

FILED
09-22-2025
Clerk of Circuit Court
Manitowoc County, WI
2025CV000015

STATE OF WISCONSIN
MANITOWOC COUNTY

CIRCUIT COURT

For Official Use:

Manitowoc Timeshare Management, LLC
1223 Appleton Road
Menasha, WI 54952,

Case No. 2025CV000015

Plaintiff,

v.

Fox Hills Owners Association, Inc.
212 W. Church Street
Mishicot, WI 54228,

Defendant and Third-Party
Plaintiff,

v.

FH Resort Limited Partnership
1223 Appleton Road
Menasha, WI 54952

Third-Party Defendant.

**DEFENDANT AND THIRD-PARTY PLAINTIFF'S MOTION TO
RECONSIDER FHR'S MOTION FOR INJUNCTIVE RELIEF**

On September 18, 2025, the Court granted Third-Party Defendant FH Resort Limited Partnership's ("FHR") Motion for Injunctive relief, ordering that FHR be able to appoint two directors to Fox Hills Owners Association, Inc.'s ("FHOA") Board of Directors and a new election to determine a third member of the Board. The Court's September 18, 2025, decision relied heavily on Wis. Stat. 703.15(2)(c).

STANDARD

To prevail on a motion for reconsideration, a party must either present newly discovered evidence or establish a manifest error of law or fact. Koepsell's Olde Popcorn Wagons, Inc. V. Koepsell's Festival Popcorn Wagons, Ltd., 2004 WI App. 129, 275 Wis. 2d 397, 685 N.W.2d 853.

ARGUMENT

The Court did not include Wis. Stat. § 703.15(f) in its decision. Wis. Stat. § 703.15(f) states “[n]ot later than 45 days after the expiration of any period of declarant control, an association shall hold a meeting and the unit owners shall elect an executive board of at least 3 directors and officers of the Association. The directors and officers shall take office upon election.” This statute makes clear that after any period of declarant control, the unit owners elect the executive board. *Id.* Nothing in the statute allows a developer to continue to appoint any directors AFTER the period of declarant control has passed. All parties have conceded that the Association is no longer under declarant control, and therefore ONLY the owners have the right to vote for the directors. Unless the law created some exception to Wis. Stat. § 703.15(f), which it doesn't, FHR has no right to appoint two (2) directors to FHOA's board, regardless of the “right to appoint” the declarant gave itself when it drafted the documents. Subsection (f) does not conflict with Chapter 707 of the Wisconsin statutes, as Wis. Stat. § 707.30 allows a developer to elect a minority of the directors. Accordingly, under the time-share statute a developer can elect zero (0) directors, which is “less than a majority.” If developer wanted a different result when it drafted

the governing documents, it should not have chosen to combine its time-share with a condominium.

CONCLUSION

For the reasons stated above, Defendant-Third-Party Plaintiff, FHOA, respectfully requests that this Court reconsider its September 18, 2025, decision and enter an Order denying FHR's Motion for Injunctive relief, denying that FHR has the right to appoint two directors, and that the April 2025 election results are valid.

Dated this 22nd day of September, 2025.

KAMAN & CUSIMANO, LLC

Attorneys for Defendant and Third-Party Plaintiff

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