

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
West Palm Beach Division
www.flsb.uscourts.gov

In re: Case No. 21-15555-BKC-EPK

PALM BEACH RESORT AND BEACH CLUB Chapter 11
CONDOMINIUM ASSOCIATION, INC.,

Debtor-in-Possession.

**DEBTOR'S MOTION TO EXTEND DEADLINE FOR FILING PROOFS
OF OWNER OF UNIT-WEEK INTERESTS AND
APPROVE PUBLICATION OF THE SAME**

Debtor, Palm Beach Resort and Beach Club Condominium Association, Inc. (the "Debtor"), by and through undersigned counsel, pursuant to 11 U.S.C. §105(a), moves to extend the Unit-Week Interest Bar Date for Filing Proofs of Owner of Unit Week Interest and approve publication of the same via local paper (the "Motion"). In support of this Motion, the Debtor states the following:

BACKGROUND

1. On June 4, 2021 (the "Petition Date"), the Debtor filed its voluntary petition for relief under Subchapter V, Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"). The Debtor continues to operate its business and manage its property as a debtor in possession pursuant to Sections 1181 and 1184 of the Bankruptcy Code.

2. The Debtor is a Florida not-for-profit corporation, with its principal place of business located in Palm Beach County, Florida. The Debtor is organized under the laws of the state of Florida and pursuant to the Florida Condominium Act, Chapter 718, Florida Statutes, and the Florida Timeshare Act, Chapter 721, Florida Statutes, and was formed for the purpose of managing, operating, and maintaining the real property known as the Palm Beach Resort and Beach Club Condominium (the "Condominium").

3. The Condominium is located at 3031 S. Ocean Blvd., Palm Beach, Florida and consists of one (1) two-story building containing twenty-nine (29) units (collectively, the

“Units”) and common areas, a swimming pool and patio area, paved driveways, walkways and parking areas, dock facility which are common elements appurtenant thereto. From 1981 through 2020 (the “Timeshare Period”), the Condominium operated as a timeshare condominium whereby individuals purchased an ownership interest with the right to use certain week intervals in the Condominium (“Owner(s) of Unit Week”), and in exchange for ownership interest and for the right to use the Condominium, each owner was subject to regular assessments to maintain and operate the Condominium (collectively referred to herein as “Interval Ownership”). During the Timeshare Period, each Unit was committed to Interval Ownership. Pursuant to Section 4 of the Declaration of the Condominium (the “Declaration”), each Unit contained fifty-two (52) Unit Weeks, resulting one thousand five hundred and eight (1,508) Unit Weeks in the Condominium and for purposes of sharing in the Debtor’s common expenses and common surplus, as well as the voting rights of Owners of Unit Weeks. Each Owner of Unit Weeks was allocated a one-fifty-first (1/51) vote and share in the Debtor’s common expenses and common surplus. Article 20 of the Declaration grants to the Debtor the right and duty to adopt and collect assessments from each Owner of Unit Weeks to pay for the common expenses of the Condominium. On January 1, 2021, the Interval Ownership interests held by the Owners of Unit Weeks for each Unit became tenants in common in accordance with the Declaration.

4. As of the Petition Date, there are over 800 Owners of Unit Weeks.¹ Although the Owners of Unit Weeks are not creditors or equity interest holders of the Debtor, the Debtor has sought authority, via separate adversary proceeding, to sell the Owner of Unit Weeks interests and any other potential owners (by virtue of cloud on the title) as part of a contemplated sale of the Condominium, with the proceeds to be allocated *pro-rata* to the Owners of Unit Weeks’ interests in the Condominium after payment of costs and any amounts due to the Debtor as part of a plan.

¹ The total number of Owner of Unit Weeks includes joint owners in the same specified Unit Week interval.

5. The Plan of Liquidation was filed on September 2, 2021 [ECF # 53].

6. On June 25, 2021, the Court entered its *Order (i) Establishing Certain Notice and Service Procedures; (ii) Setting Bar Dates for Filing Proofs Of Claim And Proofs Of Owner Of Unit Week Interest; (iii) Approving The Form Of And Manner For Filing Proofs Of Claim And Proofs Of Owner Unit Week Interest, And (iv) Approving Notice Thereof* (the “Bar Date Order”) [ECF # 37].

7. The Bar Date Order established a procedure and deadline by which Unit Week Owners may submit an approved proof of Unit-Week interest form (“Owner Proof Form”). See Exhibits C and D attached thereto Bar Date Order. Parties were instructed to file such form **only** if their published Unit-Week ownership and/or relevant percentage were determined to be incorrect as published on the dedicated website for this bankruptcy proceeding. Parties in interest who asserted a claim of ownership were instructed to file the approved Owner Proof Form.

8. The Bar Date Order established **August 25, 2021** (“Owner Bar Date”) as the deadline by which Owner Proof Forms were required to be submitted to the Debtor.

9. Debtor filed a certificate of service detailing service of the Bar Date Order and related pleadings on all parties who had opted-in to e-mail service, as well as those Unit-Week interested parties who were served via First Class U.S. Mail [ECF # 40 and 43]. On July 19, 2021 Debtor published the notice of the Bar Date via USA Today, a newspaper with national circulation [ECF # 55].

10. As of September 28, 2021, Debtor has only received a *de minimis* number of Owner Proof Forms (only 17 Owner Proof Forms were received, to date).²

11. After the Owner Bar Date, Debtor, in consultation with the title underwriter to the contemplated sale transaction of the Units, made a few corrections to the ownership list

² This number includes two proof of claim forms submitted to the Clerk of the Court and docketed on Pacer. Said claim forms are believed to be Unit-Week Owner Forms in substance.

and unit owners. The updated ownership list will be updated on the dedicate website:

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

12. Given the limited number of Owner Proof Forms submitted, Debtor believes, in an abundance of caution, an additional opportunity should be provided to all owners and interested parties who may wish to file their Owner Proof Form.

13. Accordingly, Debtor requests to modify the Bar Date Order such that the Bar Date for Unit-Week interest owners to file an Owner Proof Form shall be extended to **November 30, 2021 (“New Bar Date”)**.

14. The Owner Proof Form shall remain the same, with certain minimal revisions made to date appearing therein as well as to the accompanying notice to the New Bar Date. Specifically, Debtor requests this Court approve a modified Owner Proof Form (Exhibit C to the Bar Date Order) to reflect the New Bar Date, as well as approve the *Notice of Extended Deadline for the Filing Proof of Owner of Unit Week Interest* (the “Notice”). The Proposed Owner Proof Form and Notice are attached hereto as **Exhibits “A” and “B”**, respectively. The Notice will not include reference to the Proof of Claim form and but will include reference to the dedicated website publishing the owner list and percentages.³

15. Further, Debtor requests the Court approve the publication notice, attached hereto as **Exhibit “C”**, to be published through a local newspaper in general circulation such as the South Florida Business Journal at least twenty-eight (28) days prior to the New Bar Date.⁴ Debtor believes sufficient notice of the existence of the case and of the requirement to

³ By referring to such list rather than inclusion of said voluminous list, Debtor is hoping to conserve estate resources associated with mailing such voluminous paper list.

⁴ The Bar Date Order and approved notice (in Exhibit E to the Bar Date Order) was published through USA Today on July 19, 2021. See ECF # 55. Although the Order provided for an additional means of publication, the South Florida Business Journal, due to a clerical error, such publication was not effectuated. Nonetheless, publication through USA Today, a national publication suffices as a notice to all parties as to the existence of the case and as an *initial* notice to parties. Publication of the New Bar Date will be made through the South Florida Business Journal given the previous publication of the case in a national publication.

file an Owner Proof Form has been provided through national publication to potential interested parties.

16. Debtor will serve the Notice with the Owner Proof Form via e-mail to those parties who have opted into e-mail service, and via U.S. mail to all owners and interested parties with valid addresses.

WHEREFORE, for the reasons set forth herein, the Debtor respectfully requests that the Court enter an order (a) granting the Motion; (b) extending the deadlines for owner of unit-week interest to file an Owner Proof Form to **November 30, 2021**; (c) modifying and approving the Owner Proof Form, attached hereto as Exhibit "A", to reflect the New Bar Date; (d) approving the Notice attached hereto as Exhibit "B"; (e) approving the publication notice, attached hereto as Exhibit "C", and the modified publication procedure; and (f) granting such other and further relief as is just and proper.

Dated: September 29, 2021.

**LEIDERMAN SHELOMITH ALEXANDER +
SOMODEVILLA, PLLC**

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By: _____

IDO J. ALEXANDER

Florida Bar No. 51892

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on September 29, 2021 to all parties on the list to receive e-mail notice/service for this case, via the Notice of Electronic Filing (which is incorporated herein by reference).

By: _____ /s/ _____

Ido J. Alexander

EXHIBIT "A"
(Modified Owner Proof Form)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
West Palm Beach Division
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CONDOMINIUM ASSOCIATION, INC.,

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_____ /

PROOF OF OWNER OF UNIT WEEK INTEREST IN CONDOMINIUM

The undersigned hereby certifies that the party listed below is the holder of a tenant in common interest in one or more unit week interests in the units located at 3031 S. Ocean Boulevard, Palm Beach, Florida as of June 4, 2021 in the Unit(s) and ownership percentages indicated below:

Name of Holder: _____

Address of Holder: _____

Unit and Week Number(s): _____

Percentage Owned for each Unit: _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed: _____

Name: _____

Title: _____

Date: _____

Each proof of Owner of Unit Week Interest Form, **including** any supporting documentation, **must** be submitted: (i) electronically on the following website <https://www.eisingerlaw.com/palmbeachresort-bankruptcy/>, on or before **November 30, 2021** or (ii) by United States mail or other hand delivery system, so as to be **actually received** by the law office of Eisinger Law on or before **November 30, 2021** at the following address: Eisinger Law, Presidential Circle, Suite 265-S, 4000 Hollywood Boulevard, Hollywood, Florida 33021. Proofs of Owner of Unit Week Interest Form sent by facsimile or telecopy, electronic mail or other form of electronic submissions will **not** be accepted.

EXHIBIT "B"
(Notice to Owner of Unit-Week Interests)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
West Palm Beach Division
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In re: Case No. 21-15555-BKC-EPK

PALM BEACH RESORT AND BEACH CLUB Chapter 11
CONDOMINIUM ASSOCIATION, INC.,

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NOTICE OF EXTENDED BAR DATE
APPLICABLE TO CONDOMINIUM OWNERSHIP OF UNIT WEEK INTEREST CLAIMS

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. On June 25, 2021 the United States Bankruptcy Court for the Southern District of Florida (the "Bankruptcy Court") entered the Order (i) Establishing Certain Notice And Service Procedures; (ii) Setting Bar Dates For Filing Proofs Of Claim And Proofs Of Owner Of Unit Week Interest;(iii) Approving The Form Of And Manner For Filing Proofs Of Claim And Proofs Of Unit Week Interest, And (iv) Approving Notice Thereof [ECF # 37], which among other things, set **August 25, 2021** (the "General Bar Date") as the deadline for each person or entity to file a proof of claim or proof of Owner of Unit Week interest in the captioned bankruptcy proceedings (the "Bankruptcy Case"); *provided, however*, that the deadline for filing a proof of claim for a government unit shall be December 1, 2021.

2. Subsequently, the Court extended the deadline for filing Proof of Owner of Unit Week Interest Form to **November 30, 2021**.

3. Palm Beach Resort and Beach Club Condominium Association, Inc. (the "Debtor") has published a List of Owners of Unit Weeks for the condominium located at 3031 S. Ocean Boulevard, Palm Beach, Florida (the "Condominium") at the following website: <https://www.eisingerlaw.com/palmbeachresort-bankruptcy/> (the "List").

4. The General Bar Date and the procedures set forth below for filing proofs of Owner of Unit Week Interest Form apply to all interests based on and/or arising from the Condominium (each, an "Interest"), which Interest arose on or prior to June 4, 2021, the date the captioned debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Florida (the "Petition Date").

5. Only those parties contained on the List of Owners of Unit Weeks in the Condominium, as appearing on the website address <https://www.eisingerlaw.com/palmbeachresort-bankruptcy/>, will constitute holders of allowed Owner(s) of Unit Week Interests in the percentages reflected on such list. If you have an ownership of unit week interest in the Condominium that arose on or prior to the Petition Date, and (i) you are **not listed** on the List of Owners of Unit Weeks in the Condominium; or (ii) you

disagree with the Unit numbers/weeks and/or percentages of ownership reflected on the List of Owner of Unit Weeks in the Condominium as to your Interest(s), you must file a proof of Owner of Unit Week Interest Form ("Proof of Owner of Unit Week Interest") detailing the amount of your Interest by the General Bar Date. **You do not have to file a Proof of Owner of Unit Week Interest if you do not dispute the information listed on Exhibit A as it relates to your ownership interest(s).**

6. Please use the form attached hereto to file your Proof of Owner of Unit Week Interest. All Proof of Owner of Unit Week Interest Forms must be signed by the holder of such Interest or by an authorized agent of the holder of such Interest. Each proof of Owner of Unit Week interest, including any supporting documentation, must be submitted: (i) on the Website by completing the applicable claim form – the Proof of Owner of Unit Week Interest Form that can be accessed at <https://www.eisingerlaw.com/palmbeachresort-bankruptcy/>, **on or before November 30, 2021**; or (ii) by United States mail or other hand delivery system, so as to be **actually received** by the Eisinger Law on or before on or before **November 30, 2021** at the following address:

**Eisinger Law
Presidential Circle, Suite 265-S
4000 Hollywood Boulevard
Hollywood, Florida 33021**

Proofs of Units Week Interest Form sent by facsimile or telecopy, electronic mail or other form of electronic submissions will **not** be accepted.

7. If you require further information regarding the Debtor or the Bankruptcy Case, information and pleadings are available online at the following address: <https://www.eisingerlaw.com/palmbeachresort-bankruptcy/>

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By: _____/s/ _____

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EXHIBIT "C"
("Publication Notice")

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
West Palm Beach Division
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PALM BEACH RESORT AND BEACH CLUB Chapter 11
CONDOMINIUM ASSOCIATION, INC.,

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**NOTICE OF DEADLINES FOR THE FILING
OF PROOFS OF OWNER OF UNIT WEEK INTEREST**

**TO ALL PERSONS AND ENTITIES WHO MAY HAVE A UNIT WEEK INTERESTS
AGAINST THE CAPTIONED DEBTOR AND OR PROPERTY SOLD BY THE DEBTOR
PLEASE TAKE NOTICE THAT:**

Entry of Bar Date Order: On June 25, 2021, the United States Bankruptcy Court for the Southern District of Florida (the "Court") entered an order (the "Bar Date Order") in the captioned chapter 11 bankruptcy case (the "Bankruptcy Case") establishing certain dates by which parties (a) holding prepetition claims against Palm Beach Resort and Beach Club Condominium Association Inc. (the "Debtor") must file proofs of claim ("Proofs of Claim"), and (b) holding an ownership interest in the real property located at 3031 S. Ocean Boulevard, Palm Beach, Florida (the "Condominium") must file a proof of Owner of Unit Week Interest ("Proof of Unit Week Interest") with the Court.

Extended Bar Date Applicable to Owner of Unit Week Interest(s): The Court has extended the deadline to file a Proof of Owner of Unit Week Interest to **November 30, 2021.**

EXCEPT AS TO CERTAIN EXCEPTIONS EXPLICITLY SET FORTH IN THE BAR DATE ORDER AND/OR THE ORDER ESTABLISHING AN EXTENDED BAR DATE, ANY PERSON OR ENTITY WHO FAILS TO FILE A PROOF OF OWNER OF UNIT WEEK INTEREST ON OR BEFORE THE APPLICABLE BAR DATES SHALL NOT BE TREATED AS AN OWNERSHIP INTEREST HOLDER OF THE CONDOMINIUM FOR PURPOSES OF DISTRIBUTION.

Contents for Proofs of Owner of Unit Week Interest, Timely Service, and Additional Information all information with detailed explanation is found on the following website: <https://www.eisingerlaw.com/palmbeachresort-bankruptcy/> .