Drafting Enforceable Settlement Agreements in Hotel-Condo Disputes: Lessons from FBCY v. Fontainebleau

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A recent ruling from the Miami-Dade Circuit Court casts doubt on the enforceability of settlement agreements between condominium unit owners and associations, particularly for hotel condominiums.

The Case

In *FBCY Associates, LLC v. Fontainebleau Florida Hotel, LLC*, residential condo unit owners sued the hotel unit owner to protect their alleged short-term rental rights. But Judge Peter Lopez granted the hotel defendants' motion to dismiss, finding that the unit owners suing to protect their short-term rental rights were not authorized to bring a lawsuit by a pair of identical settlement agreements that resolved an earlier dispute.[1]

Like many condo-hotel projects, the Fontainebleau is comprised of a hotel unit and residential units. At the Fontainebleau, residential unit owners may choose to rent their units either through the hotel's rental program or through outside vendors such as VRBO.

The *FCBY* plaintiffs had rented their units through VRBO. Those plaintiffs challenged new rules that changed the hotel check-in policies and increased cleaning fees for rentals outside of the hotel's rental program.[2] According to the plaintiffs, the changes violated a provision of a court-approved settlement agreement that granted the residential unit owners the "non-discriminatory and unrestricted guest services" for renters and the "freedom to use outside vendors," among others.[3]

But the court did not reach the merits of the plaintiffs' claims because it held that the plaintiffs did not have standing to enforce the prior settlement agreements.

Critically, the residential unit owners were not parties to the settlement agreements. Also, the agreements did not amend the condominium declaration—the condo's governing document, often referred to as the "constitution" of a condominium.

And even though the settlement agreements enumerated specific rights for the residential unit owners, the court found that the residential unit owners were not intended beneficiaries of the settlement agreement.[4]

Additionally, per the settlement agreement's terms, "any Party, or its respective successors or assigns[,] and any Residential Unit Owner" could bring an action to enforce the agreement. The court seemed to be persuaded by the argument that the failure to include "successor and assign" language after "any Residential Unit Owner" limited standing to the Residential Unit Owners at the time the settlement agreements were executed.[5]

What does this mean in practice?

When resolving a dispute involving a condominium association and unit owners, parties and their counsel should be careful to draft a settlement agreement that is enforceable over time. Otherwise, similar disputes may continue arising, time and again, as unit owners come and go at the condo.

Best practices when settling a condo dispute:

- **Amend the condo declaration** consistent with declaration's amendment provision, if possible.
- **Record the settlement agreement** in the grantor-grantee index so that it is part of the public record and the world is on notice of the agreements.
- **Explicitly state who can enforce the agreement**—taking a lesson from Fontainebleau, drafters should address whether any third parties, as well as successors and assigns, can enforce the agreement. Take care to include "successors and assigns" when defining each pertinent party, and expressly name any intended beneficiaries.

If you have questions on how Fontainebleau or other recent precedent may impact your or your business's rights under a settlement agreement related to a condo dispute, please reach out to attorneys at Bilzin Sumberg.

[1] *FCBY Associates, LLC v. Fontainebleau Florida Hotel, LLC*, 2026-00808-CA-01, Transcript of May 12, 2026 Hearing [hereinafter, "Transcript"].
[2] *FCBY Associates, LLC v. Fontainebleau Florida Hotel, LLC*, 2026-00808-CA-01, Amended Complaint [hereinafter, "Complaint"], ¶¶ 14, 20.
[3] Complaint, ¶ 35.
[4] Transcript, 84:16-85:18.
[5] Transcript, 44:20-45:18; 84:16-85:18.

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