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Despite law, condo owners in a battle to install shutters

MIAMI -- June 12, 2006 -- Just because Florida law says condo owners are allowed to install shutters doesn't mean you can just go out and install them.

That's what many condo owners are finding this hurricane season.

The law says condo associations can specify colors or styles of shutters, but can't ban them, even if the buildings have hurricane-resistant glass.

Most associations, experts say, are quickly setting standards. Some, especially those nearest the Atlantic, are going even further and making shutters mandatory because it's the only way they can get insurance.

But other associations are taking their time making decisions.

It took Joe Campanella six months to get approval to put shutters on his 20th floor apartment in the WaterGarden Condominium on the New River in downtown Fort Lauderdale.

He called it a frustrating wait "that no condo owner should have to go through because boards should know the law says they can't refuse."

After putting in his request in September, Campanella's board told him shutters would disturb the appearance of the 315-unit, two-year-old building.

And besides, the board said, shutters weren't necessary because the building has hurricane-resistant glass.

Campanella then asked for help from the state condo ombudsman.

"It is clear from the statute that you may install hurricane shutters despite the fact that you have impact resistant glass," replied Dr. Virgil Rizzo on Sept. 24. "Your association board may not refuse to grant you permission provided that the shutters conform to the association's adopted specifications and the shutters and installation comply with the applicable building code."

Believing "the law is the law" and the board would obey, Campanella ordered shutters.

A month later, Hurricane Wilma pounded the area and "the hurricane-resistant windows didn't turn out to be resistant," he said.

Sixty windows leaked, including those in his apartment. Water went about 6 feet into his unit. It was 3 inches deep in others.

By then he wasn't alone asking for shutters. Still, the board refused to set standards. The hurricane-resistant glass was good enough, the board told owners.

"They told us all 60 windows were damaged by 'flying missiles' [debris] coming from nearby buildings," he said.

In November, the board made a formal request to the state Department of Business & Professional Regulation for an interpretation of the shutter law. The department enforces state condo law.

In February, the department ordered WaterGarden to adopt specifications and "allow individual unit owners to install hurricane shutters."

In March, six months after his request, the board set the standards. Campanella's \$7,000 shutters were installed on March 10.

Bill Beckett, president of the association, said the board wasn't stalling.

"We were concerned about the aesthetics of the building. That's the reason we were looking at all options," he said. "We had to investigate and find out what was best ... Boards need to do their homework."

After studying the options, the board decided "we want shutters because they are tried and true," he said.

Robert Kaye, a Fort Lauderdale attorney whose firm represents 470 South Florida condo and homeowner associations, said insurance companies are requiring associations in the eastern areas to install shutters in units as well as common areas.

"A lot of our clients are being told by the few insurance companies left that if they haven't fully secured their buildings by early next year, insurance won't be available to them," he said.

Some associations are requiring individual owners to get shutters. In others, he said, owners by majority vote are making shutters a common expense so the association buys and installs them, taking advantage of economies of scale.

"Pricing is better and timing is faster when the association does it," Kaye said. "Contractors would rather do bigger jobs than for individuals."

Owners who already have shutters when an association mandates them have to pay a share of the cost, according to Gary Poliakoff, whose Fort Lauderdale-based firm represents about 4,000 associations.

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