

FLORIDA THIRD DISTRICT COURT OF APPEAL

De Soleil South Beach Association, Inc. v. Amber Perrin

No. 3D24-0707 (Fla. 3d DCA July 9, 2025) · No. 3D24-0707 · Decided July 9, 2025

SUMMARY

The Florida Third District Court of Appeal affirmed an amended final judgment in favor of condominium unit owners in a dispute over an amendment to a master declaration governing a mixed-use building. The court held that the amendment impermissibly removed or reclassified condominium common elements and thereby violated rights protected by Florida's Condominium Act. The court also concluded that private agreements could not override statutory condominium rights and affirmed without discussion as to the association's remaining arguments.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Bokor, J.; Gordo, J.; Gooden, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	July 9, 2025
DOCKET	3D24-0707
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Master Association appealed an amended final order and judgment entered in favor of the condominium unit owners in a declaratory and counterclaim action concerning the validity of an amendment to the Master Declaration.
STANDARD OF REVIEW	De novo review of the trial court's interpretation of the Florida Condominium Act and related legal instruments.
PRECEDENTIAL VALUE	Published opinion; precedential value under Florida appellate law.
PARTIES	De Soleil South Beach Association, Inc. v. Amber Perrin, Susan Rainone as Trustee of the Susan Rainone Revocable Trust

TOPICS

- real estate
- statutory interpretation
- contract interpretation
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Second Amendment to the Master Declaration could remove or reclassify condominium common elements and associated rights conferred on unit owners by the Florida Condominium Act.
2. Whether the contractual relationship among the three parcels permitted the Master Association to override statutory condominium rights.
3. Whether the trial court properly interpreted the Condominium Act and the governing declarations.

HOLDINGS

1. The Second Amendment violated the Florida Condominium Act because it removed or reclassified common elements appurtenant to the condominium units without conveying title to the units.
2. Private agreements governing the building's parcels cannot override statutory rights created by the Condominium Act.

KEY QUOTATIONS

“We did so recognizing that the condominium ownership structure is “strictly a creature of statute,” and that where private agreements conflict with the statute, “the statute must prevail.”” (at 4)

“The Condominium Act confers condominium unit owners with an undivided share in, and collective control over, common elements appurtenant to the units.” (at 6)

FACTUAL BACKGROUND

De Soleil South Beach was a mixed-use building divided into a residential condominium, a parking garage, and commercial space. The Master Association, controlled by the developer because it owned the garage and commercial parcels, adopted the Second Amendment over the objection of the Residential Association. The amendment restricted garage access and unit rentals, placed certain structures and condominium-related property under Master Association control, and asserted authority to impose fines, liens, and eviction-related remedies against individual unit owners. The unit owners contended that these provisions unlawfully removed statutory condominium common elements and related rights from condominium control.

PROCEDURAL HISTORY

The Master Association sought declaratory relief to establish its rights under the Second Amendment to the Master Declaration. The Unit Owners opposed the requested relief and countersued. After partial summary judgments and prior appeals, the circuit court determined that the contested provisions violated the Florida Condominium Act. The Third District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- IconBrickell Condo. No. Three Ass’n, Inc. v. New Media Consulting, LLC, 310 So. 3d 477 (Fla. 3d DCA 2020)
- Tranquil Harbour Dev., LLC v. BBT, LLC, 79 So. 3d 84 (Fla. 1st DCA 2011)
- Winkelman v. Toll, 661 So. 2d 102 (Fla. 4th DCA 1995)
- Criterion Ins. Co. v. Amador, 479 So. 2d 300 (Fla. 3d DCA 1985)

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