

IMPORTANT DISCLAIMERS

None of these materials are offered, nor should be construed, as legal advice. Communication of information by or through this memorandum and your receipt or use of such information is not intended to create an attorney-client relationship with Eisinger Law or LSAS or any of the firms' attorneys. **Eisinger Law and LSAS are representing no other party other than PALM BEACH RESORT AND BEACH CLUB CONDOMINIUM ASSOCIATION, INC.** You should not act or rely upon information contained in these materials without specifically seeking professional legal advice.

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YOU ARE ENCOURAGED TO CONSULT AN ATTORNEY REGARDING YOUR LEGAL RIGHTS IN THIS MATTER AND ANY LEGAL ACTION FILED IN CONNECTION THEREWITH.

FREQUENTLY ASKED QUESTIONS AND ANSWERS

[FAQ's will be updated as needed]

The information below is provided solely to address questions pertaining to the bankruptcy case styled as *In re Palm Beach Resort and Beach Club Condominium Association, Inc.*, Case. No. 21-15555-BKC-EPK (the "Bankruptcy Case"), which is pending in United States Bankruptcy Court for the Southern District of Florida, West Palm Beach Division. Further, it provides information related to a pending legal action filed in the bankruptcy case, styled as *Palm Beach Resort and Beach Club Condominium Association, Inc. v. HPP Holdings, LLC, et al.*, Adversary Proceeding No. 21-01168-ADV-EPK (the "Adversary Case" or "Legal Action"). The purpose of this information is to provide the public with frequently asked questions and answers. The information will be updated when needed to address additional questions.

As Eisinger Law and Leiderman Shelomith Alexander + Somodevilla, PLLC ("LSAS") cannot provide legal advice in this matter to anyone other than our client, PALM BEACH RESORT AND BEACH CLUB CONDOMINIUM ASSOCIATION (the "Association"), we will be directing callers to this information, which will be posted on the Association's website, as well as Eisinger Law's website, to assist in answering questions.

<https://www.eisingerlaw.com/palmbeachresort-bankruptcy>

The Question & Answer section is not providing legal advice to Defendants or Third Parties in this matter. You should consult an attorney to discuss your legal rights.

Q1: What is the current status of the partition action?

A1: Prior to the filing of the bankruptcy case, Palm Beach Resort and Beach Club Condominium Association, Inc. filed a Complaint for Partition, Case No.: 502020CA011561XXXXMB, in the 15th Judicial Circuit in and for Palm Beach County, Florida. The complaint was filed on October 23, 2020, naming over 1100 defendants, including current owners of record and individuals whom the title company required to be included as part of the lawsuit in order to cure/clear any potential title defects. It is important to note that a partition action of this nature (size and complexity), involving over 1100 named defendants, 1479-unit weeks, 29 maintenance weeks, and a number of title defects and deficiencies was unprecedented in the State of Florida. By way of example, the Association had to retain a separate company to assist with the electronic filing of the lawsuit, as the Florida E-Filing System was not designed to handle the volume of defendants in this case. In other words, we have been trying to “fit a square peg in a round hole”. Moreover, although the timeshare statute has provisions regarding how a partition action is to be effectuated, we had no record of it ever having been successfully accomplished in Florida, as to an association of similar size and nature. In essence, Palm Beach Resort has likely made history, as many other similarly situated timeshare properties will be sunsetting in the future and will need to undertake a similar process.

Notwithstanding the great progress made to date, upon further deliberation, research, and analysis, including discussion with industry leaders, review of cases in jurisdictions outside of Florida, and an assessment of the obstacles and time requirements we will be facing ahead, it was determined that a more streamlined procedure to address the sheer number of parties and issues involved would be more suitable in the bankruptcy arena. Based on the foregoing, the Board of Directors, in consultation with the Association’s attorneys, have determined that the better and likely more effective/efficient course of action is to pursue the disposition of the property in the United States Bankruptcy Court.

Q2: Why Bankruptcy?

A2: On June 4, 2021, the Association commenced the Bankruptcy Case. While bankruptcy is usually associated with negative implications and connotations, particularly the belief of financial insolvency, there are times that the process is more strategically advantageous, as bankruptcy provides a forum to address the needs of a large number of claimants and parties in interest at the same time.

The bankruptcy process allows the orderly administration of a large group of co-owners/potential claimants to the real property, while fashioning a plan for the sale of the real estate and ultimate distribution of proceeds. Bankruptcy has a specific statute on point that addresses the ability to sell property when someone else is a co-owner.

There is a particular section under the United States Bankruptcy Code (Section 363(f) &(h)) that would allow the Association to treat the ownership of the real property separate from potential claimants, permitting the sale of the property to proceed without the need to first resolve outstanding claims. At the same time, this process allows the Association to resolve any outstanding claims, and at the same time permits the distribution of the sales proceeds to the record

owners in an effort to avoid possible delays that may be caused due to non-responsive claimants. All of this, of course, is supervised by the United States Bankruptcy Court, which must approve the sale and the plan of distribution.

Q3: Does the Bankruptcy mean that the Association is in financial distress?

A3: **No.** In fact, the bankruptcy documents show relatively very little in the way of financial obligations owed by the Association. Not all bankruptcy filings are based on financial insolvency.

Q4: Who is the Debtor in the Bankruptcy Case?

A4: This is a bankruptcy proceeding of the Association, NOT of the individual owners. The individual owners will be parties in interest (and potentially creditors, as applicable) in the bankruptcy proceeding, but are not deemed “debtors”.

Q5: Who is handling the Bankruptcy?

A5: The Association’s general counsel, Eisinger Law, in cooperation and collaboration with LSAS, experienced bankruptcy professionals, will be spearheading the bankruptcy process. Eisinger Law will remain as the main point of contact for purposes of the legal process and interfacing with the Association, while LSAS will navigate the procedural and technical aspects of the bankruptcy. For efficiency, streamlining and conservation of costs, we request that all questions and inquiries be directed to the management company, unless such inquiries are made by legal counsel.

Q6: Given the bankruptcy filing, was the partition action in State Court beneficial?

A6: Yes. As a preliminary matter, the Association was initially required to file a partition action in state court pursuant to its governing documents. Therefore, the partition action was not only beneficial, but it was necessary under the governing documents. Furthermore, pursuant to the United States Bankruptcy Code, a requirement or prerequisite to the sale of this kind in bankruptcy is the showing that “a partition in kind of such property among [the Association] and [the owners] is **impracticable**”. By having already filed the partition action in state court and having begun the process, the Association believes that proceeding with the partition action would be impracticable, given the sheer volume of the parties, its unique, first-of-its-kind case, and our belief that the state court partition mechanisms are not designed for an action of this magnitude, involving the sheer quantity of owners. *Please refer to Q8 & A8 in connection to the Legal Action filed in the bankruptcy case to seek authorization to sell the units.*

Q7: Do we have a Buyer?

A7: Yes, we have a buyer, who has agreed to purchase all units for a total price of \$9,755,000.

Q8: What are the terms of the sale?

A8: The terms of the sale, including the purchase price for all 29 units, marketability of title, and specific terms and conditions for treatment of association financial accounts and reserves will be provided as part of the sale approval process by the bankruptcy court. A copy will be provided to all owners and other interested parties and posted on the website.

Q9. Why was I named in the legal action filed as part of the Bankruptcy Case (the Adversary Case)?

A9. The Association filed the legal action (Adversary Case No. 21-01168) to obtain the Court's authorization to sell all 29 units, naming in the legal action all owners and past owners (who did not properly transfer their interests as result of various types of defects in the transfer documentation/the deeds), and/or any other individuals that may claim an interest in the property. The Association wishes the legal action is speedy and without opposition from the Owners, past owners and/or other potential claimants so as to move forward to conclude the sale process for all owner's benefit, and eventual speedy distribution of proceeds.

Q10: Why should I sign the Opt-In Form to Receive E-mail Communication?

A10. The filing in the bankruptcy case requires that all relevant parties receive notice of critical documents associated with the Bankruptcy Case and the legal action associated therewith (the Adversary Proceeding). To be more efficient, and help the Association save money, paper, and time, the Association has obtained the Court's authorization to allow all who wish to receive documents by e-mail in lieu of voluminous paper mailed documents to opt into receiving documents via e-mail transmission. The Association requests and implores all who wish to help save money, paper, and time to opt-in to e-mail notifications. **The goal is to save on expenses and maximize the ultimate distribution to each of the owners.**

To opt-into the e-mail service click on: <https://www.eisingerlaw.com/electronic-consent-form/>

Q11: As an Owner, what do I need to do?

A11: At this moment, we encourage owners to do as follows:

1. **Check the Website** - Please access the following link for any information related to the cases: <https://www.eisingerlaw.com/palmbeachresort-bankruptcy/> .
2. **Check the List of Owner of Unit Weeks Percentage for Accuracy / ONLY Complete Owner of Unit-Week Interest Claim Form if corrections required-** Please review the List of Owner of Unit-Week as provided on the website, e-mail and/ or mail (as applicable) you will receive. **You need not file a claim form for your Unit-Week ownership in the bankruptcy case UNLESS you wish to correct your Unit-Week ownership percentage and/or claim additional unit-weeks NOT listed.** Otherwise, you are not required to take further action to receive a distribution from the sale.

Q12: If I call Eisinger Law or LSAS, is an attorney at the firm able to give me legal advice on this case?

A12: Neither Eisinger Law nor LSAS will be able to provide you with legal or tax advice in this case.

AS A REMINDER, EISINGER LAW AND LSAS ARE NOT PROVIDING YOU WITH LEGAL ADVICE. BY READING THIS MEMORANDUM, YOU ARE NOT A CLIENT OF EISINGER LAW OR LSAS. IF YOU ARE A DEFENDANT AND HAVE LEGAL QUESTIONS ABOUT THE COMPLAINT RECEIVED, THEN YOU SHOULD CONSULT AN ATTORNEY TO DISCUSS YOUR LEGAL RIGHTS IN THIS CASE.