DRAFT– Conditions Do Not Constitute a Public Nuisance/Temp. #2

Building : _____

RESOLUTION 2014- ___

A RESOLUTION OF THE TOWN OF LONGBOAT KEY, FLORIDA, DETERMINING AT PUBLIC HEARING HELD PURSUANT TO SECTION 150.22 OF THE LONGBOAT KEY TOWN CODE WHETHER A PUBLIC NUISANCE EXISTS ON CERTAIN REAL PROPERTY LOCATED AT THE COLONY BEACH AND TENNIS RESORT, 1620 GULF OF MEXICO DRIVE, AT BUILDING PARCEL NUMBER(S) _____ [insert parcel #] COMMONLY KNOWN AS_____[INSERT]; CONSIDERING EVIDENCE PRESENTED AT PUBLIC HEARING; PROVIDING FOR FINDINGS OF FACT RELATING TO SAID BUILDING CONDITIONS; FINDING THAT SAID BUILDING CONDITIONS AS ALLEGED DO NOT CONSTITUTE A PUBLIC NUISANCE; PROVIDING FOR NOTICE AND POSTING BY THE TOWN OF RESOLUTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Colony Beach and Tennis Resort ("Resort") consists of approximately 17.3 acres of beachfront real property, with approximately 30 buildings located at 1620 Gulf of Mexico Drive, Longboat Key, Florida 34228; and

WHEREAS, the entirety of the site consists of the following buildings commonly known as: Villas 1-18, Mid-Rise/High-Rise/Clubhouse, Beach Units, Lanai Units, Beachcomber, Vagabond/Beachview, Castaways, Sales and Marketing/Executive Office, Conference Center/Aerobics Center, Guardhouse, Maintenance, Housekeeping/Accounting/Flowershop/Purchasing and Receiving/Human Resources, and Restaurant/Bar Complex; and

WHEREAS, approximately 14 acres of the Resort site are subject to condominium ownership held by the Colony Beach and Tennis Club Association, Inc. ("Association"), a not-for-profit corporation formed in 1973, with its membership comprised of the 237 tourist condominium unit property owners; and

WHEREAS, the Association has an ownership interest in 29 buildings on the Resort that are commonly known as: Villas 1-18, Mid-Rise/High-Rise/Clubhouse, Beach Units, Lanai Units, Beachcomber, Vagabond/Beachview, Castaways, Sales and Marketing/Executive Office, Conference Center/Aerobics Center, Guardhouse, Housekeeping/Accounting/Flowershop/Purchasing and Receiving/Human Resources, and Restaurant/Bar Complex; and

WHEREAS, the remaining approximately 3acres of the Resort site, and the following buildings commonly known as the Maintenance and the Housekeeping/Accounting/Flowershop/Purchasing and Receiving/Human Resources (collectively referred to as the "Out Parcels"), are not dedicated to condominium ownership and are held by various corporate owners; and

WHEREAS, all of the Resort's buildings were voluntarily closed on or about August 15, 2010 and the entirety of the structures and buildings on the site were voluntarily vacated; and

WHEREAS, pursuant to Section 150.22(D) of the Town of Longboat Key Code of Ordinances ("Town Code"), it is the duty of the Town of Longboat Key ("Town's") Building Official to regularly and frequently require examination of buildings and structures within the Town to determine whether such buildings and structures constitute a public nuisance; and

WHEREAS, the Town's Building Official has examined the structures and buildings located on the Resort property and determined that the condition of certain buildings have defects, damage, decay or could result in damage or threat of damage to public and private property and threaten the safety of the public; and

WHEREAS, on December 11, 2013, the Town's Building Official prepared a written report directed to the Town Commission of Longboat Key (the "Town Commission") that set forth a detailed description of his examination and his opinions on whether the conditions of particular buildings on the Resort property constitute a public nuisance; and

WHEREAS, based upon the conditions described by the Town's Building Official, the Town Commission adopted Resolution 2013-40 setting a public hearing date to conduct a quasi-judicial hearing pursuant to Section 150.22 of the Town Code on whether the alleged conditions of particular buildings on the Resort property constitute a public nuisance; and

WHEREAS, the Town of Longboat Key ("Town") provided notice of a public hearing to each property owner for a quasi-judicial hearing beginning on March 4, 2014, and continuing _____, to consider whether certain buildings have unsafe conditions, constitute a "dangerous structure", and are a public nuisance as provided for in Section 150.22 of the Town Code; and

WHEREAS, the Association and the property owners of each building on the Resort site have been duly notified in writing via registered and U.S. Mail of the public nuisance hearing; and

WHEREAS, a complete list of each building on the Resort site, each building's respective parcel ID number, and the name(s) of the property owner(s) with an interest in said building is included on Exhibit A, which shall be incorporated herein fully by reference; and

WHEREAS, the Town Commission has fully and carefully considered all of the evidence and testimony at the public hearing relating to whether building _____ constitutes a public nuisance; and

WHEREAS, pursuant to Section 150.22(H) of the Town Code, the Town hereby adopts this Resolution relating to whether building _____ constitutes a public nuisance.

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

SECTION 1. Recitals. The above recitals are true and correct and are hereby incorporated fully herein.

SECTION 2. Notice. Town finds that pursuant to the Section 150.22 of the Town Code, notice of the time, date, and place of the quasi-judicial public nuisance hearing on the condition of building _____[insert building name] was provided to property owner(s with an interest in said building that are listed in Exhibit A and the Association as required by Town Code. Notice was mailed by the Town the week of _____, 2014 [insert date]. Notice was provided to the property owners with an interest in the building and Association in the manner in which their name(s) appears on the most current town or county tax assessment roll, via registered mail and via U.S. regular mail. The notice to the property owners and Association described, in general terms, the condition of the structures and buildings that are alleged to constitute a public nuisance. Notice of the public hearing was also published twice in a newspaper of general circulation at least seven (7) days prior to the hearing, published in two (2) newspapers of island-wide circulation within the Town of Longboat Key, and by posting notice of the hearing on the buildings and property at issue.

SECTION 3. Due Process. The Town Commission afforded an opportunity to the property owners and the Association, and their respective agents and representatives to be heard on the condition of building _____. All interested parties and their representatives were afforded time to address the Town Commission at the public hearing pursuant to Section 30.06(F) of the Town Code.

SECTION 4. Evidence. After being duly sworn in, the Town Commission considered testimony, written reports and other evidence on the condition of building _____ from the following:

(A.) On behalf of the Town:
- (1.) Dave Bullock, Town Manager
- (2.) Anne Ross, Assistant Town Manager
- (3.) Wayne Thorne, Town Building Official
- (4.) Greg McClellan, P.E., Structural Engineer
- (5.) Ajay Shanker, Ph.D., P.E., Wind and Debris Expert
- (6.) Paul Dezzi, Town's Fire Chief

(B.) On behalf of the Owner(s):
(C.) On behalf of the Association:
(D.) Public:

SECTION 5. Finding of Facts. After carefully considering all of the evidence and testimony presented by all witnesses at the public hearing relating to the condition of building _____, including the testimony, reports, documents, photographs and other evidence submitted into the record by the Town's Building Official, Staff,

Experts, etc. and _____, and being fully advised in the premises, the Town Commission makes the following findings:

(A.)Building _____ is currently unoccupied and vacant; and the entirety of the Resort site, is currently unoccupied and vacant.

(B.)The existing condition(s) of building _____ as alleged within the Town Manager's report do not constitute a public nuisance.

SECTION 6. Severability. 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. Posting. The Town Clerk or designee shall post a copy of the Resolution on the building and shall mail a copy of the Resolution to the owner(s) of the property and the Association.

SECTION 8. Effective Date. 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 March , 2014.

_____
James L. Brown, Mayor

ATTEST:

_____
Trish Granger, Town Clerk

DRAFT