

*****ATTACHMENTS*****

TAUBE LAW, LLC

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February 15, 2021

VIA EMAIL

City of Sheboygan
Charles Adams, Esq.
City Attorney
828 Center Avenue, Suite 210
Sheboygan, Wisconsin 53081

RE: RDA Meeting on February 17, 2021

Dear Attorney Adams:

Thank you for the opportunity to share reasonings as to why the waiver of the 29-day continuous occupancy limit would be detrimental to the City and the RDA.

My client, Sheboygan Resort Operator, LLC (“SRO”), is very concerned about the many negative consequences that could occur if the 29-day continuous occupancy limit is waived, and requests that the City and RDA review the following, and then deny the request for waiver.

1.) SRO paid the City the following room tax revenue for the Villas (only):

2017	\$269,233
2018	\$283,107
2019	\$276,521
2020	\$147,312

On average (excluding 2020, due to COVID), SRO has paid \$276,287 per year in Villa room tax. Currently SRO manages 31 units; thus, the remaining 33 units would equate to an average of \$142,460.48 per year in room tax revenue.

In researching VRBO and Air B&B (collectively “Self-rental”), the average nights per year and the average room rate (using all seasons) for the 33 units, the Self-rental estimate for a 4 bedroom is \$360 per night, for a 2 bedroom is \$222 per night, and on average 168 rental nights per year. Based on these estimates, the Villa room tax revenue due would be \$64,532. Thus, at a *minimum*, the City would lose \$77,928.48 each year in room tax revenue.

The reason this is considered a “minimum” is due to the following reasons:

- As a unit owner explained, “then I would stay there all summer,” for these instances there would be \$0 room tax revenue to the City; and
- The City will have no assurances that Self-rental (either through an agency or as an individual) will be accurately reporting or paying all room tax owed, opposed to SRO’s

consistent quarterly payments.

2.) Allowing the 29-day continuous occupancy limit to be waived, could cause the City to lose an estimated \$142,460.48 per year in room tax revenue for any stay over 30 days. In accordance with Publication 219, Hotels, Motels and other Lodging Providers for the Wisconsin Sales and Use Tax Information, certain sales by a hotel (“hotel” includes inns, tourist homes, tourist houses or courts, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges, and cabins), motel, or other lodging provider are exempt from tax:

- Furnishing lodging to the same person or entity (e.g., corporation, partnership, sole proprietorship) at a hotel for a continuous period of one month or more is **not** taxable.
- **Note:** If the sale of the lodging service is exempt from Wisconsin sales tax, it is also exempt from the local room taxes (i.e., municipal room taxes, local exposition district taxes).

There are other issues that may occur if the 29-day continuous occupancy limit is waived and have the ability to create additional costs to the City such as:

1.) Additional police time will be expended for the following:

- Parking control issues; currently parking passes are used by SRO; Self-rental will not have this ability;
- Prostitution or sex trafficking as Self-rental will not have any trained staff on how to watch for these issues;
- No security or staff monitoring renters;
 - Animal waste and noise complaints; and
 - Noise/party/underage drinking/marijuana/drug/trash complaints.

2.) Additional fire department time will be expended for the following:

- Self-rental will not have staff monitoring fire alarms;
 - occupancy fire code violations;
 - cooking fires;
 - burnt foods; and
 - smoking in the buildings.

The above noted concerns will likely have an additional negative effect of lowering the values of the Villas, thus the rental income will lessen causing the room tax revenue to also lessen. The long-term negative effect to the City is when the values lessen, there will also be a reduction in property tax revenue to the City.

The City’s concept and purpose for developing the Resort complex was to generate income for the City by bringing in tourists and travelers to enjoy all that Sheboygan has to offer. The City

envisioned a “first-class” resort to make this a premiere destination and is why the City put in a number of agreements the importance of maintaining the resort complex in a “first-class” manner. Allowing a mixed use of resort and residential or longer-term rentals will cause the loss of the City’s original intent in developing this first-class destination resort. This loss will also impact the Conference Center and Blue Harbor Resort; as a number of guests that use these amenities also book the Villas. This may not seem like a concern for the City in the short run; but in the long run the concept of the entire complex, in which the City and RDA hold the ground lease, will decrease in value and the revenue generated to the City will decrease. Just look at what happened and is happening to the Osthoff Resort in Elkhart Lake, Wisconsin.

As the manager of 31 units and the common elements, SRO has a number of questions if the waiver is granted: a.) would the condominiums have to be rezoned, if yes, how would this be done; b.) would the City require alterations to the buildings; if yes, what would those be specifically; and c.) would the City require those units that don’t want the waiver to be included?

Again, SRO thanks you for the opportunity to express its concerns and requests that the City and RDA deny the request for waver of the 29-day continuous occupancy limit.

In the alternative, if the City and RDA determine that it is in its best interest of the City to vote in favor of the waiver, then SRO requests that the Blue Harbor Resort also be allowed to waive the 29-day continuous occupancy limit.

If you have any questions, I am available and can be reached at any time at 248-872-9545. I will also be attending the meeting and available for questions then.

Sincerely,



Wendy M. Taube, Esq.
Attorney for Sheboygan Resort Operator, LLC

cc: Gerald R. Forsythe
Marsha Forsythe

**Blue Harbor Resort Condominium
Blue Harbor Resort Condominium Association, Inc.
Additional Comments Regarding Request for Waiver of 29-Day Restriction
February 15, 2021**

General Information

The additional comments and information in this submission supplement a document dated January 25, 2021, submitted on behalf of the Blue Harbor Resort Condominium Association, Inc. (the “Condominium Association”) by its Board of Directors, and relate to the 64 units of the Blue Harbor Resort Condominium (the “Condominium”). At the request of the Redevelopment Authority of the City of Sheboygan, Wisconsin (the “Redevelopment Authority”), the focus of the review is on whether to remove the 29-day continuous occupancy limitation.

Referenced Documents

The 29-day continuous occupancy limit is referenced only in Section 7 to the REA (attached, and in which the City and the Authority are parties) and Section 12.1 of the Declaration (also attached, and in which the unit owners and the Condominium Association are the only parties). In both of these documents, the 29-day continuous occupancy limit is derived solely from the building code compliance and not to any independent use restrictions. Since the City is not a party to the Declaration, we will not include any detailed review of that document and the building code, since it would be addressed only, if at all, between the parties to the Condominium. Section 4 to the First Amendment to the REA confirmed the right of a unit owner to choose not to rent a condominium unit. Technically, then, even under the existing building code and documents either a 29-day short month rental, a summer rental, or even an owner-occupancy can already occur, subject only to breaks of one day every 29 days for a specified occupant. Although it is quite possible that if building code compliance for residential use is obtained, the 29-day continuous occupancy limit falls away on its own, confirmation of the removal of the 29-day continuous occupancy limit by the City provides certainty and brings the benefit to the City of higher assessments and the same or higher room tax revenue, as described below.

Impact of 29-day Rule on Market Value of Units

Units originally sold in an approximate range between \$350,000 and \$550,000 starting in 2004. As a part of the original sales materials, pro forma occupancy level, rental rate, and net income projections were provided by the original developer to unit purchasers which projected levels supporting the sales prices. Financing for original Condominium sales was provided in a pre-packaged manner by M&I Bank and Community Bank & Trust. Assessments of units were reflective of the original sales prices until approximately 2008.

As a result of the materially lower level of actual financial performance of the condominium units, with lower occupancy levels, lower rental rates, and lower net income, the price for resale

of the units plummeted. Furthermore, lenders were no longer able to provide residential real estate loans due to the 29-day continuous occupancy limitation. As a result of the 29-day continuous occupancy limitation, financing is reviewed as an income property only, with a smaller pool of potential cash buyers. The nature of the Condominiums is as an underperforming investment and financing for purchasers is generally not available.

Property tax assessments were challenged and adjusted to significantly lower levels as a result of the limited use to income rental as a direct consequence of the 29-day continuous occupancy limitation. Two-bedroom units have a current assessed value of \$69,800. Four-bedroom units have a current assessed value of \$115,800. Those values are significantly below the cost of construction of the Condominium units. As an example of the impact to City revenue, one owner of a two-bedroom waterfront unit stated that his real estate taxes went from approximately \$9,200 originally to approximately \$1,800 last year. Although the resale price of units had initially increased slightly from the \$60,000-\$100,000 levels following the Great Recession, the market has been limited as a result of the 29-day continuous occupancy limitation and the impact of the financial performance of rentals. An affiliate of the Resort operator purchased a number of units at higher prices due to mutual ownership of the resort. The offering prices for condominium units have again been declining as a result of the 29-day continuous occupancy limitation and the negative financial performance during 2020. A potential sale of a listed unit to an unaffiliated buyer is presently held up as a result of the 29-day continuous occupancy limitation.

Additional information from an owner of two condominium units is included, which provides the perspective of a unit owner. Basically, he has expressed the concern that without removal of the 29-day continuous occupancy limitation, the condominium units are at risk of becoming a blight on the South Pier area.

Impact on Room Tax

The original projections were for approximately 80% occupancy levels. In 2019, the year prior to the pandemic, occupancy levels were in the approximate range of 30% to one-third of rental nights available. The occupancy levels in 2020 were understandably significantly lower than this. However, after 15 years of history, the low occupancy levels in a normal year prove that there is more capacity than needed for villas adjacent to the Blue Harbor Resort. The affiliate of the Resort already owns at least 20 units out of a total of 64 units. Therefore, if none of the unaffiliated units were rented, the increased room rental rate and increased occupancy levels resulting from diminished capacity will maintain approximately the same room tax levels. The low occupancy levels, other than on select weekends, supports alternatives to condominium hotel rental for some of the Condominium units due to excess capacity on South Pier. In addition, the Board is finalizing a proposal from an independent rental management firm for unit owners who desire an alternate to the Resort rental pool. Based upon a sampling of discussions with unit owners who are not in the Resort rental pool, most are expected to continue to rent their units. This provides a likelihood for increased room tax revenue to the City (from both the Resort's

rental pool and other rentals reaching different markets), while at the same time increasing the assessed value and real estate tax revenue for the City.

Consistency with Referenced Documents

The Board respectfully requests the City to remove and waive the 29-day continuous occupancy limitation. To the extent that waiver and release of the 29-day continuous occupancy limitation and the expansion of use from only transient lodging requires building or unit alterations for compliance with building codes, the Condominium Association is prepared to address such alterations to the buildings and improvements. Therefore, the request is that the Redevelopment Authority confirm that the 29-day continuous occupancy limitation is removed subject to compliance with the City building code, as verified by the Planning Director in conjunction with the City Building Inspection Department.

Peter Mayer

From: Jeffrey J. Bartzen <jbartzen@neiderboucher.com>
Sent: Monday, February 15, 2021 2:35 PM
To: peter@wisclawyer.com
Subject: Blue Harbor; 29 Day Rule

Peter, thank you so much for taking my call today. As a part owner in two Blue Harbor units, I wanted to take a moment to put a few things down for your review. Please don't hesitate to contact me if you have any questions or comments on the below.

1. The 29 Day Rule ("Rule") has negatively affected the value of these condominium units from the beginning. I have been told by several lenders that the Rule is a major hurdle for lending, and it is the source of low valuations. I do not care if a local appraiser agrees or does not agree, this Rule is killing the valuation of these units.
2. These units originally sold for \$459K and \$359K in 2005. Now, the Resort is offering about \$70K for a two bedroom and \$100K for a four bedroom (I believe). How is that possible? If the Rule is not lifted, the values will continue to go down. When buying a trailer costs most than waterfront property, you have to ask yourself what is going on. It is not all a result of the Rule, but the Rule is a major contributor.
3. Waterfront "property" should be substantially higher. Just look at the Reiss building, and that is not even on the Lake.
4. Buyers who theoretically cannot live in their second home will not pay full value. Their lenders have to do customized in house loans.
5. The Wisconsin Dells parks have a similar arrangements, but NO ONE LIVES there. No Rule applies in the Dells. The Village of Lake Delton collects full property taxes on all the Wilderness, Great Wolf, Kalahari, etc. condos. While people could live there, no one does.
6. The current valuation of premium lake front property should be an embarrassment to the City of Sheboygan.
7. The current valuations are dragging down other similar properties in the City of Sheboygan. There is a ripple effect..
8. The City of Sheboygan could take a huge step in creating "value" on the South Pier by lifting the 29 day Rule. Most owners would gladly pay higher property taxes if they could sell and re-sell their units for fair market values. Right now, they are not sellable at all. They are worse than time share units.

Thank you for listening.

Jeffrey J. Bartzen
Neider & Boucher, S.C.
University Research Park
401 Charmany Drive
P.O. Box 5510
Madison, WI 53705-0510

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www.neiderboucher.com

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**FIRST AMENDMENT TO SOUTH PIER DISTRICT
RESTRICTIVE COVENANTS AND CROSS EASEMENT AGREEMENT**

THIS FIRST AMENDMENT is made as of the 5th day of June, 2004, by and among the City of Sheboygan, Wisconsin, a Wisconsin municipal corporation and the Redevelopment Authority of the City of Sheboygan, Wisconsin and The Great Lakes Companies, Inc., a Wisconsin corporation and Blue Harbor Resort Sheboygan, LLC, a Wisconsin limited liability company and Blue Harbor Resort Condominium, LLC, a Delaware limited liability company (collectively, the "Parties").

RECITALS

(i) The Parties entered into a Development Agreement dated as of July 30, 2003 (the "Original Development Agreement") and certain other documents and instruments with respect to the land described on **Exhibit A** attached hereto and all improvements located and to be located thereon.

(ii) The Parties entered into the South Pier District Restrictive Covenants and Cross Easement Agreement dated as of July 30, 2003 (the "Original Restrictive Covenants") with respect to the land described on **Exhibit B** attached hereto and all improvements located and to be located thereon.

(iii) The Original Development Agreement has been amended by a First Amendment to Development Agreement dated of even date herewith, and the Parties desire to amend the Original Restrictive Covenants to be consistent with the amendment of the Original Development Agreement.

NOW, THEREFORE, in consideration of the Recitals and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the Original Restrictive Covenants as follows:

1. **Definitions.** Capitalized terms used herein and not otherwise defined herein shall have the same meaning as such terms have in the Original Restrictive Covenants. The term "Restrictive Covenants and Easement Agreement" as used in any document or instrument referencing the Original Restrictive Covenants, including without limitation, this First Amendment, the Development Agreement, the Resort Ground Lease, the Condominium Ground Lease, the Convention Center Operating Lease, and the Reimbursement Agreement shall mean the Original Restrictive Covenants as amended by this First Amendment.

2. **Use of Condominiums.** The provisions of paragraph 2 of the First Amendment to Development Agreement, providing that the individual owners of any sold condominium units in the Condominium Project shall not be required to make their units available for rental as hotel rooms to the general public, are incorporated herein in their entirety. In addition, the last clause of Section 6(c) of the Original Restrictive Covenants reading "except that condominium unit

owners and/or their guests may use or occupy the owner's condominium unit for not more than sixty (60) days in any calendar year" shall be deleted.

3. **City Condominium Payments.** Any reference to the City Condominium Payment(s) and the Condominium City Payment(s) in the Original Restrictive Covenants shall be deleted.

4. **Condominium Rental Provision.** Section 6(f) of the Original Restrictive Covenants shall be amended and restated in its entirety as follows:

"f. **Condominium Rental Provision.** Any individual condominium unit owner in the Condominium Project may elect to have his/her/its condominium unit made available for rental by the general public and persons attending the events booked at the Convention Center Project. An election by an individual condominium unit owner to have or not to have his/her/its condominium unit made available for rental shall not operate to release any individual condominium unit or its owner from compliance with all terms and conditions of this Agreement applicable to the Condominium Project and his/her/its condominium unit. No individual condominium unit owner will be required to enter into a rental management agreement. If a condominium unit owner makes his/her/its condominium unit available for rental, a room tax will be due and payable to the City with respect to such unit in an amount imposed by the City in accordance with its legislative or other powers, which tax may be modified or amended from time to time as permitted by applicable law. The Resort LLC and/or Developer shall collect all room taxes due and payable for the Condominium Project and shall remit the room tax payments to the City. If for any reason, the Resort LLC and/or Developer no longer manage the Condominium Project, are no longer parties to a rental management agreement for an individual condominium unit rented to the general public, any such rental agreement is with a party other than the Resort LLC, or there is no rental management agreement in effect with respect to an individual condominium unit which is rented to the general public, then the City shall have the right to collect the room tax payments for such unit from the individual condominium unit owner at the times and in the manner described herein. If room taxes are due and payable with respect to an individual condominium unit and if the room taxes are not paid when due, then in addition to any other rights the City may have with respect to a default under the Development Agreement by an individual condominium unit owner, the City shall also have a lien against the defaulting party's condominium unit with respect to any unpaid room tax payments, with the priority of such lien dating from the recording of a notice of such lien by the City."

5. **Condominium Site and Condominium Project.** Section 6(d) of the Original Restrictive Covenants is amended and restated in its entirety to read as follows: "The Condominium Site and the Condominium Project shall be used solely for the purpose of (i) a condominium of up to sixty-four (64) condominium units located in up to sixteen (16) two-story buildings containing four (4) condominium units each, and (ii) a total of ninety-six (96) surface parking spaces serving the condominium units (subject to the addition of each Phase to this Agreement, as further described at Recital A(1)(c) and in the Development Agreement). The

unsold condominium units (as defined below) must be available for rental as hotel rooms by the general public and reasonably available for use by the events booked into the Convention Center.”

6. **Condominium Units Available to the Public.** Section 6(e) of the Original Restrictive Covenants is amended and restated in its entirety to read as follows: “Until December 31, 2028, or until expiration of the term of the Development Agreement or the Reimbursement Agreement, whichever is later to occur, subject to reasonable periods of unavailability as a result of casualty, condemnation, ordinary and extraordinary repair and replacement, all unsold condominium units (as defined below) in the Condominium Project shall at all times be available for rental to the general public as hotel rooms. The term “unsold condominium units” shall mean those condominium units owned by Condominium LLC, as developer of the Condominium Project, prior to the initial sale of such unit.”

7. **Building Code Compliance.** The following is added as a new Section 6(h) in the Original Restrictive Covenants: “The condominium units have been constructed to comply with the City of Sheboygan's building codes applicable to transient lodging. In order to comply with the City of Sheboygan's building codes, no individual may continuously occupy any particular condominium unit for a period exceeding 29 days. Any use of a condominium unit for any purpose other than as transient lodging will violate the City of Sheboygan's building codes and the City of Sheboygan shall have all rights and remedies available to it in connection with such violation, including without limitation, the right to require the owner of any such unit to bring his/her/its condominium unit into compliance with all applicable building codes. The issuance by the City of Sheboygan of an occupancy permit for any condominium unit shall not be deemed to limit or restrict the City of Sheboygan's right to enforce its building codes and ordinances or its right to require any condominium unit owner to comply with such building codes and ordinances.”

8. **Miscellaneous.**

(a) All agreements, representations, warranties, covenants, liabilities and obligations made in this First Amendment shall survive the execution and delivery of this First Amendment.

(b) This First Amendment shall be governed by, and construed and interpreted in accordance with, the laws of the State of Wisconsin applicable to contracts made and wholly performed within such state.

(c) This First Amendment may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same agreement. Facsimile signatures shall be deemed original signatures for all purposes of this First Amendment.

(d) Time is of the essence of each and every obligation or agreement contained in this First Amendment.

(e) This First Amendment shall be recorded in the office of the Register of Deeds of Sheboygan County, Wisconsin, it being understood by the parties that this First Amendment will run with the land and will be binding upon the Resort Site, the Condominium Site, the Convention Center Site, the Resort Project, the Convention Center Project and the Condominium Project and any owner and/or lessee and/or mortgagee of all or any portions of such sites and/or the Resort Project and the Convention Center Project and the Condominium Project, and their successors and assigns, including without limitation, the owners of the individual condominium units. It is intended that this First Amendment have the same priority as the Original Restrictive Covenants and that all loans, liens and encumbrances in connection with the Resort Project and the Condominium Project are subject and subordinate to the terms of this First Amendment, in the same manner as such loans, liens and encumbrances were subject and subordinate to the Original Restrictive Covenants.

(f) The headings in this First Amendment are for reference only and are not intended to modify any of the terms and conditions of this First Amendment.

(g) Nothing contained in this First Amendment is intended to or has the effect of releasing Resort LLC or Condominium LLC or Developer from compliance with all applicable laws, rules, regulations and ordinances.

(h) This First Amendment is the product of negotiation among all of the parties hereto and no term, covenant or provision herein or the failure to include a term, covenant or provision shall be construed against any party hereto solely on the basis that one party or the other drafted this First Agreement or any term, covenant or condition contained herein.

(i) Nothing contained in this First Amendment or the Original Restrictive Covenants is intended to or has the effect of releasing any individual condominium unit owner from compliance with all applicable laws, rules, regulations and ordinances, including without limitation, from his/her/its obligation to pay real estate and personal property taxes and special assessments assessed and/or levied in connection with his/her/its condominium unit.

9. **No Other Changes.** Except as otherwise specifically set forth herein, all other terms and conditions of the Original Restrictive Covenants remain unmodified and in full force and effect.

10. **Effective Date of First Amendment.** The terms and conditions of this First Amendment shall become effective upon the effective date of the First Amendment to Development Agreement. If the First Amendment to Development Agreement has not become effective and such condition is not waived in writing by the City and the Authority on or before June 30, 2004, then the terms and conditions of this First Amendment shall automatically terminate and be of no further force or effect and the Original Restrictive Covenants will continue unmodified and in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the date and year first above written.

CITY OF SHEBOYGAN, WISCONSIN

By: James Schramm
James Schramm, Mayor

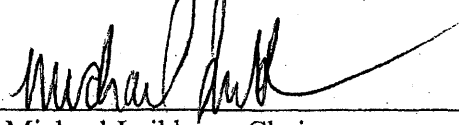
Attest: Susan Richards
Patricia Lohse, City Clerk
Deputy
Susan Richards

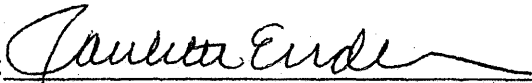
STATE OF WISCONSIN)
)ss.
SHEBOYGAN COUNTY)

Personally appeared before me this 27th day of June, 2004, the above-named James Schramm and ^{Susan Richards} ~~Patricia Lohse~~, the Mayor and City Clerk, respectively, of the City of Sheboygan, Wisconsin, to me known to be the persons who executed the foregoing agreement on behalf of the City and by its authority.

Stephen G. McLean
Name: Stephen G. McLean
Notary Public, State of Wisconsin
My Commission expires: is permanent

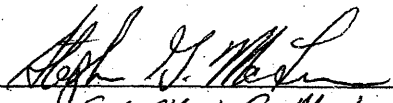
**REDEVELOPMENT AUTHORITY OF THE
CITY OF SHEBOYGAN, WISCONSIN**

By: 
Michael Leibham, Chairperson

Attest: 
Paulette Enders, Executive Director

STATE OF WISCONSIN)
)ss.
SHEBOYGAN COUNTY)

Personally appeared before me this 24th day of June, 2004, the above-named Michael Leibham and Paulette Enders, the Chairperson and Executive Director, respectively, of the Redevelopment Authority of the City of Sheboygan, Wisconsin, to me known to be the persons who executed the foregoing agreement on behalf of said Redevelopment Authority and by its authority.


Name: STEPHEN G. McLEAN
Notary Public, State of Wisconsin
My Commission expires: is permanent

However, if the value of the taking exceeds the value of the remaining Common Elements to the extent that, in the judgment of the Association, reconstruction or restoration is not practical, the Condominium shall be subject to an action for partition upon obtaining the written consent of the Unit Owners having eighty percent (80%) or more of the vote in the Association, and the written consent of the City and Authority. Each Unit Owner whose Unit is subject to a Mortgage shall first obtain his Mortgagee's written consent to the Unit Owner's intended vote. In the case of partition, the net proceeds of sale, together with any net proceeds of the award of taking, shall be considered as one fund and shall be divided among all Unit Owners in proportion to their Allocated Interests and shall be distributed in accordance with the priority of interests in each Unit. Any Mortgagee may require that the net proceeds of the award from any taking, payable to the Unit Owner who granted the Mortgagee its Mortgage, be paid directly to a trustee designated by the Mortgagee.

(b) Taking of Unit. Following a taking of all or substantially all of one or more Units, such that the restoration or reconstruction of the Unit or Units is not practical, the affected Unit Owners and their Mortgagees, if any, as their respective interests may appear, shall be entitled to receive the full amount of the award for the taking of their Units. The affected Unit Owners shall thereupon release and relinquish any and all interests in their Units, the Condominium Property, and the Common Elements of the Condominium. The remaining Unit Owners shall thereafter file an amendment to this Declaration which would change the description of Property and improvements subject to the Declaration and the portion of the property designated as Units and Common Elements and change the Allocated Interest appurtenant to each Unit.

(c) Taking of a Portion of a Unit. In the event that a portion of any Unit is taken and the Unit is repaired or reconstructed, the Allocated Interests and vote appurtenant to such Unit shall remain unchanged.

11.3. Association as Designated Agent. The Association shall act as the designated agent and/or attorney-in-fact for each Unit Owner and their Mortgagees for the purpose of representing, negotiating and settling any proceeds or awards to be made to the Association or any Unit Owner on account of any casualty damage to the Condominium or eminent domain proceedings which involve the Condominium.

SECTION XII RESTRICTIONS ON USE, OCCUPANCY AND TRANSFER

12.1. Use. Declarant, each Unit Owner, and their respective agents, representatives, guests, tenants and invitees shall be subject to the use restrictions set forth in this Declaration and the Condominium Documents including, but not limited to, the Rules and Regulations as amended from time to time, which such restrictions include, without limitation, (i) the restriction imposed by the City's building code in effect on the date of this Declaration that no individual may continuously occupy a Unit for a period exceeding 29 days, and (ii) the restriction that the Building and Units are intended for and restricted exclusively to residential uses; provided, however, that Declarant reserves the right to use each of the unsold Units as a sample, model or sales office or management office for the Condominium.



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Sheboygan, WI 53081-4611

(920) 980-8241
e-mail: peter@wisclawyer.com
Firm web site: wisclawyer.com

February 15, 2021

Charles Adams, Esq.
City Attorney
City of Sheboygan
828 Center Avenue, Suite 210
Sheboygan, WI 53081
charles.adams@sheboyganwi.gov

Re: Blue Harbor Resort Condominium Association, Inc.; Request for Waiver and
Release Regarding South Pier Blue Harbor Development Project

Dear Attorney Adams:

Thank you for allowing the Blue Harbor Resort Condominium Association, Inc. to provide additional comments and information to Redevelopment Authority of the City of Sheboygan, Wisconsin ("Redevelopment Authority") relating to the request for waiver and release of the limitation of continuous occupancy to 29 days at Blue Harbor Resort Condominium.

We have provided a document containing the information, along with the referenced documents, and an e-mail communication for an owner of two units.

I do note that the letter provided by Attorney Taube projects the rental projections from Air B&B and VRBO for self-rental. I indicated the intent of the Board to recommend an alternate rental management plan. However, a self-rental forecast is flawed in that it is based upon projections from national dissimilar rentals as well as removing rentals rather than shifting them for increased occupancy and then adding to them from other market sources. The occupancy levels of even a good year like 2019 are far short of the supply. The Board's past professional management as well as the finalization of the professional management plan for future professional management of the common elements address any of the other property concerns raised in Attorney Taube's letter. Since the units managed by the Resort are under a 5-year contract for rental pool participation, we are confident that those units will continue to provide no less than the same room tax revenue, which will be supplemented by non-Resort rental units.



If you have any questions as we work together to address this, please feel free to call me, Tom Atkins, or any of the Board Members.

Sincerely yours,

A handwritten signature in blue ink that reads "Peter R. Mayer". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Peter R. Mayer

PRM/s
encl.

pc. Board of Directors, Blue Harbor Resort Condominium

CITY OF SHEBOYGAN

REQUEST FOR REDEVELOPMENT AUTHORITY CONSIDERATION

ITEM DESCRIPTION: Discussion and possible action on request from the Blue Harbor Resort Condominium Association, Inc. to grant a waiver and release of the limitation of continuous occupancy for 29 days at the Blue Harbor Condominiums.

REPORT PREPARED BY: Chad Pelishek, Director of Planning and Development

REPORT DATE: February 15, 2021 **MEETING DATE:** February 17, 2020

FISCAL SUMMARY:

Budget Line Item: N/A
Budget Summary: N/A
Budgeted Expenditure: N/A
Budgeted Revenue: N/A

STATUTORY REFERENCE:

Wisconsin N/A
Statutes:
Municipal Code: N/A

BACKGROUND / ANALYSIS:

The Redevelopment Authority requested additional information prior to deliberating on this request. After checking with the City Assessor, below is some further information on whether the value of the condos were reduced because of the 29-day limitation.

These units were highly discounted for the 2011 and 2012 assessment year, then a slight increase for the 2014 assessment a revaluation year.

The first decrease was for the 2011 assessment year due to Mediation. The second decrease was for the 2012 assessment year for "Economic Review" done by the previous Assessor.

The discounts/decreases were based on the condo location/type "Off Water" and "Water" as well as 2 or 4 bedrooms.

The 2011 decrease ranged from 42.9% to 46.6% as per Mediation.

"Off Water"	Land	BLDG	Total	
Two - Bedrooms	20000	41000	61000	53.8%
Four - Bedrooms	20000	81000	101000	47.9%

"Water"	Land	BLDG	Total	
Two - Bedrooms	20000	52000	72000	56.6%
Four - Bedrooms	20000	99200	119200	47.7%

After doing a quick sale review from 1/1/2016-12/31/2020, by the City Assessor, there were 17 sales that he would consider useable. The average sale \$204,535; ranging from \$135,000 to \$250,000.

There is a listing at 853 Beachfront at \$365,000 and the 2020 assessed value (AV) is at \$116,000. We would presume that the current AV are approximately no greater than 50% of the potential market value of each unit.

The City Assessor Mike Grota predicts the value of the condos would double from the 2020 assessment of \$5.3 million to \$10.6 million if the restriction was removed. Total property tax payments would go from approximately \$129,600 to \$259,300 based on the 2021 mill rate.

City staff has no way to determine what the condominiums pay in room taxes. However, some assumptions are provided below:

City Development staff along with Finance Department staff determined that estimated room tax collected in 2019 for the Condominium's to be approximately \$200,000.

Note under current state statute, 70% of the room taxes collected are provided to the Sheboygan Area Room Tax Commission and the city retains 30%.

STAFF COMMENTS:

None

ACTION REQUESTED:

Motion(s) as determined by Authority.

ATTACHMENTS:

- I. None