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Our File No: 12954.001

August 13, 2018

Unit Owners of Units at
Hideaway Bay Beach Club, a Condominium

Re: Review and Comparison of Florida Statute Chapter 718, also known as Florida Condominium Act (1986) (hereinafter the "1986 Act") and Florida Statute Chapter 718 (2017) (hereinafter the "2017 Act")

Dear Unit Owner:

As you may be aware, this law firm has been retained by the Board of Directors of Hideaway Bay Beach Club Association, Inc. (the "Association") to prepare proposed amended and restated condominium documents for consideration by you and the other owners of the Association. It is our understanding the proposed documents will be placed on the agenda for the annual meeting for approval scheduled for December 1, 2018. The proposed amended and restated condominium documents were drafted with the following purposes in mind:

1. Remove developer references;
2. Update the documents to current law;
3. Incorporate amendments to the Florida Condominium Act through 2017.

With respect to updating the condominium documents to the 2017 Act, a brief explanation is in order. Under Florida law, the version of the Florida Condominium Act which applies to a particular declaration of condominium is that declaration which was in effect as of the date of recording of the declaration of condominium, unless the declaration of condominium incorporates future amendments to the Florida Condominium Act through language referencing those amendments as they may occur from time to time. This language is often referred to as "Kaufmann" language which references the Florida Appeals Court Case in which this decision was rendered. Your original Declaration of Condominium did not include the necessary "as amended from time to time" (or similar) language which means your Declaration is currently governed by the 1986 Act.

However, this matter is further complicated in that the Kaufmann case indicates the 1986 Act only applies to substantive matters as they may be amended in the statute, as opposed to procedural matters. Therefore, as the Declaration is currently written, your Board of Directors (and the Association's counsel) must review each individual matter on a case by case basis to determine whether the matter is substantive or procedural and further must determine then whether the current version of the Florida Condominium Act applies or the 1986 Act. As one can easily imagine, the time, expense and effort that must go into these endeavors can be overwhelming.

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For example, your Bylaws currently require that in the event the Board of Directors determines not to certify a written agreement to recall one or more members of the Board, the Board shall file for arbitration with the Florida Division of Condominiums, Timeshares and Mobile Homes. However, the Board of Directors ability to file for said arbitration was abolished in a recent amendment to the Florida Condominium Act. As another example, the Florida Condominium Act currently provides associations have the right to collect a larger amount of retroactive assessments from lenders who take title to a unit through a foreclosure than what was provided for in 1986. A third example is the current version of the Florida Condominium Act provides associations with the right to suspend an owner's voting rights and ability to use certain common amenities if they are more than 90 days delinquent in the payment of any monetary obligation to the Association. The 1986 Act does not contain said options. As one can easily note from the examples provided above, there are many benefits provided to the Association through the various amendments to the Florida Condominium Act which have occurred over the last 30 or more years. The benefits to the Association in the savings of time, costs and expense in knowing the current version of the Florida Condominium Act applies to the Association in all respects, not only assists the Board of Directors and the Association's counsel in interpreting and enforcing the condominium documents, but it also provides the unit owner with a better ease and understanding that the current law is what is applicable to their rights and responsibilities as owners, as opposed to a law that existed 30+ years ago.

Additionally, I have recommended not only dating the current documents to conform to the 2017 version of the Florida Condominium Act, but also to amend those condominium documents to apply the Florida Condominium Act as it may be amended from time to time in the future. This will allow the Association and its owners the comfort of understanding that the current version of the Florida Condominium Act will always apply and again will have the same benefits in perpetuity going forward which have been outlined above. Limiting the applicability of the 2017 Act is certainly a benefit; however, the same issue which currently exists will continue to exist in the future as additional amendments of a substantive nature which may benefit the Association will not apply going forward, unless the governing documents incorporate future amendments to the Florida Condominium Act. It is therefore for those reasons I recommend fully incorporating amendments to the Florida Condominium Act, as it may be amended from time to time, into the condominium documents.

I look forward to meeting as many of you are as able to attend at the townhall meeting currently scheduled for Saturday, September 22, 2018 at 10:30 a.m.

Very truly yours,



Ernest W. Sturges, Jr., Esq.
Of Goldman, Tiseo & Sturges, P.A.

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Enclosures