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Surfside Condo Victims Fear Repairs May Spoil Evidence

By **Jeannie O'Sullivan**

Law360 (August 6, 2021, 7:29 PM EDT) -- A proposal to revise repair plans for the Florida condominium that collapsed in June ignited fears by victims Friday that evidence could be destroyed in the undertaking, while the attorney handling funds for the homeowners' association emphasized safety concerns to a judge.

During an emergency Zoom hearing before Miami-Dade Circuit Judge Michael Hanzman, attorneys representing plaintiffs in the suit expressed concern about how a revised repair plan would alter the property's current condition, which could be key to backing their monetary compensation claims.

The **court-appointed receiver** for the condominium association, Michael I. Goldberg of Akerman LLP, said Miami-Dade County is exploring ways to buttress the retainment walls of the 12-story Champlain Towers South condominium in Surfside. The county is also revisiting the project's original six-month time frame, he said.

One "immediate" issue to be addressed this weekend is securing a pool patio in danger of collapsing, Goldberg told the court.

Attorney Gonzalo Dorta of Dorta Law — one of the firms representing condo owners and survivors suing over the June 24 collapse, which killed 97 people — suggested that the court order the property's current condition to be recorded, citing concerns about the potential effects of excavation.

A structural reinforcement "requires obviously digging a significant amount," Dorta told the court.

"That does alter the underlying geotechnical identity," he added.

Goldberg countered that the immediate repair would "go to preserving the evidence," and estimated that the fully revised repair plan would be ready for the court's review next week.

Another plaintiffs' lawyer, Rachel Furst of Grossman Roth Yaffa Cohen, told the court her firm consulted with its experts about the proposal to revise the repair plan and was "in agreement that it was necessary." However, she said, they "would want to and need to review the plan next week."

Judge Hanzman advised the rest of the plaintiffs to speak with experts about the repairs, and said the court would reconvene to discuss the matter next week.

"Like I said the other day, my major concern here is that I don't want any spoliation issues," said the judge, who has been holding **weekly status conferences** in the case.

Friday's hearing was called to address Goldberg's motion for a court order authorizing him to sign a permit application allowing a county contractor to undertake the work of bracing the building's retainment walls, which Goldberg said are at risk of collapsing. As the receiver, Goldberg is now technically the "owner" of the property, although the county is still in control of it.

The work will be "undertaken in a manner best designed to preserve the evidence in accordance with this court's prior orders," the motion said.

The judge didn't make a ruling on the motion Friday at Goldberg's request since the engineering plan

revisions are still underway, Goldberg's attorney, Jordi Guso of Berger Singerman LLP, told Law360 after the hearing.

However, the emergency pool patio repair doesn't require a permit and is expected to be performed this weekend, Guso said.

The litigation involves lawsuits lodging economic loss, wrongful death and personal injury claims against Champlain Towers South Condominium Association Inc. in the wake of the collapse. The court has set an Aug. 16 deadline for the plaintiffs to file a consolidated complaint.

The cause of the collapse has yet to be determined.

After a status conference in the case Wednesday, Furst and attorney Harley Tropin of Kozyak Tropin Throckmorton said the plaintiffs were investigating potentially responsible parties in anticipation of adding more defendants to the litigation.

The catastrophe has also sparked a lawsuit from insurers **wanting out** of defending the consulting engineering firm hired by the association.

Goldberg is represented by Paul Singerman and Jordi Guso of Berger Singerman LLP.

The plaintiffs are represented by Harley Tropin and Javier Lopez of Kozyak Tropin Throckmorton, Rachel Furst of Grossman Roth Yaffa Cohen PA, Ricardo Martinez-Cid of Podhurst Orseck PA, Adam Moskowitz of The Moskowitz Law Firm, MaryBeth LippSmith of LippSmith LLP, John Ruiz of MSP Recovery Law Firm, Brad Sohn of The Brad Sohn Law Firm PLLC, John Scarola of Searcy Denney Scarola Barnhart & Shipley PA, Robert Mongeluzzi of Saltz Mongeluzzi & Bendesky PC, Shannon Del Prado of Pita Weber Del Prado, Gonzalo Dorta of Dorta Law, Judd Rosen of Goldberg & Rosen PA, Luis Suarez of Heise Suarez Melville PA, Jorge Silva of Silva & Silva PA, and Willie Gary of Gary Williams Parenti Watson & Gary PLLC.

The case is In re: Champlain Towers South Collapse Litigation, case number 2021-015089-CA, in the Eleventh Judicial Circuit Court of the State of Florida.

--Editing by Adam LoBelia.