

MEMORANDUM

Date: May 01, 2013

TO: Town Commissioner
FROM: Dave Bullock, Town Manager
SUBJECT: Definition of Tourism Use and Transient Lodging

At the April 24, 2013 Special Workshop Meeting the Town Commission discussed the definition of tourism use as it applies to transient lodging.

The Town Attorney was asked to research the subject and provide information for Commission consideration.

The attached letter will frame Commission discussion at the May 6, 2013 Regular Meeting.

Please don't hesitate to contact me or the Town Attorney if you have any questions.

Hankin, Persson, McClenathen, Cohen & Darnell

Attorneys and Counselors At Law
1820 Ringling Boulevard
Sarasota, Florida 34236-5917

Lawrence M. Hankin
David P. Persson
Chad M. McClenathen*
Andrew H. Cohen
Robert W. Darnell
Michael T. Hankin
Kelly M. Fernandez**
Maggie D. Mooney-Portale***

David D. Davis (1955-2012)

Telephone (941) 365-4950
Facsimile (941) 365-3259
Email: dpersson@sarasotalawfirm.com

May 1, 2013

* Board Certified Real Estate
** Board Certified State and Fed. Govt. & Admin. Practice
*** Board Certified City, County and Local Government Law

The Honorable James L. Brown, Mayor
and Members of Town Commission
Town of Longboat Key
501 Bay Isles Road
Longboat Key, Florida 34228

RE: Definition of Tourism Use and Transient Lodging

Dear Mayor Brown and Town Commissioners:

In the course of reviewing State law in connection with possible changes to the Town's definition of tourism use and a definition of transient lodging, we note Section 509.032(7)(b), Florida Statutes:

A local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use, or occupancy. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

Section 509.242(1)(c), Florida Statutes, defines "vacation rentals" as "any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment." Separately defined in Section 509.242(1) are hotels and motels.

We have not had the opportunity to ascertain whether The Colony is properly classified as a "hotel" or "vacation rental." It is possible that it could be both. Any amendment to the tourism use definition would have to be carefully crafted such that the grandfathered restrictions as applicable to vacation rentals are not altered.

I will be pleased to discuss this with you if you have any questions.

Respectfully,



David P. Persson

DPP/dgb

cc: David Bullock
Robin Meyer
Alaina Ray



End of Agenda Item