



The ballet makes another debut. **PAGE 11**

FIVE YEARS LATER

'What's the deal with the Colony?' is a question local tourism officials hear frequently. Five years after the resort's closing, there are no easy answers.

KURT SCHULTHEIS
SENIOR EDITOR

The Colony Beach and Tennis Resort — a landmark for 41 years that gave many permanent residents their first glimpse of Longboat Key — closed its doors for good Aug. 15, 2010.

Five years later, the 18-acre beachfront resort remains locked up and vacant. A town building official reported during 2013 assessments of conditions at the resort: "It's slowly collapsing upon itself."

Efforts to redevelop the property have also collapsed.

Two agreements the Colony Beach & Tennis Resort Association signed with developers to resurrect the resort failed. There are more legal disputes and bankruptcy hearings than those following the process can count. And the buildings at 1620 Gulf of Mexico Drive are nowhere close to being razed and rebuilt on the prime piece of Gulf-front real estate.

The impact of the dilapidated eyesore on Longboat Key is felt each and every day, according to officials and those involved with years of Colony legal disputes.

"When the Colony closed, the economy was going south, and other businesses on the Key and in the community were also trying to survive," said Mayor Jack Duncan. "In my mind, the negative impact of the Colony is felt more today than it was five years ago because the economy has rebounded. We have new condos and hotels being built, and this eyesore continues to sit here and look worse and worse every single day. Now, it's more aesthetics than economics."

Katie Moulton, former Colony Beach & Tennis Resort general manager, says those aesthetics make her sick to her stomach.

"It's like an old, shuttered ghost of a place that's supposed to be alive full of happy memories for generations of people to come," Moulton said. "In its current state it reminds me of a combination of greed, egos and unreasonable people unwilling to compromise gone terribly wrong."

SEE PAGE 2



Kurt Schultheis

Where are they now?

Find out what the Colony Beach & Tennis Resort's famous father-daughter hotel management team is up to five years after the Colony shuttered its doors.

PAGE 3



The slow collapse

FROM PAGE 1

TOURISM LOSS

Longboat Key Chamber of Commerce President Gail Loeffgren said she's still shocked the Colony is closed every time she drives by it.

"It's a terrible sight for visitors and residents to witness on what's otherwise one of the most premier communities in the country," Loeffgren said.

Loeffgren still gets visitors dropping in who ask about the Colony and why it has not reopened at the beginning of each season. And some are returning for the first time and had no idea the Colony has since closed.

"People connect with places they stayed on Longboat Key and don't forget what brought them joy and made them want to come back to visit again," Loeffgren said. "People still miss and ask about the Holiday Inn, so they ask about the Colony tenfold."

Visit Sarasota County President Virginia Haley cites the Colony's closing as "the beginning of some of the worst couple economic and tourism months this area has ever witnessed," which was compounded by the BP Deepwater Horizon oil spill that led many visitors to cancel reservations, even though local beaches never saw any oil wash ashore.

To this day, Haley said she gets more people asking what happened to the Colony than any other hotel or tourism property that was lost to the recession.

"Many people came to be just not Longboat Key residents but Sarasota residents after visiting the Colony," Haley said. "We lost that cache the day we lost the Colony."

Although Haley is quick to point out the economy has rebounded, and new hotels are being built on the island and the mainland, she said she won't be satisfied until a resort is back on the Colony site.

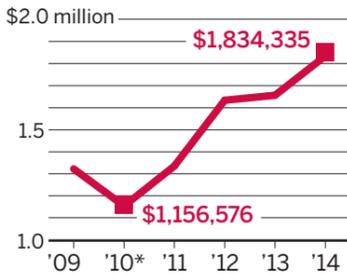
"There's not a lot of other opportunities to get another beachfront resort in this area," Haley said. "It's my No. 1 on a tourism wish list for the Sarasota County area."

PROPERTY VALUE IMPACT?

Loss of tourism isn't the only impact the resort's closure five years ago has had on the Key.

Geographically, no one has been more impacted by the resort's

SARASOTA COUNTY TOURISM DEVELOPMENT TAX NUMBERS FOR LONGBOAT KEY



*Year Colony Beach & Tennis Resort closed



Kurt Schultheis

closure from a visual and property value standpoint than next-door neighbors at the Aquarius Club.

Greg Van Howe told the *Longboat Observer* the resort next door was an asset and a major selling point because of its restaurants and shops when he bought his unit in 2003.

Fast forward to Aug. 15, 2015, and the dilapidated resort is an eyesore and a nuisance.

What once was a vibrant and bustling resort is now a broken down mess that includes the occasional rat scurrying around the boarded up wooden buildings, neighbors say.

"There's a slum on Longboat Key, and I live next to it," Van Howe said.

The Colony, some say, is now a deterrent for buyers interested in Aquarius or the 10-unit Tencon property, which sits just south of the Colony.

But the effect is difficult to measure because the Colony closed in 2010 during the slowest years for Longboat Key real estate and at a time when other businesses and hotels such as the Holiday Inn were already closed.

Another unknown is how many guests would have stayed at the Colony over the past five years and eventually purchased Longboat Key property.

Barbara Ackerman, a Realtor with Coldwell Banker Residential Real Estate's The Barbara Ackerman Group said she misses the Colony every day.

"There isn't any question that not having the Colony as a destination for tourists, who are our future buyers, has been missed tremendously," Ackerman said.

"The Colony was part of our heritage, and people began living here after staying at the Colony," said Cheryl Loeffler, of Premier Sotheby's International Realty. Loeffler's first introduction to the island was also via a visit to the resort.

"Now (Longboat) has to be more of a buying destination," she said.

TOWN TAKES PASSIVE STANCE

In April 2013, the Longboat Key Town Commission held several Colony workshops to encourage the parties to reach an agreement.

And in December 2013, the commission came close to reviewing a building-by-building assessment of the property to consider condemning the property before canceling the hearings.

Today, Duncan said the commission has taken a much more passive approach because the town realizes there's nothing that can be done other than ensure the property is boarded up and not violating any ordinances that violate the health, safety and welfare of the island's residents.

"For years we pushed and tried to help find a positive outcome, and now it's more of a 'I give up, just let me know when it happens,' approach," Duncan said.

In the meantime, Duncan said it's hard for him and other residents to drive past the resort without feeling embarrassed.

"Getting all the issues resolved and making that a world-class resort should be the focal point of all interested parties, and it's a shame we're still sitting here five years later talking about it and making the same plea," he said.

BY THE NUMBERS

The vacant Colony Beach & Tennis Resort has required extra police presence since it closed. The following incidents are documented in Longboat Key Police reports from the past five years.

- 22 Security checks
- 15 Trespassing
- 13 Vandalism
- 9 Suspicious circumstance
- 8 Burglary
- 4 Fire Alarm
- 3 Property damage
- 3 Lost property
- 2 Civil disturbance
- 2 Larceny
- 2 Abandoned 911 call
- 2 Found property
- 1 Battery
- 1 Animal nuisance

The Colony questions

The *Longboat Observer* recaps why the Colony Beach & Tennis Resort closed and the legal disputes that have prevented redevelopment from proceeding five years later.

Why is the Colony Beach & Tennis Resort closed?

The Colony closed in August 2010, after U.S. Bankruptcy Judge K. Rodney May converted the Colony's Chapter 11 bankruptcy reorganization with its unit owners to a Chapter 7 liquidation.

Ultimately, the rulings forced the Colony to close by dissolving the partnership that ran the Colony (led by Dr. Murray "Murf" Klauber) and converting the Colony from a hotel resort to a condominium association. As a result, unit owners received possession of their units.

Why did the parties end up in court?

Klauber's partnership operated and managed the hotel, while owners of the 232 units had access to their units 30 days a year and allowed the hotel partnership to rent the units for the remaining 335 days a year.

In 2004, Klauber and unit owners became ensnared in a legal dispute over who was responsible for paying for approximately \$14.1 million in repairs.

Klauber sued the Colony Beach & Tennis Resort Association in 2007 in Sarasota County.

How did the case wind up in bankruptcy court?

The dispute landed in the U.S. Bankruptcy Court's Middle District of Florida in 2008, after the association filed for Chapter 11 bankruptcy, citing the \$14.1 million assessment as its biggest liability. Judge May ruled in favor of the association in 2009, finding that the association wasn't responsible for the paying the assessment. Klauber's hotel-operating entity filed for Chapter 11 bankruptcy in October 2009 in a separate case.

The association then asked Judge May to convert the Colony partnership Chapter 11 bankruptcy reorganization to a Chapter 7 liquidation, which he did.

Wasn't Judge May's ruling overturned?

Yes. Klauber and his entities appealed Judge May's 2009 rulings in which the judge found the association wasn't liable for paying the assessment.

U.S. District Judge Steven D. Merryday ruled in Klauber's favor in July 2011, concluding that the association had always

SEE PAGE 6

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Heather Merriman Saba

Former Colony Beach & Tennis Resort General Manager Katie Moulton says helping parties achieve settlements as a professional mediator allows her to be with people again, and it just might help her heal from the one legal dispute she couldn't settle.

Where are they now?

Five years after the Colony Beach & Tennis Resort's closing, longtime general manager Katie Moulton and owner Murf Klauber still talk Colony every day.

KURT SCHULTHEIS
SENIOR EDITOR

Katie Moulton

Katie Klauber Moulton worked "seven days a week with more weekly hours than I could count for 25 years" as general manager of the Colony Beach & Tennis Resort alongside her father, longtime resort owner Dr. Murray "Murf" Klauber.

She was 13 when she started working at the resort, armed with a pitcher of water and coffeepot.

Then, the Colony closed Aug. 15, 2010, amid lawsuits, and the job that consumed most of her waking hours was gone.

"After it closed, I sat at home one day, and it hit me," Moulton said. "I didn't know how hard I was working until I wasn't."

Moulton took time to relax. She caught up with lifelong friends. She immersed herself in work for the luxury real estate business of her husband, Michael Moulton — a job she still handles today.

But her epiphany came at the top of the Ringling Bridge during one of her frequent walks.

"I was walking and having a moment of unpleasantness a few years ago about what was happening at the Colony and how we failed to come to a settlement when I had a big 'Aha!' moment,"

Moulton said. "I realized we failed in all of our settlement agreements, negotiations, mediations, etc. and in each, there was typically a trained professional third party leading those discussions."

Those professionals often saw anger, distrust, high emotions and little chance of a resolution. What they didn't understand in most cases, Moulton realized, was what was at risk if resolution wasn't reached.

"I knew I could do better than that and help people," Moulton said. "So, I worked to become a certified mediator."

For the two years, Moulton has volunteered for the Sarasota 12th Circuit Citizens Dispute Resolution Program as a mediator.

"I have 60 cases under my belt with a very high settlement resolution rate," Moulton said.

Moulton says she's often complimented for achieving a settlement among parties where the judge thought there was no chance for resolution.

"I don't think there are many people who know better than I do that you don't want your issues to ultimately get decided before a judge," Moulton said. "You are better off coming up with and agreeing to something you can all live with."

Now a Florida Supreme Court certified mediator, Moulton is also a partner and executive

director of Cayuga Hospitality Consultants, a group of global mediators/consultants for the hotel industry made up of fellow Cornell University School of Hotel Administration graduates.

In her spare time — which she now has more of — Moulton enjoys cooking, exercising and "living the downtown life." She and her husband sold their Bird Key home in 2013 and live in a Sarasota condominium.

Moulton, though, said hardly a day goes by that she and her father don't bring up the Colony.

"I miss my employees, the guests and helping people have a good time," Moulton said. "I hope that property can do that again for people as soon as possible."

"I don't think there are many people who know better than I do that you don't want your issues to ultimately get decided before a judge."

— Katie Moulton

Q+A WITH KATIE MOULTON

How much is the Colony Beach & Tennis Resort still a part of your life?

Dad and I talk about it every single day. I manage all of my father's business affairs, which are still very much tied to the Colony because he still has a vested interest in the final outcome. Whether it's business-related, lamenting about past legal issues or just laughing and reminiscing, everything seems to relate back to the Colony in some way for us.

Can the Colony's existing units be renovated and restored, as some unit owners claim?

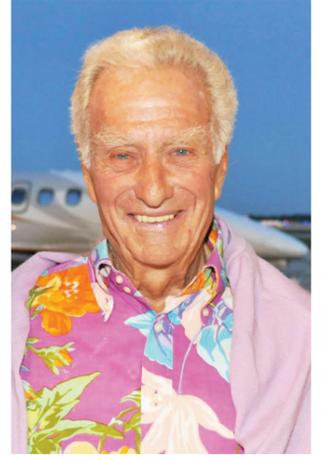
Anybody who thinks the property can be renovated is not living in the real world. The project the board proposed back in 2005 and 2006 was a necessary project to meet current codes and keep the buildings healthy. To think you can leave the buildings vacant and the cast iron sewer system unused for five years and then try and turn a switch or do it in an affordable way doesn't make sense to me.

Would you and your father consider being part of a new resort on the former Colony property?

It would depend on who the new owners are. I would be a part of any project I believe I can add value to and that I believe in.

What did you learn most from your dad during all those years with him at the resort?

I learned how to run a business like a family. We were all a family. My Dad and I would stop a serious conversation to ask a 6-year-old how his birthday party in the dining room was the night before. That shocked people. To be an independent property and to be recognized globally for a family business on a tiny little island is very unusual, and we created that together. I learned a lot from him, and he learned a lot from me.



Courtesy photo

Murf Klauber

Dr. Murray "Murf" Klauber still works on sketches for a future resort at the Colony Beach & Tennis Resort.

"The island needs high-tech office space in a high-rise, high-tech meeting rooms and new floor plans for units that have more space," Klauber said. "I can see it."

Klauber, 88, still lives and breathes the Colony with his daughter and longtime Colony partner Katie Moulton.

"I miss the fun of running the place with Katie more than anything," Klauber said. "When I created that, the most important thing was having fun every day. We succeeded in that."

Klauber still keeps in touch with famous visitors like Bud Collins and the Smothers Brothers.

He never imagined that a lawsuit he filed in 2007 to assess unit owners for upkeep and damages associated with the hurricane seasons of 2004 and 2005 would lead to the resort's closure.

During season, he and his wife, Susie, stay at The Players Club, not far from the resort he made famous in the 1970s as a tennis destination.

"It's really a shame," Klauber said. "When I walk by that place, it can ruin my day."

Klauber and his wife spend half of the summer in Toronto and the other half of the summer in downtown Sarasota at Katie's condominium.

Klauber hasn't attended Colony bankruptcy hearings in Tampa for three years, and he keeps apprised of the legal disputes from Moulton.

"I'm still hopeful I can see dirt turning there for a new project in my lifetime," Klauber said.

Klauber said he also believes either Ocean Properties or Unicorp "could do a good job with the property."

Asked if he would like to be involved in a future project, Klauber doesn't hesitate.

"No one knows the property like Katie and I do," Klauber said. "I would be available to help to whoever asks."

Klauber is also working on a new Sarasota restaurant concept.

"I still function like I did 50 years ago," Klauber said. "The ideas keep flowing!"

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COLONY: The legal maze

What legal hurdles remain before a new resort can rise? The *Longboat Observer* breaks down three major legal issues that need resolution.



KURT SCHULTHEIS
 SENIOR EDITOR

THE \$23 MILLION JUDGMENT

Four bidders are seeking the \$23 million judgment against Colony Beach & Tennis Resort unit owners that U.S. Bankruptcy Trustee William Maloney seeks to sell. Longtime Colony owner Dr. Murray "Murf" Klauber won the judgment on appeal in 2012. **WHY IT MATTERS:** Developers need the judgment to assess unit owners for money owed and use the funds to redevelop the resort. The association needs the judgment to bury it and prevent other developers from using it to assess them.

THE LATEST: The following four bids will be reviewed 10 a.m. Sept. 8 in May's courtroom:

- Newcomer Bluewater Oceanfront Investments LLC, a new Windermere-based corporation formed July 17 by registered agent Robert Butler, submitted the highest bid at \$4 million along with a \$400,000 deposit.
- The Colony Beach & Tennis Resort Association submitted a \$3 million cash bid with a

\$300,000 deposit.

■ Unicorp submitted a \$3.5 million bid with a \$350,000 deposit.

■ Naeco LLC, a New Hampshire-based corporation controlled by Delray Beach-based Ocean Properties, submitted a \$3.7 million bid with a \$370,000 deposit.

All offers except the association's would still allow the winning bidder to assess unit owners for the \$23 million judgment they are seeking as part of a redevelopment plan for the resort.

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BEFORE



AFTER

Kurt Schultheis

Parties will explain to Judge K. Rodney May why their offers should be approved and can raise cash bids at the auction.

THE RECREATIONAL LEASE JUDGMENT

Future development of the Colony Beach & Tennis Resort requires settlement of a long-disputed recreational lease, along with a \$2.5 million recreational

lease judgment that U.S. Bankruptcy Chapter 7 Trustee Douglas Menchise controls.

WHY IT MATTERS: To develop the entire 18-acre Colony site, a developer needs approximately three acres of tennis courts, walking trails and other amenities that sit mostly in the middle of the property. When the resort was operational, Klauber collected \$650,000 a year from unit owners for their right to use the amenities. The 99-year lease has approximately 60 years remaining, but payments haven't been made in nearly a decade. The judgment for rec lease payments and the rights to use the property are crucial to future development. Unicorp already has an agreement in place with Colony Lender LLC, which has agreed to give Unicorp rights to the 95% interest it owns on the property it acquired from Klauber's collateral on overdue bank loans and Carolyn Field.

THE LATEST: Menchise was bringing forward a \$600,000 settlement he reached with the

Colony Beach & Tennis Resort Association to Judge May at 10 a.m. Aug. 28.

But the settlement offer won't be presented to May as planned because Menchise filed a motion last week to withdraw the offer. Menchise noted in his Aug. 6 motion to rescind that the agreement expired and contained a mutual mistake of fact.

WHY IS HE RESCINDING IT? Unicorp President Chuck Whittall announced Aug. 7 he's reached an approximately \$1.4 million cash settlement agreement with Menchise that acquires the rec lease judgment and provides more cash for Menchise to settle claims. The settlement also releases the liability of all claims involved with the rec lease estate.

Judge May will review the settlement Unicorp has reached with Menchise 10 a.m. Aug. 28. Colony Beach & Tennis Resort Association President Jay Yablon, though, said the association will attempt to enforce its agreement. "We already signed an agreement that's scheduled for approval," Yablon said. "Behind the scenes, Whittall interfered with that and he's trying to reach a separate agreement."

PAYING ALL CREDITORS

The key to resolving the Colony Beach & Tennis Resort bankruptcy case, at its core, involves paying myriad creditors owed money when the resort closed its doors in 2010. Only after creditors are paid can the bankruptcy case be closed to pave the way for a future resort.

WHY IT MATTERS: Becoming the largest affected creditor in the Colony bankruptcy case settles yet another legal issue because another party that expected a large payment has been paid and resolved. Settling all disputes and claims is what will end the bankruptcy case.

So who's the largest affected creditor owed money in the Colony Beach & Tennis Resort bankruptcy case? It was Sarasota law firm Icard Merrill, which is owed \$1,047,000 for legal fees involved with the case over the years.

Whittall filed a motion last week confirming that he paid Icard Merrill its amount owed, which now makes Unicorp the largest affected creditor in the case. The association intends to fight the settlement, though, because it says it reached its own three-way settlement with Icard Merrill and Menchise for the rec lease.

An agreement the association had in place to purchase the Icard Merrill claim, though, expired July 30. Icard Merrill filed an objection to the former association settlement of its claim because the amount listed it was owed was incorrect.

There are a variety of other claims from parties still seeking to be paid as part of the bankruptcy case.

WHAT DOES IT MEAN?

It depends on whom you talk to. All eyes are on Whittall to see if his settlement offer with Trustee Menchise for the rec lease is considered and approved.

If it's approved and Whittall is able to put up enough cash at the all-day auction in September for the \$23 million judgment controlled by Trustee William Maloney and convince Judge May that his offer comes along with resolving outstanding claims, Unicorp will have the pieces in place to resolve the bankruptcy case. Colony Lender has also agreed to settle litigation, damages and claims it believes it has if Unicorp controls the rec lease judgment.

"We're excited," Whittall said. "If Judge May approves our settlement with Menchise and awards the \$23 million judgment to us, we will have all the pieces in place to turn dirt at the Colony, get the economic engine there going and eventually get people back on that beach."

Yablon, though, said if Whittall acquires the two judgments instead of the association, the legal dispute will drag on.

"If he (Whittall) gets those two judgments, then unfortunately we go full force on litigation," Yablon said. "We will fight him right through appeals and try to turn the judgments into zero. More time will be wasted, and lots of money will be spent on attorneys who will profit from it."

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Colony Beach & Tennis Resort units are boarded up and gated.

Kurt Schultheis

QUESTIONS FROM PAGE 2

been required to maintain the property's common elements. He remanded the case back to bankruptcy court and directed Judge May to determine whether the association should return possession of units to the hotel partnership bankruptcy trustee and pay more than \$7.7 million in damages or pay damages that are now estimated at \$23 million to the partnership with no return of units.

Judge May chose the latter in October 2013. He also recommended a \$2.2 million judgment for owners of a recreational lease.

What is the town's role in this mess?

Commissioners have discussed

the possibility of taking away the 134 nonconforming units in the past, as well condemning the property if the parties don't reach an agreement. But Mayor Jack Duncan said those discussions aren't held by commissioners any longer. A tourism extension deadline to preserve the units expires in December 2016.

"We've learned at this point that all we can do is wait for the legal mess to resolve itself," Duncan said.

What is the recreational facilities lease?

Until October 2008, unit owners paid \$650,000 annually for use of the tennis courts and other recreational facilities at the property to Klauber and other leaseholders. Unicorp

Development President Chuck Whittall and Colony Lender LLC principal David Siegal have argued that the 99-year lease came with the property Colony Lender foreclosed upon and that unit owners owe \$5.1 million for unpaid taxes and rent and could face future liabilities of \$42.3 million. The association disputes that claim.

What is the role of Colony Lender and Unicorp National Development?

Colony Lender previously purchased overdue bank loans on the Klauber-controlled properties, including an 80% interest in a 2.3-acre recreational property, from Bank of America for a rumored \$4.5 million, followed by a 15% interest in a 2.3-acre recreational property.

It won a judgment of more than \$14.3 million in a foreclosure trial, then placed the winning bid of \$15,200,001 in a July 2014 auction to become 95% owner of the recreational property and 100% owner of the other properties. It has argued that a disputed 99-year recreational facilities lease comes with the purchase of the 2.3-acre property.

Orlando-based Unicorp National Development Inc. has an agreement to purchase all Colony Lender resort assets.

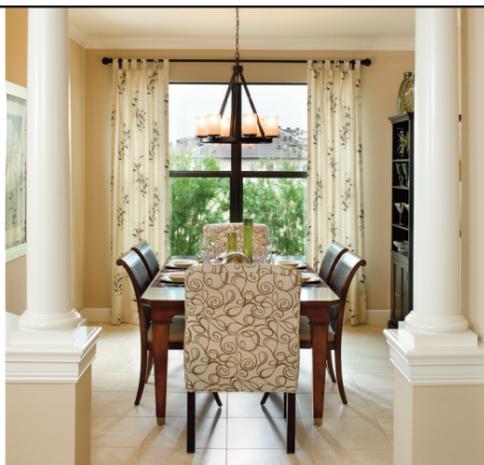
Why were Colony Lender and Unicorp National Development sanctioned?

Colony Lender and Unicorp sought more than \$5 million in damages for unpaid rent plus interest on a disputed recreational facilities lease last year through demand letters and lawsuits against each unit owner. Judge May ruled last month that those actions violated an automatic bankruptcy stay in April.

What does longtime unit owner Andy Adams currently own at the Colony?

Approximately 70 units and a 5% interest in the recreational property.

— ROBIN HARTILL



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