FILE 2758 – March 6, 2020

CONFLICT OF INTEREST; VOTING CONFLICT

TOWN COMMISSIONER MEMBER OF A COUNTRY CLUB THAT IS SEEKING TO LEASE PROPERTY FROM THE TOWN

To: Mr. David J. Ottinger, Esq. (Attorney for Town of Belleair)

SUMMARY:

No prohibited conflict of interest is created under Section 112.313(7)(a) or Section 112.313(3), Florida Statutes, where a town commissioner has a non-equity membership in a country club that is seeking to lease property from the town. Because the membership conveys no proprietary interest, and does not concern the Commissioner's business or financial interests, it is not the type of contractual relationship that creates a prohibited conflict under the statutes. Were the town commission to vote on the lease agreement, the commissioner would not have a voting conflict under Section 112.3143, Florida Statutes, although it is recommended that he abstain from the vote pursuant to Section 286.012, Florida Statutes, to avoid any appearance of impropriety. Referenced are CEO 12-15, CEO 11-1, CEO 10-2, CEO 08-7, CEO 07-11, CEO 06-12, CEO 04-5, CEO 01-17, CEO 90-51, CEO 90-30, CEO 89-40, and CEO 78-18.

QUESTION 1:

Would a town commissioner have a prohibited conflict of interest under Section 112.313(7)(a), Florida Statutes, were the town commission to lease real property to a country club of which he is a non-equity member?
Under the circumstances presented, Question 1 is answered in the negative.

In your letter of inquiry and additional information provided to our staff, you state you are bringing this inquiry on behalf of a Town Commissioner for the Town of Belleair who is a member of a local country club. In particular, you indicate the Commissioner is a member of the Belleview Biltmore Country Club Corporation (the Club), which is a nonprofit corporation that owns and operates a golf and country club within the Town. You relate the Club has approximately 750 golf members and approximately 450 social members,¹ and that the Commissioner's membership is as a golf member. Importantly, you state the Commissioner is not an employee, officer, or board member of the Club, and that he has no financial or equitable interest in the Club itself. You indicate the Commissioner uses his membership for purely recreational and social purposes, in that it allows him to access the Club's golf course and facilities.

As a golf member, the Commissioner is entitled to cast a vote on certain types of issues affecting the Club, as detailed in the Club's Amended Articles of Incorporation and Bylaws.² However, you state that being a member does not grant the Commissioner an equitable interest in the Club or the right to share in the Club's profits or losses. This claim is supported by Article 2.5 of the Bylaws, which stipulates that members have no property rights or other interests in the Club, and Article 3.3 of the Bylaws, which states that Club membership is not transferable. Moreover,

¹ You indicate that, for the purpose of numbers, a member and their spouse/significant other are counted as one member, meaning the number of individuals actually using the Club and its amenities may be greater than the membership figures reflect.

² In the provided materials, you have included the Club's Amended Articles of Incorporation, as well as its Bylaws. Article 10 of the Amended Articles of Incorporation and Article 3.4 of the Bylaws grant to the Club's golf members voting rights on certain issues, and Article 13 of the Amended Articles of Incorporation specifies the types of actions that are subject to a vote.
Article 7 of the Amended Articles of Incorporation clarifies that, in the event the Club dissolves, its property and assets will pass to the local homeowners' association, following payment of debts and expenses.³

Your inquiry concerns a potential lease arrangement between the Club and the Town. The Town is considering a proposal by the Club's management to allow the Club to lease an approximately 60-by-300-foot parcel of Town land (less than half-an-acre of property) to build a new waterfront golf hole. You state the parcel is vacant and lies adjacent to the Club's current golf course. You relate the Town has complied with all requirements set out in the Town Charter concerning the disposition or leasing of real property. It has hired an independent appraiser to assess the parcel's fair market value and has held public workshops concerning the potential lease. You state the lease is advantageous not only for the Club, but also for the Town, as it will provide additional revenue and relieve the Town—for the duration of the lease—from having to maintain the parcel or its seawall.

You have included the lease proposal in the provided materials. In the current proposal, the Club offers an initial twenty-year term, along with the chance to renew at the conclusion of the lease term, and requires an initial payment to the Town of $100,000, with subsequent monetary payments to be made annually. You anticipate the Town Commission will vote on this lease proposal at an upcoming meeting, and inquire whether the lease arrangement, if approved, will place the Commissioner in violation of Section 112.313(7)(a), considering his pre-existing membership with the Club.

Section 112.313(7)(a), Florida Statutes, states:

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³ You state the Commissioner is not a member of that homeowners' association and does not own
CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.--No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, any agency of which he or she is an officer or employee . . .; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

The first part of Section 112.313(7)(a) prohibits a public officer from having a contractual relationship or employment with any agency or business entity that is either subject to the regulation of, or is doing business with, the officer's own agency. The definition of a "business entity" includes "any corporation" (see Section 112.312(5), Florida Statutes) and, therefore, applies to nonprofit organizations. See CEO 10-2, n.6, and CEO 78-18. Accordingly, if a particular nonprofit corporation is being regulated by or is conducting business with the Town Commission, Section 112.313(7)(a), standing in isolation, will prohibit the Commissioner from having an employment or contractual relationship with it.

While there is no indication the Town is regulating the Club, the two entities will be "doing business" if they enter into the lease arrangement. Entities are "doing business" with each other when there is an exchange of consideration, such as money, property, or services. See CEO 04-5 and CEO 90-51. Lease arrangements qualify as "doing business" because of the exchange of money for property, as well as the fact that one party to a lease will have a cause of action against the other in the event of a breach or default. See CEO 12-15. Thus, the question here becomes whether the Commissioner's membership in the Club, which he holds solely for social and

a home within the boundaries governed by that homeowners' association.
recreational purposes, should be considered a contractual relationship prohibited by Section 112.313(7)(a).

This Commission has found that membership in a social or recreational club is contractual in nature, mainly because such membership usually is accompanied by the payment of dues or fees, as well as an agreement to adhere to certain club regulations. See CEO 90-30 and CEO 89-40. However, we have not found in the past that mere membership in a social or recreational club, by itself, is sufficient to violate this portion of the statute.

In CEO 90-30, we addressed an officer of the Department of Environmental Protection who oversaw all the licensing and regulatory functions being conducted in one of the Department's regional offices. A yacht club where the officer was a member had various regulatory matters coming before that regional office. Although the officer had removed himself from any regulatory issues affecting the yacht club, his membership in the yacht club—and the club's interface with the Department—did, in a technical sense, trigger the prohibition in Section 112.313(7)(a). However, we noted that the intent of the Code of Ethics is to address situations where a public office or employee is engaged in private business transactions or professional activities, or has private obligations, that would impede or conflict with his or her public duties. We noted that mere membership in a social or recreational club was unlikely to involve a public officer's personal business interests or obligations, and also was unlikely to tempt the officer to place personal interests above those of the public. Accordingly, we applied Section 112.316, Florida Statutes, to

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4 Section 112.316 provides:

CONSTRUCTION.—It is not the intent of this part, nor shall it be construed, to prevent any officer or employee of a state agency or county, city, or other political subdivision of the state or any
negate the application of the statute towards the officer's membership in the yacht club.

Similarly, here, we do not find the Commissioner's membership in the Club to be the type of contractual relationship that the statute was intended to prohibit. As in CEO 90-30, the membership merely is for social and recreational purposes. It does not give the Commissioner a financial or equitable interest in the Club, it does not entitle him to share in the Club's profits, and it does not allow for any financial remuneration. Even beyond that, it is nontransferable and does not grant the Commissioner the ability to receive any property or assets if the Club is dissolved. In short, the membership creates no financial incentive or obligation for the Commissioner to place the Club's interests over his public responsibilities. Considering these factors, and the similarities to CEO 90-30, we find Section 112.316 should be applied—under these unique circumstances—to negate the strict application of the first part of Section 112.313(7)(a), in the event that the Town leases the property to the Club while the Commissioner is still a Club member.

This conclusion is based on the particular set of facts presented here. However, we note that to find otherwise could lead to unreasonable results. For example, were the Town to contract with the Club to hold a holiday event in the Club's facilities, the Commissioner then would be in violation of Section 112.313(7)(a) due to his Club membership. Or were the Town to contract to use Club property for a charitable golf tournament, the Commissioner would be in violation of Section 112.313(7)(a). We find that the prohibition in the first part of Section 112.313(7)(a) is not directed at this recreational membership.
Our analysis concerning the lease arrangement, then, turns to the second part of Section 112.313(7)(a), which prohibits a public officer from having a contractual relationship or employment that will create a "continuing or frequently recurring" conflict of interest or that will "impede the full and faithful discharge" of his public duties. Under the unique circumstances here, we find that the Commissioner's membership in the Club does not constitute the type of contractual relationship that will trigger the statute. In support of this, we have found in the past that while service as an officer in a voluntary association can constitute a prohibited conflict under the second part of Section 112.313(7)(a), mere membership will not. See CEO 08-7, Question 2 and CEO 06-12. Here, the Commissioner is only a member of the Club, not an officer or director.

Accordingly, were the Town to enter into the proposed lease arrangement with the Club, we find no prohibited conflict of interest will exist under Section 112.313(7)(a) for the Commissioner.\(^5\)

Question 1 is answered accordingly.

**QUESTION 2:**

In the event that the town commission leases property to the country club, will the

\(^5\) This discussion, though, only concerns the application of Section 112.313(7)(a). The Commissioner also should take note of Section 112.313(6), which provides:

MISUSE OF PUBLIC POSITION.--No public officer or employee of an agency shall corruptly use or attempt to use his official position or any property or resource which may be within his trust, or perform his public duties, to secure a special privilege, benefit, or exemption for himself or others. This section shall not be construed to conflict with s. 104.31.

Were the Commissioner to act with a wrongful intent and in a manner inconsistent with the proper performance of his duties in an attempt to obtain a benefit for the Club—whether regarding the lease arrangement or another matter—his conduct could violate Section 112.313(6).
town commissioner have a prohibited conflict of interest under Section 112.313(3), Florida Statutes?

Under the circumstances presented, Question 2 is answered in the negative.

You also inquire whether the Town Commissioner will have a prohibited conflict of interest under Section 112.313(3), Florida Statutes, were the Town to lease the property to the Club, considering his membership in the Club. Section 112.313(3) provides:

**DOING BUSINESS WITH ONE'S AGENCY.**—No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer's or employee's spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer's or employee's own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision ... This subsection shall not affect or be construed to prohibit contracts entered into prior to:

(a) October 1, 1975.
(b) Qualification for elective office.
(c) Appointment to public office.
(d) Beginning public employment.

Importantly, Section 112.313(3) does not apply when the sale, rental, or lease, such as the proposed lease here, is being made from an agency to an outside entity, rather than the reverse. See CEO 07-11, n.8, and CEO 04-5. In addition, the provision only applies in situations where a
public officer is an officer, partner, director, or proprietor of, or holds a material interest in, the business entity renting, leasing, or selling to his or her agency. Because the Commissioner only has a non-equitable interest in the Club, and is not an office or director, Section 112.313(3) will not apply.  

Question 2 is answered accordingly.

**QUESTION 3:**

In the event that the town commission votes on the proposed lease agreement with the Club, will the town commissioner be presented with a voting conflict under Section 112.3143(3)(a), Florida Statutes?

Under the circumstances presented, Question 3 is answered in the negative.

You also inquire whether Section 112.3143, Florida Statutes, the voting conflicts law, will prohibit the Town Commissioner from voting on the measure concerning the lease agreement when it comes before the Town Commission. Section 112.3143(3)(a), which is the portion of the voting conflict statute applicable to local, elective officers, provides:

No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to

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6 A "material interest" is defined in Section 112.312(15), Florida Statutes, to mean direct or indirect ownership of more than 5 percent of the total assets or capital stock of a business entity.

7 In the provided materials, you also indicate the Town and the Club have a separate agreement under which the Town supplies reclaimed water for the Club to irrigate its golf course. The prohibitions in Sections 112.313(3) and 112.313(7)(a) will not apply to the agreement because Section 112.313(12)(c), Florida Statutes, exempts the application of these provisions to utilities services.
the special private gain or loss of any principal by whom he or she is
retained or to the parent organization or subsidiary of a corporate
principal by which he or she is retained, other than an agency as
declared in s. 112.312(2); or which he or she knows would inure to
the special private gain or loss of a relative or business associate of
the public officer. Such public officer shall, prior to the vote being
taken, publicly state to the assembly the nature of the officer's
interest in the matter from which he or she is abstaining from voting
and, within 15 days after the vote occurs, disclose the nature of his or
her interest as a public record in a memorandum field with the
person responsible for recording the minutes of the meeting, who
shall incorporate the memorandum in the minutes.

And Section 112.3143(1)(d), Florida Statutes, defines "special private gain or loss" as "an economic
benefit or harm . . . ."

Because the Club may decide to increase its membership dues if it acquires the lease,
inasmuch as its members will be able to enjoy a new waterfront golf hole, voting on the lease may
have an economic effect on the Commissioner. However, Section 112.3143(1)(d)1., Florida
Statutes, requires the Commission to consider the size of the class that will be affected by a vote
when considering whether the vote presents a conflict. Given that there are 750 golf members at
the Club, we find that any effect on the Commissioner's dues would not be "special," as would be
required to find a voting conflict. See CEO 11-1 (finding no voting conflict for a city
councilmember regarding a vote affecting a collective bargaining unit comprised of 150 members,
including her husband).

And while the statute may be triggered if a vote brings "special private gain or loss" to a
public officer's principal, relative, or business associate, these considerations are not relevant here.
The Club cannot be considered the Commissioner's "principal" as he has no equitable interest in it,
no employment relationship with it, and accepts no compensation from it. Nor does the
Commissioner's scenario involve a "business associate." We have found individuals are "business
associates" when they are engaged in a common, commercial pursuit; it is not enough that they merely occupy a label or nominal status in relation to each other. See CEO 01-17. Here, the Commissioner's membership simply allows him access to the Club's facilities and amenities. Therefore, the Commissioner is not a "business associate" of the Club owners or other Club members, and, thus, he will not have a voting conflict concerning the approval of the lease arrangement.

Nevertheless, while the Commissioner may not have a voting conflict under Section 112.3143(3)(a), we recognize it may not foster public confidence in government for him to vote on the lease. Were he to vote, his membership in the Club may create an appearance of impropriety concerning his objectivity on the measure. To avoid such an appearance, we suggest the Commissioner remove himself from involvement in decisions concerning the lease and abstain from the vote pursuant to Section 286.012, Florida Statutes.\(^8\) This provision allows a public officer to abstain when there is, or appears to be, a possible voting conflict, in the interest of fostering transparency in government. Should the Commissioner abstain under Section 286.012, as

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\(^8\) Section 286.012, Florida Statutes, provides, in pertinent part:

A member of a state, county, or municipal governmental board, commission, or agency who is present at a meeting of any such body at which an official decision, ruling, or other official act is to be taken or adopted may not abstain from voting in regard to any such decision, ruling, or act; and a vote shall be recorded or counted for each such member present, unless, with respect to any such member, there is, or appears to be, a possible conflict of interest under s. 112.311, s. 112.313, s.112.3143, or additional or more stringent standards of conduct, if any, adopted pursuant to s. 112.326. If there is, or appears to be, a possible conflict under s. 112.311, s. 112.313, or s.112.3143, the member shall comply with the disclosure requirements of s. 112.3143.
recommended herein, he should comply with the steps for responding to a voting conflict as described in Section 112.3143(3)(a). See CE Form 8B.

Question 3 is answered accordingly.

KBR/gps/dw

cc: Mr. David J. Ottinger, Esq.
February 5, 2020

VIA EMAIL AND FEDERAL EXPRESS: ANDERSON.CHRI$@LEG.STATE.FL,US

C. Christopher Anderson, III
Executive Director
The Florida Commission on Ethics
325 John Knox Road
Building E, Suite 200
Tallahassee, FL 32303

Re: Request for an Advisory Opinion from the Commission on Ethics

Dear Mr. Anderson:

The purpose of this letter is to request a formal advisory opinion regarding the existence of either a voting conflict or a conflicting contractual relationship by a Town Commissioner by reason of his membership in a country club entering into a lease with his agency, the Town of Belleair (the “Town”). This request is made in my capacity as Town Attorney for the Town, and Tom Kurey, a Town Commissioner.

Factual Background: Tom Kurey currently serves as a commissioner on the Belleair Town Commission. The Town Commission is made up of five members – Mayor, Deputy Mayor, and three commissioners. Mr. Kurey is serving in his fourth year as a Town Commissioner.

The Belleview Biltmore Country Club Corp. (“BCC” or “Club”) is a Florida non-profit corporation that owns and operates a golf and country club in the Town. The Club has an estimated 750 golf members and another 450 social members. Commissioner Kurey is a BCC golf member. The BCC organizational and governing documents, its articles of incorporation and bylaws, are enclosed for your reference as Exhibit A. BCC is a non-equity club, and there is no sharing by members of any profits or losses. In the event of a dissolution BCC, per Article 7 of the Amended Articles of Incorporation, “…all of the property and assets of the Corporation, after payment of its debts and expenses, shall be distributed to the Belleview Biltmore Homes Association, Inc.…”

Commissioner Kurey is neither a member of the Belleview Biltmore Homes Association or a homeowner within the district governed by that homeowners association. Additionally, Mr. Kurey is not an employee, officer or board member of BCC. Thus, Mr. Kurey has no financial interest in BCC and his membership is purely for social purposes with entitlement to utilize the Club golf courses and other facilities.

As a golf member Commissioner Kurey is allowed to vote on certain matters, including as described in the Bylaws (Article 3, section 3.4) and in the Articles of Amendment of the Articles of Incorporation (Articles 10 and 13). In 2019 Commissioner Kurey did vote on the planned West...
Golf Course renovation, as he and the other approximately 749 golf members were entitled to do. The renovation is scheduled to start in March, 2020, with the course scheduled to be back open for play in November, 2020. That renovation contemplated the purchase or lease of property from the Town adjacent to the BCC golf course to allow for a new waterfront golf hole.

Proposed Land Lease Transaction

Management of the BCC has expressed its desire to acquire a parcel of vacant land owned by the Town which is depicted on the attached Exhibit B and which is adjacent to the BCC golf course in order to accommodate a new waterfront hole for the BCC golf course. Management of BCC previously submitted an informal offer for the purchase of the parcel. Following discussions between BCC and the Town, it was decided that a lease of the land rather than a purchase would be preferred. The BCC presented a letter of intent for that lease arrangement dated June 28, 2019, a copy of which is enclosed as Exhibit C. The Town Commission agreed to consider the BCC offer and enter into negotiation of acceptable terms for the lease (the "Land Lease"). As required by the Town Charter for dispositions of Town real property, the Town obtained an independent appraisal of the parcel’s fair market value. Public workshops were held at the site for town residents to hear presentation by BCC of its proposed development plan to expand and improve its golf hole utilizing the additional property of the Town. The subject parcel is bordered by the BCC golf course to the North and Town park property to the South. The Land Lease will provide the Town with additional revenue and relief from property maintenance obligations for the parcel during the term of the lease. Negotiations of terms and conditions of the Land Lease are ongoing, with the potential of a final form of the Land Lease coming to the Commission for consideration at its March 18, 2020 meeting.

Other relationships between Town and BCC

Other than the prospective land lease, the only other known material relationship between the Town and BCC is an agreement governing the supply of reclaimed water by the Town for irrigation of the BCC golf course. A similar agreement exists with the second golf course property in the Town. Being one of the largest land owners in the Town, the BCC has come before the Town in the past with respect to land use matters including the rezoning of a portion of its property. BCC is not subject to any particular regulation by the Town outside of its compliance with the general ordinances of the Town.

Ethical Issues

Mr. Kurey, J.P. Murphy, Town Manager, and I previously spoke with you and Commission on Ethics attorney, Grayden Shafer, regarding the issues outlined in this letter. Based on those discussions, we prepared a memorandum of law with supporting research and have included that memorandum with this letter for your use (to the extent it is helpful).
February 5, 2020
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You may also recall that in July 2019 Mr. Kurey requested an opinion on the similar issues arising out of his membership in the other Belleair golf club (Pelican Golf Club). That involved the golf club coming before the commission for land development approvals while Mr. Kurey was a golf member of that club. In your opinion letter of July 15, 2019, a copy of which is enclosed as Exhibit D you found that there was no voting conflict primarily because the vote would not affect the commissioner’s economic interest by reason of his status as a golf club member.

**Standing:** We have standing to request this opinion on behalf of Mr. Kurey, a public officer subject to Florida’s Code of Ethics. Our firm serves as general counsel to the Town. Mr. Kurey has authorized us to request this advisory opinion on his behalf.

**Questions:** We respectfully request your office’s input on the following questions regarding Commissioner Kurey’s membership in BCC while serving as a Town Commissioner; and, in the event we have omitted an area of the Code of Ethics that your office believes should be addressed regarding this situation, we would greatly appreciate your office’s analysis and input on those areas as well.

1. Will a voting conflict exist for Commissioner Kurey regarding votes of the Belleair Town Commission to approve the land lease with BCC by reason of his golf membership in BCC?

2. Can or should Mr. Kurey abstain from voting on such matters if he doesn’t have an “actual” voting conflict?

3. Will Commissioner Kurey be deemed to be doing business with one’s agency by reason of his golf club membership?

4. By serving as Town Commissioner while a golf member of BCC will Commissioner Kurey hold a “conflicting contractual relationship” with his “agency” if the Town and BCC enter into the land lease?

5. If the answer to Question 4 is that a conflicting contractual relationship exists, what is the recommended means of avoiding that conflict?

It is worth noting that the issue of ethical conflicts by reason of a town commissioner being member of a country club within the town is likely a continuing issue for the Town and both current and future elected officials. Belleair is a primarily residential town with approximately 4200 residents. The Town has few commercial entities, with the largest ones being the two private golf and country clubs in town – Belleair Country Club (BCC) and Pelican Golf Club (PGC). BCC has about 750 golf members and 450 social members. PGC has about 275 local golf members, and 30 social members (with more to come as they complete the club facilities). For purposes of these numbers, a member and their spouse/significant other are counted as one member. While not all members are Belleair residents, many of them are. Members of both clubs have regularly been on the Commission over time. Any restriction on the ability of members of these private clubs to serve...
on the commission would materially reduce the number of potential candidates from an already small pool (serving as a Belleair Town Commissioner is effectively a volunteer role, with the Mayor receiving $200/month and Commissioners $150/month [all taxable] to cover expenses with no other compensation).

For an existing member considering serving as a Commissioner, there would be not only a lifestyle decision, but also a financial decision, as resigning from a club to be a commissioner would involve the loss of their initiation fee and, if memberships are available at the end of their term, the requirement to repay an initiation and/or other fees to re-join the club. Current golf initiation fees at both clubs are $15,000+. Thus, the Commission on Ethics opinion in response to this request will need to be considered by any future Town Commissioner who is a club member in evaluating his or her compliance with the Code of Ethics.

We appreciate your analysis of this situation. Please contact me directly at 813-273-5278 or via e-mail if you have any questions or need additional information.

Very truly yours,

David J. Ottinger

DJO/tlt
Enclosures
EXHIBIT A

BCC Organizational and Governing Documents
January 20, 2004

BELLEAIR COUNTRY CLUB
ATTN: DIANE COLLINS
ONE COUNTRY CLUB LANE
BELLEAIR, FL 33755-2099

Pursuant to your recent letter, we are enclosing photocopies as requested.

Should you have any questions regarding this matter you may contact our office at (850) 245-6053.

Margaret Freeman
Certification Section

Letter No. 504A00003510
The within Articles of Incorporation are hereby approved.

ARTICLES OF INCORPORATION
OF
BELLEVUE BILTMORE COUNTRY CLUB CORP.
(A Corporation Not-For-Profit)

The President and Secretary and Incorporators have executed these Articles of Incorporation for the purpose of converting a profit corporation into a corporation not-for-profit pursuant to the Florida Not For Profit Corporation Act, Chapter 617, Florida Statutes.

ARTICLE 1
NAME

The name of the Corporation shall be the "BELLEVUE BILTMORE COUNTRY CLUB CORP." Its principal office shall be at One Country Club Lane, Belleair, Florida, 33756, or at such other place as may be designated, from time to time, by the Board of Directors.

ARTICLE 2
DURATION

The period of duration of the Corporation is perpetual.

ARTICLE 3
PURPOSE AND POWERS

The sole purpose of the Corporation is to own and operate the golf country club ("Club") in the Belleview Biltmore Residential Planned Development District ("RPD") in Belleair,
Florida. To carry out this purpose, the Corporation shall be empowered to acquire, rent, lease, hold, own, buy, convey, mortgage, sell or assign property, real, personal or mixed, and to borrow money, whether secured or unsecured, and to do and perform all such other acts and things as are allowed by the laws of the State of Florida with respect to corporations not-for-profit, as those laws now exist or as they may hereafter provide.

ARTICLE 4
PROHIBITION AGAINST DISTRIBUTION OF INCOME

The Corporation is one which does not permit pecuniary gain or profit. No part of any net earnings of the Corporation shall inure to the benefit of any member, Director or officer, and as such they will have no interest in or title to any of the property or assets of the Corporation.

ARTICLE 5
CAPITAL STOCK

The Corporation shall have no capital stock and shall be composed of members rather than shareholders.

ARTICLE 6
MEMBERSHIPS

BH COUNTRY CLUB, INC., a Florida not-for-profit corporation, shall be the sole voting member of the Corporation. The qualifications and manner of admission for any subsequently admitted members shall be regulated by the Bylaws.
ARTICLE 7
Dissolution

In the event of dissolution or final liquidation of the Corporation, all of the property and assets of the Corporation, after payment of its debts, shall be distributed to the Belleview Biltmore Homes Association, Inc. ("Association"), a Florida not-for-profit corporation organized pursuant to Chapter 617 of the Florida Statutes.

ARTICLE 8
Liability for Debts

Neither the Member(s) nor the officers or Directors of the Corporation shall be liable for the debts of the Corporation.

ARTICLE 9
Amendment of By-Laws

The Bylaws may be altered, amended, or repelled, or new Bylaws may be adopted only by a two-thirds vote of the Board, and then only with the consent of two-thirds of the Association's Board of Directors.

ARTICLE 10
Membership Assessments and Dues

The membership dues, fees and assessments for the Member(s) shall be made in such amounts as are fixed, from time to time, by the Board of Directors in accordance with the terms of the Bylaws.
ARTICLE 11
BOARD OF DIRECTORS

A. This Corporation shall have five (5) members of the Board initially. The names and addresses of the initial Directors of this Corporation are:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
</tr>
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<tbody>
<tr>
<td>Duncan J. MacLennan</td>
<td>8 Bellevue Blvd. #507</td>
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<tr>
<td></td>
<td>Belleair, Florida 33516</td>
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<tr>
<td>Harris E. Long</td>
<td>150 Bellevue Blvd. #207</td>
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<td></td>
<td>Belleair, Florida 33516</td>
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<tr>
<td>Robert DeYoung</td>
<td>5 Bellevue Blvd. #308</td>
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<td></td>
<td>Belleair, Florida 33516</td>
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<tr>
<td>A. T. Cooper, Jr.</td>
<td>Cooper &amp; Cooper</td>
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<td></td>
<td>1230 S. Myrtle Avenue</td>
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<tr>
<td></td>
<td>Suite 102, Clearwater, Florida 33516</td>
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<td>Jack Kenney</td>
<td>c/o Pioneer Western Corporation</td>
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<td>201 Highland Avenue</td>
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<td>Largo, Florida 33540</td>
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B. This five (5) member Board shall continue until the first annual meeting of the Membership. At that time, the Directors identified in paragraph A above shall resign and seven (7) new board members shall be selected by the Member(s). The Board shall thereafter consist of seven (7) directors. At the regularly scheduled annual Members' meeting, the Member(s) shall elect the Board annually in accordance with the bylaws.

C. At all times, a majority of the Board must be owners of residential units in the RPD. If the Member(s) fail to elect
such a majority, the Association shall appoint as many new Directors who are such owners as shall be necessary to create the majority mandated by this provision, and these appointed Directors shall replace those non-owner Directors who received the least amount of votes in the election in which they were elected.

D. The number of Directors may either be increased or diminished from time to time in accordance with the Bylaws, but shall never be less than three (3).

ARTICLE 12
INTEGRATORS

The name and residence of the Integrators are:

Duncan J. MacLennan  8 Bellevue Blvd. #507
Belleair, Florida 33756

Harris E. Long  150 Bellevue Blvd. #207
Belleair, Florida 33756

ARTICLE 13
OFFICERS

A. The affairs of the Corporation shall be managed by a President, a Treasurer, a Secretary, an Assistant Secretary and any other officers and assistant officers as may be designated by the Board.

B. The Board, at each annual meeting, shall elect from among its Directors, to serve for the term of one year and until their successors shall be elected, a President, a Vice President,
a Treasurer, a Secretary, an Assistant Secretary, and such other officers and assistant officers as the Board from time to time determines appropriate (collectively "Officers").

C. The names of the officers who are to serve until the first election are:

<table>
<thead>
<tr>
<th>Name</th>
<th>Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Duncan J. MacLennan</td>
<td>President</td>
</tr>
<tr>
<td>Harris E. Long</td>
<td>Secretary/Treasurer</td>
</tr>
<tr>
<td>Egon Jorgensen</td>
<td>Assistant Secretary</td>
</tr>
</tbody>
</table>

ARTICLE 14

INDEMNIFICATION

The Corporation shall indemnify and hold harmless each person who shall serve at any time hereafter as a Director or officer from and against any and all claims and liabilities to which such person shall become subject by reason of his or her having been, or hereinafter being, a Director or officer of the Corporation, or by reason of any action alleged to have been taken or omitted by him or her as such Director or officer, and shall reimburse each such person for all legal and other expenses reasonably incurred by him or her in connection with any such claim or liability; provided, however, that no such person shall be indemnified against, or reimbursed for, any expense incurred in connection with any claim or liability arising out of his or her gross negligence or willful misconduct.
ARTICLE 15

INITIAL REGISTERED OFFICE AND AGENT

The registered office for the Corporation and the registered agent for the Corporation at that address are the following:

Egon Jorgensen
One Country Club Lane
Belleair, Florida 33756

ARTICLE 16

ACCEPTANCE OF ASSETS AND LIABILITIES

This Corporation hereby agrees, pursuant to Florida Statute §617.17, to accept all the property of Bellevue Biltmore Country Club Corp. (a/k/a Bellevue Country Club Corporation) and agrees to assume and pay all of its indebtedness and liabilities.

IN WITNESS WHEREOF, the President and Secretary and Incorporators have executed and acknowledged the foregoing Articles of Incorporation on December 30, 1986.

Incorporators:

DUNCAN J. MACLENNAN

HARRIS E. LONG

BELLEVUE BILTMORE COUNTRY CLUB CORP.

By: DUNCAN J. MACLENNAN,
President

Attest: HARRIS E. LONG,
Secretary
STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me on the 30th day of December, 1986, by DUNCAN J. MACLENNAN as Incorporator and as a President of Belleview Biltmore Country Club Corp.

[Signature]
Notary Public

My Commission Expires:

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me on the 30th day of December, 1986, by HARRIS E. LONG as Incorporator and as a Secretary of Belleview Biltmore Country Club Corp.

[Signature]
Notary Public

WRS19.15-12306
CERTIFICATE DESIGNATING REGISTERED AGENT
AND STREET ADDRESS FOR SERVICE OF PROCESS
WITHIN FLORIDA

Pursuant to Fla. Stat. §48.091, BELLEVUE BILTMORE COUNTRY
CLUB CORP., desiring to organize under the laws of the State of
Florida, hereby designates Kyp Jorgensen, located at One Country
Club Lane, Belleair, Florida 33756, as its registered agent to
accept service of process within the State of Florida.

ACCEPTANCE OF DESIGNATION

The undersigned hereby accepts the above designation as
registered agent to accept service of process for the above-named
corporation, at the place designated above, and agrees to comply
with the provisions of Fla. Stat. §48.091(2) relative to
maintaining an office for the service of process.

[Signature]

Kyp Jorgensen

WRS19.75-12364
IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA

IN RE: CHANGE FROM A CORPORATION FOR PROFIT TO A CORPORATION NOT FOR PROFIT

PETITION FOR CHANGE FROM A CORPORATION FOR PROFIT TO A CORPORATION NOT FOR PROFIT

The petition of Bellaview Biltmore Country Club Corp. a/k/a Bellaview Biltmore Country Club Corporation, a Florida corporation, by its undersigned counsel and by Duncan J. MacLennan, president of petitioner, petitions this Court pursuant to Fla. Stat. § 617.14 et seq., to change its corporate nature from a corporation for profit to that of a corporation not for profit, and alleges:

1. Petitioner is engaged solely in the business of operating a country club and associated recreational and social activities, which are purposes and objects for which corporations not for profit are authorized under the laws of Florida.

2. The principal place of business of petitioner is located in Pinellas County, Florida.

3. Attached hereto as Exhibit "A" is the written consent of BB Country Club, Inc., a Florida non-profit corporation, the sole stockholder of petitioner, consenting to the change in the corporate nature requested hereby and directing Duncan J. MacLennan, as president of petitioner, to file this petition.

4. Attached hereto as Exhibit "B" are the proposed articles of incorporation of petitioner signed by Duncan J. MacLennan, president, and Harris E. Long, secretary, which articles set forth the provisions required in original articles of incorporation by Fla. Stat. § 617.013, and which further contain a provision agreeing to accept all the property of petitioner and agreeing to assume and pay all its indebtedness and liabilities.
WHEREFORE, the petitioner requests that this Honorable Court
(1) find that this petition and the proposed articles attached
hereto are in proper form and (2) approve the articles and
endorse its approval thereon.

Duncan J. MacLean
President

STATE OF FLORIDA  
COUNTY OF PINELLAS  

BEFORE ME, the undersigned authority, personally appeared
Duncan J. MacLean, and being first duly sworn, deposeth and saith
that he has read the foregoing Petition for the change from a
Corporation for profit to a Corporation not for profit, and that
the facts and matters contained in and making up said Petition
are true and correct to the best of his knowledge and belief.

IN WITNESS WHEREOF, I have hereunto set my official hand and
seal this 39th day of December, 1986.

Notary Public

My commission expires:

By: [Signature]

JOHNSON, BLAZELI, ROEPER,
HONOR, RUPPEL & BOWNS, P.A.

By: [Signature]

RE78.10-12306
IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA

IN RE: CHANGE FROM A
CORPORATION FOR PROFIT TO CIRCUIT CIVIL NO. 86-19201-21
A CORPORATION NOT FOR PROFIT.

ORDER GRANTING PETITION FOR CHANGE FROM A CORPORATION
FOR PROFIT TO THAT OF A CORPORATION NOT FOR PROFIT

This cause having come before the Court pursuant to the
provisions of Fla. Stat. § 617.16, et seq., and it appearing to the
Court that the petition filed herein and proposed articles
attached thereto are in proper form, and the Court being
otherwise fully advised in the premises, it is thereupon,

ORDERED that the articles of incorporation attached as
Exhibit "B" to the petition herein be and they are hereby
approved and the approval of this Court shall be endorsed
thereon, provided, that all of the property of the petitioner,
Belleview Biltmore Club Corp. n/k/a Belleview Biltmore
Country Club Corporation, shall become the property of the
successor corporation not for profit, subject to all indebtedness
and liabilities of the petitioner.

DONE and ORDERED in Chambers Pinellas County Courthouse,
Clearwater, Florida, this 21st day of December, 1986.

Circuit Judge

Copies furnished to:
JORDAN, BLAIR, POPE,
NOOR, REIFF & MARRS, P.A.
REV 11-122301

TRUE COPY

[Signature]

30
CONSENT OF STOCKHOLDER

The undersigned, being the sole stockholder of all of the common stock of Bellevue Biltmore Country Club Corp. &/a Bellevue Biltmore Country Club Corporation, hereby consents to the change in the corporate nature of Bellevue Biltmore Country Club Corp. &/a Bellevue Biltmore Country Club Corporation, from a corporation for profit to a corporation not for profit and directs and authorizes Duncan J. MacLennan to file a petition before the Circuit Court for Pinellas County, Florida, to seek such a change in corporate nature.

By: Duncan J. MacLennan
President

Attcast: Harris E. Long
Secretary

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was sworn to and acknowledged before me this 27th day of December, 1986, by DUNCAN J. MACLENNAN, as President and HARRIS E. LONG, as Secretary of BB COUNTRY CLUB INC., a Florida non-profit corporation, on behalf of said corporation.

Notary Public

By commission expires:

Harris E. Long, State of Florida
By Commission Expiry 11-11-79
Notary Public, State of Florida

EXHIBIT "A"
ARTICLES OF MERGER AND
AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER, made and entered into this 25th day of July, 1989, by and between the following named corporations (hereinafter collectively referred to as the "Constituent Corporations"):

I. - SURVIVING CORPORATION

BELLEVUE BILTMORE COUNTRY CLUB CORPORATION, a Florida corporation (the "Surviving Corporation").

Date of incorporation: December 31, 1986
Capitalization: No capital stock
One member

II. - SUBSIDIARY CORPORATION

BB COUNTRY CLUB, INC., a Florida corporation (the "Subsidiary Corporation").

Date of incorporation: October 1, 1986
Capitalization: No capital stock

WITNESSETH:

WHEREAS:

1. The Parent Corporation, duly organized and existing under the laws of the State of Florida, is the sole member of the Surviving Corporation. Its date of incorporation and capitalization is described above; and

2. The Surviving Corporation is a corporation duly organized and existing under the laws of the State of Florida. Its date of incorporation and capitalization is described above.
WHEREAS, the directors of the Constituent Corporations deem it advisable that the Constituent Corporations merge into a single surviving corporation under the laws of the State of Florida, and that said surviving corporation shall not be a new corporation but shall be the Surviving Corporation, and its corporate existence as a continuing corporation under the laws of the State of Florida shall not be affected in any manner by reason of the merger except as set forth herein (hereinafter called the "Merger"); and

NOW THEREFORE, in consideration of the premises and the covenants, agreements, provisions, promises and grants herein contained, the parties hereto agree, in accordance with the provisions of Chapter 617 of the Florida Statutes, as amended, that the Constituent Corporations shall be, and they are hereby merged into a single corporation, the Surviving Corporation, one of the parties hereto, and that the terms and conditions of the Merger, the mode of carrying the same into effect, and the manner and basis of converting or otherwise dealing with the Constituent Corporations shall be as hereinafter set forth.

ARTICLE I

CORPORATE EXISTENCE OF SURVIVING CORPORATION

A. Upon the Merger becoming effective, the separate existence of the Parent Corporation shall cease, and the Surviving Corporation shall continue and be governed by the laws of the State of Florida; all property, real, personal and mixed, of every kind, make and description, and all rights, privileges, powers and franchises, whether or not by their terms assignable.
and all immunities, of a public and of a private nature, and all debts due the Parent Corporation or whatever account and other choses in action belonging to them shall be taken and be deemed to be transferred to and vested in the Surviving Corporation, and shall be thereafter as effectively the property of the Surviving Corporation as they were of the Parent Corporation, and the title to any property, real, personal or mixed, wherever situated, and the ownership of any right or privilege vested in the Parent Corporation shall not revert or be lost or be adversely affected or be in any way impaired by reason of the Merger, but shall vest in the Surviving Corporation: all rights of creditors and all liens upon the property of any of the Constituent Corporations shall be preserved unimpaired, limited to the property affected by such liens at the time of the Merger becoming effective; and all debts, contracts, liabilities, obligations and duties of the Parent Corporation shall thenceforth attach to the Surviving Corporation and may be enforced against it to the same extent as they had been incurred or contracted by it.

B. The identity, existence, purposes, powers, franchises, rights and immunities, whether public or private, of the Surviving Corporation shall continue unaffected and unimpaired by the Merger, except as modified in this Agreement.

ARTICLE II

CERTIFICATE OF INCORPORATION OF THE SURVIVING CORPORATION

The name of the Surviving Corporation shall be BELLEVIEW BILTMORE COUNTY CLUB CORPORATION. The Certificate of Incorporation of the Surviving Corporation, as modified herein, shall,
upon the Merger becoming effective, be the Certificate of
Incorporation of the Surviving Corporation, as amended by this
Agreement and Plan of Merger.

The members of the Parent Corporation shall be the members of
the Surviving Corporation.

**ARTICLE III**

**BYLAWS OF SURVIVING CORPORATION**

The Bylaws of said Surviving Corporation in effect at the
time the Merger becomes effective shall be and remain the Bylaws
of the Surviving Corporation until the same shall be altered,
amended or repealed.

**ARTICLE IV**

**OFFICERS AND MEMBERS OF SURVIVING CORPORATION**

The Officers of the Surviving Corporation shall be those
individuals listed on Exhibit "A" hereto, and they shall hold
their respective offices until their successors are elected and
qualified.

**ARTICLE V**

**MANNER OF CONVERTING MEMBERSHIP**

The manner of converting the memberships of the Constituent
Corporations upon the Merger becoming effective shall be as
follows:

A. The membership of the Parent Corporation in the
Surviving Corporation at the time of the effective date of the
merger shall be cancelled.

B. The members of the Parent Corporation at the time of the
effective date of the merger shall become the members of the
Surviving Corporation.
ARTICLE VI
REGISTERED OFFICE AND REGISTERED AGENT
OF SURVIVING CORPORATION

The registered office and registered agent of the Surviving Corporation is as follows: John T. Blakely, 911 Chestnut Street, Clearwater, Florida 34617.

ARTICLE VII
APPROVAL OF MERGER

These Articles of Merger and Agreement and Plan of Merger have been approved by the directors of the Constituent Corporations, as provided by Chapter 617 of the Florida Statutes, on ___________ July 25, 1989 and by two-thirds of the voting members of the Constituent Corporations, at a meeting for each Constituent Corporation, at which there was a quorum, provided by Chapter 617 of the Florida Statutes.

ARTICLE VIII
EFFECTIVE DATE OF MERGER

This Merger shall become effective on ___________ June 30, 1989, for tax and accounting purposes and shall become effective for purposes of Chapter 617 of the Florida Statutes on the date this Agreement is filed with the Secretary of State of Florida.
IN WITNESS WHEREOF, the Surviving Corporation and the Parent Corporation have signed this Agreement under their corporate seals the day and year first above written.

BELLEVIEW BILTMORE COUNTRY CLUB CORPORATION,
a Florida corporation
By: ________________________________
President
Attest: ________________________________
Secretary

BB COUNTRY CLUB, INC.
a Florida corporation
By: ________________________________
President
Attest: ________________________________
Secretary

STATE OF FLORIDA )
COUNTY OF PINELLAS )

The foregoing instrument was acknowledged before me this 27th day of July, 1989, by George E. Marple, Sr., and George E. Marple, Jr., as President and Secretary, respectively, of BELLEVIEW BILTMORE COUNTRY CLUB CORPORATION, a Florida corporation, on behalf of said corporation.

______________________________
Notary Public

My Commission Expires:

______________________________
Notary Public, State of Florida
My Commission Expires: Jan. 9, 1993
______________________________
STATE OF FLORIDA
)
COUNTY OF PINELLAS
)

The foregoing instrument was acknowledged before me this 20th
day of July, 1989, by George E. Hapgood, Sr.
and Robin D. Hapgood, as President and Secretary,
respectively, of BB COUNTRY CLUB, INC., a Florida corporation, on
behalf of said corporation.

Notary Public
My Commission Expires:

913\JBN\02295CBA1
06335 (AS)
ACCEPTANCE OF DESIGNATION

The undersigned hereby accepts the above designation as registered agent to accept service of process for the surviving corporation, at the place designated under Article VI, and agrees to comply with the provisions of Fla. Stat. Section 48.091(2) relative to maintaining an office for the service of process.

[Signature]

John T. Blakely
ARTICLES OF AMENDMENT TO ARTICLES OF INCORPORATION
OF
BELLEVUE BILTMORE COUNTRY CLUB CORPORATION

The undersigned, as the president and secretary of BELLEVUE BILTMORE COUNTRY CLUB CORPORATION, do hereby certify that the Amendment provided for herein was adopted by at least two-thirds (2/3) of its Board of Directors on the 22 day of January, 1991, and by at least two-thirds (2/3) of the Board of Directors of the BELLEVUE BILTMORE HOMES ASSOCIATION, INC., on the 22 day of January, 1991.

1. Name of Corporation. BELLEVUE BILTMORE COUNTRY CLUB CORPORATION.

2. Amendments Adopted: ARTICLES 1 through 16 of the Articles of Incorporation of the Corporation are hereby deleted, and the following provisions are inserted in place thereof:

ARTICLE 1

NAME

The name of the Corporation shall be "BELLEVUE BILTMORE COUNTRY CLUB CORPORATION." Its principal office shall be at One Country Lane, Belleair, Florida 34703, or at such other place as may be designated, from time to time, by the Board of Directors.

ARTICLE 2

DURATION

The period of duration of the Corporation is perpetual.
ARTICLE 3
PURPOSE AND POWERS

The sole purpose of the Corporation is to own and operate the country club ("Club") in the Belleair Biltmore Residential Planned Development District (RPD) in Belleair, Florida. To carry out this purpose, the Corporation shall be empowered to acquire, rent, lease, hold, own, buy, convey, mortgage, sell or assign property, real, personal or mixed, and to borrow money, whether secured or unsecured and to do and perform all such other acts and things as are allowed by the laws of the State of Florida with respect to operation of a country club corporation not-for-profit, as those laws now exist or as they may hereafter provide.

ARTICLE 4
PROHIBITION AGAINST DISTRIBUTION OF INCOME

The Corporation is one which does not permit pecuniary gain or profit. No part of any net earnings of the Corporation shall inure to the benefit of any Member, Director or Officer, and as such, they will have no interest in or title to any of the property or assets of the Corporation.

ARTICLE 5
CAPITAL STOCK

The Corporation shall have no capital stock and shall be composed of members rather than shareholders.
ARTICLE 6
MEMBERSHIPS

The Corporation shall have: (i) "golf" memberships; (ii) "associate golf" memberships; (iii) "junior" memberships; (iv) "social" memberships; (v) "corporate" memberships; (vi) "yachting" memberships; and (vii) "social/tennis" memberships ("Memberships" or "Members", as the context shall require). Memberships are not transferrable, and are subject to the rules set forth in the Bylaws, the regulations adopted by the Board of Directors ("Board") of the Corporation, and the following restrictions:

A. The owner of each residential unit in the RPD is immediately entitled to one (1) membership in the Corporation upon payment of the required initiation fees established by the Corporation. Whenever an owner sells a residential unit in the RPD that was used by him or her to obtain a membership in the Corporation, his or her subsequent membership rights shall be as then provided by the By-Laws.

B. Persons who do not own residential units in the RPD may become Members of the Corporation, subject to the rules, regulations, fees and dues imposed by the Corporation, whenever the Corporation determines that non-condominium members can be accommodated without violation of the restrictions in subparagraph (C) below; provided, however, if or when non-condominium memberships are allowed by the Corporation, residents of Belleair, Florida shall be given preference. All persons who acquired non-condominium memberships before April 10, 1985, shall
be entitled to all of the privileges granted with their memberships when acquired, including "lifetime" status and refunds of initiation fees, if applicable, and these Members shall not be assessed dues or fees greater than those charged against members of equal class (such as "golf", "associate golf", "junior" or "social") who are owners of residential units in the RPD.

C. The Corporation may not grant licenses or allow memberships to persons who do not own residential units in the RPD to such an extent that the owners of residential units in the RPD who become Corporation Members are denied reasonable access to the Corporation's golf courses, club house, and other facilities. The right of the owners of residential units in the RPD to the primary use of the Corporation facilities must be preserved.

ARTICLE 7
DISSOLUTION

In the event of dissolution or final liquidation of the Corporation, all of the property and assets of the Corporation, after payment of its debts and expenses, shall be distributed to the Belleview Biltmore Homes Association, Inc. ("Association"), a Florida not-for-profit corporation organized pursuant to Chapter 617 of the Florida Statutes.
ARTICLE 8
LIABILITY FOR DEBTS
Neither the Members nor the officers or Directors of the Corporation shall be liable for the debts of the Corporation.

ARTICLE 9
AMENDMENT OF BY-LAWS
Except as specifically provided herein, the Bylaws may be altered, amended, or repealed, or new Bylaws may be adopted, only by a two-thirds vote of the Board, and then only with the consent of two-thirds of the Association's Board of Directors.

ARTICLE 10
VOTING RIGHTS
Except as specifically provided herein, the voting power of the Members shall be vested in the golf members only, and each golf member shall be allowed one (1) vote per membership.

ARTICLE 11
MEMBERSHIP ASSESSMENTS AND DUES
The membership dues, fees and assessments for Members shall be made in such amounts as are fixed, from time to time, by the Board in accordance with the terms of the Bylaws.
ARTICLE 12

BOARD OF DIRECTORS

A. This Corporation shall always have at least three (3) members of its Board, and the number of members of the Board may be increased or decreased (but not below three (3) members of the Board) by the then serving Board. The names and addresses of the current Board of Directors of this Corporation are:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>GEORGE A. BACHTEL</td>
<td>150 Belleview Blvd., #604</td>
</tr>
<tr>
<td></td>
<td>Belleair, FL 3416</td>
</tr>
<tr>
<td>W. ROY COURTNEY</td>
<td>430 Bluffview Drive</td>
</tr>
<tr>
<td></td>
<td>Belleair Bluffs, FL 34540</td>
</tr>
<tr>
<td>EVERETTE COUSINS</td>
<td>4 Belleview Blvd., #207</td>
</tr>
<tr>
<td></td>
<td>Belleair, FL 3416</td>
</tr>
<tr>
<td>RICHARD R. GOMEZ</td>
<td>417 St. Andrews Drive</td>
</tr>
<tr>
<td></td>
<td>Belleair, FL 3416</td>
</tr>
<tr>
<td>RICHARD D. HARRISON</td>
<td>19628 Gulf Blvd.</td>
</tr>
<tr>
<td></td>
<td>Indian Shores, FL 3420</td>
</tr>
<tr>
<td>LORNE MEISEL</td>
<td>4 Belleview Blvd., #606</td>
</tr>
<tr>
<td></td>
<td>Belleair, FL 3416</td>
</tr>
<tr>
<td>BEN T. OWENS</td>
<td>22 North Pine Circle</td>
</tr>
<tr>
<td></td>
<td>Belleair, FL 3416</td>
</tr>
<tr>
<td>JOHN B. SWEEGER</td>
<td>150 Belleview Blvd., #608</td>
</tr>
<tr>
<td></td>
<td>Belleair, FL 3416</td>
</tr>
<tr>
<td>R. PAUL UMBERG</td>
<td>2269 Willowbrook Drive</td>
</tr>
<tr>
<td></td>
<td>Clearwater, FL 3420</td>
</tr>
</tbody>
</table>

At the regularly-scheduled annual Members' Meeting, Members shall elect members of the Board annually in accordance with the Corporation's Bylaws.

B. At all times, a majority of the Board must be owners of residential units in the RPD. If the membership fails to elect
such a majority, the Association shall appoint as many new Directors who are such owners as necessary to create the majority mandated by this provision, and these appointed Directors shall replace those non-owner Directors who received the least amount of votes in the election by which they were elected.

ARTICLE 13
AMENDMENT OF ARTICLES AND APPROVAL OF OTHER MAJOR ACTIONS
A sixty-six and 2/3 percent (66-2/3%) vote of all of the golf members, a sixty-six and 2/3 percent (66-2/3%) vote of the Corporation's Board and a sixty-six and 2/3 percent (66-2/3%) vote or written consent of the Association's Board of Directors shall be required to authorize or approve any of the following actions:
A. Merger or consolidation of the Corporation with another entity;
B. Voluntary dissolution of the Corporation;
C. Adoption of a plan of distribution of any assets of the Corporation upon its dissolution;
D. Amendment of these Articles of Incorporation; and
E. Sale, lease or other disposition, where control is surrendered as provided herein, of any of the following facilities of the Corporation:
   (1) Either golf course;
   (2) Tennis courts;
   (3) Club house;
   (4) Marina; or
(5) Any other real property

"Surrender of Control" shall be deemed to have occurred where the Corporation shall have waived, contracted away, or disposed of its right to determine the rules and regulations concerning the utilization of any such facilities by any third party, which does not have as its members at least sixty-six and 2/3 percent (.66-2/3%) of the voting Members of the Corporation. "Surrender of Control" shall be specifically deemed not to have occurred where: (i) any of the above-mentioned facilities is pledged in whole or in part as collateral for any obligation of the Corporation; (ii) where part or all of any such facilities are condemned under any action by any state or federal agency; (iii) where the license or lease of any one or more of the above-mentioned facilities is approved by the Board of the Corporation, and such lease or license does not: (a) allow exclusive use of any such facility by any third party (except for private parties at the club house, golf tournaments, tennis tournaments and similar such events); (b) where the term of such lease or license does not extend beyond five (5) years; and (c) deprive owners of residential units in the RFD of the primary use of such facility.

ARTICLE 14
INTEGRATORS

The name and residence of the initial Integrators are:

Duncan J. MacLennan 8 Belleview Boulevard
Belleair, Florida 34616
ARTICLE 15
OFFICERS

A. The affairs of the Corporation shall be managed by a President, a Vice President, a Treasurer, a Secretary, an Assistant Secretary and any other officers and assistant officers as may be designated by the Board (collectively the "Officers").

B. The Board, at each Annual Meeting of the Members, shall elect the Officers from among the Members of the Corporation, to serve for the term of one (1) year and until their successors shall be elected as Officers.

C. The names of the Officers who are to serve until the next election of Officers are:

<table>
<thead>
<tr>
<th>Name</th>
<th>Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Richard R. Gomez</td>
<td>President</td>
</tr>
<tr>
<td>Ben T. Owens</td>
<td>Vice President</td>
</tr>
<tr>
<td>George A. Bachtell</td>
<td>Treasurer</td>
</tr>
<tr>
<td>Egon C. Jorgensen</td>
<td>Secretary</td>
</tr>
</tbody>
</table>

ARTICLE 16
INDEMNIFICATION

The Corporation shall indemnify and hold harmless each person who shall serve at any time hereafter as a Director or Officer from and against any and all claims and liabilities to which such person shall become subject by reason of his or her having been,
or hereinafter being, a Director or Officer of the Corporation, or by reason of any action alleged to have been taken or omitted by him or her as such Director or Officer, and shall reimburse each such person for all legal and other expenses reasonably incurred by him or her in connection with any such claim or liability; provided, however, that no such person shall be indemnified against, or reimbursed for, any expense incurred in connection with any claim or liability arising out of his or her willful misconduct.

ARTICLE 17
REGISTERED OFFICE AND AGENT

The registered office for the Corporation and the registered agent for the Corporation at that address are the following:

Egon Jorgensen
One Country Club Lane
Belleair, Florida 34616

IN WITNESS WHEREOF, the Corporation and its undersigned Directors and the Belleview Biltmore Homes Association, Inc. have hereby amended the Corporation's Articles of Incorporation on this 29th day of January, 1991.

CORPORATION:
BELLEVUE BILTMORE COUNTRY
CLUB CORPORATION

By: """

Its President

Attest: """

Its Secretary

-10-
The undersigned do hereby certify that at least two-thirds (2/3) of its members have consented to this Amendment of the Corporation's Articles of Incorporation.

BELLEVIEW BILTMORE HOMES ASSOCIATION, INC.

By: Dick Keeling

Its: President

Attest: Clarence A. Cary

Its: Secretary

DIRECTORS:

George A. Backells

A. M. B.,

A. E. Court

Everett B. Lomax

Everett Cousins

Richard L. Crist

Richard Harrison

Sam Marcil

Lorne Neilson

James C. Cameron

Ben T. Owens

John B. Mkcinerney

L. Paul Lemberg

Filed 4-15-53
The foregoing instrument was acknowledged before me this 26th day of January, 1991, by Richard Coessa, as President and Secretary, respectively, of BELLEVIEU BILTMORE COUNTRY CLUB CORPORATION, a Florida corporation, on behalf of said corporation.

[Signature]
Notary Public

My commission expires:

[Signature]
Notary Public, State of Florida

My commission expires: Jan. 3, 1992

[Signature]
Notary Public, State of Florida
SPECIAL CORPORATE ACTION BY
THE DIRECTORS OF
BELLEVUE BILMORNE COUNTRY CLUB CORPORATION

The directors of BELLEVUE BILMORNE COUNTRY CLUB CORPORATION, a corporation organized and existing under the laws of the State of Florida, do hereby agree, consent to, adopt and order the following corporate action:

1. Each of the undersigned does hereby waive all formal requirements, including the necessity of holding a formal or informal meeting, and any requirements that notice of such meeting be given.

2. The special matter considered at this meeting concerned the Amendment to the Articles of Incorporation of the BELLEVUE BILMORNE COUNTRY CLUB CORPORATION. After much discussion concerning such Amendment, the following resolution was adopted:

RESOLVED, THAT the proposed Articles of Amendment to the Articles of Incorporation attached to these minutes shall be and hereby are approved, and the officers and directors are authorized and directed to sign any and all documents necessary to effectuate such amendment.

3. The action contained herein was approved on the 22 day of January, 1991.

IN WITNESS WHEREOF, the undersigned directors have each executed the foregoing Special Corporate Action by Directors for the purpose of giving their consent thereto.

DIRECTORS:

[Signatures]

W. Roy Courtney

Everett Cousins
Current BYLAWS
OF
BELLEVIEV BILTMORE
COUNTRY CLUB CORPORATION

Reference to these Bylaws is done only for convenience and to make this document more readable. There is no gender preference at the Belleair Country Club.

ARTICLE 1
NAME AND PURPOSE

The Belleview Biltmore Country Club Corporation is a Florida non-profit corporation ("Club", d/b/a The Belleair Country Club) which provides and maintains a country club with golf, tennis, yachting, and social facilities for its Members. It is intended that the Club file and receive an exemption under section 501(c)(7) of the Internal Revenue Code as a club organized for pleasure, recreation and other non-profitable purposes. No part of the net earnings of the Club shall inure to the benefit of any Member.

ARTICLE 2
PROPERTY

SECTION 2.1 Use of Club Property. Use of the clubhouse and other Club property is subject at all times to the rules and regulations as adopted by the Board of Directors (hereinafter "Board").

SECTION 2.2 Responsibility for Non-Club Property. The Club will not, under any circumstances, be responsible for property of members, visitors, guests or other persons brought onto Club property for any purpose whatsoever. However, the Club may obtain insurance to cover loss of members' property situated on the Club property.

SECTION 2.3 Removal of Club Property. Property of the Club shall not be removed from the premises, or be put to another use than that for which it was intended, except when expressly permitted by the Board or the Club's General Manager.

SECTION 2.4 Damage. Members must pay for all breakage or damage to Club property caused by them, their family members, or their guests.

SECTION 2.5 Property Rights. No Member or any other person shall have or
acquire any property rights or other interest in any property of the Club, except as provided in the Club's Articles of Incorporation or these Bylaws.

ARTICLE 3

MEMBERSHIP

SECTION 3.1 RPD Members. On completion of the regular application form, approval by the Membership Committee and the Board and payment of 75% of the applicable entrance fee currently in effect, an owner of a residential unit in the RPD shall be entitled to immediate membership in the Club. When such a member, in good standing, ceases to be a unit owner in the RPD the membership in the Club expires automatically, subject to the following provisions:

3.1.a RPD Members for more than Five Years. If the RPD owner has been a member for a minimum of five (5) years, the Member may elect in writing at that time to continue the type of membership currently enjoyed, subject to paying the difference between the entrance fee initially paid as an RPD Member and the initiation fee applicable at the time the Member first joined the Club for the same category of non-RPD membership. Golf Members may change to the status of a Social Member without charge. Annual dues appropriate to the category selected will continue to be payable on the same basis as other members in the same category.

3.1.b RPD Members for less than Five Years. If the RPD Owner has been a member for less than five (5) years, the Member may elect in writing at that time to continue the type of membership currently enjoyed, subject to paying the difference between the entrance fee initially paid as an RPD Member and the initiation fee currently applicable in the same category of non-RPD membership. Golf Members may change to the status of a Social Member without charge. Annual dues appropriate to the category selected will continue to be payable on the same basis as other members in the same category.
3.1.c **Access by RPD.** The Club shall not grant licenses or allow memberships in the Club to an extent that Members who are owners of residential units in the RPD are denied reasonable access to the Club's golf courses, club house, and other facilities. The right of primary use of Club facilities by the owners of residential units in the RPD shall be preserved.

**SECTION 3.2 Non-RPD Members.**

3.2.a **Generally.** Persons who do not own residential units in the RPD may become Members, subject to the rules, regulations, fees and dues imposed by the Club. Residents of Belleair, Florida shall be given preference for such memberships. All persons who acquired non-RPD memberships before April 10, 1985, shall be entitled to all of the privileges granted with their memberships when acquired, including "lifetime" status and a refund of initiation fees, if applicable, and these Members shall not be assessed dues or fees greater than those charged against RPD members of an equal class.

3.2.b **Admission of Non-RPD Members.** All applicants for membership who are not owners of residential units in the RPD, upon completion and submission of the approved application form, shall be considered by the Club's Membership Committee. At the conclusion of its investigation, the Membership Committee shall submit the application with its recommendations, as determined by a majority of the committee, to the Board for appropriate action. Once approved for admission by the Board, the applicant shall be placed on a chronologically ordered list with all other approved applicants seeking admission in that class (except that residents of Belleair, Florida, shall be given preference over those applicants not residing in Belleair, Florida). Upon payment of all applicable fees, that person shall be admitted to membership whenever the Board determines that another non-RPD membership can be accommodated without violating the provisions of Article 3, Section 3.1.c.
SECTION 3.3 Classes of Membership. Club Members shall be classified as Golf Members, Associate Golf Members, Intermediate Members, Junior Members Corporate Members, and Social/Tennis/Members. “Membership” shall include the spouse and dependents (as delineated in the Standing Rules) of any member. Memberships are not transferable and are subject to and are defined by the rules adopted by the Board. The Board shall adopt Standing Rules which shall state the criteria of each class of Club Membership and the rights and obligations thereof, which are subject to change from time to time.

SECTION 3.4. Voting Rights. Except as specifically provided herein, the voting power of the members shall be vested in the Golf Members. Each Golf Membership is entitled to one (1) vote which may be cast in person or by written proxy, properly executed and delivered before the meeting. Only Golf Members in “good standing” as defined in Article 8, Section 8.5 shall have voting rights.

SECTION 3.5 Conduct of Members. All members are required to comply with the Bylaws and the Standing Rules of the Club. Any Member may be charged by another Member with conduct which is detrimental to the best interest or character of the Club, or with any infraction of the Bylaws or Standing Rules. These charges shall be made in writing and shall be submitted to the Board. Upon receipt of such charge, the Board shall decide whether the charge merits further inquiry, and, if so, shall notify the Member of the charge and the date and time when the member may appear at a hearing before the Board and respond to the charge. If the Board is satisfied of the truth of the charge or charges, it may take such action as the Board deems appropriate or, at its discretion, and by at least two-thirds vote: (1) censure the offending Club Member; (2) suspend such Club Member’s privileges for any period of time the Board deems proper, or (3) expel the Club Member.

ARTICLE 4
MEETINGS OF THE MEMBERSHIP

SECTION 4.1 Annual Meeting. The annual meeting of the Members shall be held each calendar year at such hour and at such place as the Board may designate for
the purpose of receiving reports of officers and others, to elect directors, and for such other business as may properly be brought before the meeting. Written notice of the meeting shall be mailed to each Member\textsuperscript{1} and such notice shall be posted in the clubhouse not less than 30 days prior to the date of the annual meeting. The failure of any Golf Member to receive such notice shall not affect the validity of any annual meeting. Social Members may attend and be permitted to speak at the annual meeting.

SECTION 4.2 Special Meeting. A special meeting of the Club's Membership may be called at any time by the President, or five members of the Board, or upon written request of 20% of Golf Membership. Written notice of the time, place and purpose of the meeting shall be mailed to each Member and such notice shall be posted in the clubhouse not less than 14 days prior to the date of said meeting.

SECTION 4.3 Quorum. Twenty-five (25\%) of all Golf Memberships shall constitute a quorum for all purposes.

ARTICLE 5
BOARD OF DIRECTORS

SECTION 5.1 General Powers. Except as specifically set forth in the Articles of Incorporation, all powers of the Club shall be exercised by the Board of Directors ("Board").

SECTION 5.2 Number, Tenure and Qualifications. The Board shall consist of nine directors which includes the officers. All directors shall serve for a three year term, and shall be permitted to serve more than one term. At all times at least 3 members of the Board must be owners of residential units in the Bellevue Biltmore Residential Planned Development District ("RPD") or Mixed Use District. The Immediate Past President shall be a non-voting advisor to the Board.

SECTION 5.3 Election of Directors. The directors shall be elected from the Club's Golf Membership by a majority vote at the Annual Membership Meeting.

\textsuperscript{1} Includes Social Members.
SECTION 5.4 **Duties of the Board of Directors.** The Board shall elect the officers of the Club; adopt a budget for the Club; appoint committee members and assign their duties; adopt and enforce Standing Rules governing the use of the Club facilities; and, when indicated, reprimand and sanction Members for conduct deemed detrimental to the Club. The Board shall have full power and authority to do any and all things that it deems to be proper and in the best interest of the Club, excepting only those powers that are specifically reserved to the membership by the Articles of Incorporation or these Bylaws. It shall be the duty of the Board to employ the best management practices in overseeing the Club operations and to ensure that all membership and accounting records are maintained in accordance with generally accepted accounting principles.

SECTION 5.5 **Regular Meetings.** The Board shall meet once per month.

SECTION 5.6 **Special Meetings.** Special Meetings of the Board may be held at the request of the President or four Directors.

SECTION 5.7 **Vacancies on the Board.** Any vacancy on the Board caused by death, resignation, forced removal or any other reason may be filled by a majority vote of the members of the Board for the remainder of the unexpired term. Any Board members who is absent from three consecutive regular or special meeting of the Board, without presenting an excuse satisfactory to the Board, shall be deemed to have resigned and the vacancy may be filled by the Board until the next Annual Membership Meeting.

Section 5.8 **Removal of Directors.** At any meeting of the Membership called for that purpose any one or more of the Directors may be removed with or without cause at any time before the expiration of the term by a two-thirds vote of the membership present or by proxy.

Section 5.9 **Meetings Held on Waivers or by Presence of all the Directors.** The Board shall meet once per month.

Section 5.10 **Quorum.** The quorum at any meeting of the Board shall be five
Directors, of whom the majority shall be owners of residential units in the RPD, and at least one other director. The act of the majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board.

Section 5.11 Adjournment. If at any meeting of the Board, less than a quorum shall be present, a majority of those present may adjourn the meeting from time to time and from place to place until a quorum is obtained and no further notice of such meeting need be given other than by announcement at the meeting which shall be adjourned.

Section 5.12 Interpretation of Bylaws. Final determination for the interpretation of any language in the Bylaws or Standing Rules shall rest with the Club's Board of Directors.

ARTICLE 6
OFFICERS

SECTION 6.1 Designation of Officers. The officers of the Club shall consist of a President, a Vice President, a Secretary, and a Treasurer, all of whom must be elected from among the members of the Board and all of whom must be Club Members. The Board may also elect such other officers and agents as it deems necessary or advisable for the proper conduct of the business of the Club.

SECTION 6.2 Election of Officers. Officers shall be elected at the meeting of the Board following the annual membership meeting. To promote a successful transition, the Vice President shall automatically succeed to the Presidency upon conclusion of the annual meeting. The Vice President, Treasurer and Secretary shall be elected for a term of one year but shall hold office until their successors are elected and have qualified.

SECTION 6.3 Removal of Officers. Officers may be removed for cause at a meeting called for that purpose by an affirmative vote of two-thirds of the full Board or by an affirmative vote of a majority of a quorum of the Voting Members.

SECTION 6.4 Vacancies. Any vacancy in an office described in Article 6, Section 6.1 shall be filled by the Board.

SECTION 6.5 President. The President shall be the Chief Executive Officer of the Club and shall preside at all meetings of the Board and the Membership. The
President, shall, with the Secretary, sign all obligations, contracts, deeds, mortgages, promissory notes, and other instruments as approved by the Board unless otherwise provided by these Bylaws. The President shall supervise the activities of the Club’s General Manager. The President shall, with approval of the Board, appoint chairs for the committees authorized by the Standing Rules and such other committees as the President shall deem necessary. The President shall be an ex-officio member of all committees except the Nominating Committee.

SECTION 6.6 Vice President. The Vice President shall perform the duties of the President when the President is absent or unable to perform such duties and shall perform such other duties as may, from time to time, be assigned by the President or the Board. In the absence of both the President and Vice President, the Board shall appoint from among the directors, an Acting President.

SECTION 6.7 Secretary. It shall be the duty of the Secretary to keep a record of all meetings of the Club and, with the President, to sign all obligations, contracts, deeds, mortgages, promissory notes, and other instruments, and to discharge such other duties as may be entrusted by the Board. In addition, the Secretary shall have such other duties and responsibilities as prescribed by the Board. The Secretary may delegate any of the foregoing duties with the prior approval of the Board.

SECTION 6.8 Treasurer. The Treasurer shall cause to be collected, held, and disbursed, under the direction of the Board, all monies of the Club, which shall be deposited in an account or accounts in the Club’s name, in a bank or other financial institution designated by the Board. The Treasurer and any other person or persons having access to monies of the Club or its bank accounts may be required to give a surety bond for faithful performance in the amount directed by the Board (such surety bond premium to be paid for by the Club). The Treasurer shall submit monthly to the Board a statement showing the fiscal status of all funds and accounts; shall be responsible for the preparation of all budgets and submission of said budgets for approval by the Board; shall report at annual meetings the status of all funds, accounts, and financial position of the Club; shall submit the financial books and records for independent
certified public accountant review at the close of each fiscal year; shall accurately maintain all Member's records and accounts; shall be responsible for collections or dispositions of delinquent accounts (as directed by the Board); and shall also perform such other duties as are required of him by the Board. The Treasurer may delegate any of the foregoing duties to an Assistant Treasurer with the prior approval of the Board.

ARTICLE 7
EXECUTIVE COMMITTEE

Section 7.1 **EXECUTIVE COMMITTEE.** The Executive Committee shall consist of the officers of the Club and shall be empowered to act for and on behalf of the Board. Their actions must be ratified by the Board at its next scheduled meeting. The Executive Committee shall develop a preliminary budget and plans for the ensuing year which shall be submitted to the Board for approval no less than 60 days before the fiscal year end.

ARTICLE 8
FISCAL OPERATIONS

SECTION 8.1 **Fiscal Year.** The fiscal year of the Club shall be as defined by the Board.

SECTION 8.2 **Debt Service.** Upon approval by the Board of Directors, the Club shall be authorized to execute notes and mortgages.

SECTION 8.3 **Budgets.** The Board shall adopt a budget for the Club for each fiscal year. This budget shall include a schedule of dues and fees which, in the best estimate of the Board, will defray all expenses.

SECTION 8.4 **Dues.** The Club's dues structure shall be established by the Board. This structure may be altered or amended by a majority vote of the Board at any regular Board meeting or at a special meeting called for such purposes.

SECTION 8.5 **Club Member Accounts.** All items purchased or charged to the account of a Member during a month shall be billed as of the end of said month and such monthly statement shall be due and payable on the tenth day of the following month. If any charges are not paid within 30 days, a past due balance will result, to which a service
charge shall be added. In addition, any statement containing past due charges shall be accompanied by a letter from the Treasurer notifying the delinquent Club Member that if payment is not made within 10 days, credit to the Member and family shall immediately terminate. If the account is not then paid in full and a consecutive past due statement results, the Member is not in "good standing" and an automatic suspension of membership privileges for a period of 30 days shall be imposed. Suspended Members, their spouses and dependents are not permitted on the Club grounds as guests or otherwise during the 30 day period. Upon failure to make full payment of the delinquent account during the 30 day extension period, the Member shall be automatically expelled from membership unless the Board shall stay the effect of this provision.

SECTION 8.6 Audit. The books and records of the Club shall be reviewed by an independent certified public accountant. The review shall take place within 30 days from the close of the most recent fiscal year and, thereafter be reviewed by the Board. A copy of the audited statement shall be distributed to members at the Annual Meeting immediately following the end of the fiscal year and available, or mailed, upon the request of any member.

ARTICLE 9
GENERAL PROVISIONS

SECTION 9.1 Limitation of Liability. A Member or guest shall not have any right of action against the Club or any of its officers, directors or employees to recover losses or damages to Members and guests due to the negligence, malfeasance, or misfeasance of such officers, directors, agents, or employees. Continuance of membership by a Member shall, as far as permitted by law, operate as an acceptance of the foregoing limitations and shall constitute a waiver and surrender by such Member of any right of action.

SECTION 9.2 Indemnification. The Club shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative (other than an action by, or in the right of, the Corporation), by reason of the fact that he or she
is or was a director, officer of the Club against expenses (including attorney’s fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit pending or proceeding, including any appeal thereof, if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Club and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in, or not opposed to, the bests interests of the Club or, with respect to any criminal action or proceeding, did not have reasonable cause to believe that the conduct was unlawful.

Any indemnification under the preceding paragraphs, unless pursuant to a determination by a court, shall be made by the Club only as authorized in the specific case upon a determination that indemnification of the director or officer is proper in the circumstances because he or she has met the applicable standard of conduct set forth above. This determination shall be made by a majority vote of the Board who were not parties to such action, suit or proceeding.

SECTION 9.3 Execution of Contracts. Except as otherwise provided, in respect to bonds, notes, checks, etc., all contracts of the Club shall be signed by the President or a Vice President and the Secretary or an Assistant Secretary but the Board may by resolution expressly authorize any officer or officers, agent or agents, in the name and on behalf of the Club to enter into any contract or execute and deliver any instrument and such authority may be general or confined to specific instances.

SECTION 9.4 Name Change. The Club reserves the right to change the name of the Club upon the approval of a majority vote of the Golf Memberships.

SECTION 9.5 Corporate Seal. The Board may provide a suitable seal containing the name of the Club, which shall be in the charge of the Secretary. A facsimile of such
SECTION 9.6 Compensation. No director or officer of the Club shall be compensated for services rendered to the Club.

SECTION 9.7 Deposits. All funds of the Club shall be deposited to the credit of the Club in such depositories as the Board may approve and for the purpose of such deposit, checks, drafts and other orders for the payment of money which are payable to the order of or which belong to the Club shall be endorsed by any appropriate officer or an expressly authorized signatory.

SECTION 9.8 Capital Expenditures Limitations. A capital expenditures budget, for the ensuing fiscal year, shall be approved by the Board of Directors prior to the beginning of each fiscal year. The approval of a majority of golf members voting at any annual or special meeting of the membership shall be required for any single item of expenditure (or combination of closely related items essentially linked to one project) in excess of 10% of the prior fiscal year's gross revenues. Any proposed expenditures, the financing of which will necessitate a special assessment being made on any or all categories of members, shall require a two-thirds vote of the full Board.

ARTICLE 10

COMMITTEES

SECTION 10.1 Committees Generally. The Board shall delineate in the Standing Rules, the various committees of the Club. The Chairperson of all Standing committees and other committees shall be appointed by the President, with the approval of the Board except that the President shall have the power to appoint ad hoc committees.

10.1A Board Supervision. All committees shall report on their activities to the Board whenever requested and are at all times under the direct supervision and control of the Board, having only such authority as specifically defined in the Standing Rules and as may be delegated by the Board.

10.2 Committee Members. All Committee members shall be Members in good standing. The Chair of each committee shall appoint the
members of that committee with the approval of the Board. All committees, excepting only the Executive Committee, are advisory to the Board.

ARTICLE 11
NOMINATING COMMITTEE

SECTION 11.1 At least ninety days (90) before the annual meeting, the Board shall elect a Nominating Committee. The committee shall be composed of five Golf Members, three of whom shall be RPD or Mixed Use District members and two of whom shall be non RPD members. The Board shall immediately publish the Nominating Committee members names to the voting membership. The Nominating Committee shall elect its own chair and vice-chair from among its members.

SECTION 11.2 The Nominating Committee shall prepare a list of nominees for election to the Board. At least thirty five (35) days prior to the annual meeting, the Nominating Committee shall make a written report of its recommendations for approval by the Board of Directors. The Board of Directors shall have the final authority to add or delete nominees. Accompanying the report shall be a list of current members of all standing committees, Board members, and Officers of the Club. The Nominating Committee shall nominate at least one nominee for each vacancy on the Board.

SECTION 11.3 The Nominating Committee may not nominate any of its own members as a candidate.

SECTION 11.4 After the written recommendations of the Nominating Committee have been approved by the Board of Directors, the names shall be posted on the Club bulletin board. Further nominations may only be made by petition of Golf Members, addressed to the Chair of the Nominating Committee, containing the signatures of five or more Golf Members and requesting that a particular Member or Members therein named (not more than there are vacancies) be nominated in addition to the nominations previously made. Such petitions must be received by the Chair at least seven (7) days before the day of the annual meeting and shall contain the written consent of each nominee named. Such nominations shall also be posted on the Club bulletin board.
ARTICLE 12
STANDING RULES

The Board may, from time to time, adopt and enforce Standing Rules applicable to the operation of the Club, Club Members and their Guests.

ARTICLE 13
ROBERTS RULES OF ORDER

Roberts Rules of Order, newly revised, shall govern all meetings of the Club, except as they may conflict with these Bylaws, in which case these Bylaws shall prevail.

ARTICLE 14
AMENDMENTS TO THE BYLAWS

With the consent of two-thirds of the Board of Directors of Belleview Biltmore Homes Association, Inc., these Bylaws may be amended or revised at any regular or special meeting of the Board of Directors of the Club by a two-thirds vote of the Board, and such amendment shall take immediate effect unless specified otherwise therein.
EXHIBIT B

Vacant Land Owned by the Town
NEIGHBORHOOD ANALYSIS

The subject is located in the neighborhood of Belleair Estates in the Town of Belleair in Pinellas County, Florida. A map of the general neighborhood location follows:
DESCRIPTION OF THE SITE

The subject of this appraisal assignment is a tract of waterfront land fronting Clearwater Harbor in the Town of Belleair, Florida. The subject site is described in detail in this section of the report.

GRAPHIC REPRESENTATIONS

Aerial Photography

Source: Bing Maps
Pinellas County Property Appraiser's Plat Map
EXHIBIT C

BCC Letter of Intent
Belleview Biltmore Country Club Corp.
One Country Club Lane
Belleair, FL 33756

June 28, 2019

Town of Belleair Commission
901 Ponce de Leon Boulevard
Belleair, FL 33756

Re: Letter of Intent concerning proposed ground lease between the undersigned and Belleview Biltmore County Club Corp., a Florida not-for-profit corporation, d/b/a Belleair Country Club, for vacant real property located at west of Bayview Drive north of Waterfall Park in Belleair, Pinellas County, Florida, and identified as Pinellas County Parcel ID No. 29-29-15-00000-110-0100

Dear Commissioners:

The following proposal outlines the terms and conditions that, upon the counter-execution of this letter, will serve as intent to enter a formal agreement by each of the undersigned parties for a ground lease of the herein-described property.

Tenant: Belleview Biltmore Country Club Corp., a Florida not-for-profit corporation, d/b/a Belleair Country Club

Landlord: The Town of Belleair, a municipal corporation existing under the laws of the State of Florida

Leased Premises: See attached image from the Pinellas County Property Appraiser.

Initial Term: Twenty (20) years

Renewal Terms: Eight (8) consecutive renewal terms of five (5) years apiece

Rent Commencement: Upon Tenant's receipt of the final judgment in the Quiet Title Action (described below).

Annual Base Rent: $100,000.00, payable in full at Rent Commencement
Years 1-5: $10,000.00 per year (total of $50,000.00)
Years 6-10: $10,500.00 per year (total of $52,500.00)
Years 11-15: $11,025.00 per year (total of $55,125.00)
Years 16-20: $11,576.25 per year (total of $57,881.25)
Years 21-25: $12,155.06 per year (total of $60,775.30)
Years 26-30: $12,762.81 per year (total of $63,814.05)
During each of the final six (6) renewal terms the Annual Base Rent for each renewal term shall be calculated as the rental rate for the immediately prior renewal term adjusted by to reflect increases in the Consumer Price Index (CPI)

Additional Rent:
The Leased Premises will be leased on a "triple-net" basis. Tenant will be responsible for the annual real estate taxes and insurance premiums and all maintenance costs with respect to the Leased Premises.

Maintenance:
Tenant shall be responsible for all maintenance of the Leased Premises and all improvements located thereon, including without limitation the seawall. Tenant shall maintain and repair, at its sole cost, all portions of the seawall extending eastward on the Town's adjacent property from the Leased Premises toward Waterfall Park.

Inspection Period:
Tenant shall have a period of thirty (30) days from the execution of the ground lease in which to investigate the Leased Premises in order to determine whether to develop the Leased Premises in accordance with the ground lease, which shall include the right of Tenant to perform studies, environmental and soils tests, surveys, and similar or related studies. If Tenant determines during said Inspection Period for any reason that Tenant does not desire to proceed, Tenant may terminate the ground lease.

Title:
Landlord's title shall be good and clear record and marketable title. Tenant's obligations shall be contingent upon its obtaining, at normal premium rates, a leasehold title insurance policy from a title insurer acceptable to Tenant, without exception for matters other than those acceptable to Tenant.

Quiet Title Action:
After the Inspection Period has expired, if the ground lease is not terminated, Landlord shall, at Tenant's cost and expense, initiate an action seeking to quiet title in the name of Landlord. Following the filing of the Quiet Title Action, Landlord shall use reasonably diligent efforts to quiet title in the Property to allow Tenant to lease the Property free and clear of any clouds on title. If Landlord does not obtain a final judgment in the Quiet Title Action on or before the one hundred twentieth (120th) day after the ground lease is executed, Tenant may terminate the ground lease, or Tenant may extend such period for up to an additional sixty (60) days to obtain same.

Right of First Refusal:
During the term of the ground lease and in the event Landlord receives a bona fide offer to purchase the Leased Premises, Tenant shall be afforded the right of first refusal to purchase the Leased
Premises at the same purchase price and upon the same terms and conditions of said offer. Upon receipt of such offer, Landlord shall provide Tenant written notice and a copy of the offered real estate contract or letter of intent and Tenant shall have thirty (30) days to exercise its right of first refusal to purchase the Leased Premises and provide notice to Landlord accordingly.

No Brokerage:
Each of Landlord and Tenant represents and warrants to the other that it has not dealt with any real estate brokers or finders in connection with this transaction. Landlord and Tenant will each indemnify the other against claims of any other broker arising out of dealings by it in connection with this transaction.

Lease Form:
The proposed ground lease shall be prepared initially by Tenant for Landlord's review.

Acceptance Date:
This letter shall remain effective until 5:00 p.m. on Tuesday, July 30, 2019

The letter represents a general outline of the principal business terms to be incorporated into a ground lease of the herein-described property and does not constitute an offer or acceptance of the conditions outlined herein. Neither the Tenant nor the Landlord shall have any obligation to one another in this matter until such time as a written lease has been fully executed by all parties. The issuance and counter execution of this proposal shall not create a contract or lease between the Landlord and Tenant, but shall formulate the basis for the good faith negotiation of a ground lease between the undersigned parties, as Landlord and Tenant, respectively.

Very truly yours,

Belleview/Biltmore Country Club Corp.

[Signature]
Hal Bodley, its President

AGREED AND ACCEPTED:
The Town of Belleair

By: ______________________________
Its: ______________________________
Date: ____________________________
Pinellas County Parcel ID No. 29-29-15-00000-110-0100, as more particularly depicted below:
EXHIBIT D

Opinion Letter
July 15, 2019

Mr. Thomas Kurey
Town Commissioner
Town of Belleair
Via Email

Re: Your inquiry received on July 8, 2019

Dear Commissioner Kurey:

This letter is the response to your above-referenced inquiry. It is based on the factual scenario stated below, herein, which is based on your written inquiry received July 8 and your conversations by telephone with Gray Schafer of our office and me. I am responding to you via this letter, rather than Gray, due to your timeframe for a response and due to Gray being out of the office on previously scheduled Commission on Ethics' business.

You indicate you serve as a member of the Town Commission for the Town of Belleair. You also indicate you currently are a member of the Pelican Golf Club (golf club), an operation of Pelican Golf, LLC (LLC). You state that the LLC, in turn, is owned by Daniel Doyle, Sr., and Daniel Doyle, Jr. Your membership is more particularly described, below.

You state that in February 2016, the LLC entered into a contract to purchase an 18-hole golf course from the Town and that the sale closed in June 2017. You relate you had not yet been elected to the Town Commission when the contract was entered into, but that you were serving on the Commission by the time the sale closed. Since your election, you also indicate the LLC has entered into two separate agreements with the Town concerning the golf club, namely an agreement to share the use of a maintenance area and an agreement to share the use of grounds maintenance, both agreements being based on the fact that the golf club maintenance area is adjacent to the maintenance facility for the Town's public works department. However, you emphasize the Town has no other such relationships regarding the golf club.

1 These agreements, as well as the initial sale of land, are/were between the Town and the LLC.
You state the LLC recently had the opportunity to acquire land adjacent to the current
golf course and that the LLC has applied for approvals to expand the golf course and its related
amenities and improvements. You indicate the Town Commission will be considering the LLC’s
supplemental development plan at two meetings, the first occurring in July 2019 and the second
in August 2019.\footnote{The LLC’s proposed supplemental development plan includes the following:}

You inquire whether you will have a voting conflict of interest regarding the Town
Council’s votes on the LLC’s supplemental development plan, considering the fact that you are a
member of the golf club. You include in your inquiry provisions from the Pelican Golf Club
Plan for the Offering of Memberships which state your membership is “non-equity,
nonproprietary, and non-participatory,” “is not an investment in the Club or Club Facilities,” and
“does not create any equity, ownership or proprietary interests . . .”

You also ask that the analysis in this response consider the fact that you are under
contract with Daniel Doyle, Sr.—a principal of the LLC—to sell him and his spouse a home
which you are constructing. You indicate the closing date will be in late July or August, 2019,
and that the purchase price represents the property’s approximate fair market value.

You further inquire whether you will have a voting conflict as to measures concerning a
variance previously granted to Daniel Doyle, Jr., concerning his private construction of a boat
dock. You state the Town previously granted the variance—as well as a one-year extension on
it—but that issues concerning the variance may arise again, particularly as the Town issued a
\footnote{1. Amending the Town’s future land use map to decrease allowable
density on a certain 1.88 acre parcel from Residential Low to
Residential Open Space;
2. Changing the zoning of that same parcel from Residential to Golf
Course District;
3. Approving two variances to allow fencing close to the property
line;
4. Amending the Town’s Code of Ordinances to change the number
of sleeping rooms that could be considered as ancillary or accessory
uses for golf courses;
5. Amending the previously approved site plan for the golf course
to relocate proposed cottages, a learning center, and parking, to add
a second driveway entrance, and to add a third 12-room member
cottage;
6. Approving a right-of-way use agreement to allow a gate and
columns to be built along a roadway and a separate right-of-way use
agreement to construct a fence along a cul-de-sac; and
7. Amending the previously approved development agreement to
include the changes detailed above.}
stop work order on the dock’s construction in June 2019 after revisions were made to the dock’s design.

You additionally inquire whether you will have a voting conflict regarding a separate issue concerning Daniel Doyle, Jr. In particular, you indicate he is challenging before the Town Commission a decision to issue a separate landowner a permit to make modifications to a boat dock.

Further, you indicate Daniel Doyle, Jr., has extended an invitation to fly you and eight other individuals, including himself, to the state of New York for a one-night stay while the group golf at a club there. You relate you will be paying for your golf, hotel, food, and incidental expenses on the trip. However, you inquire whether Mr. Doyle’s offer to fly you to the club on his private plane will constitute a prohibited gift, considering the fact that his LLC will be bringing the supplemental development plan before the Town Commission for approval at its July and August meetings. You relate the trip will occur after the Town Commission determines the LLC’s requests. You emphasize you have no reason to believe the offer of the flight—which was extended not just to you but to several other people—was made to influence any vote or official action you are expected to take as a Town Commissioner.

Statutes in the Code of Ethics relevant to providing guidance to you are Sections 112.3143(3)(a), Florida Statutes (the voting conflicts law applicable to local, elected public officers), and Section 112.3148, Florida Statutes (the gifts law).\footnote{1}

You will be presented with a voting conflict (requiring your abstention from the vote and other steps, see CE Form 8B, also accessible via the Commission on Ethics website), under Section 112.3143(3)(a) only if a vote (measure) of the Town Commission would affect your own economic interest (in a "special" manner) or the economic interest of persons or entities standing in a relationship to you as listed in the statute. As to your own interest (as a mere member of the golf club, apparently only the holder of a revocable license regarding the club, and not a holder of any position or interest in the LLC), it does not appear that this would cause a voting conflict for you. Assuming in argument that measures voted on would raise your dues/fees or otherwise affect your golfing privileges, such effects apparently would not be "special," as required to trigger a voting conflict, given that there are numerous other club members in your same membership status; see Section 112.3143(1)(d), Florida Statutes. Also, your status as merely a club member, as described herein and in your written inquiry, apparently would not make you a "business associate" [defined in Section 112.312(4), Florida Statutes] of the other members of the club, of the LLC, or of the LLC’s principals; thus, measures affecting their interests apparently will not trigger a voting conflict. Further, Commission on Ethics precedent has not found that parties to an arms-length real estate contract/sale are business associates or

\footnote{2} You state the LLC’s requests will be heard at the Town Commission meetings on July 16, 2019, and August 6, 2019, and that the trip is scheduled to occur on August 10 and 11, 2019.

\footnote{3} These statutes all can be read at www.ethics.state.fl.us.
principals/agents, one to another, by virtue of the contract/sale; thus, apparently this will not trigger a voting conflict.5

As to the flight, under the circumstances of your inquiry, you should pay for it in full (or all but $100 of its value) within ninety days of taking the flight (total value of flight to pay for or pay down from is the cost of an unrestricted coach fare on a commercial flight, under Commission on Ethics valuation of gift rules), in order to comply with Section 112.3148.

In sum, it does not appear that you will be presented with a voting conflict regarding any of the votes (measures) mentioned in this letter; but that you should pay for in full, or pay down to $100 or less, the value of the flight, within ninety days of taking the flight.6

If I have misinterpreted any information, please let me know. Moreover, contact me if you have any questions.

Sincerely,

C. Christopher Anderson III

C. Christopher Anderson, III
Executive Director

cc: David J. Ottinger, Esquire

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5 As to Section 286.012, Florida Statutes, I suggest you speak with Mr. Ottinger.

6 If your spouse also is taking the flight, you should consider the value to you doubled.
MEMORANDUM

TO: J.P. Murphy
Commissioner Tom Kurey

FROM: David Ottinger

DATE: January 31, 2020

SUBJECT: Ethics Law Memorandum

Client-Matter Number.: 40363.3

The following is an analysis of applicable state law and published opinions of the Florida Commission on Ethics regarding possible ethical conflicts of interest with respect to proposed land lease transaction between the Town and Belleair Country Club where Commissioner Kurey is a BCC golf club member.

1. **Will a voting conflict exist regarding votes of the Town Commission to approve the land lease?** Subsection 112.3143(3)(a) of the Florida Statutes provides:

   "No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes."

CEO 90-55 addressed whether city mayor who was one of approximately 2000 members of a yacht club in the city was required to abstain from voting on city approvals relating to expansion and renovation of the clubhouse. The Commission found that the social membership would not result in any special private gain by
the mayor and that because the mayor was one of a large number of club members, the vote would not involve any special benefit to the mayor.

Except for the type of transaction, the Land Lease, instead of land use/development approvals, Commissioner Kurey’s situation is the same. No private gain will inure to the commissioner from the commission vote on the Land Lease and any benefit the Club obtains will be shared among hundreds of other members and so no unique benefit to the commissioner which might tend to influence his vote.

2. **Will Commissioner Kurey be deemed to be doing business with one’s agency by reason of his golf club membership?**

Subsection 112.313(3) of the Florida Statutes provides:

“DOING BUSINESS WITH ONE’S AGENCY.—No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer’s or employee’s spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer’s or employee’s spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer’s or employee’s own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision. . .”

A social membership in a non-profit 501(c)(6) country club where the member is neither an officer or director is not deemed to represent a “material interest” to make the country club a business entity subject to Subsection 112.313(3). “Material Interest” is defined in FS 112.312(15) as direct or indirect ownership of more than 5% of the total assets or capital stock of the business entity. As indicated, club membership grants no equity ownership and the commissioner is one of over 1000 country club members.

Regardless of the nature of the commissioner’s interest in BCC, none of the prohibitions in FS 112.313(3) prohibit a public officer’s purchase of realty, goods or services from his political subdivision, see CEO 01-16 finding that Section 112.313(3) addresses purchases by (and sales to) public agencies and political subdivisions, not the reverse. The Land Lease, although not a sale of a fee simple interest in real estate, is nevertheless a transfer of a leasehold interest in the property and should be construed the same as a property sale for purposes of the this ethical
question, where the Town will be transferring an interest in its real estate and the BCC will be paying the consideration for that interest in the form of rent to the Town. Accordingly, because the Land Lease is equivalent to sale of property to the business entity, it is not a transaction prohibited by FS 112.313(3) even if the commissioner were deemed to have a material interest in BCC.

3. By serving as Town Commissioner while a golf member of BCC will Commissioner Kurey holding a “conflicting employment or contractual relationship” with his “agency” if the Town and BCC enter into the land lease? Subsection 112.313(7)(a) of the Florida Statutes provides:

"CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—
No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties."

The Commissioner is not employed by BCC and receives no compensation from BCC. The Club membership agreement would constitute a contractual relationship between the Club and the Commissioner whereby in consideration of the payment of club dues and compliance with member rules, the Commissioner is granted membership privileges to use the Club facilities.

A business entity is “doing business with” an agency or political subdivision when the parties have entered into a lease or other contract. Thus, if the Land Lease is entered into the Town and the BCC will be doing business with each other making FS 112.313(7) applicable.¹

¹ There is at least one other current contractual relationship between the Town and BCC. That agreement has been in existence for over 10 years and effective prior to Commissioner Kurey taking office. Under the permitted ‘grandfathering’ of existing and un-amended agreements, that other agreement is not considered relevant to the current ethical considerations. Also, FS 112.313(7) applies in the case of business entities “subject to the regulation” of the agency or political subdivision. There are no particular Town regulations applicable to BCC other than general enforcement of the Town’s ordinances of general applicability which the COE has found not to constitute “regulation” under this statute.
Although the elements of a potential conflicting contractual relationship are present, the situation presented requires that it be considered in conjunction with Section 112.316, FS which addresses the construction of the Code of Ethics provisions to avoid prohibiting an officer’s other employment or pursuits which do not, in fact, represent conflicts of interest or interfere with faithful discharge of the officer’s duties and reads as follows:

“CONSTRUCTION. It is not the intent of this part, nor shall it be construed, to prevent any officer or employee of a state agency or county, city, or other political subdivision of the state or any legislator or legislative employee from accepting other employment or following any pursuit which does not interfere with the full and faithful discharge by such officer, employee, legislator, or legislative employee of his or her duties to the state or the county, city, or other political subdivision of the state involved.”

In CEO 90-30 the Commission found that no prohibited conflict of interest was created where an assistant secretary of the Florida Department of Environmental Regulation is a member of a yacht club seeking a permit from the DER. The Commission considered the legislative intent and declaration of policy for the Code of Ethics as set forth in Subsections 112.311(1) and 112.311(5) FS and determined that membership in a social or recreational club is not the type of contractual relationship which would involve a public employee’s personal business interests or obligations, or is the type of relationship which is likely to tempt him to place personal interests above those of the public. The Commission accordingly opined that Section 112.316 FS should be applied to the situation.

The yacht club membership appears to be fully analogous to the commissioner’s membership in BCC as granting only right to utilize as social club’s facilities. As noted in CEO 90-55 referred to above with respect to voting conflicts, the public officer was one of approximately 2,000 members and there was no indication the officer’s vote on a matter would involve any unique benefit to the officer. The Land Lease will enable the BCC to create what it considers will be a “signature” golf course hole. Presumably, that golf course improvement will enhance the golfing experience for all of the golfing members, and perhaps help attract new golfing members to benefit the Club at large. Commissioner Kurey, as one of about 750 golf members and 1200 total club members will only receive these intangible benefits shared equally among the other club members. Section 112.316 should be applied consistent with COE 90-30 to find that membership in a social club should not be found to be a contractual relationship prohibited by Section 112.313(7) should the Town and BCC enter into the Land Lease.
Westberry, Diana

From: Anderson, Chris
Sent: Wednesday, February 05, 2020 9:23 AM
To: Westberry, Diana
Subject: FW: Request for Advisory Opinion re: Town of Belleair Commissioner
Attachments: Ltr to Anderson at FL Commission on Ethics re_ Request for Advisory Opinion 2020_39340779v1.PDF

Please log in.

From: David J. Ottinger, Esquire <David.Ottinger@gray-robinson.com>
Sent: Wednesday, February 05, 2020 8:40 AM
To: Anderson, Chris <ANDERSON.CHRIS@leg.state.fl.us>
Subject: Request for Advisory Opinion re: Town of Belleair Commissioner

Attached please find our correspondence. A hard copy is being sent via Federal Express today. Thank you

David J. Ottinger, Esquire | Attorney At Law
GRAY | ROBINSON
401 East Jackson Street, Suite 2700 | Tampa, Florida 33602
E-mail | Website | Bio | vCard

Facebook | LinkedIn | Twitter

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I was just advised the dimensions of property are 60 x 300’ and includes submerged land as shown on the exhibit.

On Feb 6, 2020, at 12:07 PM, Schafer, Grayden <SCHAFER.GRAYDEN@leg.state.fl.us> wrote:

This message originated outside of GrayRobinson.

Thank you, Mr. Ottinger. This is helpful!

The leased property has total area of 1.11 acres. It is a 60 ft wide strip which we believe was originally contemplated as street right of way for Bayview Drive which was never extended to the water line (60 ft right of way is typical right of way for town streets).

The other agreement in place between the town and club is the agreement for the town’s supply of reclaimed water to the golf course which has been in existence since before I became town attorney in 2006 so at least 13 years. It has not been amended during commissioner Kurey’s tenure as commissioner.
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From: Schafer, Grayden <SCHAFER.GRAYDEN@leg.state.fl.us>
Sent: Thursday, February 6, 2020 10:31 AM
To: David J. Ottinger, Esquire David.Ottinger@gray-robinson.comThe

Subject: RE: Question on Formal Opinion Request

This message originated outside of GrayRobinson.

Mr. Ottinger:

I spoke too soon and have one more question for you besides the dimensions of the vacant lot.

In Footnote 1 of your legal memorandum (attached at the end of the submitted materials), you indicate the Town and the BCC have one other contractual relationship, but that this contract has been in existence for over 10 years and was effective before Commissioner Kurey took office. Does this refer to the agreement to supply reclaimed water for irrigation purposes, as referenced on page 2 of your inquiry letter? If so, has this agreement been renewed since Commissioner Kurey was elected? Thank you again.

Gray Schafer

From: Schafer, Grayden
Sent: Thursday, February 06, 2020 10:20 AM
To: 'DAVID.OTTINGER@GRAY-ROBINSON.COM' <DAVID.OTTINGER@GRAY-ROBINSON.COM>
Subject: Question on Formal Opinion Request

Mr. Ottinger:

I have reviewed the materials submitted regarding Commissioner Kurey’s request for an advisory opinion. I have one additional question, which is what are the dimensions or acreage of the parcel of vacant land that would be the subject of the lease arrangement? I would like to include that detail in the draft opinion. Thank you.

Gray Schafer
Senior Attorney
Florida Commission on Ethics
(850)-488-7864