



Tower Hill Claims

January 24, 2022

Baycrest Homeowners Association, Inc.
c/o Gulf Breeze Mgmt Services
8910 Terrence Ct Ste 20
Bonita Springs, FL 34135-9514

RE: Company: Indian Harbor Insurance Company
 Insured: Baycrest Homeowners Association Inc.
 Claim Number: CLM0015504
 Policy Number: UBP0000827
 Date of Loss: 08/19/2021
 Location: 25422 Galashields Circle
 Bonita Springs, FL 34134-1968
 Type of Loss: Lightning

Dear Insured;

Tower Hill Claims Services, LLC received your claim for water damage to the property on 12/14/2021 which occurred on or about 08/19/2021. After a complete and thorough investigation, it has been determined that the claim you have presented to Indian Harbor Insurance Company for damage does not qualify for payment.

According to our investigation by Omega Forensic Engineering, there is no evidence of damage to the inground pool from a lightning strike. The buldges inside the pool are consistent with imperfect in preparation or bonding of the mar cite material that was applied to the pool shell. Unfortunately, damage of this type is excluded by the policy.

We have allowed for the tree removal; however the loss is less than the \$2500.00 deductible and no payment is due at this time.

We refer you to your policy form BP 00 03 07 02 Businessowners Coverage Form on page 1 and 2 under the heading of SECTION I – PROPERTY and 3. Covered Causes Of Loss:

“SECTION I – PROPERTY

Tower Hill Claims Services, LLC
P.O. Box 142230 • Gainesville, FL 32614 • Telephone (800) 216-3711 • Fax (352) 332-9999



Tower Hill Claims

A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss

...

3. Covered Causes Of Loss

Risks of direct physical loss unless the loss is:

- a. Excluded in Paragraph B. Exclusions in Section I; or
- b. Limited in Paragraph 4. Limitations in Section I.”

We refer you to your policy form BP 00 03 07 02 Businessowners Coverage Form on pages 14 and 15 under the heading of Other Types of Loss:

“2. We will not pay for loss or damage caused by or resulting from any of the following:

...

1. Other Types Of Loss

- (1) Wear and tear;
- (2) Rust, corrosion, fungus, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Smog;
- (4) Settling, cracking, shrinking or expansion;
- (5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals;
- (6) Mechanical breakdown, including rupture or bursting caused by centrifugal force. This exclusion does not apply with respect to the breakdown of “computer(s)”;
- (7) The following causes of loss to personal property:
 - (a) Dampness or dryness of atmosphere;
 - (b) Changes in or extremes of temperature; or
 - (c) Marring or scratching.

But if an excluded cause of loss that is listed in Paragraphs (1) through (7) above result in a “specified cause of loss” or building glass breakage, we will pay for the loss or damage caused by that “specified cause of loss” or building glass breakage.”

We refer you to your policy form BP 00 03 07 02 Businessowners Coverage Form on pages 15 under the heading of 3. – a. Weather Conditions – b. Acts Or Decisions – c. Negligent Work:

“3. We will not pay for loss or damage caused by or resulting from any of the following Paragraphs a. through c. But if an excluded cause of loss that is listed in Paragraphs a. through c. results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Tower Hill Claims Services, LLC

P.O. Box 142230 • Gainesville, FL 32614 • Telephone (800) 216-3711 • Fax (352) 332-9999



Tower Hill[®] Claims

a. Weather Conditions

Weather Conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph B. 1. above to produce the loss or damage

b. Acts Or Decisions

Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

c. Negligent Work

Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
 - (2) Design, specifications, workmanship, repair, construction, renovation, remodeling grading, compaction;
 - (3) Materials used in repair, construction, renovation or remodeling; or
 - (4) Maintenance;
- of part or all of any property on or off the described premises.”

Nothing herein constitutes, nor should it be construed by you as a waiver of any of the rights of Indian Harbor Insurance Company under its policy of insurance, nor is it the purpose of this letter to waive any of the policy terms and/or conditions, or any defenses to which further investigation or discovery may reveal.

We regret that we are unable to be of greater assistance to you in this instance. However, if you have any information that you believe would alter our current understanding please feel free to contact us to discuss this matter further at 800-342-3407 ext. 7117.

Sincerely,

Cheryl Stanley
Commercial Claims
CStanley@thig.com

CC: McGriff Insurance Services Inc.

Tower Hill Claims Services, LLC

P.O. Box 142230 • Gainesville, FL 32614 • Telephone (800) 216-3711 • Fax (352) 332-9999

SWIMMING POOL DAMAGE INSPECTION REPORT

January 21, 2022

TO: Indian Harbor Insurance
c/o Cheryl Stanley
Tower Hill Insurance Group
P.O. Box 142230
Gainesville, FL 32614

RE: Baycrest Homeowner's Association Property Tower Hill File #CLM0015504
25422 Galashields Circle
Bonita Springs, FL 34134 Omega Forensic File #20437

Purpose

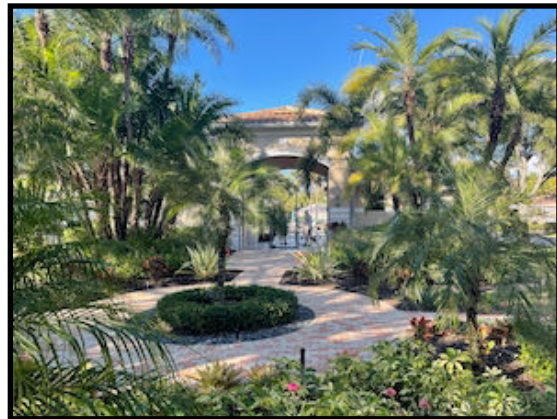
On January 7, 2022, Brennen Bourgeois, P.E., of Omega Forensic Engineering Inc., inspected a clubhouse pool located at the address referenced above. The purpose of this inspection was to investigate reported damage to a swimming pool on the property and identify its nature, extent and cause.

Background

The property we inspected is a clubhouse pool area at the Baycrest condominium subdivision.

The clubhouse pool has been owned by the insured, the Baycrest Homeowner's Association, since it was new. The pool is reportedly about 25 years old.

According to information provided by the assigning adjuster, the Association has reported that on August 19, 2021, lightning struck a tree near the community pool, causing the walls of the pool to bulge outward.



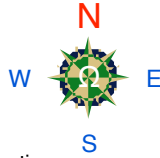
Front of Clubhouse Pool Area

The Baycrest Homeowner's Association has filed a claim with its property insurer, Indian Harbor Insurance. We were retained by Tower Hill, on behalf of the insurer, to conduct an independent inspection and provide an objective expert opinion regarding this claim.

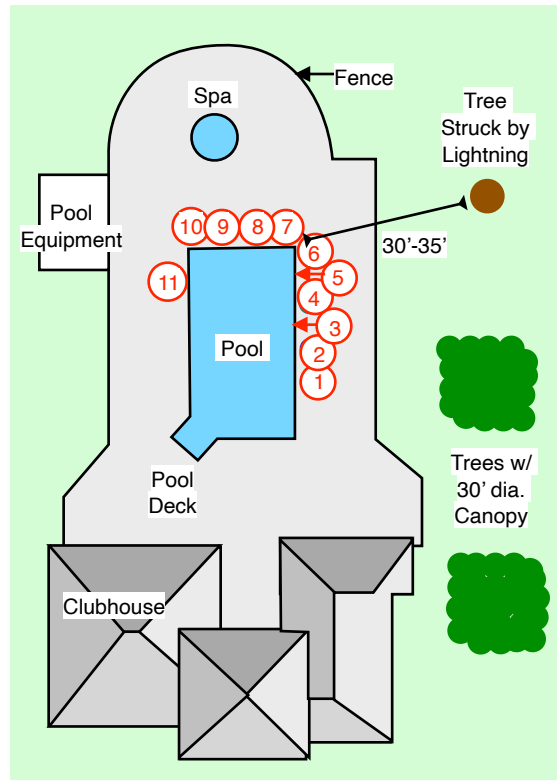
The president of the homeowner's association, Kevin Hara, was present during our inspection. We were also accompanied by the chairman of the pool committee, Dave Robb, as well as Paul Dickensheets, who is a member of the pool committee. They told

Field Sketch of the Baycrest Property

Not to Scale



- ① = 12" dia. Bulge at 28" Depth- .5" Projection
- ② = 22" dia. Bulge at 24" Depth- .25" Projection
- ③ = 14" dia. Bulge at 34" Depth- .5" Projection
- ④ = 12" dia. Bulge at 36" Depth- .25" Projection
- ⑤ = 12" dia. Bulge at 36" Depth- .25" Projection
- ⑥ = 30" dia. Bulge at 38" Depth- 2" Projection
- ⑦ = 16" dia. Bulge at 48" Depth- 3-4" Projection
- ⑧ = 18" dia. Bulge at 48" Depth- 2" Projection
- ⑨ = 36" dia. Bulge at 44" Depth- 3" Projection
- ⑩ = 24" dia. Bulge at 48" Depth- 2" Projection
- ⑪ = 24" dia. Bulge at 42" Depth- 1.5" Projection



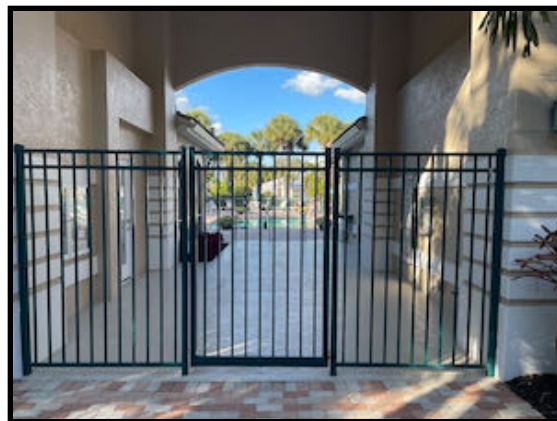
us that they noticed bulges in the pool walls in October and that they had been there for a few months from when lightning struck a tree near the pool. Mr. Hara told us that the lightning strike damaged the wifi equipment in the clubhouse and an irrigation line that was adjacent to the tree that was struck by the lightning. He said that none of the pool equipment was damaged by the lightning strike. The pool committee member said that the pool was refinished approximately six years ago. They said the pool is not losing any water.

Observations

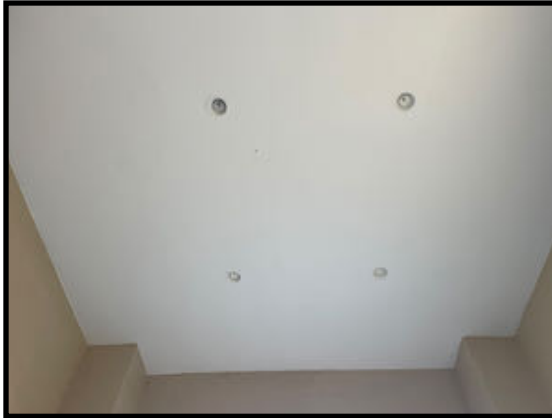
During our inspection of the Baycrest property, we made these observations:

Exterior

- Entering the clubhouse pool area, we observed **no evidence of lightning damage to the exterior of the clubhouse building.** The stuccoed walls and windows appear to be intact and in good condition. The stuccoed ceiling over the gated entry area is intact, with no indications of cracking.



Entry Gate to Clubhouse Pool Area



No Damage on Ceiling Above Entry Area



View Back Towards Clubhouse

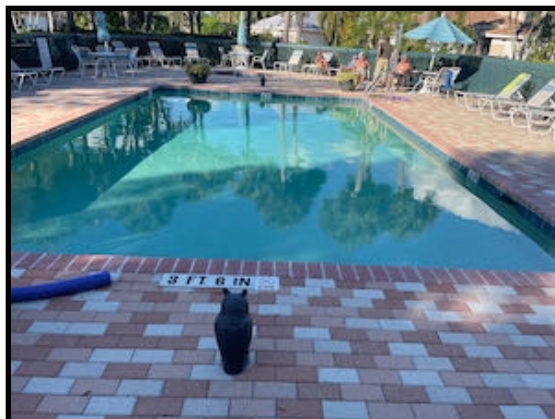
- From ground level, we could see that the **tiled roof over the clubhouse building** appears to be in good condition, with no signs of damage from a lightning strike. The gutters and downspouts around the perimeter of the roof also appear to be intact and in place.
- We could see the in-ground swimming pool is surrounded by **brick coping and a brick paver deck**. There is no evidence of lightning-related damage to the brick pavers or the coping.
- We took measurements around the edge of the pool and found that **the coping bricks are about 9 inches long**. This is an indication that the pool shell beneath the coping is likely about 7 or 8 inches thick.



No Signs of Lightning Damage to Clubhouse



No Signs of Lightning Damage to Clubhouse



In-Ground Swimming Pool and Brick Paver Deck



View South Towards Pool and Clubhouse



Measuring Coping at Edge of Pool

- We could see that the **rectangular swimming pool** has a shallow end on the south side that is approximately 3 feet and 6 inches deep, and a deep end on the north side that is about 6 feet deep. The shell of the swimming pool has a marcite coating with a pebble finish.



View Inside Swimming Pool

- We observed **11 bulges in the pool shell**, including 6 on the east side of the pool, 4 on the north side of the pool and 1 on the west side of the pool. There is no evidence of bulges in the pool shell at the south end of the pool that is closest to the clubhouse. We numbered the individual bulges and marked their approximate location inside the pool shell in the diagram included in page 2 of this report.



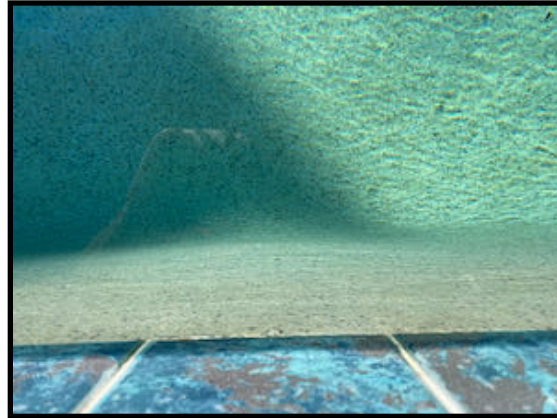
View of Bulge #1



View of Bulge #2



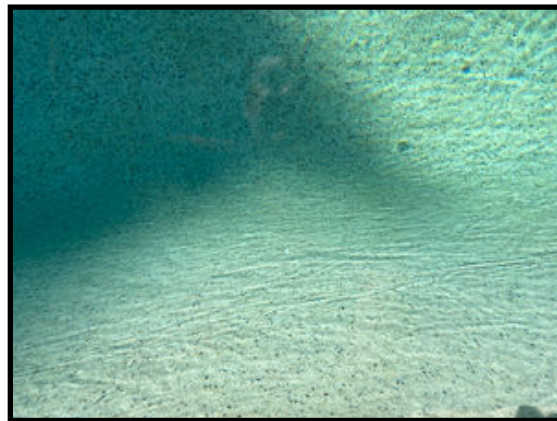
Apparent Calcium Deposit on Bulge in Pool



Another Bulge on East Side of Pool

- We found that **bulge #1** in the pool wall is approximately 12 inches in diameter and is about 28 inches deep into the pool. This bulge projects outward from the surrounding pool wall by approximately a ½-inch.

- We could see that **bulge #2** is approximately 22 inches in diameter and is about 24 inches deep. This bulge projects outward from the surrounding pool wall by approximately ¼-inch.



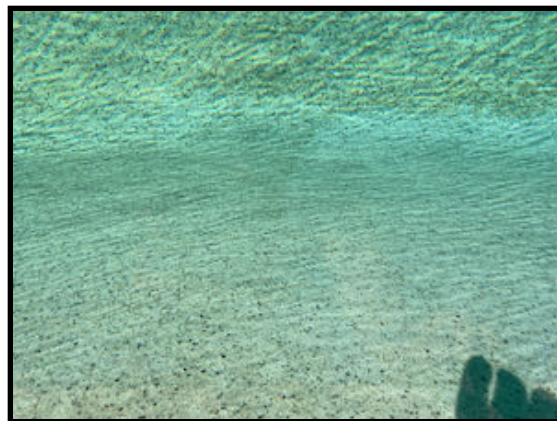
Closer View of Bulge in Pool Wall

- We noted that some of the bulges along the east side of the pool exhibit **white spots near their center that appear to be calcium deposits.**

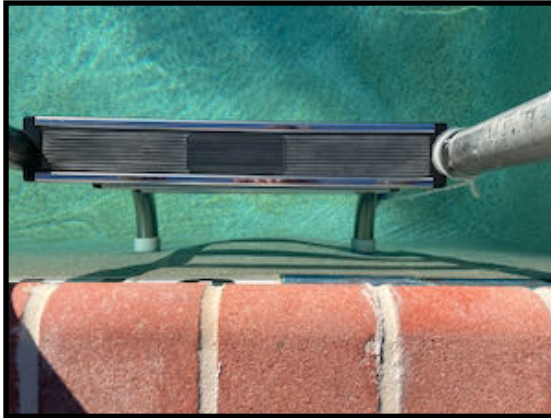
- We observed that **bulge #3** is approximately 14 inches in diameter and is about 34 inches deep. This bulge projects outward from the surrounding pool wall by approximately ½-inch.



View of Bulge #5



Closer View of Bulge in Pool Wall

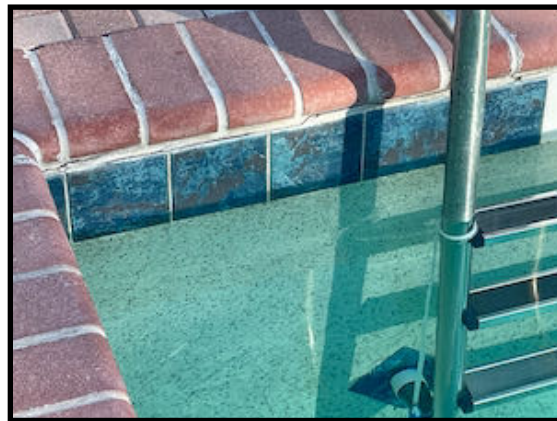


Bulge #6 Next to Pool Ladder

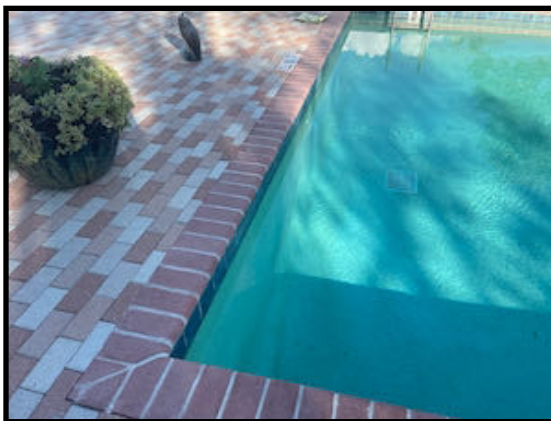


Another View of Pool Wall at Ladder

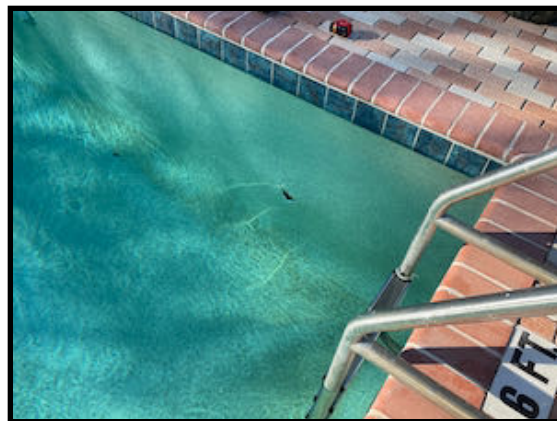
- We found that **bulge #4** is approximately 12 inches in diameter and is about 36 inches deep. This bulge projects outward from the pool wall by approximately ¼-inch.
- We could see that **bulge #5** is approximately 12 inches in diameter and is about 36 inches deep. This bulge projects outward from the pool wall by approximately ¼-inch.
- We observed that **bulge #6**, which is a larger bulge on the east side of the pool located next to the pool ladder, is approximately 30 inches in diameter and is about 38 inches deep. This bulge projects outward from the pool wall by approximately 2 inches. In the same location, we also noted there is some cracking present in the grout line between the coping bricks and the underlying pool shell.



Cracking in Ground Line Under Coping Tiles



Overview of Bulges at North End of Pool



Bulge #7 With Rupture in Finish



Bulge #7 With Rupture in Finish



Closer View of Rupture in Finish

- We could see that **bulge #7**, which appears the most severe, is approximately 16 inches in diameter and is about 48 inches deep. This bulge projects outward from the pool wall by approximately 3 to 4 inches, and there is a rupture in pool coating in the damage area. We inserted our tape measure through the delaminating coating and the underlying pool shell felt solid and intact.



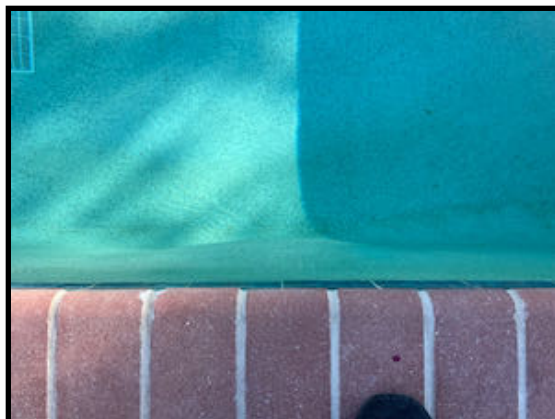
View of Bulge #8

- We found that **bulge #8** is approximately 18 inches in diameter and is about 48 inches deep. This bulge projects outward from the pool wall by approximately 2 inches.

- We could see that **bulge #9** is approximately 36 inches in diameter and is about 44 inches deep. This bulge projects outward from the pool wall by approximately 3 inches.



Another View of Bulge #8



View of Bulge #9



Another View of Bulge #9



View of Bulge #10

- We observed that **bulge #10** is approximately 24 inches in diameter and is about 48 inches deep. This bulge projects outward from the pool wall by approximately 2 inches.
- We found that **bulge #11**, which is the one bulge on the west side of the pool, is approximately 24 inches in diameter and is about 42 inches deep. This bulge projects outward from the pool wall by approximately 1½ inches.
- We noted there is **spa** located near the north end of the pool deck. There is no evidence of lightning damage inside or around the spa.
- The gentleman who accompanied us during our inspection pointed out the **location of the tree that was reportedly struck by lightning**. There is a tree stump on the



Another View of Bulge #10



View of Bulge #11



Spa Area With No Indications of Damage



View Towards Area With Tree in Question



Outside Pool Area Viewing Towards Stump Area

ground in this area that is located directly next to the road. The tree stump is located outside the fence of the pool area and is approximately 30 to 35 feet away from the closest edge of the pool shell.

- We noted there is an **irrigation pipe** in the soil adjacent to the tree stump. The gentleman who accompanied us told us the original pipe at this location was ruptured during the lightning strike and has since been replaced. The old pipe that was reportedly damaged was not available for our inspection.



Area Where Tree Reportedly Removed

- We could see there are **two trees** next to the road that are located just south of the tree that was reportedly struck by lightning. Both of these trees have canopies that are approximately 30 feet in diameter. Typically the root system of a tree extends



Irrigation Pipe in Soil



Two Trees on East Side of Pool Area



Pool Equipment on West Side of Pool Area



No Indications of Damage to Pool Equipment

outward as far out as the canopy of the tree. The gentleman who accompanied us told us the tree that was struck by lightning was a similar size to the other two trees.

- The **pool equipment** is located within a fenced area on the west side of the pool deck. There is no evidence of lightning damage to the pool equipment, and none has been reported by the Association.
- The gentleman who accompanied us pointed out the property across the road from the tree that was reportedly struck by lightning and told us **the owner of the home reported that one or two palm trees in his yard died as a result of the lightning strike.** We noted there are many other palm trees in closer proximity to the tree that was reportedly struck by lightning that show no indications of damage.



No Indications of Damage to Pool Equipment



View Towards Home Across Street East of the Pool Area



Multiple Palm Trees Near Pool Area Appear Intact

Review of Documents Provided by the Baycrest Homeowner's Association

Work Order History

We reviewed a document titled Work Order History that is dated August 30, 2021. This work order history lists two items that appear to be related to the claimed lightning strike, and three additional items that are not related to the claim. Reviewing these items, we noted the following:

- W/O #2138 was created on August 20, 2021, and the summary for the item is listed as Hotwire Video Box. The detailed description of the item indicates that a storm the following night damaged or disabled the Hotwire video box in the pool complex.
- W/O #2139 was created on August 23, 2021, and the summary for the item is listed as Tree Struck by Lightning. The detailed description of the item states "I just found out that within the last few days the oak tree at the pool at the northeast corner was hit by lightning. A very large strike on the bark and limbs above. Please let Greenscapes know so they can tend to it. I understand that in the past, some type of a sealer has been put on trees in the neighborhood to try and save them. Cheryl Nye. Baycrest." The description continues that per Greenscapes they do not offer this kind of service and they may want to contact a tree vendor to see if they can put a sealer on the tree.

Greenscapes Service Request

We reviewed a service request to Greenscapes that is numbered 169429 and dated August 8, 23, 2021. This service request includes similar information to W/O #2139 from the Work Order History. Ms. Cheryl Nye indicates that within the last few days she discovered that an oak tree at the northeast corner of the pool was struck by lightning, and that it was a very large strike on the bark and limbs above. She requests if Greenscapes can tend to the damaged tree and inquires if they may be able to apply some type of sealer to the tree in order to try and save it. The service request was assigned to Brent Lemme of Greenscapes. He indicates that they do not offer that type of service and they may want to contact a tree vendor to see if they can apply a sealer to the tree.

John Karpovich Lightning Statement

We reviewed a copy of a document that is titled John Karpovich Lightning Statement. This document is an undated, handwritten letter that is signed by John Karpovich. The letter indicates that Mr. Karpovich heard a large "boom" and a "cracking sound" during a severe thunderstorm on the evening of August 19, 2021, between the hours of 8:30pm and 10:00pm. He reported that he told his wife that something was struck near the house. The letter indicates that the day after at 7:00am he went outside the house to investigate and he observed a tree directly across the street that was the victim of a lightning strike. It indicates that he observed a split in the bark that was approximately 4 inches wide from the top branches to the trunk on the right side of the tree. The letter indicates that upon

further observation he found a thick irrigation pipe located to the rear right side of the tree that was "blowed" completely out of the ground. The letter also states that bark, branches and leaves were scattered all over the area.

Johnson's Tree Service & Stump Grinding Estimate and Report

We reviewed documentation from Johnson's Tree Service & Stump Grinding that is dated November 29, 2021. The report indicates that the tree service company received a concerned phone call regarding an oak tree near the community pool in Baycrest at Pelican Landing. The report indicates that on visual inspection they determined the tree sustained major damage from a direct hit by lightning, as evidenced by a large wound in the tree trunk. They determined that the tree was structurally compromised and recommended the removal of the tree as soon as possible due to it being located in a busy public area. The estimate from the tree service company shows that they removed the tree and performed standard stump grinding for a cost of \$450.00.

Lightning Loss Report

We reviewed a document titled Lightning Loss Report that appears to have been prepared by the Baycrest Board of Directors. This document is divided into four sections that describe the claimed loss, including the origin of the loss, uncovering the date of the lightning strike, the work order history regarding the lightning strike to the tree and Hotwire router/cable box outage and their rationale for attributing the lightning strike to being the Cause of Loss to the coating on the interior walls of the pool.

Review of Supplemental Documentation

Willsha Pool Article

As a part of our investigation, we reviewed an article online prepared by Willsha Pools that describes pool plaster delamination. This article indicates that one of the most common problems that pool owners face is pool plaster delamination, which results in blisters or bubbles that form on the surface of the swimming pool. The article states that these blisters or bubbles are calcium nodules or small builds of calcium carbonate on the pool surface that bear a strong resemblance to bird droppings. The article indicates that the delamination can occur in small areas two to three inches in diameter, or it can form in wide expanses of three to four feet, or even more.


Opinion

In our Professional Opinion, based on the information available at this time, there is no definitive evidence that the claimed bulges in the pool finishes at the Baycrest Homeowner's Association Property were caused by the reported lightning strike on August 19, 2021. While a tree on the property may have been damaged by a lightning strike on this date, the bulges inside the pool are consistent with imperfect preparation or bonding of the marcite finish material that was applied to the pool shell.

The tree that was reportedly struck by lightning was removed prior to our site visit, however, the documentation we were provided does indicate that a tree was damaged by lightning near the clubhouse pool area and was later removed by Johnson's Tree Service & Stump Grinding. The tree that was removed was located approximately 30 to 35 feet from the closest edge of the pool, and was reportedly similar in size to two other nearby trees on the east side of the community pool area. While the tree on the property may have been damaged by lightning, there is no evidence to connect the claimed bulges in the pool with the reported lightning strike. There are no indications of lightning damage to any of the other materials within the pool area, including the metal fencing surrounding the pool, the pool deck and coping, the spa, the clubhouse and the pool equipment. Pool equipment would typically be the most susceptible to damage from a high energy lightning strike, but there is no visible damage to this equipment from lightning and all of the equipment is reportedly operational.

The claimed damage at the property consists of eleven bulges in the pool finish that vary in diameter and in the depth that they project out from the pool walls. These bulges are consistent with pool finish delamination that can typically develop due to improper prepping or application of the finish material that was applied to the original pool shell. We noted that some of the bulges inside the pool exhibit white spots near their center that appear to be calcium deposits. This is another common condition that is evidence of routine pool finish failure. The gentleman who accompanied us during our inspection told us that the pool is not losing water, which is an indication the underlying pool shell and piping is still intact and was not ruptured or damaged by the reported lightning strike. In our judgement, it would require destructive testing in the pool to further investigate the cause of the pool finish failure but this type of pool finish failure is not unusual for pool finishes as they age.

OMEGA FORENSIC ENGINEERING INC.


by: Andrew M. Knysh, P.E., President


Brennen Bourgeois, P.E., Senior Engineer