

**IN THE CIRCUIT COURT, THIRTEENTH
JUDICIAL CIRCUIT HILLBOROUGH
COUNTY, FLORIDA**

DIVISION: G

**WACHOVIA BANK, NATIONAL)
ASSOCIATION, a national banking)
association, as agent for the)
benefit of itself and other lending)
institutions as lenders,)**

Plaintiff,)

vs.)

**THE TOWERS OF CHANNELSIDE,)
LLC, a Florida limited liability company,)
THE TOWERS OF CHANNELSIDE)
CONDOMINIUM ASSOCIATION, INC.,)
a Florida corporation, THE TOWERS)
OF CHANNELSIDE RHC)
CONDOMINIUM ASSOCIATION, INC.,)
a Florida corporation, and THE TOWERS)
OF CHANNELSIDE OVERALL LOT)
OWNER ASSOCIATION, INC., a)
Florida corporation,)**

Defendants.)

_____)

CASE NO.: 09-08781

INITIAL MONTHLY REPORT OF RECEIVER

The Court-Appointed Receiver, Andrew J. Bolnick, pursuant to this Court's Order Appointing Receiver dated April 23, 2009, hereby files and serves his Initial Monthly Report for the Receivership, under oath, and reports as follows:

1. **Turnover and Possession of Mortgaged Property; Project Description.** The Receiver promptly effected possession and turnover of the Mortgaged Property upon receipt of the Order Appointing Receiver, and filing of the Receiver's acceptance of oath and Receiver's bond, pursuant to the Order. The Receiver conducted an initial site visit and inspection of the real property and other tangible property, with the representatives of the owner/developer, The Towers of Channelside, LLC, and the representatives of the property manager, Condominium Associates. Numerous additional site visits and property inspections have been made by the Receiver and his representatives, which inspections have included the developer's building engineer and the property manager's on-site maintenance personnel. The developer's representatives have cooperated fully and have assisted the Receiver as necessary during the transition of Property control to the Receiver, pursuant to the Court's Order Appointing Receiver.

The Receiver previously filed his Inventory of Receiver, which sets forth in detail the real property and personal property of The Towers of Channelside, LLC, both tangible and intangible, which has come under his possession and control. As described in the Inventory, the Property owned by The Towers of Channelside, LLC, which is the subject of the Receivership, consists of one-hundred forty-two (142) completed, but unsold, residential condominium units at The Towers of Channelside, a condominium, and one completed building shell (without interior build-out) for a retail condominium unit at The Towers of

Channelside RHC, a condominium. The residential condominium units are located in two (2) towers, containing 29 floors each, and each unit includes, as an appurtenance, an undivided interest in the common elements of the residential condominium, which includes an "Amenities Deck" on Level 5, with pool, cabanas, club house/recreation facilities, pet-walking and pedestrian areas, and similar common area features. The project also includes a parking garage/deck consisting of four (4) parking levels, which is contained beneath the Amenities Deck (Level 5) and between the twin residential towers. The retail condominium, which contains five (5) total unit spaces, wraps around the parking garage on the ground level of the project, also beneath the twin residential towers. An aerial photograph of the project site is contained in the Inventory, along with other project information and details.

2. **Status of Inventory.** With respect to the existing Inventory, the Receiver and the Agent have approved, pursuant to the Order Appointing Receiver, three (3) contracts for sale of individual residential condominium units to third-party purchasers, as follows: Unit 2802, Tower 1; Unit 1206, Tower 2; and Unit 1701, Tower 2. The first two contracts are scheduled to close on or before June 30, 2009; the third contract is scheduled to close on or before July 17, 2009. Attached as Exhibit 1 is the standard form sales contract prepared by the Receiver and approved by the Agent, for use in such individual unit sales, pursuant to the Order. The Receiver presently intends to continue utilization of the project sales team to procure individual unit sales, when and as approved by the Agent, on a case-by-case basis.

3. Verification of Insurance Coverage. Promptly upon taking possession and control of the Property, the Receiver procured through the property manager a summary of all existing policies of insurance related to the Property, including those for the developer entity, the residential condominium association, and the retail condominium association. Attached as Exhibit 2 is the summary of existing coverages at the inception of the Receivership, and copies of the pertinent declaration pages for the various policies.

The Receiver has requested and is in the process of procuring additional certificates listing the Receiver as an insured party under the policies. In addition, the Receiver has requested the property manager to investigate and procure competing proposals for the insurance coverages, as each policy period expires. Presently, the Receiver has obtained a proposal to decrease the annual general liability premium for the project from \$27,484 to \$18,720, and to decrease the annual liability umbrella premium from \$8,174 to \$6,050, while at the same time increasing the liability coverage limits from \$15 million to \$25 million under the umbrella policy.

4. Association Structure, Management and Financial Status. As stated in the Inventory, the project consists of two (2) separate condominiums, the residential and the retail condominiums. The residential condominium is operated and controlled by The Towers of Channelside Condominium Association, Inc., and the retail condominium is operated and controlled by The Towers of Channelside RHC Condominium Association, Inc. The condominium documents

already are on file with the Agent, the developer entity, the property manager, on-site, and with the Receiver.

Both associations have been managed since June 1, 2007, by Condominium Associates, a professional condominium management company, pursuant to the written contract attached as Exhibit 3. Rather than creating a "master association" for common areas shared by the residential and retail condominiums, the developer instead created a "Declaration of Covenants, Restrictions and Easements for The Towers of Channelside," which establishes The Towers of Channelside, LLC, as the "Overall Towers of Channelside Lot Owner," and effectively operates as a shared facilities agreement between the two associations. Under this document, the expenses of the shared facilities are apportioned between the two associations, with 92.5% allocated to the residential association, and 7.5% allocated to the retail association. The Declaration is on file with the Agent, the developer entity, the property manager, on-site, and with the Receiver.

The property manager provides a monthly management status report for the Property, and the May, 2009, management report is attached as Exhibit 4. Also attached as Exhibit 5 are the approved 2009 budgets for the residential association, the retail association, and the operation of the shared facilities. The 2009 budgets are based upon the monthly operating assessments for the condominium units, according to the approved monthly maintenance fee schedule attached as Exhibit 6. Effective January 1, 2009, the developer commenced paying the monthly assessments on the unsold units, according to the approved

fee schedule. The monthly maintenance fees for May, 2009, had not been paid when the Receiver was appointed; therefore, the Agent has funded to the Receiver, and the Receiver has paid to the association, the monthly maintenance fees for both May and June, for the unsold developer units.

Immediately upon appointment by the Court, the Receiver also was notified by the property manager that Tampa Electric Company, the electric utility provider for the project, had issued a notice of termination of service due to the failure of the developer to renew the surety bond posted as the utility deposit, for the project accounts. On an emergency basis, the Agent funded the required \$61,350 utility account deposit, which remains on account with TECO, for the benefit of the Agent.

The property manager also provides monthly financial statements for the associations. On May 26, 2009, Condominium Associates provided the monthly financial statements for the period ending April 30, 2009, which statements are attached as Exhibit 7. As noted in the documentation for the Association, the developer previously waived any assessments for reserves for 2009. Consequently, there are no reserves on hand for either association; however, there is a "working capital contribution" amount required from each purchaser at each unit closing, equal to 3-months' monthly assessment amount, which policy is being continued by the Receiver for the pending unit sales. According to the property manager, the working capital account controlled by the association contained \$61,347 as of June, 2009.

Promptly upon his appointment by the Court, the Receiver communicated with the existing unit owners/residents at the Towers of Channelside, to provide assurance for a smooth transition in property management and operation of the project, during the Receivership. A copy of the Receiver's notification letter to the residents is attached as Exhibit 8. In addition, pursuant to the terms of the Order Appointing Receiver, the developer representatives have resigned from the board of directors, and as officers, of the two associations, and the Receiver has caused himself and his executive assistant, Erica Anderson, to be elected to both boards and as President and Secretary/Treasurer, respectively, for both associations. The residential association has one resident board member, Mr. Paul Levine, who also serves as Vice President of that association. Presently, there are no other unit owner representatives on the board of the retail association, nor serving as any officer. The minutes of the special board of directors' meetings for both associations, held on May 22, 2009, memorializing these resignations and appointments, are attached as Exhibit 9. At the direction of the Receiver, the property manager also has noticed the respective annual meetings of both associations for July 30, 2009, pursuant to the statutory notices attached hereto as Exhibit 10.

Finally, the other association matter that has come to the attention of the Receiver concerns the application of the pre-existing rules and regulations of the association, by the property manager. The existing rules are attached as Exhibit 11. The Receiver plans to engage the existing residents/occupants of the residential units in a process to review the rules, to determine whether any

changes are desirable, and to agree on practical and reasonable methods to apply the rules, in an effort to maximize the enjoyment of the amenities by the residents and to maximize the value of the project.

5. Receiver's Financial Reports. Pursuant to the Order Appointing Receiver, the Receiver has engaged William Platzer, CPA, to assist in the processing of invoices and payment of expenses for the Receiver, and the compilation of the financial reports for the Receiver.

Attached as Exhibit 12 are the Receiver's financial statements for the period ending May 31, 2009, and attached as Exhibit 13 are the Receiver's financial statements for the period ending June 15, 2009, as requested by the Agent. For each reporting period, the Receiver's financial statements include: balance sheet; profit and loss statement; budget comparison versus actual; general ledger; cash reconciliation summary and detail report; deposit detail; and check detail.

6. Property and Building Condition Report. Under separate cover, the Receiver has compiled and provided to the Agent, the developer, The Towers of Channelside, LLC, and the property manager, Condominium Associates, a summary report of property condition. The Report is on-file with the Receiver and is available upon request by any party having a pertinent interest in these proceedings.

7. Miscellaneous Project Items. The Receiver also has responded to two pre-existing issues related to the project, as follows: (i) Fair Housing Discrimination Complaint filed with the City of Tampa by Ms. Carol M.

Kershbaum, against The Towers of Channelside, LLC, related to handicap parking/ADA-accessibility issues. The Receiver has favorably resolved this complaint by agreeing to re-assign a parking space to Ms. Kershbaum, at a more convenient location for her to access the elevator. A copy of the City of Tampa formal notice of administrative closure of the file, based upon this voluntary resolution, is attached at Exhibit 14; (ii) the developer previously procured a “wet zoning” approval by the City of Tampa for alcohol-related use related to retail condominium space No. 5, which is retained and owned by The Towers of Channelside, LLC. Based upon a notification from Mark Bentley, Esquire, AICP, that the City approval expires on June 20, 2009, the Receiver retained Mr. Bentley on an emergency basis and authorized an application for an administrative 180-day extension of the existing approval, which application was filed by Mr. Bentley on June 19, 2009. A copy of Mr. Bentley’s notification letter to the Receiver is attached as Exhibit 15.

Wherefore, the Court-Appointed Receiver submits his Initial Monthly Report, under oath, this 22nd day of June, 2009



Andrew J. Bolnick, Receiver

STATE OF FLORIDA
COUNTY OF PINELLAS

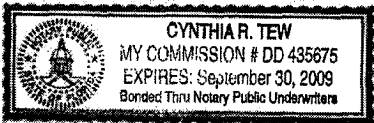
The foregoing instrument was acknowledged before me this 22nd day of June, 2009 by Andrew J. Bolnick who is personally known to me or has presented _____ (type of identification) as identification.

Cynthia R. Tew

Signature of Person Taking Acknowledgment

Cynthia R. Tew

Name of Acknowledger Typed, Printed or Stamped




(NOTARY SEAL)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished this 22nd day of June, 2009 by U. S. Mail to:

James H. Post, Esquire
Smith Hulsey & Busey
225 Water Street
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Attorneys for Wachovia Bank, N.A.

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LLC, The Towers of Channelside Condominium
Association, Inc., The Towers of Channelside
RHC Condominium Association, Inc. and The
Towers of Channelside Overall Lot
Owner Association, Inc.



Joel R. Tew, Esquire

ANDREW J. BOLNICK, RECEIVER

**PROPERTY CONDITION SUMMARY REPORT
THE TOWERS OF CHANNELSIDE**

June 20, 2009

Introduction

This summary report is a preliminary assessment by the Receiver, who was appointed by the Hillsborough County Circuit Court on April 23, 2009, regarding the condition of the Property which is in his possession and control, pursuant to the Order Appointing Receiver. These preliminary findings and observations are based upon multiple site visits and property inspections, numerous meetings and conferences with on-site building maintenance personnel, the building engineer, the property manager, and residents. Limited prior communications, reports, and memoranda in the Property records have been reviewed to seek to organize and fairly describe the numerous issues that are summarized in this preliminary report; however, no technical, professional studies or reports presently are available to the Receiver related to these issues, except to the limited extent noted in this report.

Despite the limited information and analysis available at this point in time, an effort has been made to segregate the issues into those that have potential to constitute significant design and/or construction issues related to the original development of the site and/or construction of the buildings, as opposed to those issues which presently appear to be more typical, ongoing and routine maintenance items normally encountered in a project of this magnitude. In addition, this report also attempts to segregate the issues into those which presently appear to be "common area" issues that properly should be addressed through the residential condominium association and/or the retail condominium association, as opposed to those items that appear to impact developer-owned condominium units that cannot properly be funded by the association(s).

Finally, as noted in the conclusions and recommendations section, below, the Receiver has insufficient technical, professional information to form any final conclusions nor to make any specific recommendations at this point, other than to conclude that a systematic, project-wide survey of condition by competent, professional consultants appears warranted, to better ascertain the scope of the problems, the alternative solutions available, and the probable cost of repair or alteration of the condition.

I. Common Area Issues

A. Stucco Cracks/Exterior Waterproofing Infiltration

Potentially the most significant construction issue at the site is the premature and repeated occurrence of cracks in the stucco exterior of the vertical building walls of the residential towers. While cosmetic cracks in vertical walls of substantial height can be expected over time in the local climate, there is sufficient reason to believe that the stucco cracks at Towers of Channelside are appearing sooner than normal, are larger in number than normal, and are more than "cosmetic." For example, in Tower 1 there already is substantial evidence that the waterproofing integrity of the exterior walls is being compromised: The Tower 1 lobby on Level 5, the fire pump room, and Units 1402 and 1406 have had significant water intrusion through the exterior walls, causing significant interior damage. The Level 5 lobby obviously is a common area, and needs to be repaired and refurbished, since it also is the sales and marketing entry into the project. Both Unit 1402 and 1406 are privately owned, and repeated water intrusion into those units can be expected if the exterior waterproofing barrier and stucco cracks are not repaired. This area appears to be worse than others, due to the absence of any overhanging balconies (by design), to protect the walls in this specific location.

However, this issue is not limited to the most significant current location in Tower 1, outside the Level 5 lobby. In fact, it is possible that this is a systemic, project-wide issue in both Towers. In August, 2008, the developer asked the general contractor, Batson-Cook of Tampa, Inc., to investigate and address this issue. The general contractor and the stucco subcontractor, Burkett Stucco, apparently concluded that the water intrusion was due to the absence of caulking in the stucco control joints (prefabricated PVC) in both Towers, but maintained that the Contract Documents did not specify that work. Nevertheless, the stucco subcontractor, at no cost to the developer, agreed to "inspect the complete exterior envelope of both towers." [See Appendix for August 13, 2008, letter from Batson-Cook to Towers of Channelside, LLC]. The Building engineer reports that, in fact, a full-scale inspection was conducted by Burkett Stucco in the fall of 2008, and that all the cracks and control joints in the stucco exterior were caulked by the subcontractor.

Thereafter, the Tampa Bay area incurred a severe draught from the fall of 2008 until May, 2009, when the project sustained heavy, blowing rains for an extended period of time. With the first significant rainfall, the water intrusion noted above in Tower 1, affecting the Level 5 lobby, Units 1402 and 1406, and the fire pump room, occurred. It also is noted that the exterior stucco/water intrusion item was a noted issue in the "Settlement Agreement" dated August 28, 2008, between and among the general contractor, the developer, and the lenders, and which is incorporated into the bankruptcy plan. On June 4, 2009, Smith Hulsey & Busey, on behalf of the lenders, notified Batson-Cook of the significant water intrusion that occurred in May, 2009, and reserved all rights under the Construction Documents, the Settlement Agreement, and applicable law. [See Appendix for the Smith Hulsey letter].

According to the building engineer and on-site maintenance personnel at the project, Batson-Cook has taken the position that the stucco subcontractor's work in the fall of 2008 was a "one-time fix," and the matter now is a maintenance item that is the responsibility of the developer and/or association, as applicable.

There is not adequate information yet available to determine whether this is a design issue, or a workmanship issue, or both, and whether any legal responsibility still applies to the general contractor, stucco contractor, or the architect, for this item (which initially manifested itself prior to warranty period expiration).

B. Pressure-Reducing Valves (PRV's)

Due to the height of the twin residential towers (29 floors and approximately 300 feet), the domestic water system to transport potable water to the residential units requires a system of water pumps, to maintain adequate water pressure in the higher units. The mechanical/plumbing system design included four (4) domestic water pumps with two (2) in each building (One on Level 2 and another on Level 16 of each building).

These pumps act as "booster" pumps and are automatically activated to increase water pressure when the vertical water column is fighting resistance from head pressure and usage. When the system first was installed and activated, the floors closest to the booster pumps had high pressures; therefore, any floor having more than 65 psi had a Pressure-Reducing Valve (PRV) installed, to protect that floor. This is particularly critical because hot water heaters typically have pop-off valves that release at 75 psi. The pumping system has a pressure sensor that reads actual pressure, and when the building water usage increases, the variable pumps increase to boost supply pressure and to meet demand.

Two problems have been detected in this system: (1) the original pump assembly contained plastic tubing hoses that connected points of pressure readings, which split and caused false readings and hence excess pump activity which then caused pressure issues; and (2) each pressure sensor is protected by a "snubber screen," but the City of Tampa water supply contains

sufficient residue to periodically clog these filters, which again creates a false pressure readings and then causes the variable pumps to create excess water pressure. The plastic tubing has been replaced with metal tubing, and a regular maintenance program to clean the "snubber screens" has been implemented; nevertheless, the excess water pressure continues to be a problem, and the result is that water heaters sporadically sustain excess pressure, their pop-off valves release, and residential units are then flooded with water. Since many of the units are developer-owned, vacant units, this is a serious problem due to lack of detection. The Receiver has maintained a regular unit inspection program by the building engineer, to seek to reduce the impact of such flooding when it occurs. Obviously, it also is a problem for owner-occupied units.

The present recommendation of the building engineer and the plumbing subcontractor is to install additional PRV's on the floors which do not presently have them. The property manager has solicited and compiled three (3) proposals, which range from \$ 19,000 to \$ 36,000. [See Appendix for Harper Limbach proposal]. Due to the disparity in proposals, further investigation needs to be conducted to ascertain the reasons for the disparity and to select the best proposal/solution.

This item appears to be a design issue, not a workmanship issue, based upon present information.

C. Amenities Deck Drainage/Waterproofing

The pool, club house/cabanas, and related amenities for the project are located on Level 5 (the Amenities Deck), between the twin residential towers, and above the parking garage. Apparently from inception of the project, there has been water intrusion from the Amenities Deck, through the walls and into the parking garage levels. The current belief is that the problem is the result of two occurrences (possibly related): (1) there is an elevated water table in the earthen material used to construct the pool deck and surrounding grounds/landscaping areas on the Amenities Deck, which due to poor drainage, ultimately infiltrates through the side walls into the 4.5 level (parking deck); and (2) there are recurrent problems with the waterproofing that segregates the Amenities Deck level from the surrounding areas (i.e., the level 4.5 to level 5 wall; pool mechanical room, etc.). In all probability, the two occurrences are related, since the problem appears to be too much water retained for too long in the ground of the Amenities Deck. There also is evidence that the drains on the Amenities Deck do not drain well (possible sand/silt infiltration, etc.). The water dripping into the parking garage below the Amenities Deck obviously causes a problem with residents' and guests' cars, and for marketing of the project.

Again, it is not clear whether this is a design issue, or a workmanship issue, or both. The developer previously obtained a report in February, 2009, from Ardaman & Associates, Inc., to determine whether a soils test conducted by Ardaman in April, 2008, found that the soils materials on the Amenities Deck met the Earthwork Specifications for the project, in the general contract. [See Appendix for the report]. The consultant determined that the soils (silty fine sands) placed under the pavers adjacent to the pool area, met the contract specifications. However, the soils (organic, very clayey fine sands) placed under the planter and landscape areas did not meet the contract specifications. Obviously, soils with high clay content retain ground water for longer period of times, do not drain well, and could contribute to the excess water table on the Amenities Deck and hence the infiltration of water through the waterproofing into the parking garage.

In addition, based upon meetings and discussions with the project architect and general contractor, the developer and building engineer believe that the fabric which covers the underground drains on the Amenities Deck also are becoming impregnated and clogged with the fine sand beneath the deck pavers around the pool area. The developer and contractor believe this is a design issue, while the architect maintains that the design is proper, but that the contractor placed improper sand on the Amenities Deck.

In any event, the general contractor, Batson-Cook, presented a proposal to the developer for modification of the drainage system and waterproofing for the Amenities Deck, to address this problem. The approximate cost proposed was \$44,000, and was based upon redesign plans from CGHJ Architects, the project architect. [See Appendix for Batson – Cook proposal; summary from Chuck Jones, AIA; design plans from CGHB Architects].

Pending any decision to undertake a redesign/reconstruction of the Amenities Deck drainage system, the waterproofing contractor, Waterproofing Specialists, has been attempting spot-repairs to control the leaks into the areas adjacent to the Amenities Deck; however, this clearly is a stop-gap measure that is not going to solve this ongoing problem, which needs a more permanent solution.

D. Fire Protection System Leaks

The project has incurred a recurrent history of fire protection leaks in the fire sprinkler system. The vast majority of leaks have occurred in Tower 2. Minor leaks have occurred in the stairway risers and in the parking garage. In 2008, a major leak occurred in Tower 2, at Level 18, and went all the way down to Level 5, affecting over a dozen residential units.

The subcontractor for the fire protection system, Cox Fire Protection, has responded to all of these issues, according to the building engineer, and has handled all repairs, water mitigation, and restoration thus far. This subcontractor warranty service has continued beyond the expiration of the general contractor's warranty period, according to the building engineer.

However, the problem continues, as there were two leaks in January, two leaks in February, two leaks in March, and one leak in May, of 2009, with all occurring in residential units of Tower 2.

E. Trellis Attachment Points/Roof Leaks (Grand Penthouse Units)

All four (4) Grand Penthouse Units in both towers (top level) have incurred persistent leaks at the trellis attachment point. According to the building engineer, the general contractor, Batson-Cook, has continued to respond to this item and has repaired all leaks, thus far.

In addition, there have been roof leaks into the Level 29 Grand Penthouse Units of both towers, from the roof drain area. Since three (3) of the four (4) grand penthouse units (2 in each tower) are empty shells, without interior buildout, no significant interior damage has occurred. However, this issue must be addressed prior to sale of any of these units, and before any interior buildout of the remaining units.

The recurrent nature of these leaks suggests a material design or workmanship issue in this area.

F. Air Handler Valve Leak

After the initial construction, a significant problem was encountered with the air handlers in both towers. The project received a bad lot (50 valves) of valves from the factory that were contained in the air handlers, that could not be traced, and which leaked. There was no pattern to the leaks, so the mechanical subcontractor (Harper Limbach) and the supplier exchanged all valves in the air handlers, for the entire project. No problem has recurred with the air handler valves.

G. Parking Garage Levels 2, 3, 4 Drainage

The floors in these parking garage levels have no slope to them, and there is no floor drainage system on these floors. In addition, the perimeter walls of these levels are large, open areas,

designed to allow the flow of fresh air to ventilate the parking garage from exhaust fumes, etc. Therefore, in periods of heavy rainfall, and particularly blowing rain, these parking levels fill up with rain water and do not drain. Level 1, the ground level, is sloped and drains fairly well.

There is no clear solution to the standing water problem on Levels 2, 3 and 4, since a retrofit to add a floor drain system to the existing concrete decks probably is not practical, and enclosing the exterior walls might create an air quality hazard. This issue requires a design study/analysis for a practical solution.

H. Building Security

Locking doors have been added to the building perimeter/access areas since original construction of the project, and from Level 1 (ground level), there are no unlocked doors for access. However, several podium stairways have screens on the exterior wall, and if an intruder climbs the screen(s) to Level 2 or higher, then access can be gained to the entire building through the stairwells in both towers.

This issue possibly could be addressed through modification of the screens to impede such access.

I. Level 5 Connecting Walkway/Pool Bridge Area

At the point of connection of the covered walkway from the Amenities Deck to the Tower 1, Level 5 Lobby, stucco has broken away from the building exterior due to walkway movement/expansion/settling of the building. According to the building engineer, the general contractor, Batson-Cook, has agreed to repair this area.

There also have been some stucco cracks on the walls of the pool bridge, which was constructed by the pool subcontractor, Certified Pools. Batson-Cook previously repaired the cracks; however, another crack now has appeared on the east wall. The warranty representative from Batson-Cook has reported to the building engineer that they now are considering modification to the bridge wall, to add an expansion joint, to alleviate future cracks, on the east wall.

According to the building engineer, no expansion joints were shown in the drawings for the bridge wall, in this area.

J. AJA Retail Condominium Space/Drain

Batson-Cook previously added a floor drain behind the AJA retail space on the ground level, near the handicap lift/balcony stairs and directly adjacent to the Tower 1 fire escape door. The drain was added to alleviate a drainage issue due to an elevation problem. During buildout of its space, the retail occupant, AJA, relocated this drain field and apparently clogged the drain with construction debris.

During periods of heavy rain, water now fills the area and runs under the fire escape door and down the fire escape corridor.

The retail space occupant has been advised to clear the drain and to remedy this issue, and has indicated to the building engineer that it will do so.

K. Chiller Pumps/Wiring

There has been issue with the proper operation of the chiller pumps for the project, including a debate between the electrical and mechanical subcontractors for the project. The building engineer reports that the electrical contractor has now agreed to replace the wiring to the chiller pumps, to resolve this problem. This item needs to be monitored to determine that, in fact, the problem is now solved.

L. Backflow Preventers

During a recent, routine inspection by the City of Tampa, a problem was detected with one of the backflow preventers for the project. The plumbing subcontractor is undertaking repairs to meet the deficiencies noted by the City. During the repair process, considerable silt and brown water was transmitted through the building water system, which necessitated the running of water and clearing of lines in the units. It is believed that this problem has been resolved, subject to acceptance by the City of the backflow preventer status.

M. Elevator Fire Service Key Switches

Fourteen (14) fire-service elevator key switches are required for the various elevators in the project. Two proposals have been procured, at \$7,000 and \$13,500. [See Appendix for Thysson Krupp and Kone proposals]. The property manager is investigating the discrepancy and seeking a third bid for comparison.

It is not apparent if these are replacement switches, or new switches, or whether they were or were not required by the original construction of the project. More information is needed on this item.

However, the key switches are necessary to meet inspection requirements, so they must be installed, according to the elevator service company, ThyssenKrupp Elevator.

II. Individual Unit Issues

A. Sanitary Sewer Back-Up [Units 2302, 2303, 2202, Tower 1]

A plumbing back-up in a developer-owned, unsold unit (Unit 2302, T1) on May 24, 2009, cause a substantial sanitary sewer back-up that affected not only Unit 2302, but also adjacent Unit 2303, and Unit 2202, below, all in Tower 1.

The occurrence was discovered on a weekend, and Bay Area Disaster Kleenup was retained on an emergency basis, to mitigate the damage. The initial mitigation (water extraction, removal of waste, sanitation, etc.) has been completed, at an unbudgeted cost of approximately \$5,000, which is not yet paid. [See Appendix for Unpaid Invoices].

Proposals are now being obtained by the building engineer for the removal of the damaged/contaminated carpet, walls, cabinets, fixtures etc. in each of the three (3) developer-owned units, and then for replacement and reconstruction of those units. This is an unbudgeted item that will require funding. The demolition/removal cost is estimated at \$12,500 and restoration/reconstruction costs would exceed another \$20,000

The property manager has notified the insurance agent of the occurrence of the event, but no insurance claim has been filed, pending a determination of coverage for any part of the loss/damage under the terms of the applicable policy.

Follow-up will be required for the repair/refurbishing of these three (3) units, and funding for same, (which could approximate \$30,000 to \$40,000, beyond the current \$5,000 for emergency mitigation already incurred).

B. Periodic Unit Inspection Reports

At the direction of the Receiver, the building engineer conducts routine, periodic inspection of all developer-owned, unsold units at the project. This is to prevent issues and potential damage from not being detected, and also to identify necessary repairs to maintain the value and to preserve the Property.

A sample inspection report of the building engineer is included in the Appendix to this Summary Report.

III. Building Warranty Status

As stated above, there is a Settlement Agreement between and among the Developer, the Lenders, and the General Contractor, which addresses, in part, the warranty status for the project with the general contractor.

This report does not presume to analyze the legal status of the contract warranties, nor any implied warranties, common law, or statutory rights related to the project's previous construction.

Because the two (2) condominium associations also control the common elements/common areas, further analysis is necessary to determine the rights of the association(s) under Chapter 718, F.S., or otherwise at common law.

In addition to the general contractor warranty (discussed above), the property manager has provided a "Special Warranty Log" for the project, which appears to include subcontractor/supplier/manufacture warranty information, for various aspects of the project. This is also included in the Appendix to the Summary Report.

IV. Conclusions and Recommendations

All the information set forth in this Summary Report is based upon a preliminary review of historical information that has been made available to the Receiver to this point in time. Except for the limited instances where a technical, professional report is referenced herein, the information is not based upon any detailed, technical analysis by a third-party consultant.

Given the magnitude, scope and value of this project, the Receiver recommends that a project-wide survey of condition be commissioned by either the Association(s) or the lenders, to procure specific, competent information and analysis of the issues covered in this preliminary report, but more importantly, to determine if there are other issues not yet known or manifested at the project.

Obviously, there will need to be funding provided for any such project condition survey, and then further analysis based upon such survey as to what remedial measures should be taken, at what cost, source(s) of funding, etc.

Finally, a legal analysis is recommended to determine whether the general contractor, architect, applicable subcontractors and/or suppliers, may be responsible for known specific matters related to the project condition. Particular attention also needs to be made to the expiration of any applicable warranty periods, or applicable statutes of limitation.