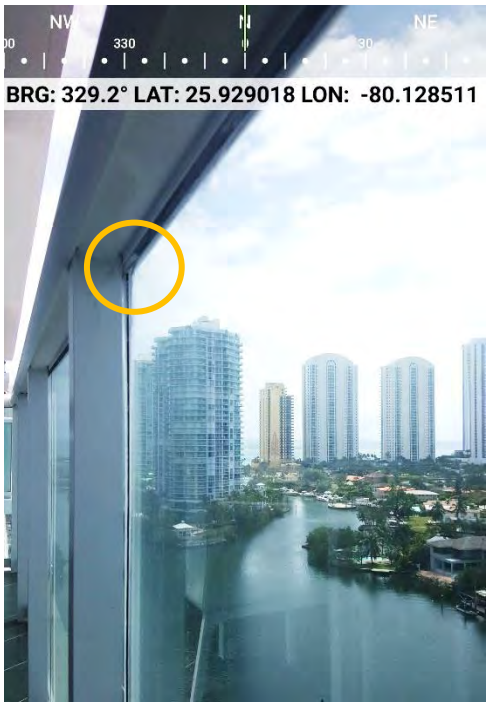



*Figure 87*

## 1508 E

Rubber gasket on the balcony distended out of place, not sitting flush against the glass and the aluminum railing frame.


*Figure 89*

## 1517 E

Large gap between divider and concrete is an issue when the neighboring have tile and mortar bed finishes installed. Many unit owners have opted to install tile on setting bed mortar over their waterproofing surfaces. When both balconies have tile, the resulting trough under the aluminum demising panel becomes a depressed area between two adjacent tile floors.


*Figure 90*

The condition then allows water entry under the (typically impermeable porcelain) tile, where the entrapped water wets the mortar and keeps the waterproofing perpetually wet. Water will not drain adequately in these cases, due to inadequate and inconsistent slope of the concrete balcony surfaces. Over time, the minerals leaching from the entrapped water condition under the tile will further block any drainage as mineral deposition takes place at locations of exit and evaporation.

Dark areas on the balcony, especially near the sliding glass doors possibly indicate water is ponding in those locations.


*Figure 91*

## 1619 E

There appears to be a small wire penetrating the concrete floor slab caulked to the middle of the floor between the door jamb and the equipment base/tray. This is the mechanical room floor.

Moisture was also found underneath the doorway (arrow).


*Figure 92*

The drywall underneath and around this PVC valve is cracked and damaged. There also appears to be a gap between the concrete and the wall.

Area is considered to display substandard workmanship.

Red arrow shows that the wire was fire-caulked at mid-floor.

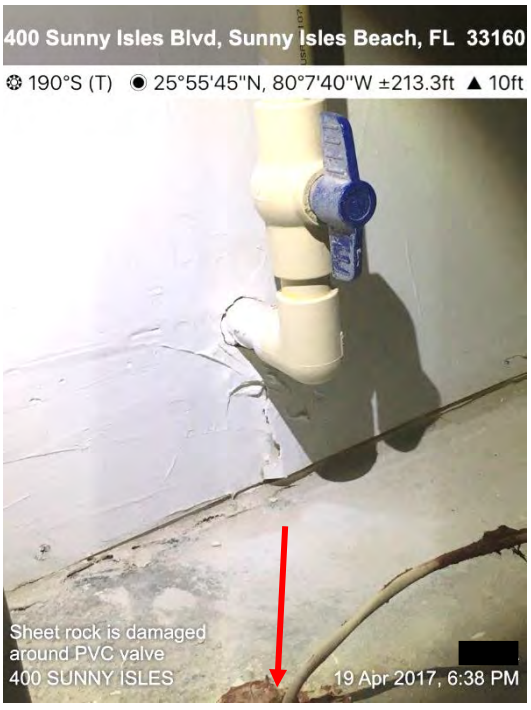



*Figure 93*

Collection of dirt in this area of the balcony suggests ponding may be occurring. Therefore, balcony may not be draining properly. This appeared to fit the pattern seen in several unit balconies where water applied to surfaces ponded near the perimeter edge.

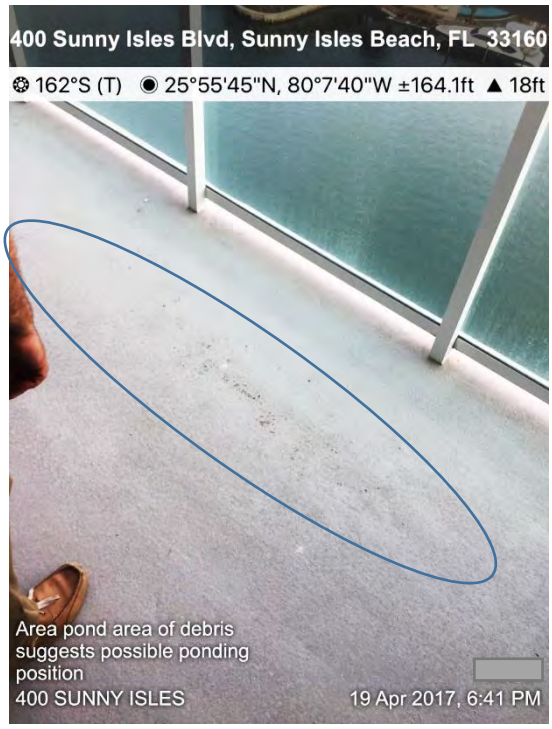



*Figure 94*

## 1819 E

Areas of dirt collection in front of the glass railing indicate ponding and improper drainage of water from the balcony.

There was high elevation along the perimeter of the balconies in many cases.

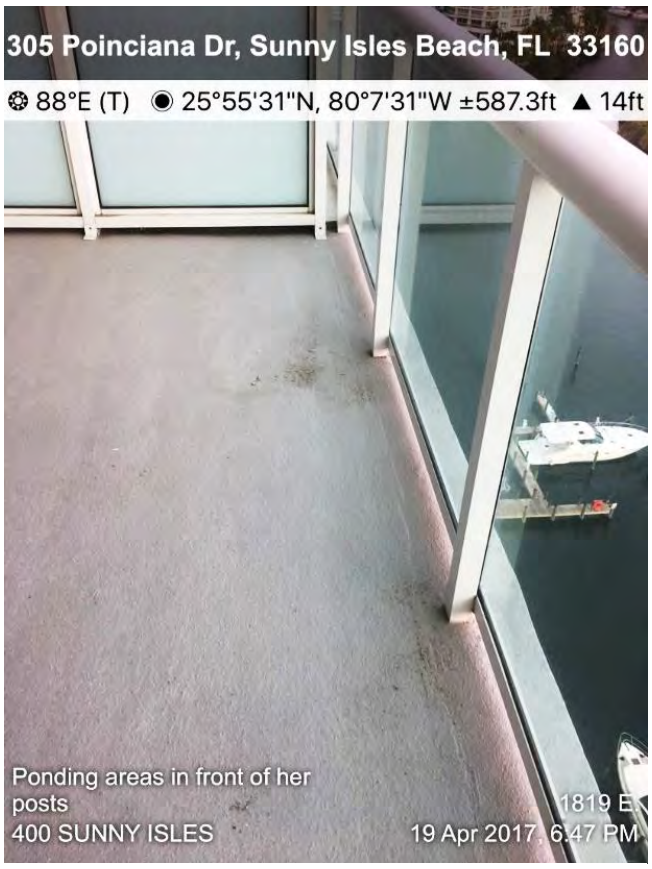



*Figure 95*

## 1920 E

Concrete patching next to electrical outlet on the floor is extensive, reaching all the way to the far wall.

See previous discussion regarding patched concrete at perimeter of building slab and the concern about quality of materials, moisture intrusion, spalling, and ICRI/ACI standards for this type of work.


*Figure 96*

Fastener on the dividing wall between the unit's balcony and the neighboring balcony is rusting, considered caused by dissimilar metals (steel and aluminum) contact. Other fasteners should be checked for corrosion if they are of the same materials as this one.


*Figure 97*

Low spot seen in foreground of photo indicates inadequate slope. Areas were observed where thicker applications of waterproof coating appeared to have been installed.

(Corner behind transition in the blue ellipse.)

*Figure 98*

Two PVC pipes were embedded into the concrete in front of the sliding glass door. Possibly unfinished electrical floor outlet.

Repair is required.


*Figure 99*

## 1921 E

Dark areas in the center and near the sliding glass doors indicate the balcony may not be draining properly, causing water to pond in these locations.

The photo of the wall parallel to the sliding glass door track depicts where waterproofing material appeared to have been poured along the door and juncture with the block wall. It is considerred a likely possibility that this material may have been wasted in this maner in an attempt to prevent water damage due to incorrect slope of the slab along the doors.


*Figure 100*

*Figure 101*


*Figure 102*

A large flow of thick waterproofing material had been applied at the wall in between the sets of sliding glass doors on the balcony of the unit.

This was done on several balconies. The placement of large volumes of waterproofing material is unusual as it is expensive material.

If the reason was to create improved pitch on the balcony wearing surface, this was not successful.

Further investigation is required to understand the purpose of this wasteful protocol.


*Figure 103*

# EXHIBIT “E”

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WITH AN ADDITIONAL OFFICE
IN PALM BEACH GARDENS

*KBRLegal.Com*

September 26, 2018

**VIA Email; larmoyeuxjrm@gtlaw.com**
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T 305.579.0572 | F 305.579.0717

***Re:*** ***400 Sunny Isles Master Association, Inc; 400 Sunny Isles Condominium West Association, Inc.; 400 Sunny Isles Condominium EastAssociation, Inc.***
***Section 558.04, Florida Statutes, Notice of Supplemental Claim of Construction Defects***

Dear Mr. Larmoyeux:

As you are aware, Kaye Bender Rembaum, P.L. serves as Counsel for 400 Sunny Isles Master Association, Inc, 400 Sunny Isles Condominium West Association, Inc., and 400 Sunny Isles Condominium East Association, Inc. ("Associations"), which your company developed. Turnover from your company to the unit owners of the Associations recently occurred.

As provided to you by prior email correspondence, the Associations discovered significant additional problems concerning the proper design, construction and installation of the common element improvements of the 400 Sunny Isles Community, which constitute construction defects as defined pursuant to Section 558 *et. seq.,* Florida Statutes. Please accept this correspondence as a formal summary of the supplemental defects discovered to date.

With regard to the supplemental defects, the Associations provide you with formal notice via email correspondence on May 14, 2018, which included a supplemental report, that identified supplemental defects at the 400 Sunny Isles Community. I am enclosing a copy of the supplemental report and May 14, 2018 correspondence for your review and records.

In addition, on August 21, 2018, and August 23, 2018, I advised you via email regarding plumbing defects at the 400 Sunny Isles Community concerning sewage flooding

caused by oversized screws installed in units throughout the 400 Sunny Isles Community. I am enclosing a copy of the August 21, 2018, and August 23, 2018 correspondence and report from Robert's Plumbing Service Corp., evidencing this defect for your review and records.

Further, on August 24, 2018, I provided you with email correspondence that included a report from the Associations' Engineer identifying significant stucco issues at the 400 Sunny Isles Community, as well as significant stucco issues with Unit 715E. I am enclosing a copy of the August 24, 2018 correspondence and report from Archtetype Engineering and Architecture for your review and records.

In addition to the above, there is the ongoing issue with the defective Meditation Stone Garden, that has been brought to your attention and inspected on numerous occasions.

Pursuant to Section 558.04, Florida Statutes, you are again notified of the defective design, construction and installation issues at the 400 Sunny Isles Community. Chapter 558 of the Florida Statutes provides a very limited amount of time for you to perform a reasonable inspection of the property subject to the claim to assess each alleged construction defect. The Associations have cooperated with you and/or your representative for inspections, and are willing to continue to do so in the future. Chapter 558 of the Florida Statutes further provides very limited deadlines for you to make claims on your contractors, subcontractors, suppliers and design professionals for the defects specified in this Notice of Claim, and for otherwise serving a written response to this Notice of Claim.

Demand is hereby made upon you to undertake the appropriate investigation and repair requirements set forth by Statute. If you fail to respond in an acceptable manner, the Association shall have no alternative but to pursue all remedies available to it under the law.

**PLEASE BE GOVERNED ACCORDINGLY.**

Very truly yours,

JEFFREY D. GREEN, ESQ.

JDG/

Enclosures: (1) May 14, 2018 email and Additional Report To Turnover Report; (2) August 21, 2018, and August 23, 2018 email and Robert's Plumbing Service Corp., report; (3) August 24, 2018 email and Archtetype Engineering and Architecture Stucco Report.

**Jeffrey D. Green**

| | |
|---|---|
| **From:** | Jeffrey D. Green |
| **Sent:** | Monday, May 14, 2018 10:36 AM |
| **To:** | 'Christopher D. Barber'; Martin Gierlach; 'larmoyeuxjrm@gtlaw.com'; thomasmic@gtlaw.com |
| **Cc:** | smithgra@gtlaw.com; Stacey Horvath |
| **Subject:** | Section 558.04, Florida Statutes, Supplemental Notice of Claim of Construction Defects for 400 Sunny Isles East, West and Master Associations |
| **Attachments:** | supplemental report.pdf |

Hello All:

As a follow up to my prior correspondence, Don Atkinson just completed the enclosed supplemental report. Therefore, please accept this correspondence 400 Sunny Isles East Condominium Association, Inc., 400 Sunny Isles West Condominium Association, Inc., and the 400 Sunny Isles Master Association, Inc.'s ("Associations") supplemental notice of construction defects as defined pursuant to Section 558 *et. seq.*, Florida Statutes.

Please note that in my initial correspondence I referenced that the vast majority of the units are experiencing objectionable sound transmission through the walls at adjoining or neighboring units; objectionable problems with the air conditioning/mechanical ventilation system in terms of temperature issues; objectionable problems with the air conditioning/mechanical ventilation system in terms of noise issues; and objectionable problems with the functionality and condition of appliances and fixtures. Exemplars of these issues are noted in the supplemental report. These issues were either summarily denied or not addressed in the initial response to the 558 reports. Because these issues are occurring in the majority of the units, the associations are the proper party to address these issues on a class basis.

As such, the above issues, as well as the problems identified in the supplemental report concerning the Associations are properly considered "construction defects" pursuant to Section 558.01(5) *et seq.*, Florida Statutes. Your immediate attention and investigation of the issues described above is hereby demanded as there are significant health and safety concerns due to the above described defective design, construction and installation issues.

Pursuant to Section 558.04, Florida Statutes, you are hereby notified of the defective design, construction and installation issues at the Associations. Chapter 558 of the Florida Statutes provides a very limited amount of time for you to perform a reasonable inspection of the property subject to the claim to assess each alleged construction defect. The Associations will cooperate with you and/or your representative for the scheduling of a mutually convenient time for any such inspection. Chapter 558 of the Florida Statutes further provides very limited deadlines for you to make claims on your contractors, subcontractors, suppliers and design professionals for the defects specified in this Notice of Claim, and for otherwise serving a written response to this Notice of Claim.

After you have had an opportunity to inspect and respond to the supplemental claims, we will coordinate a mutually agreeable time for all of the relevant parties to meet and discuss a resolution of the 558 claims.

Sincerely,

# Jeffrey Green, Esquire

Kaye Bender Rembaum, P.L.
Attorneys At Law

www.KBRLegal.Com

**1200 Park Central Boulevard South**
**Pompano Beach, FL 33064**
**Tel. (954) 928-0680**
**Fax (954) 772-0319**
**JGreen@KBRLegal.com**



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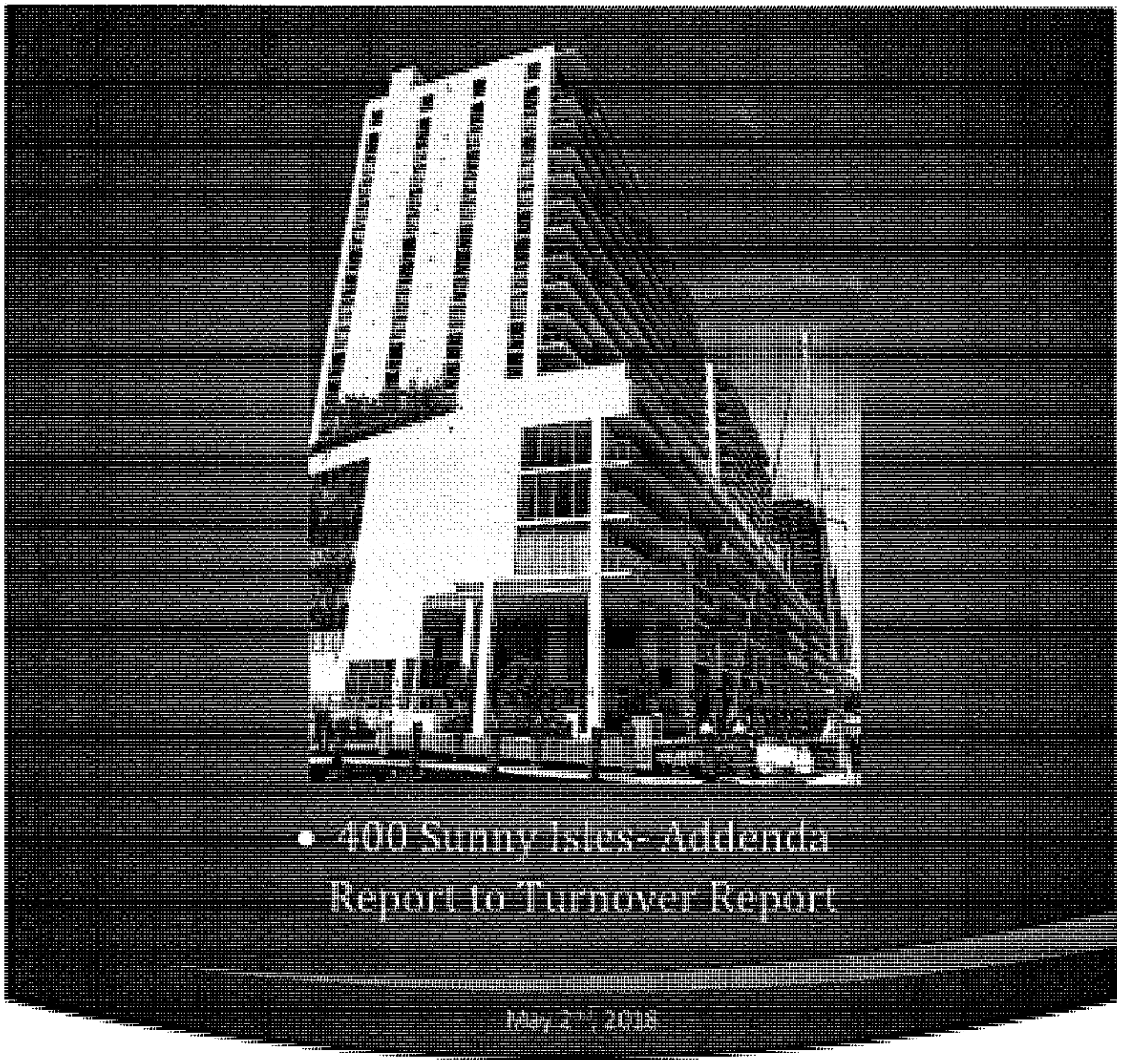
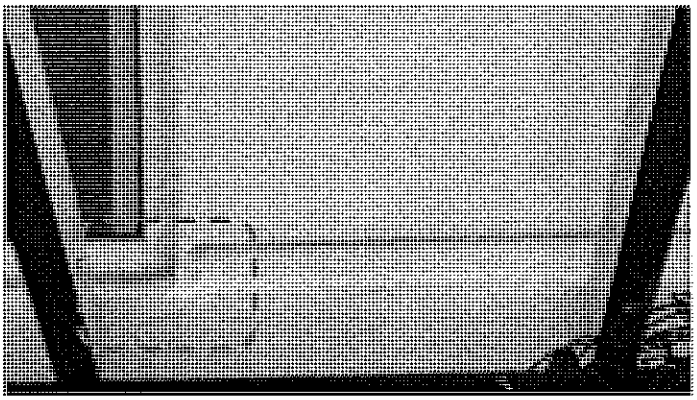



DONALD J ATKINSON, P.E., ARCHITECT

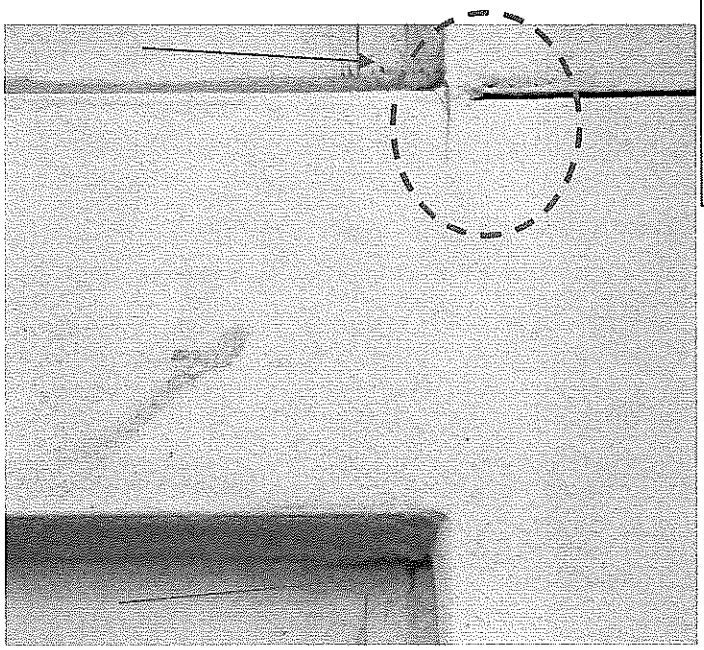
ARCHETYPE ENGINEERING & ARCHITECTURE, INC. 900 US HWY ONE, SUITE 108, JUPITER FL 33477

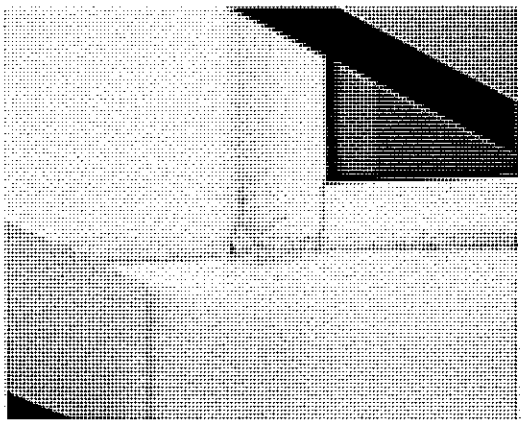
Unit 706 was investigated for water intrusion through the south exterior wall.

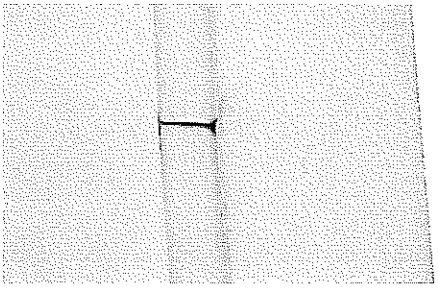
Unit 715
Water intrusion has occurred at the Northeast corner and along the North façade across both rooms within the unit. The yellow arrows show reveal joints in stucco that run vertically to roof and horizontally to windows.



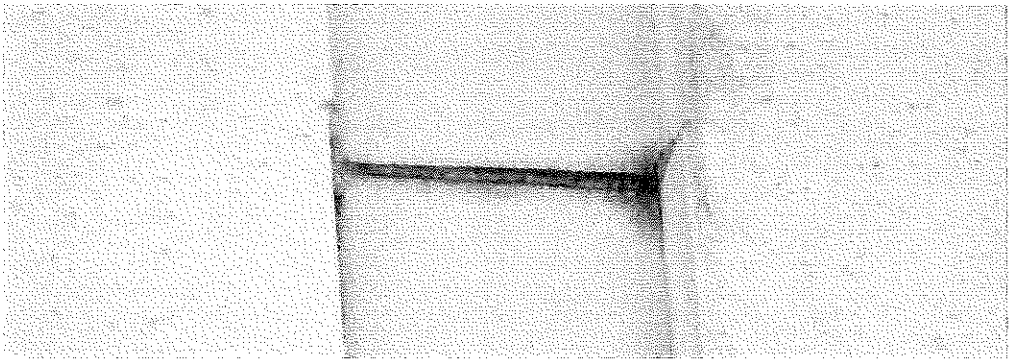
One area where water intrusion was found concentrated was at the bottom sill west end (within the purple circle. The enlarged photo (below) shows the reveal joint stops at a vertical corner bead which continues below the sill and where a crack has followed. Also note the addition of sealant at the corner surface finishes, which is not considered a primary repair of this problem. Sealant cannot repair a joint construction error. It is recommended that the horizontal reveal joint should be removed. (Below) more surface sealant has not solved the water intrusion condition within the unit.

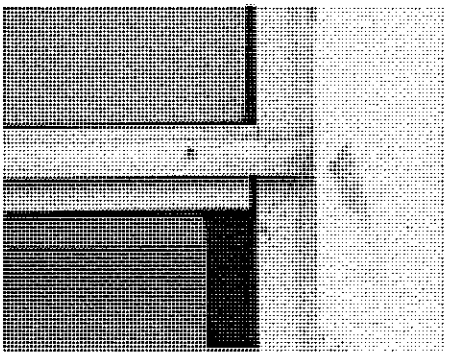




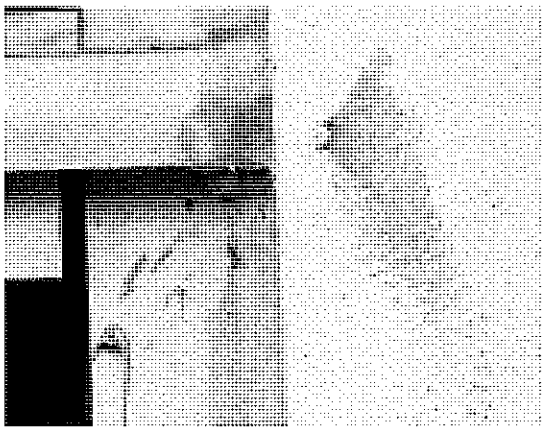


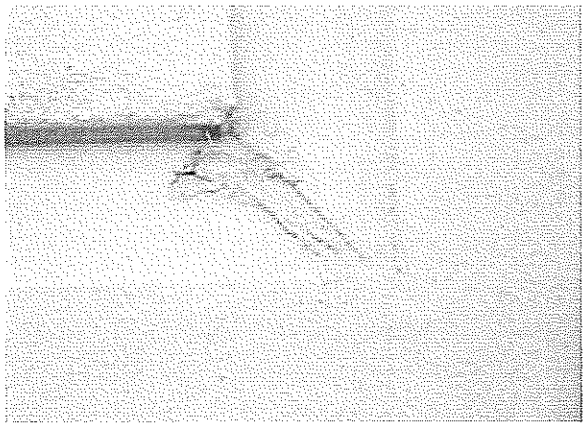
Each vertical PVD reveal joint is 10-foot long. The butt joints at each juncture of these 10 ft. long segments creates a joint subject to potential water intrusion. Butt joints are required to be bedded in sealant behind the joint juncture to prevent water intrusion. Removal of the reveal joint altogether is a recommended consideration.



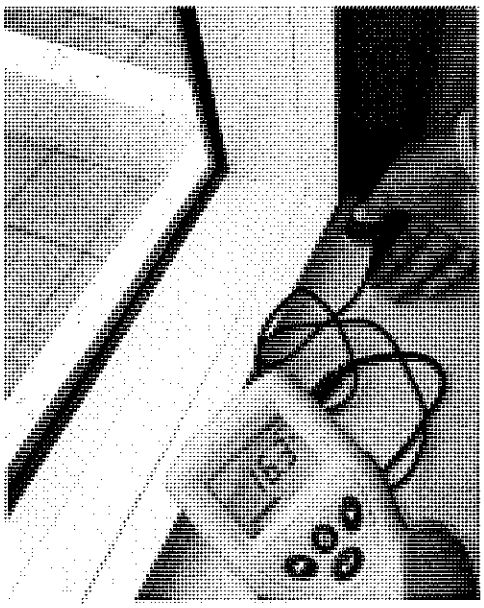


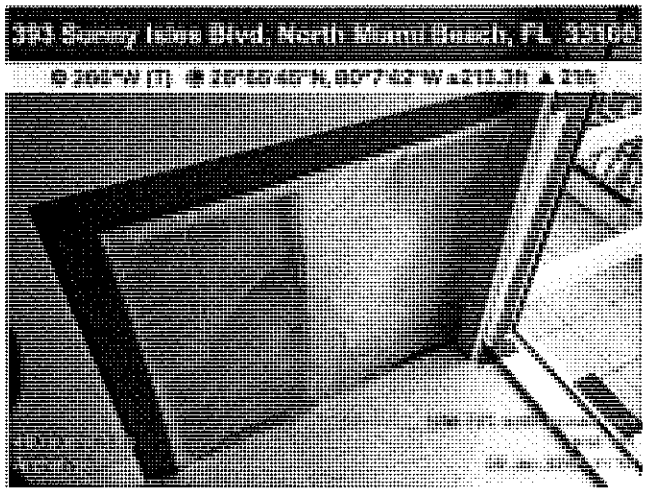
At left, it cannot be fully determined if the sealant on the wall surface was applied to fill a void in the stucco or simply a workmanship lapse. The window to stucco sealant had been heavily applied in this area likely as an attempt to stop the significant water intrusion within the unit. Within the unit is shown below where large areas of interior sheetrock had been removed and plastic has been installed over the exterior wall. This photo is the inside surface of the southeast corner of the unit of the unit (behind the reveal joints shown above).

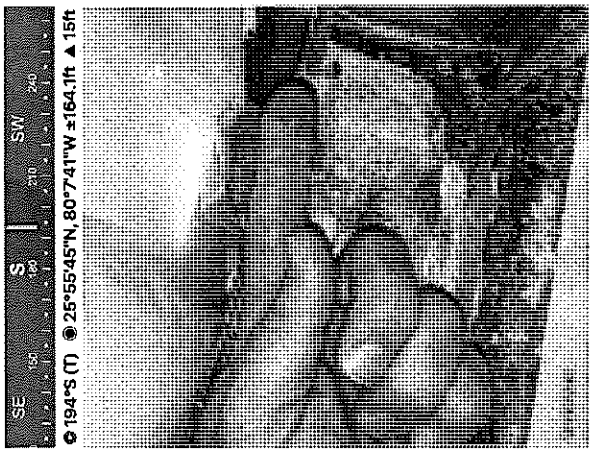


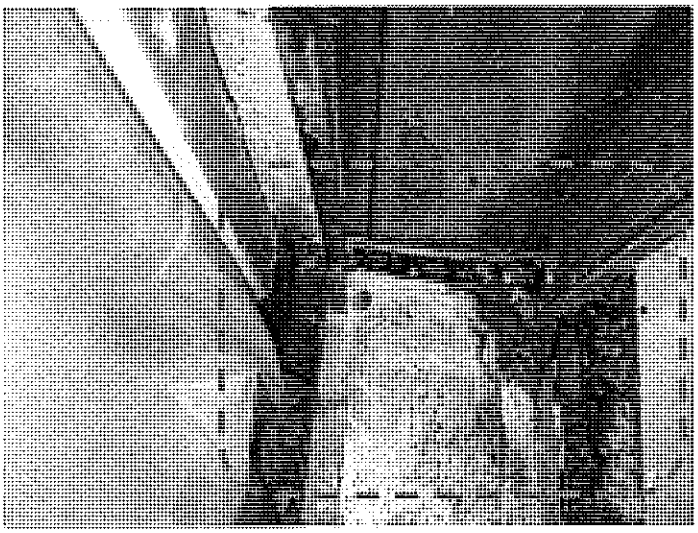


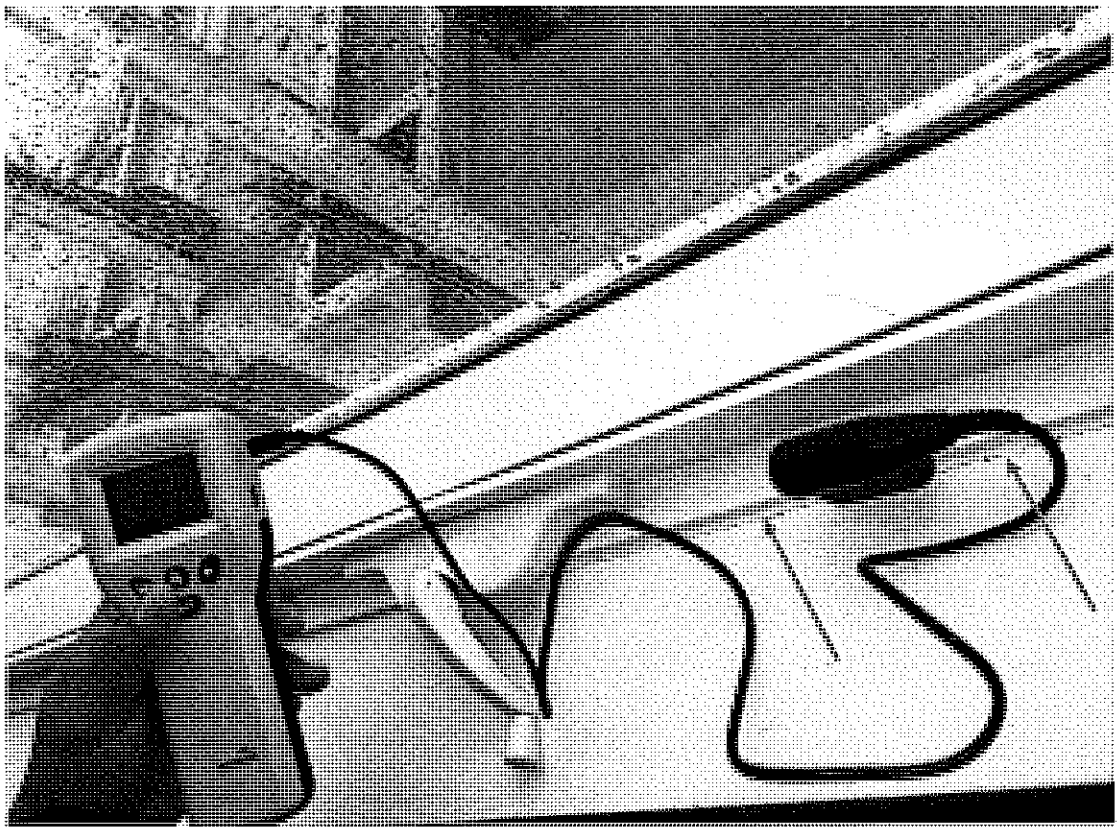

400 Sunny Isles Blvd, Sunny Isles Beach, FL 33160



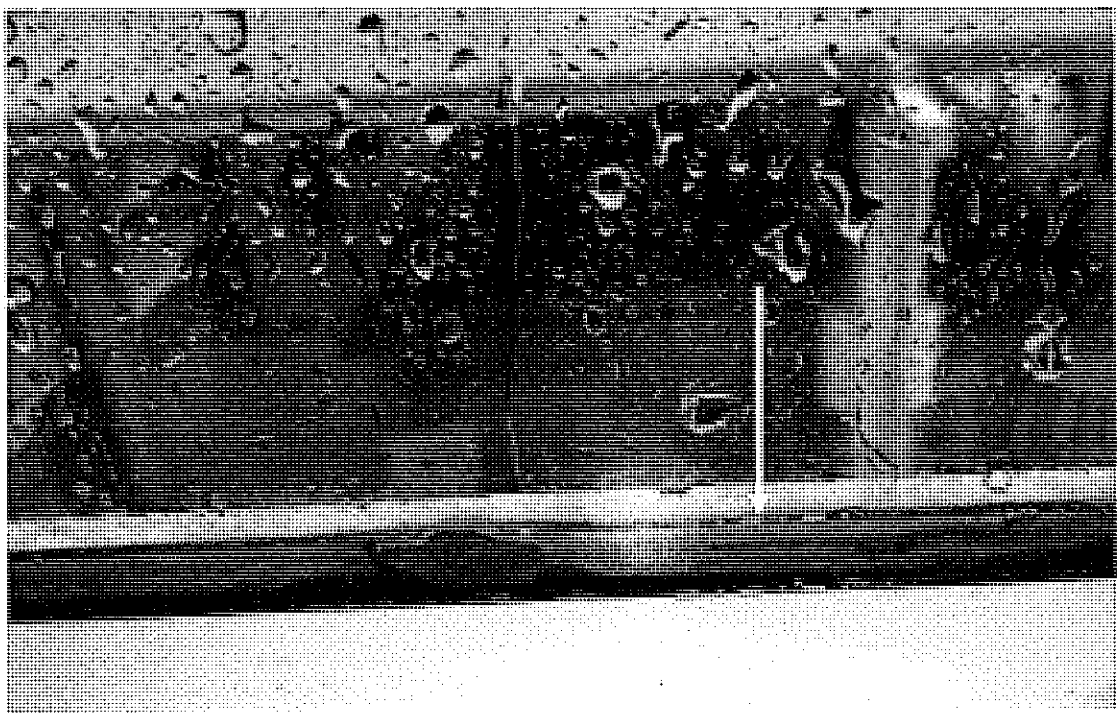

393 Sunny Isles Blvd, North Miami Beach, FL 33160


SE
S
SW
194°S (T) 25°55'45"N, 80°7'41"W ±164.1ft ▲ 15ft

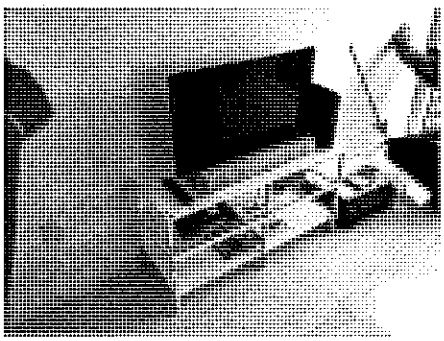




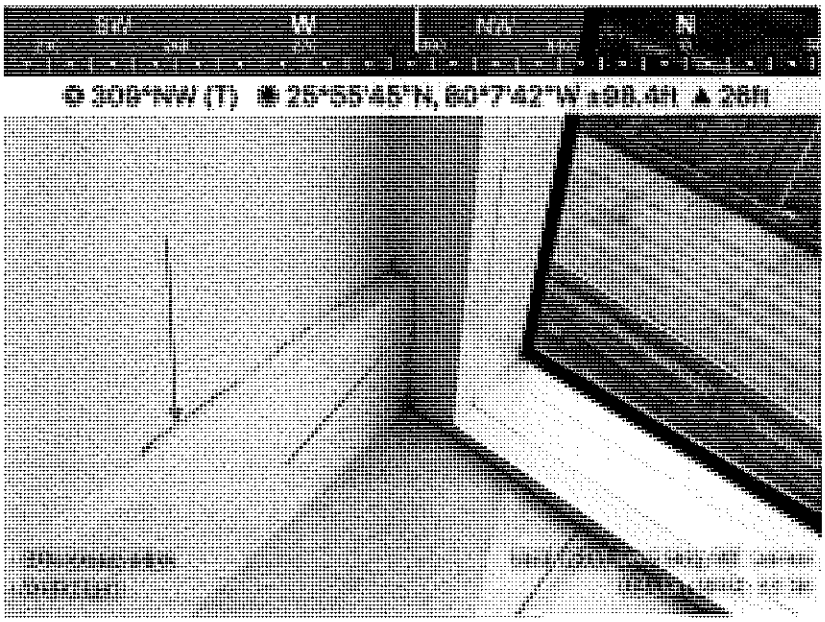
At the window on the west facing façade (see cabana and spa in view), moisture and paint cracking were detected. The moisture reading of 15.8 was substantially higher than the 7 to 8 readings in dry control areas. The photo below shows water retained between the sealant and glass.

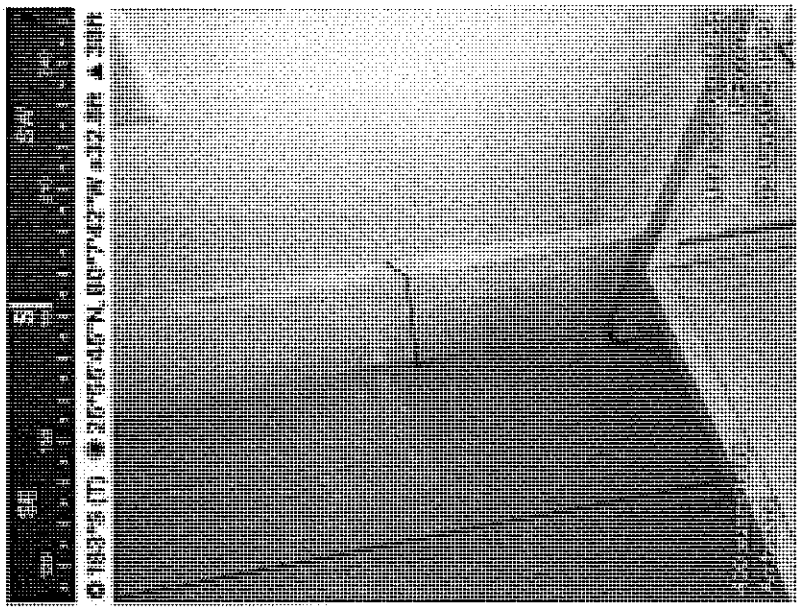


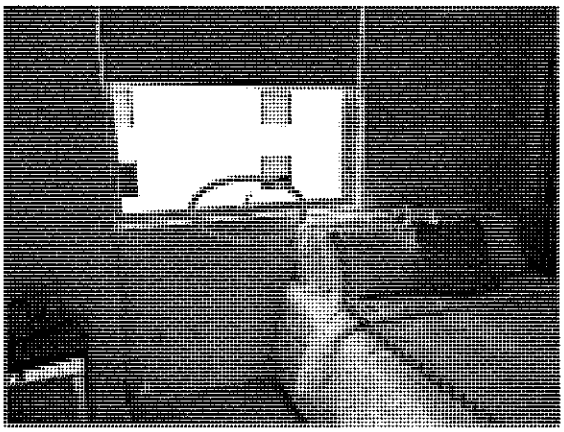
Unit 1208



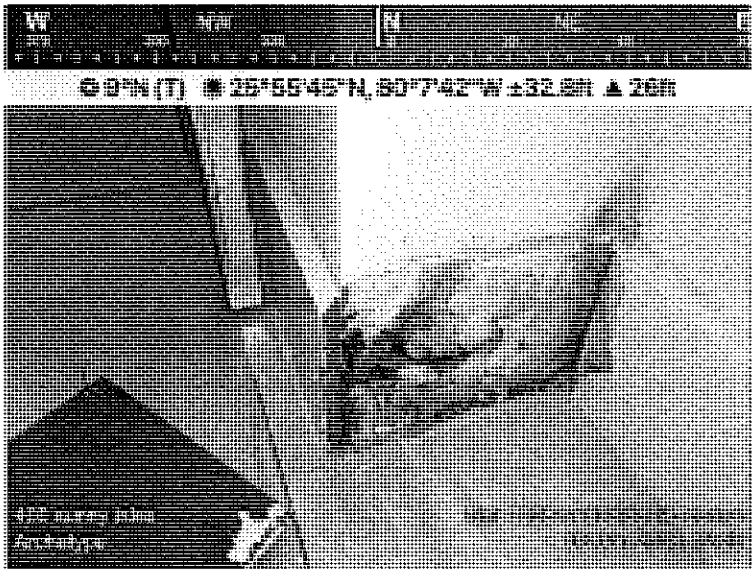
Two areas along the perpendicular wall in the living room were observed to have moisture related damage. The area at the window sill on the north façade had been wet behind the baseboard and at the juncture with the window frame. The baseboard also showed signs of moisture approximately 8 feet interior of the window considered related to moisture migration along the metal stud track at the floor.



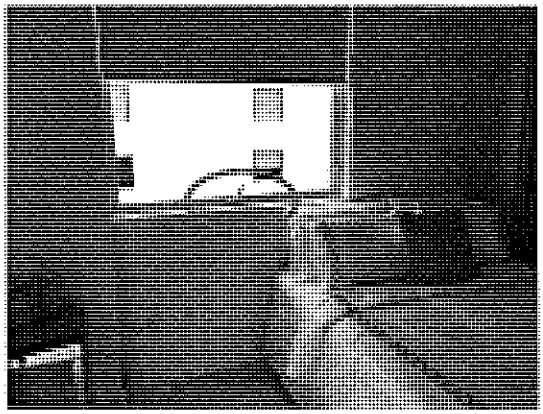




Within the bedroom at the east facing wall two areas of water intrusion damage were noted. The red arrow shows the location of the baseboard damage pictured below. Moisture reading of 51.8 was much higher than the dry control moisture readings of 8, confirming this to be an active water intrusion condition.

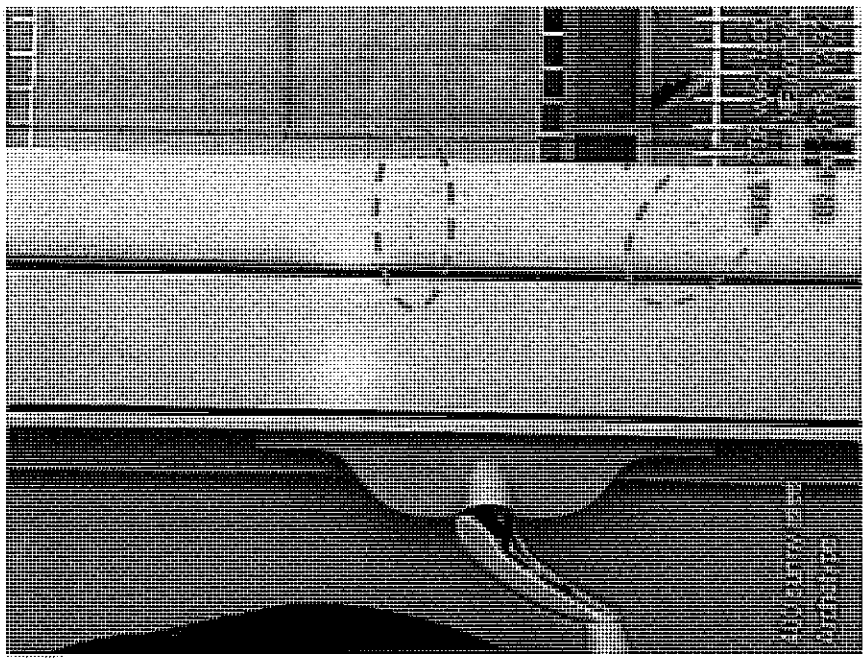


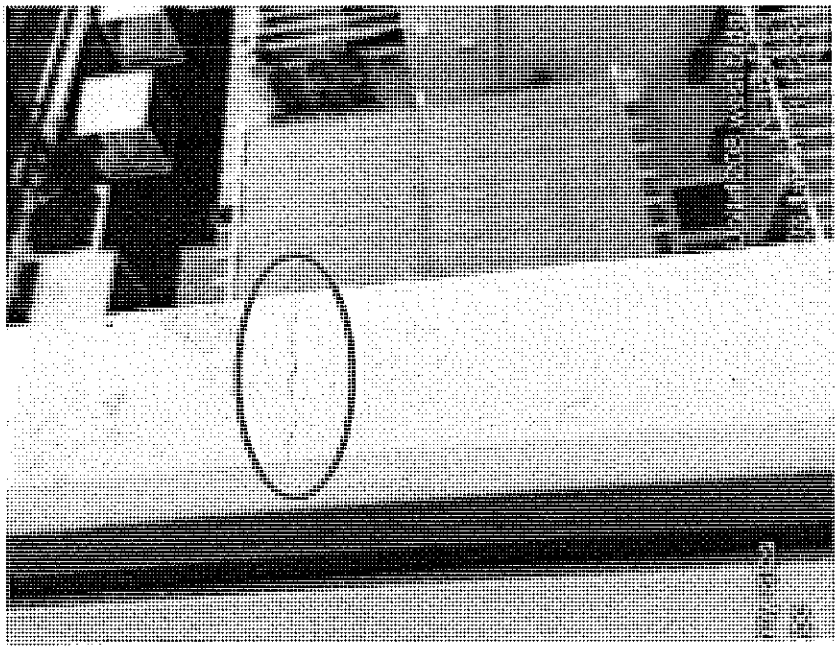
T

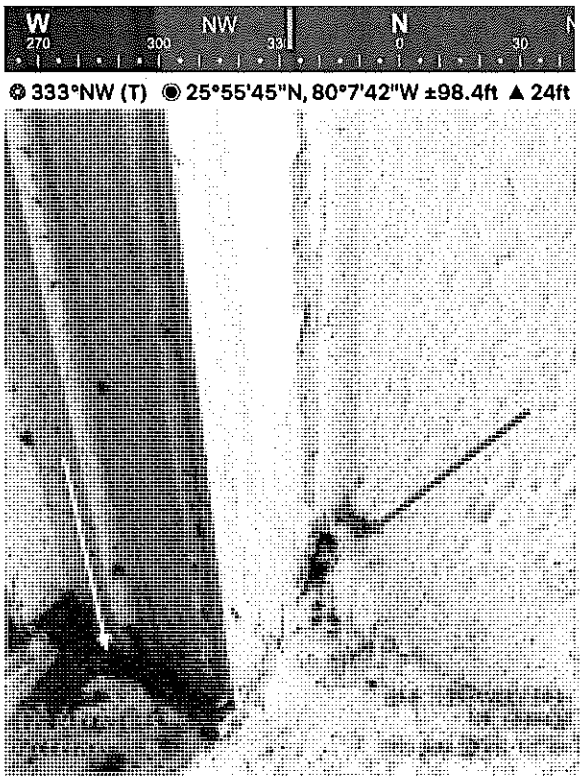


The second area of concern was at the exterior window sill, near the center portion of the window.

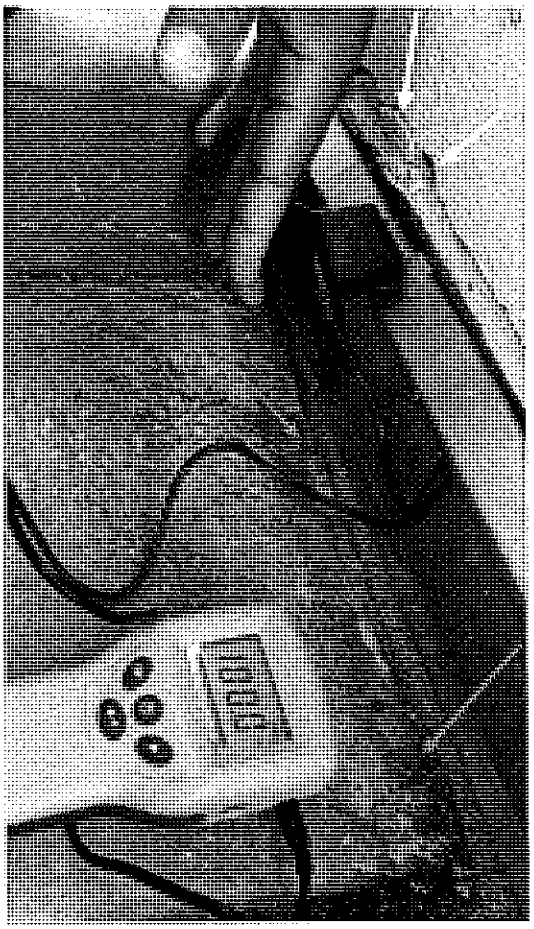
The areas circled showed cracks in the stucco sill on the nearly flat sill surface. A third crack was also noted to the left of the center fractures. These indicate the problem of stucco delamination along the PVC corner bead reinforcing that will not be corrected long term with surface sealants. Rework of the sill is required.



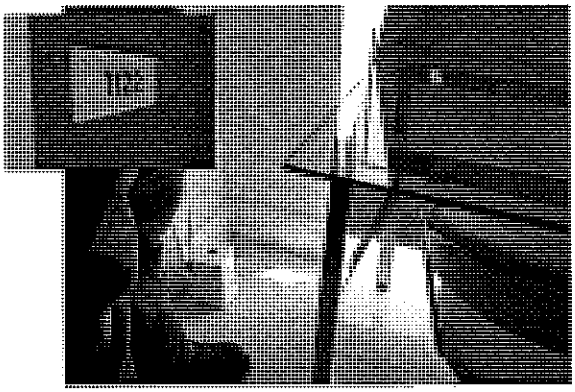


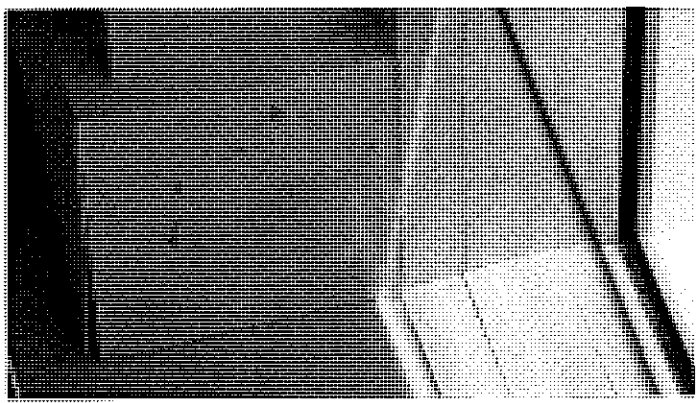


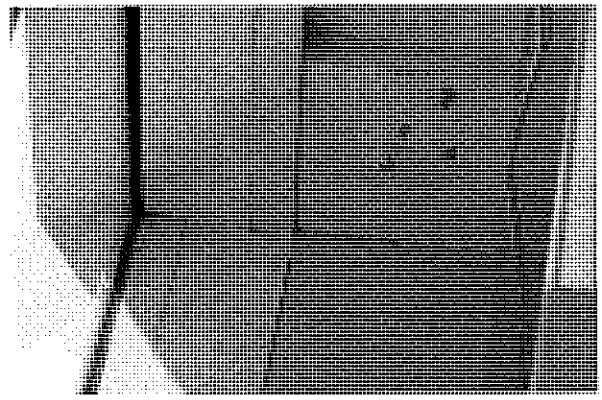

The three photos seen here show general workmanship problems with the finishes installed around the exterior windows in this unit. The red arrow at left shows the sealant bead installed between the exterior stucco jamb (interior face) and the exterior window frame. As the sealant joint nears the sill, the sealant ends and stucco with what appears to be mildew growing within voids is seen. The yellow arrow shows stucco spatter that has been left on the window frame. This stucco spatter is extremely alkaline, and the anodized aluminum finish will be damaged where it is allowed to remain in contact with the frame. This is seen also in the photo above as the spattered stucco has been allowed to lie in contact at the juncture of the aluminum sill and jamb frame. At left, the yellow arrow shows stucco spatter and a deposit in the interior corner of the aluminum frame and what appears to be a sealant bead applied to the exterior portion of the fame, possibly to halt moisture intrusion (short term).

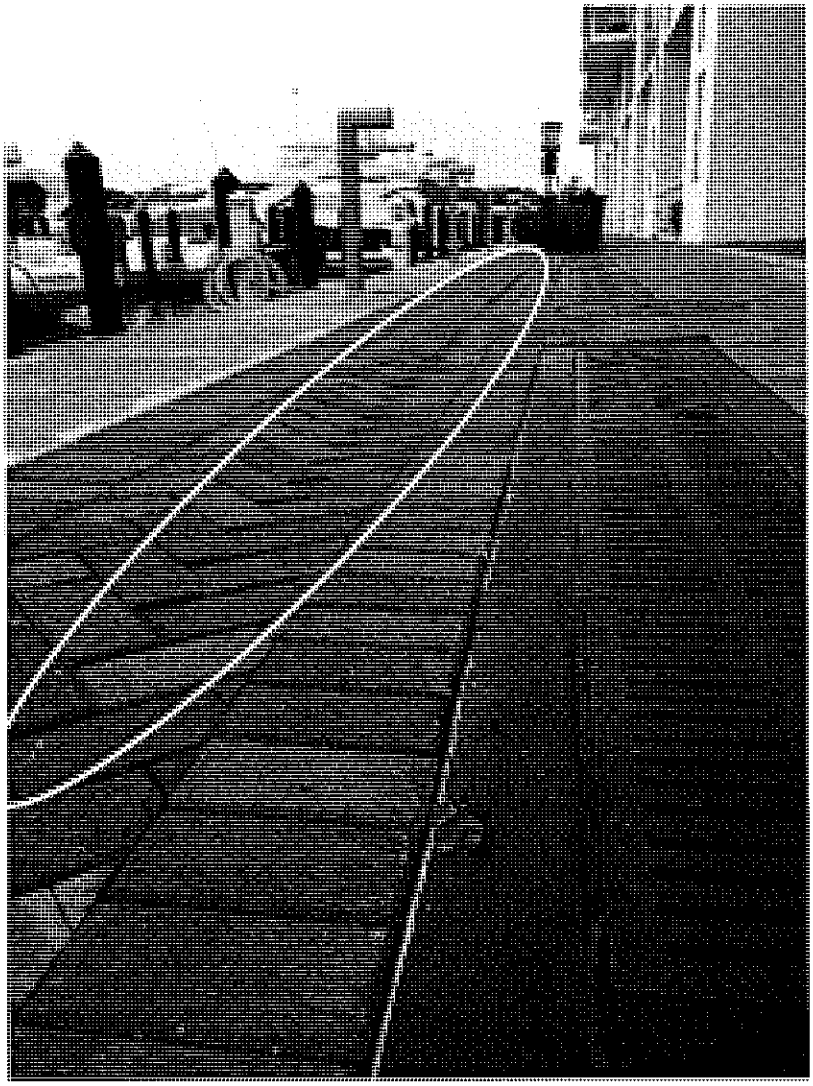


The photo at left shows one of the concrete rooftop landings installed to the exterior of the doorways of the roof stairwells. The upper left corner of the photo shows the concrete step at the threshold of the door. The yellow arrows point out the bottom edge of the wall stucco field where a sealant joint and cracking of the stucco is observed. The red arrow at the probe insertion of the moisture meter points to mildew growing from the sealant joint, and the moisture meter has topped the meter indication the presence of water within the joint. The small red arrows at the perimeter of the concrete landing show areas where mildew is also growing at the juncture with the wall. The concrete landing is installed on top of the roof membrane and is considered to be absorbing moisture. This detail is not on the drawings and was explained as an improvised detail to satisfy the fire department's request for an intermediate step. The solution as constructed created a moisture retention problem, and a perpetually wet condition on this portion of the roof membrane. This condition should be corrected in all locations with a waterproof landing and water-tight juncture with adjoining walls, door thresholds and surrounding roof membrane surfaces.



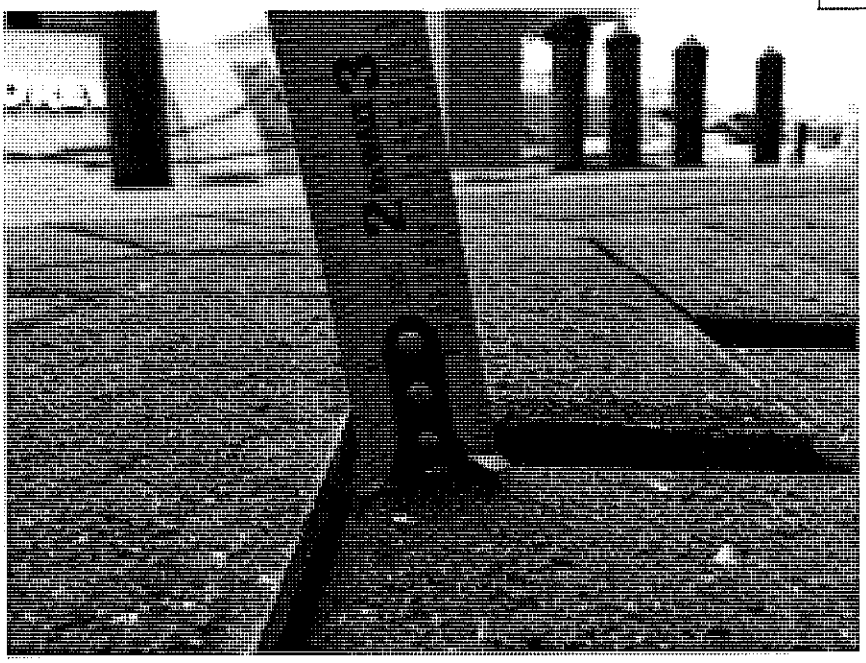


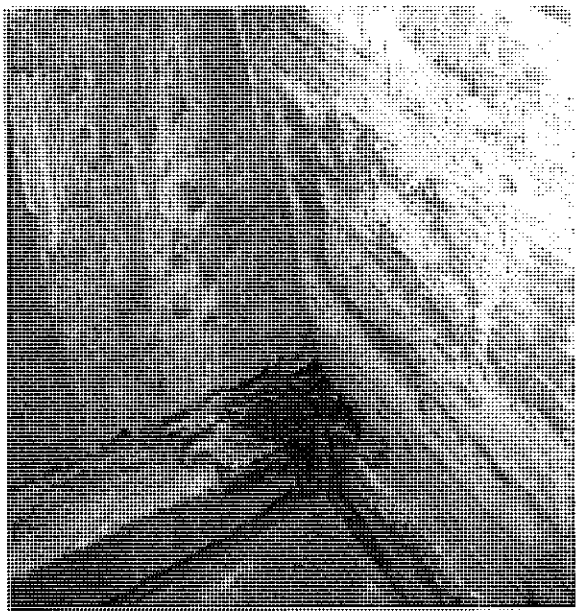




The concrete paver bricks along the seawall and running parallel to the trench drains of the sidewalk are settling in the interstitial zone between. This has created a trip hazard that must be addressed. The cause is considered to be due to lack of adequate compaction of the soil and the condition could be corrected by taking up the pavers correction the compacted soil to the required elevation and resetting the pavers.

The measured lippage between pavers far exceeds the standards of the tile council of North America and the Interlocking Concrete Paver Institute.



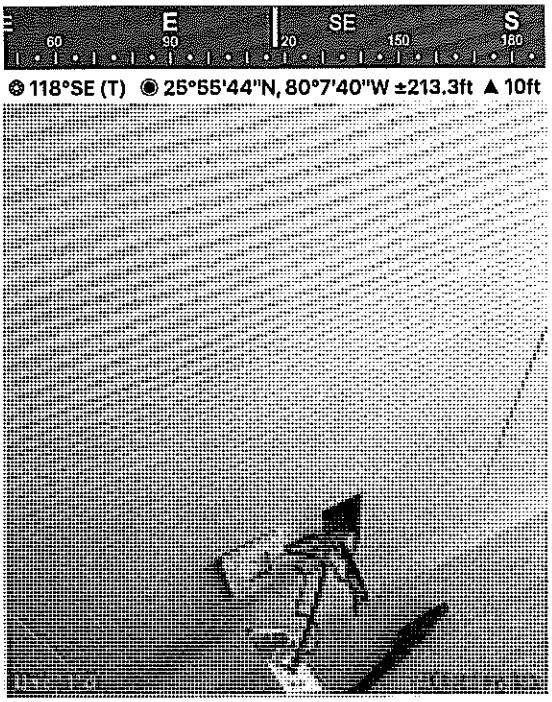


The concrete walls behind the lobby fountain have fractures in multiple locations which have allowed water to insinuate into the interstitial space. This would be due to a failure of the waterproofing membrane located behind the finished surface stone of the fountain. The water leaking does not have any significant pressure at these leaks so a solution with minor injection of hydrophilic grout would seem reasonable. If the leaks become worse or cannot be contained, eventually the extreme repair option of removal of finish stone and reinstallation of the waterproof membrane might be required.

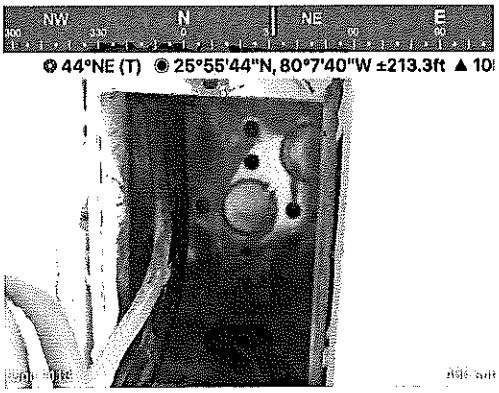
Unit 1118 was investigated as the owner had reported excessive acoustical transmission through the demising walls separating adjoining unit space.


Unit 1118

The wall in the living room was finished with tile. The low voltage electrical boxes were opened to access and view the interior of the wall with a borescope fiber optic camera. This was done with the intent of verifying that the wall contained the proper insulation.




The access point was located about 8' away from the south facing balcony (toward the inlet).




The bore scope inserted into the wall cavity confirmed the presence of insulation in that portion of the wall.

Another penetration was made into the same wall towards the North along the same shared demising wall between the 2 units at the master bedroom. A small ½" hole and was created to insert the bore scope and observe down the wall interior.

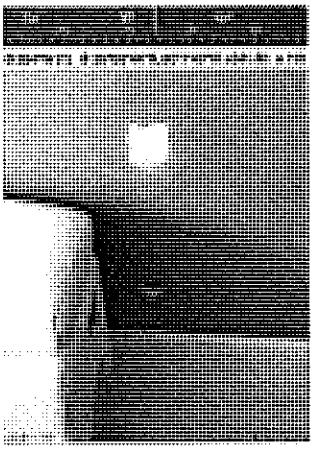
The photo at left shows the location where the small hole was made behind the furniture. Insulation was found at this point as well but, appeared to be very thin. Due to the reduced amount of insulation in the wall, it did not appear to be adequate for the required sound absorption value. The bore scope was inserted several inches into the wall space before any insulation was observed.

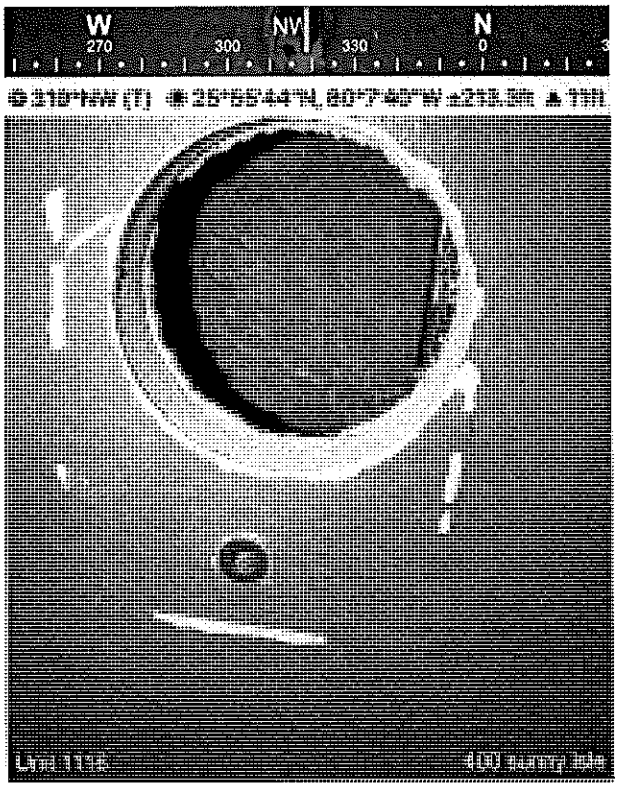
CONCLUSION:

As the insulation did not appear to be the correct thickness, a sound transmission test should be performed at this location and any other units with similar complaints.


NE
E
SE
30
60
90
120
150
96°E (T)
25°55'48"N, 80°7'38"W ±216.5ft
12ft

Another area of the wall was examined on the West end of Unit 1118. It was verified that the wall was solid concrete substrate. No further testing is recommended at this location.





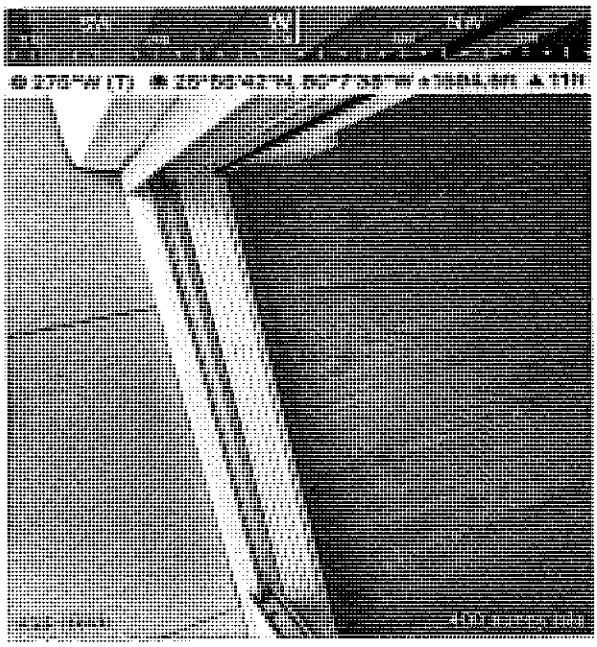
## Unit 1620: Water Intrusion Investigation

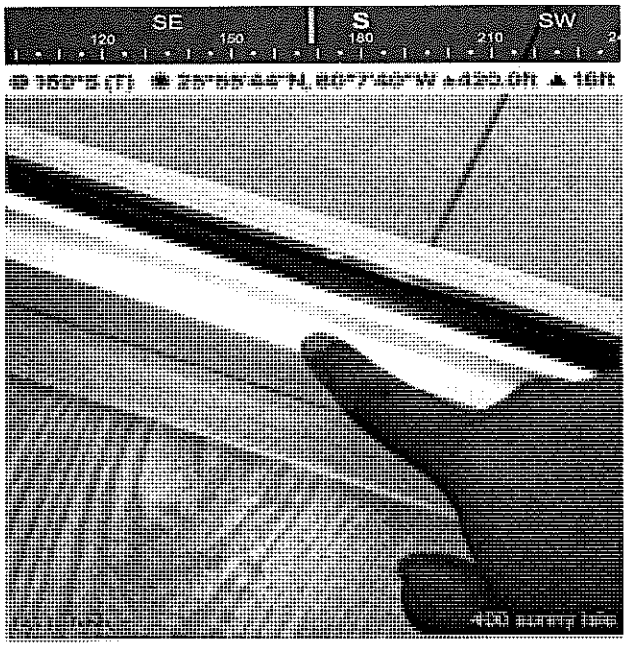
Unit 1620 had sustained water intrusion during Hurricane Irma. During visual inspection, it appeared that water had entered at the bottom of the track system of the sliding glass door.

The interior floor had some variation in elevation relative to the aluminum track. Some composite wood fiber planks can swell if wetted. This appeared to have occurred along the door track where the water intrusion entered.

Since the unit owner was not present during the storm and the wind pressures were not significant enough to force water over the water dam at the door, a pressurized water test is recommended.

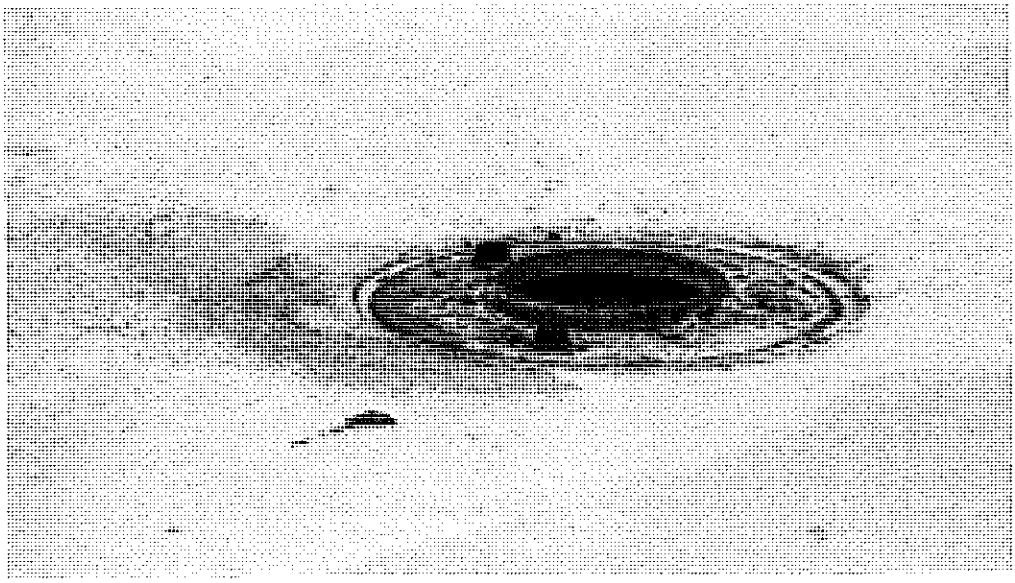
Also observed, was a large amount of caulking recently installed around the seam of the interior side of the door track and glass mullion.

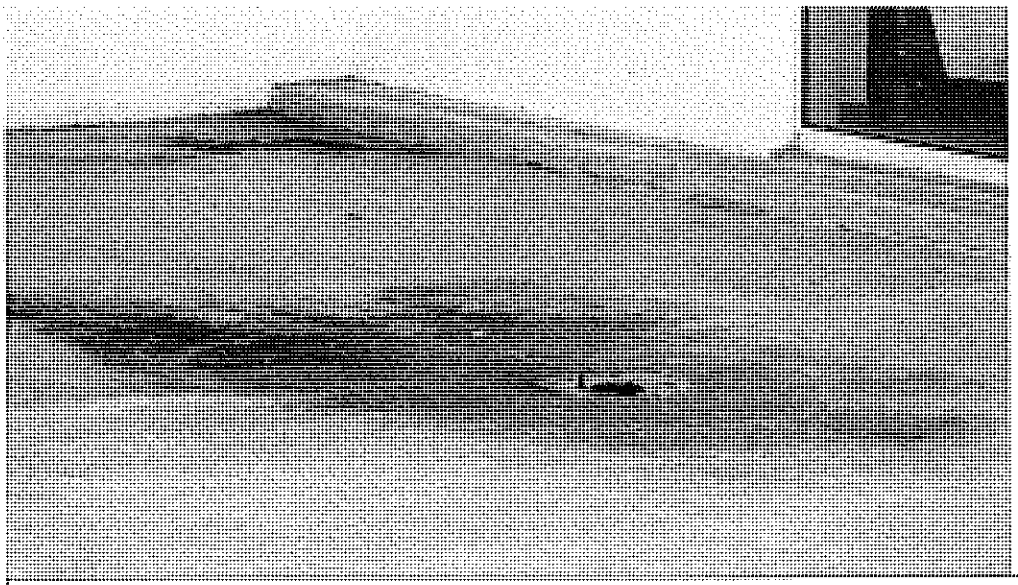




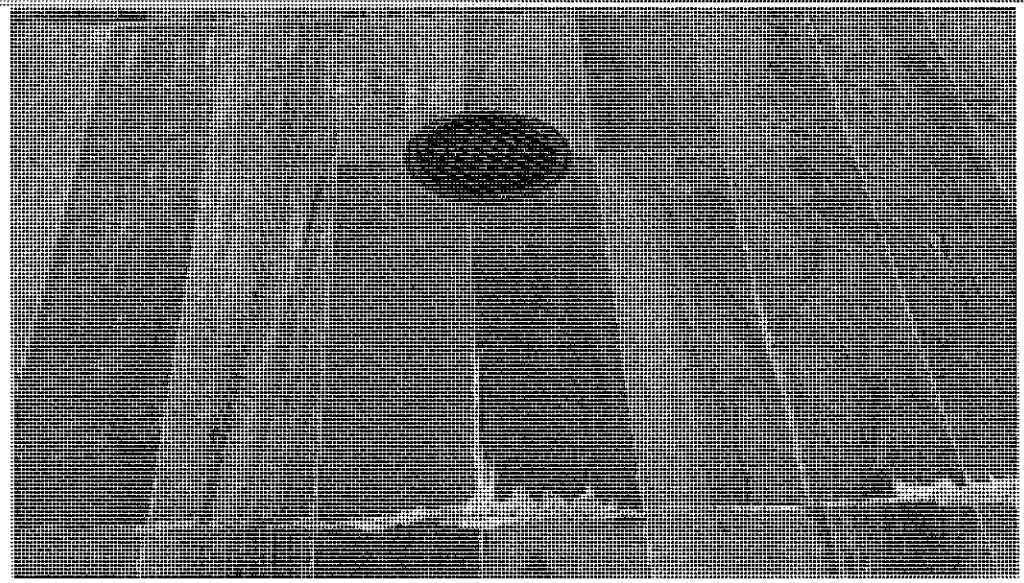
Same unit West, sliding glass doors also leading to the same balcony, the impact glass has been compromised. Per unit owner, "The glass had a small crack and it just grew larger and larger after it was discovered". Unit owner claims crack was found upon returning after hurricane. This is considered to be a manufacturer defect and may be considered for manufacture warranty or insurance claim.

Provided drains are not Bi-level; not functional for water removal at surfaces. Retained water is corroding Steel drain fixture provided.

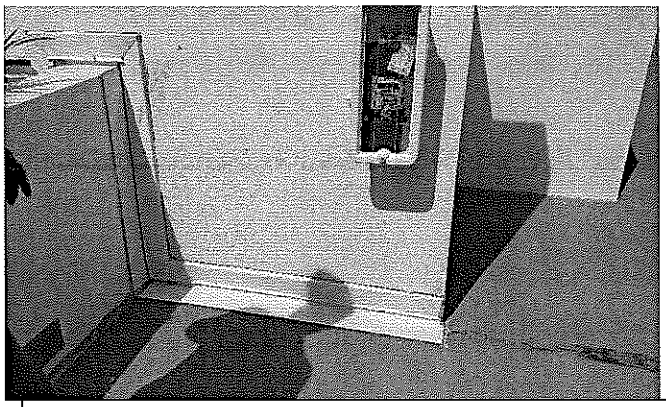


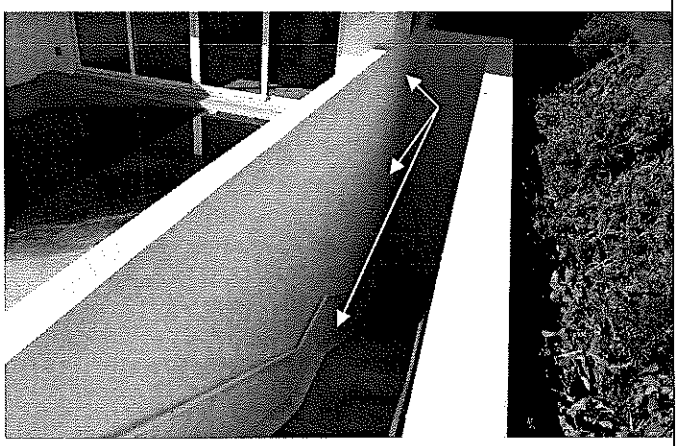


Water retained on terrace surfaces allow organic growth to develop as well as dissolve and deposit minerals from tile setting beds. These are a direct result of dysfunctional water flow through the provided drains.

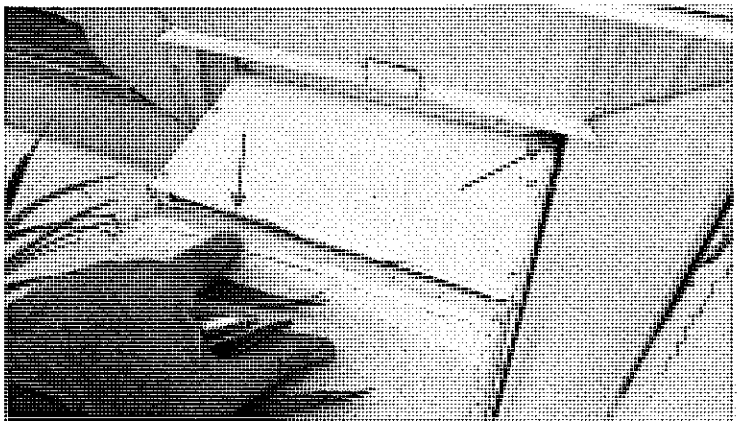


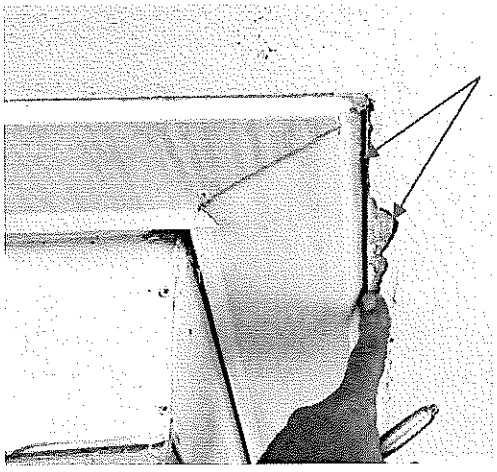
Juncture of East Tower/Garage with the Marina Pre-engineered Structure



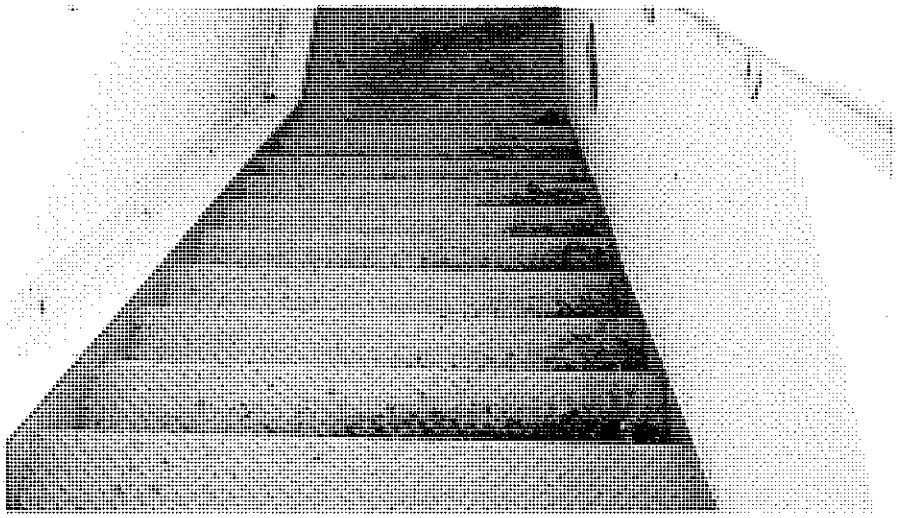


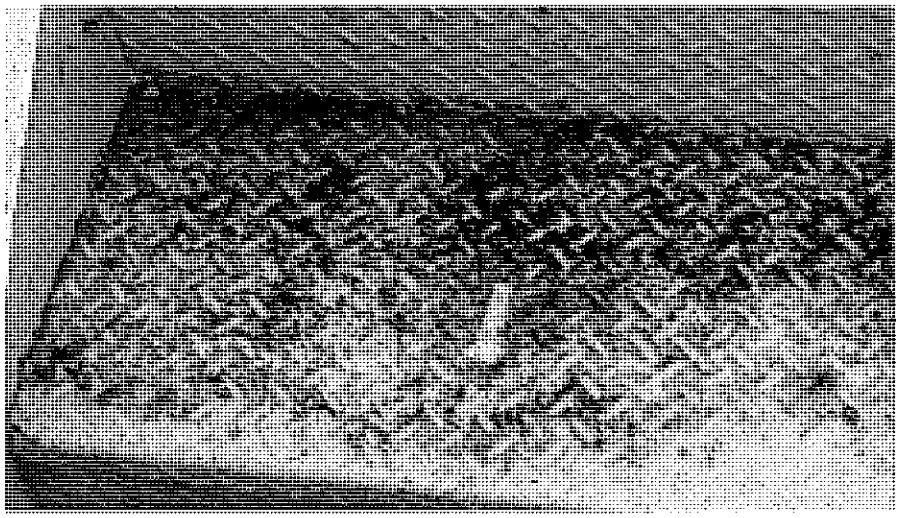
The juncture of the east side of the east tower is filled by a planter. (see upper left) The planter requires an expansion joint running between the tower and marina building. (above) This expansion joint is a source of water intrusion, (below) and this same joint runs down within the fire exit stain

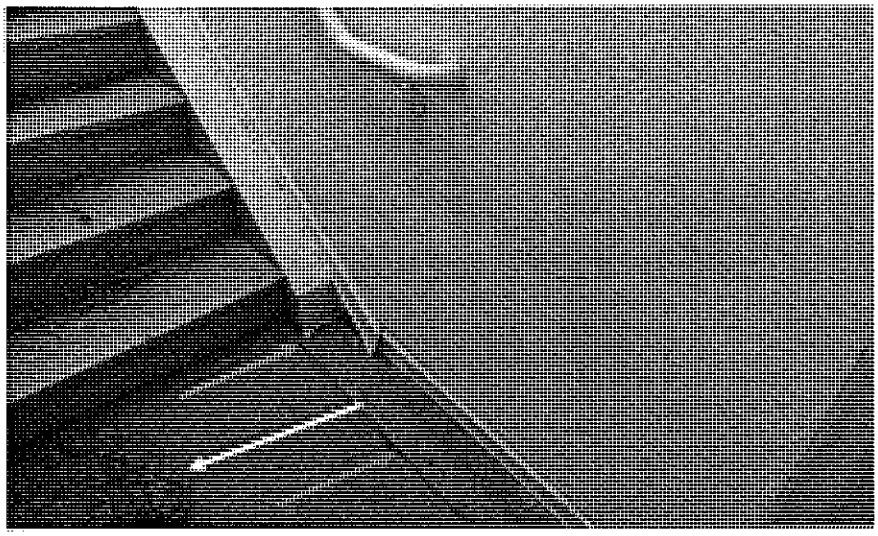




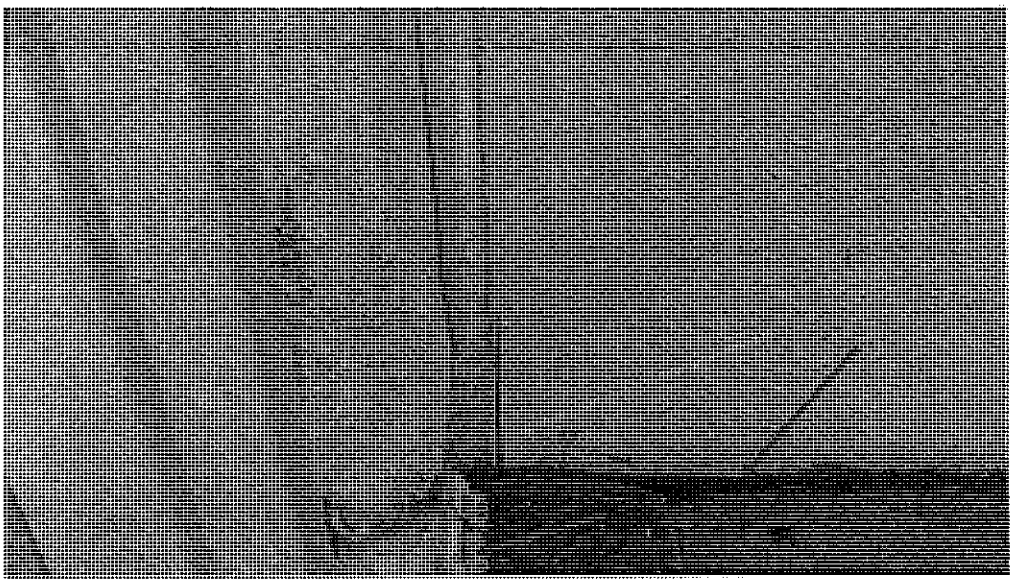
This stair presents problems in terms of moisture entry and retention of the stair landings. Exposed exterior stairs should have a slope that allows moisture to run off the tread surface and is removed by well situated drainage components. Ventilation is extremely poor in this condition which adds to the corrosion problem.

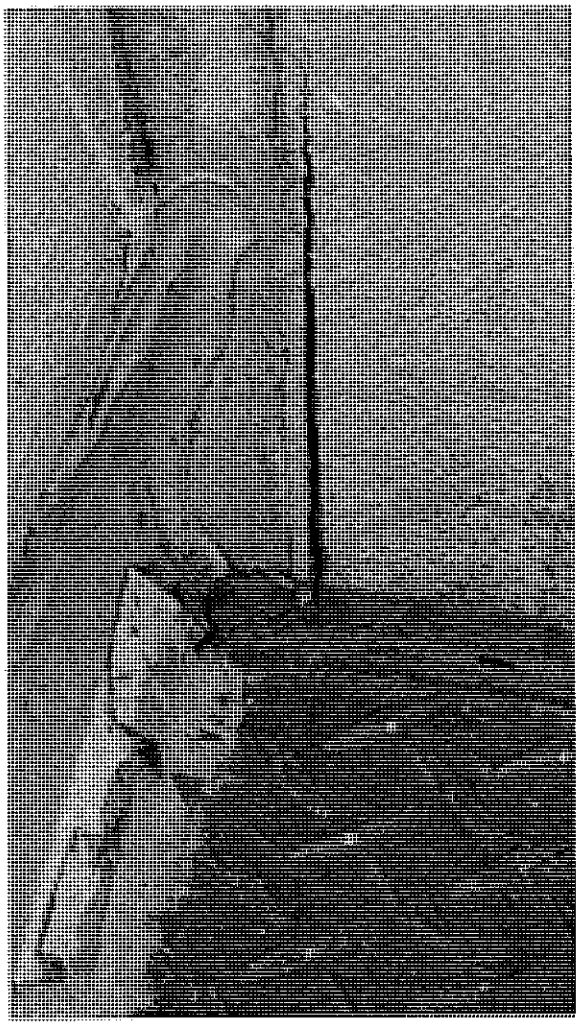




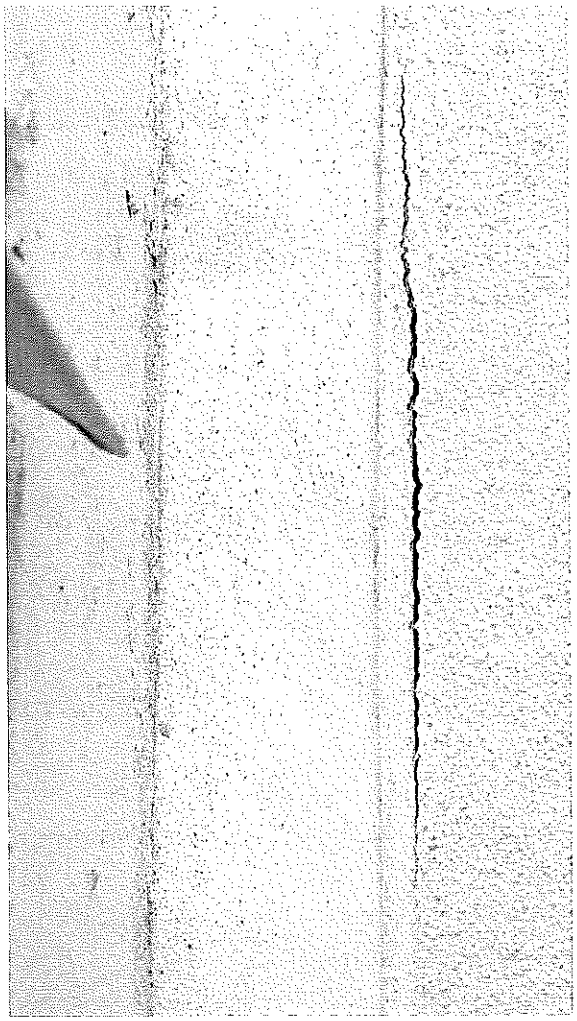


Block staining of retained water residue and organic growth resulting from retained water (yellow arrow) are visible at bottom stair landing. The cover plate at the expansion joint is moving and is a source of water entry.

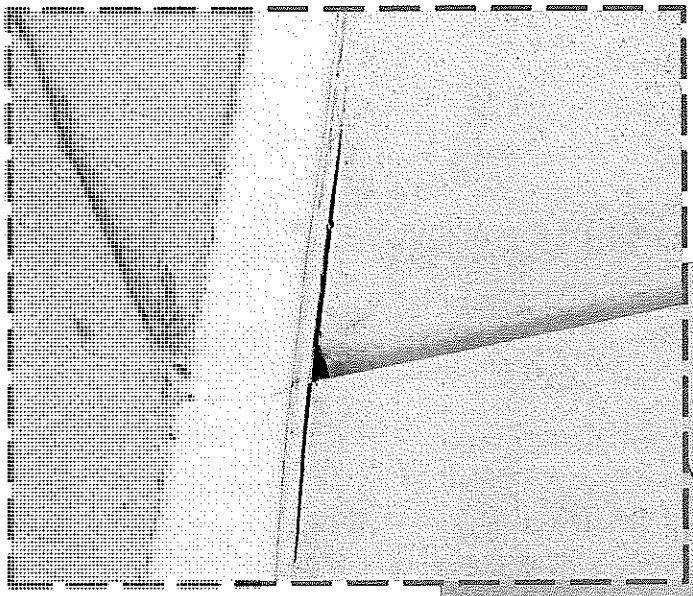


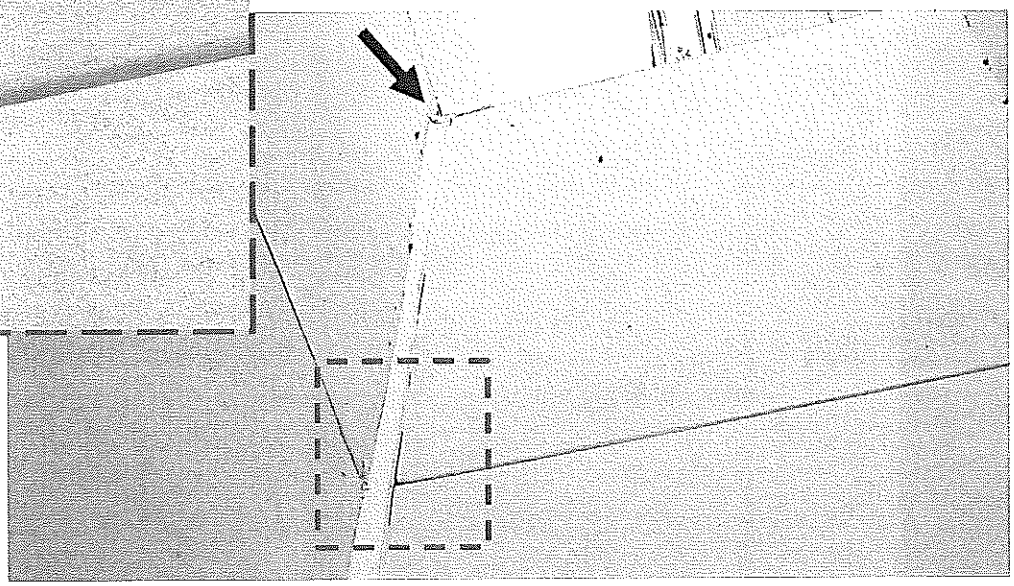


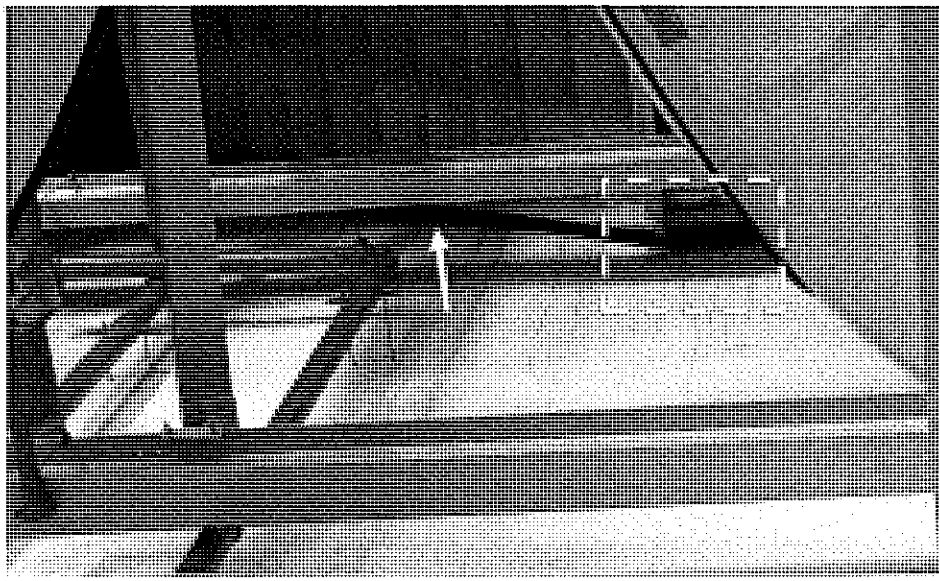
The crack above and at left is at the stucco wall perpendicular to the east façade, which is at the landing of the stair, at the expansion joint between the two buildings. The vertical expansion joint has had additional sealant material (see blue arrow). The open cracks at the vertical juncture of the stucco and joint as well as the steel plate juncture with the bottom of the east façade wall are not considered a permanent expansion joint condition. Sealant is only a secondary or short-term mitigation of water intrusion and the application of sealant is far beyond the material ability to accommodate multidirectional movement. Sealant on a horizontal line of juncture where subjected to water lying on the surface is not a condition approved by backer rod and caulk manufacturers, particularly when movement of the joint is present. (see purple arrow)



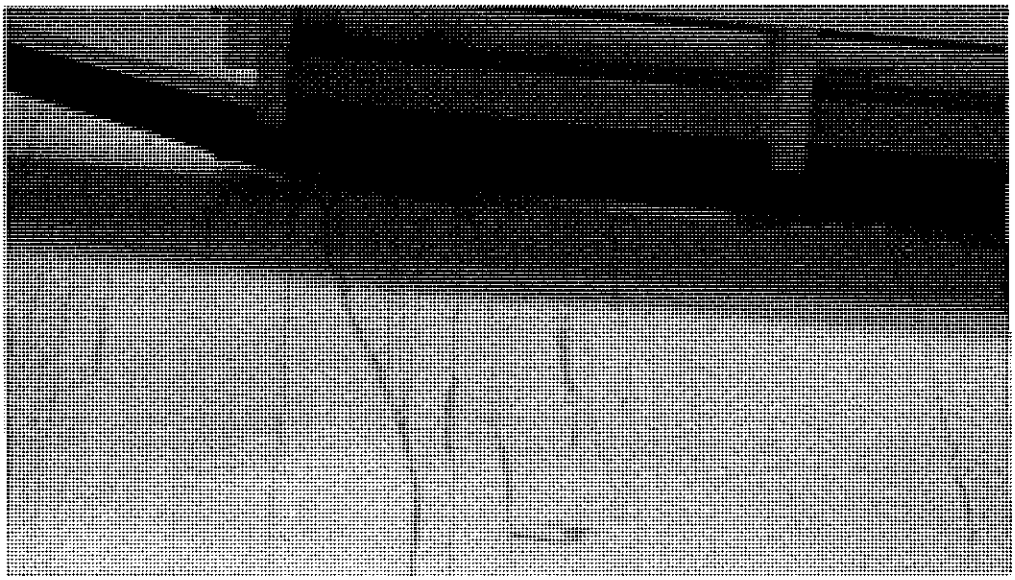
The photos on this page show the failures along the expansion joint near the head of the door above the stair landing shown on the previous page. This condition is a multi-directional expansion joint between the buildings which is not accommodated by the joint provided. Note the top of the stairwell wall at the east façade wall is also a water intrusion problem.



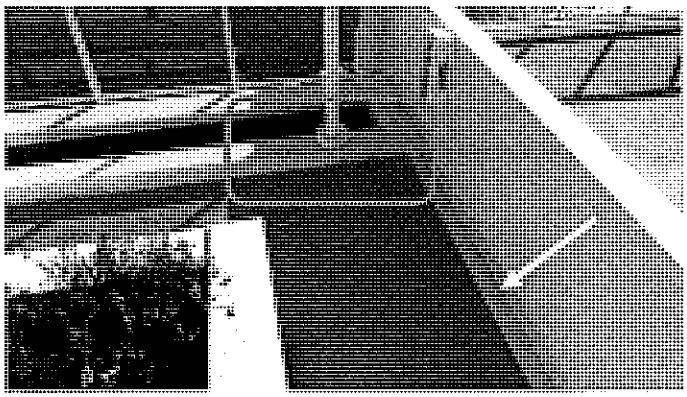




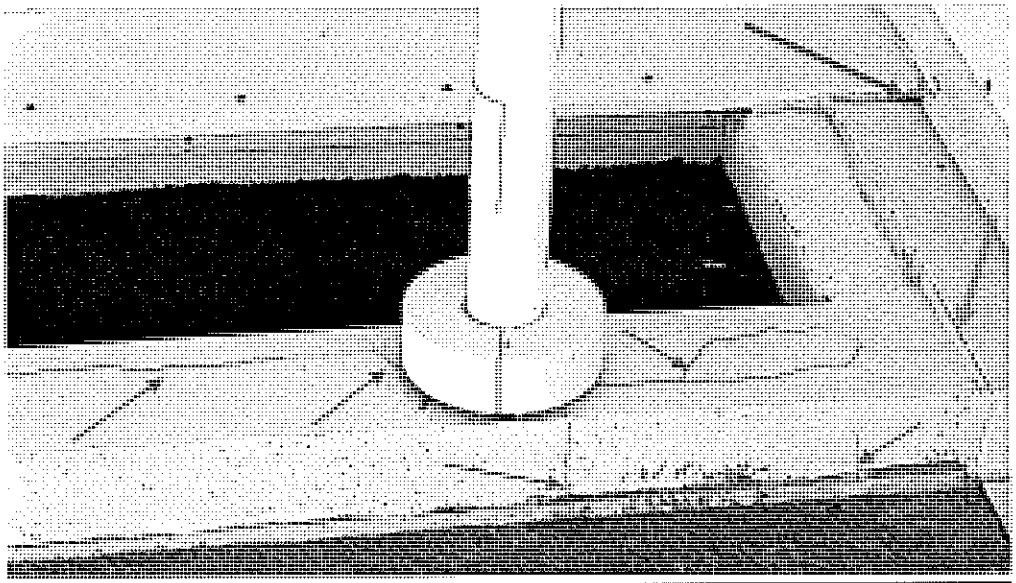
Water intrusion entering at the juncture of the landing and the east façade, where the steel plate lies on the landing surface and running up the slope up the stair stringer as well. Enlarged view below within the marina storage building.

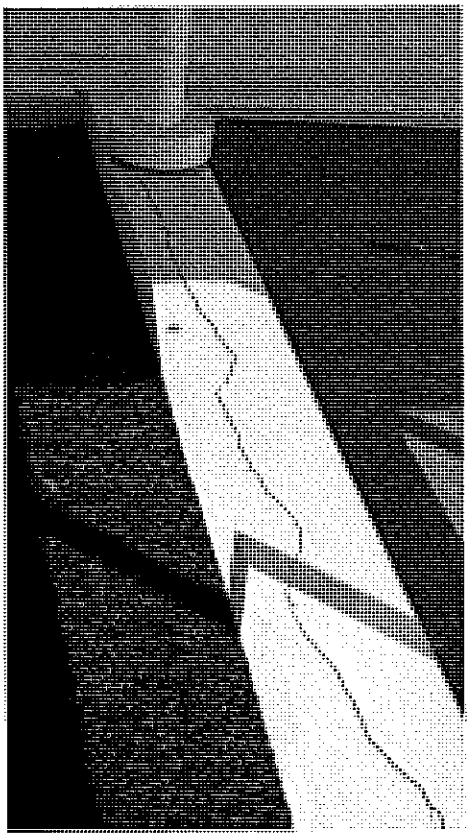


Water accumulation at the floor of the marina structure is considered at least partially due to water entry on the planter and stairwell juncture at the east façade wall of the tower.

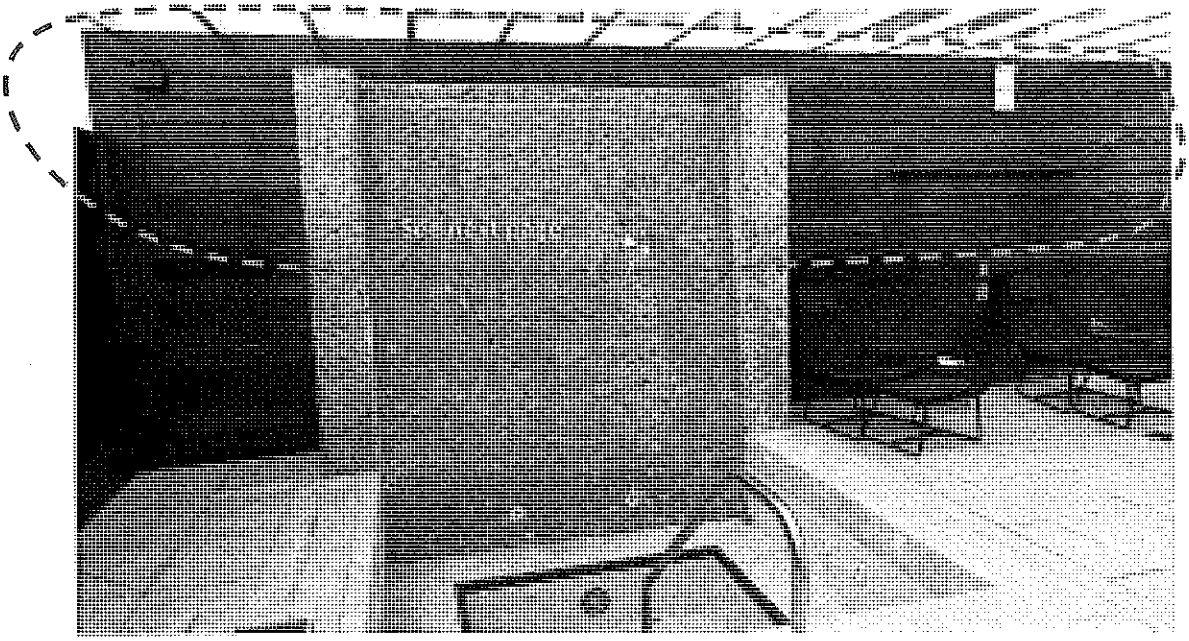


The yellow arrow shows the expansion joint at the upper walk landing of the stair. The enlarged view below shows the crack void at the metal to stucco curb juncture, and the multi-directional fracturing of the curb stucco.

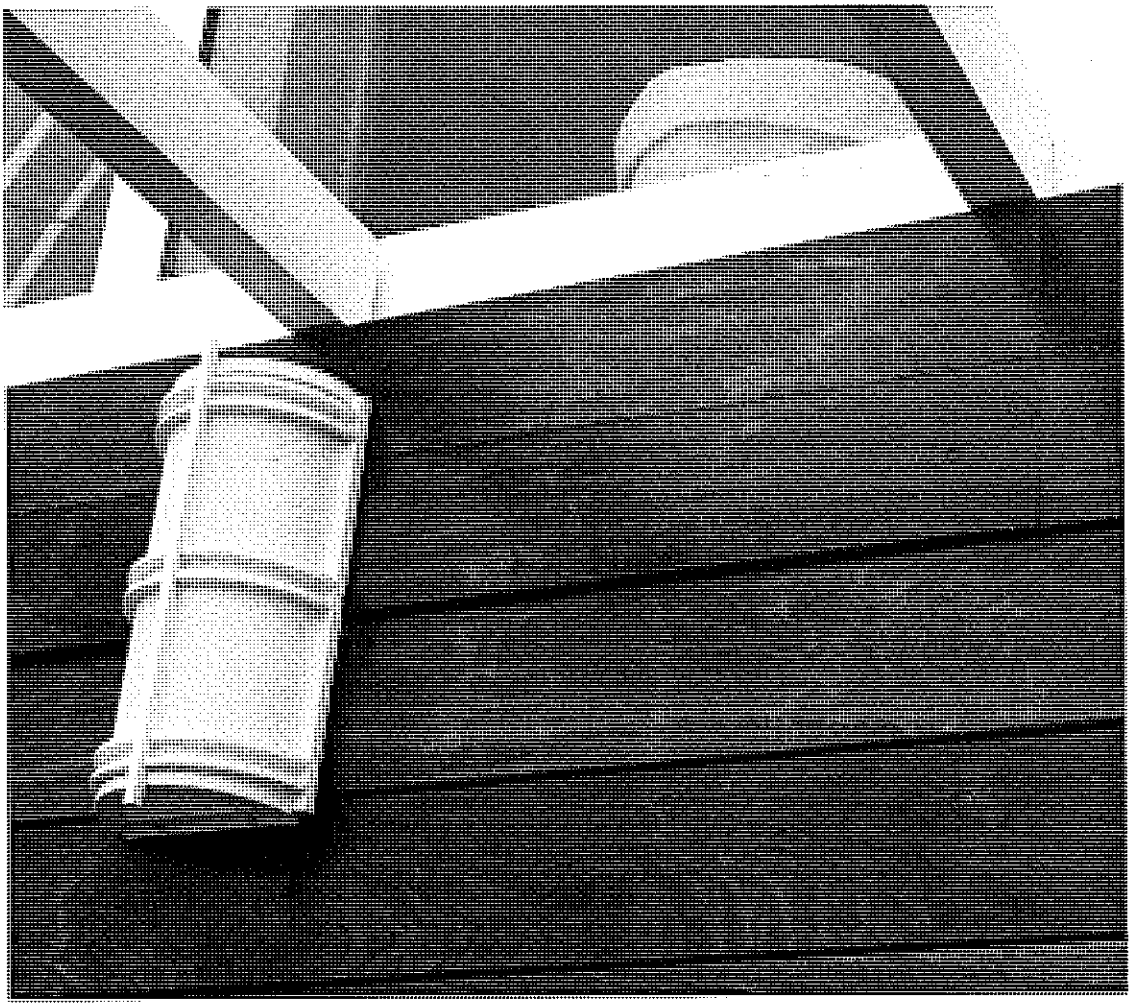


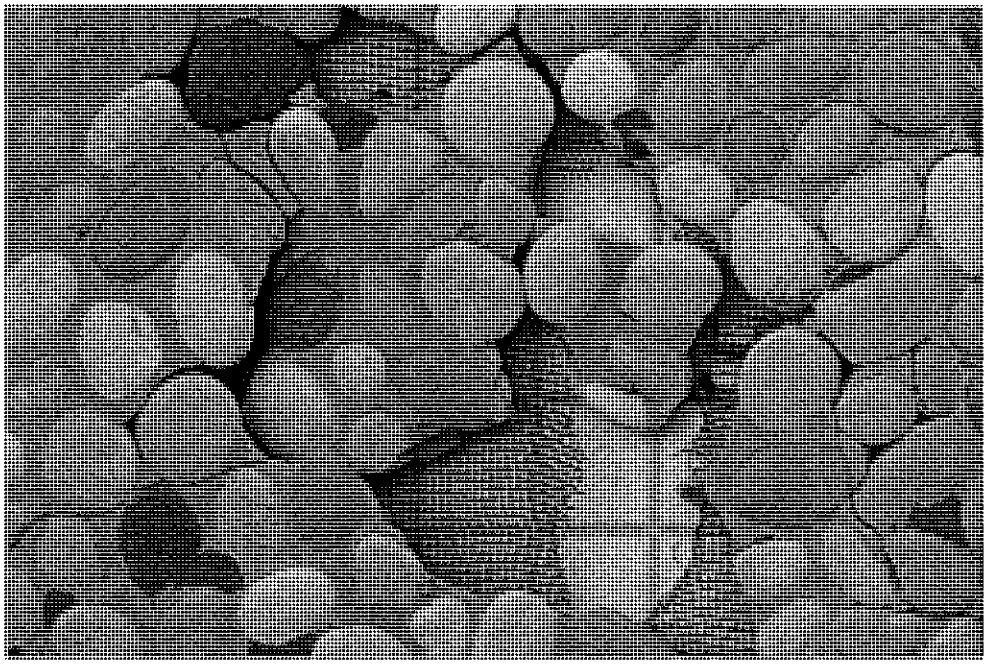


While the curb deterioration at the roof of the metal frame marina building is not on the Association property, the tennis court is considered a hereditament for unit owners, and the failure is considered related to the expansion joint problem hared by both properties.



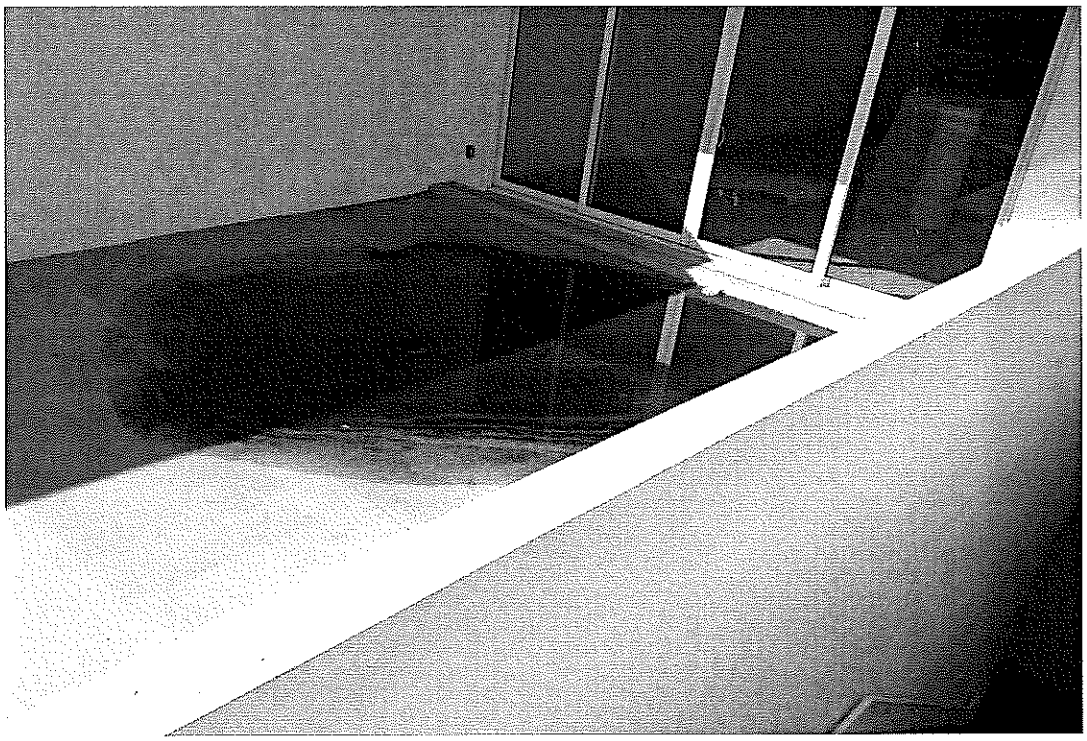
The pool deck hardwood accent walls continue to experience accelerated deterioration, as the surface finish failures as the wood is unfinished and exposed to moisture swelling as top, back and between board surfaces are largely unfinished. Different material is recommended.

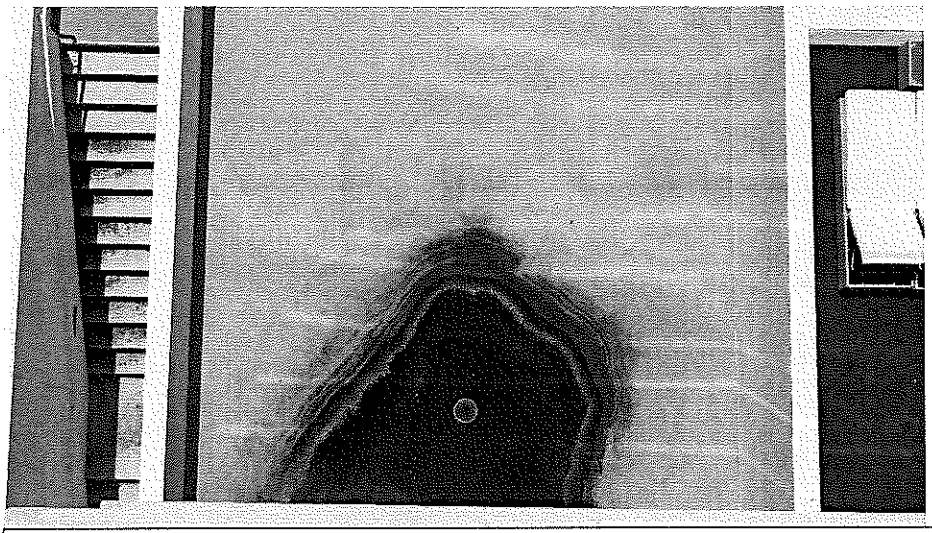




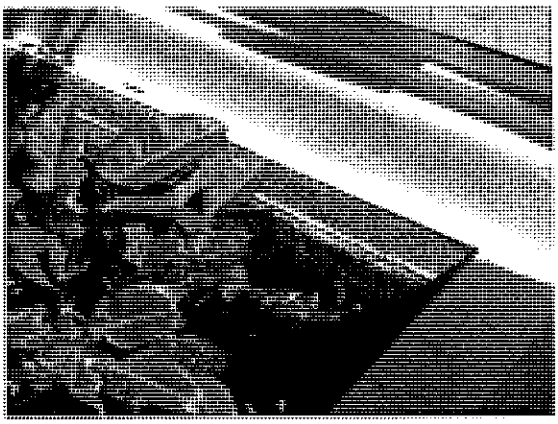
The pool deck waterfall fountains finished with smooth river-stone finish course is experiencing rapidly accelerated failure as the lack of bond of the surface stone through a polymer mesh and to the underlying tile surface is impossible.

The sixth-floor pool decks where paved, walkways where coated, and unit terraces where tiled or unfinished all share the common problem of moisture accumulation on the deck surface while inadequate drainage has been provided. All of these surfaces require re-design and reconstruction.

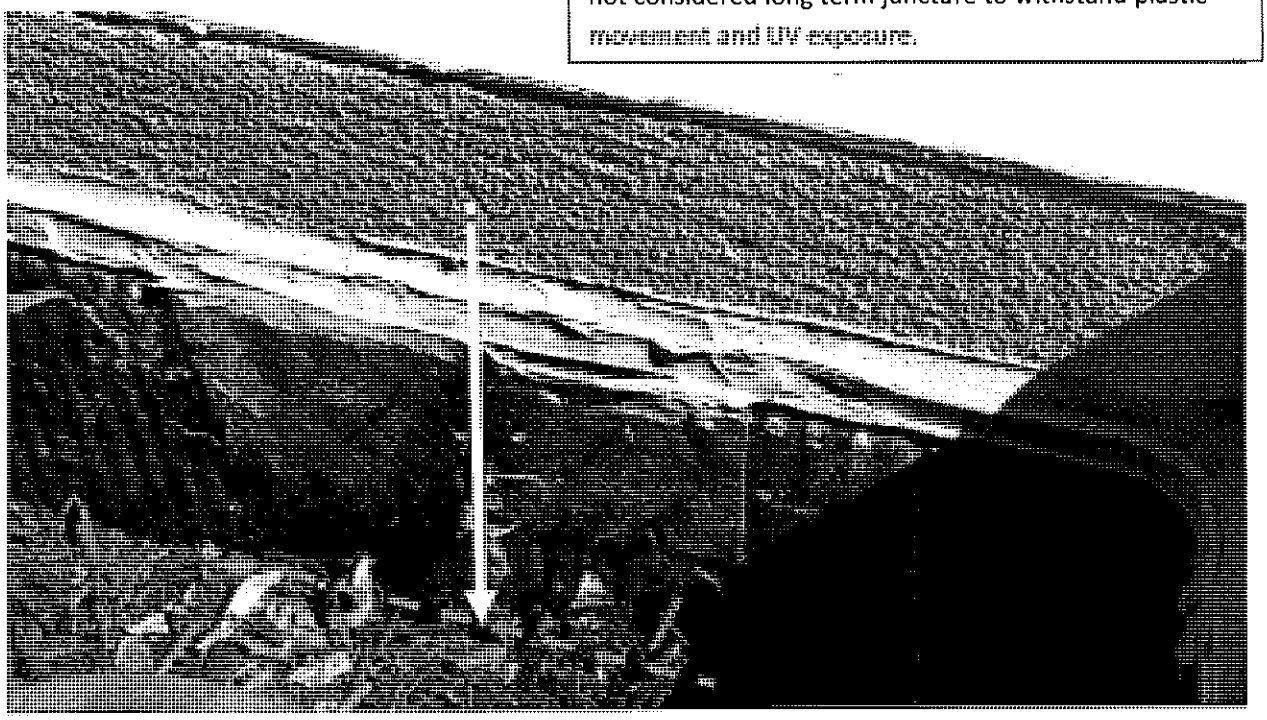


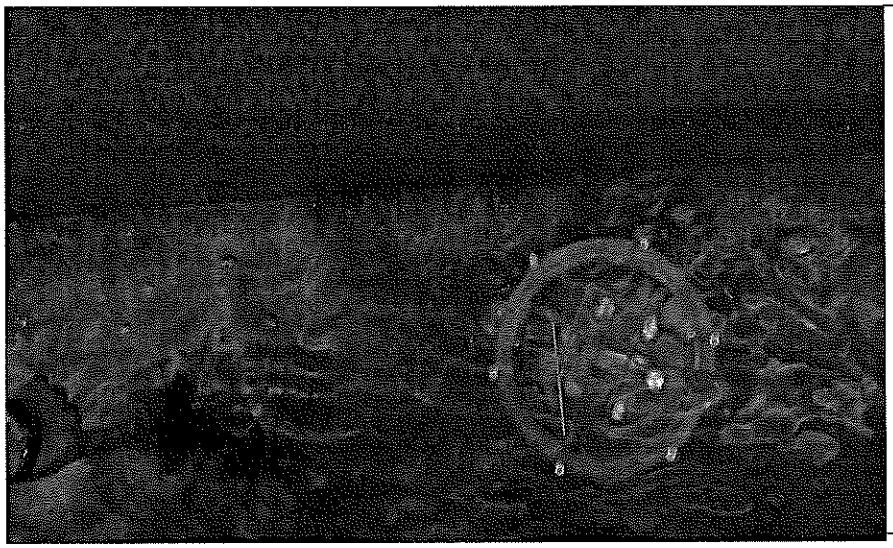


Top view of the same condition. The drain cannot remove water from the waterproof surface. The same condition is seen in the artificial turf areas, private terrace stone or tile areas and the common pool deck areas covered with patio pavers.

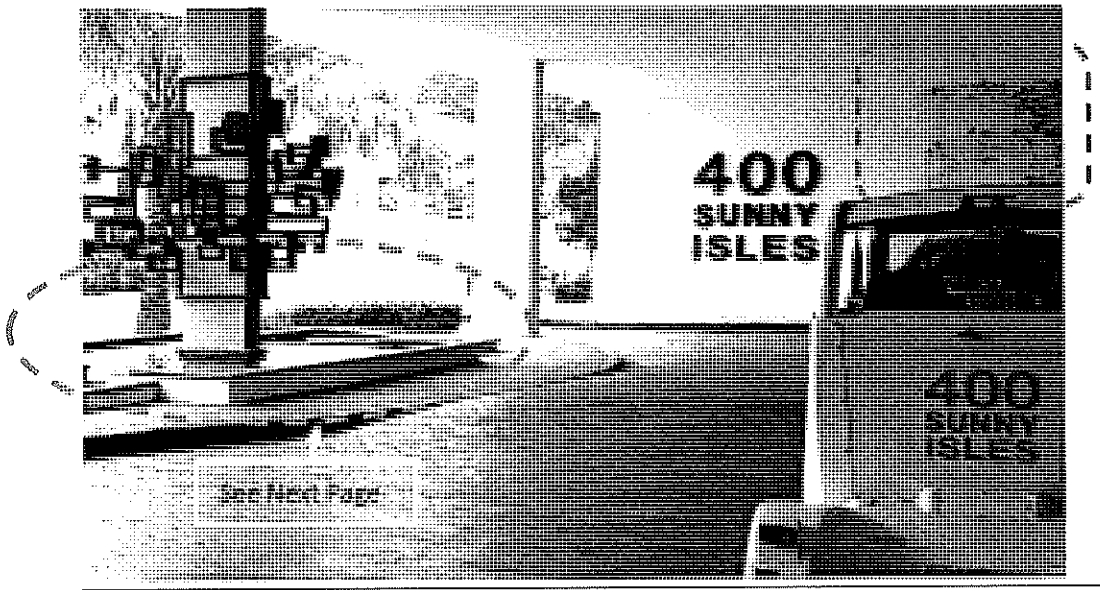


The pool deck planters have settled several inches from their original top of soil elevation. Approximately six inches of black plastic water drain filter fabric / board are exposed to daylight and as these components are not UV rated, they are rapidly deteriorating. Often planters are initially filled with light weight peat and mulch that decomposes and exposes the sides of the planter. This is not a condition that can be reasonably maintained. And should be provided with a stable soil level. Drainage mats need to be replaced where damaged. Sealant at top is not considered long term juncture to withstand plastic movement and UV exposure.

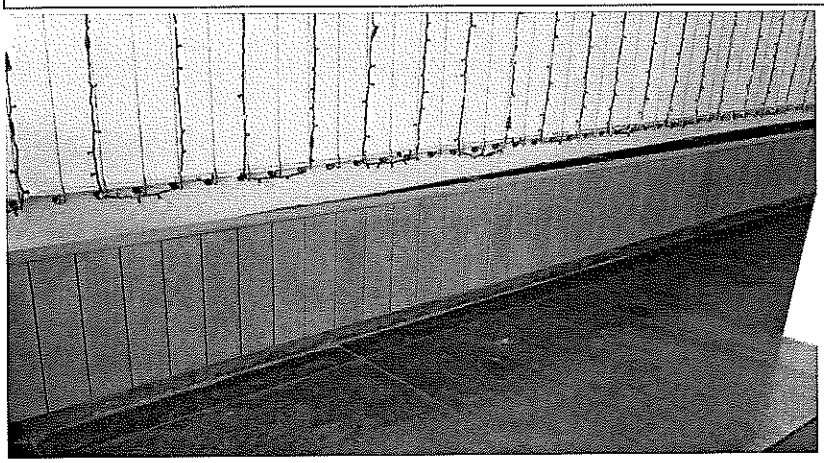


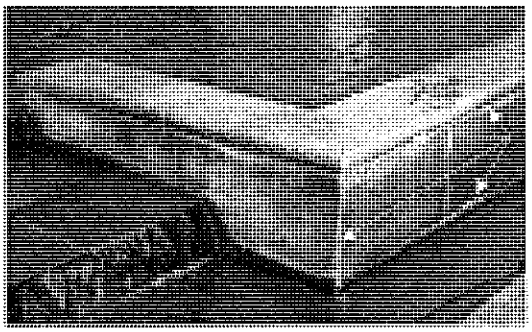


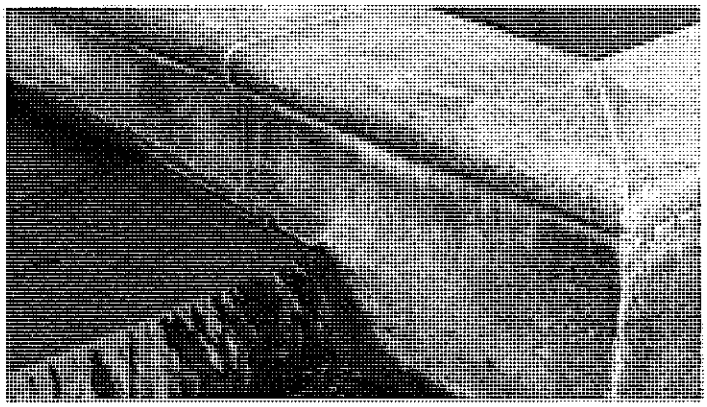
The lobby fountains have an electrical junction box located in the water filled, bottom trough, which powers the multi light underwater fixtures. These fixtures regularly short out and it is not certain whether the light fixture power load is a bit too high or if there is a leak into the junction power box, but the problem is recurrent and applies to the various lobby and outdoor fountains.

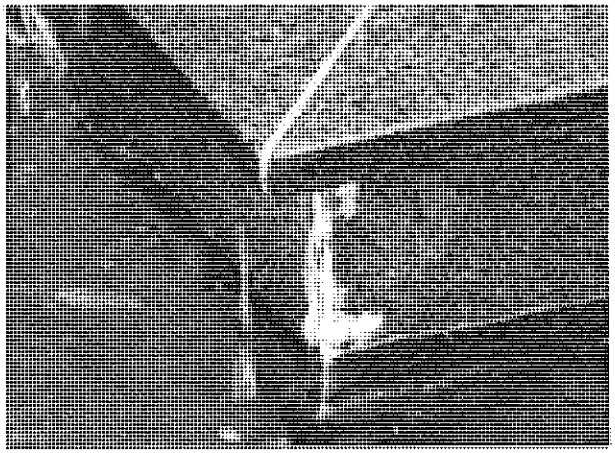


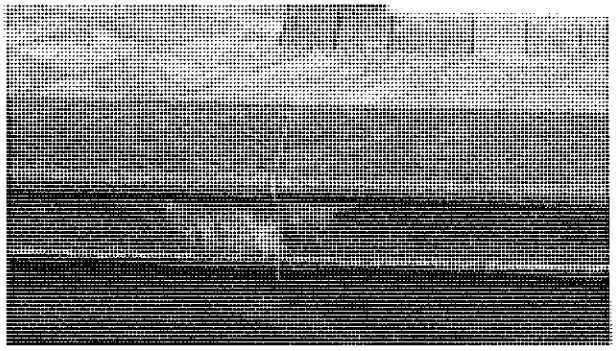

Above, the valet driveway is provided with a metal cable grid that is meant to support vines in a wall pattern. This design detail is failing due to the lack of natural light to adequately sustain the plants. Supplemental LED lights of frequency in sync with the plant type will support growth in this shaded space and is a proven approach. There are currently some strings of holiday lights in this area, so there may well be adequate electricity to supply the strings of LED grow-lights.

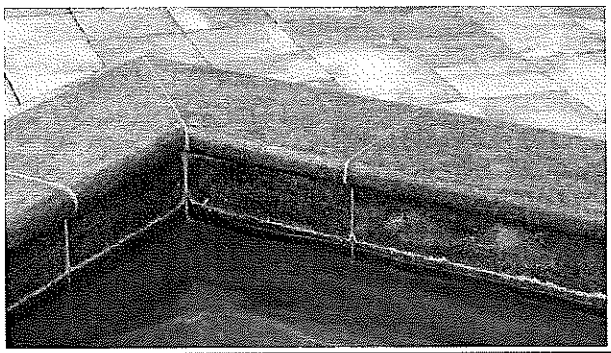


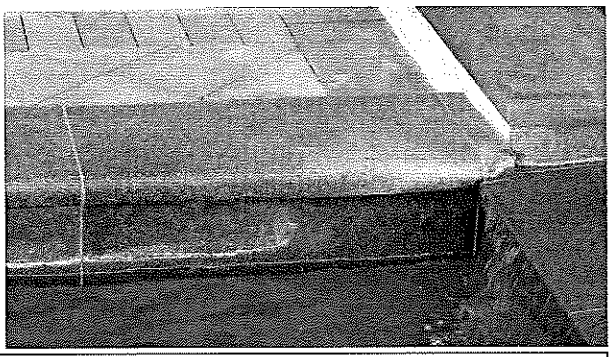






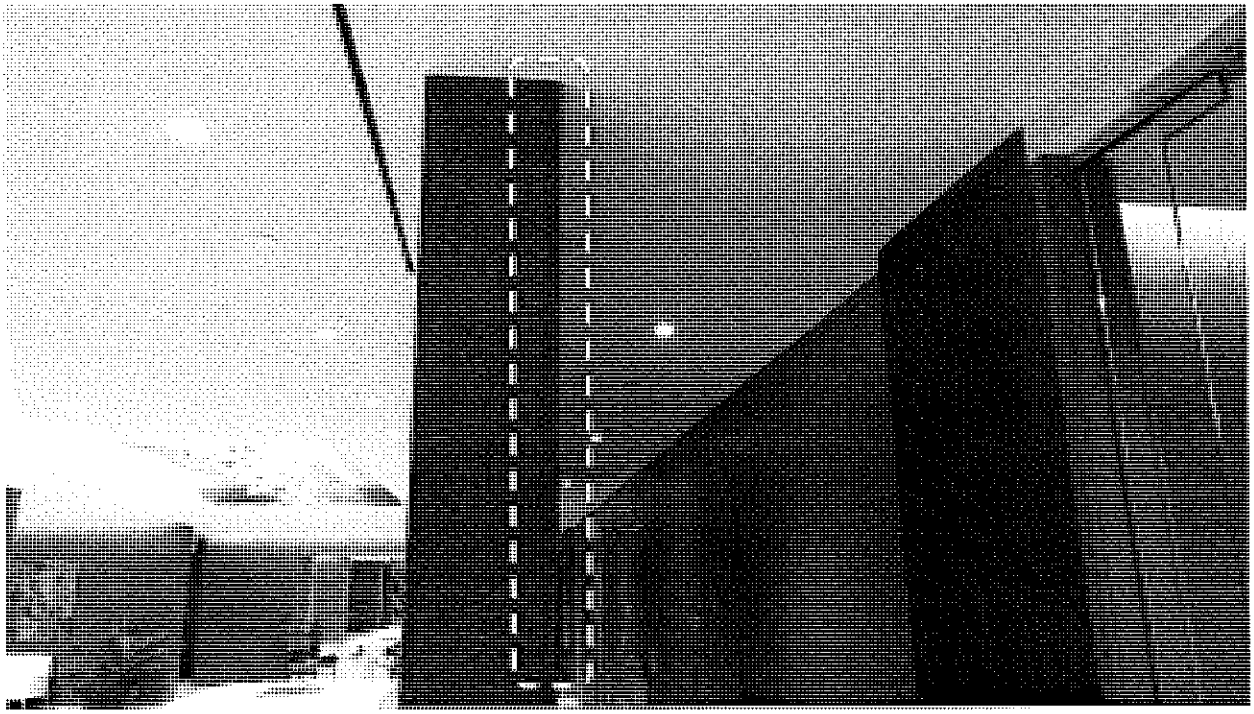


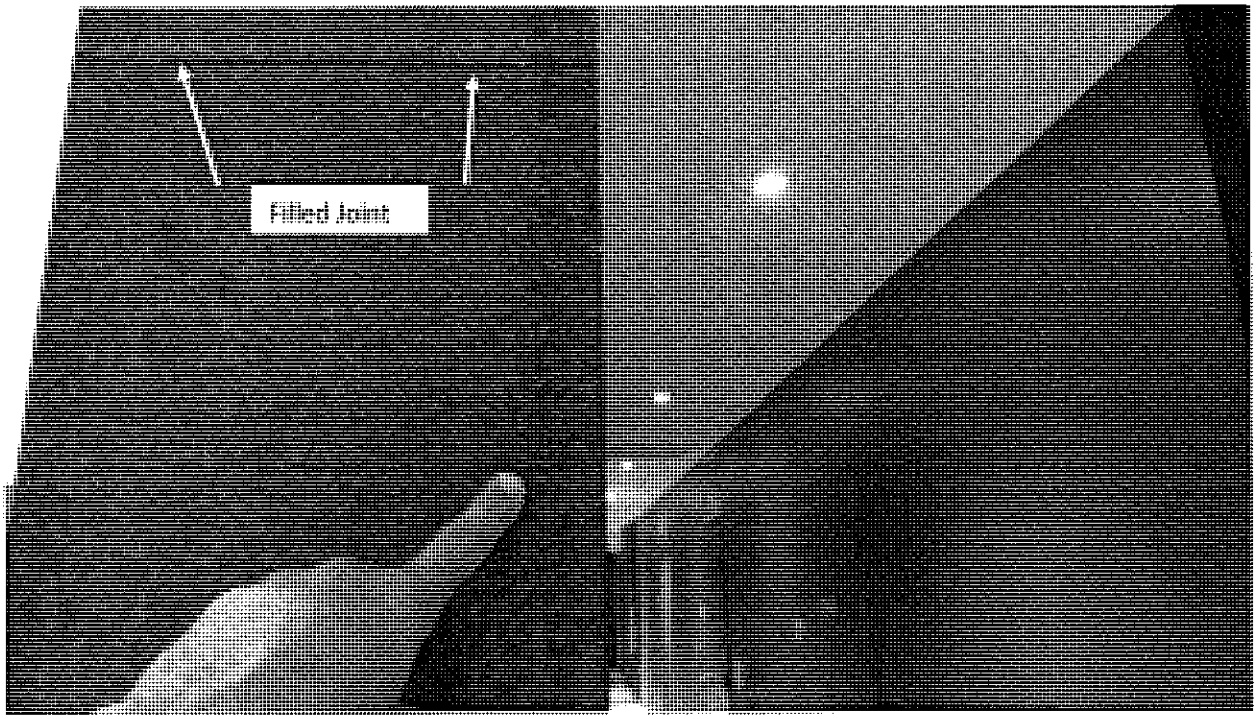


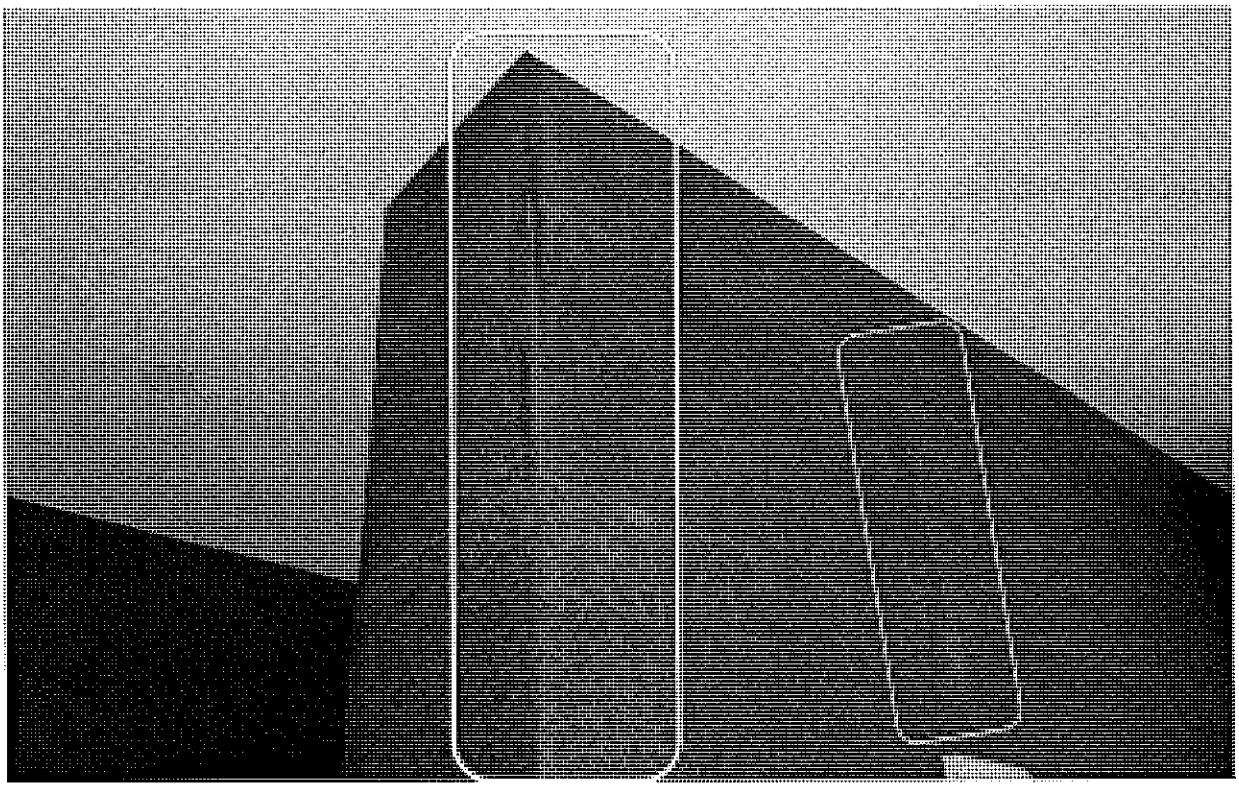


The white mineral deposits on the black fountain stone are due to deposits of water bourn minerals being deposited along joint and partially wetted surfaces. The recommended solution is to waterproof the perimeter of the fountain exterior from the surrounding concrete pavers, mortar beds sand setting bedding and joint sands to prevents the mineral deposition. The chlorinated water and marine environment cause dissolution of minerals. The fountain itself should be constructed of chemically resistant grouts, setting beds and jointing to minimize mineral efflorescence issues.

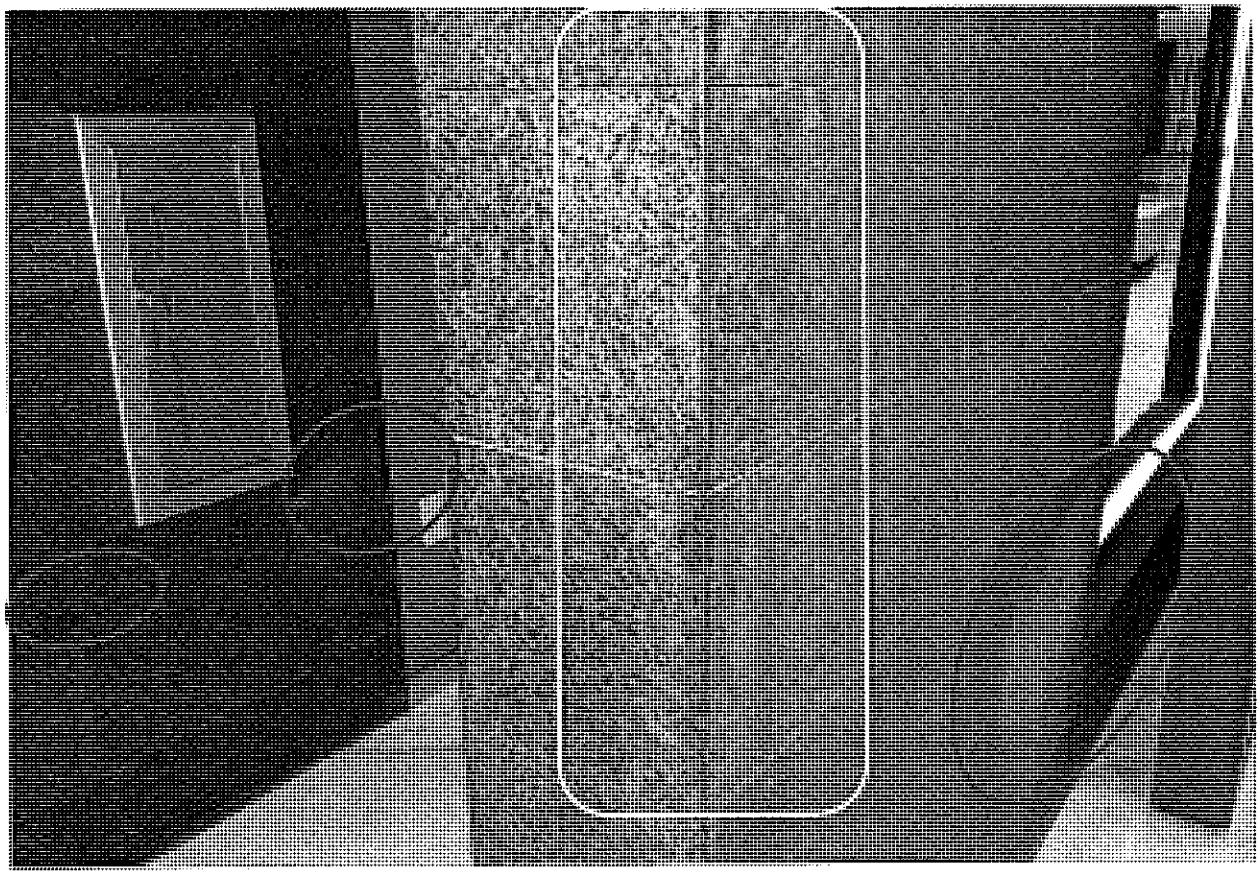
Lobby stone finish Problems have been noted where sealant material at corner joints or other joint locations have caused some darkening of adjoining stone surfaces. This has also been observed in the elevators. The issue follows corner joints (and some other joints) where a dark sealant material is used to fill the joint. This dark filler seems to cause a darken adjoining area of the stone either as an oil seeping into the stone matrix, or a silicone type surface flow.

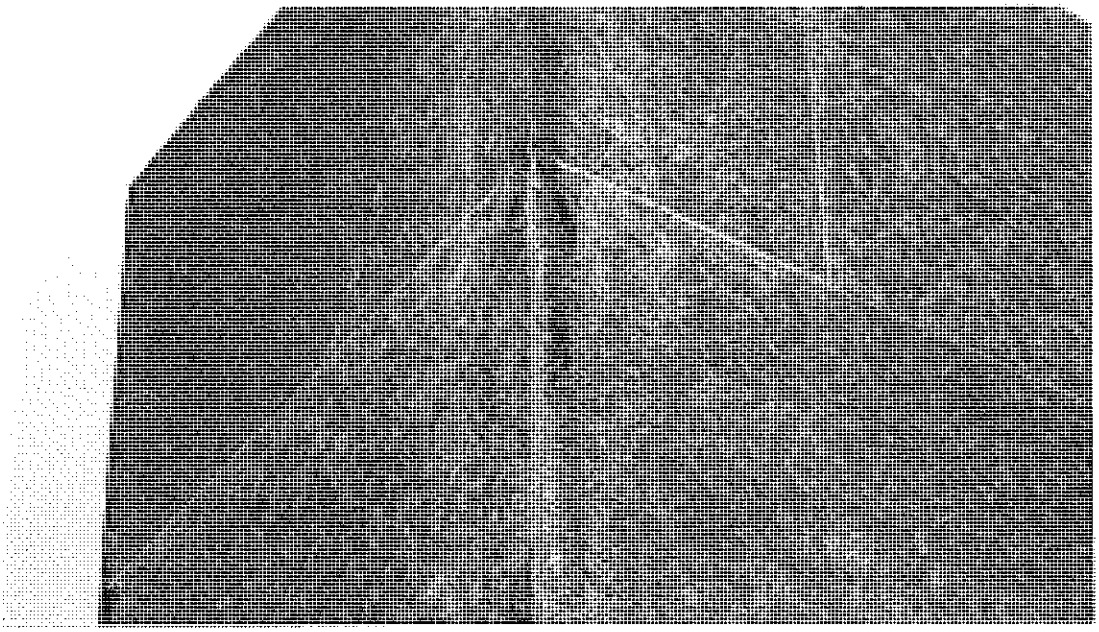




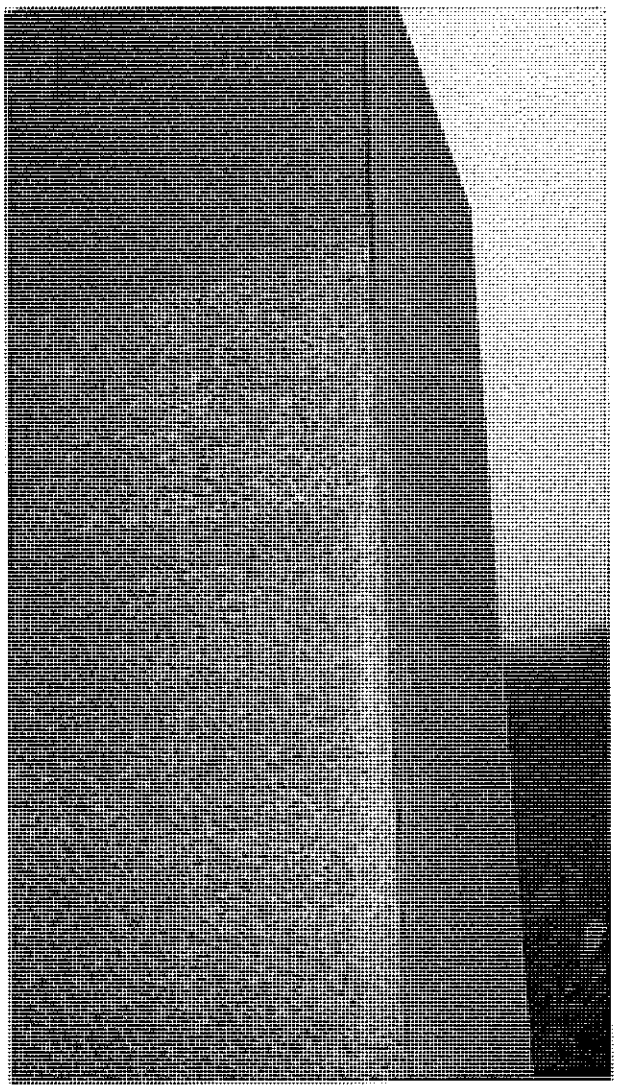


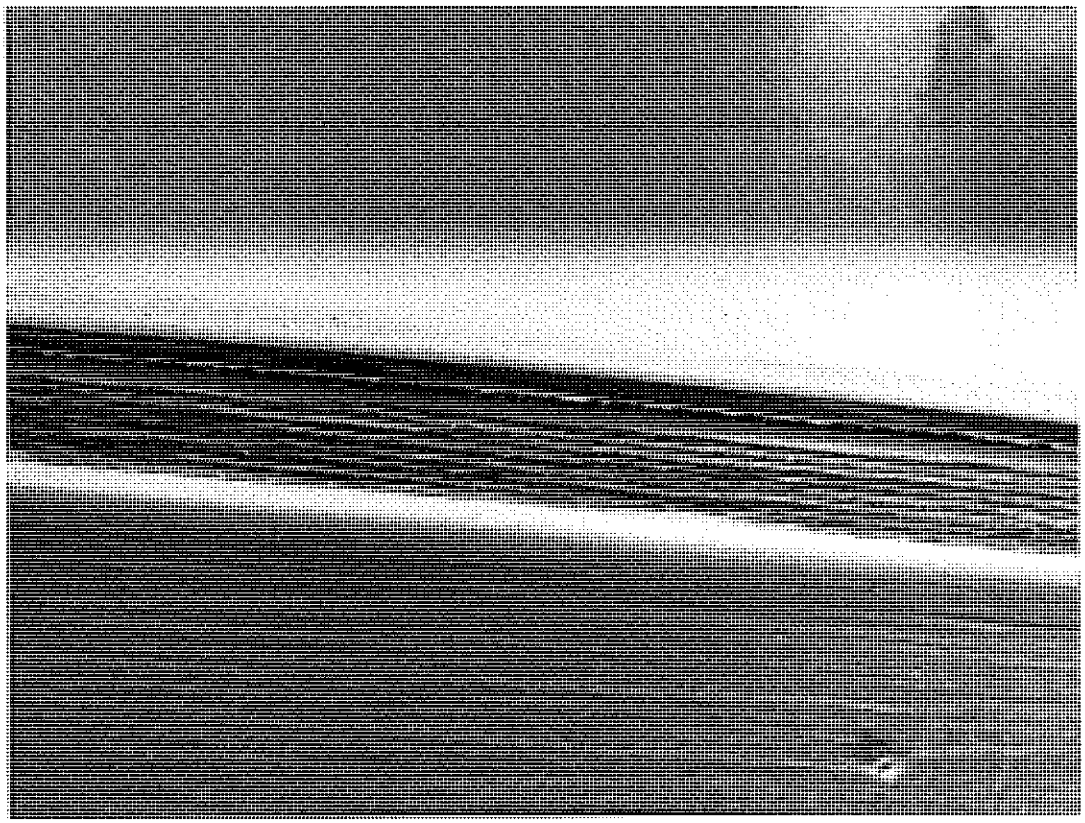
Light stone surfaces are typical around these joint locations as it appears harsh muriatic acid or other highly caustic cleaning application was used to remove the surface staining. This may also have been related to abrasive cleaners.



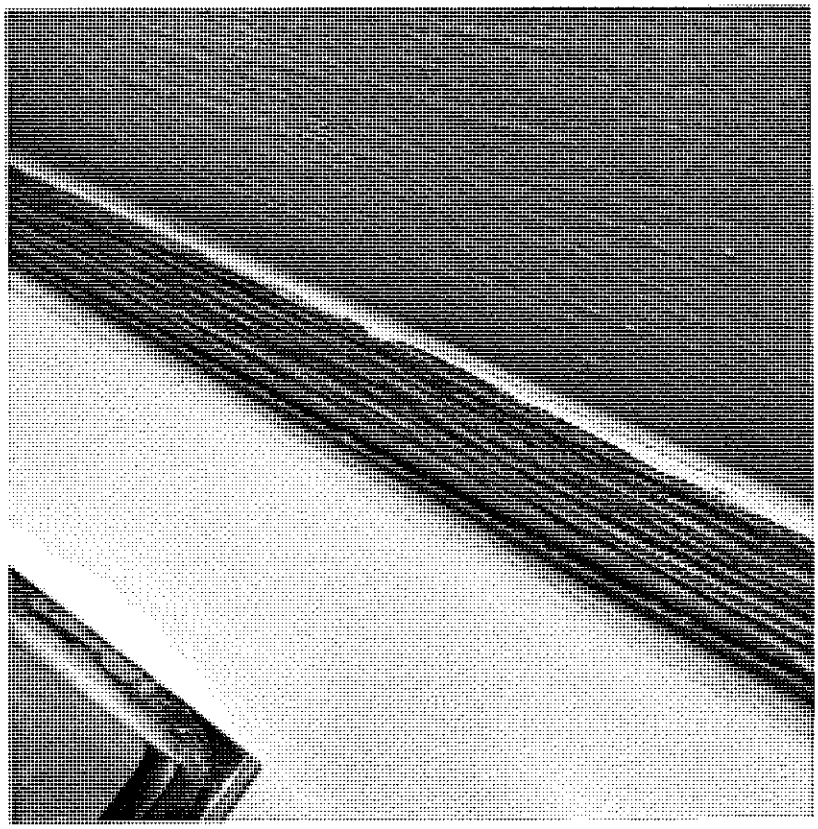


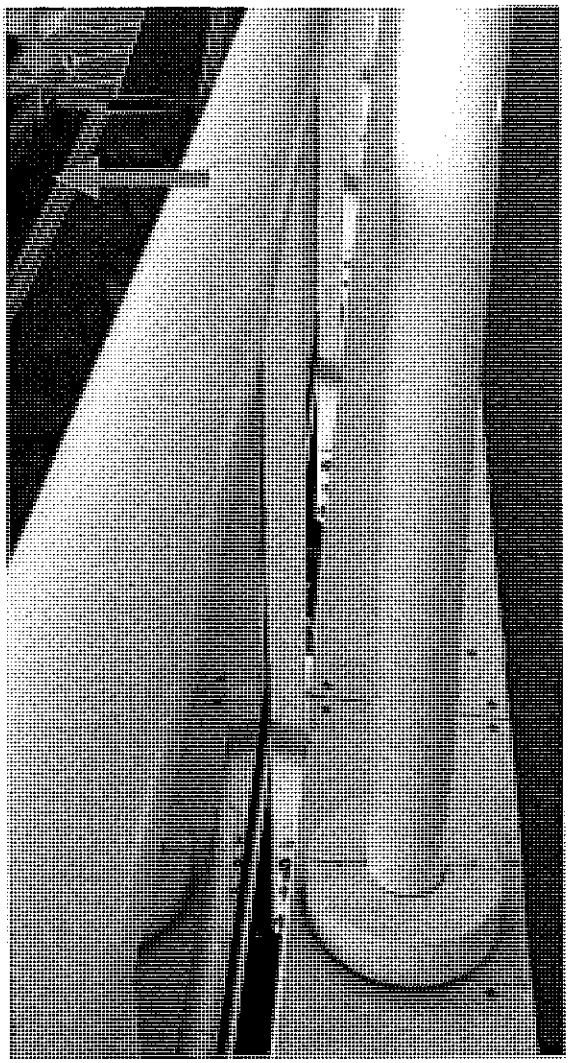
Some dark staining appears to be continuing in areas that have been "lightened by previous cleaning and/or abrasion.



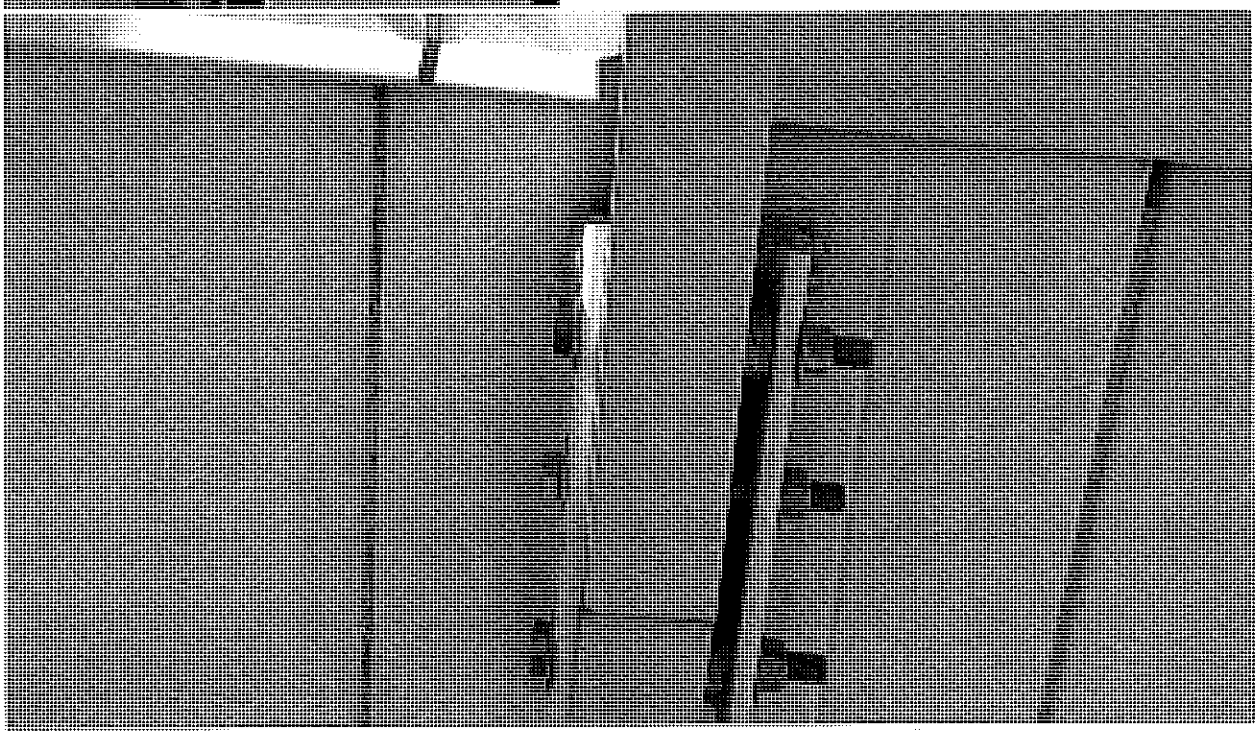


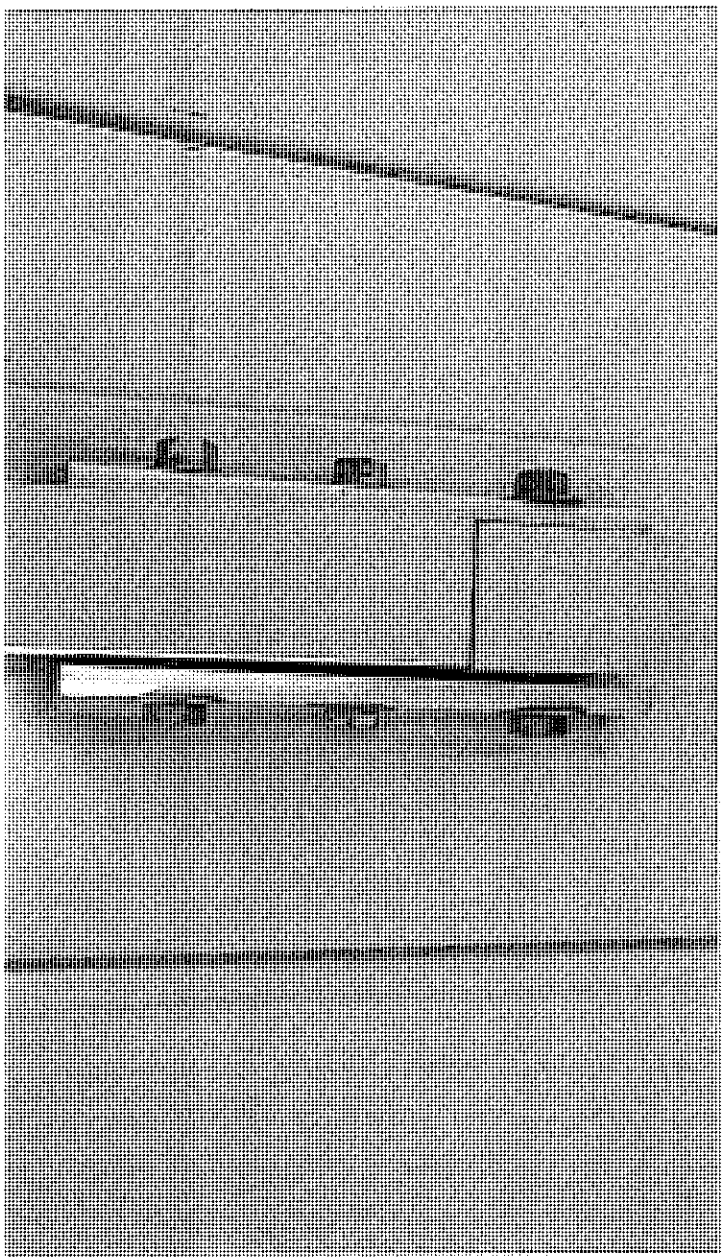
There is insufficient dimension provided at the back splash to protect the finishes at the juncture with the wall.

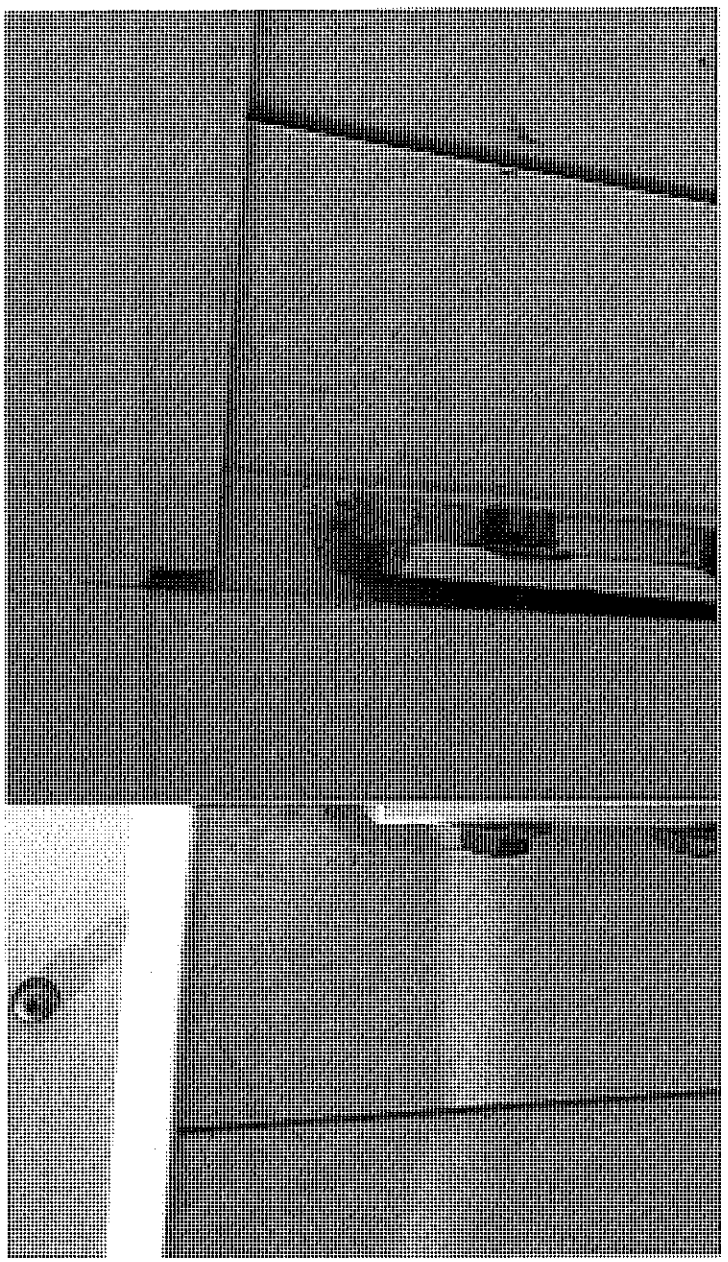


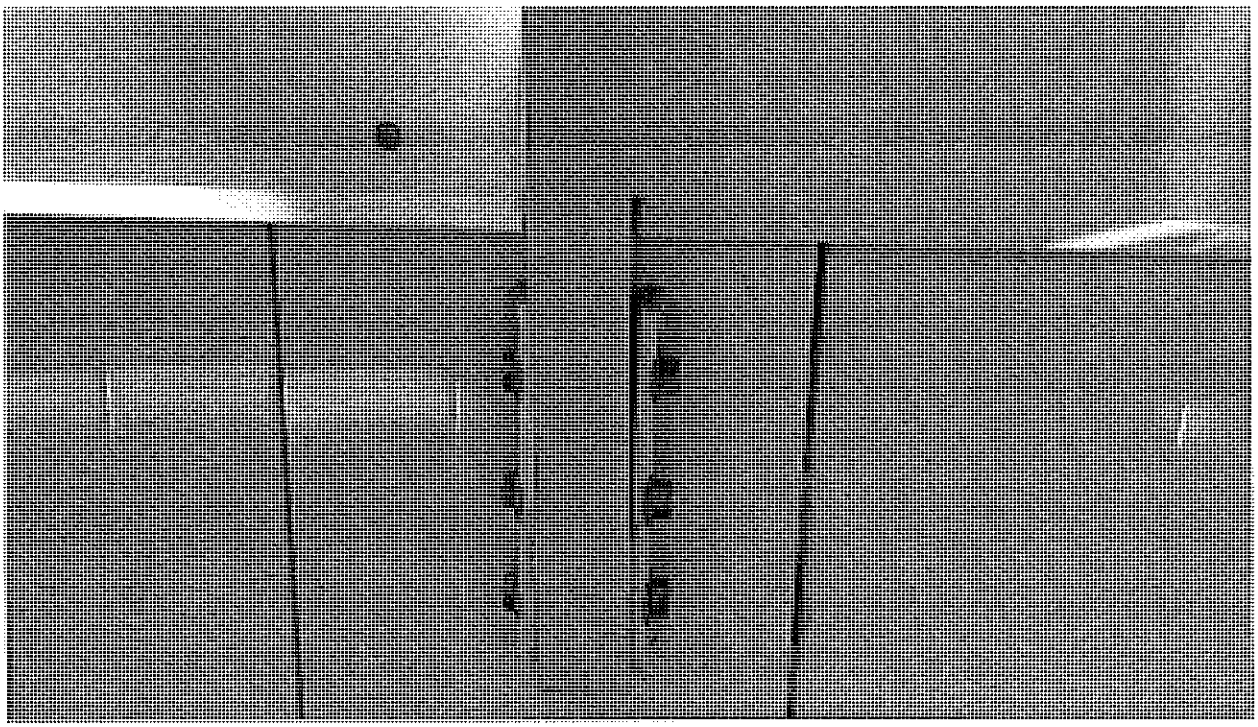


The following railing photos were taken at the tennis court walkway where it was noticed that the railing on the top of the pre-engineered steel building were loose and deflected laterally. Closer examination showed that some of the railings were not cut to the correct length. Some of the mounting brackets were spaced incorrectly or were twisted. These conditions must be refabricated and reinstalled.









Conclusion:

Time lapsed since the initial turnover report observations has brought past noted deterioration problems into attention as some areas are experiencing acceleration of deterioration. Additional issues are also coming to light over time which were not noted in the original report, and subsequent component damages are beginning to come to light which were not evident in the original description of concerns.

## Jeffrey D. Green

**From:** Jeffrey D. Green
**Sent:** Thursday, August 23, 2018 2:51 PM
**To:** 'larmoyeuxjrm@gtlaw.com'; 'Chris Barber'; 'Martin Gierlach'
**Cc:** Stacey Horvath
**Subject:** RE: 400 Sunny Isles Notice of Supplemental Defects Chapter 558, Florida Statutes; Plumbing

Hello All,

As a follow up to the plumbing issues, the following units are in need of urgent attention based on sewage backup.

- 301, 401, 319, 419, 703, 603

Please advise regarding the next course of action.


# Jeffrey Green, Esquire

Kaye Bender Rembaum, P.L.
Attorneys At Law

www.KBRLegal.Com

**1200 Park Central Boulevard South**
**Pompano Beach, FL 33064**
**Tel. (954) 928-0680**
**Fax (954) 772-0319**
**JGreen@KBRLegal.com**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**From:** Jeffrey D. Green
**Sent:** Tuesday, August 21, 2018 4:54 PM
**To:** larmoyeuxjrm@gtlaw.com; Chris Barber <Cbarber@mmdpa.com>; Martin Gierlach <MGierlach@mosscm.com>

**Cc:** Stacey Horvath <Stacey@KBRLegal.com>
**Subject:** 400 Sunny Isles Notice of Supplemental Defects Chapter 558, Florida Statutes; Plumbing

Gentlemen,

I received the enclosed correspondence and enclosures from the property manager at 400 Sunny Isles regarding a plumbing defect at the condominium buildings. Please note that an improper oversized screw was utilized in the clean outs that has caused major sewer flooding inside various units.

Please add this issue to the supplemental 558, and address in your forthcoming response. The Association will provide access to Moss and its subcontractors for any necessary inspections.

Sincerely,


## Jeffrey Green, Esquire

Kaye Bender Rembaum, P.L.
Attorneys At Law

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Good afternoon Jeff,

I trust this email finds you well.

I have attached a letter communicated to management by a certified license plumber, along with pictures supporting his conclusion. Robert has identified a global issue. Since the beginning of the year, we have experienced four major sewer flood inside of units as a result of this issue. ***All four were from a common cause, an oversized screw driven in at the end cap***. This you will see clearly in the video.

# ROBERT'S PLUMBING SERVICE CORP

*7863 NW 174 STREET, MIAMI, FL 33015* *OFFICE: (954) 549-5296* *LIC# CFC-1428167*

Proposal Submitted To: **Cynthia Marquez**
Property Address: **400 Sunny Isles, Sunny Isles Beach Blvd, FL, 33160**
Date: **04/03/18**

---

After performing and snaking out clogged up drains, we have come to the conclusion that you will need to locate all the clean outs and remove the longer screws and install shorter screws with new caps.

## Jeffrey D. Green

**From:** Jeffrey D. Green
**Sent:** Friday, August 24, 2018 5:15 PM
**To:** 'Christopher D. Barber'; Martin Gierlach; Andrew Sewell; Brian Lachowicz; Don Atkinson; Waldyr Silva
**Cc:** xavierdrywallcontractors@gmail.com; 'Danny Sabag (drywallcontractorscorp@gmail.com)'; Phil Adams; Cynthia Martinez; Jeff Jean Pierre; Edward Jolliff; Val J. Prophete; Jason M. Clark; Kim Gessner; Sydney Greenwood; Lenora E. Priddie; Jill A. McHale; Daney Guzman; larmoyeuxjrm@gtlaw.com
**Subject:** RE: 171110-293 175 - 400 Sunny Isles - 715E - N Elevation Inspection Recap
**Attachments:** Sunny Isles Stucco 8-22-18 (003).pdf

Chris,

Please see Don Atkinson's response to your question below. In addition, I am enclosing a copy of a preliminary report by Don Atkinson regarding unit 715 and the concrete issues at the buildings. – Jeff Green

In regards to the hardships, although we weren't involved directly, we understand that wet and/or moldy drywall had to be removed from their unit and they may have been displaced as a result. They are living in the unit now, but the temporary drywall has been removed and they are living with plastic on their walls. This is considered an active leak and has definitely not been permanently addressed/fixed by Moss.

The sealant repair submission that Moss has provided will suffice for **temporary** waterproofing at unit 715E but is **not approved or agreed to as a permanent solution** for the issues of concern regarding the stucco and lack of correct detailing of the reveal joints. We must stress that this does not solve the ineffectively sealed vertical expansion joints which extend from unit 715E to the top of the building parapet and that there are 16 almost identical joints. In our estimation, none of them are properly sealed at butt joint locations. What Moss is suggesting to do is that they want to rework the bottom-most floor level with new waterproofing and stucco but not addressing the 160 feet of leaking reveal joints above.

THE ARCHETYPE COMPANIES
ENGINEERING · ARCHITECTURE · CONSTRUCTION

**Don Aktinson**, P.E., Architect, CBC | President

**The Archetype Companies**
900 S. US Highway 1, Suite 108
Jupiter, FL 33477

**Phone:** (561) 406-2651
**Email:** don@archetype-fl.com
**Please visit us at:** www.archetype-fl.com

**From:** Christopher D. Barber [mailto:cdb@TrippScott.com]
**Sent:** Friday, August 24, 2018 2:29 PM
**To:** Jeffrey D. Green <JGreen@KBRLegal.Com>; Martin Gierlach <MGierlach@mosscm.com>; Andrew Sewell <400Sunnyislesmgr@apmanagement.net>; Brian Lachowicz <blachowicz@Archetype-FL.com>; Don Atkinson <Don@Archetype-FL.com>; Waldyr Silva <walsil100@gmail.com>
**Cc:** xavierdrywallcontractors@gmail.com; 'Danny Sabag (drywallcontractorscorp@gmail.com)'

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# 400 Sunny Isles

## Stucco Report

August 22, 2018

**A PROPERTY CONDITION ASSESMENT REPORT**

**DONALD J. ATKINSON, P.E., ARCHITECT**

**Archetype Engineering & Architecture, Inc.** 900 S. US Highway 1, Suite 108, Jupiter, FL 33477

# Introduction

This evaluation was authorized by the Board of Directors of the 400 Sunny Isles Condominium Association. The purpose of this evaluation was to provide opinions regarding the general condition of the property improvements, with regard to the investigation of stucco and water intrusion at the building exterior. The comments, conclusions, and recommendations presented in this "Condition Assessment Report" are the professional opinions of Archetype Engineering & Architecture, Inc.

Donald J. Atkinson, P.E., Architect, principal of Archetype Engineering & Architecture, Inc. conducted site observations of the property improvements located at 400 Sunny Isles Blvd. in Sunny Isles, Florida. Archetype Engineering & Architecture, Inc. is the author of this report which was based on site observations of the building, review of construction documents and interviews with property management staff. Opinions regarding conditions of the subject property were based on visual observations, soundings of material, and non-destructive diagnostics, as deemed appropriate by the engineer.

The Report seeks to identify to the extent reasonable, construction conditions that fail to conform with approved permitted documents, fail to conform to Florida Building Code requirements, fail to conform to Construction Standards included in the Florida Building Code as reference standards (and which are therefore required by the Code), or that are considered design or construction defects failing to meet the standards of design care or standards of accepted construction practices, or workmanship. Conditions that are constructed in a manner that are considered to impose an unreasonable, extraordinary maintenance burden may also be noted. General recommendations for correction of items of concern noted in this report may also be provided, or the need for additional investigation may be advised. This report documents the findings of the site observations and investigations by the engineer.

# Moss Unit 715E - North Elevation Inspection Response

This inspection report consists of 4 pages of text and 17 pages of photographs. Beyond the 21 page report, there are additional pages of repair material specifications and information that were reviewed by Kobi Karp during the shop drawing review during construction of the building. The 17 pages of photos have black marker markings on the stucco surfaces indicating floor numbers and pointing to or tracing crack locations.

The Archetype technician that rode along on the inspections confirmed what is in the first paragraph of the Moss text that there was a hammer sounding of the stucco primarily centered in areas where cracks were observed. The entire surface area between the corner of the building and the first stack of windows was not fully sounded. The report states that they sounded the north elevation stucco from the building's northwest corner to the window's edge, identifying via black magic marker substantial delamination. They also sounded and marked out cracked locations from the corner to 3 feet south on the west elevation, photographing these locations.

**According to our technician, the sounding was centered on isolated areas where cracks were observed. These crack locations were marked and photographed by Moss. Our technician states that there was one area, approximately 2'x2' (4 square feet) that was destructively excavated. Moss's report has no photos of this excavated area. Our field technician collected dozens of photographs of the area that was destructively investigated as well as numerous locations where PVC accessories were installed in a manner that would allow water penetration behind the stucco.**

In the last paragraph of Moss's recap of the inspection states that the "Drywall Contractors performed the last four (4) tasks Moss performed", which would exclude labeling with the marker. "The Drywall Contractors then reviewed and assessed the identified locations for means of water intrusion and potential means of restoration work. They communicated and discussed their observations and restorative work recommendations with the Association's onsite Engineer and Moss's offsite representative."

**Moss delegated the responsibility for review and assessment of the stucco conditions on the exterior of this building to "Drywall Contractors". Their observations and recommendations were verbally communicated to Moss's offsite representative. The subcontractor is not a qualified forensic engineer and is not considered to be qualified to develop repair protocols or analyze the causes of stucco system failures. The first step of a stucco repair is to identify the causes of cracking and delamination as well as the sources and causes of water intrusion. The supposition section of the Moss report deals with "less than ~1 square foot" in conditions of cracking. They categorized everything as "maintenance work".**

**We disagree with the assertion that this is maintenance work. Our analysis of the photographs of the investigated areas clearly show that none of the reveal joints were bedded in sealant behind the butt joints of the reveals. This back bedding is required to waterproof the joints in the reveals. Additionally, the 2 inch reveal, manufactured by VinylCorp, has the capability of having a PVC cap snapped into it to protect the back of the reveal which would greatly reduce the probability of water entering the unsealed butt joints.**

**The scratch coat of stucco was observed in many locations to have been applied too thin. The scratch coat is required to be 1/4" thick with horizontal grooves in the surface prior to applying the brown coat. We observed that the scratch coat was frequently 1/8" thick without any grooves. The stucco was not applied correctly on the building.**

**The change of substrate behind the stucco has transitions at column locations and floor slab edges. These transitions are required to have jointing, bonding agent, or metal lath reinforcing at changes of substrate locations. Bonding agent and jointing were not provided. The metal lath was not provided but instead a polymer fiber mesh intended for use with EIFS was specified and utilized. This fiber mesh is not capable of attachment to the surface of the substrate as required by the ASTM standard and is not approved as an equivelant to metal lath by the ASTM standard referenced by the Florida Building Code.**

The sealant repair submission that Moss has provided will suffice for **temprorary** waterproofing at unit 715E but is **not approved or agreed to as a permanent solution** for the issues of concern regarding the stucco and lack of correct detailing of the reveal joints.

# References

**PAREX USA 355 5tandard Mesh:**

**PAREXUSA**

**Reinforcing Meshes**

| | DESCRIPTION | USES |
|---|---|---|
| 355 Standard Mesh | 4.5 oz fiberglass 38 in. (96.5cm) wide mesh. Highly flexible for full walls or details. Alkali-resistant. | Standard reinforcement of Parex USA EIFS walls for impact resistance and used in Parex USA Stucco Krak-Shield assemblies. |

**ASTM C-926:**

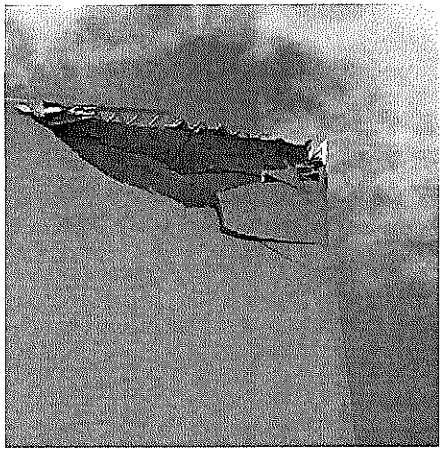
A1.6.2 Accessories shall be installed prior to the application of plaster; therefore, their type, depth, and location shall be included in the project contract documents.

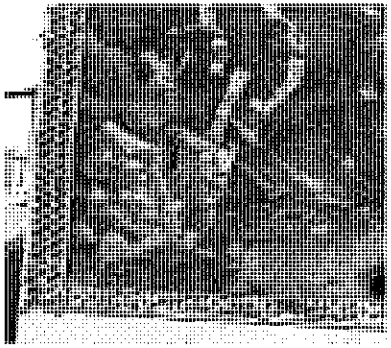
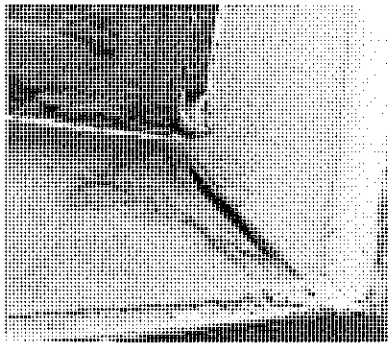
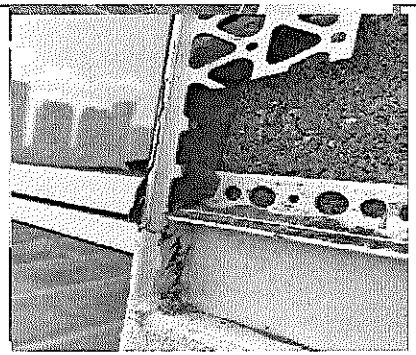
A2.1.3 Sealing or caulking of V-grooves, exposed ends, and edges of plaster panels or exterior work to prevent entry of water shall be provided.

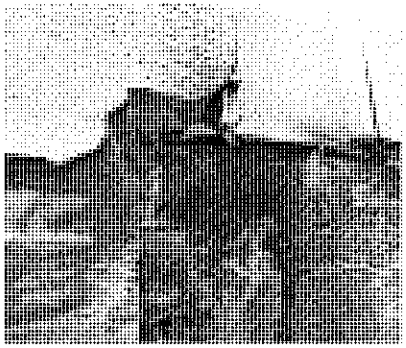
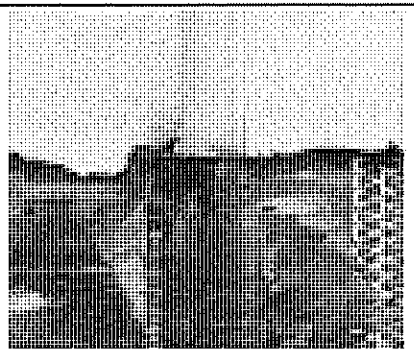
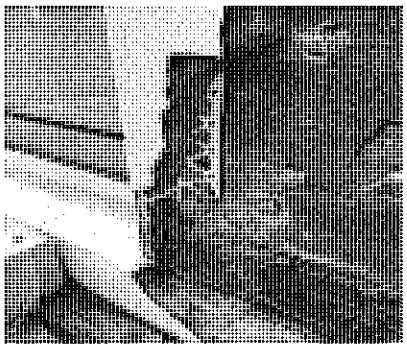
A2.1.4 To reduce spalling where interior plaster abuts openings, such as wood or metal door or window frames, or fascia boards, the edge of three-coat plaster shall be tooled through the second and finish coats to produce a continuous small V-joint of uniform depth and width. On two-coat work, the V-joint shall be tooled through the finish coat only.

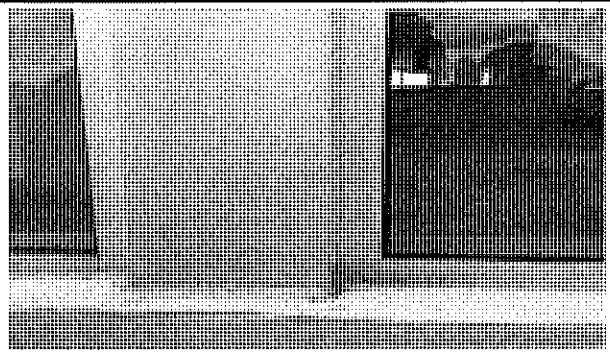
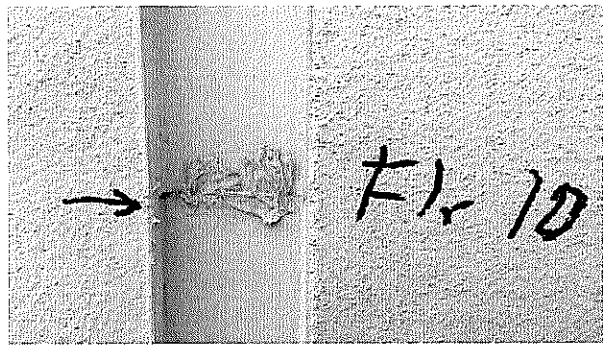
A2.3.3 Where dissimilar base materials abut and are to receive a continuous coat of plaster: (*1*) a two-piece expansion joint, casing beads back-to-back, or premanufactured control-expansion joint member shall be installed; or (*2*) the juncture shall be covered with a 6-in. (152-mm) wide strip of galvanized, self-furring metal plaster base extending 3 in. (76 mm) on either side of the juncture; or (*3*) where one of the bases is metal plaster base, self-furring metal plaster base shall be extended 4 in. (102 mm) onto the abutting base.

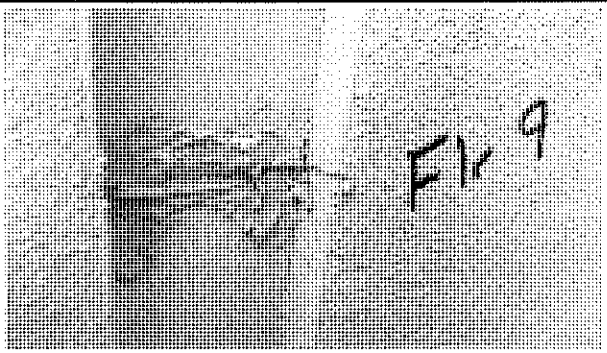
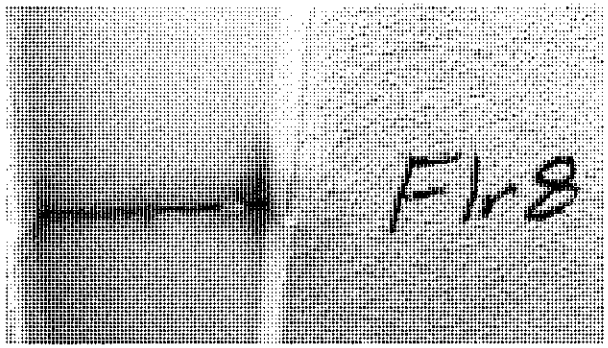
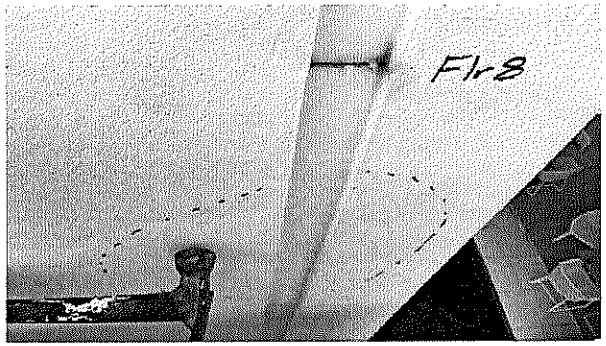
# Supplemental Photographs

| Photo # | Photo - Inspection | Observation - Inspection |
|---|---|---|
| IMG_0650 |  | Lightning Strike: Cast In Place (CIP) concrete parapet cap appears to be lacking necessary bonding agent and scratch coat ribbing. Stucco also appears to have been done as a single coat. |
| IMG_0658 |  | There appears to be no bonding agent on CIP or sufficient scratch coat ribbing. Also, check nail spacing at PVC |
| IMG_0660 |  | Appears to have one layer of stucco on scratch coat. |

| Photo # | Photo - Inspection | Observation - Inspection |
|---|---|---|
| IMG_0665 |  | Polymer mesh has been installed in lieu of metal lathe at structural junctures. (Slab to column, column to CMU) |
| IMG_0668 |  | There is no bedding behind the intersection of PVC corner. Surface applied sealant has failed due to dissimilar materials having a different expantion rate. Leaving a clear opening for water intrusion. |
| IMG_0663 |  | Stucco appears to be one layer, corner bead has insufficient fastening. |

| Photo # | Photo - Inspection | Observation - Inspection |
|---|---|---|
| IMG_0673 |  | Concrete appears to have evidence of prolonged moisture. |
| IMG_0674 |  | It appears the water intrusion is running dow the reveal joint. |
| IMG_4557 |  | Stuccco to CMU is to be 1/4", this appears to be 1/8". There is no ribbing from scratch coat visible. |

| Photo # | Photo - Inspection | Observation - Inspection |
|---|---|---|
| IMG_4561 |  | Open crack subject to water intrusion located at the joint of stucco & PVC. Sealant at window frame and stucco should be V-grooved. Stucco appears to be unfinished (rough), this will require further investigation. |
| IMG_45S8 |  | Cracked and delaminated stucco at sill and mull bar intersection.This will allow water intrusion and must be investigated and repaired. |
| IMG_4547 |  | Inadequate sealent, does not cover entire joint. |

| Photo # | Photo - Inspection | Observation - Inspection |
|---|---|---|
| IMG_4542 |   | Poor workmanship, unacceptable surface applied sealant will fail after expantion and contraction of dissimalar materials. |
| IMG_4502 |   | Typical non bedded butt joint at PVC accessories. All joints require sealant BEHIND such intersections. |
| IMG_4496 |   | Circumstance of non bedded butt joint has lead to delaminating stucco below due to prolonged water intrusion. |

| Photo # | Photo - Inspection | Observation - Inspection |
|---|---|---|
| IMG_0667 |  | Obvious misalignment of PVC accesory leading to a large opening subject to water intrusion. |