

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2021-015089-CA-01

SECTION: CA43

JUDGE: Michael Hanzman

In Re: Champlain Towers South Collapse Litigation

Plaintiff(s)

vs.

N/A

Defendant(s)

_____ /

**ORDER GRANTING, IN PART, TOWN OF SURFSIDE'S MOTION TO AUTHORIZE
TOWN AS A PARTICIPANT UNDER THE PROTOCOLS FOR INSPECTION,
INCLUDING INVASIVE TESTING**

This cause came before the Court on December 15, 2021, upon the Town of Surfside's ("Town") Motion to Authorize Town as a Participant Under the Protocol for Inspection, Documentation, and Storage of Components, Remnants, and Debris of the Champlain Towers Collapse ("Motion"), and the Court having reviewed the Motion and support, having heard argument of counsel, and being otherwise fully advised in the premises finds and orders as follows:

Findings

A. The Town, based on its status as either the local government entity in which the property on which the Champlain Towers South Condominium building was situated (the "Property") or as a potential defendant put on notice of potential claims pursuant to Sec. 768.28, Fla. Stat., has no constitutional or statutory right to access the Property, nor does it have any right to compulsory process, absent a warrant or other lawful circumstance.

B. The Court, however, does have discretion to control matters of discovery and matters of production of evidence and compulsory process.

C. In addition, the Town has received notice of potential litigation in this case and it is at least possible that once the six-month notice period required by Section 768.28, Fla. Stat. is over, the Town may be a party to this litigation. Accordingly, the Town has an interest in the outcome of this litigation. Nothing in this Order should be construed as giving the Town or its expert any “aura of independence.”

D. While the Legislature gives the Town the right to an investigatory period, the Town does not have the right to compulsory process through Section 768.28, Fla. Stat., unless and until it is a named defendant in this or any other litigation relating to the Champlain Towers South collapse

E. The Court finds that the Motion presents the Court with a matter of discretion.

Therefore, it is ordered and adjudged as follows:

1. Subject to the Court’s rulings on the record at the hearing on the Motion, the Court will exercise its discretion to afford the Town the right to participate in the parties’ agreed upon protocol as adopted by the Court.
2. The Town will be bound by that protocol and will not be able to deviate from the adopted protocol in any way.
3. The parties are free to accept the input from non-parties, including the Town, and its experts, in drafting and preparing a protocol to be submitted to the Court. However, the parties are not bound to accept any changes proposed by the Town and are free to adopt or disregard any of the Town’s suggestions as the parties see fit.

4. Once the protocol is adopted by the Court in an appropriate order, the Town will be permitted to participate in the protocol subject to the following limitations: The Town may not cause any delay whatsoever, any disruption, or any other problems of any nature with regard to the efficient implementation of the protocol; The Town will not be entitled to any additional testing on site, which is not sought by the parties, absent leave of Court.
5. If deemed warranted, the Court will not hesitate to revoke the privilege of participation which the Town has been given through this Order and require the Town's experts removed from the Property.

DONE and ORDERED in Chambers at Miami-Dade County, Florida on this 22nd day of December, 2021.



2021-015089-CA-01 12-22-2021 1:36 PM

Hon. Michael Hanzman

CIRCUIT COURT JUDGE

Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

CLERK TO **RECLOSE** CASE IF POST JUDGMENT

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