

# Thorn in Developer's Side, Couple Says They Were Cut Out of Surf Club Redevelopment Deal

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The Surf Club

Even as construction proceeds on the luxurious revamp of Surfside's famed Surf Club, a couple who were members of the namesake institution is suing the builder.

Gary and Barbara Siegler claim that in retaliation for being a thorn in the developer's side they were cut out of a redevelopment deal to add 152 luxury condominium units, an 80-room Four Seasons hotel, two restaurants and wellness facilities at the 85-year-old clubhouse site.

In a complaint that's been amended five times, the Sieglers say the developer and several club members ganged up on them for questioning the amount Fort Capital was offering for the beachfront clubhouse at 9011 Collins Ave.

When they continued making noise, the Sieglers claimed the club's board engaged in a "sham" disciplinary process that partially cut them out of the \$116 million deal in 2012.

"We think that they used an excuse to eliminate what they considered to be a voice that wasn't going along with theirs," said the Sieglers' attorney, John Moore.

The complaint seeks a share of the deal for the Sieglers or remuneration that's "going to be in the many millions, tens to hundreds of millions, because of the value and success of the project," said Moore, a partner at Pathman Lewis in Miami.

Anthony De Yurre of Pathman Lewis is also representing the Sieglers.

The case, which was filed in July 2013, has survived as others with similar claims against developer Fort Capital were dismissed. The Sieglers' case got a boost Wednesday when Circuit Judge John Thornton denied the latest motion to dismiss and struck 16 affirmative defenses for not having "sufficient specificity or particularity."

Surf Club attorney Robert Zarco of Zarco Einhorn Salkowski & Brito in Miami noted that his client "has been consistently successful in all of the prior cases, and they've been resolved."

Zarco, who characterized the Sieglers' case as "frivolous" and an "abuse of process," added that

"the Surf Club is going to fight this vehemently as their position is that they haven't done anything wrong."

In downplaying the significance of Thornton's refusal to dismiss, Zarco said, "After the sixth attempt to try to be able to allege a claim, the judge finally said, 'Fine, go forward.' "

Moore had a different take.

"We think the case has very strong merits," he said, noting the judge's decision to strike the affirmative defenses showed "the defendants have been trying to prevail on either creative or minor procedural matters."

The Sieglers were two of the 122 Surf Club members with a stake in the clubhouse when it was sold in 2012. The couple was paid a share of the \$116 million transaction by the developer. But unlike other members, they were denied the opportunity to invest in the new venture or buy a discounted condo unit in the residential tower.

A shouting match between the Sieglers and another club member over the sale resulted in the couple being suspended from the club for a year just before the deal was approved.

The Sieglers claim the developer used that suspension to unduly deny them privileges given to other members. They also claim they've been effectively kicked out of the club after being "active and dedicated members." They were denied, and are asking to receive, the lifetime dues-free ticket into the organization that absorbed the Surf Club's membership after the clubhouse sale.

The lawsuit also claims a conspiracy to silence the Sieglers and take away their privileges was orchestrated by board members with economic motives. Without naming names, the suit claims some of the defendants carved out a lucrative side deal with the developer to sell private residences adjacent to the club's property. Among the defendants are Mary Anne Shula, the wife of legendary Miami Dolphins coach Don Shula, socialite Brenda Castellano and racetrack owner John Brunetti.

Zarco emphasized that the Sieglers' claims "will have absolutely no impact at all on the sale, the development, the value of the condos or anything of that matter. It has absolutely nothing to do with the development project."

Moore said he expects "a heavy discovery period with lots" of depositions.

Zarco promised the fight will continue.

"If anyone committed a fraud, it was them," he said of the Sieglers. "We are not in any way intimidated by any of these claims and are not concerned."

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