FILED
01-07-2025
Clerk of Circuit Court
Manitowoc County, WI
2025CV000015

STATE OF WISCONSIN
MANITOWOC COUNTY
CIRCUIT COURT

MANITOWOC TIMESHARE MANAGEMENT, LLC 1223 Appleton Road Menasha, WI 54952 Plaintiff, v. FOX HILLS OWNERS ASSOCIATION, INC. c/o Cyndi Gierczak, Registered Agent 212 W. Church Street Mishicot, WI 54228 Defendants.	Case No. 25 CV Class Code: 30301

SUMMONS

THE STATE OF WISCONSIN

To Each Person Named Above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the Court, whose address is:

Clerk of Courts
Manitowoc County Courthouse
1010 S. 8th Street
Manitowoc, WI 54220

and to **MENN LAW FIRM, LTD.**, Plaintiff's attorneys, whose address is:

2501 East Enterprise Avenue
P. O. Box 785
Appleton, Wisconsin 54912-0785

You may have an attorney help or represent you. If you do not provide a proper answer within twenty (20) days, the court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 7th day of January, 2025.

MENN LAW FIRM, LTD.
Attorneys for the Plaintiff

By: *Electrically signed by William P. McKinley*
William P. McKinley | SBN # 1072959
Patrick J. Coffey | SBN # 1023953

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COMPLAINT

NOW COMES the Plaintiff, Manitowoc Timeshare Management, LLC, and for a cause of action against the Defendant, Fox Hills Owners Association, Inc., sets forth the following:

The Parties

1. The Plaintiff, Manitowoc Timeshare Management, LLC ("MTM") is a Wisconsin limited liability company with its principal place of business at 1223 Appleton Road, Menasha, WI.

2. MTM is engaged in the business of providing management services for timeshare associations, such as the Defendant.

3. The Defendant, Fox Hills Owners Association, Inc. ("FHOA") is a non-stock corporation organized under the laws of the State of Wisconsin.

4. FHOA's registered agent is Cyndi Gierczak, and its principal office is located at 212 W. Church Street, Mishicot, WI 54228.

5. FHOA's principal purpose is to govern the timeshare properties collectively owned by the timeshare owners of the Fox Hills Condominium Vacation Ownership Plan, a Wisconsin condominium located in the Village of Mishicot, adjacent to the golf course resort generally known as the Par 5 Resort.

Background

6. Since 1997, MTM has been providing management services to the FHOA.

7. Those services included, but were not limited to managing the FHOA's accounting, payroll, tax, accounts payable, facilities, and other related items that the FHOA could not handle on its own.

8. Pursuant to the FHOA's longstanding written agreement(s) with MTM, MTM was entitled to an annual management fee of $150,000.00, plus reimbursement for expenses and costs.

9. Though the written management contracts envisioned payment of the management fee in equal monthly installments over the course of the year, frequently MTM would defer payment until December, at which time the FHOA would make a lump-sum payment.

10. This was done to assist the FHOA with cash flow throughout the year.

11. Over the years, from time-to-time, the FHOA would have insufficient funds to pay the entirety of the annual management fee. When this occurred, the balance owed to MTM would be carried forward into the following year.

12. Interest was then assessed at "blended annual percentage rate" (BAR) promulgated by the IRS *plus* 2%, with minimum interest at all times being 4% regardless of the current BAR.

13. Starting in January of 2017, the FHOA started accruing management fees, with no payments being made in 2017 or 2018 due to significant cash shortages.

14. Then, in 2019, the FHOA resumed making annual payments, with the arrearage continuing to accumulate interest.

15. Because the ongoing arrearage was $250,000.00, and because interest rates were rising rapidly, starting in 2023, MTM began charging interest at the rate of 8%, which was communicated to the FHOA's board of directors, without objection.

16. In January of 2024, MTM provided written notice to the FHOA that interest on outstanding amounts due would be increased to 18% APR. MTM further demanded that monthly payments of $12,500.00 resume and that all past due sums be immediately paid.

17. Presently, the FHOA owes MTM the sum of $250,000.00 in past due management fees.

18. Presently, the FHOA owes MTM interest on the unpaid management fees in the amount of $77,170.34.

19. Despite demands for payment of the past due amounts, no payment has been made.

20. Attached hereto as **Exhibit "A"** are true and correct copies of the management contracts followed by the parties, along with excerpts from board minutes ratifying the agreements.

21. Attached hereto as **Exhibit "B"** is a copy of the notice and demand issued by MTM in January of 2024.

22. Attached hereto as **Exhibit "C"** is an accounting of management fees incurred, payments made, and interest accumulated.

Cause of Action – Breach of Contract

23. The parties had a contract in which the FHOA agreed to pay MTM $150,000.00 per year for management services.

24. MTM has fulfilled its obligations under the parties contract, and has rendered all management services professionally and in full compliance with the agreement.

25. Despite making repeated demands for payment, the FHOA has failed to pay all sums due to MTM, which amounts to $250,000.00 in past due management fees, and $77,170.34 in accumulated interest.

26. The FHOA does not dispute that it owes MTM $250,000.00 in past due management fees.

27. Accordingly, the FHOA has breached its contract with MTM, and MTM has been damaged as a result.

THEREFORE, MTM hereby asks the Court to enter judgment in favor of MTM as follows:

A. For a money judgment in the amount of $250,000.00 plus $77,170.34 in accrued interest;

B. For additional interest at the rate of 18% *per annum* until such time as all management fees are paid;

C. For costs and attorneys fees as allowed by law; and

D. Such other relief as the Court deems just and equitable.

Dated this 7th day of January, 2025.

MENN LAW FIRM, LTD.
Attorneys for the Plaintiff

By: *Electrically signed by William P. McKinley*
William P. McKinley | SBN # 1072959
Patrick J. Coffey | SBN # 1023953

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Fox Hills Owners Association
Management Fees Payable

BAR = Blended Annual Rate for Demand Loans

	Management Fees Due (paid)	Interest (BAR + 2%) (Minimum of 4%)	Balance due to MTM @ EOM	
Jan-17	12,500.00		12,500.00	
Feb-17	12,500.00		25,000.00	
Mar-17	12,500.00		37,500.00	
Apr-17	12,500.00		50,000.00	
May-17	12,500.00		62,500.00	
Jun-17	12,500.00		75,000.00	
Jul-17	12,500.00		87,500.00	
Aug-17	12,500.00		100,000.00	
Sep-17	12,500.00		112,500.00	
Oct-17	12,500.00		125,000.00	
Nov-17	12,500.00		137,500.00	
Dec-17	12,500.00		150,000.00	
net change	150,000.00			
Balance w/o interest 12/31/17	150,000.00			
Jan-18	12,500.00		162,500.00	
Feb-18	12,500.00		175,000.00	
Mar-18	12,500.00		187,500.00	
Apr-18	12,500.00		200,000.00	
May-18	12,500.00		212,500.00	
Jun-18	12,500.00		225,000.00	
Jul-18	12,500.00		237,500.00	
Aug-18	12,500.00		250,000.00	interest calculated annually because I
Sep-18	12,500.00		262,500.00	told the board it was OK to pay the
Oct-18	12,500.00		275,000.00	mgmt fees annually
Nov-18	12,500.00		287,500.00	
Dec-18	12,500.00	6,045.00	306,045.00	
net change	150,000.00	6,045.00		
Balance w/o interest 12/31/18	300,000.00			
Jan-19	12,500.00		318,545.00	
Feb-19	12,500.00		331,045.00	
Mar-19	12,500.00		343,545.00	
Apr-19	12,500.00		356,045.00	
May-19	12,500.00		368,545.00	
Jun-19	12,500.00		381,045.00	
Jul-19	12,500.00		393,545.00	
Aug-19	12,500.00		406,045.00	
Sep-19	12,500.00		418,545.00	
Oct-19	12,500.00		431,045.00	
Nov-19	12,500.00		443,545.00	
Dec-19	12,500.00	13,527.19	469,572.19	

EXHIBIT "C"

Dec-19 pmt	(150,000.00)		319,572.19
net change	-	13,527.19	
Balance w/o interest 12/31/19	300,000.00		
Jan-20	12,500.00		332,072.19
Feb-20	12,500.00		344,572.19
Mar-20	12,500.00		357,072.19
Apr-20	12,500.00		369,572.19
May-20	12,500.00		382,072.19
Jun-20	12,500.00		394,572.19
Jul-20	12,500.00		407,072.19
Aug-20	12,500.00		419,572.19
Sep-20	12,500.00		432,072.19
Oct-20	12,500.00		444,572.19
Nov-20	12,500.00		457,072.19
Dec-20	12,500.00	14,125.09	483,697.28
Dec-20 pmt	(150,000.00)		333,697.28
net change	-	14,125.09	
Balance w/o interest 12/31/20	300,000.00		
Jan-21	12,500.00		346,197.28
Feb-21	12,500.00		358,697.28
Mar-21	12,500.00		371,197.28
Apr-21	12,500.00		383,697.28
May-21	12,500.00		396,197.28
Jun-21	12,500.00		408,697.28
Jul-21	12,500.00		421,197.28
Aug-21	12,500.00		433,697.28
Sep-21	12,500.00		446,197.28
Oct-21	12,500.00		458,697.28
Nov-21	12,500.00		471,197.28
Dec-21	12,500.00	13,347.89	497,045.17
Dec-21 pmt	(200,000.00)		297,045.17
net change	(50,000.00)	13,347.89	
Balance w/o interest 12/31/21	250,000.00		
Jan-22	12,500.00		309,545.17
Feb-22	12,500.00		322,045.17
Mar-22	12,500.00		334,545.17
Apr-22	12,500.00		347,045.17
May-22	12,500.00		359,545.17
Jun-22	12,500.00		372,045.17
Jul-22	12,500.00		384,545.17
Aug-22	12,500.00		397,045.17
Sep-22	12,500.00		409,545.17
Oct-22	12,500.00		422,045.17
Nov-22	12,500.00		434,545.17

Dec-22	12,500.00	11,881.81	458,926.98
Dec-22 pmt	(150,000.00)		308,926.98
net change	-	11,881.81	
Balance w/o interest 12/31/22	250,000.00		
Past due interest		58,926.98	
8% interest starting Jan 1, 2023			
Jan-23	12,500.00		321,426.98
Feb-23	12,500.00		333,926.98
Mar-23	12,500.00		346,426.98
Apr-23	12,500.00		358,926.98
May-23	12,500.00		371,426.98
Jun-23	12,500.00		383,926.98
Jul-23	12,500.00		396,426.98
Aug-23	12,500.00		408,926.98
Sep-23	12,500.00		421,426.98
Oct-23	12,500.00		433,926.98
Nov-23	12,500.00		446,426.98
Dec-23	12,500.00	24,714.16	483,641.14
pmt	(150,000.00)	(60,000.00)	273,641.14
net change	-	(35,285.84)	
Balance w/o interest 12/31/23	250,000.00		
Past due interest		23,641.14	
	interest @ 18% starting 1/1/24		notice letter dated 1/3/24
Jan-24	12,500.00		
pmt	(12,500.00)	4,104.62	277,745.76
Feb-24	12,500.00		
pmt	(12,500.00)	4,166.19	281,911.95
Mar-24	12,500.00		
pmt	(12,500.00)	4,228.68	286,140.63
Apr-24	12,500.00		
pmt	(12,500.00)	4,292.11	290,432.74
May-24	12,500.00		
pmt	(12,500.00)	4,356.49	294,789.23
Jun-24	12,500.00		
pmt	(12,500.00)	4,421.84	299,211.07
Jul-24	12,500.00		
pmt	(12,500.00)	4,488.17	303,699.24
Aug-24	12,500.00		
pmt	(12,500.00)	4,555.49	308,254.73
Sep-24	12,500.00		
pmt	(12,500.00)	4,623.82	312,878.55
Oct-24		4,693.18	317,571.73
Nov-24		4,763.58	322,335.31
Dec-24		4,835.03	327,170.34

net change	-	53,529.20
Balance w/o interest 12/31/24	250,000.00	
Past due interest		77,170.34

FHOA management fees payable with interest thru 123124 – This is a schedule with the calculation of management fees due plus interest at the BAR + 2%, min 4% until 2023, increasing to 8% 1/1/23 and increasing to 18% 1/1/24 per notices given to the FHOA.

STATE OF WISCONSIN CIRCUIT COURT MANITOWOC

MANITOWOC TIMESHARE MANAGEMENT, LLC vs. FOX HILLS OWNERS ASSOCIATION, INC.

Electronic Filing Notice

Case No. 2025CV000015
Class Code: Money Judgment

FOX HILLS OWNERS ASSOCIATION, INC.
212 W. CHURCH STREET
MISHICOT WI 54228

Case number 2025CV000015 was electronically filed with/converted by the Manitowoc County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. Electronic parties are responsible for serving non-electronic parties by traditional means.

You may also register as an electronic party by following the instructions found at **http://efiling.wicourts.gov/** and may withdraw as an electronic party at any time. There is a fee to register as an electronic party. This fee may be waived if you file a Petition for Waiver of Fees and Costs Affidavit of Indigency (CV-410A) and the court finds you are indigent under §814.29, Wisconsin Statutes.

If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

Pro Se opt-in code: dbc57b

Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 920-683-4030.

Manitowoc County Circuit Court
Date: January 7, 2025

This form shall not be modified. It may be supplemented with additional material.

FILED
01-07-2025
Clerk of Circuit Court
Manitowoc County, WI
2025CV000015

January 3, 2024

Richard Glomski, President
Richard Isely, Vice President
Dave Holschbach, Member at large
Ann Bonneville, Treasurer
Cyndi Gierczak, Secretary

Dear FHOA Board of Directors:

When I created the spreadsheet showing a possible path to repayment of the Fox Hills Owners Association's ("FHOA") obligations and the acquisition of the Rec Center, my intention was to begin a discussion on how best to accomplish those things. It appears I provoked alarm instead. For that I apologize.

To me, the spreadsheet showed very good news. It demonstrated that with the dues increases in 2023 and 2024 the bulk of the heavy lifting had been done. The FHOA assets could be maintained while its obligations were retired, which opened up the possibility of the FHOA acquiring the Rec Center. All this can be done in five years or somewhat longer. After that time, the FHOA could add more amenities with surplus funds, or the dues could be reduced, or both.

That said, the relationship between the FHOA and FH Resort Limited Partnership ("FHR") must be formalized over the next few months for the simple reason that I'm getting older, and it is part of the process of organizing my estate. I strongly prefer that we determine how we will accomplish our mutual goals through polite discussions. If it would be helpful, I'm willing to come to meet with the board.

History

Perhaps a brief history of the relationship between FHR and the FHOA is the best place to start as it informs us as to how we arrived where we are today. When FHR bought the resort in 1994 the association was still developer controlled and the cash of the resort and association were completely comingled. Because of this, the association's dues had been used to fund the prior owner's operations. When FHR acquired the resort, the association was effectively bankrupt. FHR recognized that if it intended to continue to sell timeshare units, it would need to support the owners' association. It would have been possible to tie the association up legally in such a way that it would have extended the developer's effective control of the association for all time. That was not done. Instead, FHR agreed to be a flexible funding source for the association, which effectively solved the FHOA financial problems for the last thirty years. This example is the first of many when the association was treated more than fairly by FHR.

Over the years the record clearly shows that decisions taken by FHR generally favored the association. For another example, consider the Rec Center. From 1994 the Rec Center has always had a substantial portion of its square footage devoted exclusively to the association, including housekeeping, check in, laundry, and some maintenance. Yet the association was never charged rent for that exclusive use portion of the facility, nor for its share of the shared use portion. Over the years, the forgone rent amounts to several million dollars in savings to the association. The association did pay for a new roof for the Rec Center, which it would not have been required to do under the terms of a normal triple net lease, however, a roof for thirty years

EXHIBIT "B"

of use is an excellent deal for the association. To assert that FHR needed the Rec Center for its own uses, when it had two pools at the hotel, is nonsense.

A further example is the interest calculation on the FHOA loan from FHR, which was set up at the lowest rates allowed by the IRS with a 4% floor. That was a very advantageous rate for FHOA. The rate was raised to 8% on January 1, 2023. However, in today's interest rate environment the FHOA is extremely unlikely to obtain an 8% rate for an unsecured nonrecourse loan. If it can, I would be pleased to have the FHOA obtain the loan and pay FHR off.

FHR's loan to the FHOA was very close to being paid off in 2006 and reflected only seasonal loans between the FHOA and FHR through 2010. However, during this period the FHOA was financing past due real estate taxes and decided to do a special assessment in 2011 to pay off the taxes due. Special assessment revenue recognized was $407,000. Taxes paid in 2011 were $417,000 plus $53,000 in interest on those real estate taxes. The special assessment allowed the saving of interest on real estate taxes going forward. From 2008 through 2010 vendor interest accrued was approximately $42,000 per year, falling to $16,000 in 2011, and was almost nothing in recent years.

Between 2011 and 2014, due to opportunities found by the management company, the board of directors of the FHOA determined that it would be prudent to accelerate the refurbishment of units and repave the drives and parking areas. FHR agreed to provide the funds for these projects, without which the improvements could not have been made. The result was that the association property achieved RCI Gold Crown status in 2015 and 2016. Please understand this point. The funding was made by FHR because it was the right thing to do in view of the opportunities that were available, not because it had to, because FHR had stopped selling timeshare several years before 2011.

It is noteworthy that it has always been the practice to record the principal balance of the loan on the FHOA balance sheet and calculate the interest at the time of repayment. It is also noteworthy that in the years in which the loan balance was seasonal the FHOA earned interest for part of the year when the balance was in its favor, just as it paid interest at the same rate that it earned it when the balance was in favor of FHR.

It's clear that the FHOA has benefited from its relationship with FHR. In fact, the FHOA owes its continued existence to FHR. It's also clear that the management company has done an excellent job for the owners.

<u>Questions and Issues Raised in the November Meeting</u>

1. A question was raised as to whether FHR had really paid its share of property taxes on the inventory it held. The answer is yes, and the management company will provide the supporting documentation. The question itself is interesting because FHR is not now, nor was it in the past, under any obligation to pay any part of the real estate taxes. This is another example showing FHR has been fair.

2. A question was raised as to how the FHOA got back into debt after paying off the loan in 2006. The answer, as outlined above, is that there were some years in which the approved spending was greater than cash receipts, and FHR loaned the money to cover the bills. There were also years in which there were opportunities to accelerate improvements, which were not in the budgeted spending, but which were approved by the then board of directors of the FHOA, and which were funded by FHR. The

management company will provide a summary of capital spending for your review and will answer any additional questions.

Three additional points need to be made in reference to the current loan. First, the spending in every case was approved by the board. Second, the principal balance of the loan was on the balance sheet; and, therefore, part of the approved financials. In addition, it was sometimes discussed at the owners' meeting and appears in the minutes. Third, for thirty years it has been the custom to report the principal balance on the FHOA balance sheet and only record the interest when it was paid. Originally this was because the auditors deemed the interest to be related party interest, which is regularly not recorded until it's paid. The original practice was continued after the FHOA became independent. In short, everything about the loan is transparent and consistent with thirty years of practice.

3. There was an assertion in the minutes that the timeframe for paying the FHOA's obligations set forth in the spread sheet was too short. The spread sheet was an example of what's possible. A longer timeframe could be agreed as part of a complete resolution of open matters.

4. A question was raised as to whether the distribution of proceeds from the rental program was properly calculated. The rental program has nothing to do with the FHOA. It was run by FHR when it owned the resort and now is run by Fox Hills Hospitality. When FHR ran the resort, it determined how many weeks it thought it would need and acquired the use of those weeks directly from owners and its own inventory. When FHR sold the resort, it contractually agreed to make some of its inventory available so that the new owner would have adequate inventory for its rental needs. The FHOA has not asked for its inventory to be included in the rental program, and it was not included in the program. As part of a global resolution to the issues under discussion FHR makes a contingent offer that FHR will attempt to have the FHOA weeks added to the rental program for 2024 and thereafter.

5. Another question concerned whether FHR profited from the original transfer of weeks to Global. The simple answer is no, but elaboration is probably necessary. At the time the transaction was envisaged, FHR had a mortgage, and the weeks were part of the collateral. FHR had already worked out with the bank specific release prices for various types of weeks. Those release prices were incorporated in the loan documents. That is, when FHR sold a week, to transfer title to the buyer, FHR was required to pay a specified amount to the bank to have the bank release the week from the bank's mortgage. The loan documents weren't changed when FHR stopped selling timeshare. The bank document release prices were used in the agreement between FHR and FHOA. During the Global transaction the mortgage was paid off and all the collateral released.

   One can reasonably ask whether FHR "made money" because it was receiving a share of the Global payments and had no more release fees to pay. The answer is still no. The newest timeshare building constructed cost about $500,000 and had 208 weeks. A typical week has a cost basis of about $2400. FHR lost money on every unit transferred to Global. FHR's actual loss on the original transfer to Global was $400,400. The entity that made money was the FHOA. It converted weeks that were not dues paying to dues paying weeks and increased its revenue. I will also note that the Global opportunity was found by the management company. Not by an owner, not by the board, and not by an employee.

6. There was a discussion about whether the deeds for the weeks in the 2020 foreclosure should have been transferred to the FHOA. From 1994 to 2016 the only way for the FHOA to obtain additional dues paying owners was for FHR to sell a week from its inventory to a new owner. Therefore, all the weeks that were deeded back from owners, whether by death, bankruptcy, legal settlement, or foreclosure were deeded back to FHR. After FHR stopped actively selling timeshare the practice continued, and the entity having title to the recovered weeks made little difference as no sales were taking place. In 2016 the management company negotiated with Global to convert 572 equivalent inventory weeks to dues paying. After the Global sale, for the first time, the FHOA could expect to place weeks it owned in future similar transfers. In addition to the slow stream of individual weeks coming back there were three large foreclosures, one each in 2017, 2020, and 2021. The weeks in the 2017 foreclosure were titled to FHR, and the weeks in the 2020 foreclosure were listed as owned by FHR in the inventory bible, but official title was with the FHOA. The weeks in the 2021 foreclosure were listed as owned by FHOA in both the inventory bible and officially titled that way. If the FHOA wants to discuss which entity should own this inventory as part of a global settlement of open matters I'm willing to do so.

7. This brings us to the question of whether FHR is required to pay dues to the FHOA on the weeks it owns. It appears some members of the board believe that it is. A member of the board provided the management company a schedule purporting to show that FHR owed the FHOA $7.3 million in dues and interest. I won't engage in a legal debate in this letter. I will simply state the relevant facts: (1) it is not common practice in the industry for either condo or timeshare developers to pay dues on their inventory, (2) the board minutes and approved financials through 2022 make no mention that any past board of directors believed dues were due on the FHR owned weeks, and (3) there is a statute of limitations on commercial disputes in Wisconsin. FHR does not owe dues on its inventory of timeshare weeks.

Recap

In a spirit of full transparency, and to advance the discussion, I must say that I believe the following sequence of events occurred. (1) FHR put forward a draft plan to show an example of how the FHOA could maintain the property and repay its debts, probably without laying the proper groundwork. (2) At least some members of the board were shocked that FHR wanted to be repaid. (3) Private discussions ensued between some board members. (4) A plan was hatched to threaten FHR with a large claim and raise many questions suggesting improprieties by the management company. (5) The plan was sprung on the management company at the last board meeting.

I'm truly baffled if all of this is accurate and was brought about by a mishandled request by me to hold discussions to formalize our relationship.

As directors you have a fiduciary duty to the owners, and I think that your actions are motivated by a desire to do the best for the owners. However, if the directors take actions that lead to significant damage to the owners' property as well as the FHOA, board members can open themselves up to the personal liability of being sued by the owners. My friendly suggestions are to engage competent legal counsel before issuing more threats regarding litigation, and to make certain you have sufficient directors' and officers' liability insurance.

I would like you to know that far from taking advantage of the FHOA, FHR and the management company have always been transparent and fair. It is my hope and strong desire that you will choose to formalize our relationship in an open and cordial manner. Most matters are open to discussion. There's sufficient cash for the FHOA to maintain a high-quality property, service its obligations, and acquire the Rec Center.

Notices to FHOA

The items listed below are formal notices. That said, as our discussions progress and matters are resolved, I'm willing to adjust the items below to be consistent with our agreements.

1. The spread sheet that was circulated is not an offer. It was one example of a road map by which the FHOA could repay its obligations and acquire the Rec Center.

2. The Disclosure Book in Section 4 on page 3 makes clear that funds advanced to the FHOA by FHR are "loaned money" as "set forth in the balance sheet" and that the loan is an "obligation of the Association". It further specifies that repayment of the loan will occur from the surplus in the operating budget until such time as FHR notifies FHOA in writing that this repayment arrangement is no longer acceptable. This letter is written notice to the FHOA that repayment from surplus funds is no longer acceptable, and further, is notice that repayment of all principal and interest is due on or before May 3, 2024.

3. The Disclosure Book in Section 5 states that there is no assurance by FHR that the recreational facilities owned by FHR will continue to be available, or, that the current charges will be maintained. This letter is written notice to the FHOA that continued use of the Rec Center will require a lease to be signed between FHOA and FHR on terms to be negotiated, and effective January 1, 2024. The lease will be a standard form triple-net lease providing for monthly payments of $8,000, to be paid on the first of every month. FHR will provide a draft lease for review in the coming days.

4. Manitowoc Timeshare Management ("MTM") requests the FHOA board renew the existing management contract for a new two-year term, in the same form and same amount of management fees as the existing contract at the next meeting.

   It has been asserted recently that MTM has not done a good job managing the FHOA. Surprisingly, I would agree with that, because MTM has not done a "good" job, it has done a "superb" job. No other management company anywhere could have brought the bargain purchases of furniture, the general contracting experience that allowed for low-cost renovations, financing for the FHOA, as well as the Global and DreamStar relationships that have literally kept the FHOA solvent. It deserves to continue as manager.

5. MTM is currently owed $250,000 in past due management fees dating from 2017 plus accrued and unpaid interest. This letter is a written notice that effective January 1, 2024, MTM will charge eighteen percent (18%) annual interest with monthly compounding, paid monthly on the unpaid management fees and accrued interest. Further, MTM requires monthly payment of $12,500 for current fees, to be paid on the 15th of each

month as stated in the Management Contract, and MTM makes a demand for immediate repayment of the past due amount.

6. All the obligations due from FHOA to MTM and FHR are to be linked by a cross-default agreement, such that the failure to pay one obligation is an event of default under all obligations. That is, nothing is settled until everything is settled.

In sum, the time has come to formalize all the elements of the relationship between FHOA, MTM and FHR. At the last board meeting, it appears to me that a step was taken to attempt to do that in an adversarial manner. I've stated above why I believe that approach is ill advised and will end with the demise of the FHOA. Further, there is no need for us to be adversarial as the board has already done most of the difficult work by raising dues in 2023 and 2024. There is enough cash available to operate the association, repay the obligations, and buy the Rec Center. I sincerely hope that we can work out agreements on all the issues in a mutually agreeable manner. I stand ready to do my part.

Sincerely,

Michael J. Jacobson
President FHR Inc.
The general partner of FH Resort Limited Partnership
President Manitowoc Timeshare Management, Inc.

Cc Joseph Jacobson, Manitowoc Timeshare Management

FILED
01-07-2025
Clerk of Circuit Court
Manitowoc County, WI
2025CV000015

MANAGEMENT CONTRACT

THIS CONTRACT dated effective this day of March 28, 2024, by and between MANITOWOC TIMESHARE MANAGEMENT, LLC, a Wisconsin limited liability company, (hereinafter referred to as "Manager") and FOX HILLS OWNERS ASSOCIATION, INC., a Wisconsin corporation, (hereinafter referred to as "Association").

WHEREAS, the Association is responsible for appointment of a manager of Fox Hills Condominium Vacation Ownership Plan (the "Property"); and

WHEREAS, in order to ensure the orderly operation of the Property the Association desires to retain Manager and Manager is willing to accept such appointment pursuant to the terms hereof.

NOW, THEREFORE, for a valuable consideration, receipt of which is hereby acknowledged, it is agreed upon as follows:

I. RETAINER

The Association hereby retains the Manager, and the Manager hereby accepts retainer as the sole and exclusive manager of the Property in accordance with the terms hereof.

II. TERM OF EMPLOYMENT

The term of employment hereunder shall commence effective as of the date of creation of the Property and shall terminate on the earlier of the following events:

(a) September 30, 2024; or

(b) the resignation of the Manager (which shall be at the Manager's sole discretion but on no less than ninety (90) days notice to the Association).

III. DUTIES, RIGHTS AND RESPONSIBILITIES OF MANAGER

Subject to the terms, conditions, and provisions hereof, Manager shall on behalf of the Association and at the expense of the Association:

EXHIBIT "A"

(a) Hire, train, supervise and fire employees, retain and discharge professionals, contractors, and service personnel in connection with providing the services required to properly operate the Property pursuant to the terms and conditions which Manager deems advisable. Manager may, in its sole discretion, utilize the services of employees of FH Resort Limited Partnership, the Developer, and reimburse the Developer for the expense thereof in lieu of providing the services with employees or persons employed by the Association. Manager shall pay costs incurred from Time-Share Assessments.

(b) Determine when and how maintenance, repairs, replacements and/or improvements to the Property, including but not limited to the Units, the Common Elements, Common Furnishings, and equipment, if any, which the Association owns shall be undertaken and incur such expenses in accordance therewith.

(c) Determine the annual budget, submit copy to the Board of Directors of the Association, assess Owners and collect Time-Share Assessments, special assessments, Occupancy Charges and other fees and expenses on behalf of the Association. Manager shall utilize funds from such collections as required to fulfill its duties pursuant to this Agreement.

(d) Obtain casualty and liability insurance as set forth in the Declaration/Time-Share Instrument on behalf of the Association and the Owners.

(e) Arrange for water and sewer service, telephone service and electric power for the Common Elements and for each unit.

(f) Arrange for at least bi-weekly garbage and trash removal service for the Property.

(g) Arrange for optional daily maid service and weekly linen service for all Units.

(h) Arrange for preparation of the Association books of account and provide no less than annual accounting to the Association, which accountings need not be certified unless requested by the Association.

(i) Provide general management and supervisory service and arrange for supervision of the day-to-day operation of the Time-Share ownership plan and the Property and enforce the restrictions and requirements of the Declaration/Time-Share Instrument, by-laws, rules and regulations, on behalf of and in the name of the Association.

(j) Provide offices for use by the Manager.

IV. MANAGER'S COMPENSATION

In consideration of the services performed by manager, manager shall be paid a fee of $150,000.00 per year for the length of this contract, payable on the fifteenth (15th) day of each month. The Manager shall issue its own check for such compensation and shall reimburse itself for all costs and expenses incurred by the Manager on behalf of the Association in performance of its duties hereunder. The Manager shall be reimbursed for allocated salaries of employees of the Manger working directly on Association business.

V. FINANCIAL INTEREST OF DEVELOPER

The manager hereby discloses that it is owned or controlled, by PGE Management, Inc., an entity owned or controlled by a limited partner of FH Resort Limited Partnership.

VI. NOTICES

Any notice permitted or required hereunder shall be delivered by depositing the same in the U.S. Mail, postage prepaid, certified, return receipt requested, addressed to the parties at the address shown below:

Manager:	Manitowoc Timeshare Management, LLC Attn: Ann Bonneville 1223 Appleton Road Menasha, WI 54952
Association:	Fox Hills Owners Association, Inc. 212 W. Church Street Mishicot, Wisconsin 54228

VII. GENERAL

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. A waiver by either party of any breach or default in any provision of the Agreement shall not constitute a waiver of any subsequent breach or default in the same provision or any breach or default in any other provision of this Agreement. This Agreement supersedes all prior Agreements between the parties, written or oral and is intended as a complete and exclusive statement of the terms of the Agreement between the parties. Nothing in this Agreement, expressed or implied, is intended to confer upon any person other than the parties hereto, any rights or remedies under or by reason of this Agreement. No modification hereof shall be valid or binding unless by written instrument executed by the parties hereto.

MANITOWOC TIME-SHARE MANAGEMENT, LLC

BY: ______________________

Michael J. Jacobson
President of PGE Management, Inc.,
Managing Member

FOX HILLS OWNERS ASSOCIATION, INC.

BY: ______________________

Richard Glomski
President

MANAGEMENT CONTRACT

THIS CONTRACT dated this 8th day of March, 2013, by and between MANITOWOC TIMESHARE MANAGEMENT, LLC, a Wisconsin limited liability company, (hereinafter referred to as "Manager") and FOX HILLS OWNERS ASSOICATION, INC., a Wisconsin non-profit corporation, (hereinafter referred to as "Association").

WHEREAS, Association is responsible for appointment of a manager of Fox Hills Condominium Vacation Ownership Plan (the "Property"); and

WHEREAS, in order to assure the orderly operation of the Property the Association desires to retain Manager and Manager is willing to accept such appointment pursuant to the terms hereof.

NOW, THEREFORE, for a valuable consideration, receipt of which is hereby acknowledged, it is agreed upon as follows:

I. RETAINER

Association herby retains Manager and Manager herby accepts retainer as the sole and exclusive manager of the Property in accordance with the terms hereof.

II. TERM OF EMPLOYMENT

The term of employment hereunder shall commence effective as of the date of creation of the Property and shall terminate on the earlier of the following events:

(a) the expiration of two (2) years from the effective commencement date hereof; or

(b) the resignation of Manager (which shall be at Manager's sole discretion but on no less than ninety (90) days notice to the Association).

III. DUTIES, RIGHTS AND RESPONSIBILITIES OF MANAGER

Subject to the terms, conditions and provisions hereof, Manager shall on behalf of the Association and at the expense of the Association:

(a) Hire, train, supervise and fire employees, retain and discharge professionals, contractors and service personnel in connection with providing the services required to properly operate the Property pursuant to the terms and conditions which Manager deems advisable. Manager may, in its sole discretion, utilize the services of employees of FH Resort Limited Partnership, the Developer, and reimburse the Developer for the expense thereof in lieu of providing the services with employees or persons employed by the Association.

(b) Determine when and how maintenance, repairs, replacements and/or improvements to the Property, including but not limited to the Units, the Common Elements, Common Furnishings and equipment, if any, which the Association owns shall be undertaken and incur such expenses in accordance therewith.

(c) Determine the annual budget, submit copy to the Board of Directors of the Association, assess Owners and collect Time-Share Assessments, special assessments, Occupancy Charges and other fees and expenses on behalf of the Association. Manager shall utilize funds from such collections as required to fulfill its duties pursuant to this Agreement.

(d) Obtain casualty and liability insurance as set forth in the Declaration/Time-Share Instrument on behalf of the Association and the Owners.

(e) Arrange for water and sewer service, telephone service and electric power for the Common Elements and for each unit.

(f) Arrange for at least bi-weekly garbage and trash removal service for the Property

(g) Arrange for optional daily maid service and weekly linen service for all Units.

(h) Arrange for preparation of the Association books of account and provide no less than annual accounting to the Association, which accountings need not be certified unless requested by the Association.

(i) Provide general management and supervisory service and arrange for supervision of the day-to-day operation of the Time-Share ownership plan and the Property and enforce the restrictions and requirements of the Declaration/Time-Share Instrument, by-laws, rules and regulations on behalf of and in the name of the Association.

(j) Provide offices for use by Manager.

IV. MANAGER'S COMPENSATION

In consideration of the services performed by manager, manager shall be paid a fee of $150,000.00 per year for the length of this contract, payable on the fifteenth (15th) day of each month. Manager shall issue its own check for such compensation and shall reimburse itself for all costs and expenses incurred by manager on behalf of the Association in performance of its duties hereunder. Manager shall reimburse it for all costs and expenses incurred by Manager on behalf of the Association in performance of its duties hereunder. Manager shall be reimbursed for allocated salaries of employees of Manger working directly on Association business.

V. FINANCIAL INTEREST OF DEVELOPER

Manager herby discloses that it is owned or controlled, by FH Resort Limited Partnership, the successor in interest to the initial Developer of the Property, and by an entity owned or controlled by a limited partner of FH Resort Limited Partnership.

VI. NOTICES

Any notice permitted or required hereunder shall be delivered by depositing the same in the U.S. Mail, postage prepaid, certified, return receipt requested, addressed to the parties at the address shown below:

Manager:	Manitowoc Timeshare Management, LLC 1223 Appleton Road Menasha, WI 54952
Association:	Fox Hills Owners Association, Inc. 250 W. Church Street Mishicot, Wisconsin 54228

VII. GENERAL

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. A Waiver by either party of any breach or default in any provision of the Agreement shall not constitute a waiver of any subsequent breach or default in the same provision or any breach or default in any other provision of this Agreement. This Agreement supersedes all prior Agreements between the parties, written or oral and is intended as a complete and exclusive statement of the terms of the Agreement between the parties. Nothing in this Agreement, expressed or implied, is intended to confer upon any person other than the parties hereto, any rights or remedies under or by reason of this Agreement. No modification hereof shall be valid or binding unless by written instrument executed by the parties hereto.

MANITOWOC TIME-SHARE MANAGEMENT, LLC.

BY: Joseph C. Jacobson

FOX HILLS OWNERS ASSOCIATION, INC.

BY: Richard Glomski
Richard Glomski, President

MANAGEMENT CONTRACT

THIS CONTRACT dated this day of June, 2002, by and between MANITOWOC TIMESHARE MANAGEMENT, LLC, a Wisconsin limited liability company, (hereinafter referred to as "Manager") and FOX HILLS OWNERS ASSOICATION, INC., a Wisconsin non-profit corporation, (hereinafter referred to as "Association").

WHEREAS, Association is responsible for appointment of a manager of Fox Hills Condominium Vacation Ownership Plan (the "Property"); and

WHEREAS, in order to assure the orderly operation of the Property the Association desires to retain Manager and Manager is willing to accept such appointment pursuant to the terms hereof.

NOW, THEREFORE, for a valuable consideration, receipt of which is hereby acknowledged, it is agreed upon as follows:

I. RETAINER

Association herby retains Manager and Manager herby accepts retainer as the sole and exclusive manager of the Property in accordance with the terms hereof.

II. TERM OF EMPLOYMENT

The term of employment hereunder shall commence effective as of the date of creation of the Property and shall terminate on the earlier of the following events:

(a) the expiration of ten (10) years from the effective commencement date hereof; or

(b) the resignation of Manager (which shall be at Manager's sole discretion but on no less than ninety (90) days notice to the Association).

III. DUTIES, RIGHTS AND RESPONSIBILITIES OF MANAGER

Subject to the terms, conditions and provisions hereof, Manager shall on behalf of the Association and at the expense of the Association:

(a) Hire, train, supervise and fire employees, retain and discharge professionals, contractors and service personnel in connection with providing the services required to properly operate the Property pursuant to the terms and conditions which Manager deems advisable. Manager may, in its sole discretion, utilize the services of employees of FH Resort Limited Partnership, the Developer, and reimburse the Developer for the expense thereof in lieu of providing the services with employees or persons employed by the Association. Manager shall pay cost incurred from Time-Share Assessments.

(b) Determine when and how maintenance, repairs, replacements and/or improvements to the Property, including but not limited to the Units, the Common Elements, Common Furnishings and equipment, if any, which the Association owns shall be undertaken and incur such expenses in accordance therewith.

(c) Determine the annual budget, submit copy to the Board of Directors of the Association, assess Owners and collect Time-Share Assessments, special assessments, Occupancy Charges and other fees and expenses on behalf of the Association. Manager shall utilize funds from such collections as required to fulfill its duties pursuant to this Agreement.

(d) Obtain casualty and liability insurance as set forth in the Declaration/Time-Share Instrument on behalf of the Association and the Owners.

(e) Arrange for water and sewer service, telephone service and electric power for the Common Elements and for each unit.

(f) Arrange for at least bi-weekly garbage and trash removal service for the Property

(g) Arrange for optional daily maid service and weekly linen service for all Units.

(h) Arrange for preparation of the Association books of account and provide no less than annual accounting to the Association, which accountings need not be certified unless requested by the Association.

(i) Provide general management and supervisory service and arrange for supervision of the day-to-day operation of the Time-Share ownership plan and the Property and enforce the restrictions and requirements of the Declaration/Time-Share Instrument, by-laws, rules and regulations on behalf of and in the name of the Association.

(j) Provide offices for use by Manager.

IV. MANAGER'S COMPENSATION

In consideration of the services performed by manager, manager shall be paid a fee of $150,000.00 per year for the length of this contract, payable on the fifteenth (15th) day of each month. Manager shall issue its own check for such compensation and shall reimburse itself for all costs and expenses incurred by manager on behalf of the Association in performance of its duties hereunder. Manager shall reimburse it for all costs and expenses incurred by Manager on behalf of the Association in performance of its duties hereunder. Manager shall be reimbursed for allocated salaries of employees of Manger working directly on Association business.

V. FINALCIAL INTEREST OF DEVELOPER

Manager herby discloses that it is owned or controlled, by FH Resort Limited Partnership, the successor in interest to the initial Developer of the Property, and by an entity owned or controlled by a limited partner of FH Resort Limited Partnership.

VI. NOTICES

Any notice permitted or required hereunder shall be delivered by depositing the same in the U.S. Mail, postage prepaid, certified, return receipt requested, addressed to the parties at the address shown below:

Manager:	Manitowoc Timeshare Management, LLC 250 W. Church Street Mishicot, Wisconsin 54228
Association:	Fox Hills Owners Association, Inc. 250 W. Church Street Mishicot, Wisconsin 54228

VII. GENERAL

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. A Waiver by either party of any breach or default in any provision of the Agreement shall not constitute a waiver of any subsequent breach or default in the same provision or any breach or default in any other provision of this Agreement. This Agreement supersedes all prior Agreements between the parties, written or oral and is intended as a complete and exclusive statement of the terms of the Agreement between the parties. Nothing in this Agreement, expressed or implied, is intended to confer upon any person other than the parties hereto, any rights or remedies under or by reason of this Agreement. No modification hereof shall be valid or binding unless by written instrument executed by the parties hereto.

MANITOWOC TIME-SHARE MANAGEMENT, LLC.

BY: ______________________________

Eric J. Jacobson
Vice President of The Jacobson Group, Inc.,
General Partner of The Jacobson Group Limited Partnership,
Managing Member

FOX HILLS OWNERS ASSOCIATION, INC.

BY: ______________________________

John A. Holzschuh
President

Excerpts from minutes:

Association Board Meeting

March 7, 2013

2:00Pm

Meeting called to order at 2:05pm.

Role Call: Richard Glomski- president, Andy Farah- board member, Doug MacMillan- board member, Vicky Anderson- Secretary, Kris Mattes- Fox Hills, Aaron Kabat- General Manager Fox Hills, Ann Bonneville- Treasurer, Joe Jacobson- Management Company.

New Business & Next Meeting – April 20th

*Management contract-Doug made motion to accept management contract as written, Andy seconded and all approved.

Excerpt from minutes:

Board Meeting

March 28, 2018

2:00pm

All present. Amy made a motion to approve minutes of last meeting. Richard Isely seconded it and all board members approved.

Management contract: Expired March 13th so we will print it out and get it signed. **Even if the hotel gets sold the Jacobson's will manage for 3-5 years. The last group to buy the hotel had in their letter of intent that there had to be at least a 3 year contract signed by closing. Contract will be between 3 -5 year** contracts. Board agreed to a 5 year contract. Vicky has contract on her computer.

Association Board Meeting November 8, 2018

Richard Glomski called meeting to order at 2pm

Role call: Richard Glomski, president; Ann Bonneville, Treasurer; Vicky Anderson, Secretary; Doug MacMillin, at large; Richard Isely, vice-president; Joe Jacobson, management company.

Treasuer's report: REFERRING TO BALANCE SHEET

Richard I-Ann under management fees there is $275,00 this year and $125,000 last year. Ann, that's because I never paid it last year. In the past it got rolled into the due to/from Fox Hills. I just didn't get that rolled in yet. We are trying to do less of that going forward with the sale of the resort. I am trying not to borrow money back and forth. Joe-we also fast tracked the remodel plan because Ann found some good deals on furniture and stuff. This was Ann's first stab at trying to make it through. With working on the new system and everything going on with everything the billing got pushed back. The billing hasn't gotten out yet so we need to get that done. People should be able to pay online this year.

Excerpt from minutes:

Board Meeting

March 1, 2021

2:10pm

Present: Richard Glomski, Vice-President; Richard Isely, Vice-President; Doug MacMillin, At large; Ann Bonneville, Secretary; Vicky Anderson, Treasurer; Joe Jacobson, Management Company; Cynthia Gierczak, guest.

Treasurer's Report:

Richard G. asked about what years the management fees not paid. Ann, said it's always accrued on the income statement that that is probably why he hasn't noticed it. She's guessing it's 2017 & 2018 but she will look into it. Ann indicated it always shows up as an expense on the income statement because it's an accrual. It's been out there for a while.

Discussion on the 3 people running for the open board seat. Vicky passed around the 3 applications for the people running. Richard Isely made a motion to extend the current contract for a month to look over the management contract. Doug seconded and everyone approved.

Excerpt from minutes:

Board Meeting

April 10, 2021

10:35 am

Present: Richard Glomski, President; Richard Isely, Vice President; Cyndi Gierczak, Guest; Vicky Anderson, Secretary; Ann Bonneville, Treasurer; Joe Jacobson, Management Company; Doug MacMillin, At large.

Discussion on management contract: Richard G. entertained a motion to approve the management contract as it is basically the same contract we have had in the past. Ann stated it is the same contract they have used for years. Richard I. questioned that payments are due monthly on the 15th – is that new? Ann responded it has always been that way in the contract but she only ever requests one big payment in December once she ensures the association has enough cash flow to get through to the next billing. **Years back she would take the payments monthly and,** by around May, the association would be **out of money so the resort would start paying the bills until the next annual billing. At that time the association would have to pay the resort back. During the past five years she has been working to get the association and the resort separated and,** with the sale, **now they must be separate. So really, it's just a cash flow thing. She does create a forecast to ensure she has enough money to get through the year and come about July she starts pushing related party bills out to November to make sure there is enough money for bills and payroll. Payroll used to be paid through the resort, but since the sale it is now paid by the association. Most of our cash comes in November - January except for Global who pays $66,245 quarterly and attorney payments that come in periodically.** Richard I. made a motion that the management contract be approved as written, Doug seconded and all approved.

FILED
01-07-2025
Clerk of Circuit Court
Manitowoc County, WI
2025CV000015

January 3, 2024

Richard Glomski, President
Richard Isely, Vice President
Dave Holschbach, Member at large
Ann Bonneville, Treasurer
Cyndi Gierczak, Secretary

Dear FHOA Board of Directors:

When I created the spreadsheet showing a possible path to repayment of the Fox Hills Owners Association's ("FHOA") obligations and the acquisition of the Rec Center, my intention was to begin a discussion on how best to accomplish those things. It appears I provoked alarm instead. For that I apologize.

To me, the spreadsheet showed very good news. It demonstrated that with the dues increases in 2023 and 2024 the bulk of the heavy lifting had been done. The FHOA assets could be maintained while its obligations were retired, which opened up the possibility of the FHOA acquiring the Rec Center. All this can be done in five years or somewhat longer. After that time, the FHOA could add more amenities with surplus funds, or the dues could be reduced, or both.

That said, the relationship between the FHOA and FH Resort Limited Partnership ("FHR") must be formalized over the next few months for the simple reason that I'm getting older, and it is part of the process of organizing my estate. I strongly prefer that we determine how we will accomplish our mutual goals through polite discussions. If it would be helpful, I'm willing to come to meet with the board.

History

Perhaps a brief history of the relationship between FHR and the FHOA is the best place to start as it informs us as to how we arrived where we are today. When FHR bought the resort in 1994 the association was still developer controlled and the cash of the resort and association were completely comingled. Because of this, the association's dues had been used to fund the prior owner's operations. When FHR acquired the resort, the association was effectively bankrupt. FHR recognized that if it intended to continue to sell timeshare units, it would need to support the owners' association. It would have been possible to tie the association up legally in such a way that it would have extended the developer's effective control of the association for all time. That was not done. Instead, FHR agreed to be a flexible funding source for the association, which effectively solved the FHOA financial problems for the last thirty years. This example is the first of many when the association was treated more than fairly by FHR.

Over the years the record clearly shows that decisions taken by FHR generally favored the association. For another example, consider the Rec Center. From 1994 the Rec Center has always had a substantial portion of its square footage devoted exclusively to the association, including housekeeping, check in, laundry, and some maintenance. Yet the association was never charged rent for that exclusive use portion of the facility, nor for its share of the shared use portion. Over the years, the forgone rent amounts to several million dollars in savings to the association. The association did pay for a new roof for the Rec Center, which it would not have been required to do under the terms of a normal triple net lease, however, a roof for thirty years

EXHIBIT "B"

of use is an excellent deal for the association. To assert that FHR needed the Rec Center for its own uses, when it had two pools at the hotel, is nonsense.

A further example is the interest calculation on the FHOA loan from FHR, which was set up at the lowest rates allowed by the IRS with a 4% floor. That was a very advantageous rate for FHOA. The rate was raised to 8% on January 1, 2023. However, in today's interest rate environment the FHOA is extremely unlikely to obtain an 8% rate for an unsecured nonrecourse loan. If it can, I would be pleased to have the FHOA obtain the loan and pay FHR off.

FHR's loan to the FHOA was very close to being paid off in 2006 and reflected only seasonal loans between the FHOA and FHR through 2010. However, during this period the FHOA was financing past due real estate taxes and decided to do a special assessment in 2011 to pay off the taxes due. Special assessment revenue recognized was $407,000. Taxes paid in 2011 were $417,000 plus $53,000 in interest on those real estate taxes. The special assessment allowed the saving of interest on real estate taxes going forward. From 2008 through 2010 vendor interest accrued was approximately $42,000 per year, falling to $16,000 in 2011, and was almost nothing in recent years.

Between 2011 and 2014, due to opportunities found by the management company, the board of directors of the FHOA determined that it would be prudent to accelerate the refurbishment of units and repave the drives and parking areas. FHR agreed to provide the funds for these projects, without which the improvements could not have been made. The result was that the association property achieved RCI Gold Crown status in 2015 and 2016. Please understand this point. The funding was made by FHR because it was the right thing to do in view of the opportunities that were available, not because it had to, because FHR had stopped selling timeshare several years before 2011.

It is noteworthy that it has always been the practice to record the principal balance of the loan on the FHOA balance sheet and calculate the interest at the time of repayment. It is also noteworthy that in the years in which the loan balance was seasonal the FHOA earned interest for part of the year when the balance was in its favor, just as it paid interest at the same rate that it earned it when the balance was in favor of FHR.

It's clear that the FHOA has benefited from its relationship with FHR. In fact, the FHOA owes its continued existence to FHR. It's also clear that the management company has done an excellent job for the owners.

<u>Questions and Issues Raised in the November Meeting</u>

1. A question was raised as to whether FHR had really paid its share of property taxes on the inventory it held. The answer is yes, and the management company will provide the supporting documentation. The question itself is interesting because FHR is not now, nor was it in the past, under any obligation to pay any part of the real estate taxes. This is another example showing FHR has been fair.

2. A question was raised as to how the FHOA got back into debt after paying off the loan in 2006. The answer, as outlined above, is that there were some years in which the approved spending was greater than cash receipts, and FHR loaned the money to cover the bills. There were also years in which there were opportunities to accelerate improvements, which were not in the budgeted spending, but which were approved by the then board of directors of the FHOA, and which were funded by FHR. The

management company will provide a summary of capital spending for your review and will answer any additional questions.

Three additional points need to be made in reference to the current loan. First, the spending in every case was approved by the board. Second, the principal balance of the loan was on the balance sheet; and, therefore, part of the approved financials. In addition, it was sometimes discussed at the owners' meeting and appears in the minutes. Third, for thirty years it has been the custom to report the principal balance on the FHOA balance sheet and only record the interest when it was paid. Originally this was because the auditors deemed the interest to be related party interest, which is regularly not recorded until it's paid. The original practice was continued after the FHOA became independent. In short, everything about the loan is transparent and consistent with thirty years of practice.

3. There was an assertion in the minutes that the timeframe for paying the FHOA's obligations set forth in the spread sheet was too short. The spread sheet was an example of what's possible. A longer timeframe could be agreed as part of a complete resolution of open matters.

4. A question was raised as to whether the distribution of proceeds from the rental program was properly calculated. The rental program has nothing to do with the FHOA. It was run by FHR when it owned the resort and now is run by Fox Hills Hospitality. When FHR ran the resort, it determined how many weeks it thought it would need and acquired the use of those weeks directly from owners and its own inventory. When FHR sold the resort, it contractually agreed to make some of its inventory available so that the new owner would have adequate inventory for its rental needs. The FHOA has not asked for its inventory to be included in the rental program, and it was not included in the program. As part of a global resolution to the issues under discussion FHR makes a contingent offer that FHR will attempt to have the FHOA weeks added to the rental program for 2024 and thereafter.

5. Another question concerned whether FHR profited from the original transfer of weeks to Global. The simple answer is no, but elaboration is probably necessary. At the time the transaction was envisaged, FHR had a mortgage, and the weeks were part of the collateral. FHR had already worked out with the bank specific release prices for various types of weeks. Those release prices were incorporated in the loan documents. That is, when FHR sold a week, to transfer title to the buyer, FHR was required to pay a specified amount to the bank to have the bank release the week from the bank's mortgage. The loan documents weren't changed when FHR stopped selling timeshare. The bank document release prices were used in the agreement between FHR and FHOA. During the Global transaction the mortgage was paid off and all the collateral released.

One can reasonably ask whether FHR "made money" because it was receiving a share of the Global payments and had no more release fees to pay. The answer is still no. The newest timeshare building constructed cost about $500,000 and had 208 weeks. A typical week has a cost basis of about $2400. FHR lost money on every unit transferred to Global. FHR's actual loss on the original transfer to Global was $400,400. The entity that made money was the FHOA. It converted weeks that were not dues paying to dues paying weeks and increased its revenue. I will also note that the Global opportunity was found by the management company. Not by an owner, not by the board, and not by an employee.

6. There was a discussion about whether the deeds for the weeks in the 2020 foreclosure should have been transferred to the FHOA. From 1994 to 2016 the only way for the FHOA to obtain additional dues paying owners was for FHR to sell a week from its inventory to a new owner. Therefore, all the weeks that were deeded back from owners, whether by death, bankruptcy, legal settlement, or foreclosure were deeded back to FHR. After FHR stopped actively selling timeshare the practice continued, and the entity having title to the recovered weeks made little difference as no sales were taking place. In 2016 the management company negotiated with Global to convert 572 equivalent inventory weeks to dues paying. After the Global sale, for the first time, the FHOA could expect to place weeks it owned in future similar transfers. In addition to the slow stream of individual weeks coming back there were three large foreclosures, one each in 2017, 2020, and 2021. The weeks in the 2017 foreclosure were titled to FHR, and the weeks in the 2020 foreclosure were listed as owned by FHR in the inventory bible, but official title was with the FHOA. The weeks in the 2021 foreclosure were listed as owned by FHOA in both the inventory bible and officially titled that way. If the FHOA wants to discuss which entity should own this inventory as part of a global settlement of open matters I'm willing to do so.

7. This brings us to the question of whether FHR is required to pay dues to the FHOA on the weeks it owns. It appears some members of the board believe that it is. A member of the board provided the management company a schedule purporting to show that FHR owed the FHOA $7.3 million in dues and interest. I won't engage in a legal debate in this letter. I will simply state the relevant facts: (1) it is not common practice in the industry for either condo or timeshare developers to pay dues on their inventory, (2) the board minutes and approved financials through 2022 make no mention that any past board of directors believed dues were due on the FHR owned weeks, and (3) there is a statute of limitations on commercial disputes in Wisconsin. FHR does not owe dues on its inventory of timeshare weeks.

<u>Recap</u>

In a spirit of full transparency, and to advance the discussion, I must say that I believe the following sequence of events occurred. (1) FHR put forward a draft plan to show an example of how the FHOA could maintain the property and repay its debts, probably without laying the proper groundwork. (2) At least some members of the board were shocked that FHR wanted to be repaid. (3) Private discussions ensued between some board members. (4) A plan was hatched to threaten FHR with a large claim and raise many questions suggesting improprieties by the management company. (5) The plan was sprung on the management company at the last board meeting.

I'm truly baffled if all of this is accurate and was brought about by a mishandled request by me to hold discussions to formalize our relationship.

As directors you have a fiduciary duty to the owners, and I think that your actions are motivated by a desire to do the best for the owners. However, if the directors take actions that lead to significant damage to the owners' property as well as the FHOA, board members can open themselves up to the personal liability of being sued by the owners. My friendly suggestions are to engage competent legal counsel before issuing more threats regarding litigation, and to make certain you have sufficient directors' and officers' liability insurance.

I would like you to know that far from taking advantage of the FHOA, FHR and the management company have always been transparent and fair. It is my hope and strong desire that you will choose to formalize our relationship in an open and cordial manner. Most matters are open to discussion. There's sufficient cash for the FHOA to maintain a high-quality property, service its obligations, and acquire the Rec Center.

Notices to FHOA

The items listed below are formal notices. That said, as our discussions progress and matters are resolved, I'm willing to adjust the items below to be consistent with our agreements.

1. The spread sheet that was circulated is not an offer. It was one example of a road map by which the FHOA could repay its obligations and acquire the Rec Center.

2. The Disclosure Book in Section 4 on page 3 makes clear that funds advanced to the FHOA by FHR are "loaned money" as "set forth in the balance sheet" and that the loan is an "obligation of the Association". It further specifies that repayment of the loan will occur from the surplus in the operating budget until such time as FHR notifies FHOA in writing that this repayment arrangement is no longer acceptable. This letter is written notice to the FHOA that repayment from surplus funds is no longer acceptable, and further, is notice that repayment of all principal and interest is due on or before May 3, 2024.

3. The Disclosure Book in Section 5 states that there is no assurance by FHR that the recreational facilities owned by FHR will continue to be available, or, that the current charges will be maintained. This letter is written notice to the FHOA that continued use of the Rec Center will require a lease to be signed between FHOA and FHR on terms to be negotiated, and effective January 1, 2024. The lease will be a standard form triple-net lease providing for monthly payments of $8,000, to be paid on the first of every month. FHR will provide a draft lease for review in the coming days.

4. Manitowoc Timeshare Management ("MTM") requests the FHOA board renew the existing management contract for a new two-year term, in the same form and same amount of management fees as the existing contract at the next meeting.

   It has been asserted recently that MTM has not done a good job managing the FHOA. Surprisingly, I would agree with that, because MTM has not done a "good" job, it has done a "superb" job. No other management company anywhere could have brought the bargain purchases of furniture, the general contracting experience that allowed for low-cost renovations, financing for the FHOA, as well as the Global and DreamStar relationships that have literally kept the FHOA solvent. It deserves to continue as manager.

5. MTM is currently owed $250,000 in past due management fees dating from 2017 plus accrued and unpaid interest. This letter is a written notice that effective January 1, 2024, MTM will charge eighteen percent (18%) annual interest with monthly compounding, paid monthly on the unpaid management fees and accrued interest. Further, MTM requires monthly payment of $12,500 for current fees, to be paid on the 15th of each

month as stated in the Management Contract, and MTM makes a demand for immediate repayment of the past due amount.

6. All the obligations due from FHOA to MTM and FHR are to be linked by a cross-default agreement, such that the failure to pay one obligation is an event of default under all obligations. That is, nothing is settled until everything is settled.

In sum, the time has come to formalize all the elements of the relationship between FHOA, MTM and FHR. At the last board meeting, it appears to me that a step was taken to attempt to do that in an adversarial manner. I've stated above why I believe that approach is ill advised and will end with the demise of the FHOA. Further, there is no need for us to be adversarial as the board has already done most of the difficult work by raising dues in 2023 and 2024. There is enough cash available to operate the association, repay the obligations, and buy the Rec Center. I sincerely hope that we can work out agreements on all the issues in a mutually agreeable manner. I stand ready to do my part.

Sincerely,

Michael J. Jacobson
President FHR Inc.
The general partner of FH Resort Limited Partnership
President Manitowoc Timeshare Management, Inc.

Cc Joseph Jacobson, Manitowoc Timeshare Management