

# PROPERTY LAW

## INFORMATION MEMO

JANUARY 31, 2024

### MIRS and SIRS and Condominium Document Review for Contracts Entered Into Prior to Dec. 31, 2024

In the transactional world of resale of residential condominium units the statutory three business-day condominium-review period will be taking on new elements for consideration. These additional considerations will be very important in analyzing the potential costs of ownership of a condominium unit. Every buyer of a residential condominium unit resale is currently entitled to receive the Declaration of Condominium, Articles of Incorporation, Bylaws and Rules of the Association, a copy of the most recent year-end financial information and the frequently asked question and answers documents for the association and a copy of the Florida Condominium Governance form. From the date of receipt of the aforementioned documents the buyer has three days, excluding Saturdays, Sundays and legal holidays, during which to terminate the contract (Rescission Period). One of the fundamental reasons for the Rescission Period is for a prospective buyer to ascertain what the costs of ownership are and likely will be moving forward. With additional information soon to be available the analysis of the current and future costs go beyond the currently required documents.

As a consequence of the tragedy of the Champlain Towers collapse on June 24, 2021, the Florida Legislature has required more robust regular inspections of residential condominium properties. The Structural Integrity Reserve Study (SIRS) included in Florida Statutes 718.112(2)(g) requires a residential condominium of three or more stories to have an inspection of the structural elements of the condominium property to identify major repairs and replacements that may be needed.

**§ 718.112(2)(g) Fla. Stat.** The SIRS report is to be completed every 10 years and for associations existing on or before July 1, 2022, the initial report is to be completed by Dec. 31, 2024. The following components, if maintained by the association, are to be addressed by a visual inspection to be done by an appropriately qualified professional: roof, structural, load-bearing walls and other primary structural members; fire proofing and fire protection systems; plumbing; electrical systems; waterproofing and exterior painting; windows and exterior doors; any other item that has deferred maintenance or replacement cost that exceeds \$10,000 and the failure to replace affects the previously mentioned components. The Milestone Inspection Report Study (MIRS) is a structural inspection of a building, including an inspection of load-bearing elements and the primary structural members and primary structural systems by an Florida-licensed architect or engineer authorized to practice in Florida for the purposes of attesting to the life safety and adequacy of the structural components of the building and, to the extent reasonably possible, determining the general structural condition of the building as it affects the safety of such building, including a determination of any necessary maintenance, repair or replacement of any structural component of the building.

**§ 553.899(2)(a) Fla. Stat.** An association of a building that is three or more stories in height must have a MIRS performed by December 31 of the year in which the building reaches 30 years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter. If a building reached 30 years of age before July 1, 2022, the building's initial MIRS must be performed before Dec. 31, 2024. If a building reaches 30 years of age on or after July 1, 2022,

and before Dec. 31, 2024, the building's initial MIRS must be performed before Dec. 31, 2025. If the date of issuance for the certificate of occupancy is not available, the date of issuance of the building's certificate of occupancy shall be the date of occupancy evidenced in any record of the local building official. The local enforcement agency may determine that local circumstances, including environmental conditions such as proximity to salt water, require that a MIRS must be performed by December 31 of the year in which the building reaches 25 years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter.

In addition to annual operating expenses, a budget must consider reserves for capital expenditures and deferred maintenance for roof replacement, building painting and pavement resurfacing along with any other item which has a deferred maintenance expense or replacement cost that exceeds \$10,000. The amount to be reserved must be computed using a formula based on estimated remaining useful life and estimated replacement cost or deferred maintenance expense of the reserve item. For condominium budgets adopted on or before Dec. 31, 2024 an association controlled by the owners of units may by a vote of the majority of the owners decide not to fund reserves at all or partially fund. For a budget adopted on or after Dec. 31, 2024 for an association that must obtain a SIRS report the association may not determine to provide no reserves or less reserves than required to address the items identified in the report. Moreover, the MIRS might identify certain deficiencies that need immediate attention and expenditures.

For residential real estate contracts entered into after Dec. 31, 2024 conspicuous language will be required as follows:

**“THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER’S INTENTION TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE INSPECTOR-PREPARED SUMMARY OF THE MILESTONE INSPECTION REPORT AS DESCRIBED IN SECTION 553.899, FLORIDA STATUTES, IF APPLICABLE; A COPY OF THE TURNOVER INSPECTION REPORT DESCRIBED IN SECTION 718.301(4)(p) AND (q), FLORIDA STATUTES, IF APPLICABLE; AND A COPY OF THE ASSOCIATION’S MOST RECENT STRUCTURAL INTEGRITY RESERVE STUDY DESCRIBED IN SECTIONS 718.103(26) AND 718.112(2)(g), FLORIDA STATUTES, IF APPLICABLE. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE BUYER RECEIVES A CURRENT COPY OF THE INSPECTOR-PREPARED SUMMARY OF THE MILESTONE INSPECTION REPORT AS DESCRIBED IN SECTION 553.899, FLORIDA STATUTES; A COPY OF THE TURNOVER INSPECTION REPORT DESCRIBED IN SECTION 718.301(4)(p) AND (q), FLORIDA STATUTES; OR A COPY OF THE ASSOCIATION’S MOST RECENT STRUCTURAL INTEGRITY RESERVE STUDY DESCRIBED IN SECTIONS 718.103(26) AND 718.112(2)(g), FLORIDA STATUTES, IF REQUESTED IN WRITING. BUYER’S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.” § 718.503(1)(d)(2) Fla. Stat.**

Prior to the language being adopted in standard real estate contracts as mentioned above it will be incumbent on the buyer to request the SIRS and MIRS reports, if completed and available. In addition to the SIRS and MIRS it is suggested to request the current budget and minutes of association

meetings for the one-year period prior to the effective date of the contract. With review of the budget, minutes, the SIRS and MIRS and other statutorily required documents a buyer can better ascertain the current and near future costs of ownership of the condominium unit.

If you have questions about the information presented in this memo, please contact [James Morey](#), any attorney in Bond's [property practice](#) or the attorney at the firm with whom you are regularly in contact.

