



**BAREFOOT BAY
RECREATION DISTRICT**

Barefoot Bay Recreation District Regular Meeting
May 26, 2020 at 7:00 PM
Building D&E

Agenda

Please turn off all cell phones

- 1. Thought of the Day**
- 2. Pledge of Allegiance to the Flag**
- 3. Roll Call**
- 4. Presentations and Proclamations**
- 5. Approval of Minutes**
 - A. May 5, 2020 Budget Workshop and May 8, 2020 BOT Meeting minutes.
- 6. Treasurer's Report**
 - A. Treasurer's Report
- 7. Audience Participation**
- 8. Unfinished Business**
 - A. Phased Re-Opening Discussion
 - B. Building A Renovations Project: Authorization for Chairman Klosky to Sign the Contract
 - C. Pool #2 Canopy
- 9. New Business**
 - A. FY21 Proposed Budget Mailout
 - B. Shopping Center Lease for Building 1 Unit 2 and part of 3 (Old Barber Shop)
 - C. Shopping Center Rent Reduction Requests (3 tenants)
 - D. Beach Restrooms Engineering Services
 - E. Pool #2 Pit Replacement and Upgrade
 - F. Settlement Proposal FCHR Case No. 202023409
 - G. DOR Violations
 - i. DOR Violation 20-001039 414 Barefoot Blvd
 - ii. DOR Violation 20-000007 414 Barefoot Blvd

- iii. DOR Violation 20-001110 414 Barefoot Blvd.
- iv. DOR Violation 20-000380 400 Osprey Drive
- v. DOR Violation 20-000547 400 Osprey Drive
- vi. DOR Violation 20-000630 401 Osprey Drive
- vii. DOR Violation 20-000631 401 Osprey Drive
- viii. DOR Violation 19-005045 901 Waterway Drive
- ix. DOR Violation 20-00184 901 Waterway Drive
- x. DOR Violation 20-000632 401 Osprey Drive (High Grass/Weeds)
- xi. DOR Violation 20-001186 414 Barefoot Blvd (High Grass/Weeds)
- xii. DOR Violation 20-001206 1032 Waterway Drive (High Grass/Weeds)
- xiii. DOR Violation 20-001202 108 Hydrangea Court (High Grass/Weeds)
- xiv. DOR Violation 20-001201 622 Amaryllis Drive (High Grass/Weeds)
- xv. DOR Violation 20-001221 801 Lychee Drive (High Grass/Weeds)
- xvi. DOR Violation 20-001218 800 Tamarind Circle (High Grass/Weeds)
- xvii. DOR Violation 20-001214 861 Tamarind Circle (High Grass/Weeds)
- xviii. DOR Violation 20-001207 449 Dolphin Circle (High Grass/Weeds)
- xix. DOR Violation 20-001205 600 Dolphin Circle (High Grass/Weeds)
- xx. DOR Violation 20-001200 556 Dolphin Circle (High Grass/Weeds)
- xxi. DOR Violation 20-001199 200 Manatee Court (High Grass/Weeds)
- xxii. DOR Violation 20-001198 359 Marlin Circle (High Grass/Weeds)
- xxiii. DOR Violation 20-001197 257 Dolphin Circle (High Grass/Weeds)
- xxiv. DOR Violation 20-001222 913 Pecan Circle (High Grass/Weeds)
- xxv. DOR Violation 20-001220 953 Cashew Circle (High Grass/Weeds)
- xxvi. DOR Violation 20-001219 851 Laurel Circle (High Grass/Weeds)
- xxvii. DOR Violation 20-001216 1005 Ginger Lane (High Grass/Weeds)
- xxviii. DOR Violation 20-001215 1037 Oriole Circle (High Grass/Weeds)
- xxix. DOR Violation 20-001227 1012 Royal Palm Drive (High Grass/Weeds)
- xxx. DOR Violation 20-001213 1025 Oriole Circle (High Grass/Weeds)
- xxxi. DOR Violation 20-001212 912 Wren Circle (High Grass/Weeds)
- xxxii. DOR Violation 20-001224 415 Plover Drive (High Grass/Weeds)
- xxxiii. DOR Violation 20-001210 1021 Wren Circle (High Grass/Weeds)
- xxxiv. DOR Violation 20-001223 1103 Myrtle Drive (High Grass/Weeds)
- xxxv. DOR Violation 20-001209 1067 Wren Circle (High Grass/Weeds)

xxxvi. DOR Violation 20-001208 1184 Waterway Drive (High Grass/Weeds)

xxxvii. DOR Violation 20-001204 909 Oleander Circle (High Grass/Weeds)

xxxviii DOR Violation 20-001203 707 Hyacinth Circle (High Grass/Weeds)

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xxxix DOR Violation 20-001230 1385 Barefoot Circle (High Grass/Weeds)

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xl. DOR Violation 20-001226 1321 Barefoot Circle (High Grass/Weeds)

xli. DOR Violation 20-001229 1376 Barefoot Circle (High Grass/Weeds)

xlii. DOR Violation 20-001228 1374 Barefoot Circle (High Grass/Weeds)

10. Manager's Report

A. May 26, 2020 Community Manager's Report

11. Attorney's Report

12. Incidental Trustee Remarks

13. Adjournment

If an individual decides to appeal any decision made by the Recreation District with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (FS 286.0105). Such person must provide a method for recording the proceedings verbatim.

Barefoot Bay Recreation District Regular Meeting



BAREFOOT BAY RECREATION DISTRICT

Board of Trustees Budget Workshop

Tuesday, May 5, 2020 7:00PM (closed to the public)

Building D&E

Available for viewing via livestream on www.bbrd.org

Welcome

The Barefoot Bay Recreation District Board of Trustees held a Meeting on May 5, 2020 Building D&E 1225 Barefoot Boulevard, Barefoot Bay, Florida. Mr. Klosky called the meeting to order at 7PM.

Pledge of Allegiance to the Flag

Led by Ms. Henderson

Roll Call

Present: Mr. Klosky, Ms. Henderson, Mr. Maino, Mr. Loveland and Mr. Compton. Also, present, John W. Coffey, ICMA-CM, Community Manager, Cliff Repperger, General Counsel, and Stephanie Brown, District Clerk, Matt Goetz, Property Services Manager, Rich Armington, Resident Relations Manager, Kathy Mendez, Food & Beverage Manager, Charles Henley, Finance Manager and Ernie Cruz, Golf Operations Manager.

FY21 Working Draft Proposed Budget Overview

Mr. Coffey gave an overview of changes to the FY21 Budget which included removing the \$350,000 bank loan from FY20 year-end, moving some projects around and adjusting projects that came under budget. The main project being deferred is the shuffleboard bench coverings. He also moved 10 other projects into the Contingency Fund. Minor adjustments included defunding the annual revitalization money for 1 year, removing the debt service and adjusting the irrigation project. In summary on expenditure side, \$7.7 million in expenditures was projected which is now down to \$6.9 million. FY 22 budget was \$7.2 million and is now \$7 million.

Audience Participation

Mr. Coffey read a letter from Rich Schatlow-636 Marlin Circle- spoke in favor of postponing some District projects. He voiced his concern with changes in building codes because of implications that may come from the COVID-19 pandemic.



BAREFOOT BAY RECREATION DISTRICT

Mr. Coffey read a letter from Jack Reddy 806-Tamarin Circle-spoke in favor of increasing assessments. He voiced his disapproval on borrowing money to complete projects. He also spoke in favor of the Lounge roof being fixed and gave suggestions on how BBRD can re-open.

General Discussion by Trustees

Mr. Compton asked if there is any benefit to reducing our Fund Balance minimum of 20 percent. Mr. Coffey responded that he does not think it would make a significant difference in how the Auditor views it. Mr. Klosky spoke in favor of leaving the Fund Balance at 20 percent. Mr. Maino agreed with Mr. Klosky. Mr. Maino asked what the amount of BBRD's total salary was. Mr. Coffey responded \$2.2 million. He also asked various questions about the contingency projects. He voiced his concerned about residents being able to understand the budget and commented that it was misleading to have project contingencies on the budget. Ms. Henderson spoke in favor of borrowing money to get all the projects done. Mr. Maino voiced his disapproval to borrowing more money. Mr. Klosky agreed with Mr. Maino. Mr. Loveland stated that he was cautious about borrowing more money.

BOT consensus on adopting the FY21 Budget as is and cancelling the May 7, 2020 Budget Workshop.

Mr. Maino spoke in favor of having a 7-member Board with 3-year terms, commenting that it would make it easier for projects and policies to get accomplished without the constant overturning of the Board. He also asked if the Budget/Assessment could be done June 12th as opposed to June 23rd.

Mr. Klosky stated that Community Manager/General Counsel evaluations are due by June 8th and they will not be accepted after that date.

Adjournment

Ms. Henderson made a motion to adjourn. Mr. Klosky adjourned.

Meeting adjourned at 7:45pm

Roger Compton, Secretary

Stephanie Brown, District Clerk



BAREFOOT BAY RECREATION DISTRICT

Board of Trustees Regular Meeting

May 8, 2020 (closed to the public)

1PM –Building D&E

Available for viewing via livestream on www.bbrd.org and via simulcast in Building A

Meeting Called to Order

The Barefoot Bay Recreation District Board of Trustees held a Meeting on May 8, 2020 Building D&E 1225 Barefoot Boulevard, Barefoot Bay, Florida. Mr. Klosky called the meeting to order at 1PM.

Pledge of Allegiance to the Flag

Led by Mr. Klosky.

Roll Call

Present: Mr. Klosky, Ms. Henderson, Mr. Maino, Mr. Loveland, and Mr. Compton. Also, present, John W. Coffey, ICMA-CM, Community Manager, Cliff Repperger, General Counsel, Stephanie Brown, District Clerk and Ernie Cruz, Golf Operations Manager.

Presentations and Proclamations

None.

Approval of Minutes

Mr. Henderson made a motion to approve the minutes dated April 21, 2020 and April 28, 2020. Second by Mr. Compton. Motion passed unanimously.

Treasurer's Report

Mr. Compton made a motion to approve the Treasurer's Report for May 8, 2020 as read. Second by Mr. Maino Motion passed unanimously.

Audience Participation

Mr. Coffey read a letter from Jack Reddy-806 Tamarin Circle-who spoke in favor of increasing assessments. He voiced his disapproval on borrowing money to complete projects. He also gave suggestions on how BBRD can re-open.

Mr. Coffey read a letter from Rich Schatlow-636 Marlin Circle-who voiced his disapproval of the Name the Facilities Contest because it was not open to all residents, legality of the vote and most residents did not want facility names changed.

Susan Kinscherf-spoke in favor of re-opening BBRD pools for exercise.



BAREFOOT BAY RECREATION DISTRICT

Dawn Fowler-709 Silverthorn Court-spoke in favor of reopening the pools with restrictions if necessary.

Tori Bernstein-707 Silverthorn Court-spoke in favor of reopening the pools.

Michelina Caligiuri- 1143 Wren Circle-spoke in favor of reopening the pools for exercise.

Unfinished Business

Building A Renovations Project: Authorization for Chairman Klosky to Sign the Contract

Mr. Repperger made a request to continue the Building A Renovations Project Authorization to the May 26, 2020 BOT Meeting.

Mr. Maino made a motion to table the authorization for Chairman Klosky to sign the Building A renovations contract and move it to the May 26th BOT Meeting. Second by Mr. Loveland. Motion passed unanimously.

New Business

Assignment of Lease

M. Joy Liddy d/b/a/Sunshine Rental and Sales, LLC

Staff recommends approval to consent to assignment and assumption of Lease Agreement held by M. Joy Liddy d/b/a/ Sunshine Rental and Sales, LLC as Lessee.

Mr. Maino made a motion to consent to assignment and assumption of Lease Agreement held by M. Joy Liddy d/b/a/ Sunshine Rental and Sales, LLC as Lessee. Second by Ms. Henderson. Motion passed unanimously.

Replacement of Golf Course Irrigation Satellite Boxes

Staff recommends the BOT award the contract to WescoTurf for \$46,869.95 waiving the second bid requirement per Exception to Competition #7.

Mr. Compton made a motion to award the contract to WescoTurf for \$46,869.95 waiving the second bid requirement per Exception to Competition #7. Second by Mr. Maino. Motion passed unanimously.

Proposed Re-opening Timeline

Gave an overview of the 4-phase reopening plan. Mr. Coffey explained Phase 1- which consists of opening pools only, with limited capacity due to current social distancing guidelines.

Ms. Henderson spoke in favor of opening the beach but voiced her disapproval of opening the pools. Mr. Maino is not in favor of opening any facilities until the end of May. Mr. Loveland is not in favor of opening the pools but is in favor of opening the beach. Mr. Compton spoke in favor of opening the beach but is not in favor of opening pools while there are severe restrictions. Mr. Klosky is not in favor of opening pools.

BOT consensus to reconsider reopening strategy at the May 26, 2020 BOT Meeting.



BAREFOOT BAY RECREATION DISTRICT

Manager's Report

Finance

- 3,658,092.07 (gross) or 94.7% of the annual assessment receipts were received as of May 08, 2020. Details are attached

Resident Relations

ARCC Meeting 04/28/20

- 10 Consent items – all approved
- 6 Other items – all approved
- 2 Old Business – 1 tabled until homeowner secures a county permit and 1 not approved until homeowner secures county and ARCC permits

ARCC Meeting 05/12/20 agenda

- 17 Consent items
- 6 Other items
- 3 Old Business items (extension requests)

VC Meetings

- All future meetings have been cancelled until the Coronavirus pandemic abates

Severance Package Update

- As of today, 17 eligible employees have elected to receive the two-weeks compensation the BOT approved on April 21, 2020.

Golf-Pro Shop

- New rates effective May 1 through September 30
 - Residents only/summer only: Play 10 rounds get 1 free
- Junior Golf Camp is cancelled due to Covid-19
- Course Aerification Maintenance (only 9 holes open for two days)
 - June 1st Back Nine and Putting Green Closed
 - June 2nd Front Nine Closed

Property Services

- Shampooed the carpets in the 19th Hole
- Stripped and re waxed the laminate floor in the 19th Hole bar area



BAREFOOT BAY RECREATION DISTRICT

- Repainted all the sidewalk light poles along Veteran's Way
- Replaced burned out lights in all 3 pools
- Acid washed pool 1
- Continued stripping the floor in Building A removing all the old wax
- Replaced light pole at the playground
- Constructed a step/footrest on the bar at Building A
- Replaced all the damaged and warped boards on the foot bridge behind the pickle ball court
- Replaced broken sprinklers/pipes also replaced pump at the Shopping Center irrigation
- Replaced the cabinet in the 19th Hole kitchen (handwash sink)
- Replaced all stained and damaged tiles at Building D/E
- Installed new shelf covering at the 19th Hole
- Replaced wiring at the Golf Course cart barn
- Rebuilt the gate on the east side of Building A
- Acid washed pool 3
- Installed plexiglass at the Pro-shop
- Repaired damaged sewer line at pool 3
- Repaired siding at the ABM work site
- Rebuilt the guardrail and the ramp from the Traffic Circle to the sidewalk in front of the east side of Building A
- Ordered replacement door for the ABM break room
- Began repainting parking lot lines at the Building A parking lot
- Repaired shower at the Beach
- Continued 3-hour rotation of cleaning the golf course restrooms
- Continued soliciting bids for various projects

General Information

- **Lounge/Lakeside Expansion Design Update:**
 - Substructure report from the core sampling was received with no significant findings (i.e. costly surprises)
 - Staff received the preliminary food prep and storage area layout from the design team for review
 - Design team personnel conducted a follow-up site inspection to verify certain measurements and physical conditions.
- **Roof Projects Updates:**
 - MB Enterprises applied for building permits this week for the re-roofing of the Lounge, Pool #1 Restrooms, and Pool #2 Restrooms
 - Once these projects are completed MB Enterprises will apply for a building permit for the Pool #1 Walkway Roof Phase 2 project
- **Beach Restroom Project Update** – Staff received the design and site plan permitting proposal from TLC this week. Said proposal will be on the May 26, 2020 agenda for consideration.



BAREFOOT BAY RECREATION DISTRICT

- **Proposed COVID-19 Testing Site** - Representative of Phoenix Health and Alliance Labs (New York based company) contact staff yesterday requesting use of a building to conduct COVID-19 swab tests. Resident's health insurance coverage would pay for the service. Currently, all assembly buildings are closed for use by the public with the except of public meetings attendance. Staff requests direction from the BOT regarding this matter.

Mr. Klosky voiced his disapproval to allow the use of BBRD facilities for testing. Ms. Henderson is in favor of testing in BBRD. Mr. Maino is not in favor of allowing a for-profit agency to use BBRD facilities for testing. Mr. Loveland is against those making profit for testing but is in favor of free testing. Mr. Compton is not in favor of bringing for-profit organizations in or bringing possible sick people into Barefoot Bay that would not otherwise be here.

BOT consensus not to allow Phoenix Health and Alliance to use a BBRD facility to conduct COVID-19 testing.

Mr. Coffey announced the COVID-19 Classic Golf Tournament being held on Saturday, May 16, 2020. All proceeds go to help the Barefoot Bay Food Pantry.

Attorney's Report

Mr. Repperger reiterated that the Building A Renovations Contract authorization has been postponed and if the BOT has any questions before the May 26, 2020 BOT Meeting to reach out to him. He also commented that since changing law firms, some emails are still going to Rossway Swan account. Mr. Repperger reminded everyone to use his new contact information.

Incidental Trustee Remarks

Mr. Loveland-stay safe and be patient with BBRD Staff.

Ms. Henderson-stay safe and suggested residents to play in the COVID Classic.

Mr. Maino-had a question about the type of golf tournament it is. Mr. Cruz responded that it is a blind draw event.

Mr. Klosky-reminded BOT to complete evaluations and that they will not be accepted after June 8, 2020. He also stated to stay safe and wished all the mother's Happy Mother's Day.

Adjournment

The next meeting will be on May 26, 2020 at 7pm in Building D/E

Ms. Henderson made a motion to adjourn. Mr. Klosky adjourned.

Meeting adjourned at 2:11pm

Roger Compton, Secretary

Stephanie Brown, District Clerk

Barefoot Bay Recreation District

Treasurer's Report

May 26, 2020

Cash Balances in General Fund as of 5/19/20

Petty Cash

Total Petty Cash: \$ 2,500.00

Operating Cash in Banks

MB&T Operating Account

2,967,707.54

Total Operating Accounts: 2,967,707.54

Interest Bearing Accounts

SBA Reserve Account

697,314.02

Total Interest Bearing Accounts 697,314.02

Total Cash Balances in General Fund:

\$ 3,667,521.56

Total Daily Deposits and Assessments Received for 5/1 - 5/19/20

Daily deposits: \$ 50,683.19

Assessments received: 83,888.31

Total Deposits Received \$ 134,571.50

Expenditures over \$5,000 for 5/1 - 5/19/20

Check Number	Vendor	Description	Check Amount
55504	Rossway Swan et.al.	Legal Fees: 4/20	11,547.63
55518	Complete Electric Inc.	FPE Electrical Panel Building A Partial Payment	7,260.00
55446	ABM Landscape & Turf Services	Irrigation System parts	5,882.44
	Florida Department of Revenue	Sales Tax: 4/20	5,221.88
	US Treasury	Payroll Tax: PPE 5/10/20	14,531.79
	Paychex	Net Payroll: PPE 5/10/20	50,910.38
Total Expenditures over \$5,000			<u>\$ 95,354.12</u>

Board of Trustees

Date: Tuesday, May 26, 2020
Title: **Phased Re-Opening Discussion**
Section & Item: 8.A
Department: Administration, District Clerk
Fiscal Impact: TBD
Contact: John W. Coffey ICMA-CM, Community Manager
Attachments:
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Assessment of current conditions and consideration of further re-openings based on the conditions-based re-opening timeline

Background and Summary Information

On May 8, 2020 the BOT reviewed the proposed conditions-based re-opening timeline and reached a consensus to re-open the beach, keep the pools closed, and revisit this issue at each meeting going forward. The following information (in italic) was contained within the May 8, 2020 agenda memo.

Due to the impact of the Coronavirus pandemic, Chairman Klosky and staff incrementally closed amenities and buildings starting on March 16th in accordance with state and federal guidelines and executive orders. Staff developed the attached conditions-based re-opening timeline that is based on the 3-phase re-opening guidance from the White House last month and being followed loosely by Governor DeSantis. Readers should infer any specific dates and should understand the proposed timeline is not meant to be rigidly implemented but was developed to provide a transparent means of the multi-steps staff will take in re-opening specific amenities and buildings.

The likelihood of subsequent spikes in infections in Florida and/or Brevard County may necessitate the temporary reversal of openings (i.e. restricting or closing specific amenities/buildings that were in one of the early phases of re-opening. Additionally, the public should not confuse BBRD phases with elements of phases identified by national, state or local leaders. While the four-phase proposal for BBRD is built upon the White House's three-phase proposal, the overwhelming number of residents who fall within the "vulnerable population" category requires a more cautious and graduated approach in re-opening to ensure maximum personal protection from the spread of the virus to staff and the public. Hence, staff developed the attached conditions-based timeline for re-openings in an attempt to provide maximum use of facilities while following guidelines to ensure the safety of residents, guests and staff.

Lastly, the reader should clearly understand that staff will not under any circumstances make the decision to re-open specific amenities/buildings without direct BOT approval in a public meeting. Most people understand the diverse range of opinions in BBRD regarding closures and re-opening and it is simply poor public policy for staff to make a decision (which will be poorly received by one side or the other in this issue) and then flood the individual Trustees with complaints and attend the next scheduled BOT meeting to seek a reversal of staff's actions. The BOT by pre-approving all re-openings will allow the public to participate in the initial decision-making process rather than seek to the BOT to later reverse a decision by staff.

If the BOT does not wish to adopt the attached timeline (either as presented or as modified by themselves at the May 8th meeting) all facilities currently closed will remain closed until at least the next BOT meeting.

Board of Trustees Meeting Agenda Memo

Date: Tuesday, May 26, 2020

Title: **Building A Renovations Project: Authorization for Chairman Klosky to Sign the Contract**

Section & Item: 8.B

Department: R&M/Capital Projects

Fiscal \$564,435.00

Impact:

Contact: Cliff Repperger, General Counsel, General Counsel, John W. Coffey
ICMA-CM, Community Manager

Attachments Independent Contractor Agreement Parkit Construction Building A
: Renovation RFP 2020 02, Memorandum to Board of Trustees regarding
Building A Renovation Agreement 051920, Modified General
Conditions Parkit Construction Building A Renovation RFP 2020 02

Reviewed by

General

Counsel: Yes

Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Authorization for Chairman Klosky to sign the Building A Renovations contract with Parkit Construction, Inc.

Background and Summary Information

The FY20 Revised Budget contains \$571,000 in the R&M/Capital Department for the Building A Renovations Project that contains the following elements:

- Final phase of electrical infrastructure upgrades (multi-year phased project started in FY16 and delayed for various reasons).
- HVAC Renovations as based on a 2017 assessment to improve efficiency and incorporate needs of an expanded kitchen.
- Renovation and expansion of the kitchen.

On February 25, 2020, the BOT authorized the release of a Request for Proposal for the project. On March 27th, the evaluation committee met and opened a bid from Parkit Construction for the project.

On April 21, 2020, the BOT voted 4-1 (Trustee Henderson voting no) to approve the recommendation of the RFP Evaluation committee to award a contract to Parkit Construction, Inc. for the project.

On May 8, 2020, the BOT continued the item to May 26, 2020 for General Counsel Repperger and Parkit Construction to continue to finalize contractual terms.

Attached is the draft proposed Independent Contractor Agreement, the modified General Conditions, and a Memo from General Counsel Repperger.

Hence, staff recommends the BOT authorize Chairman Klosky to sign the contract for Building A Renovations with Parkit Construction, Inc. in the amount of \$564,435.00.

INDEPENDENT CONTRACTOR AGREEMENT

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Number: TLC Engineering Solutions Project No. 519101

THIS AGREEMENT, made this ____ day of May, 2020 by and between the Board of Trustees of the Barefoot Bay Recreation District (herein referred to as the “Owner” or “BBRD”), whose mailing address is 625 Barefoot Boulevard, Barefoot Bay, FL 32976 and Parkit Construction Inc., (herein referred to as the “Contractor”), whose mailing address is P.O. Box 120278, West Melbourne, FL 32912-0278. All correspondence, submittals and notices relating to or required under this Agreement shall be sent, in writing, to the Owner and Contractor at the addresses above; unless either party is notified, in writing, of a change in address.

WITNESSETH:

WHEREAS, it is the intent of the Owner to obtain the services of the Contractor in connection with certain improvements to be made to the structure commonly referred to as Building “A,” 625 Barefoot Bay Blvd, Barefoot Bay, Florida, 32976, hereinafter referred to as the “Project” or the “Work”; and

WHEREAS, the Contractor desires to perform all, labor, materials, and provide all equipment necessary to complete the Project in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the promises made herein, and other good and valuable consideration, the following terms and conditions are hereby mutually agreed to, by and between the Owner and the Contractor:

Article 1

INTENT, PURPOSE, INCORPORATIONS, DEFINITIONS, AND CONFLICTING PROVISIONS

- 1.1 The purpose of this Agreement is to govern the general agreement of the Parties. Specific terms agreed to by the Parties are provided for in greater detail in the documents specifically attached and/or incorporated to this Agreement by way of this Article.
- 1.2 This Agreement and the General Conditions, specifically incorporated as Exhibit “A” shall control over any conflict between this Agreement and the incorporated General

Conditions and any representations made or communications had during the project bidding and award process. This Agreement, the General Conditions, the Request for Proposal #2020-02 (attached and specifically incorporated hereto as Exhibit “B”), the Contractor’s proposal (attached and specifically incorporated hereto as Exhibit “C”), the TLC Engineering Solutions Plans and Drawings for Project No. 519101 with an “Issue Date” of 12-13-19 (attached and specifically incorporated hereto as Exhibit “D”) form the full and complete Agreement between the parties. The order of priority of interpretation of the terms of this Agreement shall be the written terms of this Agreement having first priority, the terms of Exhibit “A” having second priority, the terms of Exhibit “B,” having third priority, the terms of Exhibit “C” having fourth priority, and the terms of Exhibit “D” having fifth priority. Otherwise, the order of precedence of Contract Documents shall be as provided for in Subparagraph 1.2.5 of the General Conditions. This Agreement replaces any and all prior or other agreements or understandings, oral or written, between the parties hereto with respect to the subject matter hereof. The captions are for convenience of reference only and shall not control the interpretation of this Agreement. Contractor agrees that no other promises or inducements have been made to Contractor unless contained in writing, attached hereto or incorporated herein by reference. Contractor, by way of execution of its principal below, represents that it has reviewed this Agreement in its entirety, has a copy of same, and agrees to all the provisions herein.

- 1.3 All terms in this Agreement which are defined in either this Agreement or the incorporated General Conditions shall have the meanings specifically designated herein.
- 1.4 All terms provided in this Agreement or the incorporated General Conditions shall be read together and shall be given the fullest effect possible.

Article 2

SCOPE OF WORK

- 2.1 The Contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary to fully and properly perform and complete the aspects of the Project specifically identified in Section II of the Request for Proposals, reflected on the plans for Project Number 519101, and reflected on the “Exhibit A Schedule of Values” to the Contractor’s Bid Proposal. **The Scope of Work specifically excludes “Items to be procured by Barefoot Bay Recreation District after completion of the project item (numbers directly from the Equipment Schedule)” reflected as Exhibit “B” to the Request for Proposal 2020-02.** The Contractor agrees to be solely responsible for applying for and obtaining any and all required permitting from any local, State, or Federal governmental entity necessary to perform and complete the Scope of Services referenced herein. The total Project is specifically defined as follows (minus the exclusions mentioned herein above):

TLC Engineering Solutions; Project No. 519101:

Consisting of thirty-four (34) pages of plans and drawings with an “Issue Date” of 12-13-19 Specifically identified by the following drawing numbers (as may be amended):

- G.1 General Notes Code Review
- Ex.1 D.1 Existing Conditions Demolition Plan
- A.0 Overall Floor Plan
- A.1 Floor Plan
- A.2 Partition and Door Schedules
- FS-1 Equipment Plan
- FS-2 Utility Connections
- FS-3 Utility Connections
- S.1.01 Structural Abbreviations and Symbols
- S.1.02 Structural Notes
- S.2.01 First Floor Plan
- S.5.01 Typical Details
- S.5.02 Typical Details
- E-001 Electrical Legend
- E-002 General Notes
- E-003 General Notes (Continued)
- E-101 Electrical Floor Plan
- E-102 Electrical Floor Plans
- E-200 Electrical One Line Diagram & Feeder Schedule
- E-401 Electrical Details
- E-501 Electrical Panel Schedules
- E-502 Electrical Panel Schedules
- E-503 Electrical Panel Schedules
- ED-101 Electrical Floor Plan – Demolition
- M-001 Mechanical Legend, Notes & Schedules
- M-002 Mechanical Specifications
- M-101 Mechanical Floor Plan
- M-200 Kitchen Exhaust Hood Diagrams
- M-300 Mechanical Details
- MD-101 Mechanical Demolition Floor Plan
- P-001 Plumbing Legend & Fixture Schedule
- P-100 Plumbing New Work Plan
- P-200 Plumbing Risers & Details
- PD-100 Plumbing Demo Plan

- 2.2 The Contractor shall further provide and pay for all related facilities described in any of the Contract Documents, including all work expressly specified therein and such additional work as may be reasonably inferred therefrom, saving and excepting only such items of work as are specifically stated in the Contract Documents not to be the obligation of the Contractor. The totality of the obligations imposed upon the Contractor by this Article and by all other provisions of the Contract Documents, as

well as any labor to be performed, is herein referred to as the “Work.” Any amendments or revisions to the drawings that occur through the permit review process constitute justification for modification or amendment to the Contract by Contractor pursuant to Subsections 1.1.1, 1.1.2, and/or 1.2.7, of the General Conditions.

- 2.3 The Contractor shall coordinate with Owner’s Designee, as defined in Subparagraph 3.1.2 of the General Conditions, who shall have final authority to approve designated areas of Owner’s property for staging of work and materials.
- 2.4 Work shall take place during Monday through Friday at hours provided on a schedule provided by Contractor and approved by the Owner’s Designee. The parties agree that no work shall take place on Saturdays or Sundays unless an emergency situation requires work to be performed and/or prior authorization of said work by the Owner’s Designee has been granted.
- 2.5 Prior to work commencing, Contractor shall provide Owner’s Designee with a mobilization and parking plan (subject to approval or modification at any time by Owner’s Designee) reflecting the location of staging areas for the work to be performed. Any vehicles serving the project may not be located in any area (or for any time periods) in any fire zones or in any way which would interfere with access of first responder vehicles to any of Owner’s facilities.

Article 3

PROJECT MANAGER

- 3.1 The Project Manager (as defined in Article 2 of the General Conditions) shall be Community Manager, John Coffey or his designee or duly authorized representatives, provided however, that the Owner may, without liability to the Contractor, unilaterally amend this Article from time to time by designating a different person or organization to act as its Project Manager and so advising the Contractor in writing, at which time the person or organization so designated shall be the Project Manager for purposes of this Contract.

Article 4

TIME OF COMMENCEMENT AND COMPLETION

- 4.1 The Contractor shall commence the Work promptly upon the date established in the Notice to Proceed.
- 4.2 Time is of the essence. The Contractor shall achieve Substantial Completion no later than one hundred and eighty (180) days from the date of final permit issuance. On the date of final permit issuance, the Contractor shall promptly notify the Project Manager of the date of permit issuance, and the deadline for Substantial Completion shall be calculated as one hundred and eighty (180) days from the date of final permit issuance. “Final Permit Issuance” shall be defined as the date of issuance of permit(s)

by Brevard County that will allow the Scope of Work to begin, which shall be designated the Contract Time.

- 4.3 The Contractor shall also complete the following activities of Work within the interim Milestone dates indicated, as applicable:

Activity

- A. Permit(s) Application: Thirty (30) days from execution of this Agreement by Contractor and Owner.
- B. Site Work Begin: Ten (10) days after Permit Issuance.
- C. Substantial Completion: One Hundred and Eighty (180) days from the date of Permit Issuance.
- D. Final Completion: Fourteen (14) calendar days from the Substantial Completion date.

- 4.4 Should the Contractor fail to substantially complete the Work on or before the dates stipulated as a Milestone dates in Article 4.3 above, or achieve Substantial Completion on such later date as may result from an extension of time granted by the Owner, the Contractor shall pay the Owner as liquidated damages the sum of \$250 for each consecutive calendar day that terms of the contract remain unfulfilled beyond the date allowed by the Contract, which sum is agreed upon as a reasonable and proper measure of damages which the owner will sustain per day by failure of the Contractor to complete within time as stipulated; it being recognized by the Owner and the Contractor that the injury to the Owner which could result from a failure of the Contractor to complete on schedule is uncertain and cannot be computed exactly. In no way shall cost for liquidated damages be construed as a penalty on the Contractor. The Owner may deduct any Liquidated Damages incurred under this paragraph from pending Payment Applications. The Parties specifically agree that the liquidated damages agreed to herein shall only apply to delay as described in this paragraph and shall not apply to any other breach of this Agreement.

- 4.5 The Parties both recognize and agree, given the current uncertainty of the situation related to COVID-19, that if the Governor of Florida or any other local, state, or federal governmental authority issues any mandatory Stay at Home Order or Act having the effect of law for which the project work is not exempt, the Milestone time periods reflected in Article 4.3 shall be stayed during the pendency of said Order or Act. Upon expiration of the Order or Act staying the Milestone time periods, the Milestone time frames shall thereafter continue with as much time remaining as existed prior to the Order or Act being rendered.

- 4.6 If the supply or availability of labor, equipment, or materials is adversely affected in any way by the impacts of COVID-19, the Contractor shall provide written notice to

the Project Manager who shall have the power to issue change orders granting additional time at no cost to either party related to such impacts as reasonable. The Project Manager shall not unreasonably deny any request for additional time which the Contractor can, in good faith, attribute to the impacts of COVID-19 and such additional time, when granted, shall be added to any applicable frames as provided for in Article 4.3 of this Agreement.

- 4.7 In addition to any COVID-19 related delays as cited above, if the parties hereto are delayed or prevented from performing any of their obligations under this Independent Contractor Agreement by reason of strikes, lock-outs, labor troubles, inability to produce materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, pandemics, significant weather events, or other reason of like nature which is not the fault of the party delayed in performing the work or doing the acts required under the terms of this Agreement, then performance of such act shall be excused for the period of such delay or such prevention and the period for performance of such act shall be deemed added to the time herein provided for the performance of any such obligation of either party.

Article 5

CONTRACT SUM

- 5.1 Provided that the Contractor shall strictly and completely perform all of its obligations under the Contract Documents, including but not limited to, all obligations pursuant to Article 2 of this Agreement, and subject to additions and deductions by Modification or as otherwise provided in the Contract Documents, the Owner shall pay to the Contractor, in current funds and at the time and in the installments hereinafter specified, the sum of Five Hundred Sixty-Four Thousand, Four Hundred and Thirty-Five Dollars (\$564,435.00) herein referred to as the "Contract Sum".
- 5.2 The Contract Sum provided for in Article 5.1 includes the cumulative amount of purchase prices for various kitchen, mechanical, and electrical equipment packages as reflected in the TLC Engineering Solutions Plans and Drawings for Project No. 519101 with an "Issue Date" of 12-13-19. The parties specifically agree that, upon a recommendation of purchase of any such equipment in writing from the Contractor to the Project Manager, the Owner may independently purchase such equipment from a vendor recommended by the Contractor to take advantage of any tax exempt savings available to Owner. If the Owner independently purchases any such equipment, the cost of said equipment (plus the amount of sales tax that would have been paid) shall be deducted from the Contract Sum due to Contractor. In agreeing to this provision, the Owner specifically acknowledges that the entire Scope of Work for the Project has been competitively bid and hereby waives any requirement for the receipt of additional competitive bids or quotes for selected equipment, regardless of price, as would otherwise be required pursuant to the Owner's adopted policy and procedures. No additional approvals are necessary prior to said purchases being independently made by the Project Manager or Owner's Designee.

Article 6

PROGRESS PAYMENTS

- 6.1 The Contractor hereby agrees that on or about the last day of every month during the performance of the Work the Contractor will deliver to the Project Manager an Application for Payment of the work for the preceding month in accordance with the provisions of Article 9 of the General Conditions. This date may be changed upon mutual agreement, stated in writing, between the Owner and Contractor. Payment under this Agreement shall be made will be made in accordance with Sec. 218.735, Florida Statutes and Subsection 9.6.1 of the General Conditions.
- 6.2 The Owner may withhold ten percent (10%) of each progress payment as retainage until the Project Manager has determined that the project has reached fifty percent (50%) completion status. Thereafter, the Owner may withhold five percent (5%) of each progress payment as retainage. All retainage amounts held shall be paid upon Final Completion and the final application for payment submitted by the Contractor in accordance with Sec. 218.735 (7), F.S.

Article 7

INSURANCE

- 7.1 The Contractor, at its own expense, shall keep in force at all times maintain during the term of this Agreement the following coverage:

WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

As provided by Florida Statutes on all employees and subcontractors.

GENERAL LIABILITY INSURANCE policy with a \$1,000,000 combined single limit for each occurrence to include the following coverages: operations, products and completed operations, personal injury, contractual liability covering this Contract, and "X-C-U" hazards. It shall also include \$2,000,000 aggregate coverages.

AUTO LIABILITY INSURANCE which includes coverage for all owned, non-owned and rented vehicles:

Bodily Injury: \$1,000,000 per occurrence

Property Damage: \$1,000,000 per occurrence

- 7.2 The Contractor shall provide the Owner with Certificate(s) of Insurance on all policies of insurance and renewals thereof in a form acceptable to the Owner. Said Liability Policies shall provide that the Owner be an additional insured. The Owner shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. The most recent Rating Classification Financial Size Category of the Insurer

regarding any coverages as required herein, as published in the latest edition of AM Best's Rating Guide (Property-Casualty), shall be a minimum of A.

Article 8

OTHER REQUIREMENTS

- 8.1 The Contractor shall perform the services under this agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this agreement shall be interpreted or construed to constitute the Contractor or any of its agents or employees to be the agent, employee or representative of the Owner.
- 8.2 The Contractor shall submit a Performance Bond, Labor and Material Payment Bond, and Certifications of Insurance as required by Subparagraphs 7.4 and 11.1.4 of the General Conditions *prior to commencing work on the jobsite*.
- 8.3 It shall be the Contractor's responsibility to be aware of and comply with all federal, state, and local laws. **Non-compliance with contract specifications could result in termination of the contract.**
- 8.4 The Contractor shall not assign any portion of this Agreement without the written permission of the Owner.

Article 9

COPYRIGHT

- 9.1 No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the Owner, under this agreement shall be subject to copyright by Contractor in the United States or any other Country.

Article 10

MODIFICATION

- 10.1 No modification of this agreement shall be binding on Owner or Contractor unless reduced to writing and signing by the Board of Trustees of the Barefoot Bay Recreation District and a duly authorized representative of Contractor.

Article 11

PUBLIC RECORDS

- 11.1 All documents, maps, drawings, data and worksheets prepared by Contractor for Owner under this Agreement shall be deemed public records pursuant to Chapter 119, Florida Statutes and shall be maintained as public records by Contractor. Contractor

agrees to provide access to such public records on the same terms and conditions that Owner provides such public records and at a cost that does not exceed that provided for pursuant to Chapter 119, Florida Statutes or otherwise provided by law. Contractor agrees to ensure that public records that are confidential and exempt from disclosure are not disclosed except as authorized by law. Contractor agrees that upon termination of this Agreement, all proprietary interest of Owner in its business assets, tangible or intangible, including records, files, lists and information which Contractor deals with or develops during the course of this Agreement shall remain the sole and exclusive property of Owner, and in no event shall Contractor acquire any interest therein. Contractor agrees that in the event of termination of this Agreement, Contractor shall promptly return at no cost to Owner all public records documents in Contractor's possession at the time of termination. Duplicate public records that are exempt or confidential shall be destroyed by Contractor at the time of termination. Public records maintained by Contractor in an electronic format, shall be provided to Owner in a format that is compatible with the information technology systems of Owner at the time of termination.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT DAWN MYERS, THE CUSTODIAN OF PUBLIC RECORDS AT:

**STEPHANIE BROWN
625 BAREFOOT BLVD.
BAREFOOT BAY, FL 32976
(772) 664-3141
SBROWN@BBRD.ORG**

Article 12

INDEMNIFICATION

- 12.1 The Contractor shall indemnify and hold harmless the Owner and its agents and employees from and against all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting from the performance of its work under this Agreement, where such claim, damage, loss or expense is caused, in whole or in part, by the act or omission of the Contractor, or anyone directly or indirectly employed by the Contractor, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified thereunder. In any and all claims against the Owner, or any of its agents or anyone directly or indirectly employed by the Contractor, or anyone for whose acts any of them may be liable, indemnification obligation under this paragraph shall not be limited in any way by a limitation on the amount or type of damages, compensation or benefits payable by or for the custodial contractor, under worker's compensation acts, or other related

policies of insurance. As part of this indemnification, Contractor agrees to pay, on behalf of the Owner, the cost of Owner's legal defense as may be selected by Owner for all claims described in this paragraph. Such payment on behalf of Owner shall be in addition to any and all legal remedies available to Owner and shall not be considered to be Owner's exclusive remedy. In agreeing to this provision, the Owner does not intend to waive any defense or limit of sovereign immunity to which it may be entitled under Section 768.28, Florida Statutes or otherwise provided. The parties acknowledge specific consideration has been exchanged for this provision. This section shall survive the termination of this agreement.

- 12.2 BBRD shall indemnify and hold harmless Contractor and its officers, agents, and employees from and against all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting from any actions or omissions taken under this Agreement, where such claim, damage, loss, or expense is caused, in whole or in part, by the act or omission of BBRD, or anyone directly or indirectly employed by BBRD, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by or in part by a party indemnified thereunder. As part of this indemnification, BBRD agrees to pay, on behalf of Contractor, the cost of Contractor's legal defense as may be selected by Contractor for all claims described in this paragraph. Such payment on behalf of Contractor shall be in addition to any and all legal remedies available to Contractor and shall not be considered to be Contractor's exclusive remedy. BBRD agrees that in no event shall Contractor be liable for any consequential, incidental, indirect, exemplary or special damages, whether in contract or in tort, in any action, in connection with any goods or services provided by Contractor. In agreeing to this provision, the Owner does not intend to waive any defense or limit of sovereign immunity to which it may be entitled under Section 768.28, Florida Statutes or otherwise provided. The parties acknowledge that specific consideration has been exchanged for this provision. This section shall survive the termination of this agreement.

Article 13

UNAUTHORIZED ALIEN WORKERS

- 13.1 BBRD will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324 (e) Section 274(e) of the Immigration and Nationality Act. The Owner shall consider a contractor's intentional employment of unauthorized aliens as grounds for immediate termination of this Agreement.

Article 14

PUBLIC ENTITY CRIMES

- 14.1 A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid/quote/proposal on a contract to provide goods or services to a public entity, may not submit a bid/quote/proposal

on a contract with a public entity for construction or repair of a public building or public work, may not submit bids/quotes/proposals on leases of rental property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of threshold amount provided in Section 287.017, F.S. for CATEGORY TWO for a period of 36 months from date of being placed on convicted vendor list.

Article 15

CONSTRUCTION OF AGREEMENT

- 15.1 The parties hereby acknowledge that they fully reviewed this Agreement, its attachments and had the opportunity to consult with legal counsel of their choice, and that this Agreement shall not be construed against any party as if they were the drafter of this Agreement.

Article 16

TERMINATION

- 16.1 If either party fails or refuses to perform any of the provisions of this Agreement or otherwise fails to timely satisfy the contract provisions, either may notify the other party in writing of the nonperformance and terminate the Agreement or such part of the Agreement as to which there has been delay or a failure to properly perform. Such termination is effective upon the other party's receipt of the Notice of Termination. Anywork, completed or services provided prior to the date of termination shall, at the option of the Owner, become the property of the Owner. The Owner is only responsible for payment for work completed prior to the effective date of termination.

Article 17

GOVERNING LAW

- 17.1 This Agreement shall be deemed to have been executed and entered into in the State of Florida and this Agreement, and any dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.

Article 18

VENUE

- 18.1 Venue for any legal action brought by any party to this Agreement to interpret, construe or enforce this agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

Article 19

ATTORNEY'S FEES AND COSTS

- 19.1 In the event that any legal or equitable action is brought by either party to enforce the

terms of this Agreement, the prevailing party shall be entitled to recover all attorney's fees and costs associated with the bringing such action.

Article 20
SEVERABILITY

- 20.1 If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

Article 21
LEGAL AGREEMENT

- 21.1 Due to the legal nature of this Agreement which involves significant rights and obligations of the parties, each party hereby specifically states that they understand and acknowledge that they have had the right and opportunity to consult with an independent legal advisor of their choosing prior to entering into this Agreement. This Agreement shall be not construed as having been drafted by one party over the other party.

This Agreement entered into shall be effective as of the day and year first written above.

Signed, sealed and delivered
in the presence of:

Witness:

Printed Name: _____

Printed Name: _____

**BAREFOOT BAY RECREATION
DISTRICT**

By: _____

Printed Name: JOE KLOSKY

As its: Chairman

Date: _____

Signed, sealed and delivered
in the presence of:

Witness:

Printed Name: _____

Printed Name: _____

PARKIT CONSTRUCTION, INC.

By: _____

Printed Name: DAVE PARK

As its: Owner/Director

Date: _____



p. 321.327.5580 | f. 321.327.5655
730 E. Strawbridge Avenue, Suite 209
Melbourne, FL 32901
whitebirdlaw.com

MEMORANDUM

TO: Chairman Klosky and Honorable Board of Trustees Members

CC: John Coffey, Community Manager

FROM: Clifford R. Repperger, Jr., Esq., General Counsel

DATE: May 19, 2020

SUBJECT: Terms of Independent Contactor Agreement and Modified General Conditions with Parkit Construction for Building A Renovation Project.

Enclosed in your agenda package for the May 26, 2020 Board of Trustees meeting is the latest iteration of the draft Independent Contactor Agreement and General Conditions.

The Agreement is essentially the same as the version emailed to the Trustees on May 7, 2020. Referenced exhibits are not included in the Agenda Package due to size.

The General Conditions have been modified as follows (from the draft sent to you on May 7, 2020):

Article 12.3.7 has been modified to increase maximum allowable percentages for overhead, profit, and bond charges on change orders to bring the proposed maximum allowable percentages in line with acceptable industry allowances for renovation work. Any change orders will be reviewed, approved, and processed by BBRD Staff or the Board of Trustees as provided for in Section 12.5.4, which has also been modified to make it consistent with BBRD's current Policies and Procedures.

Article 12.5.1 and 12.5.2 prohibiting indirect costs related to change orders and a standard processing method for change orders which result in a decrease to the contract sum have been deleted. Again, change orders will be reviewed, approved, and processed by BBRD Staff or the Board of Trustees consistent with the BBRD's current Policies and Procedures.

No other changes have been made.

If you have questions or concerns in advance of the Board meeting, please feel free to contact me.

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

GENERAL CONDITIONS OF THE INDEPENDENT CONTRACTOR AGREEMENT

TABLE OF CONTENTS

	Notice of Disclaimer
Article 1	Contract Documents
Article 2	The Project Manager
Article 3	Owner
Article 4	Contractor
Article 5	Subcontractors
Article 6	Work by Owner or By Separate Contractors
Article 7	Miscellaneous Provisions
Article 8	Time
Article 9	Payments and Completion
Article 10	Protection of Persons and Property
Article 11	Insurance
Article 12	Changes in the Work
Article 13	Uncovering and Correction of Work
Article 14	Termination of the Contract

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

NOTICE OF DISCLAIMER

TAKE NOTICE, that these General Conditions may contain language and Article or Paragraph headings or names which appear similar to or the same as the provisions of the "General Conditions of the Contract for Construction," published by the American Institute of Architects, AIA Document A201.

TAKE NOTICE, however, that these General Conditions are substantially and materially different in many respects from the AIA Document A201 and that certain additions, deletions or other modifications have been made to provisions similar to those contained in the AIA Document. This document, further, contains provisions, which do not appear in the AIA document.

The use of any language or article or paragraph format similar to or the same as AIA Document A201 does not constitute an endorsement by the American Institute of Architects of this document.

The Parties specifically note and agree that any Article, Section, or other provision of these General Conditions designated as "Not Applicable" shall not apply to the Project and shall not be incorporated as a part of the Agreement between the parties.

**Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101**

**GENERAL CONDITIONS OF THE
INDEPENDENT CONTRACTOR AGREEMENT**

ARTICLE 1

CONTRACT DOCUMENTS

1.1 DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Independent Contractor Agreement, these General Conditions of the Contract, the Request for Proposal (2020-02), the Contractor's Proposal (dated 03/26/2020), the referenced Plans, Drawings, and Specifications in the Independent Contractor Agreement (Project 519101 Issue Date 12-13-19), and all Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order issued pursuant to the provisions of Article 12.1, (3) a written order for a minor change in the Work issued by the Project Manager pursuant to Paragraph 12.6.

The Contract Documents do not include any other documents, including but not limited to soils, geotechnical or other reports, boundary or other surveys and analyses, hereinafter "technical data"; which may be printed, bound or assembled with the contract documents, or otherwise made available to the Contractor for review or information under this Contract, unless specifically enumerated and expressly incorporated by reference in the Independent Contractor Agreement.

The Contractor may rely upon the general accuracy of the technical data contained in such reports and drawings, but such reports and drawings are not contract documents. Such technical data is identified in the Supplementary Conditions. Except for such reliance on such technical data, the Contractor may not rely upon or make any claim against Owner with respect to:

- A. The completeness of such reports and drawings for Contractor's purposes, including but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by the Contractor and safety precautions and programs incident thereto, or;
- B. Other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings, or;
- C. Any Contractor interpretation of or conclusion drawn from any technical data or any such data, interpretations, opinions or information.

1.1.1.2 The Drawings and Specifications referred to in the Contract Documents are identified as provided in Article 2.1 of the Independent Contractor Agreement.

1.1.2 THE CONTRACT

The Contract is the sum of all the Contract Documents. This Contract represents the entire and integrated Agreement between the Owner and the Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

as defined in Subparagraph 1.1.1 and notwithstanding anything contained in the Contract Documents to the contrary, there can be no increase in the Contract Sum or Time without an executed change order approved by the Community Manager (if within the scope of budget authority) or the Board of Trustees of the Barefoot Bay Recreation District.

1.1.3 THE WORK

The Work comprises the completed construction required by the Article 2.1 of the Independent Contractor Agreement or as otherwise provided in the Contract Documents and includes all labor, supplies and other facilities or things necessary to produce such construction, and all materials, equipment, and supplies incorporated or to be incorporated in such construction.

1.1.4 FURNISH, INSTALL, PROVIDE

The terms "Furnish" or "Install" or "Provide", unless specifically limited in context, mean: Furnishing and incorporating a specified item, product or material in the work, including all necessary labor, materials, equipment to perform the work required, ready for use.

1.1.5 NOTICE

The term "Notice" as used herein shall mean written notice. Written notice shall be deemed to have been duly served when delivered to or at the last known business address of the person, firm or corporation for whom intended, or to their or its duly authorized agent, representative or officer; or when enclosed in a postage prepaid wrapper or envelope addressed to such person, firm or corporation at their or its last known business address and deposited in a United States mailbox.

1.1.6 MISCELLANEOUS WORDS OR TERMS

Whenever they refer to the work or its performance, "Directed," "Required," "Permitted," "Ordered," "Designated," "Prescribed," and words of like import shall imply the direction, requirements, permission, order, designation or prescription of the Owner or Project Manager, and "Approved," "Acceptable," "Satisfactory," "in the judgment of" and words of like import shall mean approved by or acceptable to or satisfactory to, in the judgment of the Owner.

1.1.7 BIDDER: Any individual, company, corporation, partnership, or joint venture who submits a bid for work required as distinct from a sub-bidder who submits a bid to a prime bidder.

1.1.8 BIDDING DOCUMENTS: Request for Proposal 2020-02 and the Proposal Submitted by Parkit Construction, Inc. dated 3/26/2020.

1.1.9 DIRECTED, REQUIRED, ACCEPTABLE: When these words refer to work or its performance, "directed," "required," "permitted," "ordered," "designated," "prescribed," and words of like implication, mean "by direction of," "requirements of," "permission of," "order of," "designation of," or "prescription of" the Project Manager. Likewise, "acceptable," "satisfactory," "in the judgment of," and words of like import, mean "recommended by," "acceptable to," "satisfactory to," or "in the judgment of" the Project Manager.

1.1.10 AS SHOWN, AS INDICATED, AS DETAILED: These words, and words of like implication, refer to information contained by drawings describing the work, unless explicitly stated otherwise in other Contract Documents.

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

- 1.1.11 **MANUFACTURER:** An individual, company, or corporation who manufactures, fabricates, or assembles a standard product. A standard product is one that is not made to special design, and is furnished by either direct sale or by contract to the Contractor, Subcontractor or Vendor.
- 1.1.12 **MATERIAL SUPPLIER OR VENDOR:** A person or organization who supplies, but who is not responsible for the installation of, materials, products and equipment of a standard nature that are not specifically fabricated for this particular Contract.
- 1.1.13 **PLANS OR DRAWINGS:** All drawings or reproduction of drawings pertaining to required work.
- 1.1.14 **PRODUCT:** The term “product” includes materials, systems and equipment.
- 1.1.15 **BID:** A complete and properly signed document whereby a bidder proposes to do the work or designated portion thereof for the sums stipulated therein, supported by data called for by the bidding requirements.
- 1.1.16 **SPECIFICATIONS:** Descriptions, provisions and requirements, pertaining to method and manner of performing work, or to quantities and qualities of materials to be furnished under terms of the Contract.
- 1.1.17 **DAY:** Calendar day unless otherwise specifically designated. All dates shall mean midnight of the indicated day unless otherwise stipulated.

1.2 EXECUTION, CORRELATION AND INTENT

- 1.2.1 The Contract Documents shall be signed by the Owner and Contractor. The Owner and Contractor shall each receive a fully executed copy of the Contract Documents after execution.
- 1.2.2 By executing the Contract, the Contractor represents that the Contractor has visited the site, and has become familiar with the local conditions under which the Work is to be performed, and correlated observations with the requirements of the Contract Documents. Contractor further represents that the Design Drawings and Specifications may contain some minor errors and discrepancies, however, if such errors or discrepancies would affect contract time or price, the Contractor addressed them during the bidding phase. Such errors and discrepancies shall not form the basis of any claim by Contractor for defective design or breach of any implied warranties as to fitness of plans or specifications against Owner.
- 1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. Performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results. Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings unless otherwise specifically defined herein. The table of contents, index, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect, limit or cast light upon the interpretation of the provisions to which they refer.
- 1.2.4 The organization of the Specifications into divisions, sections and articles, and the arrangement of Drawings is for clarity only, and shall not control the Contractor in dividing the work among Subcontractors or in establishing the extent of Work to be performed by any trade. The Contractor may subcontract the Work in such divisions as the Contractor sees fit and the Contractor is ultimately responsible for furnishing all work shown on the drawings and/or in the specifications for which the

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

Contractor is responsible.

- 1.2.5 Anything shown on the drawings and not mentioned in the specifications or mentioned in the specifications and not shown on the drawings shall have the same effect as if shown or mentioned respectively in both. Technical specifications take priority over general specifications and detail drawings take precedence over general drawings. Any work shown on one drawing shall be construed to be shown in all drawings and the contractor will coordinate the work and the drawings. If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall govern in the following order of precedence: The Independent Contractor Agreement; Modifications; Addenda; any Supplementary Conditions; the General Conditions (Exhibit “A”; the RFP 2020 (Exhibit “B”); the Contractor’s Proposal (Exhibit “C”); and the Project Plans, Drawings, and Specifications (Exhibit “D”); as between schedules and information given on Plans/Drawings, the schedules shall govern; as between figures given on Plans/Drawings and the scaled measurements, the figures shall govern; as between large-scale Plans/Drawings and small scale Plans/Drawings, the larger scale shall govern. Any such conflict or inconsistency between or in the drawings shall be submitted to the Project Manager whose decision thereon shall be final and conclusive.
- 1.2.6 The Contractor agrees that nothing contained in the Contract Documents or any contract between the Owner and the Project Manager shall create any contractual relationship between the Project Manager and the Contractor and any Subcontractor or Sub-subcontractors. The Contractor acknowledges and agrees that this Contract is not intended to create, nor shall any provision be interpreted as creating, any contractual relationship between the Owner or Contractor and any third parties.
- 1.2.7 The provisions of this Contract cannot be amended, modified, varied or waived by the Owner or its agents or representatives in any respect except by a modification approved and executed by the Barefoot Bay Recreation District Board of Trustees. The Contractor is hereby given notice that no person has authority to orally waive, or to release the Contractor from any of the Contractor's duties or to alter obligations under or arising out of this Contract. Any waiver, approval or consent granted by Modification to the Contractor shall be limited to those matters specifically and expressly stated thereby to be waived, approved or consented to and shall not relieve the Contractor of the obligation to obtain any future waiver, approval or consent.
- 1.2.8 Any material or operation specified by reference to published specifications of a manufacturer, a society, an association, a code, or other published standard, shall comply with requirements of the listed document which is current on date of receipt of bids. In case of a conflict between referenced document and project specifications, project specifications shall govern. In case of a conflict between referenced documents, the one having more stringent requirements shall govern.
- 1.2.9 The Contractor, if requested, shall furnish an affidavit from manufacturer certifying that materials or product delivered to job meets requirements specified.
- 1.3 **OWNERSHIP AND USE OF DOCUMENTS**
- 1.3.1 All Drawings, Specifications and copies thereof furnished to the Contractor are and shall remain the property of the Project Manager and/or Owner. They are to be used only with respect to this Project and are not to be used on any other project. With the exception of one contract set for each party to the Contract, such documents are to be returned or suitably accounted for to the Project Manager on request at the completion of the Work. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Project Manager's common law copyright or other reserved rights.

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

END OF ARTICLE 1

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

ARTICLE 2

THE PROJECT MANAGER

2.1 DEFINITIONS

- 2.1.1 The terms "Project Manager" or "Owner's Designee" as used or set forth in the Contract Documents, shall mean Barefoot Bay Recreation District Community Manager, John Coffey, 625 Barefoot Blvd., Barefoot Bay, FL 32976 or his designee or duly authorized representatives, unless otherwise amended as provided in Article 3.1 of the Independent Contractor Agreement.
- 2.1.2 The Project Manager is identified in the Independent Contractor Agreement and is referred to throughout the Contract Documents as if singular in number but may consist of multiple parties as defined herein. The Project Manager is further described as and, throughout this document, and may mean:
- 2.1.2.1 ARCHITECT, a person or other legal entity lawfully licensed to practice architecture in the state wherein the Project is located; or
- 2.1.2.2 ENGINEER, a person or other legal entity lawfully licensed to practice engineering in the state wherein the Project is located.
- 2.1.3 PROJECT MANAGER: Barefoot Bay Recreation District Community Manager, John Coffey, or his designee or duly authorized representatives.

2.2 SERVICES OF THE PROJECT MANAGER

- 2.2.1 The Project Manager may provide any of the certain services as hereinafter described.
- 2.2.2 Should errors, omissions, or conflicts in the Drawings, Specifications, or other Contract Documents be discovered, the Project Manager will arrange for the preparation of such amendments or supplementary documents and provide consultation as may be required.
- 2.2.3 The Project Manager will visit the site at intervals appropriate to the stage of construction to familiarize himself generally with the progress and quality of the Work. The Project Manager will not be required to make exhaustive or continuous on-site inspections to check the quality and quantity of the Work, but shall make as many inspections as may reasonably be required to fulfill its obligations to the Owner. On the basis of such on-site observations and his powers under the Contract, the Project Manager shall endeavor to secure the faithful performance of the Contract by Owner and Contractor. The Project Manager shall:
- determine the progress and quality of the Work;
 - interpret the requirements of the drawings and specifications and issue supplemental instructions to the Contractor as may be required;
 - recommend to the Owner suspension of the Work (in whole or in part) whenever such suspension may be necessary to ensure the proper execution of the Contract;
 - have authority to reject, in writing, Work that does not conform to the requirements of the drawings and specifications.

- 2.2.4 **(NOT APPLICABLE)** The Project Manager will render written field reports to the Owner in the form

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

required by the Owner relating to the periodic visits and inspections of the Project required by Subparagraph 2.2.3.

- 2.2.5 The Project Manager and Owner shall at all times have access to the Work wherever it is in preparation or progress. The Contractor shall provide safe facilities for such access so the Project Manager may perform the Project Manager's functions under the Contract Documents.
- 2.2.6 **(NOT APPLICABLE)** As required, the Project Manager will render to the Owner, within a reasonable time, interpretations concerning the design and other technical aspects of the Work and the Contract Documents.
- 2.2.7 **(NOT APPLICABLE)** All communications, correspondence, submittals, and documents exchanged between the Project Manager and the Contractor in connection with the Project shall be copied to the Owner and/or in a manner prescribed by the Owner.
- 2.2.8 **(NOT APPLICABLE)** Although the Owner is bound by the terms of the Contract with the Contractor, including the drawings and specifications, the Owner shall have the right, but not the duty, to countermand any decision of the Project Manager and to follow or reject the advice of the Project Manager, including but not limited to acceptance of the Work, as the Owner deems best. In those instances where the Project Manager has been given authority to inspect, recommend, make a decision, etc., the Project Manager shall promptly do so, but in the case of disagreement between them, the decision of the Owner shall be final. The party taking issue with the determination, interpretation or decision of the Project Manager shall give the other party written notice of such fact within seven (7) calendar days after the determination, interpretation or decision is communicated by the Project Manager. In the actual performance of the Work, however, the Contractor shall, in the first instance, proceed in accordance with the instructions given by the Project Manager unless the Owner and the Contractor mutually agree that the Contractor shall proceed otherwise.
- 2.2.9 The Project Manager's decisions in matters relating to artistic effect will be final if consistent with the intent of the Contract Documents.
- 2.2.10 All orders from the Owner to the Contractor shall either be transmitted through the Project Manager.
- 2.2.11 **(NOT APPLICABLE)** The Project Manager shall provide to the Owner and the Contractor after each visit to the site, a written report indicating the date, time of day, weather conditions and the names of the persons representing the Project Manager who participated in the visit. The report shall advise the Owner of any problems that were noted and shall compare the Project Manager's observations of the actual progress of the Work with that reported by the Contractor. On the basis of the Project Manager's on-site observations, the Project Manager shall make every reasonable effort to guard the Owner against defects and deficiencies in the Work of the Contractor. If the Project Manager observes any Work that does not conform to the Contract Documents, the Project Manager shall report this observation to the Contractor and Owner. The Project Manager will prepare and submit to the Contractor and Owner a field report, which will identify the Contractor's Work, which is not in conformance with the Contract Documents. The Project Manager shall have reasonable time to complete the field report. The Contractor shall, upon receipt of the field report, cause the defective, omitted or non-conforming work listed in the field report to be corrected and/or completed, and its acceptance acknowledged before.
- 2.2.12 The Project Manager shall not be responsible for construction means, methods, techniques, sequences or procedures (other than those expressly specified in the Contract Documents), or for safety precautions and programs in connection with the Work, and the Project Manager shall not be responsible for the Contractor's failure to carry out the Contractor's own responsibilities.

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

- 2.2.13 The Project Manager shall have the authority and responsibility to inspect the Work, to note and report defective Work and deviations from the Contract Documents to the Owner, to reject same, and to recommend to the Owner the suspension of the Work when necessary to prevent defective Work from proceeding or being covered.
- 2.2.14 All material and workmanship shall be subject to inspection, examination and test by the Owner and/or its Project Manager at any and all times during manufacture and/or construction. The Project Manager shall have authority to reject defective materials and workmanship and require its correction. Rejected workmanship shall be satisfactorily corrected and rejected materials shall be satisfactorily replaced with proper material without charge therefor, and the Contractor shall promptly segregate and remove the rejected material from the premises. If the Contractor fails to proceed at once with replacement of rejected material and/or the correction of defective workmanship, the Owner may, by contract or otherwise, replace such material and/or correct such workmanship and charge the cost to the Contractor, or may terminate the right of the Contractor to proceed as provided in the General Conditions, the Contractor and surety being liable for any damages.
- 2.2.15 Jobsite inspections, tests conducted on site or tests of materials gathered on site, which the Contract requires to be performed by independent entities, shall be contracted and paid for by the Owner, unless specified otherwise. Examples of such tests are the testing of cast in-place concrete, foundation materials, soil compaction, pile installations, caisson bearings and steel framing connections. Although conducted by independent testing entities, the Owner will not contract and pay for test or certifications of materials, manufactured products or assemblies which the Contract, codes, standards, etc., require to be tested and/or certified for compliance with industry standards such as Underwriters Laboratories, Factory Mutual or ASTM. If there are any fees to be paid for such tests and certifications, they will be paid by the Contractor. The Contractor shall also pay for inspections, tests and certifications which the Contract specifically requires the Contractor to perform or pay, together with any inspections and tests which the Contractor chooses to perform for the Contractor's own quality control purposes. The Contractor shall promptly furnish, without additional charge, all reasonable facilities, labor and materials necessary and convenient for making such tests. Except as provided below, whenever such examination and testing finds defective materials, equipment or workmanship, the Contractor shall reimburse the Owner for all costs of re-examination and re-testing.
- 2.2.16 Should it be considered necessary or advisable by the Owner or the Project Manager at any time before final acceptance of the entire Work to make an examination of any part of the Work already completed, by removing or tearing out portions of the Work, the Contractor shall, on request, promptly furnish all necessary facilities, labor and materials to expose the Work to be tested to the extent required. If such Work is found to be defective in any respect, due to the fault of the Contractor or his subcontractors, the Contractor shall pay all expenses of uncovering and identifying the Work, of examination and testing, and of satisfactory reconstruction. If, however, such Work is found to meet the requirements of the Contract, the actual cost of the Contractor's labor and material necessary involved in uncovering the Work, the cost of examination and testing and Contractor's cost of material and labor necessary for replacement shall be paid to the Contractor and the Contractor shall, in addition, if completion of the Work has been delayed thereby, be granted a suitable extension of time.
- 2.2.17 The Project Manager will recommend to the Owner that the Work be suspended when, in the Project Manager's judgment, the drawings and specifications are not being followed. Any such suspension shall be continued only until the matter in question is resolved to the satisfaction of the Owner. The cost of any such Work stoppage shall be borne by the Contractor unless it is later determined that no fault existed in the Contractor's Work.

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

- 2.2.18 The Project Manager will review Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work and for general compliance with the Contract Documents. Such action shall be taken within **fourteen (14) days** of receipt unless specified otherwise.
- 2.2.19 The Project Manager shall establish procedures to be followed for review and processing of all Shop Drawings, catalog submittals, project reports, test reports, maintenance manuals, and other necessary documentation, as well as requests for changes and applications for extensions of time.
- 2.2.20 The Project Manager will review and prepare Change Orders as required under the Contract Documents.
- 2.2.21 The Project Manager will conduct inspections to determine the dates of Substantial Completion and Final Completion, and will issue final Certificate for Payment. The Project Manager shall be responsible for issuance of Certificates of Substantial and Final Completion.
- 2.2.22 **(NOT APPLICABLE)** The Project Manager will prepare a set of reproducible record prints of Drawings showing significant changes in the Work made during the construction process, based on neatly and clearly marked-up prints, Drawings, and other data furnished by the Contractor. The Project Manager will also provide the Owner assistance in the original operation of any equipment or system such as initial start-up, testing, adjusting, and balancing.
- 2.2.23 In case of the termination of the employment of the Project Manager, the Owner may appoint a new Project Manager whose status under the Contract Documents shall be that of the former Project Manager, or the Owner may assume all of the services of the Project Manager thereafter.

END OF ARTICLE 2

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

ARTICLE 3

OWNER

3.1 DEFINITION

3.1.1 The Owner is the person or entity identified as such in the Independent Contractor Agreement. The Owner is referred to throughout the Contract Documents as if singular in number.

3.1.2 Owner: **Barefoot Bay Recreation District Board of Trustees**
625 Barefoot Blvd.
Barefoot Bay, FL 32976
(Designee, Community Manager, John Coffey)

3.2 CONSTRUCTION PROGRAM MANAGER (NOT APPLICABLE)

3.2.1 **(NOT APPLICABLE)** The Owner may contract with a Construction Program Manager who will assist and advise the Owner during Project construction and until the issuance of the final Certificate for Payment. If a Construction Program Manager is utilized, the Owner's communications with the Contractor and the Project Manager shall generally be through the Construction Program Manager, who will assist the Owner with regard to the Project. The Owner must approve all payments to the Contractor. Neither the Project Manager nor Construction Program Manager shall have any authority to authorize or issue change orders. If applicable, all of the Contractor's communications to the Owner or to the Project Manager shall be exclusively through the Construction Program Manager.

3.2.2 **(NOT APPLICABLE)** The Construction Program Manager, will represent the Owner, but the Owner has the right but not the duty to countermand any decision or action of the Construction Program Manager, and to follow or reject the advice of the Construction Program Manager. The Construction Program Manager is not authorized to revoke, alter, change, relax, or release any requirements of the Contract, nor to approve or accept any portion of the Work not performed in accordance with, nor to issue instructions contrary to, the Contract Documents.

3.3 INFORMATION, SERVICES AND RIGHTS OF THE OWNER

3.3.1 The Owner will provide administration of the Contract as hereinafter described.

3.3.2 The Owner shall at all times have access to the Work whenever it is in preparation or progress. The Contractor shall provide safe facilities for such access.

3.3.3 Owner shall not be responsible for or have control or charge of construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with Work, and will not be responsible for Contractor's failure to carry out the Work in accordance with the Contract Documents.

3.3.4 The Owner or Project Manager will have authority to require special inspection or testing of the work in accordance with Subparagraph 2.2.13 whether or not such Work be then fabricated, installed, or completed. However, neither the Owner's authority to act under Subparagraph 3.3.4, nor any decision made by the Owner in good faith either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Owner to the Contractor, any Subcontractor, any of their agents or employees, or any other person performing any of the Work.

3.3.5 The Owner shall have the authority and discretion to call, schedule, and conduct job meetings to be

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

attended by the Contractor, representatives of his Subcontractors, and the Project Manager, to discuss such matters as procedures, progress, problems, and scheduling.

- 3.3.5.1 Each Contractor is requested and required to attend scheduled job site progress conferences as called by the Project Manager. Contractor shall be represented at these job progress conferences by an authorized representative of the home office of the Contractor as well as by project personnel representatives. These meetings shall be open to subcontractors and material suppliers, and any others who can contribute shall be encouraged by Contractor to attend. It shall be the principal purpose of these meetings, or conferences, to affect coordination, cooperation and assistance in every practical way toward the end of maintaining progress of the project on schedule and to complete the project within the specified Contract Time. Each Contractor shall be prepared to assist progress of the work and to recommend remedial measures for the correction of progress as may be appropriate. The Owner shall be the coordinator of the conferences and shall preside as chairman or assign the responsibility to the Project Manager.
- 3.3.6 The Owner, with the Project Manager's assistance, will establish procedures to be followed for processing all Shop Drawings, catalogs, pay requests, change orders, test reports, maintenance manuals, and any other project reports and/or documentation.
- 3.3.7 The Project Manager will review and make recommendations regarding all requests for changes and the Project Manager shall implement the processing of Change Orders, including applications for extension of the Contract Time.
- 3.3.8 The Owner, however, will not be responsible for the failure of Contractor to plan, schedule, and execute the Work in accordance with the approved schedule or the failure of the Contractor to meet scheduled completion dates or the failure of the Contractor to schedule and coordinate the Work of the Contractor's own trades and Subcontractors or to coordinate and cooperate with other separate contractors.
- 3.3.9 The Owner, in consultation with the Project Manager, will each review and process all Applications for Payment by the Contractor, including the final Application for Payment in accordance with Article 6.1 of the Independent Contractor Agreement and the Florida Prompt Payment Act (Sec. 218.735, Florida Statutes).
- 3.3.10 The Owner and Project Manager shall not be responsible or liable to Contractor for the acts, errors or omissions of the Contractor, any separate Subcontractor, any separate contractor or any contractor's or subcontractor's agents or employees, or any other persons performing any of the Work.
- 3.3.11 The Owner shall furnish all surveys describing the physical characteristics, legal limitations and utility locations for the site of the Project. Such documents are not part of the Contract Documents and are provided for Contractor's information only.
- 3.3.12 The Owner shall secure and pay for necessary easements, required for permanent structures or for permanent changes in existing facilities. The Contractor shall provide all necessary as-built legal descriptions and documentation required for applicable easements, on a timely basis in order to avoid any adverse impact on project schedule.
- 3.3.13 The Owner will make available for the Contractor's reasonable review, at the Owner's offices or together with the Contract Documents, certain boring logs, geotechnical, soils and other reports, surveys and analyses pertaining to the Contract site of which the Owner is aware and has in its possession. Any boring logs that are provided to the Contractor are only intended to reflect conditions at the locations of the borings and do not necessarily reflect site conditions at other locations. Any reports, surveys, boring logs and analyses provided by Owner are for the Contractor's information only, and their accuracy and

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

completeness are not guaranteed or warranted by the Owner or the Project Manager, and such reports are not adopted by reference into, nor are they part of the Contract Documents. Notwithstanding any factual statement, conclusion, or any language or recommendations contained in such reports, the Contractor assumes full responsibility for inspection of the site and determination of the character, legal limits, quality and quantity of any soil, surface or subsurface conditions that may be encountered or which may affect the Work, and for the means and methods of construction that the Contractor employs when performing the Work.

3.3.14 The foregoing rights are in addition to other rights of the Owner enumerated herein and those provided by law.

3.4 **OWNER'S RIGHT TO STOP OR TO SUSPEND THE WORK**

3.4.1 If Contractor fails to correct defective Work as required by Paragraph 13.2 or fails to carry out the Work or supply labor and materials in accordance with the Contract Documents, the Owner by a written order may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.

3.4.2 The Owner may order the Contractor in writing to suspend, delay, or interrupt all or any part of the Work for such period of time as the Owner may determine to be appropriate for the convenience of the Owner.

3.4.3 If the performance of all or any part of the Work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Owner or the Project Manager in the administration of this Contract, or by failure of any one of them to act within the time specified in this Contract (or if no time is specified, within a reasonable time), an adjustment shall be made for an increase in the actual time required for performance of the Work by the Contractor, due solely to such unreasonable suspension, delay, or interruption and the Contract modified in writing accordingly. However, no claim for an extension of time shall be made under this Subparagraph 3.4.3 for any suspension, delay, or interruption pursuant to Subparagraph 3.4.1, or for which claim is provided or excluded under any other provision of this Contract. No claim under this Subparagraph shall be allowed for an extension of time required for performance, unless the claim for an extension of time is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, or no later than 20 days after the act or failure to act involved. The Contractor must submit to the Owner a written statement setting forth, as then practicable, the extent of such claimed time extension. Any time extension granted shall only be for the unreasonable portion of the delay to critical work activities and in accordance with Article 8 hereof.

3.4.4 In the event of a suspension of work or delay or interruption of work per Article 3.4.3, the Contractor will and will cause the Contractor's subcontractors to protect materials and work against damage or injury from the weather and maintain completed and uncompleted portions of the work as required by the Contract Documents. If, in the opinion of the Owner any work or material shall have been damaged or injured by reason of failure on the part of the Contractor or any of its subcontractors to so protect same, such work and materials shall be removed and replaced at the expense of the Contractor.

3.4.5 No claim by the Contractor for an equitable adjustment under Subparagraph 3.4.3 shall be allowed if asserted after final payment under this Contract.

3.5 **OWNER'S RIGHT TO CARRY OUT THE WORK**

3.5.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within seventy two (72) hours after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, with a copy

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

of such notice sent to the Contractor's surety, and without prejudice to any other remedy, make good such deficiencies and may further elect to complete all Work or any portion thereof, through such means as the Owner may select, including the use of a new contractor pursuant to Article 3.5.2. In such case an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies or the Owner's additional services made necessary by such default, neglect or failure. Notwithstanding the Owner's right to carry out a portion of the work, maintenance and protection of the work remains the Contractor's responsibility.

3.5.2 Whenever the Contractor is declared by the Owner to be in default under the Contract, the Surety shall promptly remedy the default, or shall promptly:

- 1) Complete the Contract in accordance with its terms and conditions, or,
- 2) Obtain a bid or bids for completing Contract in accordance with its terms and conditions upon determination by Owner and Surety jointly of lowest qualified bidder, arrange for a contract between such bidder and Surety to complete Work and provide any required warranty work on service.

END OF ARTICLE 3

**Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades**
Project Numbers: TLC Engineering Solutions Project No. 519101

ARTICLE 4

CONTRACTOR

4.1 DEFINITION

- 4.1.1 The Contractor is the person or organization identified as such in the Independent Contractor Agreement and is referred to throughout the Contract Documents as if singular in number. The term Contractor means the Contractor or its authorized representative, who shall have authority to bind the Contractor in all matters pertinent to this Contract.
- 4.1.2 This entire Contract is not one of agency by the Contractor for Owner but one in which Contractor is engaged independently in the business of providing the services and performing the Work herein described as an independent contractor.

4.2 REVIEW OF CONTRACT DOCUMENTS

- 4.2.1 Before placing a bid to the Owner, and continuously after execution of the Contract, the Contractor shall carefully study and compare the Contract Documents and shall at once report to the Owner through the Project Manager any error, inconsistency or omission the Contractor may discover, including any requirement which may be contrary to any law, ordinance, rule, regulation or order of any public authority bearing on the performance of the Work. If the Contractor has reported in writing an error, inconsistency or omission, has promptly stopped the affected work until otherwise instructed, and has otherwise followed the instructions of the Owner, the Contractor shall not be liable to the Owner or the Project Manager for any damage resulting from any such errors, inconsistencies or omissions in the Contract Documents. The Contractor shall perform no portion of the Work at any time without being awarded the Contract and receiving a Notice to Proceed under these Contract Documents, and, where required, possessing approved Shop Drawings, Product Data or Samples for such portion of the Work.
- 4.2.2 The Contractor and all Subcontractors shall keep at the site of the Work at least one copy of an approved set of drawings and specifications, including all modifications and clarifications, and approved submittals and shall at all times give the Owner and the Project Manager, inspectors, as well as other representatives of the Owner access thereto.

4.3 SUPERVISION AND CONSTRUCTION PROCEDURES

- 4.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over all construction means, methods, techniques, sequences and procedures of construction and for coordinating all portions of the Work under the Contract.
- 4.3.1.1 It shall be the responsibility of the Contractor to coordinate the work with other Prime Contractors; to maintain a progress schedule for all Prime Contractors for this project; and to notify the Owner and the Project Manager of any changes in the progress schedule. The Contractor shall be responsible for providing adequate notice to all Prime Contractors to insure efficient continuity of all phases of the project work. Each other Prime Contractor is held responsible for keeping the Contractor fully informed as to its work progress, including immediate notification of any work progress changes.
- 4.3.2 The Contractor shall be responsible to the Owner for the acts and omissions of the Contractor's employees, Subcontractors and Sub- subcontractors, suppliers, their agents and employees, and other persons performing any of the Work and for their compliance with each and every requirement of the

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

Contract Documents, in the same manner as if they were directly employed by the Contractor.

- 4.3.3 The Contractor shall not be relieved from any obligations to perform the Work in accordance with the Contract Documents either by the acts, failures to act or duties of the Owner or the Project Manager in their administration of the Contract, or by inspections (or lack thereof), tests or approvals (or lack thereof) required or performed under Paragraph 7.6 by persons other than the Contractor.
- 4.3.4 Before starting any section of work, the Contractor shall carefully examine all preparatory work that has been executed to receive the Contractor's work to see that it has been completed in accordance with the Contract Documents. The Contractor shall check carefully, by whatever means are required, to ensure that all Work and adjacent, related work will finish to proper and required standards for quality, contours, planes, and levels.
- 4.3.5 The Contractor understands and agrees that the Owner and Project Manager will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and they will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner and the Project Manager will not be responsible for or have control or charge over the acts or omissions of the Contractor, Subcontractors, or any of their agents or employees, or any other persons performing any of the Work.
- 4.3.6 The Contractor shall employ no plant, equipment, materials, methods or persons to which the Owner and Project Manager have a reasonable objection and shall remove no portion of the Work or stored materials from the site of the Work.

4.4 **CONTRACTOR'S REPRESENTATIONS**

- 4.4.1 By entering into this Contract with the Owner, the Contractor represents and warrants the following, together with all other representations and warranties in the Contract Documents:
- .1 that the Contractor is experienced in and competent to perform the type of work required and to furnish the plant, materials, supplies or equipment to be so performed or furnished by the Contractor;
 - .2 **that the Contractor is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to initiate and complete the Work required under the Contract;**
 - .3 that the Contractor is familiar with all Federal, State, and Local laws, ordinances, permits, regulations, rules and resolutions which may in any way affect the Work or those employed therein, including but not limited to any special laws or regulations relating to the Work or any part thereof;
 - .4 that such temporary and permanent work required by the Contract Documents which is to be done by the Contractor will be satisfactorily constructed and fit for use for its intended purpose and that such construction will not injure any person, or damage any property;
 - .5 that the Contractor has carefully examined the Contract Documents and the site of the Work and that from those investigations, the Contractor is satisfied and familiar with: (1) the nature and location of the Work; (2) the character, legal limits, quality and quantity of surface and subsurface materials likely to be encountered, including, but not limited to, all structures and

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

obstructions on or at the project site, both natural and man-made; (3) the character of equipment and other facilities needed for the performance of the Work; (4) the general and local conditions including without limitation its climatic conditions, the availability and cost of labor and the availability and cost of materials, tools and equipment; (5) the quality and quantity of all materials, supplies, tools, equipment, labor and professional services necessary to complete the work in the manner required by the Contract Documents; and (6) all other matters or things which could in any manner affect the performance of the Work;

- .6 that the Contractor will fully comply with all requirements of the Contract Documents;
- .7 that the Contractor will perform the Work consistent with good workmanship, sound business practice, and in the most expeditious and economical manner consistent with the best interests of the Owner;
- .8 that the Contractor will furnish efficient business administration and experienced superintendence and an adequate supply of workers, equipment, tools and materials at all times;
- .9 that the Contractor has carefully reviewed the Work required and that the Work can be planned and executed in a normal and orderly sequence of Work and reasonably scheduled so as to ensure completion of the work in accordance with the Contract Documents, allowing for normal and reasonably foreseeable weather, labor and other delays, interruptions and disruptions of the Work;
- .10 that the Contractor will complete the Work within the Contract Time and all portions thereof within any required Contract milestones; and
- .11 that his Contract price is based upon the labor, materials, systems and equipment required by or reasonably inferable from the Contract Documents, without exception.

4.5 LABOR AND MATERIALS

- 4.5.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, supplies, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary or proper for or incidental to the execution and completion of the Work required by and in accordance with the Contract Documents and any applicable code or statute, whether specifically required by the Contract Documents or whether their provision may reasonably be inferred as necessary to produce the intended results, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Final payment will not be made until the Work is so completed. The Contractor hereby acknowledges that its bid price is not based upon any claim to the land, timber, soils or other resources at the Construction site, except to the use of soils for necessary site work unless specified otherwise in the drawings and/or specifications.
- 4.5.2 The Contractor shall at all times enforce strict discipline and good order among its employees and shall not employ on the Work any unfit subcontractor or person or anyone not skilled in the task assigned. The Owner may, by notice in writing, require the Contractor to remove from the work any subcontractor or employee the Owner deems incompetent, careless or otherwise objectionable and Contractor shall provide for this contingency in all Subcontracts.
- 4.5.3 The Contractor shall be responsible for ensuring that the work is completed in a skillful and workmanlike manner.

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

4.5.4 All equipment, apparatus and/or devices of any kind to be incorporated into the work that are shown or indicated on the drawings or called for in the specifications or required for the completion of the work shall be entirely satisfactory to the Owner and the Project Manager as regards operations, capacity and/or performance. No approval, either written or verbal, of any drawings, descriptive data or samples of such equipment, apparatus and/or device shall relieve the Contractor of the responsibility to turn over the same in good working order for its intended purpose at the completion of the Work in complete accordance with the Contract Documents. Any equipment, apparatus and/or device not fulfilling these requirements shall be removed and replaced by proper and acceptable equipment, etc. or put in good working order satisfactory to the Owner and Project Manager without additional cost to the Owner.

4.5.5 The General Contractor shall take all necessary precautions for the safety of persons in the execution of the Contract. Compliance with rules of the Department of Labor Occupational Safety and Health Administration, hereafter referred to as OSHA, is required as an established minimum.

4.6 **WARRANTY**

4.6.1 The Contractor warrants to the Owner and the Project Manager that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all workmanship will be of first class quality, free from faults and defects and in conformance with the Contract Documents and all other warranties and guaranties specified therein. Where no standard is specified for such workmanship or materials, they shall be the best of their respective kinds. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Owner or the Project Manager, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of Article 13.

4.6.2 The Work included in this Contract is heretofore specified. The Contractor will be required to complete the Work specified and to provide all items needed for construction of the project, complete and in good order.

4.6.3 The warranties set forth in this Paragraph 4.6 and elsewhere in the Contract Documents shall survive Final Completion of the Work under Paragraph 9.10.

4.6.4 The Contractor and Surety guarantee and warrant to the Owner all work as follows:

- .1 that all materials and equipment furnished under this Contract will be new and the best of its respective kind unless otherwise specified;
- .2 that all Work will be of first-class quality and free of omissions and faulty, poor quality, imperfect and defective material or workmanship;
- .3 that the Work shall be entirely watertight and leak proof in accordance with all applicable industry customs and practices, and shall be free of shrinkage and settlement;
- .4 that the Work, including but not limited to, mechanical and electrical machines, devices and equipment, shall be complete systems, fit and fully usable for its intended and specified purpose and shall operate satisfactorily with ordinary care;
- .5 that consistent with requirements of the Contract Documents the Work shall be installed and oriented in such a manner as to facilitate unrestricted access for the operation and maintenance of fixed equipment; and

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

.6 that the Work will be free of abnormal or unusual deterioration which occurs because of poor quality materials, workmanship or unsuitable storage.

4.6.5 All Work not conforming to guarantees and warranties specified in the Contract Documents, including substitutions not properly approved and authorized, may be considered defective. If required by the Project Manager, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

4.6.6 If, within one (1) year after the Date of Final Completion of the Work or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective, not in accordance with the Contract Documents, or not in accordance with the guarantees and warranties specified in the Contract documents, the Contractor shall correct it within five (5) working days or such other period as mutually agreed, after receipt of a written notice from the Owner to do so. The Owner shall give such notice with reasonable promptness after discovery of the condition.

4.6.7 If at any time patent deficiencies in the Work are discovered, the Contractor will be liable for replacement or correction of such Work and any damages which Owner has incurred related thereto, regardless of the time limit of any guarantee or warranty.

4.6.8 Any materials or other portions of the Work, installed, furnished or stored on site which are not of the character or quality required by the specifications, or are otherwise not acceptable to the Owner or the Project Manager, shall be immediately removed and replaced by the Contractor to the satisfaction of the Owner and Project Manager, when notified to do so by the Owner and Project Manager.

4.6.9 If the Contractor fails to correct defective or nonconforming Work as required by Article 4.6.6, or if the Contractor fails to remove defective or nonconforming Work from the site, as required by Article 4.6.8, the Owner may elect to either correct such Work in accordance with Article 3.5 or remove and store materials and equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten (10) days thereafter, the Owner may upon ten (10) additional days' written notice sell such Work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor, including compensation for the Owner's and/or the Project Manager's additional services made necessary thereby. If such proceeds of sale do not cover all costs, which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner

4.6.10 The Contractor shall bear the cost of making good all work of the Owner, separate contractors or others, destroyed or damaged by such correction or removal required under this Article 4, Article 13, or elsewhere in the Contract Documents.

4.7 **TAXES**

4.7.1 The Contractor shall pay all sales, consumer, use and other similar taxes for the Work or portions thereof provided by the Contractor which are legally enacted at the time bids are received, whether or not yet effective. Owner reserves the right to direct purchase materials to realize a tax savings and adjust the contract amount accordingly. Contractor hereby agrees to permit Owner to direct purchase from the Contractor's suppliers at prices quoted to Contractor and for Owner to retain any tax savings generated thereby.

4.8 **PERMITS, FEES AND NOTICES**

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

4.8.1 The Contractor shall pay all applicable regulatory agency permit, plans review, inspection fees and may charge the same to Owner as reflected in Contractor's bid.

4.8.2 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work.

4.8.3 The Owner shall pay any connection and/or impact fees required to obtain a Certificate of Occupancy separately.

4.9 **SUPERINTENDENT**

4.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during the progress of the Work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor.

4.9.2 The superintendent shall be in attendance at the Project site any time work is being performed at the jobsite, unless the job is closed down due to a general strike or conditions beyond the control of the Contractor or until completion or termination of the Contract. It is understood that such Superintendent shall be acceptable to the Owner and the Project Manager and shall be the one who will be continued in that capacity for the duration of the project, unless the Owner otherwise agrees. The Superintendent shall not be employed on any other project for or by Contractor or any other entity during the course of the Work.

4.9.3 **(NOT APPLICABLE)** In the event any of the following conditions shall exist, the Contractor, at no additional expense to the Owner, shall require that the Superintendent be at the Project site not less than ten (10) hours per day, six (6) days per week:

.1 should Substantial Completion not be accomplished on schedule.

.2 should Final Completion not be accomplished on schedule.

.3 should the progress schedule indicate in the opinion of the Owner or Project Manager that the Contractor is fourteen (14) or more days behind schedule at any time during construction up until thirty (30) days prior to scheduled Substantial Completion.

.4 should the progress schedule indicate in the opinion of the Owner or Project Manager that the Contractor is seven (7) or more days behind schedule at any time during the last thirty (30) days prior to scheduled Substantial Completion.

4.10 **PROGRESS SCHEDULE (NOT APPLICABLE)**

(a) **(NOT APPLICABLE)** The Contractor is responsible for the sequencing, scheduling and coordinating of the Work, for monitoring the progress of the Work, and for taking appropriate action to keep the Work on schedule. Within two (2) weeks after signing the Contract, the Contractor shall prepare and submit to the Owner and/or Construction Program Manager and Project Manager a preliminary Critical Path Method Schedule "CPM" for completing the Work on the completion date stated in the Contract. A fully complete CPM schedule for accomplishing the work must be submitted in like manner no later than thirty (30) days after signing the contract. No progress payments will be payable to the Contractor until the Contractor has submitted a

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

preliminary CPM schedule which is acceptable to the Owner. Neither the second progress payment nor any subsequent payments shall be payable to the Contractor until the Contractor has submitted a final, acceptable CPM schedule.

Failure to provide a satisfactory preliminary or final CPM schedule for accomplishing the Work within the time provided shall be a breach of contract, which the Owner may terminate the Contract in the manner provided in these General Conditions. Both the preliminary CPM Schedule and the final CPM Schedule for accomplishing the Work shall be of the type set forth in subparagraph I or II below, as appropriate:

- I. For Contracts with a price \$750,000 or less, a bar graph will satisfy the above CPM requirements. The schedule shall indicate the estimated starting and completion dates for each major element of the work. As a minimum the elements of Work shall reflect the Contractor's approved Schedule of Values for payment and shall detail any elements of work requested by the Owner. The actual progress of those elements of the Work will be reported monthly through the Project Manager at the time of submission of the request for payment. If any elements of the Work are behind schedule, regardless of whether they may prevent the Work from being completed on time, the Contractor must indicate, in writing, what measures the Contractor is taking and plans to take to bring each element back on schedule and to insure that the time of completion is not exceeded.
 - II. For Contracts with a price over \$750,000, a Critical Path Method Schedule "CPM" shall be utilized to control the planning and scheduling of the project. The CPM schedule shall be the responsibility of the Contractor and shall be paid for by the Contractor.
- (b) **(NOT APPLICABLE) CPM Schedule:** The working plan and schedule will be developed in the form of a CPM network diagram using the Contractor's logic and time estimates. The network shall be in the time-scaled precedence format. The network diagram shall be drawn or plotted with activities grouped or zoned by work area or subcontract as opposed to a random (or scattered) format.

The network diagram shall be scaled on a weekly basis and shall be drawn at a level of detail and logic which will schedule all salient features of the Work, including the placing of orders for materials, submission of shop drawings and other submittals for approval, approval of shop drawings by the Project Manager, fabrication and delivery of material, and all work activities to be performed by the Contractor and the Owner's Contractors. The duration of activities to be performed by the Project Manager shall be in accordance with the relevant provisions, if any, of the specifications or shall be determined by agreement between the Project Manager and Contractor. If they are unable to agree, the Owner shall determine the appropriate duration of such Project Manager activities. Each work activity will be assigned a time estimate by the Contractor. If requested by the Owner or Project Manager the Contractor shall justify the inclusion or exclusion of a work activity and/or justify by quantity of work, productivity and labor the Contractor's time estimate for an activity. One day shall be the smallest time unit used.

On completion of the network diagram, the Contractor shall generate a computer plot of the schedule with master early start, float, successor/predecessor reports, and provide the Owner through the Project Manager with two (2) copies. In the event the completion date indicated by the schedule exceeds the Contract completion date, the logic and time estimates used to develop the Plan will be reviewed, changes made in the logic and time estimates, and another computer run made to generate a new schedule. This procedure shall be repeated, if necessary, to provide a Plan and Schedule meeting the Contract completion date.

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

When completed, the working plan and schedule will be submitted to the Owner and Project Manager for review. The working plan will identify and describe each activity, state the duration of each activity, the calendar dates for the early and late start and the early and late finish of each activity, the total float and clearly highlight all activities on the critical path. “Total float” and “free float”, as those terms are defined in ANSI standard No. Z94.2, shall be indicated for all activities. On contracts with a price over \$10,000,000, the CPM Schedule shall also show the planned workforce (crew size and number of crews) and the major pieces of equipment required for each activity on the schedule. When reviewed and accepted by the Owner and Project Manager as to compliance with the requirements of this section but not as to logic, this shall become the plan and schedule for the project.

- (c) **(NOT APPLICABLE) Project Control:** The Contractor shall review progress not less than each month, but as often as necessary to properly manage the project and stay on schedule. The Contractor shall collect and preserve information on Change Orders, including extensions of time. The Contractor shall evaluate this information and update the CPM schedule as necessary to finish on the completion date. The scheduled completion date shall be the date identified by the Contract for completion of construction, as amended by Change Order.
- (d) **(NOT APPLICABLE) Progress Plot and Reports:** A progress plot with reports showing the work completed to date, in comparison with the work scheduled for completion, and the overall project schedule, shall be provided to the Owner and the Project Manager with each monthly invoice. Any revisions to logic, duration and/or activities shall be specifically identified, and master reports and plots will be submitted to benchmark the revisions at the Owner’s or Project Manager’s request. The form of the plot reports shall be approved by the Owner and Project Manager.
- (e) **(NOT APPLICABLE) Progress Delay:** Should any of the following conditions exist, the Owner or Project Manager may require the Contractor to prepare, at no extra cost to the Owner, a Plan of Action and a CPM Recovery Schedule for completing the Work by the contractual date. The Plan of Action and CPM Recovery Schedule shall explain and indicate how the Contractor intends to regain compliance with the original CPM schedule. The plan of action and CPM recovery schedule, when required, shall be submitted and accepted prior to submission of the next monthly invoice:
 - (1) Should the Contractor’s monthly progress report indicate delays, in the opinion of the Owner or Project Manager, such that a CPM Recovery Schedule is required;
 - (2) Should the CPM schedule show the Contractor to be thirty (30) or more days behind schedule at any time during construction up to thirty (30) days prior to schedule completion date;
 - (3) Should the Contractor request to make changes in the logic of the CPM schedule, which, in the opinion of the Owner or Project Manager, is a major nature.

4.11 RESPONSIBILITY FOR COMPLETION

- 4.11.1 The Contractor shall furnish such labor, materials, facilities and equipment and shall work such hours, as may be necessary to ensure the performance of the Work in accordance with the Milestone and Completion dates specified in the Independent Contractor Agreement. If it becomes apparent to the Owner and/or Project Manager that the Work will not be completed within the required Milestone or

**Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades**
Project Numbers: TLC Engineering Solutions Project No. 519101

Completion dates, the Contractor agrees to undertake some or all of the following actions, at no additional cost to the Owner, in order to ensure, in the opinion of the Owner and/or Project Manager that the Contractor will comply with all Milestone and Completion date requirements:

- .1 increase manpower, materials, crafts, equipment and facilities to accelerate performance of the Work;
- .2 increase the number of working hours per shift, shifts per working day, working days per week, or any combination of the foregoing; and/or
- .3 reschedule activities to achieve maximum practical concurrence of accomplishment of activities.

4.11.2 Failure of the Contractor to substantially comply with the requirements of this Article may be considered grounds for a determination by the Owner, pursuant to Article 14, that the Contractor is failing to prosecute the Work with such diligence as will ensure its completion within the time specified.

4.11.3 This paragraph does not eliminate the Contractor's responsibility to comply with the local noise ordinances, all highway permit requirements and all other applicable laws, regulations, rules, ordinances, resolutions, and permit requirements.

4.12 **DOCUMENTS AND SAMPLES AT THE SITE**

4.12.1 The Contractor shall maintain at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. The Contractor shall also maintain document control logs to track all drawings, specifications, Architectural Supplemental Instructions, Change Proposals, Request for Information and Submittals. These shall be delivered to the Project Manager for the Owner upon completion of the Work.

4.13 **SUBMITTALS**

4.13.1 Submittals are shop drawings, diagrams, schedules, product data instructions, brochures, samples, manuals, certifications, warranties or any other information required by the technical specifications to be reviewed by the Project Manager.

4.13.2 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

4.13.3 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate a material, product or system for some portion of the Work.

4.13.4 Samples are physical examples, which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

4.13.5 Manuals are manufacturer's installation, start-up, operating, maintenance and repair instructions together with parts lists, pictures, sketches and diagrams that set forth the manufacturer's requirements for the benefit of the Contractor and the Owner.

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

- 4.13.6 The Contractor shall review, approve and submit, with reasonable promptness and in such sequence as to cause no delay in the Work or in the work of the Owner or any separate contractor, all Submittals required by the Contract Documents.
- 4.13.6.1 **(NOT APPLICABLE)** Unless otherwise directed in writing, **the Contractor shall submit no less than six (6) copies, unless specified otherwise, of each Submittal to the Project Manager.** Routing of said Submittals will be from the Contractor to the Project Manager to the Owner and/or Construction Program Manager. The Project Manager will return three (3) copies of each Submittal directly to the Contractor and provide copies to the Owner and/or Construction Program Manager.
- 4.13.6.2 **(NOT APPLICABLE)** For standard manufactured items not requiring special shop drawings for manufacture, submit six (6) copies, unless specified otherwise, of manufacturer's catalog sheets showing illustrated cuts of item to be furnished, scale details, sizes, dimensions, performance characteristics, capacities, wiring diagrams and controls, and all other pertinent information. Four (4) copies of reviewed submissions will be returned to the Contractor.
- 4.13.6.3 For all other shop drawings, submit one (1) legible, unfolded, reproducible (positive side up sepia) transparencies. Each drawing shall have a clear space for stamps. When phrase "by others" appears on shop drawings, the Contractor shall indicate on the drawing who is to furnish material or operations so marked before submittal.
- 4.13.6.4 The Contractor shall submit samples of adequate size showing quality, type, color range, finish and texture, unless otherwise specified.
- 4.13.6.5 Where the technical specifications call for the submittal of manufacturer's data or any other information to the Project Manager for information only, such Submittals shall be made before the commencement of any portion of the Work requiring such submission.
- 4.13.6.6 For use of all trades, the Contractor shall provide such number of prints as are required for field distribution.
- 4.13.6.7 All communications and transactions with manufacturers or Subcontractors shall be through the General Contractor.
- 4.13.6.8 Where specifications require manufacturer's printed installation instructions, the Contractor shall submit copies of such instructions for review.
- 4.13.6.9 Where several materials are specified by name for one use, select for use any of those so specified.
- 4.13.6.10 Whenever item or class of material is specified exclusively by trade name, manufacturer's name, or by catalog reference, use only such item, unless written approval for substitution is secured, as outlined the General Conditions.
- 4.13.6.11 No portion of the Work requiring submission of Submittals shall be commenced or fabricated by the Contractor except at the Contractor's own risk, until the Submittal has been reviewed by the Project Manager as provided in Article 2. All such portions of the Work shall be in accordance with reviewed Submittals.
- 4.13.7 By approving and submitting Shop Drawings, Product Data, Manuals and Samples, etc. the Contractor represents that the Contractor has determined and verified all materials, field measurements, and field construction criteria and that the Contractor has checked and coordinated the information contained

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

within such submittals with the requirements of the Work and of the Contract Documents. The Contractor shall adhere to any supplementary processing and scheduling instructions pertaining to Shop Drawings, which may be issued by the Owner.

- 4.13.7.1 Parts and details not fully indicated on the contract drawings shall be detailed by the Contractor in accordance with standard engineering practice. Dimensions on the Contract Drawings, as well as detailed drawings themselves are subject in every case to measurements of existing, adjacent, incorporated and completed work, which shall be taken by the Contractor before undertaking any work dependent on such data.
- 4.13.8 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents unless the Contractor has specifically informed the Project Manager in writing of such deviation at the time of submission and the Project Manager and Owner have given written approval to the specific deviation by a written order. The Contractor shall not be relieved from responsibility for construction means and methods shown in the submittal or for errors or omissions in the Shop Drawings, Product Data, Samples, or Manuals, etc. by the Project Manager's review thereof.
- 4.13.9 The Contractor shall make corrections required by the Project Manager and shall resubmit the required number of corrected copies of Submittals. The Contractor shall direct specific attention, in writing or on resubmitted Submittals, to revisions other than those requested by the Project Manager on previous Submittals. Resubmittals necessitated by required corrections due to Contractor's errors or omissions shall not be cause for extension of Contract Time.
- 4.13.10 Shop Drawings, Product Data and Samples shall be dated and shall bear the name of the Project; a description or the names or equipment, materials and items; reference to the appropriate Specification Section; and complete identification of locations at which materials or equipment are to be installed.
- 4.13.11 Submittals shall be accompanied by a transmittal letter, containing the name of the Project, the Contractor's name, the number of Shop Drawings, Product Data, Samples, or Manuals and titles and other pertinent data.

4.14 **EQUAL PRODUCTS AND SUBSTITUTIONS**

- 4.14.1 All materials, supplies and articles furnished under this Contract shall, whenever specified and otherwise practicable, be the standard products of recognized, reputable manufacturers. Unless otherwise specifically provided in the Contract Documents, the naming of a certain brand, make, manufacturer or article, device, product, material, fixture or type of construction shall convey the general style, type, character and standard of quality of the article desired and shall not be construed as limiting competition. The Contractor, in such cases, may with Owner approval, use any brand, make, manufacturer, article, device, product, material, fixture, form or type of construction which in the judgment of the Owner is equal to that specified. An item may be considered equal to the item so named or described if, in the opinion of the Owner (1) it is at least equal in quality, durability, appearance, strength, and design; (2) it will perform at least equally the specific function imposed by the general design for the work being contracted for or the material being purchased; and (3) it conforms substantially, even with deviations, to the detailed requirements for the item in the specifications. Approval by the Owner will be granted based upon considerations of quality, workmanship, economy of operation, suitability for the purpose intended, and acceptability for use on the Project.
- 4.14.2 To obtain such approval on makes or brands of material other than those specified in Contract Documents, and not previously approved during the bidding, the Contractor's request for approval of any substitution shall include:

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

- .1 complete data substantiating compliance of the proposed substitution with the Contract Documents;
- .2 product identification including manufacturer's name, address, and phone number;
- .3 manufacturer's literature showing complete product description, performance and test data, and all reference standards;
- .4 samples and colors in the case of articles or products;
- .5 name and address of similar projects on which the product was used and date of installation;
- .6 for construction methods, include a detailed description for the proposed method and drawings illustrating same;
- .7 itemized comparison of proposed substitution with product or method specified and any cost reduction, which shall benefit the Owner;
- .8 accurate cost data on proposed substitution in comparison with product or method specified; and
- .9 all directions, specifications, and recommendations by manufacturers for installation, handling, storing, adjustment, and operation.

4.14.3 The Contractor shall also submit with his request for approval a sworn and notarized statement which shall include all of the following representations by the Contractor, namely that:

- .1 contractor has investigated the proposed product or method and determined that it is equal or better in all respects to that specified and that it fully complies with all requirements of the Contract Documents;
- .2 contractor will meet all contract obligations with regard to this substitution;
- .3 contractor will coordinate installation of accepted substitutions into the work, making all such changes and any required schedule adjustments, at no additional cost to the Owner, as may be required for the Work to be complete in all respects;
- .4 contractor waives all claims for additional costs and additional time related to substitutions, which consequently become apparent. Contractor also agrees to hold the Owner harmless from claims for extra costs and time incurred by other Subcontractors and suppliers, or additional services which may have to be performed Project Manager, for changes for extra work that may, at some later date, be determined to be necessary in order for the Work to function in the manner intended in the Contract Documents;
- .5 contractor will provide the same warranty and guarantee, and perform any work required in accordance therewith, for the substitution that is applicable to the specified item for which the substitution is requested;
- .6 material will be installed, handled, stored, adjusted, tested, and operated in accordance with the manufacturers' recommendation and as specified in the Contract Documents.

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

- .7 in all cases new materials will be used unless this provision is waived by notice from the Owner, or unless otherwise specified in the Contract Documents:
- .8 all material and workmanship will be in every respect in accordance with that which, in the opinion of the Owner, is in conformity with approved modern practice;
- .9 contractor has provided accurate cost data on the proposed substitution in comparison with the product or method specified.

4.14.4 Subject to the provisions of any applicable laws, approval for substitutions or equal products shall be at the sole discretion of the Owner, shall be in writing to be effective, and the decision of the Owner shall be final. The Owner may require tests of all materials proposed for substitution so submitted to establish quality standards, at the Contractor's expense. After approval of a substitution, if it is determined that the Contractor submitted defective information or data regarding the substitution upon which Owner's approval was based, and that unexpected or unanticipated extensive redesign or rework of the project will be required in order to accommodate the substitution, or that the substituted item will not perform or function as well as the specified item for which substitution was requested, the Contractor will be required to furnish the original specified item or request approval to use another substitution; the Contractor shall pay all costs, expenses or damages associated with or related to the unacceptability of such a substitution and the resultant use of another item and no time extension shall be granted for any delays associated with or related to such substitution.

4.14.5 If a substitution is approved, no change in brand or make will be permitted unless satisfactory, written evidence is presented to and approved by the Owner that the manufacturer cannot make scheduled delivery of the approved substituted item. Substitutions will not be considered for approval by the Owner if:

- .1 the proposed substitution is indicated or implied on the Contractor's shop drawing or product data submittal and has not been formally submitted for approval by the Contractor in accordance with the above-stated requirements, or
- .2 acceptance of the proposed substitution will require substantial design revisions to the Contract Documents or is otherwise not acceptable to the Owner.

4.14.6 Except as otherwise provided for by the provisions of any applicable laws, the Contractor shall not have any right of appeal from the decision of the Owner condemning any materials submitted if the Contractor fails to obtain the approval for substitution under this Article.

4.15 **USE OF SITE**

4.15.1 The Contractor shall confine operations at the site to areas provided by the Owner and as permitted by law, ordinances, permits, easements, right-of-way agreements and the Contract Documents. The Contractor shall not unreasonably encumber the site, in the opinion of the Owner with any materials, equipment or trailers, nor shall the Contractor block the entrances or otherwise prevent reasonable access to the site, other working and parking areas, completed portions of the Work and/or properties, storage areas, or areas of other facilities that are adjacent to the worksite. If the Contractor fails or refuses to move said material, equipment or trailers within 24 hours of notification by the Owner to so do, the Owner shall have the right, without further notice, to remove, at the Contractor's expense, any material, equipment and/or trailers which the Owner deems are in violation of this paragraph.

4.16 **CUTTING AND PATCHING OF WORK**

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

4.16.1 The Contractor shall be responsible for all cutting, fitting or patching that may be required to complete the Work or to make its several parts fit together properly and in accordance with the Contract Documents.

4.16.2 The Contractor shall not cut or otherwise alter the work of the Owner or any separate contractor except with the written consent of the Owner and of such separate contractor. After consent is given, the Contractor shall not damage or endanger any portion of the Work or the work of the Owner or any separate contractors in cutting, patching or otherwise altering any work, or by excavation. The Contractor shall not unreasonably withhold from the Owner or any separate contractor whose consent to cutting or otherwise altering the Work. The Owner shall not be required to accept Work with a cut, splice, or patch when such cut, splice or patch is not generally accepted practice for the particular work involved or is otherwise unworkmanlike in the opinion of the Owner.

4.16.3 Existing structures and facilities including but not limited to building, utilities, topography, streets, curbs, walks, etc., that are damaged or removed due to required excavations or other construction work, shall be patched, repaired or replaced by the Contractor to satisfaction of the Owner of such structures and facilities and authorities having jurisdiction. In event the local jurisdictional authorities require that such repairing and patching be done with their own labor and materials, the Contractor shall abide by such regulations and pay for such work.

4.17 **CLEANING UP**

4.17.1 The Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by the Contractor's operations. As a condition of Substantial Completion of the Work, the Contractor shall remove all the Contractor's waste materials and rubbish from and about the Project. Before final payment is made, the Contractor shall remove the Contractor's tools, construction equipment, machinery and surplus materials.

4.17.2 If the Contractor fails to clean up by Substantial Completion of the Work, the Owner may do so as provided in Paragraph 6.3 and the cost thereof shall be charged to the Contractor.

4.17.3 Burning of rubbish on the premises will NOT be permitted.

4.17.4 Debris shall be hauled to a place of legal disposal in a manner satisfactory to the Owner's Representative.

4.18 **COMMUNICATIONS**

4.18.1 The Contractor shall forward its communications and communications from any subcontractors to the Owner through the Project Manager, unless instructed otherwise.

4.19 **ROYALTIES AND PATENTS**

4.19.1 The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss, damages, costs or attorneys' fees on account thereof.

4.20 **INDEMNIFICATION**

4.20.1 The Contractor and Owner shall indemnify each other as provided in Article 12 of the Independent Contractor Agreement.

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

4.20.2 In any and all claims against the Owner or the Project Manager or any of their agents, representatives, or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 4.20.1 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

4.20.3 No provision of this Paragraph 4.20.1 shall give rise to any duties on the part of the Owner or the Project Manager or any of their agents, representatives, or employees.

4.21 **PERSONS AUTHORIZED TO SIGN DOCUMENTS**

4.21.1 The Contractor, within five (5) days after the date of the Independent Contractor Agreement, shall file with the Owner, a list of all persons who are authorized to sign documents such as contracts, certificates, and affidavits on behalf of the Contractor and to fully bind the Contractor to all the conditions and provisions of such documents in the event those persons are different from the Independent Contractor Agreement signatures.

4.22 **CONDITIONS AFFECTING THE WORK**

4.22.1 The Contractor shall be responsible for taking all steps necessary to ascertain the nature and location of the Work and the general and local conditions, which can affect the Work or the cost thereof. Failure by the Contractor to become fully acquainted with conditions which may affect the Work, including, but not limited to conditions relating to transportation, handling, storage of materials, availability of labor, water, roads, weather, topographic and subsurface conditions, multi-prime contract conditions, applicable provisions of law, and the character and availability of equipment and facilities needed prior to and during the execution of the Work, shall not relieve the Contractor of the Contractor's responsibilities under the Contract Documents and shall not constitute a basis for an adjustment in the Contract Sum or the Contract Time under any circumstances. The Owner assumes no responsibility for any understanding or representation about conditions affecting the Work made by any of the Owner's officers, employees, representatives, or agents prior to the execution of the Contract, unless such understandings or representations are expressly stated in the Contract Documents.

4.22.2 If in the execution of the Work any valuable or historical items or materials of any kind are discovered within the work, such items or materials shall be the property of the Owner. The Contractor shall take reasonable precautions to prevent any persons from removing or damaging such items or materials and shall immediately upon discovery thereof and before removal, acquaint the Owner with such discovery and carry out the Owner's orders as to disposal of the same.

4.22.3 The cost associated with any required temporary utilities, e.g., phone, water, power and sanitary have been included in Contractor's bid and are to be borne by the Contractor.

4.23 **AUDIT REQUIREMENTS**

If requested by the Owner, the Contractor shall maintain such records and accounts, including property, personnel and financial records to ensure proper accounting for all funds expended under the Agreement. Said records shall be made available, upon request, for audit purposes to Barefoot Bay Recreation District and its auditors at all reasonable times during the term of this Agreement and for three (3) years from date of final payment.

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

END OF ARTICLE 4

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

ARTICLE 5

SUBCONTRACTORS

5.1 DEFINITION

- 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform any of the Work at the site. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or its authorized representative. The term Subcontractor does not include any separate contractor or that Contractor's subcontractors.
- 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform any of the Work at the site. The term Sub-subcontractor is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative thereof.
- 5.1.3 Nothing contained in the Contract Documents is intended to, nor shall it create, any contractual relationship between the Owner, the Project Manager, or any of their agents, consultants, employees, independent contractors, or representatives and any Subcontractor, Sub-subcontractor, supplier or vendor of the Contractor, but the Owner shall be entitled to performance of all obligations intended for the Owner's benefit, and to enforcement thereof.
- 5.1.4 The Owner and Project Manager will not deal directly with any Subcontractor or Sub-subcontractor or materials supplier. Communication will be made only through the Contractor. Subcontractor, Sub-subcontractors or material suppliers shall route requests for information or clarification through the Contractor to the Project Manager with copies to the Owner.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF WORK

- 5.2.1 The Contractor has identified subcontractors which will be performing work in Contractor's Response to the Request for Proposal. The Owner consents to the use of subcontractors identified by the Contractor in the Response to Proposal. The Contractor shall provide advance notice of any a subcontractor which will perform work not previously identified in its Response to Request for Proposal to the Project Manager prior to said subcontractor performing work.
- 5.2.2 The Contractor shall not contract with any such proposed person or entity to which the Owner makes reasonable objection.
- 5.2.3 If the Owner has reasonable objection to any proposed person or entity under Subparagraph 5.2.1, the Contractor shall name a substitute to whom the Owner has no reasonable objection.
- 5.2.4 **(NOT APPLICABLE)** If the Owner requires a change of any proposed Subcontractor or person or organization previously accepted by the Owner, except for reasons stated in 5.2.3, the Contract Sum shall be increased or decreased by the difference in cost occasioned by such change and an appropriate Change Order shall be issued, subject to an audit by Owner.
- 5.2.5 The Contractor shall make no substitution for any Subcontractor, person or entity previously selected if the Owner makes reasonable objection to such substitution.

5.3 SUBCONTRACTUAL RELATIONS

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

5.3.1 By an appropriate written agreement the Contractor shall require each subcontractor, to the extent of the Work to be performed by the subcontractor, to be bound to the Contractor by the terms of these Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner. Said agreement shall preserve and protect the rights of the Owner under the Contract Documents with respect to the Work to be performed by the subcontractor so that the subcontracting thereof will not prejudice Owner's rights. Contractor shall also provide each subcontractor with a copy of the payment bond required by this Agreement, and with notice that (1) claims under such bond should be made in conformance with Section 255.05, Florida Statutes, and (2) subcontractor should not execute Waivers of Claim under such bond unless the subcontractor has, in fact, been paid. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with his sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this Paragraph, and identify to the Subcontractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Documents available to his Sub-subcontractors.

5.3.2 The provisions herein regarding Subcontractor approvals shall in no way affect the liability of the Contractor to the Owner regarding performance of all obligations by or payment of Subcontractors. Approval to subcontract and of any given Subcontractor shall not to any degree relieve the Contractor of the Contractor's obligation to perform or have performed to the full satisfaction of the Owner all of the work required by this Contract.

5.4 **QUALIFICATION SUBMITTALS (NOT APPLICABLE)**

5.4.1 **(NOT APPLICABLE)** Specific qualification submittals, in addition to those set forth in the Bid Documents, may be required of Subcontractors, installers and suppliers for certain critical items of the Work. These required qualification submittals are set forth in detail in the Technical Specifications and shall be collected and submitted by the Contractor for review and approval by the Project Manager. All information required of a single Subcontractor, installer or supplier shall be contained in a single, complete submittal. The Contractor shall submit the required qualification information within ten (10) days after receipt of the Project Manager's request.

5.4.2 **(NOT APPLICABLE)** The Owner may reject any proposed Subcontractor, installer or supplier, or any qualification submittals related thereto, for the following reasons:

- .1 the Contractor's failure to submit requested information within the specified time; or
- .2 the Contractor's failure to provide all of the requested information; or
- .3 the Contractor's submission of a Subcontractor, installer or supplier, or qualifications thereof, which are unacceptable in the judgment of the Owner, the Construction Program Manager, or Project Manager.

5.4.3 **(NOT APPLICABLE)** Should the Owner or the Project Manager have reasonable objection to any proposed Subcontractor, installer or supplier, the Contractor shall submit another firm for approval by the Owner or Project Manager.

5.5 **PREPARATORY WORK**

5.5.1 Before starting any Section of Work, the responsible Subcontractor shall carefully examine all preparatory work that has been executed to receive the Subcontractor's work. The Subcontractor shall check carefully, by whatever means are required, to ensure that the Subcontractor's work and adjacent related work will finish to proper contours, planes and levels. The Subcontractor shall promptly notify the

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

Contractor and the Owner of any defects or imperfections in preparatory work, which will, in any way, affect satisfactory completion of his Work. Absence of such notification will be construed as an acceptance of preparatory work and later claims of defects therein will not be recognized.

5.5.2 Under no condition shall a Section of Work proceed prior to preparatory work having been completed, cured, dried, and otherwise made satisfactory to receive such related work. Responsibility for timely installation of all materials rests solely with the Contractor, who shall maintain coordination control at all times.

END OF ARTICLE 5

**Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades**
Project Numbers: TLC Engineering Solutions Project No. 519101

ARTICLE 6

WORK BY OWNER OR BY SEPARATE CONTRACTORS

6.1 OWNER'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS

6.1.1 The Owner reserves the right to perform work related to the Project, including work proposed under a change order, with the Owner's forces, and to award separate contracts in connection with other portions of the Project or other work on the site under these or similar Conditions of the Contract.

6.1.2 When separate contracts are awarded for different portions of the Project or other work on the site, the term Contractor in the Contract Documents in each case shall mean the Contractor who executes each separate Independent Contractor Agreement.

6.2 MUTUAL RESPONSIBILITY

6.2.1 The Contractor shall afford other contractors and the Owner reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall properly connect and coordinate the Work with that of the Owner and other contractors, and to store the Contractor's apparatus, materials, supplies and equipment in such orderly fashion at the site of the Work as will not unduly or unreasonably interfere with the progress of the Work or the work of any other contractors.

6.2.1.1 If the execution or result of any part of the Work depends upon any work of the Owner or of any separate contractor, the Contractor shall, prior to proceeding with the Work, inspect and promptly report to the Owner in writing any apparent discrepancies or defects in such work of the Owner or of any separate contractor that render it unsuitable for such proper execution or result of any part of the Work.

6.2.1.2 Failure of the Contractor to so inspect and report shall constitute an acceptance of the Owner's or separate contractor's work as fit and proper to receive the Work, except as to defects which may develop in the Owner's or separate contractor's work after completion of the Work and which the Contractor could not have discovered by its inspection prior to completion of the Work.

6.2.2 Should the Contractor cause damage to the work or property of the Owner or of any separate contractor on the Project, or to other work on the Site, or delay or interfere with the Owner's work on ongoing operations or facilities or adjacent facilities or said separate contractor's work, the Contractor shall be liable for the same; and, in the case of another contractor, the Contractor shall attempt to settle said claim with such other contractor prior to such other contractor's institution of litigation or other proceedings against the Contractor.

6.2.2.1 If such separate contractor sues the Owner or Project Manager on account of any damage, delay or interference caused or alleged to have been caused by the Contractor, the Owner shall notify the Contractor, and the Contractor shall defend the Owner and Project Manager in such proceedings at the Contractor's expense. If any judgment or award is entered against the Owner or Project Manager, the Contractor shall satisfy the same and shall reimburse the Owner and Project Manager for all damages, expenses, attorneys' fees and other costs which the Owner or Project Manager incurs as a result thereof.

6.2.3 Should a separate contractor cause damage to the Work or to the property of the Contractor, or cause delay or interference with the Contractor's performance of the Work, the Contractor shall present directly to said separate contractor any claims it may have as a result of such damage, delay or interference (with an information copy to the Owner) and shall attempt to settle its claim against said separate contractor

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

prior to the institution of litigation or other proceedings against said separate contractor.

6.2.3.1 In no event shall the Contractor seek to recover from the Owner or the Project Manager, and the Contractor hereby warrants to the Owner and Project Manager that it will not seek to recover from them, or any of them, any costs, expenses (including, but not limited to, attorney's fees) or damages or other losses incurred by the Contractor as a result of any damage to the Work or property of the Contractor or any delay or interference caused by any separate contractor.

6.2.3.2 In order to carry out the intent of this Article 6, Contractor agrees that privity of contract exists between Contractor and any separate contractor, as defined herein, for the purpose of disposing of the liabilities or obligations which are imposed upon said parties to each other hereunder; and Contractor agrees to accept service of process and to sue and be sued in Contractor's own name in any litigation which may arise hereunder between Contractor and any separate contractor.

6.2.4 Whenever Contractor receives items from another Contractor or from Owner for storage, erection or installation, the Contractor receiving such items shall give receipt for items delivered, and thereafter will be held responsible for care, storage and any necessary replacing of item or items received.

6.2.5 When certain items of equipment and other work are indicated as "NIC" (not in contract), or to be furnished and installed under other contracts, any requirements for preparation of openings, provision of backing, etc., for receipt of such "NIC" work will be furnished upon written request of the Contractor who shall properly form and otherwise prepare the Contractor's work in a satisfactory manner to receive such "NIC" work.

6.3 **OWNER'S RIGHT TO PERFORM DISPUTED WORK**

6.3.1 If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up as required by Paragraph 4.17, or for accomplishing coordination, or doing required cutting, filling, excavating or patching as required by Paragraph 4.16, the Owner may carry out such Work and charge the cost thereof to the contractors responsible therefor as the Owner shall determine to be just. Such determination shall be final.

6.4 **COORDINATION OF THE WORK**

6.4.1 By entering into this contract, Contractor acknowledges that there may be other contractors on the site whose work will be coordinated with that of the Contractor's work. The Contractor expressly warrants and guarantees that the Contractor will cooperate with other contractors and will do nothing to delay, hinder or interfere with the work of other separate contractors or the Owner. The Contractor also expressly agrees that, in the event the Contractor's work is hindered, delayed, interfered with or otherwise affected by a separate contractor, the Contractor's sole remedy will be a direct action against the separate contractor as described in this Article 6. Contractor will have no remedy, and hereby expressly waives and releases any remedy, against the Owner or Project Manager on account of delay, hindrance, interference or other event caused by a separate contractor.

END OF ARTICLE 6

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

ARTICLE 7

MISCELLANEOUS PROVISIONS

7.1 GOVERNING LAW

- 7.1.1 Unless otherwise provided in the Contract Documents, the Contract shall be governed by the laws of the State of Florida. The sole and exclusive venue for any litigation arising from or related to this Contract, shall be in Brevard County, Florida.

7.2 SUCCESSORS AND ASSIGNS

- 7.2.1 The Owner and the Contractor each binds themselves, their partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents. The Contractor shall not assign the Contract or sublet it as a whole without the written consent of the Owner, nor shall the Contractor assign any moneys due or to become due hereunder, without the previous written consent of the Owner and the Contractor's Surety.

7.3 CLAIMS AND DISPUTES

- 7.3.1 **Definition:** A claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be made by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.
- 7.3.2 **Decision of Architect:** Claims, including those alleging an error or omission by the Architect, shall be referred initially to the Architect for action. Notice of Claim as required herein shall be required as a condition precedent to litigation of a Claim between the Contractor and the Owner as to all such matters arising prior to the date final payment is due, regardless of (1) whether such matters relate to execution and progress of the Work, or (2) the extent to which the Work has been completed.
- 7.3.3 **Time Limits on Claims:** Claims by either party must be made within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice. An additional Claim made after the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.
- 7.3.4 **Continuing Contract Performance:** Pending final resolution of a Claim, unless otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.
- 7.3.5 **Non-Waiver of Claims:** The making of final payment **shall not** constitute a waiver of any claims by the Owner against the Contractor.
- 7.3.6 **Claims for Concealed or Unknown Conditions:** If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents, or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

other party promptly before conditions are disturbed. The Owner will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Contract Documents, and that no change in the terms of the Contract is justified, the Owner shall so notify the Contractor in writing stating the reasons. If the Owner and the Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for final determination.

7.3.7 **Claims for Additional Cost:** If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property. If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Architect, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds. Claim shall be filed in accordance with the procedure established herein.

7.3.8 **Claims for Additional Time:** If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

7.3.8.1 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled construction.

7.3.9 **Injury or Damage to Person or Property:** If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, excluding claim for damage from delay, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding twenty one (21) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Subparagraphs 7.3.7 and 7.3.8.

7.4 **PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND**

7.4.1 The Contractor shall furnish bonds, on the bond form provided in this document, covering the faithful performance of the Contract and the payment of all obligations and damages arising thereunder whether same be direct or indirect, real or consequential in a form and with a surety satisfactory to the Owner. It is expressly agreed that the Surety shall be responsible for any delay or liquidated damages assessed against Contractor.

7.4.2 The Contractor is required to furnish a Performance Bond and a Labor and Material Payment Bond, in a form which is in compliance with Sec. 255.05, Florida Statutes, each in the amount of one-hundred percent (100%) of the Contract sum, and recorded in the public records of Brevard County, such bonds and Notice of Commencement within five (5) days of Notice to Proceed. No work shall commence onsite until these documents are submitted and approved by the Owner. A copy of the payment bond and notice

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

of payment bond issues shall be provided to each subcontractor as described in paragraph 5.3.1, herein.

7.5 RIGHTS AND REMEDIES

7.5.1 The duties and obligations of the Contractor imposed by the Contract Documents and the rights and remedies of the Owner available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

7.5.2 Except as may be specifically agreed in writing, the failure of the Owner or the Project Manager to insist in any one or more instances upon the strict performance of any one or more of the provisions of this Contract, or to exercise any right herein contained or provided by law, shall not be construed as a waiver or relinquishment of the performance of any other provisions or right(s), or of the right to subsequently demand such strict performance or exercise such right(s), and the rights shall continue unchanged and remain in full force and effect.

7.5.3 The Contractor agrees that the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the Owner. The Contractor hereby agrees that no default, act, or omission of the Owner or the Project Manager, except for failure to make progress payments as required by the Contract Documents, shall constitute a material breach of the Contract entitling the Contractor to cancel or rescind the provisions of this Contract, or (unless the Owner shall so consent or direct in writing) to suspend or abandon performance of all or any part of the Work.

7.6 TESTS

7.6.1 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested, or approved, the Contractor shall give the testing agency, Owner and Project Manager timely notice of its readiness so the Project Manager and the Owner may observe such inspection, testing or approval. The Contractor shall bear all costs of such inspections, tests or approvals conducted by public authorities. Unless otherwise provided, the Owner shall bear all costs of other inspections, tests or approvals.

7.6.1.1 Unless otherwise stipulated in other Contract Documents, the Contractor shall pay for all utilities required for testing of installed equipment of all of the Contractor's work and work of each Subcontractor. Boiler fuel other than gas shall be provided by Subcontractor furnishing boilers. Labor and supervision required for making such tests shall be provided at no additional cost to the Owner.

7.6.2 If the Owner and/or Project Manager determine that any Work requires special inspection, testing, or approval which Subparagraph 7.6.1 does not include, the Owner will instruct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as provided in Subparagraph 7.6.1. If such special inspection or testing reveals a failure of the Work to comply (1) with the requirements of the Contract Documents, or (2) with respect to the performance of the Work, with laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction, the Contractor shall bear all costs thereof, including compensation for the Owner's and Project Manager's additional services made necessary by such failure.

7.6.3 Inspections and tests required to establish compliance with Contract Documents, as provided for in the Contract Documents, will be made by a pre-qualified, independent testing agency selected by the Owner. The cost of the initial services of such agency will be paid by the Owner. When the initial tests indicate non-compliance with the Contract Documents, any subsequent testing occasioned by non-compliance shall be performed by the same agency and the cost thereof shall be borne by the Contractor. Representatives of the testing agency shall have access to the Work at all times. The Contractor shall

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

provide facilities for such access in order that the agency may properly perform its functions.

7.6.4 The independent testing agency, employed by the Owner, shall prepare the test reports, logs, and certificates applicable to the specific inspections and tests and promptly deliver the specified number of copies to the designated parties. Certificates of inspection, testing or approval required by public authorities shall be secured by the Contractor and promptly delivered to the Owner, in adequate time to avoid delays in the Work or final payment therefor.

7.6.5 The Contractor shall pay for and have sole responsibility for inspections or testing performed exclusively for the Contractor's own convenience.

7.7 **FIELD ENGINEERING (NOT APPLICABLE)**

A. **(NOT APPLICABLE)** Contractor shall provide and pay for field engineering services required for the project.

1. Survey work required in the execution of the project.
2. Civil, structural or other professional engineering services specified, or required to execute contractor's construction methods.

B. **(NOT APPLICABLE)** The Contractor shall retain the services of a registered land surveyor licensed in the State of Florida to identify existing control points and property line corner stakes indicated on the drawings, as required.

C. **(NOT APPLICABLE)** Qualifications of Surveyor or Engineer:

1. Qualified engineer or land surveyor, acceptable to the Owner and Engineer.
2. Locate and protect control points prior to starting site work, and preserve all permanent reference points during construction.
3. Make no changes or relocations without prior written notice to the Engineer, and report to the Engineer when any reference point is lost or destroyed, or required relocation because of necessary changes in grades or locations.
4. Require surveyor to replace Project control points, which may be lost or destroyed. Establish replacements based on original survey control.

D. **(NOT APPLICABLE)** Project Survey Requirements:

1. Contractor shall have surveyor/engineer establish a minimum of two permanent benchmarks on the site, referenced to data established by survey control points.
2. Contractor shall have surveyor/engineer record locations, with horizontal and vertical data, on Project Record Documents. Establish lines and levels, locate and layout, by instrumentation and similar means.
3. Contractor shall furnish three (3) sealed copies of final certified as-built, showing location of project, pervious surfaces, topography and retention areas at a minimum.

7.8 **UNENFORCEABILITY OF ANY PROVISION**

7.8.1 If any provision of this Contract is held as a matter of law to be unenforceable, against public policy or unconscionable, the remainder of the Contract shall be enforceable without such provision.

7.9 **ATTORNEYS' FEES AND OTHER EXPENSES**

7.9.1 In the event that any legal or equitable action is brought by either party to enforce the terms of this Agreement, the prevailing party shall be entitled to recover all attorney's fees and costs associated with

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

the bringing such action.

7.10 **MISCELLANEOUS REQUIREMENTS**

Hard hats will be required at construction site in this Contract from start to completion of work. Each contractor, employee, and visitor at the construction site in this Contract will be required to wear a hard hat. The Contractor shall enforce the wearing of hard hats by contractors, employees and visitors. The Contractor shall post notice of "Hard Hat Area".

END OF ARTICLE 7

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

ARTICLE 8

TIME

8.1 DEFINITIONS

- 8.1.1 Unless otherwise provided, the Contract Time is the period of time allotted in the Contract Documents for Final Completion of the Work, as defined in Subparagraph 8.1.4, including adjustments under written change orders, if any. The Contractor shall complete the Work within the Contract Time.
- 8.1.2 **The date of commencement of the Work is the date of the NOTICE TO PROCEED. The Contractor shall not mobilize, commence Work or store materials or equipment on site until: (1) written NOTICE TO PROCEED is issued; (2) all Bonds and Certificates of Insurance have been executed, delivered to and accepted by the Owner; and (3) Contractor has delivered to Owner the Contractor's as-planned schedule, original job cost estimate, list of sub-contractors and corporate resolution designating the Contractor's representative.**
- 8.1.3 The Date of Substantial Completion of the Work is the Date certified by the Project Manager when the Work is sufficiently complete, in accordance with the Contract Documents, so the Owner can take beneficial occupancy and use the Work for the use for which it is intended, with all of the Project's parts and systems operable as required by the Contract Documents, and with only incidental corrective work and any final cleaning beyond that needed for the Owner's full use.
- 8.1.4 The date of Final Completion of the Work is the date certified by the Project Manager when the Work is totally complete, to include all items listed on the inspection report following substantial completion inspection, in accordance with the Contract Documents, and the Owner may fully occupy and use all of the Work for the use for which it is intended.

8.2 PROGRESS AND COMPLETION

- 8.2.1 All time limits stated in the Contract Documents are of the essence of the Contract.
- 8.2.2 The Contractor shall begin the Work on the date of commencement as defined in Subparagraph 8.1.2. The Contractor shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion and Final Completion within the time frames stated in the Contract Documents.

8.2.3 SPECIFIC DATES

The schedule below contains certain specific dates in addition to date of Notice to Proceed and Time for Substantial and Final Completion. These dates shall be adhered to and are the last acceptable dates unless modified, in writing, by mutual agreement between the Contractor and the Owner. All dates indicate midnight unless otherwise stipulated. The only exceptions to this schedule are defined in paragraph 8.3, DELAYS AND EXTENSIONS OF TIME.

Activity

- | | | |
|----|------------------------|--|
| A. | Permit(s) Application: | Thirty (30) days from execution of this Agreement by Contractor and Owner. |
| B. | Site Work Begin: | Ten (10) days after Permit Issuance. |

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

- C. Substantial Completion: One Hundred and Eighty (180) days from the date of Permit Issuance.
- D. Final Completion: Fourteen (14) calendar days from the Substantial Completion date.

8.3 DELAYS AND EXTENSIONS OF TIME

- 8.3.1 The time during which the Contractor is delayed in the performance of the Work, by the acts or omissions of the Owner or the Project Manager or their employees or agents, acts of god, unusually severe **and** abnormal climatic conditions, fires, epidemics, pandemics, quarantine restrictions, strikes, riots, civil commotions or freight embargoes, or other conditions beyond the Contractor's control and which the Contractor could not reasonably have foreseen and provided against, shall be added to the time for completion of the Work (i.e., the Contract Time) stated in the Agreement; provided, however, that no claim by the Contractor for an extension of time for delays will be considered unless made in compliance with the requirements of this Article and other provisions of the Contract Documents. Contractor agrees that a change in the Contract Time may only be authorized by a written Change Order authorized and executed by the Project Manager or Barefoot Bay Recreation District Board of Trustees. No person has authority to orally, or in writing, grant any change in the Contract Time except as stated herein. *See* Articles 4.5, 4.6 and 4.7 of the Independent Contractor Agreement.
- 8.3.2 Neither the Owner nor the Project Manager shall be obligated or liable to the Contractor for, and the Contractor hereby expressly waives and releases, any claims against the Owner and the Project Manager on account of any indirect or direct damages, costs or expenses of any nature which the Contractor, its Subcontractors, or Sub-subcontractors, or any other person may incur as a result of any delays, interferences, changes in sequence or the like, which are reasonable, foreseeable, contemplated, or avoidable by Contractor, arising from or out of any act or omission of the Owner or its agents, employees, consultants, independent contractors or any governmental representative. The Contractor's sole and exclusive remedy, in any such events, shall be an extension of the Contract Time, as determined under the provisions of these Contract Documents.
- 8.3.3 The Contract Time shall be adjusted only under Paragraph 12.1. Contract Time may only be adjusted if the work is suspended pursuant to Paragraph 3.4 or the Contractor has experienced an excusable delay described in Subparagraphs 8.3.1 and 8.3.4. To request an extension of the Contract Time, the Contractor shall furnish such justification and supporting evidence as the Owner may deem necessary for a determination of whether or not the Contractor is entitled to an extension of time under the provisions of the Contract, and shall further conform to all of the requirements set forth below. The burden of proof to substantiate a claim for an extension of the Contract Time shall rest with the Contractor, including evidence that the cause was beyond the Contractor's control. If the Owner finds that the Contractor is entitled to any extension of the Contract Time, determination and all relevant data will be incorporated into the schedule in the first update after an Agreement is reached. The Contractor acknowledges and agrees that actual delays in activities, which, according to the schedule, do not affect the Contract Time, will not be the basis for a change in Contract Time. The Contractor acknowledges and agrees that contract time extensions will be granted only to the extent that excusable delays exceed the available float in the Contractor's schedule. The Contractor acknowledges and agrees that all available float in the Contractor's schedule belongs to the Owner and may be utilized, without additional cost, by the Owner.
- 8.3.3.1 When change orders or delays are experienced by the Contractor and the Contractor requests an extension of time, the Contractor shall submit to the Owner a written Time Impact Analysis illustrating the influence of each change or delay on the current contract schedule completion date. Each Time Impact Analysis shall include a fragnet demonstrating how the Contractor proposes to incorporate the change

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

order or delay into the Project Schedule. A fragnet is defined as a sequence of new activities and/or activity revisions that are proposed to be added to the existing schedule to demonstrate the influence of delay and the method for incorporating delays and impacts into the schedule as they are encountered.

- 8.3.3.2 Each Analysis shall demonstrate the estimated time impact based on the events of delay, the date the change was given to the Contractor, the status of construction at that point in time, and the event time computation of all activities effected by the change or delay. The event times used in the analysis shall be those included in the latest update of the Project Schedule or as adjusted for the events of delay.
- 8.3.3.3 Time extensions will be granted only to the extent that equitable time adjustments for the activity or activities affected exceed the total or remaining float along the path of activities at the time of actual delay or at the time notice to proceed was issued for a change. Each Time Impact Analysis shall be submitted within ten (10) calendar days after a delay occurs or notice of direction for proceeding with a change order is given to the Contractor. In cases where the Contractor does not submit a Time Impact Analysis for a specific change order or delay within the specified period of time, the Contractor shall be deemed to have irrevocably waived its rights to any additional time and cost.
- 8.3.3.4 Approval or rejection of each Time Impact Analysis by the Owner shall be made, in writing, within fifteen (15) calendar days after receipt of each Time Impact Analysis, unless subsequent meetings and negotiations are necessary. Upon approval by change order, a copy of a Time Impact Analysis shall be returned to the Contractor for incorporation into the schedule.
- 8.3.3.5 Upon mutual agreement by both parties, fragnets illustrating the influence of change orders and delays shall be incorporated into the Project Schedule during the first update after agreement is reached.
- 8.3.3.6 Extensions in the Contract Time and Change Orders are subject to extension-in-time audit by the Owner or Project Manager at the discretion of the Owner.

The Contractor agrees that, even though the Owner, Contractor and Project Manager have previously signed a Change Order containing an extension-in-time resulting from a change in or addition to the Work that said extension in the Contract Time may be adjusted by an audit after the fact by the Project Manager. If such an audit is to be made, the Project Manager must undertake the audit and make a ruling within thirty (30) days after the completion of the Work under the Change Order.

The Contractor agrees that any extension of the Contract Time to which the Contractor is entitled arising out of a change order undertaken on a force accounting (labor and materials) basis, shall be determined by an extension-in-time audit by the Owner after the Work of the change order is completed. Such rulings shall be made by the Owner within thirty (30) days after a request for same is made by the Contractor, except said thirty (30) days will not start until the Work under the Change Order is completed.

- 8.3.4 Subject to other provisions of the Contract, the Contractor may be entitled to an extension of the Contract Time (but no increase in the Contract Sum) for delays arising from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, Subcontractors or suppliers as follows:
- .1 labor disputes and strikes (including strikes affecting transportation), that do, in fact, directly and critically affect the progress of the Work; however, an extension of Contract Time on account of an individual labor strike shall not exceed the number of days of said strike:
 - .2 acts of God, tornado, fire, hurricane, blizzard, earthquake, or typhoon that damage completed work or stored materials:

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

- .3 unusually severe and abnormal inclement weather; however, the Contract Time will not be extended due to normal inclement weather. The time for performance of this Contract, as stated in the Contract Documents, includes an allowance for calendar days, which may not be available for construction out-of-doors. For the purposes of this Contract, the Contractor agrees that this allowance of calendar days per month is to be considered as normal inclement weather. Unless the Contractor can substantiate to the satisfaction of the Owner that there was greater than normal inclement weather considering the full term of the Contract Time using a ten year average of accumulated record mean values from climatological data compiled by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration for the locale of the Project, and that such alleged greater than normal inclement weather actually delayed the Work or portions thereof which had an effect upon the Contract Time, the Contractor shall not be entitled to an extension of time. If the total accumulated number of calendar days lost due to inclement weather, from the start of Work until Substantial Completion, exceeds the total accumulated number to be expected for the same period from the aforesaid table, time for completion will be extended by the number of calendar days needed to include the excess number of calendar days lost.
- .4 acts of the public enemy, acts of the state, Federal or local government in its sovereign capacity, and acts of another contractor in the performance of a contract with the Owner relating to the Project.
- .5 Effects of COVID-19 or any applicable governmental responses to the same. *See* Articles 4.5, 4.6 and 4.7 of the Independent Contractor Agreement.

8.3.5 The Contractor shall not be entitled to and hereby expressly waives any extension of time resulting from any condition or cause unless said claim for extensions of time is made in writing to the Owner and Project Manager within ten (10) days of the first instance of delay. Circumstances and activities leading to such claim shall be indicated or referenced in a daily field inspection report for the day(s) affected; otherwise, all such claims are waived and released by the Contractor. In every such written claim, the Contractor shall provide the following information:

- .1 Nature of the delay;
- .2 Date (or anticipated date) of commencement of delay;
- .3 Activities on the progress schedule affected by the delay, and/or new activities created by the delay and their relationship with existing activities; (Fragnet)
- .4 Identification of person(s) or organization(s) or event(s) responsible for the delay;
- .5 Anticipated extent of the delay; and
- .6 Recommended action to avoid or minimize the delay.

8.3.6 No change in Contract Sum will be authorized because of adjustment of Contract Time due to unusually severe and abnormal, inclement weather (tornado, hurricane, typhoon or flood).

8.3.7.1 If the said Contractor shall neglect, fail or refuse to complete the Work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part consideration for the awarding of this contract, to pay the Owner the amount specified in Article 4.4 of the Independent Contractor Agreement, not as a penalty but as liquidated damages for such breach of

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the work.

8.3.7.2 The Liquidated Damages amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain.

END OF ARTICLE 8

**Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades**
Project Numbers: TLC Engineering Solutions Project No. 519101

ARTICLE 9

PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

9.1.1 The Contract Sum is stated in the Independent Contractor Agreement and, including change orders thereto, is the total amount payable by the Owner to the Contractor for the Performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

9.2.1 The Contractor's Schedule of Values submitted with its Response to Proposal shall be used as a basis for the Contractor's Applications for Payment and only for this purpose.

9.3 PAYMENTS TO THE CONTRACTOR

9.3.1 All requests for monthly payments must be submitted, in triplicate, one (1) original and two (2) copies on AIA Form G702, 1992 edition, to John Coffey, Community Manager, Barefoot Bay Recreation District, 625 Barefoot Blvd., Barefoot Bay, FL 32976. Upon acceptance of complete and correct AIA Form G702, 1992 edition and all releases of liens, payment will be made in accordance with Article 6 of the Independent Contractor Agreement and with Sec. 218.735, Florida Statutes.

9.3.2 The Contractor is required to pay all money due subcontractors and material dealers promptly. Each application for payment issued by the Contractor shall contain an affidavit which states "This is to certify that all subcontractors supplying services or items provided under previous Certificates for Payment are paid."

In addition, **NOTARIZED, ORIGINAL, "Waivers of Rights Against Payment Bond" will be required from all subcontractors, material suppliers and vendors (whether BBRD was sent a "Notice to Owner" or not) with each monthly payment request which waives any claim the subcontractor, supplier or vendor might have against the payment bond through the previous month's pay request.**

1. A Waiver of Rights Against Payment Bond must be submitted for anyone that has delivered materials or performed a service during the prior month's payment application period.
2. If a supplier/subcontractor/materialman **did not** provide materials or services for the period covered by the prior month's payment application period, the Contractor will be required to provide the following to the Owner:
 - A. a "certified", notarized list, including a statement that no deliverables have been received or services performed in the prior payment application period for the following:
 - I. anyone that has submitted a Notice to Owner during any prior month's payment application period;
 - II. suppliers/subcontractors/materialmen that submitted a Partial Waiver in a prior month's payment application period.
 - B. The Contractor shall provide such "certified", notarized list until a Final Waiver of Rights

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

Against Payment Bond is received.

- C. If a supplier/subcontractor/materialmen submits an affidavit which contradicts the Contractor's assertion that no deliverables or services were provided, a Waiver will be required.

The General Contractor shall inform subcontractors not to execute Affidavit of Payments unless the subcontractor has in fact been paid.

- 9.3.3 **Waiver's of Claims:** Upon completion of the Contract and **before final payment is made**, the Contractor shall submit **notarized, original final Waivers of Rights Against Payment Bond**, satisfactory to the Owner's representative, certifying all payrolls, material bills, suppliers bills and other indebtedness incurred by the Contractor in connection with the construction of the project have been paid in **full**.

9.4 APPLICATIONS FOR PAYMENT

- 9.4.1 Prior to the date for each progress payment established in the Independent Contractor Agreement, the Contractor, in accordance with the provisions herein, shall submit to the Project Manager, in the form specified by the Owner, an itemized Application for Payment. This Application shall be notarized, supported by such data substantiating the Contractor's right to payment as the Project Manager or Owner may require, including but not limited to, the Contractor's certification that all work for which payment is requested has been completed in full in accordance with the Contract Documents, and reflecting retainage, if any, as provided elsewhere in the Contract Documents. The Contractor shall also swear to and certify that the Contractor has paid all due and payable amounts due to subcontractors and material suppliers for which previous certificates for payment were issued and payments received from the Owner.

- 9.4.2 The Owner will hold retainage in accordance with Florida Statutes on the amount of all progress payments until acceptance and Final Completion of the Work, whether or not the Owner has occupied any or all of the Project before such time.

- 9.4.3 Payments **may** be made by the Owner at Owner's discretion, on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site by the Contractor. Payments for materials or equipment stored on the site shall only be considered upon submission by the Contractor of satisfactory evidence (for example, releases or paid invoices from the Seller) that the Contractor has acquired title to such material, an itemized inventory of materials and certification that the materials will be utilized on the Work under this Contract and that it is satisfactorily stored, protected, and insured or that other procedures satisfactory to the Owner that will protect the Owner's interests have been taken. Materials once paid for by the Owner become the property of the Owner and may not be removed from the work site without the Owner's written permission.

- 9.4.3.1 Owner will be under no obligation to make payment to the Contractor on account of materials or equipment not incorporated in the Work but delivered and stored at the site unless the Contractor, in the Contractor's Schedule of Values, includes line items for such delivered and stored materials or equipment.

- 9.4.3.2 It is specifically understood and agreed that an inspection of the materials by the Owner and/or the Project Manager, or any agency retained by any of them, shall not in any way subject the Owner to pay for the inspected materials, or any portion thereof, even though incorporated in the Work, if the inspected materials shall in fact turn out to be unfit to be used in the Work, nor shall such inspection be considered as any waiver of objection to the Work on account of the unsoundness or imperfection of the material

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

used.

9.4.3.3 Unless otherwise provided for elsewhere in the Contract Documents, no payments will be made for any materials or equipment stored off or away from the Work Site.

9.4.4 The Contractor warrants that title to all Work, materials and equipment covered by an Application for Payment will pass to the Owner either by incorporation in the construction or upon the receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in this Article 9 as "liens"; and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor, or by any other person performing Work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

9.5 PROCESSING PAYMENT

9.5.1 The Project Manager will, after receipt of the Contractor's Application for Payment, either notify the Contractor in writing of reasons for withholding a payment, or processing payment on behalf of owner as provided herein.

9.5.2 The Contractor shall be entitled to progress payments only as determined from the currently approved and updated schedule.

The submission of Superintendent Daily Reports and evidence of up-to-date as-built documents shall also be a condition precedent of the processing and payment of any Application for Payment.

9.6 PROGRESS PAYMENTS

9.6.1 After a **complete and properly submitted** Certificate for Payment has approved by the Project Manager, the Owner shall make payment in a manner consistent with Article 6 of the Independent Contractor Agreement and the Florida Prompt Payment Act (Sec. 218.735, Florida Statutes).

9.6.2 The Contractor shall promptly pay each Subcontractor (including suppliers, laborers, and material suppliers) performing labor or furnishing material for the Work out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's Work. The Contractor shall, by an appropriate agreement with each Subcontractor, also require each Subcontractor to make payments to his Sub-subcontractors in similar manner.

9.6.3 The Owner may, on request and at its discretion, furnish to any subcontractor information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the Project Manager on account of Work done by such subcontractor.

9.6.4 Neither the Owner and/or the Project Manager shall have any obligation to pay or to see to the payment of any monies to any subcontractor or materialman.

9.6.5 No Certificate for a progress payment, nor any progress payment, nor any partial or entire use or occupancy of the Project by the Owner, shall constitute an acceptance of any Work not in accordance with the Contract Documents.

9.6.6 Contractor acknowledges that the Contractor may not lien Owner's interest in the Project site, pursuant to

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

Florida law. Contractor agrees to advise all subcontractors and material suppliers of the non-liable nature of the project and to further furnish each such person or entity a copy of the Labor and Material Payment Bond for the project.

9.7 PAYMENTS WITHHELD

9.7.1 The Owner and/or Project Manager may decline to certify payment and may withhold their Certificate, in whole or in part, to the extent necessary to protect the Owner. If the Project Manager is unable to certify payment in the amount of the Application, they will notify the Contractor. If the Contractor and the Project Manager cannot agree on a revised Payment Application, the Owner will issue payment for the amount for which to make such representations to the Owner. The Project Manager may decline to certify payment because of evidence or observations and may make adjustments in future certificates to such extent as may be necessary in their opinion to protect the Owner from loss, because of:

- .1 defective work not remedied,
- .2 third party claims filed, whether in court, in arbitration or otherwise, or reasonable evidence indicating the probability of filing of such claims,
- .3 failure of the Contractor to make payments properly to Subcontractors for labor, materials or equipment,
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum,
- .5 damage to the Owner or another contractor,
- .6 reasonable evidence that the Work will not be completed within the Contract Time, or within any Contract Milestones as established in the Contract Documents,
- .7 failure or refusal of the Contractor to carry out the Work in accordance with the Contract Documents, or
- .8 failure or refusal of the Contractor to properly schedule and coordinate the Work, to provide progress schedules, reports and updates, or to otherwise fully comply with Division 1 entitled "Schedules and Reports";

9.7.2 When the above grounds in Subparagraph 9.7.1 are resolved, payment shall be made for amounts withheld because of them.

9.8 FAILURE OF PAYMENT

9.8.1 If the Owner does not make payment to the Contractor, as required under Article 6 of the Independent Contractor Agreement and/or the Florida Prompt Payment Act (Sec. 218.735, Florida Statutes), upon receipt of the Contractor's **approved** Application for Payment by the Project Manager, through no fault of the Contractor, and the Owner otherwise not being entitled under the Contract Documents or applicable law to withhold payment, then the Contractor may, upon seven (7) additional days' written notice to the Owner, stop the Work until payment of the amount owing according to the Contract Documents has been received.

9.9 SUBSTANTIAL COMPLETION

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

The Contractor shall notify the Owner, in writing, that the Work will be ready for inspection to determine if it is substantially complete on or after a date stated in the notice. The notice shall be given at least seven (7) calendar days in advance and shall be forwarded to the Owner through the Project Manager. Inspection and testing shall take place at a time(s) mutually agreeable to the Contractor, Project Manager, and Owner. The Project Manager shall determine if Substantial Completion has been accomplished as defined in Subparagraph 8.1.3, and the Project Manager shall produce a written list of unfinished Work and defective Work, commonly referred to as a “punchlist”.

9.9.1 Prior to the Substantial Completion inspection, the Contractor shall provide the Project Manager with a list of items which, in the Contractor's opinion, are to be completed or corrected. This list is for the Owner's information only and does not waive the Owner's right to complete performance of the Contract. When the Project Manager determines that the Work is substantially completed, then the Project Manager will issue a Certificate of Substantial Completion, which shall establish the Date of Substantial Completion. **Warranties required by the Contract Documents shall commence on the Date of Final Completion of the Work.**

9.9.2 The acceptance of any payment after the Certificate of Substantial Completion has been issued shall constitute a waiver and full release of all claims by the Contractor **except those previously made in writing and identified by the Contractor as unsettled at the time of the Application for Payment for Substantial Completion.** and except for the retainage sums due at Final Completion and acceptance.

9.9.3 The issuance of the Certificate of Substantial Completion does not indicate final acceptance of the project by the Owner, and the Contractor is not relieved of any responsibility for the Work and meeting the Contract Document requirements.

9.9.4 Should the Project Manager determine that the Work is not substantially complete, they shall provide the Contractor with written notice stating why the Work is not substantially complete. The Contractor shall re-request in writing that the Owner and Project Manager perform a Substantial Completion inspection. Costs, if any, associated with such reinspections shall be assessed to the Contractor.

9.10 **FINAL COMPLETION AND FINAL PAYMENT**

9.10.1 Upon receipt of the documentation required by Article 9, and of written notice and certification by the Contractor that the Work is ready for final inspection, and acceptance, and upon receipt of a final Application for Payment, the Owner will promptly make such inspection and, when the Owner finds the Work acceptable under the Contract Documents and the Contract fully performed, the Owner will issue a final Certificate of Payment stating that, to the best of their knowledge, information and belief, the Work has been completed in accordance with the terms and conditions of the Contract Documents, and that the entire balance found to be due the Contractor, and noted in said Final Certificate, is due and payable. The Final Certificate for Payment will constitute a further representation that the conditions precedent to the Contractor's being entitled to final payment as set forth in Subparagraph 9.4 have been fulfilled. Payment shall be made in full to the Contractor, in accordance with Article 6.2 of the Independent Contractor Agreement and/or Florida's Prompt Payment Act (Sec. 218.735, Florida Statutes), provided that the requirements of Article 9 have been fulfilled.

9.10.2 Neither the final payment nor the remaining retained percentage shall become due until the Work is free and clear of any and all liens and the Contractor submits to the Owner:

- .1 an affidavit from Contractor and all subcontractors, sub-subcontractors and material suppliers that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

have been paid or otherwise satisfied;

- .2 Consent of Surety, if any, to final payment;
- .3 if required by the Owner, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designated by the Owner;
- .4 as-built drawings in the form and quantity required by the Contract Documents and approved by the Project Manager, operation and maintenance manuals, and other project close-out submittals, as required by the contract Documents; and
- .5 a written certification that:
 - .a the Contractor has reviewed the requirements of the Contract Documents,
 - .b the Work has been inspected by the Contractor for compliance with all requirements of the Contract Documents,
 - .c pursuant to this inspection, the Contractor certifies and represents that the Work complies in all respects with the requirements of the Contract Documents, and
 - .d the Contractor further certifies and represents that all equipment and systems have been installed in accordance with the Contract Documents and have been tested in accordance with specification requirements and are operational.

9.10.3 If any Subcontractor refuses to furnish an **original, notarized** release or waiver required by the Owner, the Owner may withhold from the final payment any sum that the Owner has reason to believe may be needed to satisfy any claim arising from the Work and instead pay those monies to the Surety, who shall disburse funds as the Surety deems approveable.

9.10.4 The making of final payment **shall not** constitute a waiver of any claims by the Owner against the Contractor.

9.10.5 The acceptance of final payment **shall** constitute a waiver and release of all claims by the Contractor that have not been already made to the Owner, in writing, and are stated as unsettled in the Application for Final Payment.

9.11 **OWNER'S RIGHT TO OCCUPY INCOMPLETE WORK**

9.11.1 Should the Project, or any portion thereof, be incomplete for Beneficial Occupancy or Final Completion at the scheduled dates, the Owner shall have the right to occupy any remaining portion of the Project. In such an event, the Contractor shall not be entitled to any extra compensation, nor shall the Contractor interfere in any way with said normal full use of that portion of the Project. In such event the Contractor shall not be relieved of any responsibilities of the Contract, including the required times of completion. Such occupancy by the Owner does not constitute Beneficial Occupancy or Final Completion.

9.12 **LIQUIDATED DAMAGES**

9.12.1 Should the Contractor fail to substantially complete the Work on or before the date stipulated for Substantial Completion (or such later date as may result from extension of time granted by Owner), the

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

Contractor shall, upon staff's recommendation to and approval by the Board of Trustees, pay the Owner as liquidated damages the sum of \$250 for each consecutive calendar day that Substantial Completion remains unfulfilled beyond the date allowed by the Contract, which sum is agreed upon as a reasonable and proper measure of damages which the Owner will sustain per day by failure of the Contractor to complete work within time stipulated. It is recognized by the Owner and the Contractor that the injury to the Owner, which could result from a failure of the Contractor to complete on schedule, is uncertain and cannot be computed exactly. In no way shall costs for liquidated damages be construed as a penalty on the Contractor. The Owner may deduct any Liquidated Damages incurred under this paragraph from pending Payment Applications. The Parties specifically agree that the liquidated damages agreed to herein shall only apply to delay as described in this paragraph and shall not apply to any other breach of this Agreement.

END OF ARTICLE 9

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

ARTICLE 10

PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 Neither the Owner, the Project Manager, nor their agents, employees or representatives are responsible for the means, methods, techniques, sequences or procedures utilized by the Contractor, or for safety precautions and programs in connection with the Work. Contractor shall be solely responsible for initiating, maintaining and supervising means, methods, techniques, sequences, procedures and all safety precautions and programs in connection with the Work. This requirement applies continuously throughout Contract performance, until Final Payment is made, and is not limited to regular working hours.

10.2 SAFETY OF PERSONS AND PROPERTY

10.2.1 The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

- .1 all employees on the Work and all other persons who may be affected thereby;
- .2 all the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of his Subcontractors or Sub-subcontractors, machinery, equipment and all hazards shall be guarded or eliminated in accordance with all applicable safety regulations; and
- .3 other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

10.2.2 The Contractor shall give all notices and comply with all applicable laws, ordinances, permits, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss. Contractors shall comply with the requirements of the Trench Safety Act, Chapter 553, Florida Statutes. Each specific subcontract within the scope of such act shall be in compliance with the Act and Contractor hereby acknowledges the Bid complies with and was prepared in accordance with the Act.

10.2.2.1 The Contractor shall at all times safely guard the Owner's property from injury or losses in connection with the Contract. Contractor shall at all times safely guard and protect work and adjacent property from damage as provided by law and the Contract Documents. All passageways, guard fences, lights and other facilities required for protection by applicable safety regulations must be provided and maintained by the Contractor.

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

10.2.4 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.

10.2.5 The Contractor shall promptly remedy, at the Contractor's own cost and expense, all damage or loss to

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

any property caused in whole or in part by the Contractor, any Subcontractor, any Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible. The foregoing obligations of the Contractor are in addition to obligations under Paragraph 4.22. In case of failure on the part of the Contractor to make good such damage, the Owner may, upon two (2) calendar days written notice, proceed to repair, rebuild or otherwise restore such property as may be necessary, and the cost thereof will be deducted from any monies due or to become due the Contractor.

- 10.2.6 The Contractor is responsible for the proper packing, shipping, handling and storage (including but not limited to shipment or storage at the proper temperature and humidity) of materials to be incorporated in the Work, so as to insure the preservation of the quality and fitness of the material for proper installation and incorporation in the Work. For example, but not by way of limitation, Contractor shall, when necessary, place material on wooden platforms or other hard and clean surfaces and not on the ground, and place material under cover in any appropriate shelter or facility. Stored materials or equipment shall be located so as to facilitate proper inspection. Material and equipment, which is delivered crated, shall remain crated until ready for installation. Lawns, grass plots or other such open areas shall not be used for storage purposes without written permission of owner or lessee unless otherwise within terms of the easements obtained by the Owner.
- 10.2.7 The Contractor shall give notice in writing at least 48 hours before breaking ground, to all persons, Public Utility Companies, owners of property having structures or improvements in proximity to site of the Work, superintendents, inspectors, or those otherwise in charge of property, streets, water pipes, gas pipes, sewer pipes, telephone cables, electric cables, railroads or otherwise, who may be affected by the Contractor's operation, in order that they may remove any obstruction for which they are responsible and have representative on site to see that their property is properly protected.
- 10.2.8 Contractor shall field locate all utilities and acknowledges that all utilities are not necessarily shown in the Contract Documents, or may be incorrectly located thereon. The Contractor shall protect all utilities encountered while performing its work, whether indicated on the Contract Drawings or not. The Contractor shall maintain utilities in service until moved or abandoned. The Contractor shall exercise due care when excavating around utilities and shall restore any damaged utilities to the same condition or better as existed prior to starting the Work, at no cost to the Owner. The Contractor shall maintain operating utilities or other services, even if they are shown to be abandoned on the Contract Drawings, in service until new facilities are provided, tested and ready for use.
- 10.2.9 The Contractor shall return all improvements on or about the site and adjacent property which are not shown to be altered, removed or otherwise changed to conditions which existed prior to starting work.
- 10.2.10 The Contractor shall protect the Work, including but not limited to, the site, stored materials and equipment, excavations, and excavated or stockpiled soil or other material, intended for use in the Work, and shall take all necessary precautions to prevent or minimize damage to same or detrimental effect upon performance caused by or due to rain, snow, ice, run-off, floods, temperature, wind, dust, sand and flying debris.
- 10.2.11 The Contractor's superintendent shall take all steps reasonably necessary to prevent accidents and protect workers, material, equipment and property.
- 10.2.12 The Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.

10.3 **EMERGENCIES**

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

- 10.3.1 In any emergency affecting the safety of persons or property, the Contractor shall act to prevent threatened damage, injury or loss. The Contractor shall notify the Owner of the situation and all actions taken immediately thereafter. If, in the opinion of the Contractor, immediate action is not required, the Contractor shall notify the Owner of the emergency situation and proceed in accordance with the Owner's instructions. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 12 for Changes in the Work.

END OF ARTICLE 10

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

ARTICLE 11

INSURANCE

11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1 The Contractor shall purchase and maintain in companies properly licensed and qualified to do business in the State of Florida, and acceptable to the Owner, such insurance as will protect the Contractor, the Owner, the Project Manager and their agents, representatives, and employees from claims which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by the Contractor or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

11.1.2 The insurance required by Subparagraph 11.1.1 shall be primary and non-contributing to any insurance possessed or procured by the Owner, and limits of liability shall be not less than those set forth in the Independent Contractor Agreement or required by law, whichever is greater.

11.1.3 The insurance required by Subparagraph 11.1.1 shall include contractual liability insurance applicable to the Contractor's obligations under Paragraph 4.21.

11.1.4 All certificates of Insurance acceptable to the Owner shall be filed with the Owner **prior to commencement of the Work**. These Certificates shall contain a provision that coverages afforded under the policies will not be canceled until at least thirty (30) days' prior written notice has been given to the Owner.

11.2 EFFECT OF SUBMISSION OF CERTIFICATES

11.2.1 The Owner shall be under no obligation to review any Certificates of Insurance provided by the Contractor or to check or verify the Contractor's compliance with any and all requirements regarding insurance imposed by the Contract Documents. The Contractor is **fully liable** for the amounts and types of insurance required herein and is not excused should any policy or certificate of insurance provided by the Contractor not comply with any and all requirements regarding insurance imposed by the Contract Documents.

11.3 FAILURE OF COMPLIANCE

11.3.1 Should the Contractor fail to provide and maintain in force any and all insurance, or insurance coverage required by the Contract Documents or by law, the Owner shall be entitled to recover from the Contractor all amounts payable, as a matter of law, to Owner or any other parties, including but not limited to the Project Manager, had the required insurance or insurance coverage been in force. Said recovery shall include, but is not limited to interest for the loss of use of such amounts of money, plus all attorney's fees, costs and expenses incurred in securing such determination and any other consequential damages arising out of the failure of the Contractor or insurance company to comply with the provisions of the Contract Documents, or any policy required hereby, or any other requirements regarding insurance imposed by law. Nothing herein shall limit any damages for which Contractor is responsible as a matter of law.

11.4 LICENSED INSURANCE COMPANIES

11.4.1 All insurance companies providing the above insurance shall be licensed by the Department Insurance & Treasurer of the State of Florida and shall be general lines of insurance. The most recent Rating

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

Classification Financial Size Category of the Insurer regarding any coverages as required herein, as published in the latest edition of AM Best's Rating Guide (Property-Casualty), shall be a minimum of A.

END OF ARTICLE 11

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

ARTICLE 12

CHANGES IN THE WORK

12.1 CHANGES IN THE WORK

- 12.1.1 Changes in the Work may be accomplished after execution of the Contract by Change Order only.
- 12.1.2 A Change Order shall be based upon agreement among the Owner/Project Manager and Contractor.
- 12.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order.
- 12.1.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

The Contractor's proposal substantiating a Change Order shall be itemized and segregated by labor and materials for the various components of the change in work (no aggregate labor or material totals will be acceptable), and shall be accompanied by similarly detailed and signed proposals of any subcontractors and/or persons who will furnish materials or equipment for incorporation in the project. The proposal shall also include the Contractor's estimate of the time required to perform the change, the last date that Authorization to Proceed can be issued which will not impact the date of Substantial Completion or cause additional material or mobilization expenses, and its impact on the critical path.

12.2 CHANGE ORDERS

- 12.2.1 A Change Order is a written instrument prepared by Project Manager and signed by Owner, Contractor and Project Manager, stating their agreement upon all of the following:
- .1 a change in the Work;
 - .2 the amount of the adjustment in the Contract Sum, if any; and
 - .3 the extent of the adjustment in the Contract Time, if any.

12.3 CONSTRUCTION CHANGE DIRECTIVES (NOT APPLICABLE)

- 12.3.1 **(NOT APPLICABLE)** A Construction Change Directive is a written order prepared by the Project Manager/Owner directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. The Project Manager/Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.
- 12.3.2 **(NOT APPLICABLE)** A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.
- 12.3.3 **(NOT APPLICABLE)** If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one (1) of the following methods:
- .1 mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

data to permit evaluation;

.2 unit prices stated in the Contract Documents or subsequently agreed upon;

.3 cost to be determined in a manner agreed upon by the parties and mutually acceptable fixed or percentage fee; or .4 as provided in Subparagraph 12.3.6.

12.3.4 **(NOT APPLICABLE)** Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Project Manager of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

12.3.5 **(NOT APPLICABLE)** A Construction Change Directive signed by the Contractor indicates the agreement of the Contractor therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

12.3.6 **(NOT APPLICABLE)** If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Project Manager on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, and also under Clause 12.3.3.3, the Contractor shall keep and present, in such form as the Project Manager shall prescribe, an itemized accounting together with appropriate supporting data (including receipts, invoices, and records including but not limited to payroll, equipment, ownership or rental records). Unless otherwise provided in the Contract Documents, costs for the purposes of this Subparagraph 12.3.6 shall be limited to the following:

.1 costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and worker's or workmen's compensation insurance;

.2 costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;

.3 rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 costs of premiums for all bonds and insurance, permit fees and sales, use or similar taxes related to the Work; and

.5 additional costs of supervision and field office personnel directly attributable to the change.

12.3.7 **ON ALL CHANGE ORDERS, A TIERED MARKUP OF 10% OVERHEAD, 10% PROFIT AND 3% BOND SHALL BE CONSIDERED THE MAXIMUM ALLOWABLE CHARGE ADDED TO THE CHANGE ORDER COSTS.** This refers to all paragraphs and subparagraphs in Article 12.

12.3.8 **(NOT APPLICABLE)** Pending final determination of cost to Owner, amounts NOT IN DISPUTE may be included in Applications for payment. The amount of credit to be allowed by Contractor to Owner for a deletion or change, which results in a net decrease in Contract Sum, shall be actual net cost as confirmed by Project Manager. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

12.3.9 **(NOT APPLICABLE)** If the Owner and Contractor do not agree with the adjustment in Contract Time or the method for determining it, the adjustment or the method shall be referred to the Project Manager for determination.

12.3.10 **(NOT APPLICABLE)** When the Owner and the Contractor agree with the determination made by the

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

Project Manager concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

12.3.11 **(NOT APPLICABLE)** Allowable costs for net changes in the work may include labor, material, sales tax, the rental of power tools and equipment actually used or a reasonable price for the use of power tools and equipment owned by the Contractor, based upon their life expectancy and purchase price, utilities, pro rata charges for forepersons, and payroll charges such as employer's FICA contribution, Public Liability and Worker's Compensation Insurance, but only if all such costs are incurred as the direct result of the changes in the Work. Items considered as overhead, which are included in the percentage markup allowed by this Article, and which cannot therefore be allowed as cost items, shall include such things as insurance other than that mentioned above, superintendent, timekeeper, clerks, security, use of small tools, incidental job costs, home office expenses, charges for estimating change proposals, and all other expenses of whatever type. The change in cost for labor and material bonds and for performance bond relative to the value of the change order shall be allowable costs, but no overhead or profit shall be applied. Percentages for overhead and profit shall be applied only to the **net cost** of the changed Work (difference in cost between original and revised Work).

12.4 **CONTRACTOR NOTICE OF CHANGE**

12.4.1 If the Contractor asserts that any instructions, information, event or occurrence has caused a change in or addition to the Work which change causes an increase or decrease in the Contractor's cost or time required for the performance of any part of the Work under the Contract, the Contractor shall give the Owner written notice before conditions are disturbed and before proceeding to execute the Work. Contractor's notice shall be given promptly enough to avoid delaying the Work and in no instance later than ten (10) working days after such instructions, information, event or occurrence has caused a change. If the Owner agrees that the Work involved is extra Work, a Change Order shall be issued as provided in this Article. No claims for extra Work shall be allowed unless the notice required by this Article is given by the Contractor within the time allowed, unless the Work is performed pursuant to the written order of the Owner as provided in this Article. Contractor's notice shall include the instructions or circumstances that are the basis of the claim and the Contractor's best estimate of the cost and time involved.

12.5 **GENERAL PROVISIONS RELATED TO CHANGES**

12.5.1 **(NOT APPLICABLE)** The Contractor shall not be entitled to any amount for indirect costs, damages or expenses of any nature, including, but not limited to, so-called "impact" costs, labor inefficiency, wage, material or other escalations beyond the prices upon which the bid is based and to which the parties have agreed pursuant to the provisions of Article 12, and which the Contractor, its Subcontractors or Sub-subcontractors or any other person may incur as a result of delays, interferences, suspensions, accelerations, changes in sequence or the like, for whatever cause, whether reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable, arising from the performance of any and all changes in the Work performed pursuant to this Article 12. It is understood and agreed that the Contractor's sole and exclusive remedy in such event shall be recovery of the Contractor's direct costs as compensable hereunder and an extension of the Contract Time, but only in accordance with the provisions of the Contract Documents.

12.5.2 **(NOT APPLICABLE) CHANGES REQUIRING A DECREASE IN CONTRACT SUM.** If a Change in the Work will result in a decrease in the Contract Sum, the Owner may request a quotation by the Contractor of the amount of such decrease for use in preparing a Change Order. The Contractor's quotation shall be forwarded to the Owner within five (5) days of the Owner's request and, if acceptable to the Owner, shall be incorporated in the Change Order. If not acceptable, the parties shall make every

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

reasonable effort to agree as to the amount of such decrease, which may be based on a lump sum properly itemized, on unit prices stated in the Contract Documents, and/or on such other basis as the parties may mutually determine. If the parties are unable to so agree, the amount of such decrease shall be the total of the estimated reduction in actual cost of the Work, as determined by the Owner, plus ten percent (10%) thereof as overhead and profit.

12.5.3 No claim by the Contractor for an increase in the contract sum or time hereunder shall be allowed if asserted after final payment under this Contract. No claim relating to or flowing from a particular change shall be allowed after execution of the Change Order relating to that change.

12.5.4 **CHANGE ORDER AUTHORIZATION.**

THE BOARD OF TRUSTEES DELEGATES THE AUTHORITY TO AUTHORIZE CHANGE ORDER WORK WHEN IN COMPLIANCE WITH THE FOLLOWING CRITERIA AS PROVIDED IN THE DISTRICT'S POLICY MANUAL:

- .1 Change Order work resulting in a cumulative net decrease to the initial cost of the Contract may be authorized by the Project Manager/Owner's Designee;
- .2 Change Order work involving procedural or other matters that will not result in any change to the Cost of the Contract may be authorized by the Project Manager/Owner's Designee;
- .3 Change Order work increasing the initial cost of the Contract by not greater than 10%, which are in the best interest of the public and which do not materially alter the Scope of Work, provided sufficient documentation is provided, may be authorized by the Project Manager/Owner's Designee;
- .4 Change Order work increasing the initial cost of the Contract by greater than 10% may be approved by the Chairman of the Board or next ranking Board member if the delay in obtaining full Board of Trustees approval for the proposed Change Order on the next scheduled Board meeting would substantially delay the project or cause harm. A Change Order approved by the Chairman of the Board or next ranking Board member shall be placed on the next available Board meeting agenda for confirmation by the full Board of Trustees. If the project would not be substantially delayed or harm will not result, a Change Order increasing the cost of the Contract by greater than 10% may only be approved by the full Board of Trustees.
- .5 Change Orders substantially changing the Scope of Work must be approved by the Board of Trustees at the next scheduled Board meeting.

12.6 **ADMINISTRATIVE CHANGES IN THE WORK**

12.6.1 The Project Manager shall have authority to order administrative changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by the issuance of an Architectural Supplemental Instruction (ASI) and shall be binding on the Owner and the Contractor. The Contractor shall carry out such instructions promptly.

12.7 **DIFFERING SITE CONDITIONS**

12.7.1 Should the Contractor encounter subsurface and/or latent conditions at the site materially differing from those shown on the drawings or indicated in the specifications or differing materially from those

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract, the Contractor shall immediately give written notice to the Owner of such conditions before they are disturbed. The Owner and the Project Manager shall thereupon promptly investigate the conditions and if the Owner finds that the conditions materially differ from those shown in the Contract Documents, the Owner shall prepare and process a Change Order. Any increase or decrease of cost resulting from such changes shall be adjusted in the manner provided herein for adjustments as to extra and/or additional work and changes.

END OF ARTICLE 12

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

ARTICLE 13

UNCOVERING AND CORRECTION OF WORK

13.1 UNCOVERING OF WORK

13.1.1 If any portion of the Work should be covered contrary to the request of the Owner, or to requirements specifically expressed in the Contract Documents, or to requirements of applicable Construction Permits, it must, if required in writing by the Owner, be uncovered for the Owner's observation and replaced at the Contractor's expense.

13.1.2 If any other portion of the Work has been covered which the Owner has not specifically requested to observe prior to being covered, the Owner may request to see such Work and it shall be uncovered by the Contractor. If such work is found in accordance with the Contract Documents the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work is found not in accordance with the Contract Documents, the Contractor shall pay costs of uncovering and replacement.

13.2 CORRECTION OF WORK

13.2.1 The Contractor shall promptly reconstruct, replace or correct all Work rejected by the Owner as defective, as failing to conform to the Contract Documents, or as not in accordance with the guarantees and warranties specified in the Contract Documents, whether observed before or after Substantial or Final Completion, and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work, including compensation for the Project Manager's additional services made necessary thereby.

13.2.2 If the Contractor does not proceed with the correction of rejected Work within a reasonable time fixed by written notice from the Owner, the Owner may elect to (1) replace or correct such Work and charge the Contractor the cost incurred by the Owner, or (2) terminate this Contract for default as provided in Paragraph 14.3. If the Contractor does not pay the cost of such replacement or correction and the removal and storage within ten (10) calendar days thereafter, the Owner may charge the Contractor by an appropriate Change Order. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

13.2.3 Nothing contained in Article 13.2 shall be construed to establish a period of limitation with respect to any other obligation, which the Contractor might have under the Contract Documents, including Paragraph 4.6 hereof. The establishment of the time period of one year after the Date of Final Completion or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents relates only to the specific obligation of the Contractor to correct the Work which became deficient within such period of time, and has no relationship to the time within which the Contractor's obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct Work.

13.3 ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK

13.3.1 If the Owner prefers to knowingly accept defective or non-conforming Work, the Owner may do so. In which case, a Change Order must be issued to reflect a reduction in the Contract sum. If the amount of a reduction is determined after final payment, it shall be paid to the Owner by the Contractor. The only method for the Owner to accept defective or non-conforming Work shall be by a written change order signed by the Barefoot Bay Recreation District Board of Trustees. Absent such a change order, no

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

acceptance of defective or non-conforming Work is permitted.

END OF ARTICLE 13

**Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades**
Project Numbers: TLC Engineering Solutions Project No. 519101

ARTICLE 14

TERMINATION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

- 14.1.1 If the Work is stopped for a period of one hundred twenty (120) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Contractor or a Subcontractor or their agents or employees, or any other persons performing any of the Work under a contract with the Contractor, then the Contractor may, upon seven (7) additional days' written notice to the Owner terminate the Contract and recover from the Owner payment on a quantum merit basis, for all Work executed. The Contractor shall not be entitled to collect and hereby expressly waives and releases any claim to any profit on work not performed and any damages related to that portion of the Contract which has been terminated

14.2 TERMINATION FOR CONVENIENCE OF THE OWNER

- 14.2.1 The Owner may, at any time upon ten (10) days' written notice to the Contractor and to the Contractor's surety, which notice shall specify that portion of the Work to be terminated and the date said termination is to take effect, terminate (without prejudice to any right or remedy of the Owner) the whole or any portion of the work for the convenience of the Owner. The Contractor's sole remedy, in the event of such termination, will be the allowable termination costs permitted by Article 14.4. Contractor shall include termination clauses identical to Article 14 in each of his Subcontracts.

14.3 DEFAULT TERMINATION

- 14.3.1 The Owner may, upon five (5) days' written notice to the Contractor and to the Contractor's surety, terminate (without prejudice to any right or remedy of the Owner or any subsequent buyer of any portion of the Work) this contract and may take possession of the Work and complete the Work by contract or otherwise in any one of the following circumstances:

- .1 if the Contractor refuses or fails to prosecute the Work or any separable part thereof with such diligence as will ensure the Substantial or Final Completion of the Work within the Contract Time, or fails to complete the Work within said periods;
- .2 if the Contractor is in material default in carrying out any provisions of the Contract;
- .3 if the Contractor fails to supply a sufficient number of properly skilled worker's or proper equipment or materials;
- .4 if the Contractor fails to make prompt payment to Subcontractors or material suppliers or for materials or labor;
- .5 if the Contractor disregards laws, permits, ordinances, rules, regulations or orders of any public authority having jurisdiction, or fails to follow the instructions of the Owner;
- .6 if the Contractor violates any provisions of the Contract Documents; or

- 14.3.2 If, after the Contractor has been terminated for default pursuant to Paragraph 14.3, it is determined that none of the circumstances set forth in Subparagraph 14.3.1 exist, then such termination shall be

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

considered a termination for convenience pursuant to Paragraph 14.2. In such case, the Contractor's sole remedy will be costs permitted by Article 14.4.

14.3.3 If the Owner terminates the employment of the Contractor, pursuant to Article 14.3, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the compensation to be paid to the Contractor hereunder exceeds the expense of completing the Work (including compensation for additional managerial, design, administrative and inspection services and any damages for delay), such excess shall be paid to the Contractor.

14.3.4 If Owner's expenses to complete the Work shall exceed the unpaid balance, the Contractor and sureties shall be liable to the Owner for such excess. If the right of the Contractor to proceed with the Work is partially or fully terminated, the Owner may take possession of and use in completing the Work any materials, appliances, supplies, plant and equipment as may be on the site of the terminated portion of the Work and necessary for the completion of the Work. If the Owner does not fully terminate the right of the Contractor to proceed, the Contractor shall continue to perform the part of the work that is not terminated.

14.4 **ALLOWABLE TERMINATION COSTS**

14.4.1 If the Owner terminates the whole or any portion of the Work pursuant to Paragraph 14.2, then the Owner shall only be liable to the Contractor for those costs reimbursable to the Contractor in accordance with Subparagraph 14.4.2, plus a markup of ten percent for profit and overhead on the actual, fully accounted costs recovered under 14.4.2; provided however, that if there is evidence that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed hereunder and an appropriate adjustment shall be made reducing the amount of the allowable termination payment to reflect the indicated amount of loss. Contractor shall submit any claim of reimbursable cost, as stated in this paragraph, within 10 days of receipt of Notice of Termination, or such claims are waived, released and forever barred.

14.4.2 If the Owner terminates the whole or any portion of the Work pursuant to Paragraph 14.2, the Owner shall pay the Contractor the amounts determined as follows:

- .1 an amount for supplies, services, or property accepted by the Owner or sold or acquired and not heretofore paid for, and to the extent provided in the Contract, such amount shall be equivalent to the aggregate price for such supplies or services computed in accordance with the price or prices specified in the Contract, appropriately adjusted for any saving of freight or other charges; and
- .2 the total of:
 - (a) the cost incurred in the performance of the Work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies or services paid or to be paid for under Clauses 14.4.2.1 or 14.4.2.2.;
 - (b) the cost of settling and paying claims arising out of the termination of Work under Subcontracts or orders which are properly chargeable to the terminated portion of the Work (exclusive of amounts paid or payable on account of completed items of equipment delivered or services furnished by Subcontractors or vendors prior to the effective date of the notice of termination), which amounts shall be included in the costs payable under (1) above; and
 - (c) the reasonable costs of settlement, including accounting, legal, clerical and all other expenses reasonably necessary for the preparation of settlement claims and supporting

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation

Phase II – Kitchen & Mechanical Upgrades

Project Numbers: TLC Engineering Solutions Project No. 519101

data with respect to the terminated portion of the Work and for the termination and settlement of Subcontracts thereunder, together with reasonable storage, transportation and other costs incurred in connection with the protection or disposition of property allocable to the Contract.

.3 Provided, however, that the Owner will not be liable for payments to subcontractors.

14.4.3 In arriving at any amount due the Contractor pursuant to Paragraph 14.4, there shall be deducted the following:

- .1 all unliquidated advance or other payments on account theretofore made to the Contractor applicable to the terminated portion of the Contract;
- .2 any claim which the Owner may have against the Contractor;
- .3 such amount as the Owner determines to be necessary to protect the Owner against loss because of outstanding or potential liens or claims; and
- .4 the agreed price for, or the proceeds of sale of, any materials, supplies or other things acquired by the Contractor or sold, pursuant to the provisions of Clause 14.5.1.6, and not otherwise recovered by or credited to the Owner.

14.4.4.1 The total sum to be paid to the Contractor under Paragraph 14.4 shall not exceed the Contract Sum reduced by the amount of payments otherwise made or to be made for Work not terminated and as otherwise permitted by the Contract. Except for normal spoilage, and except to the extent that the Owner shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor, as provided in Subparagraph 14.4.2, the fair value, as determined by the Owner, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the Owner, or to a buyer pursuant to Clause 14.5.1.6.

14.4.5 If the Owner terminates the whole or any part of the Work pursuant to Paragraph 14.3, the Owner may procure, upon such terms and in such manner as the Owner and/or Project Manager may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the Owner for any excess costs for such similar supplies or services. The Contractor shall continue the performance of the Contract to the extent not terminated hereunder.

14.5 **GENERAL TERMINATION PROVISIONS**

14.5.1 After receipt of a notice of termination from the Owner, pursuant to Paragraph 14.2 or 14.3, and except as otherwise directed by the Owner, the Contractor shall:

- .1 stop Work under the Contract on the date and to the extent specified in the notice of termination;
- .2 place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the Contract as is not terminated;
- .3 terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated by the notice of termination;
- .4 at the option of the Owner, assign to the Owner in the manner, at the times and to the extent directed by the Owner, all of the rights in the contracts so terminated, in which case the Owner

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

shall have the right to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

- .5 settle all outstanding liabilities and all claims arising out of such termination or orders and subcontracts, with the approval or ratification of the Owner, to the extent required;
- .6 transfer title and deliver to the entity or entities designated by the Owner, in the manner, at the times and to the extent directed by the Owner, to the extent specifically produced or specifically acquired by the Contractor for the performance of the terminated Work, the following:
 - (a) the fabricated or unfabricated parts, Work in process, partially completed supplies and equipment, materials, parts, tools, dies, jigs and other fixtures, completed Work, supplies and other material produced as part of, or acquired in connection with the performance of, the Work terminated by the notice of termination;
 - (b) the completed or partially completed plans, drawings, information, releases, manuals and other property related to the Work and which, if the Contract had been completed, would have been required to be furnished to the Owner:
- .7 complete performance of such part of the Work as shall not have been terminated by the notice of termination; and
- .8 take such action as may be necessary, or as the Owner may direct, for the protection and preservation of the property related to the Contract which is in the possession of the Contractor and in which the Owner has or may acquire an interest.

- 14.5.2 The Contractor shall, from the effective date of termination until the expiration of three (3) years after final settlement under the Contract, preserve and make available to the Owner, at all reasonable times at the office of the Contractor, but without direct charge to the Owner, all the Contractor's books, records, documents and other evidence bearing on the costs and expenses of the Contractor under the Contract and relating to the Work terminated hereunder, or, to the extent approved by the Owner, photographs, micro-photographs or other authentic reproductions thereof.

END OF GENERAL CONDITIONS

Project Name: RFP No. 2020-02 Barefoot Bay Building A Renovation
Phase II – Kitchen & Mechanical Upgrades
Project Numbers: TLC Engineering Solutions Project No. 519101

BAREFOOT BAY RECREATION DISTRICT (BBRD)

BY: _____

Printed Name: JOSEPH KLOSKY
As its: CHAIRMAN

Date: _____

State of FLORIDA
County of BREVARD

The foregoing General Conditions were acknowledged before me, the undersigned authority duly authorized in the State and County aforesaid to administer oaths and to take acknowledgments, by means of _____ physical presence or _____ online notarization this _____ day of _____, 2020, by JOSEPH KLOSKY, CHAIRMAN, BAREFOOT BAY RECREATION DISTRICT who [] is personally known to me or [] produced _____ as identification.

NOTARY PUBLIC
My Commission Expires:

PARKIT CONSTRUCTION, INC.

BY: _____

Printed Name: DAVE PARK
As its: Owner/Director

Date: _____

State of FLORIDA
County of BREVARD

The foregoing General Conditions were acknowledged before me, the undersigned authority duly authorized in the State and County aforesaid to administer oaths and to take acknowledgments, by means of _____ physical presence or _____ online notarization this _____ day of _____, 2020, by DAVE PARK, Owner/Director, PARKIT CONSTRUCTION, INC who [] is personally known to me or [] produced _____ as identification.

NOTARY PUBLIC
My Commission Expires:

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **Pool #2 Canopy**
Section & Item: 8.C
Department: Shopping Center
Fiscal Impact: \$15,225.00 (FY20 Budget of \$14,000)
Contact: Matt Goetz, Property Services Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: Project history, proposal, BOT Meeting minutes April 12, 2019, BOT Meeting minutes Aug 9, 2019
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Withdraw August 9, 2019 award of contract for canopy to Housman's Aluminum & Screening, Inc, award a new contract for construction of a canopy including concrete work, and direction to staff to execute the required budget transfer from R&M/Capital Contingency.

Background and Summary Information

After the BOT awarded contract to Housman's Aluminum & Screening, Inc. in August 2019, staff signed a quote from Superior Concrete on November 15, 2019 in the amount of \$3,360 for the concrete pad. Subsequently, staff was unable to facilitate the needed cooperation between the two vendors and Housman's Aluminum & Screening, Inc. stated they were not interested in pouring the pad themselves. Hence, staff once again started to solicit bids for the project (this time for the entire project by one vendor). The following bid was recently obtained:

\$15,225 Endeavor Construction, Inc. (structure, concrete, survey, and permitting)

Due to the long delays in the project and staff's inability to find vendors willing to quote the project, staff recommends the BOT withdraw the August 9, 2019 award of contract for canopy to Housman's Aluminum & Screening, Inc, award a new contract for the entire project to Endeavor Construction, Inc. in the amount of \$15,225.00, and direction to staff to execute the required budget transfer from R&M/Capital Contingency (for the additional \$1,225).

Additional Background and Summary Information

April 12, 2019 agenda memo text

At the November 15, 2017 BOT workshop, Trustee -elect Wheaton suggested adding a project to the list being prioritized for construction of a canopy at Pool #2 so when residents leave the pool due to inclement weather they have a place to wait out the weather. After the BOT agreed by consensus to add the new project, in the prioritization of projects (one of the scheduled agenda items) said project was ranked 10th out of 12 projects (#1 being the top priority). Due to the BOT moving the New Administration Project up one year (from FY19 to FY18) in late FY17, the lower ranked priority projects were deferred until the completion of the New Administration Building.

Staff solicited the following quotes for a 20-foot by 24-foot aluminum canopy:

- *\$10,538.00 Endeavor Construction, Inc.*
- *\$7,050.00 Tripod Aluminum, Inc.*

As attached, Tripod Aluminum clarified their quote does include the cost of permitting. Additionally, staff plans on soliciting quotes for a concrete pad on which the canopy will be sited.

Although the award of contract is within the Community Manager's authority, this award of contract was placed on the BOT agenda for transparency purposes since it is an unbudgeted item (although it has appeared in the last two years' 5yrFM&CIP as a funded project).

Staff recommends, the BOT award contract for construction of a canopy to Tripod Aluminum, Inc. in the amount of \$7,050.00 and authorize staff to execute the required budget transfer from R&M/Capital Contingency once a quote is signed for the installation of the concrete pad.

August 9, 2019 agenda memo text

On April 12, 2019 the BOT awarded a contract for the construction of a canopy at Pool #2 to Tripod Aluminum. Subsequently, the vendor refused to execute the project as quoted, wanting to install a center pole and increase the cost of the project. Staff contracted the other vendor (Endeavor Construction) also declined to honor its quote. Listed below in italic

Staff solicited new quotes from the following vendor:

\$10,170.00 Housman's Aluminum & Screening, Inc.

\$10,990.05 Palm Bay Aluminum (ballpark estimate – no site visit by contractor)

Staff recommends the BOT withdraw the April 12, 2019 award of contract for canopy to Tripod Aluminum, award a new contract for construction of a canopy to Housman's Aluminum & Screening, Inc. in the amount of \$10,170.00, and direction to staff to execute the required budget transfer from R&M/Capital Contingency.

PROPOSAL



ENDEAVOR CONSTRUCTION INC.

4455 Micco Road, Micco, FL 32976

Commercial & Residential Builders

State Certified #CBC 1251585

Office: (772) 571-5113 Fax: (772) 571-5114

Troy: (772) 473-7213 Steve: (772) 473-7212

PROPOSAL NO. 2106

SHEET NO. 10A1

DATE 5-14-20

PROPOSAL SUBMITTED TO:

NAME	Barefoot Bay
ADDRESS	Pool 2
	Barefoot Bay
PHONE NO.	

WORK TO BE PERFORMED AT:

ADDRESS	
	ATTN: Matt Goetz
DATE OF PLANS	
ARCHITECT	

We hereby propose to furnish the materials and perform the labor necessary for the completion of _____

- Build new 20x24 Aluminum canopy (single slope) with Aluminum Pan Roof
- Pour new 20x24 concrete pad with footers
- Includes plans, permits, engineering & final survey

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manner for the sum of

Fifteen Thousand Two Hundred Twenty five & 00/100 Dollars (\$ 15,225.00)

with payments to be made as follows.

Respectfully submitted

Endeavor Construction

Per

[Signature]

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control. 1 1/2% per month on unpaid balance. We agree to go to arbitration in the event of any and all disputes.

Note -- This proposal may be withdrawn by us if not accepted within 60 days.

ACCEPTANCE OF PROPOSAL

The above prices, specification and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature _____

Date _____

Signature _____



BAREFOOT BAY RECREATION DISTRICT

Board of Trustees Regular Meeting

April 12, 2019

1PM –Building D&E

Meeting Called to Order

The Barefoot Bay Recreation District Board of Trustees held a Meeting on April 12, 2019 in Building D&E 1225 Barefoot Boulevard, Barefoot Bay, Florida. Mr. Klosky called the meeting to order at 1PM.

Pledge of Allegiance to the Flag

Led by Mr. Wheaton.

Roll Call

Present: Mr. Klosky, Mr. Wheaton Ms. Henderson, Mr. Diana, and Mr. Loveland. Also present Jason Pierman, SDS, John W. Coffey, ICMA-CM, Cliff Repperger, General Counsel and Dawn Myers, District Clerk.

Presentations

Proclamation for Mrs. Jean White

Mr. Klosky and the Board of Trustees presented Mrs. Jean White with a proclamation honoring her 100th birthday and 25 years in Barefoot Bay. Mrs. White addressed the Board thanking them for all they do to keep Barefoot Bay an "A-1 community". Mrs. White also informed the audience that her and her husband never regretted coming to Barefoot Bay.

Employee Milestones

Mr. Klosky and Mr. Coffey presented a 10-year milestone award to Ms. Marna Ward and thanked her on behalf of the Board of Trustees for her hard work and diligence over the years.

Barefoot By The Lake

Ms. Kathy Mendes, Food and Beverage Manager, spoke on behalf of Mr. Roger Compton, President of the CVO and CVO Directors, Elaine Vanberschot and Betsy Davis regarding the success of this year's Barefoot By The Lake Festival. She thanked the Planning Committee, District staff and the resident volunteers for a phenomenal job with this all phases of the festival. She pointed out the successes of some of the newly implemented ideas used this year such as the kickoff band on the first day, reserved seating, covered eating area, variety of music and vendors and sponsorship row so sponsors have a good opportunity to advertise. She stated that she was confident with a few tweaks, next year's festival will be even more successful. Mr. Diana thanked the Planning Committee for a wonderful successful event and stated that he is looking forward to the next one.

Minutes

Mr. Henderson made a motion to approve the minutes for March 26, 2019. Second by Mr. Wheaton. Motion carried unanimously.



BAREFOOT BAY RECREATION DISTRICT

Treasurer's Report

Mr. Diana made a motion to approve the Treasure's Report for April 12, 2019 as read. Second by Ms. Henderson. Motion passed unanimously.

Audience Participation

Mr. Schwatlow shared his thoughts with the Board about options for the Lounge. He encouraged them not to rule out the idea to have an open space plan.

Mr. Roger Compton, CVO President reminded the community of the Meet and Greet taking place next Thursday, April 17, 2019 where members of the CVO, Trustees, the Community Manager and the District Managers will provide helpful information regarding District operations. He restated the purpose for The CVO touching on their many accomplishments including raising over \$10,000 for non-CVO volunteer organizations in the community since February 2017. In addition, Mr. Compton stated they have raised over \$2,500 for the American Cancer Society and also raised money for the Florida Sheriff Associations and other state organizations. He reiterated that the CVO support all volunteer groups and organizations throughout the community.

Mr. Jeff Grunow stated that he is speaking as a resident today but will be the next commander of the American Legion Post 366 on Tuesday. He thanked the Board for their assistance with the Veterans Service office over the years. He invited the Board and the community to the planned Memorial Day event and the Flag Day ceremony. He also invited the community to bring any old flags to the container at Pool 1 for proper disposal. The Flag ceremony will be held on June 14th at 11am lakeside along Barefoot Boulevard.

Ms. Elena Becker commented on alleged obscene language on a flag flying just under an American flag. She asked the Board to please address this situation. General Counsel stated that there is nothing in the DOR regarding flags. Mr. Loveland suggested we research offensive curse words on flags. General Counsel state he would investigate the subject.

Mr. Rick Parker commented on behalf of a group of golfers regarding the nets going up on the golf course. Mr. Coffey stated that they will be replaced this summer.

Mr. Paul Preston stated that he was suspended from the Over 60 Softball Team unfairly. He asked the Board to examine the League's practice for suspending members and asked for their assistance in restating his seat on the League. The District does not govern Club procedures, but Mr. Klosky stated that Mr. Repperger would look into the topic for Mr. Preston's clarification.

Ms. Jeanne Osborne commented on her dissatisfaction with the aforementioned alleged obscenity on a flag. Ms. Osborne stated that the word (and stated the alleged obscenity) did not belong flying under the American Flag.

Ms. Carol Joseph invited all children to the Easter Egg hunt sponsored by the South Mainland Library. She stated that the invitation is extended to all children in and outside of Barefoot Bay on April 20th at 11am.

Ms. Nancy Eisele invited all residents to the National Day of Prayer ceremony in the back of the Administration Building under the Oaks on May 2, 2019.



BAREFOOT BAY RECREATION DISTRICT

New Business

CVO Donated Pavilion Installation

In December 2018, the CVO requested to donate a 40' Hexagonal Duo-Top Structure to be placed on the concrete pad behind Building A. The costs for this project include: \$25,604.98 for the structure, \$1,100.00 for sealed construction drawings, \$621.00 for freight and \$23,000.00 for installation. CVO will fund the purchase and installation per the BBRD Policy Manual language on donations. The original vendor for installation was unable to complete the job due to the difficulty in installing the pavilion at the proposed location. CVO President Compton informed staff that the CVO was willing to donate the additional funds to secure another installation vendor. Mr. Wheaton voiced his opposition to the amount of money for the purchase of the pavilion and installation stating that there are cheaper structures that could have been considered. Mr. Compton stated that the Pavilion is well worth the cost as it is quite large, up to hurricane standards and will drastically improve the aesthetics of the area behind Building A and Pool 1.

Mr. Loveland made a motion to award contract to Superior Recreational Products in the amount of \$42,000.00, waiving the second bid requirement, accepting the additional donation of \$19,000.00 from the CVO and instruct staff to bring a budget amendment back to the next available BOT meeting for consideration. Second by Mr. Diana. Mr. Wheaton opposed. Motion passed 4-1.

Pool #2 Canopy

At the November 15, 2017 BOT workshop, Trustee-elect Wheaton suggested prioritization of a canopy at Pool #2 so when residents have a place to wait out the weather during rain. Staff acquired two quotes for a 20-foot by 24-foot aluminum canopy: \$10,538.00 Endeavor Construction, Inc. and \$7,050.00 Tripod Aluminum, Inc. Tripod Aluminum clarified their quote includes permitting. Staff plans on soliciting quotes for a concrete pad on which the canopy will be sited as well.

Mr. Loveland made a motion to award contract for construction of a canopy to Tripod Aluminum, Inc. in the amount of \$7,050.00 and authorize staff to execute the required budget transfer from R&M/Capital Contingency once a quote is signed for the installation of the concrete pad. Second by Mr. Wheaton. Motion passed unanimously.

Mr. Diana requested placing a canopy at Pool 3 as well. Mr. Coffey stated that we can see how the canopy works then duplicate the purchase if the BOT so desires.

Lake Bank Restoration, Phase 6

Due to a discrepancy in the area where the geotubbing will be placed, Mr. Coffey suggested the Board table this item until he can get further information. Ms. Henderson asked for quotes for Lee Composite Gabion retaining walls and metal walls.

Mr. Diana made a motion to table this item until the upcoming Board meeting on May 10th. Second by Mr. Loveland. Motion carried unanimously.



BAREFOOT BAY RECREATION DISTRICT

Barefoot Bay Official Song Recording Cost Request

Due to an overwhelming positive response since the New Administration Building ribbon cutting, Mr. Ray Spencer offered a proposition that the Board fund the production and recording of the Official Barefoot Bay Song. Costs are estimated at \$800 approximately. Mr. Roger Compton offered to have the CVO fund the production as a CVO project.

Mr. Loveland made a motion to allow the CVO to fund the costs for production and recording of the Official Barefoot Bay Song and keep any costs from marketing the song within the CVO. Second by Mr. Diana. Motion carried unanimously.

Manager's Report

Finance

- **FY19 Assessment Collection Update** – \$3,710,099.79 (gross) or 92.8% of the FY19 Budget has been received as of April 8th.

Resident Relations

- **ARCC Update**
 - April 2nd meeting: 6 consent approved and 14 non-consent (12 approved, 1 tabled & 1 denied).
 - April 16th is the next meeting (New Administration Conference Room at 9am) with 16 permits on the agenda (3 old, 11 consent and 15 other)
- **Violations Committee Update**
 - April 12th meeting has 20 cases on the agenda
 - April 26th is the next meeting
- **Interesting fact of the month of March**
 - 41 homes sold
 - 66 new homeowners received their badges

Food & Beverage

- **Ring of Fire Show** – If you're lucky enough to have tickets to the Ring of Fire dance show on April 13th (SOLD OUT), there is a special fun bonus for ticket holders. A free line dancing class will be held from 4:45-5:45pm to learn how to kick up your heels to the tunes of Willie, Cash & Haggard.
- **Easter Buffet Brunch** is planned at the 19th Hole on Sunday, April 21 from 8-11am. Tickets are not required. The \$12 tickets cover coffee and nice variety of menu items.
- **Mother's Day Brunch** – Tickets will go on sale for a Mother's Day Brunch on Monday, April 22nd at the Lounge, the 19th Hole and the New Administration Building. The brunch will be Lakeside of the Lounge from 9am until noon. The Dave Capp Jazz duo will perform. Flyers with all the details are posted.

Golf-Pro Shop

- **Winter Overseed Checkout** – Just as Frosty the Snowman sometimes stays too long up north, ABM will be assisting the winter overseed in "checking out of the golf course" (starting on April 8th through April 19) and welcoming back the summertime Bermuda turf. ABM will accomplish this by



BAREFOOT BAY RECREATION DISTRICT

the application of a selective herbicide on the course. This process very likely will turn the golf course yellow, brown, and white. It will not kill the Bermuda turf, but it may look dead for a short period of time.

Property Services

- Replaced burned up vacuum pump at Pool #3
- Disconnected power, water and sewer from the Old Administration Building
- Painted crosswalk in the building A parking lot
- Moved antenna for the marquee sign from the Old Administration Building to the New Administration Building
- Resurfaced the bocce ball courts
- Facilitated the Dude Solutions facilities assessment
- Made repairs to the DOR truck (leak in differential and headlight wiring issues)
- Replaced broken lighting at the Shopping Center
- Working with FPL to get meter pulled from Old Administration Building (last disconnect needed prior to demolition)

General Information

- The next **Building A Renovations RFP Evaluation Committee Meeting** is scheduled for Wednesday, April 17th at 9am in Building D/E
- **FY20 Working Draft Budget (WDPB):**
 - FY20 WDPB Resident's Budgets (condensed version containing the transmittal letter and line-item budgets) are available free to residents at the New Administration Building.
 - Electronic copies of the FY20 WDPB and FY20 WDPB Resident's Budget are available on www.bbrd.org.
 - BOT Budget Workshop are scheduled as follows:
 - Tues., April 16th in Building D/E at 7pm
 - Tues., April 23rd in Building D/E at 2pm (afternoon of an evening BOT Regular Meeting)
 - Tues., April 30th in Building D/E at 9am
 - Tues., May 7th in Building D/E at 7pm
 - Thurs., May 9th in Building D/E at 2pm (if needed)
- **Miscellaneous Projects Updates**
 - New Administration Building:
 - One quote has been received for installation of an emergency backup generator (will come to BOT when second quote is received)
 - Phase 3 irrigation/landscaping design begun (will also convert area around Veterans' Monument from potable water to lake water)
 - Miniature Golf
 - Design is substantially completed
 - Craftsman is working on vertical structures (i.e. miniatures of BBRD landmarks)



BAREFOOT BAY RECREATION DISTRICT

- Construction planned for mid-summer
- Location of Pool#1 pit replacement, heater relocation and smoking area relocation will be on the April 23rd agenda.
- Issuance of a RFP for the combined projects of Pool#1 pit replacement, Pool #1 Heater relocation and Pool #2 pit replacement will also be on the April 23rd agenda.
- **Beach Update** – A recent site inspection of the beach found the A1A Sea Oats have grown nicely since being planted as a privacy hedge and now average 6 feet in height.



- **New Administration Building Temporary Closure** – The Building will be closed from 11am to 1pm on Monday, April 22nd so staff can attend the 4th Annual Spring Employee Picnic.

Attorney Report

- General Counsel Repperger advised the Board of an agenda item brought to the County Commissioner's Agenda by Commissioner Tobia essentially requesting the county take a look at modifying the method of collection currently in use for the District assessments. General Counsel explained that in 2009 the District moved from a monthly collection to annual collection per an agreement with the County tax collector. He stated that he will meet with Commissioner Tobia, Mr. Coffey and Mr. Charles Henley, Finance Manager on April 18th to discuss the topic and advise him about the benefits of the current method of collection for his edification. He will update the Board on this subject at the next meeting.

Trustee Incidental Remarks

Mr. Loveland thanked Mr. Coffey for the help with the lirioppe and for Ms. Henderson's research on the golf course lake bank.

Mr. Diana had no comment.

Ms. Henderson offered her apology for her misstatement at the last meeting regarding the topic of a Project Manager. She stated she had no intention of implying Mr. Coffey was incapable of managing our projects but was intending to offer assistance to Mr. Coffey in an effort to save him time in his busy schedule. She announced a Golf meeting on April 25th at 10am in Building D/E.



BAREFOOT BAY RECREATION DISTRICT

Mr. Wheaton had no remarks.

Mr. Klosky shared a critical comment from a resident regarding the length of time it took for the New Administration Building to be constructed. The resident stated that he could have had the job completed in half the time. Mr. Klosky advised any former contractors with criticisms on District spending and projects to please get a contractor's license to do business in Brevard County and then come back to offer their services with our projects and projects' costs. Mr. Diana stated that he is very pleased with the way the building turned out and speaks for the District when he says we are committed to hiring the best vendors and certified contractors to help us with our projects.

Adjournment

Next meeting will be on April 23, 2019 at 7pm in Building D/E.

Mr. Wheaton made a motion to adjourn. Second by Ms. Henderson. Meeting adjourned at 2:15pm.

A blue ink signature, appearing to read "Steve Diana", written over a horizontal line.

Steve Diana, Secretary

A blue ink signature, appearing to read "Dawn Myers", written over a horizontal line.

Dawn Myers, District Clerk



BAREFOOT BAY RECREATION DISTRICT

Board of Trustees Regular Meeting

August 9, 2019

1PM –Building D&E

Meeting Called to Order

The Barefoot Bay Recreation District Board of Trustees held a Meeting on August 9, 2019 Building D&E 1225 Barefoot Boulevard, Barefoot Bay, Florida. Mr. Klosky called the meeting to order at 1PM.

Pledge of Allegiance to the Flag

Led by Mr. Coffey.

Roll Call

Present: Mr. Klosky, Mr. Wheaton, Mr. Diana, Ms. Henderson, and Mr. Loveland. Also, present, John W. Coffey, ICMA-CM, Community Manager, Cliff Repperger, General Counsel, and Dawn Myers, District Clerk.

Presentations

Employee Milestones

Mr. Klosky presented Mark Roberts of Food and Beverage with a 5-year Employee Milestone Award and pin.

Employee Incentive Awards

Mr. Klosky presented Pat Diamond of Property Services with a \$500 Employee Incentive Award for innovation in the design and painting of the American Flag at the Veterans Monument.

Mr. Rich Armington, Resident Relations and H.R. Manager, presented DOR Inspectors, Mary Barry, Peter Essig, Stephane Fecteau, and DOR/ARCC Administrative Assistant Sally Biondilillo with a \$500 Employee Incentive Award each for Extraordinary Service to Barefoot Bay.

Mr. Diana thanked all the employees for their exemplary service to the Bay. Mr. Wheaton thanked all the employees for their service and a special recognition of Ms. Biondilillo's work with the Neighborhood Revitalization Program (NRP).

Minutes

Mr. Diana made a motion to approve the minutes dated July 12, 2019. Second by Ms. Henderson. Motion carried unanimously.

Treasurer's Report

Ms. Henderson made a motion to approve the Treasurer's Report for August 9, 2019 as read. Second by Mr. Diana. Motion passed unanimously.

Audience Participation

Mr. Paul Preston addressed the Board regarding non-compliant 501C-3 in the Bay.

Mr. Bob Peet referred to the request for use of the vacant space in the shopping center for medical use. Mr. Peet announced his decision to run for Trustee in this year's election.

Ms. Fran Solecki asked about the rising costs for the upcoming pavilion installation. She also questioned why the money spent for the last Barefoot by the Lake Festival was not provided to the residents.



BAREFOOT BAY RECREATION DISTRICT

Mr. Tom Nelson congratulated Mr. Coffey and the Board on pursuing the report on the state of the all the facilities via Dude Solutions. He also congratulated the DOR employees on their recognition. Mr. Nelson requested Mr. Coffey and Mr. Klosky facilitate a meeting with officials at the water department to get more information about the potential increase in water rates.

Unfinished Business

Pool #2 Canopy

Due to an impasse between the current vendor and the District regarding a refusal to complete the agreed upon work on the canopy at Pool 1, Mr. Coffey recommended revoking the contract to Tripod Aluminum approved at the April 12th BOT meeting. Since Property Services has pursued additional quotes, Mr. Coffey recommended award of the contract to Housman's Aluminum & Screening, Inc.

Mr. Loveland made a motion to withdraw the April 12, 2019 award of contract for canopy to Tripod Aluminum, award a new contract for construction of a canopy to Housman's Aluminum & Screening, Inc. in the amount of \$10,170.00, and direction to staff to execute the required budget transfer from R&M/Capital Contingency. Second by Mr. Diana. Motion passed unanimously.

Shopping Center Roof Replacement Design

Mr. Coffey presented the Board with a quote for TLC to design the roof for the shopping center and convert the shingled roofs to metal roofs.

Mr. Diana made a motion to approve the TLC design proposal in the amount of \$20,020.00. Second by Ms. Henderson. Motion passed unanimously.

Shopping Center Amended Lease Proposal

Mr. Coffey explained that since the Board approved the lease with Sebastian River Medical Center (SRMC) to occupy the vacant space in the shopping center, SRMC has asked to include an exclusivity clause in their lease.

Mr. Loveland made a motion to accept the proposal to include the exclusivity language. Second by Mr. Wheaton. Motion passed unanimously.

New Business

Shopping Center Building 2 Part of Space 2 Lease Proposal

Tabled until September Meeting.

DOR Violations

Case# 17-001433 and 19-000191 869 CASHEW CIRCLE

Mr. Loveland made a motion to combine the violations on 869 Cashew Circle and hear as a consent agenda. Second by Mr. Wheaton. Motion carried unanimously.

Article III Section 11 and 2(D)-Exterior Maintenance and Article III Section 11 and 2(D)-Exterior Maintenance

Ms. Henderson made a motion to refer Cases 17-001433 and 19-000191 to General Counsel Repperger for legal action, equitable or other appropriate action with failure to comply. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien. Second by Mr. Loveland. Motion passed unanimously.



BAREFOOT BAY RECREATION DISTRICT

Case# 18-005411 307 AVOCADO DRIVE

Article III Section 9, Clotheslines

Mr. Loveland made a motion to refer Case #18-005411 307 AVOCADO DRIVE to General Counsel Repperger for legal action, equitable or other appropriate action with failure to comply. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien. Second by Ms. Henderson. Motion passed unanimously.

Case# 18-001160 and 19-002202 732 PERIWINKLE CIRCLE

Article III Section 2(A&D) and Article III Section 10 and 2(D)-Condition of skirting and exterior maintenance.

Mr. Diana made a motion to refer Case #18-001160 and 19-002202 732 PERIWINKLE CIRCLE to General Counsel Repperger for legal action, equitable or other appropriate action with failure to comply. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien. Second by Ms. Henderson. Motion passed unanimously.

Authorization of Certificate to Non-Ad Valorem Assessment Roll for FY20

Confirmation of Brevard County agreement to collect the District assessment.

General Counsel read the resolution:

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE BAREFOOT BAY RECREATION DISTRICT; PROVIDING FOR THE PREPARATION, ADOPTION, AND AUTHORIZATION OF CERTIFICATION OF A NON-AD VALOREM ASSESSMENT ROLL; PROVIDING FOR CORRECTIONS OF ERRORS AND OMISSIONS; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

Mr. Diana made a motion to approve the resolution authorizing the certification of a non-ad valorem assessment roll. Second by Mr. Loveland. Motion carried unanimously.

Replacement of Federal Pacific Electrical Panels and Transformer in Building C and the Lounge

Mr. J.R. Lochmandy thanked the Trustees for going forward with the facilities study by Dude Solutions. He inquired about replacing the branch wiring in building A and C along with the boxes as recommended in the study. Mr. Lochmandy also questioned why the Lounge panels are being replaced when costs for the plans to expand the Lounge have already been approved. He stated the panels could be replaced at the time of expansion.

Mr. Coffey explained that the comprehensive plans for Building A panels, HVAC, and kitchen expansion is slated for next year. The engineers have been asked to design a plan specifically compatible with the proposed plans for Building A. This quote is for the Lounge and Building C only. The facilities study did confirm that the FPE panels have outlived their usefulness in the Lounge and rather than wait for a consensus on the Board to move forward with the expansion, Mr. Coffey stated it was prudent, in his opinion, to change the panels at this time. Two quotes were accepted, and staff recommended approval of the proposal from Complete Electric.

Ms. Henderson made a motion to award a contract for replacement of FPE panels and transformer at Building C and Lounge to Complete Electric in the amount of \$7,400.00 and instruct staff to prepare a budget amendment to recognize the use of fund balance at a future BOT meeting. Second by Mr. Wheaton. Motion carried unanimously.

Replacement of Federal Pacific Electrical Panels in Building A

Ms. Henderson made a motion to waive the second bid requirement and award a contract for replacement of Building A FPE panels to Complete Electric in the amount of \$28,900.00 and instruct staff to prepare a budget amendment to recognize the use of fund balance at a future BOT meeting. Second by Mr. Diana. Motion carried unanimously.



BAREFOOT BAY RECREATION DISTRICT

Miniature Golf Course Fence

Conversion of the unused west shuffleboard courts to a mini golf course is scheduled to be completed in the next 45-60 days. A 4-ft fence with two 10 ft gates for access is necessary to prevent vandalism. Staff recommended award of contract to Palm Bay Fence. Mr. Coffey discussed drainage options in answer to Mr. Loveland's question regarding flooding. He stated that the water is usually held in the grass and not in the area where the structures will be placed.

Mr. Wheaton made a motion to award contract for fence installation to Palm Bay Fence in the amount of \$12,000.00 plus permitting for installation of a 4-foot tall parameter chain link fence at the miniature golf course site. Second by Mr. Diana. Motion carried unanimously.

Discussion of Installation of Pool Cover at Pool #1

Mr. Coffey discussed the decision to try to keep the pools at warmer temperatures since there has been feedback about the heater manufacturer's recommendation to keep the temperature at 82 degrees.

Ms. Elaine Van Berschot suggested liquid pool covers as utilized in pools up north.

Mr. Coffey stated that the quote received does not include very much of the typical permitting necessary for installation. He cautioned the trustees about going forward with the vendor proposal but will move forward if the Board so desires.

Mr. Diana made a motion not to approve the pool covers. Second by Mr. Loveland. Motion carried unanimously.

Revised Rules for the BOT

Tabled until September meeting

Revised Employee Handbook

Discussion ensued regarding proposed changes to the employee handbook. Board discussed the following items: Page 7. Addition of the following language strengthening the current prohibition against nepotism: Immediate family members of a Trustee shall be prohibited from formal employment or serving in a volunteer capacity (i.e. Golf-Pro Shop Player Assistants, Courtesy Golf Cart Drivers, etc.) with the District during the term(s) of service of said Trustee. This prohibition shall begin upon the post-election or post-appointment formal commencement of the term of the Trustee. Any family members of a Trustee classified as a current employee (whether working or on approved leave) as of August 9, 2019 will be exempt from this prohibition until the employee separates employment. Immediate family members falling within this prohibition shall be eligible for re-employment with District upon the expiration of the term(s) of the Trustee to which they are related. For purposes of this prohibition, "immediate family member" is defined as one of the following: spouse or significant other, parent/step parent, child/step child, grandparent, grandchild, brother/brother-in-law, sister/sister-in-law, uncle, aunt, nephew, niece, first cousin, in-laws (father, mother, son daughter).

Page 15. Deletion of language stating paychecks will be mailed (no longer the practice of the Finance Department) and addition of language stating when they can be picked up by the employee.

Paychecks are deposited no later than Thursday following the end of the pay period. If the employee does not choose direct deposit, the paychecks will be mailed by the payroll company directly to the employee's address of record or will be available for pick up by the employee starting at 4pm on Thursdays following the end of the pay period.

Page 18. Correction of grammatical errors regarding the Longevity Milestone Award Program:

Full-time and part-time active employees become eligible for a milestone recognition award of bonus days off in the year in which they complete 5, 10, 15, 20, 25, 30, 35 and 40 years of service.



BAREFOOT BAY RECREATION DISTRICT

Page 22. Addition of mandatory drug testing requirement for reasonable suspicion of drug or alcohol use.
Page 178 of 241

Employees are subject to mandatory drug testing, as provided for in the BBRD Drug Free Workplace Policy, immediately after any vehicular accident while at work and/or on duty that the employee has caused, contributed to, or been involved in. Additionally, mandatory drug testing may be required if the supervisor has reasonable suspicion of drug or alcohol use based upon performance of the individual in her/his job. This provision shall apply regardless of whether the employee is driving a District owned vehicle or a vehicle owned by any other party.

Page 26. Deletion of reference to the old Resident Relations Office and addition of a reference to the New Administration Building. Leisure clothes such as jeans, shorts, cut-offs, or halter tops are not acceptable attire for the business office, which includes the New Administration Building Office and Resident Relations.

Page 34. Deletion of bullet referencing old method of vacation accrual. Current method is listed in the table shown above this bullet. Regular Full-time employees' Vacation Time is accrued in hours, once a month, on the first pay period after the 15th. Regular Part-time employees' Vacation Time is accrued in hours, once a month, on the first pay period of the following month.

Page 35. Clarification of when a full-time employee changes to part-time or seasonal status that he/she must cash out his/her sick time accrual.

Full-time Employees who retire, resign, convert to part-time employment, convert to seasonal employment, or who are laid off will receive pay for their accrued sick leave upon separation from employment or change of status. No payment shall be made for unused sick leave except at retirement, resignation, or layoff.

Mr. Diana voiced strong opposition against the language regarding prevention of future trustees to have family members employed by the Bay. Mr. Coffey stated that his experience has shown that there have been past complications in this area and in his opinion, in disciplinary situations, staff should not be subjected to trustee intimidation due to their personal connection to an employee. Mr. Loveland was opposed to placing this rule in the Rules of Trustees but favored the inclusion in the employee manual. Ms. Henderson was in favor of inclusion in the employee handbook. Mr. Wheaton stated that the message out of the FASD conference is the problem with nepotism. He stated that he is in favor of this language.

Ms. Henderson made a motion to adopt the employee handbook as presented. Second by Mr. Wheaton. Mr. Diana opposed. Motion passed 4-1.

Donation Request

Mr. Anthony Whitmore has requested to donate a bench in honor of his late wife which would replace the existing bench positioned in front of the Veterans Memorial Monument in the Community Complex. He requests the following inscription. "In Loving Memory of Twila Whitmore."

Per the BBRD Policy Manual, the BOT must approve all donation requests and then staff will order the item once the donor has paid the cost. Staff recommends the BOT accept the donation in memory of Mrs. Whitmore.

Ms. Henderson made a motion to accept the donation for the bench in memory of Twila Whitmore. Second by Mr. Diana. Motion carried unanimously.

Neighborhood Revitalization Program (NRP) Purchase Confirmation: 517 Egret Circle

Confirmation of 517 Egret Circle purchase per the Policy Manual's "Purchase or Sale of Properties by BBRD using Neighborhood Revitalization Program (NRP) funding" (page 11)"

Mr. Diana made a motion to confirm the purchase of 517 Egret Circle via the Neighborhood Revitalization Program. Second by Ms. Henderson. Motion carried unanimously.



BAREFOOT BAY RECREATION DISTRICT

Budget Amendment: Building C Exterior Rehabilitation Project

In a previous meeting the BOT awarded a contract to Parkit Construction, Inc. in the amount of \$117,22.00 for Building C Exterior Renovations and authorized staff to prepare a budget amendment for the use-of-Fund Balance. This action will add \$35,225.00 from the Fund Balance to the project budget.

Ms. Jeanne Osborne asked if the weathered interior furniture could be replaced as part of the budget for this project.

General Counsel Repperger read the resolution.

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE BAREFOOT BAY RECREATION DISTRICT AMENDING RESOLUTION 2018-06; AMENDING THE BUDGET.

Mr. Diana made a motion to accept resolution 2019-06 amending the budget. Second by Ms. Henderson. Motion carried unanimously.

FY21 Budget Preparation Calendar

Mr. Coffey presented dates for the FY21 Budget Workshops. The Board chose the following dates:

Tuesday, Dec. 3rd D/E 7-9pm

Tuesday, April 21st D/E 7-9pm

Thursday, April 30th 7-9pm

Tuesday, May 5th 7pm-9pm

Thursday, May 7th 7pm-9pm

Ms. Henderson made a motion to accept the budget calendar as presented. Second by Mr. Diana. Motion carried unanimously.

Manager's Report

District Clerk

Hurricane Irma FEMA Reimbursement Update – The office of the District Clerk received two final checks from FEMA for reimbursement relating to Hurricane Irma in the amount of \$11,011.02 and \$786.34. In addition to District Insurance reimbursement, staff recovered a total of \$71,029.01 for damages from Irma.

Resident Relations

- **ARCC Update**
 - July 23rd meeting agenda: 10 consent approved, 8 non-consent (6 approved, 1 approved with stipulations, and 1 denied), 2 old business discussed regarding their previous denials.
 - August 6th is the next meeting (New Administration Conference Room at 9am)
- **Violations Committee Update**
 - July 12th meeting was canceled due to a lack of a quorum
 - August 9th is the next meeting
- **NRP Update**
 - 824 Tamarind Circle sold for \$15,350.00 plus tax and buyer's premium
 - 944 Pecan Circle sold for \$14,325.00 plus tax and buyer's premium
- **Interesting Fact of July**
 - 45 homes sold with 68 new homeowners receiving their social membership badges



BAREFOOT BAY RECREATION DISTRICT

Food & Beverage

- A **Luau** will be held Lakeside of the Lounge on Saturday, August 20, 2019. Music is by Ladies of Soul and tickets for the tropical buffet are \$10. Tickets are available at the Lounge, the 19th Hole, and the New Administration Building.
- New dart boards are on their way.
- The **Annual Summer Games and Chili Cook off** will be held on Sunday, September 15 starting at 1 p.m.
- The **next Ring of Fire Show** is October 12th in Building A. Listen and dance to the sounds of Cash, Willie, and Haggard from 6-9:30pm. Tickets are \$13 and go on sale September 16th in the New Administration Building at 9:30am. One person may purchase up to 8 tickets.

Flyers with all the details are posted.

Golf-Pro Shop

- Pro Shop Carpet and Flooring Replacement Project Update:
 - Removal of the old carpet and floor repairs is scheduled to begin August 5th
 - When that is completed the carpet vendor will install the new carpet
- Hole 12 Sod Repair Project:
 - Scheduled to begin the week of August 19th, weather permitting
 - The entire hole will be closed during repair
- Replacement Driving Range Hitting Cages Project Update:
 - Equipment is on-site
 - Installation is scheduled for mid-to-late August
- Overflow Cart Parking Behind Hole 9 and D&E Project Update:
 - Anticipate beginning August 19th

Property Services

- Completed running electric and water to the new miniature golf course
- Installed new AED at the tennis/pickle ball courts
- Completed installation of the new sidewalk at the NAB
- Continued painting of the Shopping Center parking lot
- Completed installation of the New Veterans' Gathering-Space flooring, trim, and blinds
- Tested radio tower and installed power and shelving for the new radio system
- Completed painting at Micco and West RV lots
- Continued canal bank maintenance
- Addressed all current DOR grass violations

There is an interest in purchasing 402 Raven and 1025 Oreo and a request to waive the past due lot mow fees. Mr. Coffey inadvertently left this request off the agenda but will have it on the next BOT agenda in September.



BAREFOOT BAY RECREATION DISTRICT

Attorney's Report

All DOR complaints have been drafted and amended. General Counsel Repperger is hoping to have everything filed by September. He is analyzing numbers regarding re-renting the vacated space from Blissful Things as it pertains to the barber shop and how it will affect summary judgement.

Incidental Trustee Remarks

Mr. Loveland commended Pat Diamond's work on the flag at the Veterans' Monument and urged the residents to stop by for a look. He asked for awareness concerning security for our staff and residents in assembly. He suggested looking into security measures for our facilities.

Mr. Diana thanked staff for their hard work and Mr. Diamond for his work at the Veterans' Monument. He voiced his opinion regarding having to have the conversation on nepotism as people should know right from wrong.

Ms. Henderson had no comment at this time.

Mr. Klosky addressed a complaint about moving pool furniture and moving it around to suit individual needs. He stated that the furniture for the pool belongs there and should not be moved. There are only certain residents partaking in this and continued rearrangement of the furniture could result in suspension of privileges at the amenities. He asked that the residents reserve space for parties with the calendar coordinator - not arbitrarily hold an event without going through the proper channels.

Mr. Wheaton made a motion to adjourn.

Adjournment

The next meeting will be on September 13, 2019 at 1pm in Building D/E.

Meeting adjourned at 3:04.

Steve Diana, Secretary

Dawn Myers, District Clerk

Board of Trustees Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **FY21 Proposed Budget Mailout**
Section & Item: 9.A
Department: Administration, Finance
Fiscal Impact: \$2,903.40
Contact: Charles Henley, Finance Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: FY21 Proposed Budget Mailout background and summary attachment, sample mailout
Reviewed by
General Counsel: N/A
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Approve FY21 Proposed Budget Mailout and announce date/time of Public Hearings for adoption of FY21 Assessment Rate and Budget.

Background and Summary Information

Information normal presented here is attached.

Staff recommends the BOT approve the Proposed Budget Mailout as attached (or modify as needed and then approve it) and announce 7pm in Building D/E on June 23, 2020 as date and time of the public hearing for the adoption of the annual assessment in addition to the adoption of the FY21 Budget.

Background and Summary Information

BBRD Policy Manual requires the BOT to adopt a proposed draft budget for mail out to property owners at the 2nd regular meeting in May.

The FY21 Proposed Budget was developed based upon

- BOT held a townhall meeting in December 2019 to solicit input from the public
- BOT review of the FY21-25 Five-Year Financial Model and Capital Improvement Plan in January
- BOT review and modification of the FY21 Working Draft Proposed Budget during two workshops

The FY21 Proposed General Fund Budget is presented balanced with \$7,657,628.00 in revenues and expenditures. The following revenue augmentations are included:

- A \$2.00 a month increase in the current assessment to \$68.00 a month containing the following elements:
 - \$1.98 or 3.0% increase to maintain the ability of BBRD to fund R&M/Capital projects needs given the impact of inflationary pressures on operating costs (planned as an annual increase in the FY20-24 5-year Financial Model and Capital Improvement Plan)
 - \$0.02 a month increase to round up to the nearest integer in monthly assessment rate
- \$1,000,000 7-year loan to finance the Lounge/Lakeside Expansion , Phase 1 and Golf Course Irrigation Replacement, Phase 1 projects
- \$22,594 (10%) increase in Golf Membership fees
- A 2.50% increase in Food & Beverage prices

The FY21 Proposed General Fund Budget contains the following Decision Points and R&M/Capital projects:

3 operating decision points costing \$104,471

- \$17,168 Custodial Service for Beach Restrooms (0.67 FTE)
- \$2,500 Christmas Decorations Maintenance
- \$84,803 Debt Service (for \$1,000,000 bank loan)

16 R&M/Capital projects costing \$1,198,200

- \$750,000 Lounge/Lakeside Expansion
- \$250,000 Golf Course Irrigation System Replacement, Ph. 3 (front nine, range, and practice greens piping/heads)
- \$52,300 19th Hole Walk in Cooler/Freezer
- \$30,400 Bldg. D/E Exterior Doors and Windows Replacement
- \$24,500 Replacement P.S. Truck (2006 full-size)
- \$21,800 Vehicle for Beach Restroom Custodial Personnel
- \$16,900 Pro Shop Roof Replacement
- \$8,800 P.S. (Falcon) Electrical Panel Replacement
- \$6,600 Lounge HVAC Supply Fan Replacement
- \$6,500 Golf Course Cart Barn Repairs
- \$5,900 Pro Shop Electrical Panel Replacement
- \$5,800 Shopping Ctr. (937) HVAC Roof Condensing Unit Replacement
- \$5,400 Bldg. A Interior Doors Replacement
- \$4,900 Veterans Gathering Center Building HVAC Condensing Unit Replacement
- \$4,900 Shopping Ctr. (935) HVAC Ground Condensing Unit Replacement
- \$3,500 Softball Field Building Roof Replacement

10 contingency R&M/Capital projects costing \$160,300 (will be done if all budgeted revenues are received)

- \$50,000 Restroom Trailer by Pickle Ball/Tennis Courts
- \$25,000 Neighborhood Revitalize Program
- \$25,000 Replace Damaged Concrete Sidewalks/Assembly Areas
- \$16,900 Electrical Outlets Under the Oaks East of the Building A Lake
- \$8,600 Bldg. D/E Restroom Upgrades
- \$8,000 Additional Sound Dampening Panels for Building A
- \$7,900 Softball Field Building Plumbing Fixtures Replacement
- \$6,900 Bldg. A Awning over "Terrace" Opposite Lounge
- \$6,000 Pro Shop Exterior Windows Replacement

- \$6,000 P.S. (Falcon) Exterior Windows Replacement

The FY21 Proposed General Fund Budget contains 78.22 FTEs of which 34 are full-time plus 2.0 FTEs via the contract with Special District Services, Inc.

Staff recommends the BOT approve the Proposed Budget Mailout as attached (or modify as needed and then approve it) and announce 7pm in Building D/E on June 23, 2020 as date and time of the public hearing for the adoption of the annual assessment in addition to the adoption of the FY21 Budget.



Barefoot Bay Recreation District
Proposed Budget - General Fund
Fiscal Year 21 (10/01/2020 – 9/30/2021)

The FY20 General Fund Proposed Budget is based on an assessment rate
of \$816.00 (\$68.00/month) per year per lot.

	FY19	FY20	FY20	FY21	FY21	FY21
	Actual	Original	Year-end	Base	Decision	Proposed
		Budget	Estimate	Budget	Points	Budget
Revenues/Sources						
Administration	3,778,281	3,900,765	3,917,228	3,889,703	117,000	4,006,703
Resident Relations	99,366	89,505	65,997	100,315	-	100,315
Food & Beverage	1,207,396	1,259,781	704,445	1,286,340	-	1,286,340
Golf-Pro Shop	682,939	614,234	584,244	626,923	22,594	649,517
Property Services	401,850	382,550	315,382	317,200	-	317,200
Vehicle Storage	157,710	157,500	157,391	157,449	-	157,449
Shopping Center	87,373	106,268	107,829	110,104	-	110,104
R&M/Capital Projects	148,505	33,975	-	-	1,000,000	1,000,000
Total Revenues/Sources	6,563,420	6,544,578	5,852,516	6,488,034	1,139,594	7,627,628
Expenditures/Uses						
Administration	1,124,091	1,371,006	1,100,395	1,340,490	-	1,340,490
Resident Relations	452,487	512,386	483,730	543,641	-	543,641
Food & Beverage	1,304,392	1,304,720	802,922	1,297,915	-	1,297,915
Golf-Pro Shop	883,181	883,653	891,352	917,049	-	917,049
Property Services	1,490,978	1,505,172	1,611,553	1,697,411	19,668	1,717,079
Vehicle Storage	19,402	20,540	18,229	18,516	-	18,516
Shopping Center	47,224	36,022	47,463	36,073	-	36,073
Stormwater	48,304	56,579	55,785	50,547	-	50,547
R&M/Capital Projects	1,043,016	854,500	1,929,010	263,015	1,443,303	1,706,318
Total Expenditures/Uses	6,413,076	6,544,578	6,940,440	6,164,657	1,462,971	7,627,628

FY21 contains the following revenue enhancements:

- \$117,000 from a total \$2.00 increase in the monthly assessment rate to \$68.00 (comprised of two elements)
 - \$1.98 or 3.0% increase to maintain the ability to fund R&M/Capital project needs given the impact of inflationary pressures on operating costs
 - \$0.02 a month to “round up to the next integer” in the monthly assessment rate
- A 2.50% increase in Food & Beverage prices
- \$22,594 from a 10% increase in Golf-Pro Shop Membership Fees
- \$1,000,000 bank loan with a 7-year repayment to fund the cost of one-time projects

General Fund Revenues/Sources

District Assessment Fee	3,978,000
Recreation Fees	283,200
Badge & Add. Social Membership	34,000
Guest Passes	66,000
Golf Memberships	248,533
Non Resident Golf Initiation Fees	950
Fleet Golf Cart Rentals	84,965
Private Golf Cart Fees	87,050
Handicap Fees	7,980
Golf Club Storage	255
Practice Range	2,489
Greens Fees	139,000
Golf Rental Equipment	1,986
Merchandise Sales	73,830
Coupons	(17,988)
Staff Discount	(1,295)
F&B Shift Discount	(13,627)
Beverage Sales	798,703
Food Sales	501,374
Building Rentals	5,500
DOR Enforcement Fees	22,000
Grants and Loans	1,000,000
Interest Income	16,800
Vending Machine Income	462
NSF Fees	80
Vendor Discount	260
Sales Tax Discounts	360
Delinquent Fee Collections	4,225
Lien Fee Reimbursement	1,168
Legal Fee Recovery	1,225
Ins. Proceeds (reimbursements)	3,000
Proceeds from Sale of Fixed Assets	1,985
(Golf) Youth Group Income	3,500
Misc. Income General	24,755
Vehicle & Kayak Storage Income	156,799
Leasing Income	84,253
Common Area Maint. Income	14,790
Real Estate Taxes Income	11,061

Total G. F. Revenues: 7,627,628

General Fund Expenditures/Uses

F/T Salaries	1,308,187
P/T Wages	951,424
Overtime	16,552
Special Pay	12,232
Payroll Taxes	175,396
401 A Benefit	16,827
Medical/Dental/Life Insurance	332,630
Payroll Fees	22,650
Professional Fees	47,389
Legal Fees	89,388
Management Fees	239,105
Management Fees/Tax Roll	5,000
Accounting & Auditing Fees	35,000
Software Renewal/Support Fees	51,300
Operating Supplies & Misc. Expenditures	52,906
Cleaning Supplies	32,829
Chlorine	35,353
Chemicals	2,331
Beverage Supplies	5,771
Paper Supplies	19,165
Small Tools & Hardware	10,482
Fuel	23,811
Collection Fees	77,220
Collection Discounts	126,953
Property Taxes	31,563
ICMA Retirement	1,000
Employee Incentive	78,945
Employee Recruitment & Testing	6,157
Lien & Recording Fees	1,209
Travel & Training	23,833
Telephone, Internet, Cable	38,037
Postage	7,960
Utilities/Electrical	89,043
Utilities/Propane	15,090
Utilities/Water	41,812
Utilities/Solid Waste-Garbage	34,508
Utilities/Portable Toilets	4,100
CVO Utilities	2,682
Equipment Leasing	69,903
Uniform Leasing	6,261

The public hearing to set the Assessment and Adopt the Budget
will be held on June 25, 2019, Building D/E at 7:00pm



Insurance	141,226	Replace Damaged Concrete	
Resident Activities	16,985	Sidewalks/Assembly Areas	25,000
Workers Comp. Insurance	22,634	Bldg. A Awning over "Terrace"	
Access System Service Fee	5,506	Opposite Lounge	6,900
Licenses, permits & lien fees	5,815	Pro Shop Ext. Windows Replacement	6,000
Printing	4,541	P.S. (Falcon) Ext. Windows Replace.	6,000
Advertising	11,345	Softball Field Building Plumbing Fixtures	
Employee Clothing Allowance	6,694	Replacement	7,900
Bank Charges	31,516	Restroom Trailer by P.B./Tennis Courts	50,000
Dues & Subscriptions	23,409	Add. Sound Dampen Panels for Bldg. A	8,000
DOR Enforcement Expenses	3,125	Electrical Outlets under the Oaks East	
Election Expenses	2,500	of the Building A Lake	16,900
Golf Course Maintenance	456,769	<u>Non-Contingency Projects</u>	
R & M Misc	16,038	Lounge/Lakeside Expansion (Ph. 1)	750,000
R & M Buildings	71,529	Bldg. A Interior Doors Replacement	5,400
R & M Grounds	117,884	Lounge HVAC Supply Fan Replacement	6,600
R & M Equipment	61,902	Bldg. D/E Ext. Doors/Window Replace	30,400
R & M Pools	18,896	19th Hole Walk in Cooler/Freezer	52,300
Vehicle Maintenance	6,632	Pro Shop Roof Replacement	16,900
Contingency	449,245	Pro Shop Electrical Panel Replacement	5,900
Music & Entertainment	117,470	P.S. (Falcon) Elec. Panel Replacement	8,800
Food Costs of Sales	231,868	VGC Building HVAC Condensing Unit	
Beverage Costs of Sales	257,313	Replacement	4,900
Soft Drinks & CO2	41,316	Shopping Ctr. (935) HVAC Ground	
Merchandise Cost of Sales	51,476	Condensing Unit Replacement	4,900
Debt Service Principal	86,139	Shopping Ctr. (937) HVAC Roof	
Debt Service Interest	27,651	Condensing Unit Replacement	5,800
Capital projects	1,198,200	Softball Field Building Roof	
Total G. F. Expenditures:	7,627,628	Replacement	3,500
		Replacement P.S. Truck (2006 full-size)	24,500
Non-Capital Decision Point Summary:		Vehicle for Beach Restroom Custodial	21,800
Custodial Service for Beach Restrooms (0.67 FTE)	17,168	Golf Course Irrigation System	
Christmas Decorations Maintenance	2,500	Replacement, Ph. 3 (front nine, range, and practice greens piping/heads)	250,000
Debt Service (for \$1,000,000 bank loan)	84,803	Golf Course Cart Barn Repairs	6,500
Total Non-Capital Decision Points:	104,471	Total R&M/Capital Projects:	1,358,500
R&M/Capital Project Summary:		FY21 Personnel Summary (FTEs):	
<u>Contingency Projects</u>		Full-time	34.00
Neighborhood Revitalize Program	25,000	Part-time	44.22
Bldg. D/E Restroom Upgrades	8,600	Total Positions:	78.22

For a complete department by department line-item budget, please go to <http://bbird.org/sites/barefootbayfl/files/uploads/copy-of-fy21-budget-mailout-12may20.pdf> or stop by the Administration Building for a paper copy.

Please direct any questions to:

John W. Coffey, ICMA-CM, BBIRD Community Manager
772.664.3141
jcoffey@bbird.org


or

Charles Henley, Finance Manager
772.664.3141
charleshenley@bbird.org

Barefoot Bay Recreation District

625 Barefoot Blvd.

Barefoot Bay, FL 32976



Mr. & Mrs. Property Owner

1316 Mockingbird Lane

Barefoot Bay, 32978

Page 120 of 362

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **Shopping Center Lease for Building 1 Unit 2 and part of 3 (Old Barber Shop)**
Section & Item: 9.B
Department: Shopping Center
Fiscal Impact: \$11,841.61
Contact: Charles Henley, Finance Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: Sanity jewelry tentative old barber shop Shopping Center lease agreement 15May20, Shaw tentative old barber shop Shopping Center lease agreement 12May20, finder's fee agreement letter

Reviewed by

General

Counsel: No

Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Approve a tentative lease agreement and direction to General Counsel to draft formal lease and guaranty documents.

Background and Summary Information

The old Barber Shop became vacant in 2019 when the former tenant moved to a larger unit in the front of the Shopping Center (July 9, 2019). Recently two individuals approached staff interested in leasing the unit. Tentative lease agreements with each entity are attached and summarized below:

Shaw Medical

- Lease starts August 1, 2020
- 2 months free rent
- \$10/square foot
- 5-year lease with 3 renewals
- BBRD staff to demo old barber added plumbing, remove old flooring and replace damaged ceiling tiles and vents

Sanity Jewelry

- Lease starts July 1, 2020
- 1.5 months free rent
- \$10/square foot
- 3-year lease with 2 renewals
- BBRC would pay \$950 finder's fee to realtor (leasing agreement was expired when realtor showed the unit. Finder's fee is approximately one-half of what the commission would have been if the agreement had been in effect. Signed letter from realtor accepting proposed amount is attached.)

The Community Manager recommends the BOT approve one of the two proposals and instruct General Counsel Repperger to draft a formal lease and guaranty (for future BOT approval).



Barefoot Bay Recreation District

625 Barefoot Boulevard, Administration Building
Barefoot Bay, FL 32976-9233

Phone 772-664-3141

Fax 772-664-1928

Tentative Shopping Center Lease Agreement*

Unit: Old Barber Shop (Building 1, Unit 3 and part of 4)

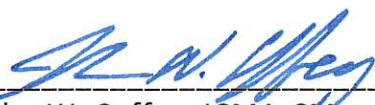
Agreed upon terms

- Lease starts on July 1, 2020
- Lessee shall only operate services related to Jewelry business. Any other services will require amendment to the lease.
- Rent (including CAM, real estate tax and sales tax) starts on October 1, 2020
 - 1.5 months free rent, CAM, real estate tax and sales tax
- 3-year lease term, with two renewals (based on 60 days' notice from both parties)
- \$10/s.f. (based on 913 sq./ft. of space)
 - Security deposit due at signing of lease \$1,973.60 (two times sum of base rent, CAM and real estate taxes)
 - First year (annualized) costs:
 - Base Rent \$9,130.00, CAM \$1,479.06, Real Estate Tax \$1,232.55, and sales tax
 - At start of second year, annual 2.0% increase in rent. CAM and taxes to be adjusted annually
 - Upon renewal of lease, annual 2.0% increase in rent will be in effect for each year of the lease.
- Lessee is responsible for obtaining all applicable permits for demo and buildout.
 - Lessee does not plan on any significant demo or building out
- Lessee may erect signage that is in agreement with BBRD requirements. Signage in the window, door and/or façade are permitted with prior approval of BBRD.

Terms parties do not agree upon

- None

* Does not constitute a formal agreement to lease a unit on behalf of Barefoot Bay Recreation District. Signatories simply agree that the above stated terms represent an agreed upon set of terms to present to the BBRD Board of Trustees who have sole authority to award, deny or modify the terms contained herein.



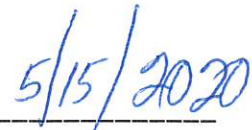
John W. Coffey, ICMA-CM
BBRD Community Manager



Date



Mark Hinds
Prospective Lessee



Date

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Barefoot Bay Recreation District

625 Barefoot Boulevard, Administration Building
Barefoot Bay, FL 32976-9233

Phone 772-664-3141

Fax 772-664-1928

Tentative Shopping Center Lease Agreement*

Unit: Old Barber Shop (Building 1, Unit 3 and part of 4)

Agreed upon terms

- Lease starts on August 1, 2020
- Lessee shall only operate services related to medical care and treatment. Any other services will require amendment to the lease.
- Rent (including CAM, real estate tax and sales tax) starts on October 1, 2020
 - 2 months free rent, CAM, real estate tax and sales tax
- 5-year lease term, with three renewals (based on 60 days' notice from both parties)
- \$10/s.f. (based on 913 sq./ft. of space)
 - Security deposit due at signing of lease \$1,973.60 (two times sum of base rent, CAM and real estate taxes)
 - First year (annualized) costs:
 - Base Rent \$9,130.00, CAM \$1,479.06, Real Estate Tax \$1,232.55, and sales tax
 - At start of second year, annual 2.0% increase in rent. CAM and taxes to be adjusted annually
 - Upon renewal of lease, annual 2.0% increase in rent will be in effect for each year of the lease.
- Lessee is responsible for obtaining all applicable permits for demo and buildout.
 - Lessee shall provide BBRD plans for all work to modify electrical, HVAC, plumbing and/or structural changes (excluding non-load bearing walls) a minimum of 10 business days prior to commencement of work. BBRD reserves the right to have engineers/licensed trades persons inspect any such work after completion.
 - Lessee states that non load bearing walls will be modified. Bathrooms will be updated without major modifications
- Lessee may erect signage that is in agreement with BBRD requirements. Signage in the window, door and/or façade are permitted with prior approval of BBRD.
- BBRD to remove accessory items left (including but not limited to capping of pipes where applicable) behind from former tenant after execution of lease.
- BBRD to remove flooring prior execution of lease.
- BBRD will removal all plumbing fixtures and piping installed by the prior tenant. Sections of walls removed to facilitate said work will be patched but not painted.

* Does not constitute a formal agreement to lease a unit on behalf of Barefoot Bay Recreation District. Signatories simply agree that the above stated terms represent an agreed upon set of terms to present to the BBRD Board of Trustees who have sole authority to award, deny or modify the terms contained herein.

- BBRD to install new ceiling tiles and vents where missing (result of former tenant vacating unit), damaged, or excessively aged after buildout by tenant.

Terms parties do not agree upon


- None



John W. Coffey, ICMA-CM
BBRD Community Manager

5-12-2020

Date

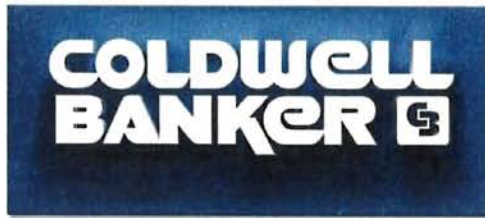


Patrick Shaw
Prospective Lessee

5/12/2020

Date

* Does not constitute a formal agreement to lease a unit on behalf of Barefoot Bay Recreation District. Signatories simply agree that the above stated terms represent an agreed upon set of terms to present to the BBRD Board of Trustees who have sole authority to award, deny or modify the terms contained herein.



PARADISE

May 18, 2020

John Coffee
Barefoot Bay Recreational District

Dear John,

Please let this letter serve as my acceptance of a Referral Fee in the amount of \$950 for the current Proposed leased space for Sanity Jewelry and it's owners Mark Hines, and Kerilyn O'Hagan. They are both excited about setting up their business office at the center and would be a great addition for the Barefoot Bay community.

Sincerely,

A handwritten signature in cursive script that reads "Terry Calhoun, Realtor".

Terry Calhoun
Coldwell Banker Paradise
Schlitt Community Management
1209 U.S. Highway 1
Sebastian, FL 32958
E-mail: terrycalhouncam@aol.com
Direct: 772-388-6378
Fax: 772-388-1227

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020

Title: **Shopping Center Rent Reduction Requests (3 tenants)**

Section & Item: 9.C

Department: Shopping Center

Fiscal Impact: TBD

Contact: Charles Henley, Finance Manager, John W. Coffey ICMA-CM, Community Manager

Attachments: email request from barbershop owner, email request from food store owner, email request from RJs owners

Reviewed by

General Counsel: No

Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Consideration of requests from three tenants (Food Store, Barber Shop and RJ's 2002 Restaurant) for rent forgiveness due to the COVID-19 pandemic.

Background and Summary Information

On May 19, 2020, staff received individual requests from the following tenants for rent forgiveness and/or reduction due to the impacts of the coronavirus pandemic. To aid the BOT's decision making, the following chart showing the rent, common area maintenance (CAM) and real estate taxes paid by each (current rent paying) tenant is provided below:

Tenant	Unit	Monthly Rent	Monthly CAM	Monthly RE Tax	Monthly Revenue
BB Food Store	1-1	1,612.95	282.56	235.46	2,130.97
BB Salon & Barber	1-2	1,404.00	210.60	175.50	1,790.10
Sunshine rental	1-7	609.17	98.69	82.24	790.09
2002 Restaurant	2-1 & part of 2	1,398.10	323.33	269.44	1,990.86
Totals		5,024.22	915.18	762.64	6,702.02

The reader should note that the FY20 Year-end Estimates are based on each tenant paying full rent, CAM and real estate taxes.

Staff requests direction regarding this matter.

John Coffey

From: Accounts Receivable <ar@bbrd.org> on behalf of Accounts Receivable
Sent: Tuesday, May 19, 2020 10:21 AM
To: John Coffey
Subject: Fwd: Rent relief

John,
The Barber has also submitted a request for help.

----- Forwarded message -----

From: **walter** <walter3412267@hotmail.com>
Date: Tue, May 19, 2020 at 9:32 AM
Subject: Rent relief
To: Ar@bbrd.org <Ar@bbrd.org>

To who ever it may concern,

Due to the pandemic we were forced to close Thursday April 2nd and were not allowed to reopen until Monday May 11th. I have tried to secure any and all forms of small business assistance available but to no avail. I have used all of the business reserves to pay my employees during the closure. As a tenant in good standing I am requesting any rental relief that the BBRD may be able to grant us. Thank you for your consideration on this matter.

Please submit this request for consideration during the May board meeting.

Sincerely,
Walter Schmidt
Barefoot bay Salon and Barber

To,

Charles Henley,

As the Covid 19 world wide
Pandemic affected the world and such us all.
due to Covid 19 it effected my Business Barefoot
Buy food store.

So would you reduced the rent in to 50%. That
will be appreciate. I has effect our daily life of the

Business.

I am been renting for close to twenty years and
Never had such Issue.

Thank you

Barefoot buy food store

John Coffey

From: Charles Henley <charleshenley@bbrd.org> on behalf of Charles Henley
Sent: Tuesday, May 19, 2020 8:31 AM
To: John Coffey
Subject: Fwd: Covid19 rent forgiveness

I received this last night from RJs

Sent from my iPhone

Begin forwarded message:

From: robert schmidt <rws6312@yahoo.com>
Date: May 18, 2020 at 9:40:14 PM EDT
To: "charleshenley@bbrd.org" <charleshenley@bbrd.org>
Cc: ". A1 Robert John" <robertjohn3773@gmail.com>
Subject: Covid19 rent forgiveness

To Charles Henley

As The Covid19 world wide Pandemic affected the world and as such,our Local Community Behavior,

RJ's Family Restaurant as long term occupant in the shopping Plaza with good payment history and like others here in the barefoot bay community, like the barber shop, and food store have been dramatically affected.

RJs was reduced to 50% dine -in capacity on March 15th and then completely shut out from dining room seating on March 20th all the way to May 4th and opened dining room at 25% RJs Family Restaurant was allowed up to 50% occupancy on May 18th. However , still, within this time frame RJs as well as others in the shopping center can testify those lost days of business at the end of our busy season, all by Covid19 and the Fear that as been presented on the Daily News. People are Hesitant to Dine-out.

RJ's Family Restaurant request if it is within the departments ability to assist with rent forgiveness of three months or Partial rent Forgiveness in this historic event that is not over....yet,

Also, We at RJ's thank the Staff and Management for remaining accessible during this Crisis.

We Hope businesses will in the next few months returns to Normal.

the matter

and Ninette lerome

Thank You for your Consideration in

Robert J.Schmidt

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **Beach Restrooms Engineering Services**
Section & Item: 9.D
Department: R&M/Capital Projects
Fiscal Impact: \$25,650.00
Contact: Matt Goetz, Property Services Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: Beach Restroom engineering services proposal, email from TLC part 1, email from TLC part 2
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Approval of engineering services by TLC (BBRD's engineering firm of record)

Background and Summary Information

The FY21-25 Proposed Five-year Financial Model and Capital Improvement Plan contains \$130,000 in funding for the construction of restrooms at the BBRD Beach. Previously discussed are the following elements of the project:

1. Procurement of a prefabricated concrete restroom building
2. Development of engineering specifications and site plan amendment
3. Removal of existing changing room building
4. Installation of septic tank and drain field
5. Delivery of prefabricated building
6. Connection of utilities
7. Re-connection of CCTV and exterior rinse station.

On March 13, 2020, the BOT awarded a contract for the procurement and delivery of a prefabricated restroom to Leesburg Concrete Company, Inc. in the amount of \$83,929.00.

Staff solicited the attached proposal from TLC to accomplish task #2. Said proposal costs \$25,650.00.

On May 18, 2020, staff received the attached e-mails from TLC stating that additional costs would be required due to the determination that Department of Environmental Protection (DEP) and Coastal Construction Control Line (CCCL) permits will be required. Hence, a change order to this proposal should be expected.

Although the services are higher than anticipated, staff believes sufficient cost savings will be incurred this year as a result of the prolonged coronavirus pandemic shutdown to fund any overages for the rest of the project.

Staff recommends the BOT approve the engineering services proposal from TLC at a cost of \$25,650.00.

-



May 07, 2020
Revised May 12, 2020

Mr. John W. Coffey
Community Manager
Barefoot Bay Recreation District
625 Barefoot Blvd
Barefoot Bay, FL 32976
Delivered via e-mail: jcoffey@bbrd.com

**Re: Barefoot Bay Recreation District Beachside Property Restroom
Professional Engineering Services Proposal_R1**

Dear Mr. Coffey:

TLC Engineering Solutions, Inc. (TLC) is pleased to submit the following proposal to provide engineering services for the above referenced project. We appreciate your consideration and look forward to working with you and your design team on this project.

PROJECT SCOPE

We understand the project is to consist of construction of a 220 square foot pre-engineered pre-cast concrete restroom facility and supporting septic system and drainage field located in Melbourne Beach, Florida. TLC's proposal is based on information provided in e-mail correspondence between John Coffey of the Barefoot Bay Recreation District and Colin G. Doyle of TLC, on/of May 04, 2020. The pre-cast restroom facility is purchased fully wired and plumbed with fixtures. Signed and sealed architectural, plumbing, electrical, and structural drawings for the pre-engineered pre-fabricated restroom building will be provided by the manufacturer. The scale of this project is expected to be exempt from a DEP Coastal Construction permit under the "de minimus" impact clause in 62B-41.004 Exemptions for Permit Requirements.

TLC's scope of work is limited to: design of the restroom foundation; development of a site demolition plan for removal of the existing pumphouse; provide tamper proof site benchmarks; septic tank and drainage field design (including conducting borings to determine the hydraulic conductivity of the soils); waterline design from the existing well to the restroom; provide an ADA compatible sidewalk outside the restroom; design of electrical service and coordination with the pre-fabricated restroom; and coordinating utility stub ups for the connection of the pre-fabricated building. Point of connection of all underground utilities will be coordinated on the civil and electrical drawings. Points of connection should be shown on the pre-engineered restroom facility drawings for proper coordination. It is our understanding that the water will be provided from an existing well on site.

BASIC SCOPE OF SERVICES

Basic Scope of Services shall be as outlined in AIA Document C401 - 2017 Edition - Standard Form of Agreement Between Architect and Consultant, Article 3. TLC shall provide professional engineering and design services for:

- a. Electrical Engineering including empty conduits and boxes for voice/data, cable TV, access control and, CCTV
- b. Structural Engineering
- c. Civil Engineering (**BSE Consultants, Inc.**)
- d. Geotechnical **Universal Engineering Sciences**)

TLC anticipates submittals at the following design stages:

- 90% Construction Documents
- Permit Documents

All submittals are anticipated to be electronic. Reproduction shall be performed by the **Barefoot Bay Recreation District** or compensated as a reimbursable expense.

One (1) design review or coordination meetings are included in TLC's proposed work scope.

PROPOSED CONSTRUCTION PHASE SERVICES

Construction Phase Services provided for this project shall include:

1. Response to bidder questions.
2. Response to local permitting officials' comments.
3. Response to Contractor's Request for Information (RFI) during the construction period.
4. Site visits to become generally familiar with the progress and quality of the construction work in order to determine if the work is being performed in general accordance with the construction documents. (The mix of mechanical, electrical, structural, and civil engineering field representation may change based on the needs of the project during the construction phase). Substantial completion and final inspection, if requested, would each constitute a site visit.

INFORMATION TO BE FURNISHED BY THE OWNER

In addition to Architects' Responsibilities defined in AIA Document C401 – 2017 Edition – Standard Form of Agreement Between Architect and Consultant, Article 5, specific information and material that impacts the design shall be provided to TLC as shown in Attachment A.

ADDITIONAL SERVICES

Additional services, when requested in writing by the **Barefoot Bay Recreation District**, shall be performed at TLC's standard hourly rates. Additional Services are as defined in AIA Document B101 – 2017 Edition – Abbreviated Standard Form of Agreement Between Owner and Architect, Article 4. Additional Services also include those items shown in Attachment B. TLC shall submit the estimated additional services cost for approval and authorization prior to proceeding with a design.

FEE

We propose to provide the above-described basic scope of services based on the following fee schedule:

- **Design Services:**

○ Structural Engineering:	\$	3,200.00
○ Electrical Engineering:	\$	3,800.00
○ Geotechnical Engineering:	\$	4,900.00
○ Civil Engineering:	\$	13,750.00
Total:		\$ 25,650.00

- **Construction Administration Services:** Construction Administration services as outlined above will be compensated as time and material in accordance at our typical hourly rates as provided in Attachment C. Hourly rates provided apply to TLC services. TLC will invoice sub consultant efforts at the sub consultant standard hourly rates as a project expense.

Reimbursable expenses will be assessed at 1.1 times direct cost. Reimbursable expenses include all out-of-county travel-related costs, (TLC's Cocoa office to be considered point-of-origin for all trips), airfare, mileage, meals, lodging, plotting and printing (except as required for in-house coordination), photography, courier services, shipping and express mail.

Billing will be monthly, based upon percentage of services completed and reimbursable expenses. Payment is due within fifteen (15) days of receipt of payment from client.

If our proposal is acceptable, your signature below will confirm TLC's authorization to proceed. Retain one copy and return one copy to TLC at the address on page 1 of this proposal. This authorization constitutes your commitment to pay the fee and reimbursable expenses, and represents that approval has been received by your firm from the client. Alternatively, we can enter into a contract agreement using AIA Document C401 - 2017 Edition - Standard Form of Agreement Between Architect and Consultant.

We look forward to your favorable selection of TLC and the opportunity to assist your team for this and future projects. Please give me a call with any questions or comments.

Sincerely,

TLC Engineering Solutions, Inc.



Colin G. Doyle, PE
Associate / Structural Project Engineer



Gary C. Krueger, PE, CM, LEED AP BD+C
Vice President / Executive Director

Barefoot Bay Recreation District

By: _____

Print Name and Title

Date: _____

Attachments

ATTACHMENT A

INFORMATION TO BE FURNISHED BY THE OWNER
Professional Engineering Services Proposal

1. Drawings and specifications for Owner-furnished pre-engineered pre-cast concrete restroom facility and requirements for plumbing and electrical service connections. Drawings to indicate all utility connection requirements, utility consumption, and plan dimension and elevations.

ATTACHMENT B

ADDITIONAL SERVICES

Professional Engineering Services Proposal

1. AIA Document B101-2017 Edition – Standard Form of Agreement Between Owner and Architect, Article 3 and AIA Document C401 - 2017 Edition - Standard Form of Agreement Between Architect and Consultant, Article 5.
2. Construction site visits or attendance at design review meetings, as requested by the Owner or Architect, in excess of site visits per discipline as defined in our proposal.
3. Material testing or installation quality inspection services including (but not limited to) concrete, reinforcing steel, welds, connections, torsion or tension verification of bolts, decking or masonry systems. Certification of construction or inspection services to appease special requirements of the local building department, are not included in TLC's scope of services.
4. Value Engineering meetings and subsequent engineering or design revisions to incorporate extensive accepted value engineering items, including changes to system design after construction documents have been completed.
5. Significant revisions to the program, design philosophy or plans after 100% Design Development approval, or to systems selected following schematic phase, and which result in redesign expenses.
6. Extensive phasing of project including development of multiple permitting packages.
7. Plumbing, Fire Protection, Architectural, Landscape design, and irrigation design services.
8. Document reproduction beyond those required for in-house coordination and submittals as outlined above.
9. Design of currently unidentified specialty electrical systems, including but not limited to: low voltage systems, specialty lighting, CCTV security, audio/visual, video conference system, commercial and retail tenant's point of sale, telephone/data/video, paging/PA system and security, alarm/access control systems. (Design of empty conduit systems is included).
10. Design of site features and amenities outside of building footprint and not directly attached to the building.
11. Development of "as-built" or record drawings.
12. Detailed cost estimating services.
13. Design of unconventional foundation systems including vibrocompaction, vibroflotation piles, matt foundation, or design to accommodate potential sinkhole activity. Proposed design is based on conventional spread foundation systems.
14. Design of new equipment enclosure to replace existing pumphouse to be removed.
15. DEP Permitting and coastal construction considerations.

ATTACHMENT C

TLC Standard Hourly Rates
Professional Engineering Services Proposal

BILLING FACTOR	DESIGNATION	BILLING RATES
6	Director	\$ 112.95
5	Senior Engineer, Manager II	112.95
4	Senior Project Engineer, Manager I	101.32
3	Jr. Engineer, Specialist	89.05
2	Sr. Technician	71.14
1	Admin. II	55.88
1	Admin I	46.96

Rates subject to change with 30 days prior notice.

Forensic Engineering and Special Consulting – 1.5 to 2.0 times normal billing rate

Rev. 7/8/2015

John Coffey

From: Doyle, Colin <colin.doyle@tlc-eng.com> on behalf of Doyle, Colin
Sent: Tuesday, May 19, 2020 9:51 AM
To: John W Coffey (jcoffey@bbrd.org)
Subject: Beachside Property Restroom
Attachments: RE: Barefoot Bay Beachside Property restroom Facility (1.95 MB)

John,

Per the attached e-mail from the Florida Department of Environmental Protection (FDEP); this project will require a DEP and CCCL permit will be required based on the scope and location of the project. Unfortunately, they did not agree with our assessment that the project scope was of a minimal size and siting of the structure landward of the dunes would prevent any impact to the dunes.

The CCCL permit application requires a recent (within the past 6 months) site survey and cross section of the property. I'll need to review with Scott to see how this impacts his scope, as I believe his design assumed we would be able to utilize the old survey information we had on hand as a project cost savings measure.

I'll circle back with Scott to see how this impacts his scope of work and issue an updated proposal reflecting any changes. If you have someone you have worked with to secure the DEP and CCCL permits on previous work, we would be happy to reach out to them to see if they can help expedite that process.

Regards,

Colin G. Doyle, PE

Associate | Project Engineer | Structural
colin.doyle@tlc-eng.com

TLC ENGINEERING SOLUTIONS®

6300 N. Wickham Road, Suite 132C
Melbourne, FL 32940 (temporary address)

Direct: 321.877.4239

Cell: 321.213.7612

Main: 321.636.0274

www.tlc-engineers.com

***PLEASE NOTE:** TLC team members are currently working on your projects from home.
We are prepared for this and committed to continued excellence for our clients.
Thank you for your patience in these unprecedented times.*



John Coffey

From: Wilson, Sydney E <Sydney.E.Wilson@FloridaDEP.gov>
Sent: Tuesday, May 19, 2020 8:32 AM
To: Doyle, Colin
Subject: RE: Barefoot Bay Beachside Property restroom Facility

Good morning,

A permit will be required for this project and since there will be foundation work, a CCCL permit application will need to be submitted. At the link below, you will find the application and fee worksheet. Also, a list of permit managers (Brevard County would be Nathan Bonanno) is available if you were to have more specific questions regarding the application process.

<https://floridadep.gov/rcp/coastal-construction-control-line/content/coastal-construction-control-line-cccl-forms#application>

Please let me know if you have any other questions!



Sydney E. Wilson
Environmental Specialist I
Florida Department of Environmental Protection
Southeast District – West Palm Beach
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
Sydney.E.Wilson@floridadep.gov
Office: 561.681.6675
Fax: 561.681.6755

From: Doyle, Colin <colin.doyle@tlc-eng.com>
Sent: Friday, May 15, 2020 12:25 PM
To: Wilson, Sydney E <Sydney.E.Wilson@FloridaDEP.gov>
Subject: RE: Barefoot Bay Beachside Property restroom Facility

Thanks Sydney.

There will be a pad foundation (same plan dimensions as the building; with a thickened edge extending 12" below grade. The slab thickness will be about 6".

The building location has not been finalized, but is proposed to be off of the dune (landward of the existing pumphouse building shown, which is to be removed). The existing vegetation on the dune and towards the beach is not intended to be removed or affected. The proposed scope of work would limit removal to the grasses directly underneath the building for the pad foundation; and whatever temporary removal is necessary to install the drainage field and septic tank; however those grasses would be replaced. Obviously if the site plan requires a certain setback and offsets to mitigate the impact to the beach and permit requirements that would be ideal. If the scope, regardless, will require some form of DEP permit we'd just like to present that to the owner as there will obviously be cost implications to the project associated with obtaining those permits.

Any information or guidance you can share would be greatly appreciated.



Colin G. Doyle, PE

Associate | Project Engineer | Structural

TLC ENGINEERING SOLUTIONS®

Direct: 321.877.4239

Cell: 321.213.7612

Main: 321.636.0274

From: Wilson, Sydney E [<mailto:Sydney.E.Wilson@FloridaDEP.gov>]

Sent: Friday, May 15, 2020 12:16 PM

To: Doyle, Colin <colin.doyle@tlc-eng.com>

Subject: RE: Barefoot Bay Beachside Property restroom Facility

Colin,

For construction, with there be foundation work completed? Also, will the placement require the removal of vegetation? By the plans and aerials, it looks like construction will be close to the dune. With this information I will be able to determine what type of permit will be required.

Thanks!



Sydney E. Wilson

Environmental Specialist I

Florida Department of Environmental Protection

Southeast District – West Palm Beach

3301 Gun Club Road, MSC 7210-1

West Palm Beach, FL 33406

Sydney.E.Wilson@floridadep.gov

Office: 561.681.6675

Fax: 561.681.6755

From: Doyle, Colin <colin.doyle@tlc-eng.com>

Sent: Monday, May 11, 2020 10:30 AM

To: Wilson, Sydney E <Sydney.E.Wilson@FloridaDEP.gov>

Subject: Barefoot Bay Beachside Property restroom Facility

Sydney,

Thank you for reaching out this morning. Attached is the rough master plan and schematic drawings for the proposed restroom facility. We are currently proposing on the project and trying to determine if the facility is of substantial size to warrant a DEP permit for construction, or if the small size of the building and proposed work would warrant it exempt.

The scope of work is limited to the restroom facility and supporting drainage field / septic system.

Feel free to contact me on my cell phone with any additional comments/questions. Right now we're simply trying to determine the overall permitting requirements for the project to assist the owner in planning.

Thanks, and hope you are well.

Regards

Colin G. Doyle, PE

Associate | Project Engineer | Structural

colin.doyle@tlc-eng.com

TLC ENGINEERING SOLUTIONS®

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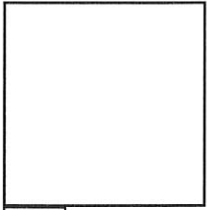
Main: 321.636.0274

www.tlc-engineers.com

PLEASE NOTE: TLC team members are currently working on your projects from home.

We are prepared for this and committed to continued excellence for our clients.

Thank you for your patience in these unprecedented times.



Board of Trustees Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **Pool #2 Pit Replacement and Upgrade**
Section & Item: 9.E
Department: R&M/Capital Projects
Fiscal Impact: \$73,610.60 (FY20 Budget of \$41,600)
Contact: Matt Goetz, Property Services Manager, John W. Coffey
ICMA-CM, Community Manager
Attachments: proposal, Family Pools executed contract 12Nov19
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Approve proposal to replace and upgrade Pool #2 pit.

Background and Summary Information

Circa late 2015 the side of the pit at Pool #2 collapsed due to the fiberglass structure being beyond its useful economic lifespan. Property Services staff made emergency repairs to the wall and added the replacement of the unit to the next fiscal year's budget (FY17). Each year staff solicited bids from pool companies within central Florida without any success (goal of doing the project in the slower summer months so solicitation of bids were put on hold each autumn until the new year). In response to the inability to obtain bids on pool projects, the BOT authorized a Request for Qualifications (RFQ) for pool services in late FY19 with Family Pools, Inc. being awarded a continuing services contract on November 8, 2019.

Within the last few months, Family Pools staff have visited BBRD and inspected each pool and proffered recommendation to improve the quality of the pool operations and to accomplish the desired projects in the most cost-effective manner. One such recommendation was the change to the planned relocation of the Pool #1 heater building which is now planned to be relocated outside of the assembly area and built as an outdoor heater (thereby eliminating the need to build a new building).

Regarding the pool pit projects, Family Pools staff recommends:

- Upgrading the filtration systems from de-suction side to pressure sand (long-term operations saving)
- Upgrading the chlorine systems from chlorine injection to cal-hypo tablets (product easier to procure)
- Adding UV treatment systems

Hence, the attached proposal for the Pool #2 pit system at a cost of \$73,610.60 (plus cost of permitting) is a combination replacement and upgrade project which is considerable over the current budget of \$41,600.00. For example, the cost of the UV system upgrade (not including the labor to install it is approximately \$14,800.00. While proposal does exceed the budget, staff believes the extra costs are a sound investment in critical infrastructure that will provide a higher level of water quality while reducing long-term operations costs.

Staff recommends the BOT approve the Pool #2 pit replacement and upgrade from Family Pools, Inc. in the amount of \$73,610.60 plus permitting and instruct staff to transfer the necessary budget from R&M/Capital Contingency to fully fund this project.



Complete POOL & DECK Remodeling

FAMILY POOLS, INC.

1-866-294-4011



PROPOSAL

873 SW South Macedo Blvd., Port St. Lucie, FL 34983

Diamond Brite / Pebble / Marquis / Gems / Brick & Tile

Heaters / Spraydeck / Pavers / Pool Equipment

www.familypoolsinc.com Licensed & Insured • State Certified • Lic. # CPC1456929

Date: 04/06/2020

PROPOSAL SUBMITTED TO:	Phone 772-494-9985
Name BAREFOOT BAY	Job Name SAME
Street 1080 PARKWAY DRIVE	Job Address SAME City/State/Zip
City/State/Zip BAREFOOT BAY , FL	Subdivision / Gate Code

Replace pool equipment in building.

Pool will need to be drained down. Existing pool equipment will need to be removed. The pool pipes need to be labeled. New surge tank will be installed. Pad will be poured for pool equipment. Installation of new equipment and automation system. Setup and punch out. The filtration will change from de-suction side to pressure sand filtration. The chlorine sanitation will change from chlorine injection to cal-hypo tablets.

Hours 69 hours

\$24,678.00

Equipment Tax added in quote.

Surge tank from Vac-Pack

\$6,255.00

TR140C 36" SM TRITON C SAND FILTER x 2

\$2,328.42

5HP 208-230/277/460V 1PH/ 3PH WHISPERFLOX VS PUMP

\$1,985.00

VERSACHLOR EASY FEED CHLORINATION SYSTEM 1A

\$874.00

48/PLT 37.5# VERSACHLOR CAL-HYPO TABS

\$114.00

CH250 CHEMTROL 250 PH/ ORP CONTROLLER W/ SENSOR

\$1,662.58

2"FPT PVC SAND/ QUAD DE SM MULTIPOINT VALVE

\$346.00

120V 4"S 60MJ@151GPM COMMERCIAL BIOSHIELD UV

\$10,556.00

Flow meter, fittings, valves

\$950.00

Concrete

\$350.00

Plumbing fittings and pipe

\$1,680.00

Dumpster

\$800.00

Permit To Be Billed Once Costs Accessed TBD

\$52,579.00

ABOVE NUMBERS ARE STRAIGHT COSTS

40% Per Contract

\$21,031.60

GRAND TOTAL

\$73,610.60

Payment Terms:

\$24,536.86 deposit

\$24,536.86 due at equipment delivery

\$24,536.88 due at completion

All material is guaranteed to be as specified. All work to be complete in a workmanlike manner according to standard practices. Although every reasonable effort is made to repair stress and settlement cracks, etc., no guarantee can be made against their recurrence. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. Payment terms set at discretion of contractor. This proposal is subject to acceptance within 15 days and is void thereafter at the option of the contractor. It is further understood that there are no verbal agreements and all items discussed are written herein.

Date_____

Signature_____

TERMS AND CONDITIONS

1. In the event the pool is located at a home not under construction with a Contractor, all references to the contractor are referring to the homeowner in this contract.

2. Family Pools, Inc. assumes no responsibility for any staining of the marcite/plaster after application if pool is not initially chemically treated by Family Pools, Inc. or whether caused by: pool refill not being filled through carbon filters (when applicable), poor condition of pool water, improper maintenance (high or low chlorine level, high or low alkalinity level, total calcium hardness, high or low PH level, etc.), abuse, and/or other conditions (calcium deposits, deterioratoin, erosion, etc.) shall not be covered under the terms of this guarantee. Completion shall be defined as that time when the pool is full of water, the equipment is in operation, and/or the pool is in use. It is understood that with any cementitious surface such as that of pool finishes it is normal to have some normal fluctuation, waviness and discoloration in the workmanship and materials due to the nature of the plastering application inherent variation in the raw materials and the effect on the hydration and curing processes. Imperfections are to be considered normal variation and tolerance levels for a free-hand troweled cement product and ARE NOT considered a failure of finish or poor workmanship. The Contractor's failure to make full payments to Family Pools, Inc. according to the contract and work order shall void any guarantee. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES WHETHER EXPRESSED OR IMPLIED INCLUDING AN IMPLIED WARRANTY OR MERCHANT ABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

3. Regarding any contracted work, services, renovation listed herein: Contractor agrees and understands that although every attempt will be made to avoid overspray, spills, untidiness, staining, dyeing, to any property, foliage, or area it can and may occur during the construction/renovation process and the contractor accepts and assumes all responsibility for any clean up, repair, and/or product removal that may be necessary as a result. Contractor holds Family Pools, Inc. harmless whereby Family Pools, Inc. assumes no liability whatsoever for said related issue if and when they may arise, and in the event Family Pools, Inc. performs any clean up, repair, and/or product removal Contractor agrees to pay the fee set at a minimum of \$250.00

4. If more than 50 square feet of delaminated pool plaster has to be removed there will be an additional charge. If the pool has a plaster, paint, resin, or other coating that could not be seen or was not disclosed during the initial estimate, there will be an additional charge for the removal of said materials.

5. The Contractor shall grant Family Pools, Inc. ample access for all equipment, personnel, subcontracted laborers, technicians and materials to the site, the use of water and/or electrical power and the right to store material and/or equipment at the Contractor liability during construction. The Contractor assumes all responsibility for clearance of or damage to anything in the area of access, whether on the owner's property or property of others. The Contractor indemnifies and holds Family Pools, Inc. harmless for damage to patio and/or deck furniture, screens, decorative matter/belongings, landscaping, paving, driveways, sprinklers, trees, shrubs, sewer lines, water lines, or other items above or below ground in the area of access and/or construction, failure to provide this access constitutes applicable charges and fees to the Contractor at a rate of \$125.00 per hour at a minimum of \$500.00 each occurrence.

6. When electrical wiring and hook up are made the responsibility of Family Pools, Inc. under this contract any relocation of power lines, conduits, increase and/or modification, in the existing electrical service, unless otherwise specifically stated, is not covered under the base price of this contract and shall be considered a change order or addition pursuant to the conditions of paragraph above. Each item included under electrical wiring and hook up shall be clearly stated on the reverse side of this contract.

7. Family Pools, Inc. is not liable for damage to pool and/or spa lights, equipment, main drains, skimmers, or plumbing of any kind whether working or not prior to work commencement. Damages may occur and should be expected during the construction/renovation project.

8. Any items not specifically stated on reverse side of this Contract which are encountered shall be considered as not included in this contract and shall not be the responsibility of Family Pools, Inc. This refers to but is not limited to soil conditions or objects above or below the ground, including but not limited to the location of the septic tank, the location of drain field, any and all pipes, or other terms of plumbing or electrical lines, or any other conditions below the ground of which should be disclosed to Family Pools, Inc.

9. The Contractor indemnifies and hold Family Pools, Inc. harmless for damages to the Owners property/contracted jobsite as a result of encountering any object or condition not specifically detailed or disclosed under line item per the front side of this contract if hard rock, muck or water are encountered which would delay the job and/or require additional expense the Contractor agrees to pay Family Pools, Inc. upon billing for the additional cost incurred pursuant to the provisions of paragraph 3 above. Family Pools, Inc. shall not be responsible for seawalls or tie backs whatsoever.

10. Family Pools, Inc. reserves the right at any time to stop work for the following reasons but not limited to only these reasons if the delay is caused by theft of materials, equipment, etc. or damage to work in progress the customer agrees to be fully responsible for all costs and repairs/replacement and any delay damages as listed herein, in the event any payment is past due according to the payment schedules of this contract. Family Pools, Inc. also reserves the right to, at any time, stop work on this particular contract if Contractor is in arrears for any payments due on any other contracts the Contractor has executed with Family Pools, Inc. whether on this job or any other job. Contractor expressly agrees that Family Pools, Inc. shall retain title and repossess without process of law all equipment, safety equipment, cleaning equipment, etc. until all payments required under this contract have been made in full. The Contractor expressly agrees that Family Pools, Inc. shall have permission for entry to or on any premises to remove these articles.

11. Any modification, or modification attempts, repairs, etc. made to any work, workmanship, installations, equipment, etc. that was provided by Family Pools, Inc. as per this contract by an outside source other than Family Pools, Inc. will render any and all warranties null and void. Family Pools, Inc. reserves the right to complete all warranty work solely to the area of issue. Draining of the swimming pool/spa may be necessary and there is no guarantee that a patch of any kind, whether it is in plaster, pebble, paint, concrete, decking, paver, etc. will match. A patch is to be considered an acceptable and effective warranty effort and repair and will likely stand out or not match its surrounding areas. This is not to be considered incorrect or a repair failure. The size of the area to patch as well as the materials used for said purpose is at the discretion of Family Pools, Inc.

12. All materials and methods of construction/renovation/remodeling of decks if contracted by Family Pools, Inc. are in accordance with and/or inspected by the local building department. Family Pools, Inc. does not warranty the concrete deck area, plaster or tile against cracking due to expansion, contraction or minor settling.

13. This contract is based upon labor, material and subcontractor costs as of the accepted date of this contract effective for a period of thirty days there from. In the event Family Pools, Inc. is unable to complete all construction prior to the expiration of the thirty day period the contract price will be increased for all actual increases in labor, insurance, material, and subcontract costs which Family Pools, Inc. incurs as subsequent to said thirty day period, plus an additional 35% of such increases which represents Family Pools, Inc. overhead cost and profit on such increases.

14. Family Pools, Inc. neither warrants nor guarantees any start and/or completion dates for the construction/renovation of the swimming pool and/or deck. If the Contractor should terminate, cancel, or delay this contract at any time subsequent to the entry into said contract, (cancellations must be submitted in writing within 72 hours after signing the contract via registered mail) deposits, and/or any monies rendered on contracts cancelled without proper written notice as mentioned herein will not be refunded, NO EXCEPTIONS: if for any reason the Contractor delays or refuses to permit Family Pools Inc. to proceed with and complete the work specified herein Family Pools Inc. damages would be difficult if not impossible to determine, therefore the Contractor agrees to pay to Family Pools Inc. reasonable liquidated damages, and not as a penalty an amount equal to 25% of the contract price plus all actual calculable damages such as costs and expenses prior to the date of such cancellation by the Contractor. Upon cancellation Family Pools Inc. shall not have any further responsibilities/liabilities under such said contract, including but not limited to warranties. This is in addition to any further legal right Family Pools Inc. reserves/has. In the event if Family Pools Inc. is made to refer this matter to legal counsel as a result of default, or non-payment by the owner, Family Pools Inc. shall be entitled to recover any and all legal fees including attorney's fees and cost of suit, in addition to such other amounts as may be allowed by law.

15. Family Pools, Inc. is not responsible for floatation of pool or deck cracking due to external water. Any cracking or delamination of plaster associated with structure deficiency of pool shell is not covered under any warranty nor is it the responsibility of Family Pools, Inc. Family Pools, Inc. is not responsible for any damages associated, caused by, or due to draining pool, landscaping, washouts, etc. Water tightness of the pool structure in any case is not the responsibility of Family Pools, Inc. and unless Family Pools, Inc. is installing new plumbing for which the new installation provided by Family Pools, Inc. is what Family Pools, Inc. would be responsible for, Family Pools, Inc. is not responsible for any leaks that may occur other than at the main drain plug. Any service calls associated with leaks other than at the main drain plug will be the responsibility of the customer and be billed to the customer at which time will be due upon receipt.

16. IN THE EVENT THAT ANY WORK PERFORMED BY FAMILY POOLS, INC. IS WHOLLY OR PARTIALLY DESTROYED OR DAMAGED DUE TO FIRE, WATER, VANDALISM, ACTS OF GOD OR ANY OTHER CAUSE BEYOND THE CONTROL OF FAMILY POOLS, INC. THE LOSS SHALL NOT BE SUFFERED BY FAMILY POOLS, INC. AND THE CONTRACTOR INDEMNIFIES AND HOLDS FAMILY POOLS, INC. HARMLESS FOR SUCH LOSS.

17. In the event Contractor is in arrears on any payments due to Family Pools, Inc. on any other contracts executed with Family Pools, Inc. whether on this job or any other job, and the work on this contract not commenced, then Family Pools, Inc. may declare this contract to be null and void and Contractor shall forfeit any and all deposit/draw payments and be responsible to Family Pools, Inc. for all actual expenses incurred by Family Pools, Inc. on behalf or because of this contract.

18. Contractor is responsible for all water costs. Contractor is responsible for supplying the water to fill pool promptly after the plaster or additional charges will be incurred by Contractor. Contractor is responsible for pool maintenance & chemistry upon completion of contract including whereby Family Pools, Inc. supplies only the initial chemical treatment. Water is to be kept running until pool is full, finish is to be brushed and pool chemistry must be maintained and kept at normal levels by contractor.

19. Any checks that are cancelled, returned NSF, have a stop payment placed on them, or are non-transferable in any way whatsoever will result in the Contractor having to pay the amount of said check and a fee of \$650.00. Any contractual payments made via credit card will be subject to pay the convenience fee.

20. Any subsurface water encountered must be capable of being handled with a 1 ½ HP pump and one well point for new pool construction. Subsurface water on renovations, remodels, or any pre-existing swimming pool/spa projects must be capable of being handled with a 1 ½ HP pump utilizing the existing underdrain line; in the event the underdrain line for the pool/spa structure is not available or usable, Contractor reserves the right to stop the project. The Owner will be responsible for all costs associated with dewatering above and beyond the subsurface water capabilities herein for their project.

21. Family Pools Inc. is not responsible for liner wrinkles, floating liners, floor or wall imperfections and/or chemical damage to vinyl liners. The aforementioned complications are not to be considered a failure of product or workmanship and will not be warrantied.

FLORIDA HOMEOWNER'S CONSTRUCTION RECOVERY FUND

Payment, up to a limited amount, may be available from the Florida Homeowner's Construction Recovery Fund if you lose money on a project performed under contract, where the loss results from specified violations of Florida Law by a licensed contractor. For information about the recovery fund and filing a claim, contact the Florida Construction Industry Licensing Board at the following number and address:

Construction Industry Licensing Board - 2601 Blairstone Road Tallahassee, FL 32399-1039 or phone 850-487-1395

**INDEPENDENT CONTRACTOR AGREEMENT
FOR POOL CONSTRUCTION AND CONSULTATION SERVICES**

THIS INDEPENDENT CONTRACTOR AGREEMENT ("Agreement") is made and entered into this 12 day of NOVEMBER, 2019, by and between **BAREFOOT BAY RECREATION DISTRICT**, (hereafter referred to as "BBRD"), whose address is 625 Barefoot Boulevard, Barefoot Bay, Florida 32976 and **FAMILY POOLS, INC.** (hereafter referred to as "Family Pools") whose address is 873 SW South Macedo Boulevard, Port St. Lucie, FL 34983.

RECITALS

WHEREAS, BBRD is a mobile home recreational district in the State of Florida; and

WHEREAS, Family Pools provides "Pool Construction, Consultation, and Inspection Services" and is licensed in the State of Florida to provide said services; and

WHEREAS, BBRD is desirous of engaging a firm to provide "Pool Construction, Consultation, and Inspection Services;" and

WHEREAS, it is determined to be in the mutual advantage of BBRD and Family Pools to enter into this Agreement set forth herein.

NOW, THEREFORE, in consideration of the covenants and agreements herein contained, the parties agree as follows:

AGREEMENT

1. **Recitals.** The above recitals are true and correct, form a material part of, and are incorporated into this Agreement.
2. **Scope of Services.** Family Pools hereby agrees to perform "Pool Construction, Consultation, and Inspection Services" for BBRD as specifically directed by BBRD. Such services shall include, but not be limited to, those services specifically referenced in BBRD Request for Qualifications #2019-04, which is incorporated herein by reference as Exhibit "A."

Family Pools specifically agrees to maintain any and all appropriate local, State, and/or Federal licenses necessary to perform work as outlined in the Scope of Services.

3. **Fees for Services.** Family Pools will invoice BBRD for work performed at the following rates:

Consultation and Inspection Services: \$250.00 per hour per professional involved in the provision of services.

Construction Projects: Overhead and profit rate of 40%. "Overhead and profit" shall be interpreted to apply to all costs above materials and permitting costs. Construction

projects shall be submitted as separate proposals per job and shall be outside of hourly rate fees billed for consultation and inspection services.

Family Pools may bill travel time when engaging in Consultation and Inspection Services at the set hourly rate for one-way travel from Port St. Lucie to BBRD. Travel time shall not be separately billed as part of any Construction project proposal.

4. **Relationship of Parties/Insurance.** The parties hereby agree and intend that the relationship of Family Pools to BBRD is that of an independent contractor. Family Pools shall provide a copy Family Pool's Certificate of Liability, Workers Compensation, and Auto Insurance listing Barefoot Bay Recreation District as an additional insured in regard to Liability Insurance.

5. **Indemnification.** Family Pools shall indemnify and hold harmless BBRD and its officers, agents, and employees from and against all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting from any actions or omissions taken under this Agreement, where such claim, damage, loss, or expense is caused, in whole or in part, by the act or omission of Family Pools, or anyone directly or indirectly employed by Family Pools, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by or in part by a party indemnified thereunder. As part of this indemnification, Family Pools agrees to pay, on behalf of the BBRD, the cost of BBRD's legal defense as may be selected by BBRD for all claims described in this paragraph. Such payment on behalf of BBRD shall be in addition to any and all legal remedies available to BBRD and shall not be considered to be BBRD's exclusive remedy. In agreeing to this provision, BBRD does not intend to waive any defense or limit of sovereign immunity to which it may be entitled under Section 768.28, Florida Statutes or otherwise provided. The parties acknowledge that specific consideration has been exchanged for this provision.

BBRD shall indemnify and hold harmless Family Pools and its officers, agents, and employees from and against all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting from any negligent actions or omissions taken under this Agreement, where such claim, damage, loss, or expense is caused, in whole or in part, by the negligent act or omission of BBRD, or anyone directly or indirectly employed by BBRD, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by or in part by a party indemnified by BBRD or BBRD's agents. As part of this indemnification, BBRD agrees to pay, on behalf of Family Pools, the cost of Family Pool's legal defense as may be selected by Family Pools for all claims described in this paragraph. Such payment on behalf of Family Pools shall be in addition to any and all legal remedies available to Family Pools and shall not be considered to be Family Pools exclusive remedy. The parties acknowledge that specific consideration has been exchanged for this provision.

6. **Insurance.** Family Pools shall maintain and provide valid and current Certificates of Insurance (naming BBRD as an additional insured) at the following policy limits:

Workers' Compensation Insurance: statutory benefits, as provided by statute;

Employer's Liability Insurance: \$1,000,000 per occurrence;

Comprehensive or Commercial General Liability Insurance (Including, but not limited to, the following Supplementary Coverages: (i) Contractual Liability to cover liability assumed under this Agreement; (ii) Product and Completed Operations Liability Insurance; (iii) Broad Form Property Damage Liability Insurance; and, (iv) Explosion, Collapse, and Underground Hazards (Deletion of the X,C,U Exclusions), if such exposure exists):

Bodily Injury: \$1,000,000 per occurrence
Property Damage: \$1,000,000 per occurrence;

Automobile Liability Insurance:

Bodily Injury: \$1,000,000 per occurrence
Property Damage: \$1,000,000 per occurrence

If a Combined Single Limit is provided, the total coverage shall not be less than \$2,000,000 per occurrence.

7. **Term, Termination, and Renewal.**

- (a) This Agreement shall commence upon the last date of execution by either party (hereinafter, "Effective Date") and will continue through September 30, 2022. Thereafter, this Agreement may be renewed for an unlimited number of three-year terms upon written Agreement of both parties (executed on or before the expiration date of each subsequent term).
- (b) This Agreement may be terminated by either party, with or without cause, upon sixty (60) days prior written notice to the other; provided however, that if Family Pools terminates this Agreement, Family Pools shall, in accordance with the terms and conditions hereof, nevertheless wind up in an orderly fashion projects for BBRD which Family Pools began prior to the date of notice of termination hereunder. Notwithstanding the foregoing, should Family Pools terminate this agreement for BBRD's failure to pay for prior services rendered Family Pools shall have no further obligation to perform any services or complete any ongoing projects.
- (c) Upon termination of this Agreement for any reason, Family Pools shall be entitled to receive such compensation for services rendered under the terms of this Agreement, but are unpaid, as of the date Family Pools ceases work under this Agreement. However, in the event that either party terminates this Agreement in advance of the conclusion of any full term, Family Pools shall not be entitled to receive any additional payment beyond those amounts due for services previously provided.

8. **Other Agreements.**

- (a) No alteration or modification of this Agreement shall be valid unless made in writing and executed by Family Pools and BBRD.
- (b) Family Pools and BBRD mutually represent that, to the best of their knowledge, neither currently has any agreement with, or any other obligation to, any third party that conflicts with the terms of this Agreement. The parties agree that they shall not intentionally and knowingly enter into any such conflicting agreement. BBRD and Family Pools each have the full authority to enter into this Agreement without consent or approval of any third party. Each party has had the opportunity to consult with legal counsel regarding the terms of this Agreement. This Agreement shall not be construed against either party as if they were the drafter of this Agreement.
- (c) This agreement is a non-exclusive Agreement. The parties agree that BBRD shall have the sole authority and right to hire other independent contractors to provide the same and/or similar services as Family Pools under this Agreement at any time.
9. **Governing Law, Venue, and Attorney's Fees.** This Agreement shall be governed by the laws of the State of Florida. Any action or legal proceedings to enforce this Agreement or any of its terms, or for indemnification, shall be exclusively brought and prosecuted in an appropriate court of jurisdiction in and for Brevard County, Florida, and the parties to this Agreement consent to the personal jurisdiction and venue of such courts and to the service of process by any manner provided by Florida law. In the event that any legal or equitable action is brought by either party to enforce the terms of this Agreement, the prevailing party shall be entitled to recover all attorney's fees and costs associated with the bringing such action.
10. **Notices.** All notices, requests, demands or other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given when delivered by hand or mailed registered or certified mail, return receipt requested, and postage prepaid:

If to BBRD:

John W. Coffey, Community Manager
Barefoot Bay Recreation District
625 Barefoot Bay Boulevard
Barefoot Bay, Florida 32976
jcoffey@bbrd.org

If to Family Pools:

Frank Russo
Family Pools, Inc.
873 SW South Macedo Boulevard
Port St. Lucie, FL 34983
frank@familypoolsinc.com

or to such other addresses as either party may have furnished to the other in writing in accordance herewith, except that notices of change of address shall only be effective on receipt.

E-mail correspondence can be used, but will not be considered official correspondence unless recipient acknowledges receipt of the message.

11. **Consents and Authorizations.** By the execution of this Agreement, each party acknowledges and agrees that each such party has the full right, power, legal capacity and authority to enter into this Agreement, and the same constitutes the valid and legally binding agreement of each such party in accordance with the terms, conditions and other provisions contained herein.
12. **Assignment and Binding Effect.** This Agreement may not be assigned or transferred in whole, or in part, by either party without the prior written consent of the other party. This Agreement shall be binding upon and inure for the benefit of the parties hereto and their respective heirs and permitted successors and/or assigns.
13. **Severability.** This Agreement shall be construed to be valid and enforceable to the fullest extent allowed by applicable law. The invalidity or unenforceability of any term, sentence, or provision of this Agreement shall not affect the validity or enforceability of any other term, sentence or provision of this Agreement, which shall remain in full force and effect.
14. **Public Records.** All documents, maps, drawings, data and worksheets prepared by Family Pools for BBRD under this Agreement shall be deemed public records pursuant to Chapter 119, Florida Statutes and shall be maintained as public records by Family Pools. Family Pools agrees to provide access to such public records on the same terms and conditions that BBRD provides such public records and at a cost that does not exceed that provided for pursuant to Chapter 119, Florida Statutes or otherwise provided by law. Family Pools agrees to ensure that public records that are confidential and exempt from disclosure are not disclosed except as authorized by law. Family Pools agrees that upon termination of this Agreement, all proprietary interest of BBRD in its business assets, tangible or intangible, including records, files, lists and information which Family Pools deals with or develops during the course of this Agreement shall remain the sole and exclusive property of BBRD, and in no event shall Family Pools acquire any interest therein. Family Pools agrees that in the event of termination of this Agreement, Family Pools shall promptly return at no cost to BBRD all public records documents in Family Pools's possession at the time of termination. Duplicate public records that are exempt or confidential shall be destroyed by Family Pools at the time of termination. Public records maintained by Family Pools in an electronic format, shall be provided to BBRD in a format that is compatible with the information technology systems of BBRD at the time of termination.

IF FAMILY POOLS HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO FAMILY POOLS'S DUTY TO

PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT,
CONTACT STEPHANIE BROWN, THE CUSTODIAN OF PUBLIC
RECORDS AT:

STEPHANIE BROWN
625 BAREFOOT BLVD.
BAREFOOT BAY, FL 32976
(772) 664-3141
STEPHANIEBROWN@BBRD.ORG

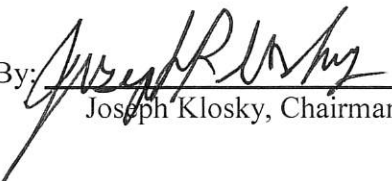
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the
date first above written.

Family Pools, Inc.

By: 
Frank Russo, President

Date 11.12.19

Barefoot Bay Recreation District

By: 
Joseph Klosky, Chairman, BBRD

Date 11/18/19

**Board of
Trustees**

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **Settlement Proposal FCHR Case No. 202023409**
Section & Item: 9.F
Department: Administration
Fiscal Impact: \$100,000.00
Contact: Cliff Repperger, General Counsel, General Counsel, John W. Coffey
ICMA-CM, Community Manager
Attachments: Memorandum to Board of Trustees regarding Settlement Proposal
Jemal and Gray v BBRD, Settlement Proposal FCHR Case No
202023409

Reviewed by
General Counsel: Yes
Approved by: John W. Coffey, ICMA-CM, Community Manager

Requested Action by BOT

Consider Settlement Proposal.

Background and Summary Information

Please see attached Memorandum.





p. 321.327.5580 | f. 321.327.5655
730 E. Strawbridge Avenue, Suite 209
Melbourne, FL 32901
whitebirdlaw.com

MEMORANDUM

TO: Chairman Klosky and Honorable Board of Trustees Members

CC: John Coffey, Community Manager

FROM: Clifford R. Repperger, Jr., Esq., General Counsel

DATE: May 19, 2020

SUBJECT: Settlement Proposal. FCHR Case No.: 202023409
Darlene Gray-Jemal and Eliot Jemal

On or about January 29, 2020, the District was put on Notice of a Claim filed by Claimants Darlene Gray-Jemal and Eliot Jemal with the Florida Commission on Human Relations (“FCHR”).

The Claimants allege discrimination based on the ARCC’s January 7, 2020 “denial” of a permit application to place a 2006 handicapped equipped home on a lot within Barefoot Bay based on the prohibition against installation of homes greater than four (4) years old found in Article II, Section 3 (A) 14 of the Amended and Restated Deed of Restrictions. The Claimants allege to have lost a lot they were intending to purchase because of BBRD’s alleged actions.

BBRD’s position in the case is that the ARCC did not have a formal application pending before it and did not deny any permit for placement of the structure in question. Moreover, BBRD asserts that the ARCC does not have the ability to waive the standard structure age requirement in the Deed of Restrictions for Barefoot Bay (DOR) and that an appeal to the BBRD Board of Trustees (provided for in the DOR) would have been the appropriate administrative avenue for an applicant who had been denied (despite the fact that there was no formal denial of any application in this case). My review of the case has led me to conclude that neither BBRD Staff nor the ARCC committed any act of discrimination nor took any action contrary to law.

The claim has been reported to the District’s insurance carrier, Florida League of Cities, who has assigned Claims Counsel, Douglas Noah, (Dean, Ringers, Morgan & Lawton). Mr. Noah has filed a Response on behalf of BBRD with FCHR and is prepared to vigorously defend BBRD in the case. The Claimants have made a Settlement Demand requesting a variance to place to home within three (3) years and an amount of \$100,000.00. See attached Settlement Demand. Because this is a formal Settlement Demand, we are obligated to bring it to the Board for your consideration.

If you have questions or concerns in advance of the Board meeting, please feel free to contact me.

Eliot Jemal and Darlene Gray-Jemal

May 16, 2020

3091 SW 52 Avenue

Davie, FL 33314

FCHR #202023409

RE: Settlement

We require approval of our home, a 2006 Fleetwood Lifestyles 28 x 66 handicap barrier free home plus aluminum ramp and 17 x 52 carport, to be moved to a Barefoot Bay lot of our choosing including variances if necessary. The lot must be wide enough to accommodate our ramp/carport on the left side of the house and which from the road would be visually on the right.

We need 3 years maximum to move our home as a result of possible changes in schedules and pricing due to Covid-19.

We found the perfect lot, 733 Pinewood Blvd, Barefoot Bay, FL 32976, a 7841 Sq Ft lot with improvements such as utilities ie: water and sewer and lot grading etc... The sale price for this improved lot was \$44,500.00 financeable. This lot would have allowed us to have a small pool with a Hoyer lift and jacuzzi, a 2 car garage and a handicap accessible sized shed (ADA compliance has a minimum 5 foot x 5 foot turn around area for a wheelchair in addition to accessible shelving.) All things we wanted for our future. The pool, jacuzzi and Hoyer lift would accommodate physical therapy.

Because of this discrimination and the time it has taken the lot has been sold.

The closest comparable lot currently available at the lowest price is 927 Spruce Street, Barefoot Bay, FL 32976 which is a homesite with 7405 Sq. Ft. with an existing double wide with an addition and carport selling for \$124,900.00. Additionally we would have to spend approximately \$15,000.00 to remove said structures hoping there is no asbestos to remediate. Totaling \$140,000.00 minimum before we move our home!

This would require a minimum \$ 100,000.00 settlement to make us whole again. This settlement would ignore funds spent futilely to get 733 Pinewood Blvd, Barefoot Bay, FL 32976.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Darlene Gray-Jemal' followed by a flourish, is written over a horizontal line.

Darlene Gray-Jemal and Eliot Jemal 05/16/2020

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001039 414 Barefoot Blvd**
Section & Item: 9.G.i
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001039
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to General Counsel Repperger.

Background and Summary Information

ARTICLE II, SECT. 2 A ARCC No Permit/Work Started

First Violation occurred on 4/27/2020, three follow ups and pictures have been done since first Violation. Staff has signed Affidavit of Notices and attached four pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to the General counsel Repperger for legal action, equitable or other appropriate action with failure to comply. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001039

#155/ 20-001039

NICOLO, MARIO JOHN

414 BAREFOOT BLVD

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE II, SECT. 2 A ARCC No Permit/Work Started**

(A) When submitting an ARCC permit after the work has begun, the property owner must personally appear at the next scheduled ARCC meeting to have their application reviewed by the Committee.

No building or other structure shall be erected or placed on any Lot, nor shall the exterior of any such building or structure or the driveways or parking areas serving such building or structure be altered in any way unless and until two sets of the complete building plans, two sets of complete specifications and two copies of a plot plan have been submitted to the ARCC and approved by it in writing. An application for such approval shall demonstrate to the satisfaction of the ARCC that: 1. The said building or other structure complies in all respects with the Provisions of this instrument; and 2. The said building or other structure is in conformity and harmony with such written rules as may from time to time be adopted by the ARCC. The ARCC's approval of the said plan specifications and plot plans shall be evidenced by the signature of its Chairman or Vice-Chairman on the plans, specifications and plot plans submitted by an applicant. One set of approved plan shall be returned to the applicant and the other shall be retained by the ARCC among its permanent records. In the event the ARCC fails to approve or disapprove an application within thirty (30) Days after the complete application has been submitted to the ARCC, the ARCC shall be deemed to have approved the application in all respects. The ARCC shall have the authority to promulgate regulations relating to all construction and landscaping for lots within Barefoot Bay. Such regulations may, without formal amendment of this Deed of Restrictions, be created, amended, modified, altered or changed by a majority vote of the ARCC, provided, however, that notice of any such amendment, modification, alteration or change to the regulations shall be given in writing to the Recreation District as soon as practicable after adoption thereof by the ARCC. A copy of any such amendment, modification, alteration or change to such a regulation shall be maintained in the offices of the Recreation District and shall be made available on request to any interested party upon payment of a reasonable copying fee. In the event that a dispute arises in the interpretation by the ARCC of any requirement of this Article or of the regulations provided for herein above, such dispute shall be resolved by a majority vote of the Recreation District, whose decision shall be final and binding.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 84.B Lot # 19

414 BAREFOOT BOULEVARD

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Exterior maintenance: Unapproved ARCC material: No ARCC permit: You must apply for an ARCC permit immediately.

DATE OF VIOLATION FIRST OBSERVED: Apr 27, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

April 27, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 14, 2020



414 Barefoot Blvd. Exterior maintenance: Unapproved ARCC material: No ARCC permit: You must apply for an ARCC permit immediately.
Mary Barry
May 14, 2020



414 Barefoot Blvd. Exterior maintenance: Unapproved ARCC material: No ARCC permit: You must apply for an ARCC permit immediately.
Mary Barry
Apr 27, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 14, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001039

#155 / 20-001039

NICOLO, MARIO JOHN,

414 BAREFOOT BLVD

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 414 BAREFOOT BOULEVARD

Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA

COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-000007 414 Barefoot Blvd**
Section & Item: 9.G.ii
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-000007
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to General Counsel Reppergener.

Background and Summary Information

ARTICLE III, SECT. (13) TEMPORARY PORTABLE OR FREE-STANDING STRUCTURES

First Violation occurred on 1/3/2020, eight follow ups and eleven pictures have been done since first Violation. On February 14, 2020, the Violation Committee found it to be in violation. Staff has signed Affidavit of Notices and attached four pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to the General counsel Reppergener for legal action, equitable or other appropriate action with failure to comply. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001110

#155/ 20-001110

NICOLO, MARIO JOHN

414 BAREFOOT BLVD

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. (13) TEMPORARY PORTABLE OR FREE-STANDING STRUCTURES**

Temporary, portable, or freestanding structures that are installed for longer than 48 hours are prohibited unless an application is completed, submitted to and approved by the ARCC.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 84.B Lot # 19

414 BAREFOOT BOULEVARD

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Gazebo not anchored to concrete pad, per the ARCC guidelines. Must remove Gazebo or install concrete pad and apply for ARCC permit.

DATE OF VIOLATION FIRST OBSERVED: May 05, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 05, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED:

Deed of Restrictions Staff

May 14, 2020



414 Barefoot Blvd. Gazebo not anchored to concrete pad, per the ARCC guidelines. Must remove Gazebo or install concrete pad and apply for ARCC permit.
May 14, 2020



414 Barefoot Blvd. Gazebo not anchored to concrete pad, per the ARCC guidelines. Must remove Gazebo or install concrete pad and apply for ARCC permit.
May 05, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
NOTICE OF HEARING
OF
BOARD OF TRUSTEES**

Notice is hereby given that a **Hearing** will be conducted before the Barefoot Bay Board of Trustees at **07:00 PM** on **at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.**

The purpose of this **Hearing** will be to consider the Recommended Order of the Violations Committee to the Board of Trustees for your Case.

The Board shall not conduct a full de novo quasi-judicial hearing on the violation, but shall consider the Finding of Fact and Recommended Order issued by the Violations Committee. The owner may not present new or additional evidence, but shall be given an opportunity to be heard. If the Board of Trustees concurs with the Violation Committee that a violation has been established, the Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action to enforce the Deed of Restrictions and is deemed to be the prevailing party in such action, the Board of Trustees shall be entitled to an award of attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 14, 2020

Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001110

#155 / 20-001110

NICOLO, MARIO JOHN,

414 BAREFOOT BLVD

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 414 BAREFOOT BOULEVARD

Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA

COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001110 414 Barefoot Blvd.**
Section & Item: 9.G.iii
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001110
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to General Counsel Repperger.

Background and Summary Information

ARTICLE III, SECT. (13) TEMPORARY PORTABLE OR FREE-STANDING STRUCTURES

First Violation occurred on 5/5/2020, two follow ups and pictures have been done since first Violation. Staff has signed Affidavit of Notices and attached four pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to the General counsel Repperger for legal action, equitable or other appropriate action with failure to comply. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001110

#155/ 20-001110

NICOLO, MARIO JOHN

414 BAREFOOT BLVD

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. (13) TEMPORARY PORTABLE OR FREE-STANDING STRUCTURES**

Temporary, portable, or freestanding structures that are installed for longer than 48 hours are prohibited unless an application is completed, submitted to and approved by the ARCC.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 84.B Lot # 19

414 BAREFOOT BOULEVARD

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Gazebo not anchored to concrete pad, per the ARCC guidelines. Must remove Gazebo or install concrete pad and apply for ARCC permit.

DATE OF VIOLATION FIRST OBSERVED: May 05, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 05, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED:

Deed of Restrictions Staff

May 14, 2020



414 Barefoot Blvd. Gazebo not anchored to concrete pad, per the ARCC guidelines. Must remove Gazebo or install concrete pad and apply for ARCC permit.
May 14, 2020



414 Barefoot Blvd. Gazebo not anchored to concrete pad, per the ARCC guidelines. Must remove Gazebo or install concrete pad and apply for ARCC permit.
May 05, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
NOTICE OF HEARING
OF
BOARD OF TRUSTEES**

Notice is hereby given that a **Hearing** will be conducted before the Barefoot Bay Board of Trustees at **07:00 PM** on **at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.**

The purpose of this **Hearing** will be to consider the Recommended Order of the Violations Committee to the Board of Trustees for your Case.

The Board shall not conduct a full de novo quasi-judicial hearing on the violation, but shall consider the Finding of Fact and Recommended Order issued by the Violations Committee. The owner may not present new or additional evidence, but shall be given an opportunity to be heard. If the Board of Trustees concurs with the Violation Committee that a violation has been established, the Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action to enforce the Deed of Restrictions and is deemed to be the prevailing party in such action, the Board of Trustees shall be entitled to an award of attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 14, 2020

Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001110

#155 / 20-001110

NICOLO, MARIO JOHN,

414 BAREFOOT BLVD

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 414 BAREFOOT BOULEVARD

Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA

COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-000380 400 Osprey Drive**
Section & Item: 9.G.iv
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-000380
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to General Counsel Repperger..

Background and Summary Information

ARTICLE III, SECT. (13) TEMPORARY PORTABLE OR FREE-STANDING STRUCTURES

First Violation occurred on 2/5/2020, five follow ups and pictures have been done since first Violation. Staff has signed Affidavit of Notices and attached four pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-000380

#14/ 20-000380

ALMEIDA, FRANK D

400 OSPREY DR

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. (13) TEMPORARY PORTABLE OR FREE-STANDING STRUCTURES**

Temporary, portable, or freestanding structures that are installed for longer than 48 hours are prohibited unless an application is completed, submitted to and approved by the ARCC.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 84.A Lot # 19

400 OSPREY DRIVE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Unapproved temporary, portable, or free-standing structure. Must submit ARCC permit to New Administration Building (625 Barefoot Boulevard) for review.

DATE OF VIOLATION FIRST OBSERVED: Feb 06, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

February 06, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 14, 2020



400 Osprey. Temporary, portable, or free standing structure w/out ARCC permit. Trampoline too large (more than 6' in diameter)
May 14, 2020



400 Osprey. Temporary, portable, or free standing structure w/out ARCC permit. Trampoline too large (more than 6' in diameter)
Mar 24, 2020



400 Osprey (rear). 12'-15' trampoline. No ARCC permit.
Feb 21, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
NOTICE OF HEARING
OF
BOARD OF TRUSTEES**

Notice is hereby given that a **Hearing** will be conducted before the Barefoot Bay Board of Trustees at **07:00 PM** on **May 26, 2020** at **1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.**

The purpose of this **Hearing** will be to consider the Recommended Order of the Violations Committee to the Board of Trustees for your Case.

The Board shall not conduct a full de novo quasi-judicial hearing on the violation, but shall consider the Finding of Fact and Recommended Order issued by the Violations Committee. The owner may not present new or additional evidence, but shall be given an opportunity to be heard. If the Board of Trustees concurs with the Violation Committee that a violation has been established, the Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action to enforce the Deed of Restrictions and is deemed to be the prevailing party in such action, the Board of Trustees shall be entitled to an award of attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 14, 2020

Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-000380

#14 / 20-000380

ALMEIDA, FRANK D,

400 OSPREY DR

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 400 OSPREY DRIVE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-000547 400 Osprey Drive**
Section & Item: 9.G.v
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-000547
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to General Counsel Repperger.

Background and Summary Information

ARTICLE II, SECT. 5 (A) (B) ADIR (Unapproved Fence)

First Violation occurred on 2/17/2020, three follow ups and pictures have been done since first Violation. Staff has signed Affidavit of Notices and attached four pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to the General counsel Repperger for legal action, equitable or other appropriate action with failure to comply. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-000547

#14/ 20-000547

ALMEIDA, FRANK D

400 OSPREY DR

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE II, SECT. 5 (A) (B) ADIR (Unapproved Fence)**

Section 3) A manufactured or modular home installed on any lot in Barefoot Bay shall meet the following design and installation requirements and shall be continuously maintained in compliance with such requirements. (A) Fencing shall not be permitted along any lot line where drainage canals or swales exist.

(B.) Where no drainage canals or swales exist along a lot line, permitted fencing shall be limited to chain link, powder coated or steel, vinyl pickett fencing, or other ARCC approved materials not exceeding four (4) feet in height.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 84.A Lot # 19

400 OSPREY DRIVE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): No permit for fence. Must submit ARCC permit to New Administration Building (625 Barefoot Boulevard) for review.

DATE OF VIOLATION FIRST OBSERVED: Feb 17, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

February 17, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 14, 2020



400 Osprey. No permit for fence
Mary Barry
May 14, 2020



400 Osprey. Unapproved fence (no ARCC permit for fence)
Mary Barry
Mar 11, 2020



400 Osprey. Unapproved fence (no ARCC permit for fence)
Peter Essig
Feb 17, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 14, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-000547

#14 / 20-000547

ALMEIDA, FRANK D,

400 OSPREY DR

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 400 OSPREY DRIVE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-000630 401 Osprey Drive**
Section & Item: 9.G.vi
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-000630
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to General Counsel Repperger.

Background and Summary Information

ARTICLE III, SECT. 2 (B) (D) Condition of Prop. (B) PW

First Violation occurred on 2/20/2020, three follow ups and pictures have been done since first Violation. Staff has signed Affidavit of Notices and attached four pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to the General counsel Repperger for legal action, equitable or other appropriate action with failure to comply. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-000630

#322/ 20-000630

ALONSO, DANI ALMEIDA

401 OSPREY DR

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (B) (D) Condition of Prop. (B) PW**

(B) The exterior of a home on any lot shall be maintained free of mildew, mold and dirt which is visible when the house is viewed from the street or from any adjacent lot.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 85.A Lot # 7

401 OSPREY DRIVE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Home including awnings and skirting must be kept free from mold, dirt, and mildew.

DATE OF VIOLATION FIRST OBSERVED: Feb 24, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

February 24, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 14, 2020



401 Osprey Dr. Must maintain the house, awnings, and skirting free from mold, dirt, and mildew
Mary Barry
May 14, 2020



401 Osprey Dr. Must maintain the house, awnings, and skirting free from mold, dirt, and mildew
Mary Barry
Apr 23, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 14, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-000630

#322 / 20-000630

ALONSO, DANI ALMEIDA,

401 OSPREY DR

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 401 OSPREY DRIVE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-000631 401 Osprey Drive**
Section & Item: 9.G.vii
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-000631
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to General Counsel Repperger.

Background and Summary Information

ARTICLE III, SECT. 2 (C) (D) Condition of Prop. (C) Unauthorized items

First Violation occurred on 2/20/2020, three follow ups and pictures have been done since first Violation. Staff has signed Affidavit of Notices and attached four pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to the General counsel Repperger for legal action, equitable or other appropriate action with failure to comply. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-000631

#322/ 20-000631

ALONSO, DANI ALMEIDA

401 OSPREY DR

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (C) (D) Condition of Prop. (C) Unauthorized items**

(C) The lawn, landscaped areas, driveways and carports on each lot shall be kept free of all items of personal property except for customary outdoor items such as exterior patio or porch furniture, golf carts, vehicles, and barbecue grills. The intent of this requirement is to prohibit the accumulation and/or storage of items such as indoor furniture, automotive parts, cartons, boxes, debris and similar property which causes an unsightly appearance or nuisance if left on or about the exterior of a home.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 85.A Lot # 7

401 OSPREY DRIVE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Unapproved items/debris. Must be removed.

DATE OF VIOLATION FIRST OBSERVED: Feb 24, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

February 24, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 14, 2020



401 Osprey Dr. Unapproved items/Debris
Mary Barry
May 14, 2020



401 Osprey Dr. Unapproved items/Debris
Mary Barry
May 04, 2020



401 Osprey. Unapproved items/debris.
Peter Essig
Feb 20, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 14, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-000631

#322 / 20-000631

ALONSO, DANI ALMEIDA,

401 OSPREY DR

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 401 OSPREY DRIVE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 19-005045 901 Waterway Drive**
Section & Item: 9.G.viii
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 19-005045
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to General Counsel Repperger.

Background and Summary Information

ARTICLE III, SECT. 2 (B) (D) Condition of Prop. (B) PW

First Violation occurred on 12/13/2019, fourteen follow ups and pictures have been done since first Violation. Staff has signed Affidavit of Notices and attached four pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to the General counsel Repperger for legal action, equitable or other appropriate action with failure to comply. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 19-005045

#2111/ 19-005045

GRIFFIN, DONNA L

901 WATERWAY DR

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (B) (D) Condition of Prop. (B) PW**

(B) The exterior of a home on any lot shall be maintained free of mildew, mold and dirt which is visible when the house is viewed from the street or from any adjacent lot.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 124 Lot # 3

901 WATERWAY DRIVE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Must maintain the house, awnings, and skirting free from mold, dirt, and mildew

DATE OF VIOLATION FIRST OBSERVED: Dec 13, 2019

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

December 13, 2019 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 14, 2020



901 Waterway. Must maintain the house, awnings, and skirting free from mold, dirt, and mildew
Mary Barry
May 14, 2020



901 Waterway. Must maintain the house, awnings, and skirting free from mold, dirt, and mildew
Mary Barry
May 14, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 14, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 19-005045

#2111 / 19-005045

GRIFFIN, DONNA L,

901 WATERWAY DR

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 901 WATERWAY DRIVE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-00184 901 Waterway Drive**
Section & Item: 9.G.ix
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001184
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to General Counsel Repperger.

Background and Summary Information

ARTICLE III, SECT. 2 (C) (D) Condition of Prop. (C) Unauthorized items

First Violation occurred on 5/14/2020, two follow ups and pictures have been done since first Violation. Staff has signed Affidavit of Notices and attached four pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to the General counsel Repperger for legal action, equitable or other appropriate action with failure to comply. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001184

#2111/ 20-001184

GRIFFIN, DONNA L

901 WATERWAY DR

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (C) (D) Condition of Prop. (C) Unauthorized items**

(C) The lawn, landscaped areas, driveways and carports on each lot shall be kept free of all items of personal property except for customary outdoor items such as exterior patio or porch furniture, golf carts, vehicles, and barbecue grills. The intent of this requirement is to prohibit the accumulation and/or storage of items such as indoor furniture, automotive parts, cartons, boxes, debris and similar property which causes an unsightly appearance or nuisance if left on or about the exterior of a home.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 124 Lot # 3

901 WATERWAY DRIVE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Unapproved items / Debris

DATE OF VIOLATION FIRST OBSERVED: May 14, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 14, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 14, 2020



901 Waterway Dr.Unapproved items / Debris
Mary Barry
May 14, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 14, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001184

#2111 / 20-001184

GRIFFIN, DONNA L,

901 WATERWAY DR

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 901 WATERWAY DRIVE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-000632 401 Osprey Drive (High Grass/Weeds)**
Section & Item: 9.G.x
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-000632
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 2/20/2020, five follow ups and pictures have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-000632

#322/ 20-000632

ALONSO, DANI ALMEIDA

401 OSPREY DR

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 85.A Lot # 7

401 OSPREY DRIVE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: Weeds, overgrowth. Weeds must be removed, overgrowth must be trimmed/pruned.

DATE OF VIOLATION FIRST OBSERVED: Feb 24, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

February 24, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 14, 2020



401 Osprey Dr. Lawn and landscape: high grass/weeds/overgrown bushes
Mary Barry
May 14, 2020



401 Osprey Dr. Lawn and landscape: high grass/weeds/overgrown bushes
Mary Barry
May 14, 2020



401 Osprey Dr. Lawn and landscape: high grass/weeds/overgrown bushes
Mary Barry
May 04, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

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May 14, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-000632

#322 / 20-000632

ALONSO, DANI ALMEIDA,

401 OSPREY DR

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 401 OSPREY DRIVE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001186 414 Barefoot Blvd (High Grass/Weeds)**
Section & Item: 9.G.xi
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001186
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/14/2020, two follow ups and pictures have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001186

#155/ 20-001186

NICOLO, MARIO JOHN

414 BAREFOOT BLVD

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 84.B Lot # 19

414 BAREFOOT BOULEVARD

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 14, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 14, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 14, 2020



414 Barefoot Blvd. Posted note
Mary Barry
May 14, 2020



414 Barefoot Blvd. Lawn and landscape: high grass/weeds
Mary Barry
May 14, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **09:00 AM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 09:00 AM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 14, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001186

#155 / 20-001186

NICOLO, MARIO JOHN,

414 BAREFOOT BLVD

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 414 BAREFOOT BOULEVARD

Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA

COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020

Title: **DOR Violation 20-001206 1032 Waterway Drive (High Grass/Weeds)**

Section & Item: 9.G.xii

Department: Resident Relations, DOR

Fiscal Impact: N/A

Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager

Attachments: 20-001206

Reviewed by

General Counsel: No

Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001206

#1488/ 20-001206

LAUREN D BELL

1032 WATERWAY DR

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 126 Lot # 53

1032 WATERWAY DRIVE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED:

Deed of Restrictions Staff

May 19, 2020



1032 Waterway Dr. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM** on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 19, 2020

Board of Trustees/Deed of Restrictions STAFF

[DOCUMENT]

[DOC_DESCRIPTION]

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001206

#1488 / 20-001206

LAUREN D BELL,

1032 WATERWAY DR

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 1032 WATERWAY DRIVE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001202 108 Hydrangea Court (High Grass/Weeds)**
Section & Item: 9.G.xiii
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001202
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001202

#4178/ 20-001202

REGAN, ROBERT C

PO BOX 561183

ROCKLEDGE, FL 32956

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 74 Lot # 10
108 HYDRANGEA COURT
BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class
via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



108/ Hydrangea Ct. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

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May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001202

#4178 / 20-001202

REGAN, ROBERT C,

PO BOX 561183

ROCKLEDGE, FL 32956

Respondent(s),

RE: 108 HYDRANGEA COURT
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001201 622 Amaryllis Drive (High Grass/Weeds)**
Section & Item: 9.G.xiv
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001201
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001201

#4525/ 20-001201

SCHONECK, WALTER, LIFE ESTATE

903 ROSLYN RD

GROSSE POINTE WOODS, MI 48236

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

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LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 74 Lot # 22

622 AMARYLLIS DRIVE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



622 Amaryllis Dr. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

[DOCUMENT]

[DOC_DESCRIPTION]

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001201

#4525 / 20-001201

SCHONECK, WALTER, LIFE ESTATE,

903 ROSLYN RD

GROSSE POINTE WOODS, MI 48236

Respondent(s),

RE: 622 AMARYLLIS DRIVE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001221 801 Lychee Drive (High Grass/Weeds)**
Section & Item: 9.G.xv
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001221
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001221

#3214/ 20-001221

SOUTHARD, BARRY

3825 12TH ST

SEBASTIAN, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 20 Lot # 1

801 LYCHEE DRIVE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and Landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



Lawn and Landscape: high grass/weeds

May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

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The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

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May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001221

#3214 / 20-001221
SOUTHARD, BARRY,
3825 12TH ST
SEBASTIAN, FL 32976

Respondent(s),

RE: 801 LYCHEE DRIVE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001218 800 Tamarind Circle (High Grass/Weeds)**
Section & Item: 9.G.xvi
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001218
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001218

#4658/ 20-001218

TAZMET LLC

800 TAMARIND CIR

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 20 Lot # 44

800 TAMARIND CIRCLE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and Landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



Lawn and Landscape: high grass/weeds

May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

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May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001218

#4658 / 20-001218

TAZMET LLC,

800 TAMARIND CIR

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 800 TAMARIND CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
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4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001214 861 Tamarind Circle (High Grass/Weeds)**
Section & Item: 9.G.xvii
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001214
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001214

#2047/ 20-001214

FLYNN, MICHAEL JOSEPH

861 TAMARIND CIR

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

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LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 17.A Lot # 6

861 TAMARIND CIRCLE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and Landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



Lawn and Landscape: high grass/weeds

May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

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May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001214

#2047 / 20-001214

FLYNN, MICHAEL JOSEPH,

861 TAMARIND CIR

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 861 TAMARIND CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020

Title: **DOR Violation 20-001207 449 Dolphin Circle (High Grass/Weeds)**

Section & Item: 9.G.xviii

Department: Resident Relations, DOR

Fiscal Impact: N/A

Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager

Attachments: 20-001207

Reviewed by

General Counsel: No

Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001207

#2848/ 20-001207

DRADDY, WILLIAM M LIFE ESTATE

449 DOLPHIN CIR

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 4 Lot # 13

449 DOLPHIN CIRCLE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and Landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



Lawn and Landscape: high grass/weeds

May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001207

#2848 / 20-001207

DRADDY, WILLIAM M LIFE ESTATE,

449 DOLPHIN CIR

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 449 DOLPHIN CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
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4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001205 600 Dolphin Circle (High Grass/Weeds)**
Section & Item: 9.G.xix
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001205
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001205

#3311/ 20-001205

KIEDROWSKI, KAREN
102 SEAGRAPE CT
NAPLES, FL 34110

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 12 Lot # 29
600 DOLPHIN CIRCLE
BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and Landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

via First Class
via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



Lawn and Landscape: high grass/weeds

May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

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May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001205

#3311 / 20-001205

KIEDROWSKI, KAREN,

102 SEAGRAPE CT

NAPLES, FL 34110

Respondent(s),

RE: 600 DOLPHIN CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
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FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001200 556 Dolphin Circle (High Grass/Weeds)**
Section & Item: 9.G.xx
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001200
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001200

#2088/ 20-001200

HEADLEY, ALAN W

556 DOLPHIN CIR

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

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LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 6 Lot # 20

556 DOLPHIN CIRCLE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and Landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



Lawn and Landscape: high grass/weeds

May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

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May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001200

#2088 / 20-001200

HEADLEY, ALAN W,

556 DOLPHIN CIR

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 556 DOLPHIN CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

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Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001199 200 Manatee Court (High Grass/Weeds)**
Section & Item: 9.G.xxi
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001199
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

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**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001199

#3198/ 20-001199

TRACY, JOHN J

200 MANATEE CT

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 10 Lot # 25

200 MANATEE COURT

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and Landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED:

Deed of Restrictions Staff

May 18, 2020



Lawn and Landscape: high grass/weeds

May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM** on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001199

#3198 / 20-001199

TRACY, JOHN J,

200 MANATEE CT

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 200 MANATEE COURT
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001198 359 Marlin Circle (High Grass/Weeds)**
Section & Item: 9.G.xxii
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001198
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001198

#2692/ 20-001198

LATOURE, AMY D

1956 MARGATE AVE

CHARLOTTE, NC 28205

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 9 Lot # 28

359 MARLIN CIRCLE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and Landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



Lawn and Landscape: high grass/weeds

May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001198

#2692 / 20-001198

LATOUR, AMY D,

1956 MARGATE AVE

CHARLOTTE, NC 28205

Respondent(s),

RE: 359 MARLIN CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001197 257 Dolphin Circle (High Grass/Weeds)**
Section & Item: 9.G.xxiii
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001197
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and two pictures have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001197

#3529/ 20-001197

ROEDER, WILLIAM

257 DOLPHIN CIR

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 14 Lot # 10

257 DOLPHIN CIRCLE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and Landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



Lawn and Landscape: high grass/weeds

May 18, 2020



Lawn and Landscape: high grass/weeds

May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

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If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

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IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

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May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001197

#3529 / 20-001197

ROEDER, WILLIAM,

257 DOLPHIN CIR

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 257 DOLPHIN CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001222 913 Pecan Circle (High Grass/Weeds)**
Section & Item: 9.G.xxiv
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001222
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and one picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001222

#540/ 20-001222

SYLVESTER LIVING TRUST
790 GOSSAMER WING WAY
SEBASTIAN, FL 32958

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 114 Lot # 78
913 PECAN CIRCLE
BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class
via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 19, 2020



913 Pecan Cir. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 19, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001222

#540 / 20-001222

SYLVESTER LIVING TRUST,
790 GOSSAMER WING WAY
SEBASTIAN, FL 32958

Respondent(s),

RE: 913 PECAN CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001220 953 Cashew Circle (High Grass/Weeds)**
Section & Item: 9.G.xxv
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001220
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001220

#117/ 20-001220

DALEY, DAVID E

7687 GREAT BEAR LAKE DR

BAREFOOT BAY, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 114 Lot # 64

953 CASHEW CIRCLE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 19, 2020



953 Cashew Cir. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

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May 19, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001220

#117 / 20-001220

DALEY, DAVID E,
7687 GREAT BEAR LAKE DR
BAREFOOT BAY, FL 32976

Respondent(s),

RE: 953 CASHEW CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001219 851 Laurel Circle (High Grass/Weeds)**
Section & Item: 9.G.xxvi
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001219
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001219

#393/ 20-001219

GAGNE, YVON G

334 NORTHERN CENTRAL RD

HAGAR, ONTARIO, CANADA, P0M 1X0

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 105 Lot # 89

851 LAUREL CIRCLE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 19, 2020



851 Laurel Cir. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

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May 19, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001219

#393 / 20-001219

GAGNE, YVON G,

334 NORTHERN CENTRAL RD

HAGAR, ONTARIO, CANADA, P0M 1X0

Respondent(s),

**RE: 851 LAUREL CIRCLE
Barefoot Bay, FL 32976**

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001216 1005 Ginger Lane (High Grass/Weeds)**
Section & Item: 9.G.xxvii
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001216
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001216

#733/ 20-001216

BRIAN JACOBS

1005 GINGER LN

SEBASTIAN, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 127 Lot # 13

1005 GINGER LANE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



1005 Ginger Ln. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

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May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001216

#733 / 20-001216

BRIAN JACOBS,

1005 GINGER LN

SEBASTIAN, FL 32976

Respondent(s),

RE: 1005 GINGER LANE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001215 1037 Oriole Circle (High Grass/Weeds)**
Section & Item: 9.G.xxviii
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001215
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001215

#1313/ 20-001215

SLAYTON, MICHAEL

535 DELFRATE RD

HUNTINGTON, VT 05462

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 139 Lot # 19

1037 ORIOLE CIRCLE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



1037 Oriole Cir. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001215

#1313 / 20-001215

SLAYTON, MICHAEL,

535 DELFRATE RD

HUNTINGTON, VT 05462

Respondent(s),

RE: 1037 ORIOLE CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001227 1012 Royal Palm Drive (High Grass/Weeds)**
Section & Item: 9.G.xxix
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001227
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached four pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001227

#1220/ 20-001227

INTERNATIONAL INSURANCE LOSS

1012 ROYAL PALM DR

SEBASTIAN, FL 32976

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 43 Lot # 31

1012 ROYAL PALM DRIVE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED:

Deed of Restrictions Staff

May 18, 2020



1012 Royal Palm. Lawn and landscape: high grass/weeds/overgrown bushes
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM** on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

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May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

[DOCUMENT]

[DOC_DESCRIPTION]

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001227

#1220 / 20-001227

INTERNATIONAL INSURANCE LOSS,
1012 ROYAL PALM DR
SEBASTIAN, FL 32976

Respondent(s),

RE: 1012 ROYAL PALM DRIVE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
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4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001213 1025 Oriole Circle (High Grass/Weeds)**
Section & Item: 9.G.xxx
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001213
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001213

#1353/ 20-001213

DUSSMANN, WILLIAM C
190 W LAKE SHORE DR
ROCKAWAY, NJ 07866

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 139 Lot # 13
1025 ORIOLE CIRCLE
BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class
via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



1025 Oriole Cir. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

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May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001213

#1353 / 20-001213

DUSSMANN, WILLIAM C,
190 W LAKE SHORE DR
ROCKAWAY, NJ 07866

Respondent(s),

RE: 1025 ORIOLE CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
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FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001212 912 Wren Circle (High Grass/Weeds)**
Section & Item: 9.G.xxi
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001212
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001226

#3798/ 20-001226

BARD, CAROLINE S
300 TURTLE RUN DR, APT 102
SEBASTIAN, FL 32958

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 37 Lot # 18
1321 BAREFOOT CIRCLE
BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class
via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED:

May 18, 2020

Deed of Restrictions Staff



1321 Barefoot Cir. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM** on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

[DOCUMENT]

[DOC_DESCRIPTION]

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001226

#3798 / 20-001226

BARD, CAROLINE S,
300 TURTLE RUN DR, APT 102
SEBASTIAN, FL 32958

Respondent(s),

RE: 1321 BAREFOOT CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001224 415 Plover Drive (High Grass/Weeds)**
Section & Item: 9.G.xxxii
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001224
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001224

#415/ 20-001224

CADIEUX, ARLENE M
220 VALKARIA RD
PALM BAY, FL 32909

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 84.B Lot # 34
415 PLOVER DRIVE
BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class
via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED:

May 18, 2020

Deed of Restrictions Staff



415 Plover Dr. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM** on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

[DOCUMENT]

[DOC_DESCRIPTION]

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001224

#415 / 20-001224

CADIEUX, ARLENE M,

220 VALKARIA RD

PALM BAY, FL 32909

Respondent(s),

RE: 415 PLOVER DRIVE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001210 1021 Wren Circle (High Grass/Weeds)**
Section & Item: 9.G.xxxiii
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001210
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001210

#1650/ 20-001210

SYLVESTER LIVING TRUST
790 GOSSAMER WING WAY
SEBASTIAN, FL 32958

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 137 Lot # 11
1021 WREN CIRCLE
BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class
via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



1021 Wren Cir. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001210

#1650 / 20-001210

SYLVESTER LIVING TRUST,
790 GOSSAMER WING WAY
SEBASTIAN, FL 32958

Respondent(s),

**RE: 1021 WREN CIRCLE
Barefoot Bay, FL 32976**

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001223 1103 Myrtle Drive (High Grass/Weeds)**
Section & Item: 9.G.xxxiv
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001223
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached four pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001223

#567/ 20-001223

SECRETARY OF HOUSING AND URBAN DEVELOPMENT
451 SW 7TH STREET
WASHINGTON , DC 20410

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 113 Lot # 6
1103 MYRTLE DRIVE
BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class
via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED:

May 18, 2020

Deed of Restrictions Staff



1103 Myrtle Dr. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM** on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

[DOCUMENT]

[DOC_DESCRIPTION]

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001223

#567 / 20-001223

SECRETARY OF HOUSING AND URBAN DEVELOPMENT,
451 SW 7TH STREET
WASHINGTON , DC 20410

Respondent(s),

RE: 1103 MYRTLE DRIVE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001209 1067 Wren Circle (High Grass/Weeds)**
Section & Item: 9.G.xxxv
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001209
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001209

#1552/ 20-001209

BONCEK, JOHN L

7 RIVER OAK DRIVE

SEBASTIAN, FL 32958

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 137 Lot # 34

1067 WREN CIRCLE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



1067 Wren Cir. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

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If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001209

#1552 / 20-001209

BONCEK, JOHN L,
7 RIVER OAK DRIVE
SEBASTIAN, FL 32958

Respondent(s),

RE: 1067 WREN CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001208 1184 Waterway Drive (High Grass/Weeds)**
Section & Item: 9.G.xxxvi
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001208
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and two pictures have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001208

#1793/ 20-001208

CHAPMAN, CLYDE

1100 LINTON BLVD

DELRAY BEACH, FL 33444

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 141 Lot # 13

1184 WATERWAY DRIVE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



1184 Waterway Dr. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020



1184 Waterway Dr. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM on May 26, 2020** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on May 26, 2020 at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

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May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001208

#1793 / 20-001208
CHAPMAN, CLYDE,
1100 LINTON BLVD
DELRAY BEACH, FL 33444
Respondent(s),

RE: 1184 WATERWAY DRIVE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
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FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001204 909 Oleander Circle (High Grass/Weeds)**
Section & Item: 9.G.xxxvii
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001204
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001204

#4155/ 20-001204

ENRICO, WILLIAM TRUSTEE

7810 SW 97TH CT

OCALA, FL 34481-7303

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

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LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 59 Lot # 22

909 OLEANDER CIRCLE

BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class

via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED: May 21, 2020

Deed of Restrictions Staff

May 18, 2020



909 Oleander Cir.
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

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May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001204

#4155 / 20-001204

ENRICO, WILLIAM TRUSTEE,

7810 SW 97TH CT

OCALA, FL 34481-7303

Respondent(s),

RE: 909 OLEANDER CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020

Title: **DOR Violation 20-001203 707 Hyacinth Circle (High Grass/Weeds)**

Section & Item: 9.G.xxxviii

Department: Resident Relations, DOR

Fiscal Impact: N/A

Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager

Attachments:

Reviewed by

General Counsel: No

Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001230 1385 Barefoot Circle (High Grass/Weeds)**
Section & Item: 9.G.xxxix
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001230
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/19/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001230

#3873/ 20-001230

ALLAN, ROBERT J
1385 BAREFOOT CIR
BAREFOOT BAY, FL 32976
Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 41 Lot # 13
1385 BAREFOOT CIRCLE
BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 19, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 19, 2020 via First Class

DATE ON/BY WHICH VIOLATION TO BE CORRECTED:

Deed of Restrictions Staff

May 19, 2020



1385 Barefoot Cir. Lawn and landscape: high grass/weeds
Mary Barry
May 19, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM** on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 19, 2020

Board of Trustees/Deed of Restrictions STAFF

[DOCUMENT]

[DOC_DESCRIPTION]

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001230

#3873 / 20-001230

ALLAN, ROBERT J,

1385 BAREFOOT CIR

BAREFOOT BAY, FL 32976

Respondent(s),

RE: 1385 BAREFOOT CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001226 1321 Barefoot Circle (High Grass/Weeds)**
Section & Item: 9.G.xl
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Sally Biondollilo, DOR/ARCC Administrative Assistant Resident Relations, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001226
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/18/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001226

#3798/ 20-001226

BARD, CAROLINE S
300 TURTLE RUN DR, APT 102
SEBASTIAN, FL 32958

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 37 Lot # 18
1321 BAREFOOT CIRCLE
BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 18, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 18, 2020 via First Class
via Certified return receipt requested.

DATE ON/BY WHICH VIOLATION TO BE CORRECTED:

May 18, 2020

Deed of Restrictions Staff



1321 Barefoot Cir. Lawn and landscape: high grass/weeds
Mary Barry
May 18, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM** on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 18, 2020

Board of Trustees/Deed of Restrictions STAFF

[DOCUMENT]

[DOC_DESCRIPTION]

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001226

#3798 / 20-001226

BARD, CAROLINE S,
300 TURTLE RUN DR, APT 102
SEBASTIAN, FL 32958

Respondent(s),

RE: 1321 BAREFOOT CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
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4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001229 1376 Barefoot Circle (High Grass/Weeds)**
Section & Item: 9.G.xli
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001229
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/19/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001229

#4286/ 20-001229

THE ESTATE OF BRODIE, ROBERT J
359 PEGGY CIRCLE NE
PALM BAY, FL 32907

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 42 Lot # 4
1376 BAREFOOT CIRCLE
BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 19, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 19, 2020 via First Class

DATE ON/BY WHICH VIOLATION TO BE CORRECTED:

Deed of Restrictions Staff

May 19, 2020



1376 Barefoot Cir. Lawn and landscape: high grass/weeds
Mary Barry
May 19, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM** on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

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DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

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May 19, 2020

Board of Trustees/Deed of Restrictions STAFF

[DOCUMENT]

[DOC_DESCRIPTION]

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001229

#4286 / 20-001229

THE ESTATE OF BRODIE, ROBERT J,
359 PEGGY CIRCLE NE
PALM BAY, FL 32907

Respondent(s),

RE: 1376 BAREFOOT CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
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FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large

Board of Trustees

Meeting Agenda Memo

Date: Tuesday, May 26, 2020
Title: **DOR Violation 20-001228 1374 Barefoot Circle (High Grass/Weeds)**
Section & Item: 9.G.xlii
Department: Resident Relations, DOR
Fiscal Impact: N/A
Contact: Richard Armington, Resident Relations Manager, John W. Coffey ICMA-CM, Community Manager
Attachments: 20-001228
Reviewed by
General Counsel: No
Approved by: John W. Coffey, ICMA-CM, Community Manager



Requested Action by BOT

Review violation and referral to Property Services.

Background and Summary Information

Article III, Section 2 (A) (D) - Lawn and Landscape Recurring Maintenance Condition of Prop. (A) (D) Lawn & Landscape (Recurring Maintenance)

First Violation occurred on 5/19/2020, one follow up and picture have been done since first Violation. Staff has signed Affidavit of Notices and attached pictures. Respondent has been notified by First Class Mail and Certified Mail. Property posted.

Staff recommends that the BOT refer this Violation to Property Services to bring the property into compliance per Resolution 2015-17. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondents account and shall constitute as a lien.

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001228

#2419/ 20-001228

THE ESTATE OF BRODIE, ROBERT J
359 PEGGY CIRCLE NE
PALM BAY, FL 32907

Respondent(s),

STATEMENT OF VIOLATION

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)

• **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height. "Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

LOCATION/ADDRESS WHERE VIOLATION EXISTS

Block # 42 Lot # 3
1374 BAREFOOT CIRCLE
BAREFOOT BAY, FL 32976

DESCRIPTION OF VIOLATION(s): Lawn and landscape: high grass/weeds

DATE OF VIOLATION FIRST OBSERVED: May 19, 2020

DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:

May 19, 2020 via First Class

DATE ON/BY WHICH VIOLATION TO BE CORRECTED:

Deed of Restrictions Staff

May 19, 2020



1374 Barefoot Cir. Lawn and landscape: high grass/weeds
Mary Barry
May 19, 2020

**BAREFOOT BAY RECREATION DISTRICT
BREVARD COUNTY, FLORIDA
BOARD OF TRUSTEES**

NOTICE OF HEARING

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **07:00 PM** on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice is hereby given that a Hearing will be conducted before the Barefoot Bay Board of Trustees at 07:00 PM on at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.

DUE TO THE FACT THAT ALL BOT MEETINGS ARE BEING STREAMED TO BLD A. THE HOMEOWNER WILL NEED TO BE PRESENT AT BLD A TO PRESENT TESTIMONY ON THE VIOLATION. NOTIFY MODERATOR AT BLD A THAT YOU ARE THERE FOR A VIOLATION CASE.

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).

THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.

May 19, 2020

Board of Trustees/Deed of Restrictions STAFF

[DOCUMENT]

[DOC_DESCRIPTION]

**BAREFOOT BAY BOARD OF TRUSTEES
BREVARD COUNTY, FLORIDA**

BAREFOOT BAY RECREATION DISTRICT

Petitioner

Vs

Case no. 20-001228

#2419 / 20-001228

THE ESTATE OF BRODIE, ROBERT J,
359 PEGGY CIRCLE NE
PALM BAY, FL 32907

Respondent(s),

RE: 1374 BAREFOOT CIRCLE
Barefoot Bay, FL 32976

AFFIDAVIT OF NOTICES

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the _____ day of _____ 20____, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this _____ day of _____ 20____.



Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on _____ day of _____ 20____ by Mary Barry, who is personally known to me and did take an oath.

Notary Public
State of Florida at Large



Barefoot Bay Recreation District

625 Barefoot Boulevard, "Administration Building"
Barefoot Bay, FL 32976-9233

Phone 772-664-3141

Fax 772-664-1928

Memo To: Board of Trustees

From: John W. Coffey, ICMA-CM, Community Manager

Date: May 26, 2020

Subject: Manager's Report

Resident Relations

ARCC Meeting 05/12/20 agenda

- 17 Consent items – all approved
- 6 Other items – all approved
- 3 Old Business items (extension requests) – all approved

ARCC Meeting 05/26/20

- 17 Consent items
- 8 Other items
- 1 Old Business

VC Meetings

- All future meetings have been cancelled until the Coronavirus pandemic abates

Severance Package Update

- As of May 19, 2020, 19 eligible employees have elected to receive the two-weeks compensation the BOT approved on April 21, 2020.

Golf-Pro Shop

- Course Aerification Maintenance (only 9 holes open for two days)
 - June 1st Back Nine and Putting Green Closed
 - June 2nd Front Nine Closed
- In-House Lake Bank restoration will begin June 1st
- Beginning May 22, 2020, residents and golfers wishing to enter the Pro Shop will have their temperatures scanned via a touchless thermometer. If an individual does not wish to have his/her temperature checked, staff will assist that individual outside.

Property Services

- Patched and Re-painted the Men's and Ladies room at the 19th hole
- Began the roof replacement on the Veterans shed at Micco RV
- Re-painted the lines at the Community Center parking lot
- Repaired pool valve at pool 1
- Completed repairs to the ABM break room (new door and paint)
- Cleaned out all the overgrown brush at the Micco RV
- Straightened out fence posts at Micco and West RV
- Continued 3-hour rotation of cleaning the golf course restrooms
- Addressed all current DOR violations
- Continued soliciting bids for various projects

General Information

- **Lounge/Lakeside Expansion Design Update:**
 - Staff received a revised food prep and storage area layout from the design team for review and comment
 - Staff received the preliminary site plan from the design team for review and comment
- **Steward Medical Group Proposed Land-Lease Update** - Mr. Taylor requested this item be pulled from this agenda so he could have the site plan further refined. He anticipates it being ready for one of the meetings in June.
- **Appeal of Staff Decision Regarding the Payment of a Social Membership** – Per an email dated May 19, 2020, one Trustee has requested this issue (denial of waiver from payment for transfer between two corporations owned by the same individual) be placed on the June 12th agenda for consideration by the BOT.