

Press Release

# Akerman Secures Five-Year Litigation Victory for West Shore Oasis, LLC

May 8, 2023

Top 100 U.S. law firm Akerman LLP represented real estate investment firm West Shore Oasis, LLC (West Shore) in a five-year litigation regarding amendments to the declaration of condominium made by a previous owner. West Shore acquired more than 800 of the 1,000 units at The Grand Oasis at Carrollwood in Tampa, FL in 2019 from the prior owner and operates its units as an apartment complex.

The plaintiffs, 23 individual condominium unit owners in the condominium complex, sued West Shore’s predecessor in 2017, arguing that amendments to the declaration of condominium adopted in 2012 were invalid. Specifically, the plaintiffs challenged amendments that lowered the threshold for terminating the condominium from a 100 percent vote of all unit owners to a vote of 80 percent of all unit owners, so long as five percent or less did not object or vote against termination. The plaintiffs also argued that West Shore’s predecessor was required to turn over control of the board of directors of the condominium association based on an unspecified “triggering event.” The plaintiffs amended their complaint to include West Shore when it acquired its units.

The Hillsborough County Circuit Court sided with the Akerman team and West Shore’s summary judgment motion, finding that while the original

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declaration of condominium required unanimous approval from all unit owners to terminate the condominium, the declaration also provided that any provision of the declaration could be amended upon a two-thirds vote of all unit owners. West Shore's predecessor controlled more than two-thirds of the votes at the time the amendments were adopted, and as a result the amendments were valid. Judge Nash also found that the plaintiffs' claims were barred by the statute of limitations.

Regarding the "turnover argument," the Court found that West Shore's purchase of its 800+ units in 2019 did not include any acquisition of development rights. As a result, West Shore qualified as a "bulk purchaser" under Florida's Distressed Condominium Relief Act, which meant that West Shore was not a "developer" for purposes of triggering events that otherwise might compel a "developer" to turn over control of the board of the association.

The Akerman team representing West Shore was led by litigation partner Mark Bernet in Tampa, and real estate partners Stephen Tilbrook and Susan Robin in Fort Lauderdale.

## **About Akerman**

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