



Miami Private Island Developer Ordered To Keep Club Open

By Daniel Siegal

Law360, Los Angeles (August 14, 2015, 4:18 PM ET) -- Residents of Grove Isle, an exclusive island off Miami's Coconut Grove neighborhood, won their bid to stop a developer's plans to close the island's restaurant, gym and other amenities when a Florida state judge ruled Friday the residents have a contractual right to the amenities.

Developer Eduardo Avila had announced his intention to close the Grove Isle Club — including its restaurants, tennis courts, pool, salon, gym and walking track — by May, a move the residents claimed was intended to punish them for opposing his construction plans. That closure was stalled when the parties [stipulated to a delay](#).

On Friday, Miami-Dade County Circuit Judge Brownyn C. Miller issued an order granting the residents' a permanent injunction on claims that they have a right to continued existence of the club, ruling that Grove Island's development plan and sales agreements with residents obligates its owner to provide the residents "lifetime" access to the amenities.

Judge Miller notes that the 1979 "declaration of condominium" governing Grove Island requires unit owners to pay for membership in the Grove Island Club for the duration of their ownership — and thus the club cannot be closed without violating the agreement.

"This language necessarily presumes that an operational club will continue to exist," Judge Miller wrote. "If the club ceases to exist, unit members would be required to maintain membership in a nonexistent club ... it is abundantly clear that unit owners are afforded both the right and the obligation to belong to the club for the duration of their unit ownership."

John Quick of Weiss Serota Helfman Cole & Bierman, representing the residents, told Law360 on Friday that the residents are "extremely happy" with the ruling, and said that his clients are hopeful that it will create a more "collegial" atmosphere with Avila.

"This ruling should ensure that the 510 unit owners will continue to receive and have access to the permanent club facilities that was part of the original common development plan," he said.

Avila's attorney John Shubin of Shubin & Bass PA told Law360 on Friday that his client respects the court's ruling and is happy with her recognition that Avila can redevelop the property as long as he provides a new clubhouse.

Avila's Grove Isle Associates LLLP, which in 2013 acquired 7.8 acres of property on the island, including the Grove Isle Hotel & Spa, has plans to tear down the five-story hotel and accessory buildings and replace them with several five-story buildings housing a limited number of high-end luxury residences, plus a new private club featuring a restaurant, spa and recreational facilities.

The residents' lawsuit followed an April 21 complaint filed by GIA against the city, seeking an order to compel the city to grant it a demolition permit it says has been inexplicably delayed.

GIA said in its complaint that it has done all that is required of it under the Miami 21 City Zoning Code, but the city's zoning administrator, despite granting preliminary approval for the site plan, has dragged her feet for months without issuing the permit needed for work to move ahead.

The company said that in mid-October it applied for a "dry run" approval of its proposed site by the city, which it received in December.

The next step is demolition of the hotel and other structures, but demolition permits for the Coconut Grove neighborhood require an administrative waiver, GIA said.

Preserve Grove Isle is represented by Glen H. Waldman and Jeffrey R. Lam of Heller Waldman PL, and the condo association is represented by Joseph Serota and John Quick of Weiss Serota Hellman Cole & Bierman.

GIA and related entities are represented by John K. Shubin and Juan J. Farach of Shubin & Bass PA.

The cases is Preserve Grove Isle LLC v. Grove Isle Yacht & Tennis Club LLC et al., case number 2015-9106-CA-01, in the Eleventh Judicial Circuit Court of the State of Florida.

— Additional reporting by Nathan Hale. Editing by Emily Kokoll.