



**PUBLIC NUISANCE HEARING  
1620 GULF OF MEXICO DRIVE**

**GENERAL OVERVIEW OF PUBLIC NUISANCE  
PROCESS**

**TOWN COMMISSION SPECIAL MEETING  
MAY 28, 2014  
(CONTINUANCE)**



# PUBLIC NUISANCE PROCESS

Building Official Report December 11, 2013



## **150.22(D) PROCEDURE FOR BUILDINGS WHICH ARE NUISANCE**

**It shall be the duty of the building official to regularly and frequently require examination of buildings and structures within the town to determine whether the buildings and structures constitute a public nuisance as provided in 150.22(A). The building official shall make a detailed written report to the town commission which shall contain a detailed description of the examination and his opinion of whether the conditions found constitute the building or structure, or any part thereof, a public nuisance.**



## SECTION 150.22(A) UNSAFE CONDITIONS DANGEROUS STRUCTURES

- **Collapse of Footing or Foundation**
- **Concrete** – Deterioration, Deformation, Fractures, Fissures, Spalling, Exposed Reinforcement, Detached Dislodged or Failing Connections
- **Masonry** – Ultimate Deterioration, Ultimate Deformation, Fractures, Fissures
- **Wood** – Ultimate Deformation, Deterioration, Vermin Damage, Significant Splits, Shear Cracks, Inadequate Support, Detached Dislodged or Failing Connections
- **Steel** – Deterioration, Deformation, Metal Fatigue, Detached Dislodged or Failing Connections



# PUBLIC NUISANCE PROCESS

Building Official Report December 11, 2013



Adopt Resolution 2013-40 Setting Public Hearing Date



Commission Public Hearing March 4, 2014 and Continued to May 28, 2014



Town Manager Building by Building Report



# TOWN MANAGER REPORT

- **Building Official Inspection**
- **Structural Engineering Expert Inspection**
- **Wind Hazard Expert Inspection**
- **Fire Chief & Marshal Inspection**



# PUBLIC NUISANCE PROCESS

Building Official Report December 11, 2013

Adopt Resolution 2013-40 Setting Public Hearing Date

Commission Public Hearing March 4, 2014 and Continued to May 28, 2014

Town Manager Building by Building Report

Owner & Association Testimony / Evidence

Public Comment

Adopt Resolution Declaring Findings & Ordering Action(s)



## **150.22(C)PROCEDURE FOR BUILDINGS WHICH ARE NUISANCE**

- **Following Standards for Town Manager or Town Commission in Ordering Repair, Vacation, or Demolition**
  - **If “Dangerous Structure” Can Reasonably Be Repaired, it Shall be Repaired**
  - **If “Dangerous Structure” is Dangerous to Health, Safety, General Welfare, it Shall be Vacated.**
  - **Any Case Where “Dangerous Structure” is 50% Damaged or Decayed, or Deteriorated From it’s Original Value or Structure or is a Fire Hazard, it shall be Demolished.**





## QUASI-JUDICIAL PUBLIC HEARING

- **It is Town Commission's Obligation to Consider Testimony & Evidence from Today's Hearing & make a Decision Based upon the Competent Substantial Evidence Presented in the Record.**
- **Under the Code, the Town Commission will need to make Several Findings Based upon the Competent Substantial Evidence Presented.**
- **Those Findings are Set Forth as Follows:**



## FINDINGS OF FACT

- **Status of Building: Occupied or Vacant**
- **Status of the Resort Site: Occupied or Vacant**



## FINDINGS OF FACT, CONT.

- **Condition(s) of the building as alleged by the Town**

### **Manager's Report:**

- do not exist,
- do not constitute a public nuisance
- have been remedied and the building does not presently constitute a public nuisance

**OR**

- **Condition(s) of building/structure as alleged by the Town**  
**Manager's Report Exist: If such conditions exist, need a listing of such existing conditions**



## FINDINGS OF FACT, CONT.

- If the stated conditions exist, is the building a dangerous structure as defined by Section 150.22 (C) of the Town Code?
- If the stated conditions exist, is the building a public nuisance as defined by Section 150.22 (H), of the Town Code?



## FINDINGS OF FACT, CONT.

- If the stated conditions exist, can the building be repaired?

OR

- If the stated conditions exist, is the building 50 percent damaged, or decayed, or deteriorated from its original value or structure?

AND/OR

- Is the building an existing fire hazard in violation of the Town Code and the Florida Building Code ?



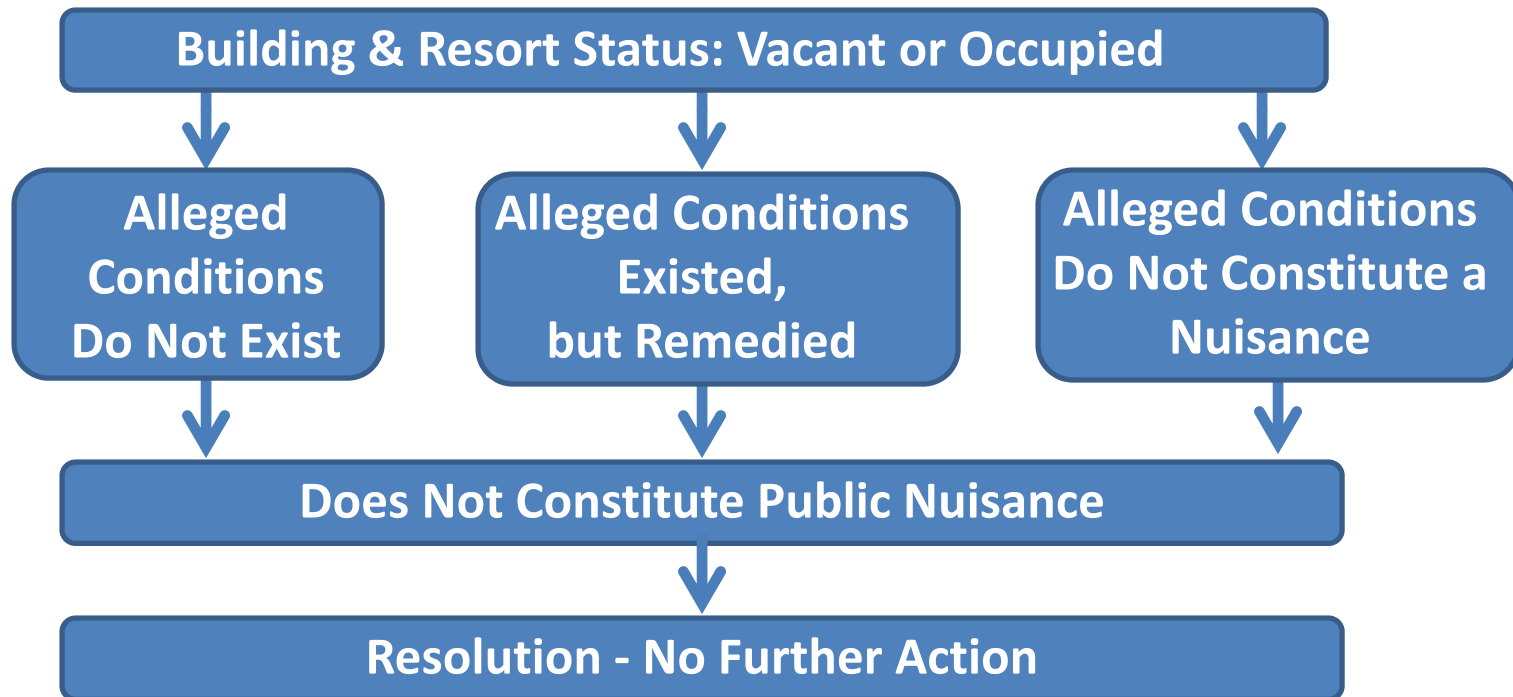
# **PUBLIC NUISANCE HEARING ACTIONS**

## **150.22 (H)**

- **Alleged Conditions Do Not Exist**
- **Existing Conditions Do Not Constitute a Public Nuisance**
- **Conditions Existed, Have been Remedied, & No Longer Constitute a Public Nuisance**
- **Conditions Exist and Constitute a Public Nuisance is Hereby Condemned**
- **Any Additional Provisions to Appropriately Decide and Determine the Issues**
- **Upon Failure of Owner to Abate Issues within a Reasonable Time, Town Institutes Suit and Abates**

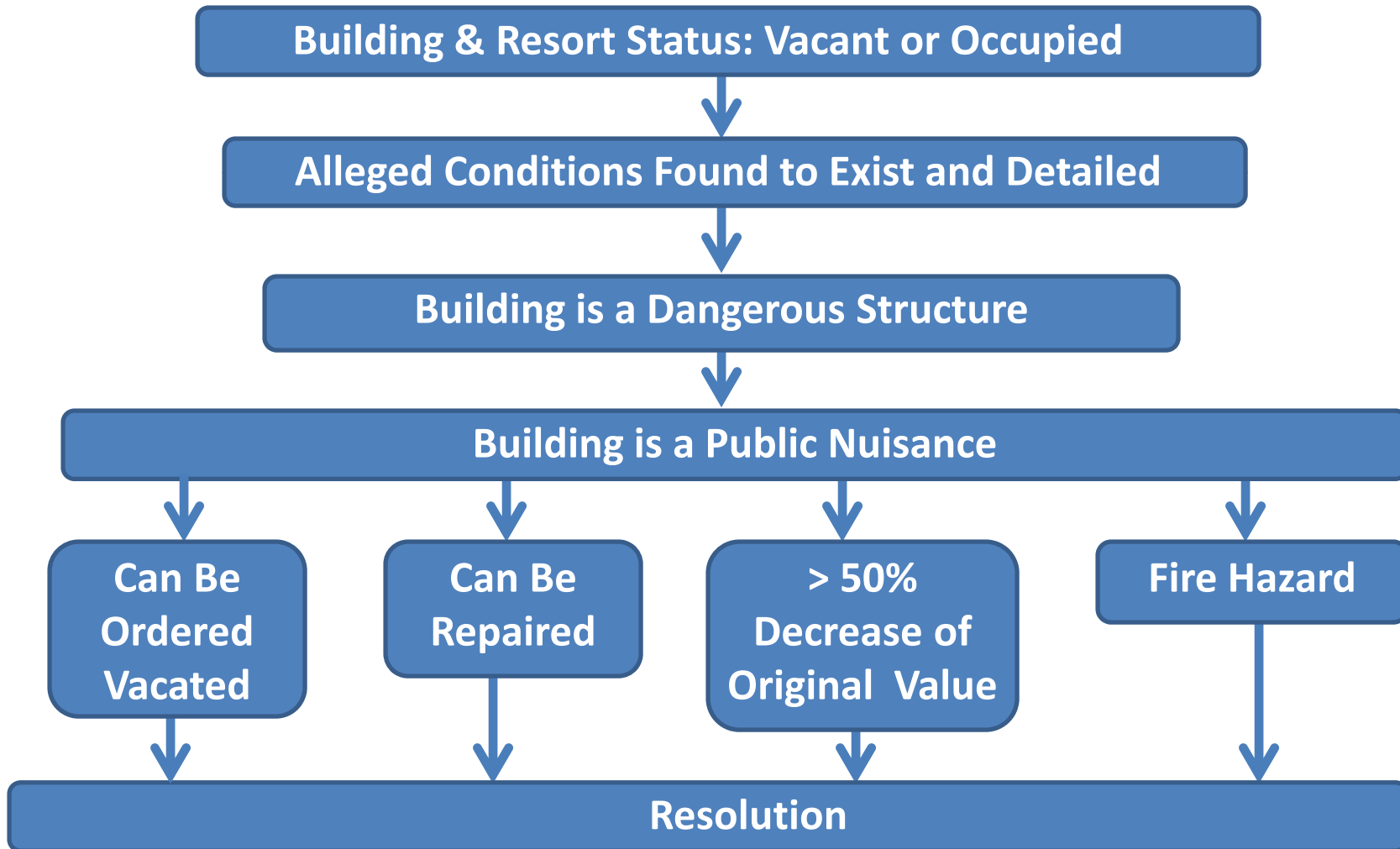


# OPTIONS IF CONDITIONS DO NOT EXIST OR CURED





# OPTIONS IF CONDITIONS FOUND TO EXIST







## POSSIBLE ACTIONS IF CONDITIONS EXIST

- If conditions found to exist on building, can order repair. (i.e. Said repairs shall occur within XX days). Per Code all timeframes must provide at least 3 days to accomplish.
- If the condition(s) constituting a nuisance are not corrected within the timeframe provided, then the Town shall institute litigation and then seek to abate the public nuisance condition



## POSSIBLE ACTIONS IF CONDITIONS EXIST, CONT.

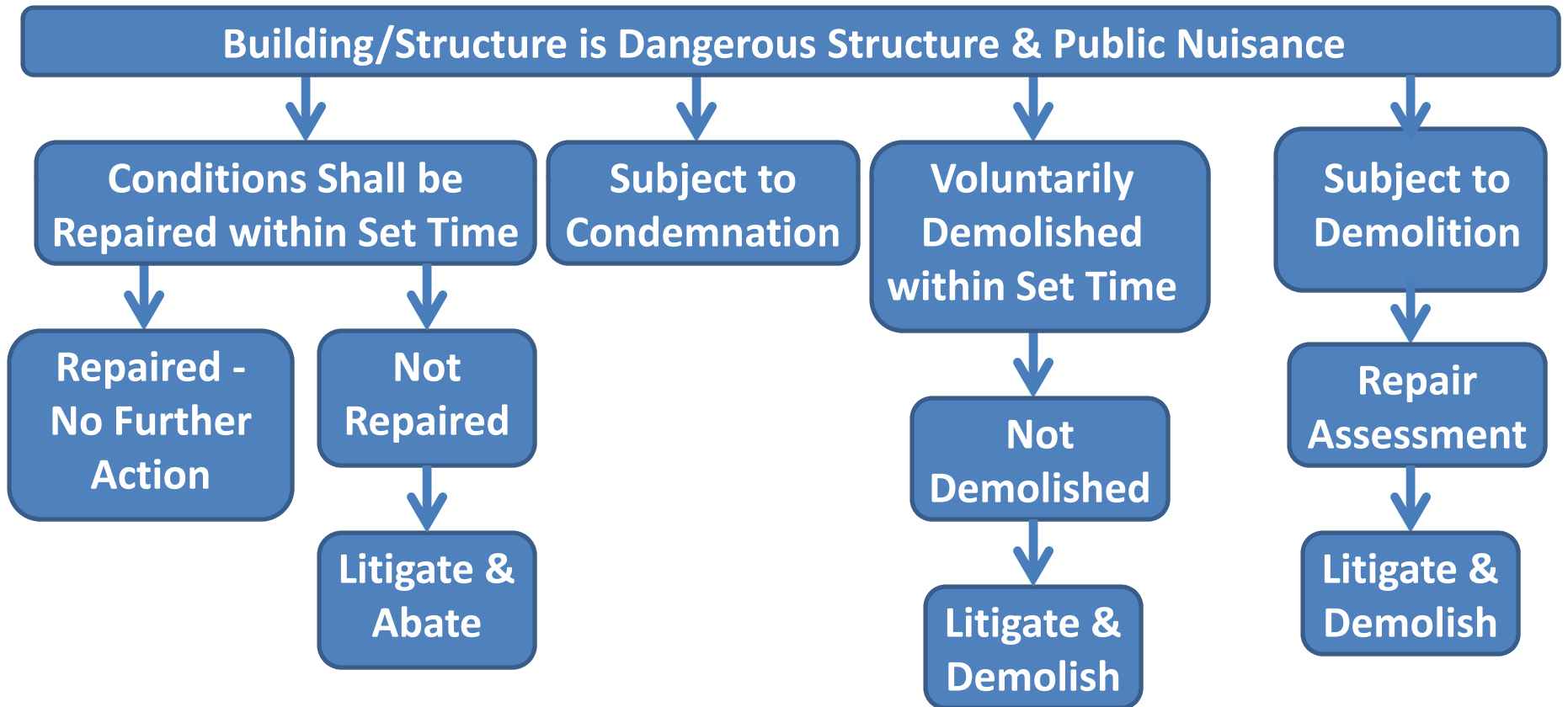
- Order building to remain vacant until such time as the entire Colony resort property reopens for use and all repairs on the building have been completed
- Order the building be subject to condemnation following repair assessment
- Order building be voluntarily demolished within an agreed upon timeframe

OR

- Order building be demolished following repair assessment<sup>18</sup>



# RESOLUTION ACTIONS





# TOWN MANAGER REPORT INTRODUCTIONS

- **Wayne Thorne, Town Building Official**
- **Greg McClellan, P.E., Structural  
Engineering Expert**
- **Ajay Shanker, Ph.D., P.E., Wind Hazard  
Expert Inspection**
- **Paul Dezzi, Fire Chief**



# **TOWN MANAGER REPORT EVIDENTIARY SUBMITTALS**

- **Building Official Inspection Report February 26, 2014**
- **Engineering Inspection Report February 24, 2014**
- **Wind-Borne Debris Hazards at The Colony, Longboat Key, Florida, March 3, 2014**
- **Expert Witness Resumes and Powerpoint Presentations**
- **Staff Powerpoint Presentations**
- **Decision Matrix**



# BUILDING REVIEW ORDER

- |                |              |                                     |
|----------------|--------------|-------------------------------------|
| 1. Restaurant  | 11. Villa 10 | 21. Villa 6                         |
| 2. Mid-Rise    | 12. Villa 17 | 22. Villa 15                        |
| 3. Beach Units | 13. Villa 2  | 23. Villa 5                         |
| 4. Lanais      | 14. Villa 8  | 24. Villa 13                        |
| 5. Beachcomber | 15. Villa 11 | 25. Villa 14                        |
| 6. Vagabond    | 16. Villa 16 | 26. Housekeeping/Acct               |
| 7. Castaways   | 17. Villa 3  | 27. Maintenance                     |
| 8. Villa 1     | 18. Villa 7  | 28. Guardhouse                      |
| 9. Villa 18    | 19. Villa 12 | 29. Conference Center               |
| 10. Villa 9    | 20. Villa 4  | 30. Sales & Marketing <sup>22</sup> |

