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09-25-2025

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September 25, 2025

VIA: E-FILING ONLY

Hon. Judge Robert P. Dewane
Manitowoc County Circuit Court
1010 S. 8th Street
Manitowoc, WI 54220

Re: Manitowoc Timeshare Management, LLC vs. Fox Hills Owners Association, Inc., et al.
Manitowoc County Case No. 25 CV 15
Response to Motion for Reconsideration
Proposed Order

Dear Judge Dewane:

In light of the upcoming status conference, I write for two reasons.

First, accompanying this letter is a proposed order for the Court's consideration. A draft was provided to opposing counsel on Tuesday and I have not received any feedback. I simply wanted to file in advance of Monday's status conference so that the Court had it for reference. Additionally, I am enclosing an email sent to counsel that outlines FH Resort's proposal for how the special election should be held. Again, this is provided for reference for Monday's hearing – no response to this proposal has been received as of the filing of this correspondence to the Court.

Second, I was not certain how the Court preferred to handle the recently-filed Motion for Reconsideration. As such, please consider this letter brief a response to the Association's Motion for Reconsideration (ECF #96).

The Court should deny the Motion for three principal reasons:

First, a motion for reconsideration cannot be used to introduce new evidence or arguments **that could have been presented earlier** during the original proceedings. *Lakeland Area Prop. Owners Ass'n v. Oneida Cty.*, 2021 WI App 19, ¶44, 396 Wis. 2d 622, 957 N.W.2d 605 (“a motion for reconsideration is not a vehicle for making new arguments”)(internal citations omitted). Here, the Association seeks to retread old tires by offering a new argument that could have been raised at the hearing when the Court raised the question of declarant control and board appointments. Because it wasn't – or at least wasn't clearly – the Court should disregard the invitation to reengage in the debate.

September 25, 2025

Page 2

Second, setting aside the attempted do-over, there's no manifest error of law present. Here, the statute cited does not in any way prohibit the ongoing appointment of directors by the developer into perpetuity. Instead, it simply says that at a certain point in time, an election must be held wherein at least 3 directors and officers are elected by the members. As the Court properly noted, and as counsel for the Association conceded, FH Resort is not controlling the association, because it is not appointing a majority of directors to the board. Thus, we are in no different situation than where we were last Thursday: the Association members elect 3 directors (a controlling majority), and the developer appoints 2 directors (a non-controlling minority).

Finally, and for the avoidance of doubt, FH Resort reiterates its belief that the interpretation of Sec. 703.15(f) is ultimately an academic exercise, because Sec. 703.15 has been wholly superseded by the provisions pertaining to declarant control in Ch. 707, specifically, Sec. 707.30(4)(b). Sec. 707.30(4)(b) fully recognizes that in a timeshare association, the developer has the right to appoint directors, so long as the developer is not appointing a majority. To contort the two statutes as the Association asks, the Court must engage in gymnastics at an Olympic level.

Certainly, if the Court would like further briefing on the issues, we are happy to provide a formal brief. However, in the interest of time, we wanted to at least provide this initial response.

MENN LAW FIRM, LTD.



William P. McKinley

cc: Attorney Daniel J. Miske (via e-filing)
Attorney Matthew Lowe (via e-filing)

Archived: Thursday, September 25, 2025 3:14:31 PM

From: [Will McKinley](#)

Sent: Mon, 22 Sep 2025 22:48:12

To: [Matthew Lowe](#) [Dan Miske](#)

Cc: [Julie Christianson](#) [Samantha Smit](#) [Patrick Coffey](#)

Subject: Emailing: Proposed Order (9.20) (02207674x9D9B4).DOCX - FH Resort

Importance: Normal

Sensitivity: None

Attachments:

[Proposed Order \(9.20\) \(02207674x9D9B4\).docx](#) 

Counsel:

Good evening. Per the Court's instruction, I am attaching a proposed order for your review. Please let me know if you have any issues with the form or substance.

Separately, I wanted to reach out to outline some initial thoughts on the logistics for the special meeting. Our thinking is that the following should happen:

1. A notice is issued to the membership advising them of the Court's decision and confirming the current members of the board (i.e. the 2 previously elected individuals and the 2 appointed individuals);
2. That any individuals seeking to run for the final spot must submit their name and a bio not to exceed 150 words within 2 weeks of the notice, that an email then go out to the membership providing the names and bios of those individuals who have asked to be considered, and that the special meeting be held approximately 2 weeks thereafter (so, approximately 5 weeks from now). Instructions as to where to send proxies will also be included in this notice;
3. That aside from providing the meeting information and names/bios of nominees to the membership, the Association itself is not otherwise engaged in lobbying or communications about any of the candidates. Instead, the candidates (or their associates) can do their own lobbying. However, if one candidate is provided contact information for members for the purpose of communicating about the election, then all candidates are provided the same contact information, ensuring equal access to all candidates.
4. Because the prior board was acting ultra vires, any prior election for officers is void, and it would seem imprudent for the current board to elect officers until after the special meeting/election is held. As such, the special meeting will be presided over by one of the 4 lawful directors, as selected by a majority vote of the directors, and that individual will also be responsible for counting the ballots.
5. At the annual meeting, all candidates will be permitted to speak for no more than 5 minutes, at which time all ballots will be cast and counted by the presiding individual. All ballots and proxies will be preserved for subsequent inspection should there be a challenge.

Please advise as to whether this is acceptable or if you have an alternative approach.

Thank you,



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