

## M E M O R A N D U M

Date: May 14, 2013

**TO:** Town Commission

**FROM:** Anne Ross, Assistant Town Manager

**SUBJECT:** Resolution 2013-18, Declaring the Buildings and Structures of 1620 Gulf of Mexico Drive, Unit A (Restaurant) per Town Code Section 150.22(H) as a Public Nuisance

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At the May 6, 2013 Regular Meeting the Building Official presented his report to the Town Commission regarding the conditions at 1620 Gulf of Mexico Drive, Unit A. The Building Official has determined that the buildings and structures are public nuisances per Town Code Section 150.22. The Town Commission set a public hearing date for May 20, 2013 at 1pm to determine whether the buildings and structures at 1620 Gulf of Mexico Drive, Unit A do in fact constitute a public nuisance.

The following presents the sequence of events occurring to date:

- Property Owners notified of deficiencies in Town Manager letter dated March 19, 2013
- Deficiency compliance deadline of April 12, 2013 not achieved
- Deficiencies and status presented to Town Commission on April 24, 2013 (Town Code 150.22 (D) & (E))
- Building Official report presented to Town Commission on May 6, 2013 (Town Code 150.22 (D) & (E))
- May 6, 2013 Town Commission adopts resolution setting Public Hearing date for May 20, 2013 (Code Section 150.22 ((Town Code 150.22 (E))

The remaining deficient item is a storage space south of the entry into the restaurant that is not secured in a closed position. Loose blocking placed in front of the doors will not be considered as adequate for securing. During a wind event these doors and any items stored within such space may become projectiles that may affect buildings on the site and neighboring properties. There may be a potential that the finishes within the storage is not sufficient to withstand the wind pressures, exposing the interior to damage. Without the closing off of the openings unwanted pests may be harbored in such space, and unwarranted access may be provided to persons without a right to such.

Town Code Section 150.22 (H) requires the Town Commission to adopt a resolution at the conclusion of the public hearing. The resolution can declare one or more of the following:

1. That the conditions alleged to exist in the building or structure do not exist.
2. That the conditions existing in the building or structure do not constitute a public nuisance.
3. That the conditions alleged to exist in the building or structure have been remedied and that the building or structure does not now constitute a public nuisance.

4. That the conditions existing in the building or structure constitute the building or structure a public nuisance, and it is hereby condemned.
5. Any other provisions that will appropriately decide and determine the issues.
6. A description of the conditions existing which constitute the building or structure a public nuisance, if any.
7. That upon the failure of the owner to correct and abate the conditions constituting the building or structure a public nuisance within a reasonable period of time, which shall be stated in the resolution and shall be not less than three days from the date thereof, the town will abate the conditions constituting the building or structure a public nuisance or by appropriate pleadings, institute suit in a court having jurisdiction over the property for a mandatory injunction and any other relief as the town deems necessary and proper, or both.

Attached are two (2) versions of Resolution 2013-18. The Draft Resolution 2013-18, labeled Version A states that the Town Commission determines that the Unit A building and structures constitute a public nuisance. The Draft Resolution 2013-18, labeled Version B states that the Town Commission determines that the property owner has remedied the situation and the Unit A building and structures do not constitute a public nuisance.

Pending Town Commission discussion, adopt Resolution 2013-18, Version A or Version B. Please do not hesitate to contact me if you have any questions or need additional information.

**DRAFT RESOLUTION 2013-18, VERSION A**

**FINDING  
UNIT A BUILDING AND STRUCTURES  
AS PUBLIC NUISANCE**

**RESOLUTION 2013-18**  
(Version A)

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA, IDENTIFYING THE BUILDING AND STRUCTURE DEFICIENCIES AT 1620 GULF OF MEXICO DRIVE, UNIT A; FINDING THE BUILDING AND STRUCTURES CONSTITUTE A PUBLIC NUISANCE; ORDERING THE SECURING OR BOARDING OF THE DOORS TO THE STORAGE ROOM SOUTH OF THE ENTRY INTO THE RESTAURANT WITHIN THIRTY (30) CALENDAR DAYS; PROVIDING DIRECTION FOR NOTICING THIS RESOLUTION; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Building Official of the Town of Longboat Key (the "Town") examined the buildings and structures at 1620 Gulf of Mexico Drive, Unit A, Longboat Key, Florida 34228 ("Unit A") and determined that there are unsecured openings that pose a threat to public property, private property, and safety of the public; and

**WHEREAS**, pursuant to Section 150.22 of the Town Land Development Code (the "Town Code"), the Building Official issued a report to the Town Commission detailing the condition of the Unit A building and structures and finding them to be a public nuisance; and

**WHEREAS**, on May 6, 2013, the Town Commission considered the Building Official's report and adopted Resolution 2013-16, finding the Unit A building and structures may constitute a public nuisance and setting a public hearing for May 20, 2013 to determine whether the buildings and structures are in fact a public nuisance; and

**WHEREAS**, the Town has duly noticed the public hearing pursuant to Section 150.22 (E) & (F) of the Town Code; and

**WHEREAS**, the Town Commission has heard and read the full report of the Town Manager, or designee, and heard and received all evidence relevant to its determination.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, THAT:**

**SECTION 1.** The buildings and structures located at 1620 Gulf of Mexico Drive, Unit A, Longboat Key, Florida 34228 ("Unit A") exhibits the following deficient conditions:

(a) There is a storage space south of the entry into the restaurant that is not secured in a closed position. Loose blocking placed in front of the doors will not be considered as adequate for securing. During a wind event these doors and any items stored within such space may become projectiles that may affect buildings on the site

and neighboring properties. There may be a potential that the finishes within the storage is not sufficient to withstand the wind pressures, exposing the interior to damage. Without the closing off of the openings unwanted pests may be harbored in such space, and unwarranted access may be provided to persons without a right to such; and

(b) Due to the current conditions, the buildings or structures will likely cause damage to abutting property or structures located thereon if not secured or boarded.

SECTION 2. Based on the deficiencies identified and described in Section 1, the building and structures are declared a public nuisance and must be secured or removed to Town Code.

SECTION 3. Upon failure of the owner of Unit A to correct and abate the deficient conditions constituting the buildings and structures as a public nuisance within thirty (30) calendar days from the date hereof, the Town will abate the conditions constituting the building and structures as a public nuisance or will institute a suit in the appropriate court for a mandatory injunction and any other relief the Town deems necessary and proper, or both.

SECTION 4. The Town Clerk shall post a copy of this Resolution on or by the building and structures and shall mail a copy to the owner of the premises on which the building and structures are located, if the address of the owner is known to the Town Clerk.

SECTION 5. If the public nuisance has not been abated within the period of time specified in Section 3, the Town shall take the action set forth in Section 3 and all funds expended in the abatement of the public nuisance, including all attorneys' fees, court costs and expenses, shall be a lien on the premises superior to all other liens except other liens for special assessments. The liens may be enforced against the property by foreclosure as provided by law for foreclosure of tax liens or may be collected as otherwise provided by law.

SECTION 6. If any section, subsection, sentence, clause or provision of this Resolution is held invalid, the remainder of the Resolution shall not be affected.

SECTION 7. This Resolution shall become effective immediately upon adoption.

Passed by the Town Commission of the Town of Longboat Key at a meeting this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
James L. Brown, Mayor

ATTEST:

\_\_\_\_\_  
Trish Granger, Town Clerk

**DRAFT RESOLUTION 2013-18, VERSION B**

**FINDING  
UNIT A BUILDING AND STRUCTURES  
DO NOT CONSTITUTE A PUBLIC NUISANCE**

## RESOLUTION 2013-18, Version B

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA, IDENTIFYING THE BUILDING AND STRUCTURE DEFICIENCIES AT 1620 GULF OF MEXICO DRIVE, UNIT A; FINDING THE PROPERTY OWNER HAS REMEDIED THE DEFICIENCIES; FINDING THE BUILDING AND STRUCTURES DO NOT CONSTITUTE A PUBLIC NUISANCE; PROVIDING DIRECTION FOR NOTICING THIS RESOLUTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Building Official of the Town of Longboat Key (the "Town") examined the building and structures at 1620 Gulf of Mexico Drive, Unit A, Longboat Key, Florida 34228 ("Unit A") and determined that there are unsecured openings that pose a threat to public property, private property, and safety of the public; and

**WHEREAS**, pursuant to Section 150.22 of the Town Land Development Code (the "Town Code"), the Building Official issued a report to the Town Commission detailing the condition of the Unit A building and structures and finding them to be a public nuisance; and

**WHEREAS**, on May 6, 2013, the Town Commission considered the Building Official's report and adopted Resolution 2013-16, finding the Unit A building and structures may constitute a public nuisance and setting a public hearing for May 20, 2013 to determine whether the buildings and structures are in fact a public nuisance; and

**WHEREAS**, the Town has duly noticed the public hearing pursuant to Section 150.22 (E) & (F) of the Town Code; and

**WHEREAS**, the Town Commission has heard and read the full report of the Town Manager, or designee, and heard and received all evidence relevant to its determination.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, THAT:**

**SECTION 1.** The building and structures located at 1620 Gulf of Mexico Drive, Unit A, Longboat Key, Florida 34228 ("Unit A") exhibited deficient conditions.

**SECTION 2.** The deficient conditions alleged by the Town to have existed in Unit A in Resolution 2013-16 have been remedied by the property owner, and the Unit A building and structures are declared to not be a public nuisance.

**SECTION 3.** The Town Clerk, or designee, shall post a copy of this Resolution on or by the buildings and structures and shall mail a copy to the owner of the premises on which the buildings and structures are located, if the address of the owner is known to the Town Clerk.

SECTION 4. If any section, subsection, sentence, clause or provision of this Resolution is held invalid, the remainder of the Resolution shall not be affected.

SECTION 5. This Resolution shall become effective immediately upon adoption.

Passed by the Town Commission of the Town of Longboat Key at a meeting this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
James L. Brown, Mayor

ATTEST:

\_\_\_\_\_  
Trish Granger, Town Clerk

# Longboat Key Building Department

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To The Longboat Key Commission  
501 Bay Isles Road  
Longboat Key, Florida 34228

May 6, 2013

RE: 1620 Gulf of Mexico Drive. The Colony and Town Code Section 150.22.

With the pending hurricane season soon coming upon us and this site being vacant the following maintenance items shall be addressed. In accordance with Town Code Section 150.22, and the Florida Building Code Sections 101.2 and 101.3, I am making a request to have the following items determined as public nuisances. By having these determined as a public nuisance it will help to limit the possibility of danger that may affect the buildings on this site as well as neighboring communities.

## **Unit A; Restaurant and its appurtenances.**

1. Restaurant - There is a storage space south of the entry into the restaurant that is not secured in a closed position. Loose blocking placed in front of the doors will not be considered as adequate for securing. During a wind event these doors and any items stored within may become projectiles that may affect buildings on the site and neighboring communities. There may be a potential that the finishes within the storage is not sufficient to withstand the wind pressures, exposing the interior to damage. Without the closing off of the openings harboring of unwanted pests may result, and unwarranted access may be provided to persons without a right to such. Town Code Section 150.22 (A) (8) and (9) as a "dangerous structure".

## **Pavilion, Maintenance, housekeeping, and accounting buildings:**

1. Conference center; The fabric to the canopies on the front and rear that is deteriorated to a point that the fabric is no longer secured to the frame work, therefore creating a maintenance issue being out of compliance with FBC 3105.4. Current conditions show that parts of the fabric have torn and blown away. All damaged fabrics that are not securely fastened shall be removed or secured. Town Code Section 150.22 (A)(8) as a "dangerous structure".
2. Conference center, maintenance, flower shop, accounting, laundry facilities and other spaces; There are many doors that do not latch or have no means for securing the door in a closed position. There are windows that are open or missing its glazing. There are opens that may have had air conditioning units installed. If the opens are not properly closed off there could be internal pressure issue associated to high winds that may affect the building. Secure all openings or boarding up to limit the possibility of damage due to a wind event. Town Code Section 150.22 (A)(9) as a "dangerous structure".
3. The green house building has loose plastic panels. Panels that are loose shall be refastened. Panels that are damages shall be replaced or removed. Town Code Section 150.22(A)(8) and (9) as a "dangerous structure".
4. **New item:** Conference center; On the rear of the building there is a fence system that surrounds the patio. There is a section that has fallen onto an air conditioning unit. There are many other

# Longboat Key Building Department

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sections that are loose and may fall against the metal structure of the awning causing failure of the structure. This should be removed to prevent the failure during a wind event. Town Code Section 150.22 (A) (1),(8), and (9) as a "dangerous structure".

## **Mid-rise Building**

1. There is a loose door on the north side of the building that shall be secured and or removed. The door may become projectile that may damage other buildings on the site and neighboring communities. The opening does not appear to have adequate protection to prevent interior pressure damage due to a wind event to the building. Town Code Section 150.22(8) and (9) as a "dangerous structure".

## **Villas and tourist units.**

1. All doors to the units, storage closets, and mechanical equipment areas shall be secured in the closed position. This is throughout the community. With these doors left in an open and unsecured position there could be possibility that the doors become projectiles, the units may become exposed to wind pressures that may affect the interior of the building, harboring of unwanted pests may result, and unwarranted access may be provided to persons without a right to such. Town Code Section 150.22(A)(8),(9), and (10) as a "dangerous structures".

In accordance with Town Code Section 150.22 (D), the items stated above shall be considered as a detailed list of my findings as of the date of this letter. All of the above detailed items in my opinion constitute structures or portions in part thereof on this site as being a public nuisance.

Wayne R Thorne

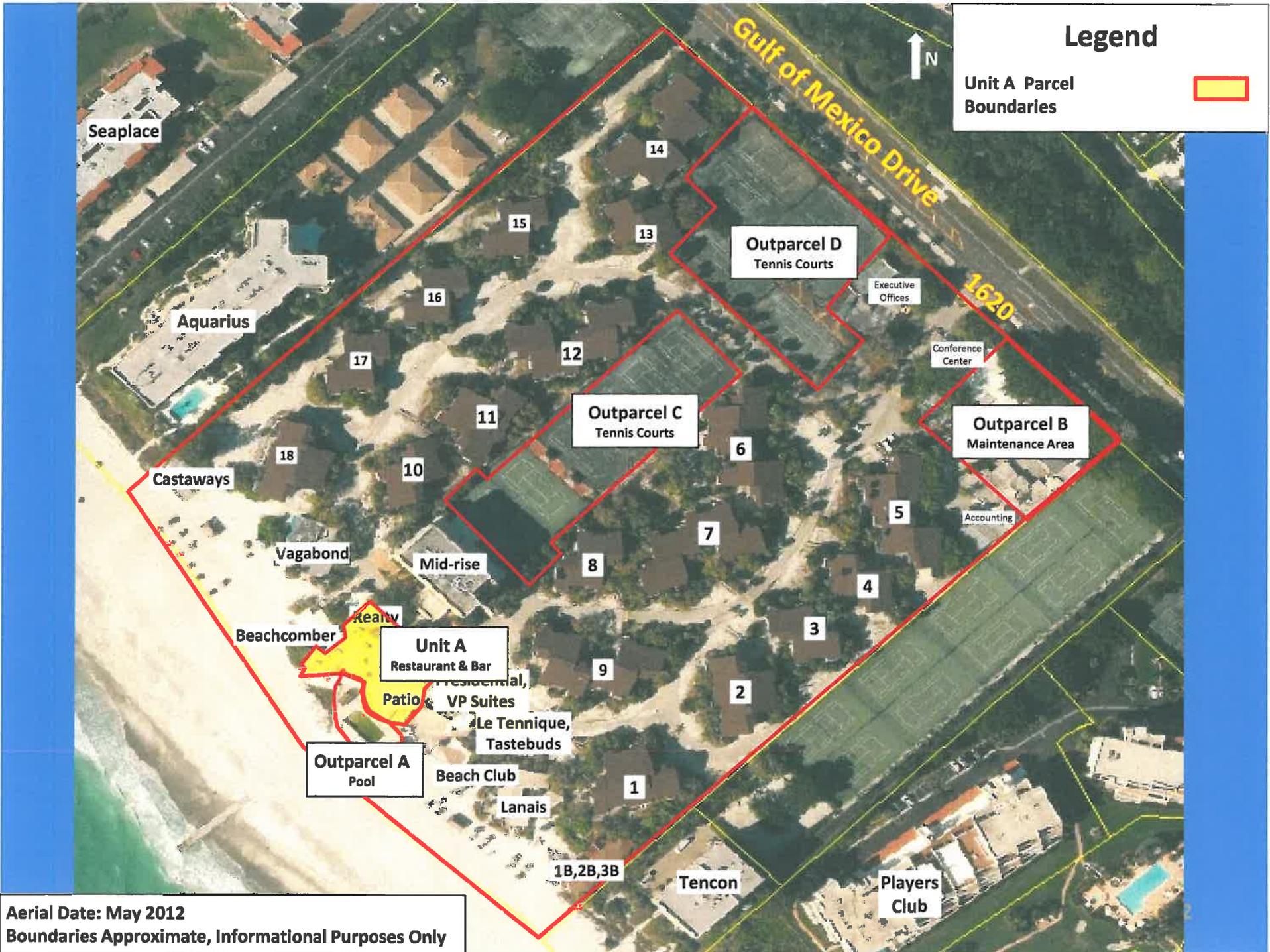
Building Official

Longboat Key, Florida



**PUBLIC HEARING AND  
RESOLUTION 2013-18  
UNIT A  
PUBLIC NUISANCE STATUS**

**TOWN COMMISSION REGULAR MEETING  
MAY 20, 2013**



Aerial Date: May 2012  
 Boundaries Approximate, Informational Purposes Only



## UNIT A OWNERSHIP

- **Colony Beach, Inc.**
  - **Registered Agent: Dr. Murray J. Klauber**
  - **Currently Under Bankruptcy Proceedings**



## UNIT A CODE VIOLATIONS AND DEFICIENCIES TIMELINE

- Identified to Property Owners on March 19, 2013
- Deficiency compliance deadline of April 12, 2013 not achieved
- Building Official report to Town Commission on May 6, 2013 (Town Code 150.22 (D) & (E))
- May 6, 2013 Town Commission adopted Resolution 2013-16 setting Public Hearing (Town Code 150.22 (E))



## NONCOMPLIANCE ISSUES AS OF MAY 6, 2013

- **Unit A, Restaurant**
  - Storage space south of the entry into the restaurant is not secured in a closed position.



2013/05/06



## **RESOLUTION 2013-18 VERSION A**

- **Finding Unit A is a Public Nuisance**
- **Allowing Property Owner to Abate Deficiencies within 30 Calendar Days (Wednesday, June 19, 2013)**
- **If Property Owner Fails to Abate, Town Abates Deficiencies and Liens Property**



## **RESOLUTION 2013-18 VERSION B**

- **Should Property Owner Abate Issues Prior to May 20, 2013 Public Hearing, Finding Unit A is not a Public Nuisance**



## TOWN COMMISSION ACTION

- **Review Evidence**
- **Adopt Resolution 2013-18 Version A or Resolution 2013-18 Version B**



**End of Agenda Item**