



**VIA FIRST-CLASS MAIL**  
**AND VIA E-MAIL ([jellis@shumaker.com](mailto:jellis@shumaker.com))**

February 16, 2024

Jonathan J. Ellis, Esquire  
Shumaker Loop & Kendrick LLP  
101 E. Kennedy Blvd., Suite 2800  
Tampa, Florida 33602-5150

Re: Point Brittany Administrative Corporation, Inc.  
Our Matter No: 10493-001  
**Your Clients: Danielle and Timothy Jenkins and Kevin Conzone**  
**Response to Letter of Inquiry**

Dear Mr. Ellis:

As you know, this firm represents Point Brittany Administrative Corporation, Inc. (the “Association”), and this correspondence is provided in connection with your letter dated December 21, 2023, on behalf of your clients, Danielle and Timothy Jenkins and Kevin Conzone and received by our client on December 26, 2023, wherein you request that the Association provide information related to the Commercial Buildings, the Association’s contractual relationship(s) with Excelaron Construction, Inc., and the Association’s reserve funding. Please find your inquiries copied below with the Association’s response to each.

1. Please identify the owners of each of the Commercial Buildings identified above<sup>1</sup>, how each Commercial Building is owned, and whether each constitutes a common element of one or more of the Individual Condominium Associations and if so, which ones. If any of the Commercial Buildings does not constitute a common element of one or more of the Individual Condominium Associations, please identify the manner in which each Individual Condominium Association(s) own the Commercial Buildings.

The public records and deeds maintained by the Pinellas County Property Appraiser speak for themselves regarding ownership. Our review of the same reflects that the Commercial Buildings are jointly owned by Bayway Isles-Point Brittany One Condominium Corporation, Inc., Bayway Isles-Point Brittany Two Condominium Corporation, Inc., Bayway Isles-Point Brittany Three Condominium Corporation, Inc., Bayway Isles-Point Brittany Four Condominium Corporation, Inc., Bayway Isles-Point Brittany Five Condominium Corporation, Inc., Bayway Isles-Point Brittany Six Condominium Corporation, Inc.

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<sup>1</sup> You identified the Commercial Buildings as those buildings located at: 5003 Brittany Dr. S. St. Petersburg, Florida; 5400 Leeland St. S. St. Petersburg, Florida; 5055 Brittany Dr. S. St. Petersburg, Florida; and 5101 Brittany Dr. S. St. Petersburg, Florida.

With respect to whether the Commercial Buildings constitute a common element of one of more individual condominium associations, you may employ surveyors and/or engineers to make such determinations.

2. Please identify the requisite approval necessary to change, materially alter, or sell each of the Commercial Buildings under the governing documents of PBAC, the Individual Condominium Associations Governing Documents and/or Florida Statute. Please identify how PBAC determined the requisite approval, including any documents upon which PBAC relied in reaching this determination.

This question improperly requests that the Association provide a legal opinion to your client and draw conclusions that may be determined from review of the Florida Statutes and the applicable governing documents. The Association has not yet made a decision with respect to the Commercial Buildings.

3. Did PBAC obtain the requisite approval(s) as set forth in Inquiry No. 2 to sell or materially alter any of the Commercial Buildings? If so, please provide the type of approvals obtained, the date the approvals were obtained and the manner by which they were obtained. To the extent the approvals were obtained at any Board or membership meeting, please provide the date of the meeting and state whether the meeting was properly noticed and whether minutes were kept. To the extent PBAC relied on actions of the Individual Condominium Associations to sell or materially alter the Commercial Buildings, please specify the actions on which PBAC relied, the date of such actions, and the time of such actions.

To date, no Commercial Building has been altered or sold. Ideas related to alternative uses or configurations of the buildings originated as part of an ongoing committee process with input from numerous owners regarding how best to use the buildings and space. The Board has not taken official action related to the Commercial Buildings.

4. Please identify all documents and communication which relate or refer in whole or in part to the decision to demolish or materially alter the Commercial Buildings, including, notices, agendas, minutes, letters, texts, emails or other forms of communication. *See In Re: Petition for Declaratory Statement, James Hanesman*, Docket No. 2021-012740 (Fla.DBPR Jan. 6, 2021).

As stated above, the Association has not made a final decision to demolish or materially alter the Commercial Buildings. To the extent the Association has documents and communications relating to the ongoing process which constitutes an official record, such is available for inspection pursuant to Section 718.111(12), Florida Statutes.

5. Please identify the owners of the gazebo associated with Pool 1, how it is owned, and whether it constitutes a common element of one or more of the Individual Condominium Associations. If the gazebo does not constitute a common element of one or more of the Individual Condominium Associations, please identify whether the same constitutes association property that is not a common element and the Individual Condominium Association(s) that own it.

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Unknown by the current Board. To the extent such information can be determined by review of the official records, the same is available for inspection pursuant to Section 718.111(12), Florida Statutes.

6. Depending on how the gazebo is owned, please identify the requisite approval necessary to change, materially alter, or sell the gazebo under the governing documents of PBAC, the Individual Condominium Associations Governing Documents and/or Florida Statute. Please identify how PBAC came to this determination, including any documents upon which PBAC relied in reaching this determination.

My client has advised that the gazebo has been condemned due to reports of serious structural damage from several engineers. The City of St. Petersburg did not allow the Association to conduct repairs and demanded that it be removed. Information related to this determination is contained within the official records of the Association and available for inspection pursuant to Section 718.111(12), Florida Statutes.

7. Did PBAC obtain the requisite approval(s) to sell or materially alter any of the gazebo as set forth in Inquiry No. 6. If so, please provide the type of approval(s) obtained, the date the approvals were obtained and the manner by which they were obtained. To the extent the approvals were obtained at any Board or membership meeting, please provide the date of the meeting and state whether the meeting was properly noticed and whether minutes were kept. To the extent PBAC relied on actions of the Individual Condominium Associations to sell or materially alter the gazebo, please specify the actions on which PBAC relied, the date of such actions, and the time of such actions.

Pursuant to cited structural issues with the gazebo, engineers with the City of St. Petersburg mandated that the gazebo be torn down, and the Association complied with the required maintenance directive. To the extent written documentation exists related to the removal of the gazebo, official records are available for inspection pursuant to Section 718.111(12), Florida Statutes.

8. Please identify all documents and communication which relate or refer in whole or in part to the decision to demolish or materially alter the gazebo, including, notices, agendas, minutes, letters, texts, emails or other forms of communication.

Such documents and communications would be part of the Association's official records and available for inspection pursuant to Section 718.111(12), Florida Statutes.

9. Has PBAC previously approved the change or material alteration to any common element of the any of the Individual Condominium Association? If so, please explain the approval PBAC obtained, itself or from any of the Individual Condominium Associations, before proceeding with the change or material alteration and the process by which PBAC obtained approval for the change or material alteration.

Such information would be contained within the official records of the Association, which are available for inspection pursuant Section 718.111(12), Florida Statutes.

10. Please identify all contracts for the last three (3) years that have been awarded to or performed by Excelaron Construction, Inc. ("Excelaron"), including but not limited to any contract related to the Commercial Buildings or the gazebo. Please include the initial dollar value of each contract, whether each contract was put out for bid, and, if so, what entities bid on the project and the proposed amount of each bid.

Contract and bid information responsive to this inquiry is contained within the official records of the Association and is subject to inspection pursuant to Section 718.111(12), Florida Statutes.

11. Please identify any change order approved for any contract identified in Inquiry No. 10. For each change order identified in response to this inquiry, please also identify the contract to which the change order applies, the amount of each change order, the date of each change order, the purpose of each change order, who approved each change order, all documents related to each change order, and why each change order was not included in the initial scope of work. Please also explain whether the decision to approve the change order was made during a Board or Membership meeting, and, if so, please identify the date of the meeting, who participated in the meeting, who voted at the meeting, how each individual voted, and whether the PBAC issued or posted a notice of the meeting and took meeting minutes.

Information responsive to this inquiry is contained within the official records of the Association and is subject to inspection pursuant to Section 718.111(12), Florida Statutes.

12. Please identify any contract identified in Inquiry No. 10, including all change orders, caused the total cost of the project to exceed five (5) percent of the total annual budget of PBAC or any Individual Condominium Association, including reserves? If so, was the project put out for a bid? If not, why not?

The Association retains information related to bids and project history as part of its official records. To the extent responsive information is contained within the official records of the Association, such is available for inspection pursuant to Section 718.111(12), Florida Statutes.

13. Please identify any personal relationship between any member of the Board, spouse of a board member, or child of a board member, familiar or otherwise, has with any person with a financial interest in Excelaron. Please include any friendships between the owners or individuals with an interest in Excelaron and any board member and describe the extent of the friendship.

Our client has advised that the owner of Excelaron is a residential owner in Building 4. To the Board's knowledge, no one on the Board has immediate family related to any owner of Excelaron, nor is the Association aware of any member of the Board having a financial interest in Excelaron. To the extent your inquiry requests information regarding the friendships of owners, we object to the inquiry as overly vague and outside the scope of the Board's knowledge.

14. Please identify all documents and communication which relate or refer, in whole or in part, to any of the contracts identified in Inquiry No. 10, including, notices, agendas, minutes, letters, texts, emails or other forms of communication.

Information responsive to this inquiry is contained within the official records of the Association and is subject to inspection pursuant to Section 718.111(12), Florida Statutes.

15. Please identify any reserve studies conducted within the past seven (7) years, the name of the individual(s) conducting the studies, any conclusions reached in the studies, and any documents which relate or refer, in whole or in part, to the reserve studies.

All available reserve studies are posted online and available for inspection pursuant to Section 718.111(12), Florida Statutes.

16. Please advise as to the amount of reserves held by PBAC or any Individual Condominium Association for each of the current reserve categories for the current budget.

Information related to reserves and approved budgets is posted online and available for inspection pursuant to Section 718.111(12), Florida Statutes.

17. Please advise of the method by which the estimates in the current reserves categories for the current budgets were determined, and for each component, include: estimated cost, life expectancy, years remaining, projected balance, balance required to be funded, 2022 budget funding, 2023 fully funded and 2023 proposed partially funded figures, and the proposed 2024 fully funded and 2024 proposed partially funded figures. Please identify any reports, inspections, reserve studies or other evaluations relating to these estimates.

Reserve studies were performed by a licensed and independent firm reserve specialist. Requested details regarding the reserve are contained within the reserve studies themselves, which are posted online and available for inspection pursuant to Section 718.111(12), Florida Statutes.

18. Have the reserves been fully funded for the past seven (7) years? If not, please identify the terms and conditions for each year in which the reserve accounts were partially funded or waived. Please further identify what reserve components are not fully funded and whether the membership approved the partial funding of each component. Please include the date of any membership vote, the amount waived, and how such waiver or partial waiver affects the reserves.

All approved budgets, meeting minutes, and reserve studies are posted online and available for inspection pursuant to Section 718.111(12), Florida Statutes.

19. Please identify all special assessments levied in the past five (5) years, including the date the special assessment was levied, the purpose of the special assessment and whether the funds from the special assessment were used for a purpose other than the purpose for which they were levied. If the funds from the special assessment were used for a purpose other than the purpose for which they were levied, please identify the use of the funds, who authorized the use,

*c/o Jonathan J. Ellis, Esq.  
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whether a vote of the membership was held, and any communications regarding or relating to the use of the funds for a purpose other than the purpose for which they were raised.

Information related to special assessments, including notices, proxies, and meeting minutes, and approved budgets are contained within official records and posted online for inspection and review pursuant to Section 718.111(12), Florida Statutes.

20. Please identify each financial institution that holds PBAC or Individual Condominium Association funds and whether any of the institutions hold funds in excess of the FDIC insured limits. If any financial institution holds funds in excess of the FDIC insured limits, please explain whether this creates any potential exposure for PBAC or individual Condominiums and, if so, what the exposure is.

Information regarding financial institutions utilized by Point Brittany Administrative Corporation, Inc. is available in the Association's financial statements. Such are available for inspection as part of the Association's official records. To the extent this inquiry requests a legal opinion regarding potential exposure, such is outside the scope of written inquiries.

Sincerely,



Kelly Baker, Esquire  
KAB/mj

cc: Colleen R. McInerney, Esquire (*via e-mail only* [cmcinerney@shumaker.com](mailto:cmcinerney@shumaker.com))  
Point Brittany Administrative Corporation, Inc. (*via email only*)