

SAMOUCÉ & GAL, P.A.

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August 26, 2026

By E-Mail (jfmclane@gmail.com)
And (rmeyer@swpropmgt.com)

John McLane, President
Calais at Pelican Bay Condominium Association, Inc.

Rich Meyer, Property Manager

Re: Calais at Pelican Bay CAI – passage of special assessments

Dear Mr. McLane & Mr. Meyer:

The President asked whether the board of directors for Calais at Pelican Bay Condominium Association, Inc. (the “Association”) was required to have the owners vote to approve a special assessment that was needed to continue with the repair of exterior structural problems at the 5-story building that were caused by water intrusion over time.

The first question posed was whether Section 16.2 of the Declaration of Condominium required the Association to make the repairs without an owner vote. My opinion is that Section 16.2 of the Declaration does not apply since this section pertains to casualty events, i.e. insurable events such as a hurricane or fire.

The next question was whether Section 6.6 of the Association’s Bylaws required an owner vote for a special assessment if the special assessment imposed caused the aggregate of this year’s special assessments to be greater than 15%. Section 6.6 of the Bylaws requires that a majority of the voting interests approve the passage of a special assessment if the total amount of special assessments passed in this calendar year exceeds 15% of the annual budget.

It is my opinion, that the board, using it’s reasonable business judgment, is not required to get approval of the owners for a special assessment where the board is protecting the safety of the common elements, the building and its occupants out of necessity. The board has a duty to protect the common elements. My understanding is that the assessment to be passed is necessary for the reconstruction of the exterior of the building as there are post tension cables that have corroded.

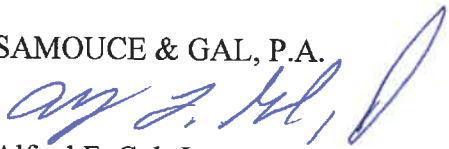
If the board intends on passing a special assessment without a vote of the owners, it should have written reports from engineers or other experts showing that the repairs have to be completed. Also, the special assessment should only be for the amount needed to make the necessary repairs. The special assessment should not include amounts for funding reserves, for paying back the loan, for non-necessary repairs that could wait until next year, or for anything

else not related to the necessary repairs.

If the board chooses, it may pass one special assessment, without an owner vote, in an amount such that the total amount of special assessments imposed this year is not greater than 15% of the annual budget. The board then, if it chooses, may pass a second special assessment, without an owner vote, if the special assessment is strictly limited to funding necessary repairs in order to protect the safety of the building and its occupants.

Very Truly Yours,

SAMOUCÉ & GAL, P.A.



Alfred F. Gal, Jr.

cc: client