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01-27-2025

Clerk of Circuit Court

Manitowoc County, WI

2025CV000015

Document Number

**AFFIDAVIT OF  
LAND EXCISION**

DOC # 1277527

MANITOWOC COUNTY, WISCONSIN  
KRISTI TUESBURG - REGISTER OF DEEDS  
RECORDED 10/31/2024 01:48:43 PM

Recording Area

Name and Return Address  
Attorney William P. McKinley  
2501 E. Enterprise Ave.  
Appleton, WI 54913

03540000000000

Parcel Identification Number (PIN)

EXHIBIT

4

|                                   |
|-----------------------------------|
| <b>AFFIDAVIT OF LAND EXCISION</b> |
|-----------------------------------|

The undersigned, Michael J. Jacobson, being the duly authorized representative of FH Resort Limited Partnership, hereby states the following with respect to the following parcels of real property legally described on **Exhibits "A"** and **Exhibits "B"**, both located in the Village of Mishicot, Manitowoc County, Wisconsin, and known generally as tax parcels # 0354000000000 & 03500501500200:

1. I am a duly authorized representative of FH Resort Limited Partnership, and I make this affidavit based on my own personal knowledge.
2. As of February 25, 1994, the land legally described on **Exhibit "A"** was generally subject to a declaration of condominium recorded with the Manitowoc County Register of Deeds as document # 626492. This condominium was known generally as the "Fox Hills Villas Condominium."
3. As of February 25, 1994, the developer of the Fox Hills Villas Condominium described in **Exhibit "A"** was an entity known as Fox Hills Inn and Country Club, Inc.
4. As of February 25, 1994, the land legally described on **Exhibit "B"** was generally subject to a declaration of condominium recorded with the Manitowoc County Register of Deeds as document # 632614, as amended. This condominium was known generally as the "Fox Hills Golf Villas Condominium."
5. As of February 25, 1994, the developer of the Fox Hills Golf Villas Condominium described in **Exhibit "B"** was an entity known as Fox Hills Inn and Country Club, Inc.
6. On February 25, 1994, the developer of Fox Hills Villas Condominium and Fox Hills Golf Villas Condominium, Fox Hills Inn and Country Club, Inc., sold and assigned its rights to FH Resort Limited Partnership.
7. An Assignment of Declarant Rights was recorded with the Manitowoc County Register of Deeds on March 1, 1994, as document #'s 733212 and 733213, designating FH Resort Limited Partnership as the successor developer/declarant.
8. On October 20, 1997, as developer, FH Resort Limited Partnership recorded a Declaration of Condominium and Time-Share Instrument of Fox Hills Condominium Vacation Ownership Plan with the Manitowoc County Register of Deeds as document number 797624.
9. Initially, the land that was subject to the Declaration of Condominium and Time-Share Instrument of Fox Hills Condominium Vacation Ownership Plan was the land described in **Exhibit "B"**.
10. Pursuant to the Articles and Agreement of Merger recorded with the Manitowoc County Register of Deeds as document # 798425 on November 4, 1997, Fox Hills Villas Condominium and Fox Hills Golf Villas Condominium were merged into the newly established Declaration of Condominium and Time-Share Instrument for Fox Hills Condominium Vacation Ownership Plan.
11. As a result of the merger of Fox Hills Villas Condominium and Fox Hills Golf Villas Condominium on November 4, 1997, the entirety of the real estate governed by the Declaration of Condominium and Time-Share Instrument of Fox Hills Condominium Vacation Ownership

Plan was the real estate described in **Exhibit “A”** and **Exhibit “B”**, which is confirmed at Paragraph 8 of the Articles and Agreement of Merger (Doc. # 798425).

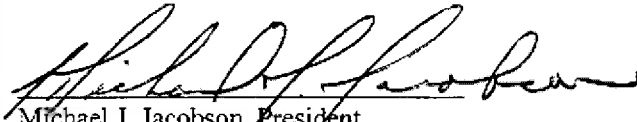
12. Pursuant to the Declaration of Condominium and Time-Share Instrument of Fox Hills Condominium Vacation Ownership Plan, “in the event construction of a building on a parcel is not completed within five (5) years from the date of recording[, . . . ] title to the Real Property subjected to this Declaration/Time-Share Instrument less and except any Parcel upon which a building has been constructed shall, as of the day preceding the fifth annual anniversary of the Recording Date, revert to the Developer free and clear of the Declaration/Time-Share Instrument.” The Declaration continues to state that “Developer may, but is not required to, record an instrument identifying the legal description of the property removed from the Declaration/Time-Share Instrument.”
13. On December 23, 2020, FH Resort Limited Partnership excised and sold the land described on **Exhibit “B”** to FH Hospitality LLC, as no building had been constructed on this land and more than 5 years had passed since the recording of the Declaration of Condominium and Time-Share Instrument of Fox Hills Condominium Vacation Ownership Plan.
14. Pursuant to the Declaration of Condominium and Time-Share Instrument of Fox Hills Condominium Vacation Ownership Plan, FH Resort Limited Partnership hereby records this instrument to identify that the land demarcated as “Lot 1” as set forth in **Exhibit “C”** (which is a part of the land described on **Exhibit “A”**) is hereby excised and removed from the Declaration, as no building has been constructed or completed on said land.
15. Accordingly, the land identified as “Lot 1” on **Exhibit “C”** shall no longer be subject to the terms, conditions, limitations, or restrictions of the Declaration of Condominium and Time-Share Instrument of Fox Hills Condominium Vacation Ownership Plan.

[signature page follows]

Dated this 28<sup>th</sup> day of October, 2024.

FH RESORT LIMITED PARTNERSHIP

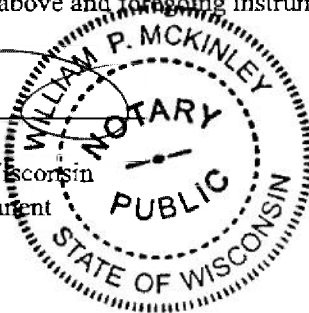
Developer / Declarant

  
Michael J. Jacobson, President  
FHR Inc., Managing General Partner

State of Wisconsin       )  
                                          ) ss.  
County of Outagamie    )

Michael J. Jacobson personally came before me this 28<sup>th</sup> day of October, 2024, to me known to be the person who executed the above and foregoing instrument and acknowledged the same.

  
William P. McKinley  
Notary Public, State of Wisconsin  
My Commission is Permanent



THIS INSTRUMENT WAS DRAFTED BY:

Attorney Will McKinley  
Menn Law Firm, Ltd.  
2501 E. Enterprise Ave.  
Appleton, WI 54913  
920-731-6631

## EXHIBIT "A"

625490  
 PLAT OF  
**FOX HILLS VILLAS CONDOMINIUM**  
 PART OF THE NW1/4 OF THE SE1/4 OF SEC. 5, T20N, R24E  
 VILLAGE OF MISHICOT  
 DAVID C. HINZE  
 MANITOWOC COUNTY  
 SURVEYOR

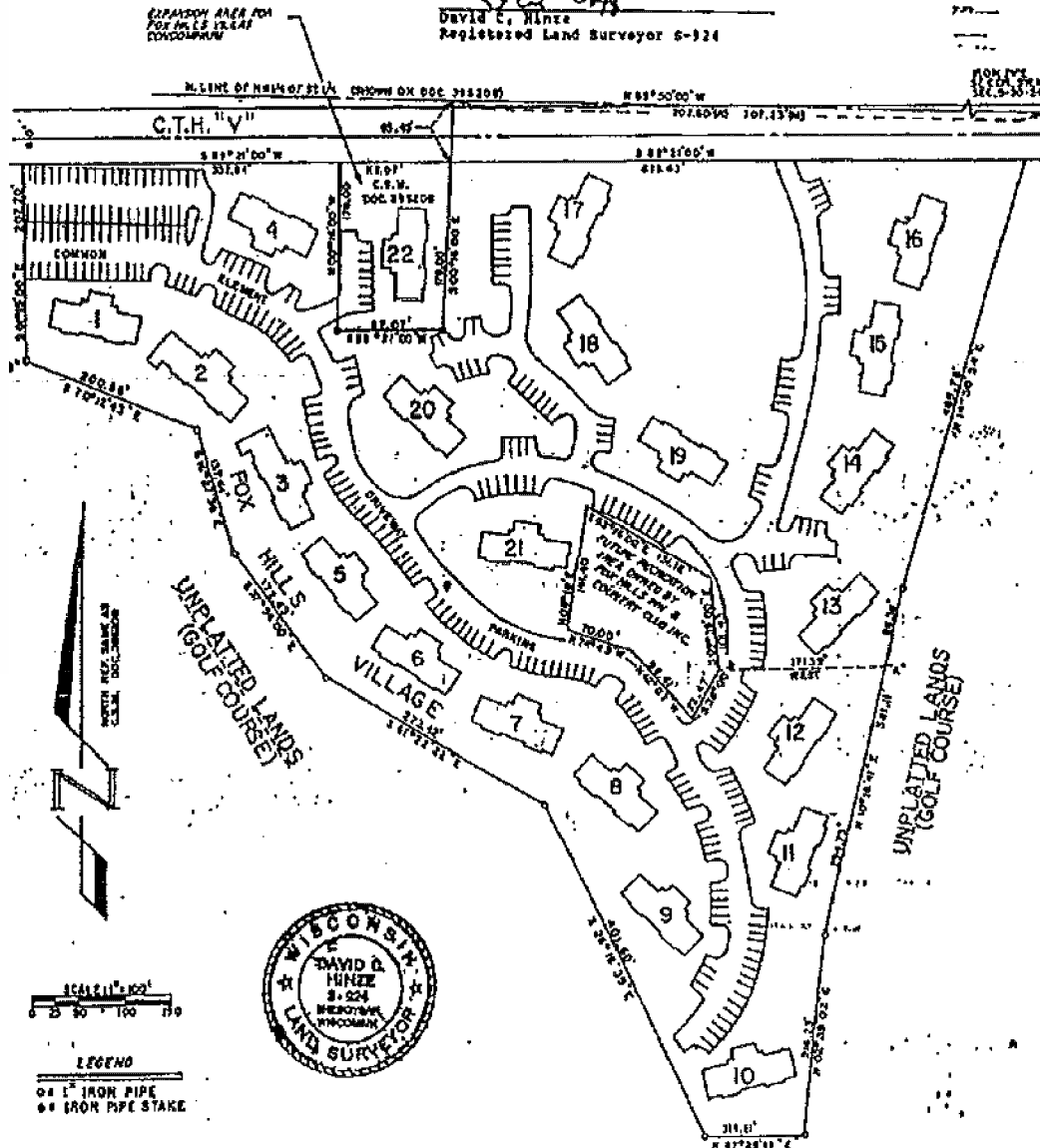
Surveyed for  
 Fox Hills Villas, Inc.  
 1997 MAR 20 PM 4:41  
 11251' 11251' 11251'  
 11251' 11251' 11251'  
 11251' 11251' 11251'  
 11251' 11251' 11251'

NOTE: ALL SURVEY INFORMATION TAKEN FROM  
 PREVIOUS SURVEY PER ROBERT A. ZARRIS  
 M.L.S. 5-1295

I, David C. Hinze, Registered Land Surveyor,  
 hereby certify that the Condominium Plat of  
 Fox Hills Villas Condominium is a true  
 representation of said condominium, identifies  
 the existing and proposed buildings and in  
 conjunction with the declaration of said  
 condominium, the common elements will be  
 determined from said plat.

Dated this 19th day of March, 1997

David C. Hinze  
 Registered Land Surveyor S-524



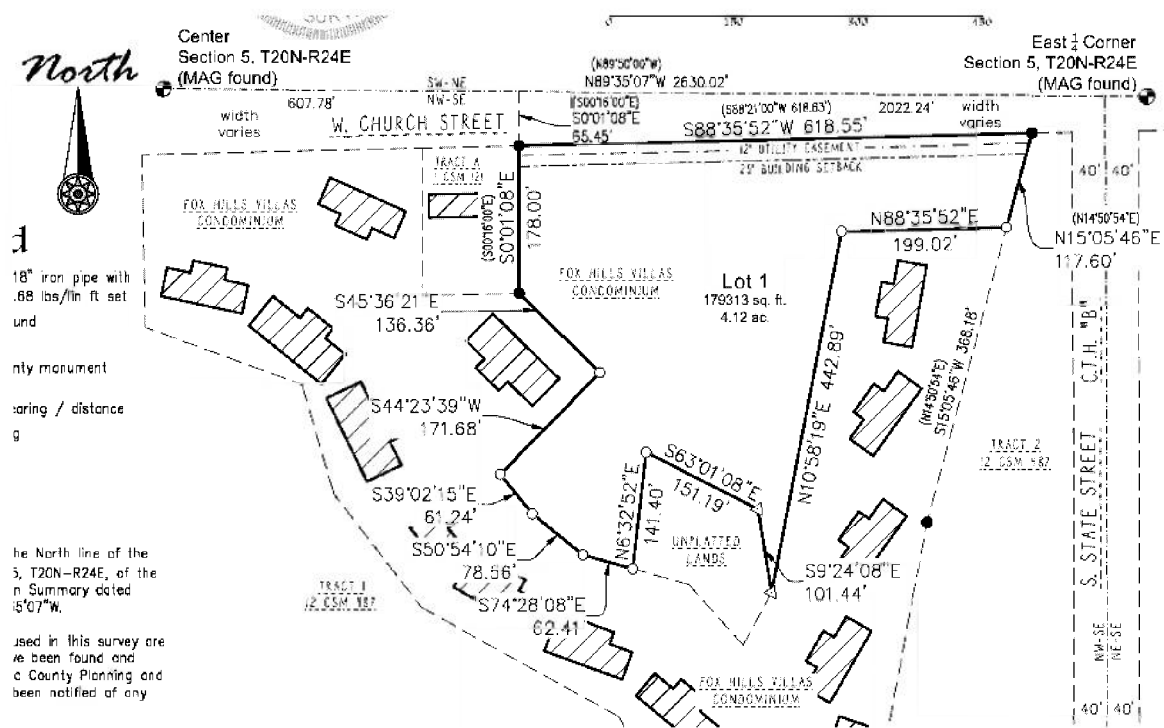
Part of the Northwest 1/4 of the Southeast 1/4 of Section 3, Town 20 North, Range 24 East, Village of Mishicot, Manitowish County, Wisconsin, described as follows:

Commencing at the Southeast corner of the Southwest 1/4 of the Northeast 1/4 of said Section 3, thence N 89-30 W, 706.60' (record, 707.23 measured), along the 1/4 section line as shown on Document 394700 (C.T.H.), thence S 0-16 E, 65.45' to a point in the south r/v of C.T.H. "Y", said point being the true point of beginning, thence continuing S 0-16 E, 178.00', thence S 88-21 W, 117.07', thence N 0-16 W, 178.00' to the south line of C.T.H. "Y", thence S 88-21 W, along said south line 337.14', thence S 1-15 E, 207.70', thence S 70-12-43 E, 300.66', thence S 16-27-34 E, 137.64', thence S 37-34-00 E, 172.43', thence S 61-22-22 E, 233.42', thence S 26-18-35 E, 401.60', thence N 87-29-19 E, 114.11', thence N 02-39-02 E, 116.21', thence N 10-16-41 E, 234.73', to a point to be known as "A", thence N 10-16-41 E, 86.38', thence N 11-30-54 E, 483.78' to the south line of C.T.H. "Y", thence S 88-21 W, along said south line 618.63' to the point of beginning, excepting therefrom commencing at said point "A", thence West 171.52' to the point of beginning, thence S 74-09 W, 72.47', thence N 42-07 W, 98.41', thence N 74-43 W, 70.00', thence N 4-18 E, 141.40', thence S 63-16 E, 151.16', thence S 9-39 E, 101.43' to the point of beginning.

## EXHIBIT "B"

Outlot 1 of a Certified Survey Map recorded on May 12, 2020, in Volume 34 of Certified Survey Maps, at Page 259, as Document No. 1218554, being part of Tracts 1 and 2 of a Certified Survey Map recorded in Volume 12 of Certified Survey Maps, at Page 487, as Document No. 680737, and Fox Hills Condominium – Vacation Ownership Plan, Document No. 797624, and Expansion Area "D" of Fox Hills Golf Villas Condominium-As Amended, Document No. 758536, located in the Southwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$ , the Southeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$ , and the Southwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 5, Township 20 North, Range 24 East, in the Village of Mishicot, Manitowoc County, Wisconsin.

## EXHIBIT "C"



Commencing at the East  $\frac{1}{4}$  corner of Section 5, T20N-R24E; thence N89°35'08"W, 2022.24 feet along the North line of the Southeast  $\frac{1}{4}$  of said Section 5; thence S0°01'08"E, 65.45 feet to the South right of way of W. Church Street and the point of beginning; thence S0°01'08"E, 178.00 feet along the East line of Tract A, Vol. 1, Certified Survey Maps, Pg. 121, Doc. No. 395208, Manitowoc County Records; thence S45°36'21"E, 135.36 feet; thence S44°23'39"W, 171.68 feet; thence S39°02'15"E, 61.24 feet; thence S50°54'10"E, 78.56 feet; thence S74°28'08"E, 62.41 feet; thence N6°32'52"E, 141.40 feet; thence S63°01'08"E, 151.19 feet; thence S9°24'08"E, 101.44 feet; thence N10°58'19"E, 442.89 feet; thence N88°35'52"E, 199.02 feet to an Easterly line of the recorded "Fox Hills Villas Condominium", (Cabinet 1, Certified Survey Maps, Pg. 13, Doc. No. 626490, Manitowoc County Records), also being a Westerly line of Tract 2, Vol. 12, Certified Survey Maps, Pg. 487, Doc. No. 680737, Manitowoc County Records; thence N15°05'46"E, 117.60 feet along said Easterly line to said South right of way; thence S88°35'52"W, 618.55 feet along said South right of way to the East line of said Tract A and the point of beginning.

Parcel contains 179,313 square feet / 4.12 acres more or less.