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March 29, 2024

**Via Certified Mail, Return Receipt**  
**Requested and U. S. First Class Mail**  
Point Brittany Administrative Corporation,  
Inc.  
c/o Mr. Pete Taylor, President and RA  
5055 Brittany Drive S.  
St. Petersburg, FL 33715

Certified Article Number

9414 7266 9904 2219 8596 27

SENDER'S RECORD

Re: Statutory offer to Participate in Pre-Suit Mediation Pursuant to § 718.1255,  
Florida Statutes to Point Brittany Administrative Corporation, Inc.  
**Our Client:** Danielle and Timothy Jenkins and a number of other owners within  
the Association

Dear Point Brittany Administrative Corporation, Inc.:

As you may know, our firm represents Danielle and Timothy Jenkins, members Bay Isles Point Brittany Four Condominium Association, Inc., and owners of 5200 Brittany Dr., Unit 204, St. Petersburg, FL (the "Jenkins Unit"), as well as a number of other owners within the Point Brittany Administrative Corporation ("PBAC") (collectively, the "Owners"). If PBAC is represented by counsel, please provide a copy of this letter to PBAC's attorney.

PBAC is governed by the Point Brittany Administrative Corporation, Inc. Association Management Agreements ("The Management/Administrative Agreement") and Chapter 718, Florida Statutes. As set forth in greater detail below, the Owners hereby demand pre-suit mediation addressing whether PBAC is required to obtain membership approval prior to making any material alterations to common property, including, but not limited to, the buildings located following addresses: 5003 Brittany Dr. S. St. Petersburg, FL, 5400 Leeland St. S. St. Petersburg, FL, 5055 Brittany Dr. S. St. Petersburg, FL, and 5101 Brittany Dr. S. St. Petersburg, FL (the "Commercial Buildings").

For example, the Owners believe that the Commercial Buildings constitute "association property," which is defined in Section 718.103(4), Florida Statutes as "property, real and personal, which is owned or leased by, or is dedicated by a recorded plat to, the association for the use and benefit of its members" or "common elements" defined in Section 718.103(4), Florida Statutes as "the portions of the condominium property not included in the units" or is otherwise owned by the individual condominium associations that comprise PBAC. Assuming one or more of the Commercial Buildings constitute association property or common elements, PBAC does not have

the right to materially alter or demolish the property, except in the manner provided in the individual declarations. Similarly, to the extent PBAC manages or maintains any other common elements or association property of the individual condominium associations under The Management/Administrative Agreement, PBAC does not have the right to materially alter or demolish the property, except in the manner provided in the individual declarations.

The Management/Administrative Agreement provides that PBAC can repair, replace, or alter condominium property upon written direction and approval of the individual associations. *See* Point Brittany Administrative Corporation, Inc. Association Management Agreements, Section 2.(A). The individual declarations, in turn, require membership votes to make material alterations. *See* Certificate of Amendment to Declaration of Condominium and Bylaws of Bay Isles – Point Brittany One, A condominium (amending Section 5.1(b) to require approval by 2/3 of the membership and approval of a majority of the Board of Directors); Amended and Restated Declaration of Condominium of Bayway Isles – Point Brittany Two, a Condominium, Pinellas County, Florida, Section 5.1. (requiring a 75% vote of the membership and approval of a majority of the Board of Directors); Amended and Restated Declaration of Condominium of Bayway Isles – Point Brittany Three, a Condominium, Pinellas County, Florida, Section 5.1(b) (requiring approval of 60% of the membership and approval of a majority of the Board of Directors if a material alteration costs in excess of \$25,000); Amended and Restated Declaration of Condominium of Bayway Isles – Point Brittany Four, a Condominium, Pinellas County, Florida, Section 5.1(b) (requiring approval a majority of the membership and approval of a majority of the Board of Directors if a material alteration costs in excess of \$25,000); Amended and Restated Declaration of Condominium of Bayway Isles – Point Brittany Five, a Condominium, Pinellas County, Florida, Section 5.1(b) (requiring a 60% vote of the membership and approval of a majority of the Board of Directors for alterations to common elements); Amended and Restated Declaration of Condominium of Bayway Isles – Point Brittany Six, a Condominium, Pinellas County, Florida, Section 6.1(b) (requiring an approval of 2/3 of the membership for alterations to common elements).<sup>1</sup>. As a result, any material alteration of any common elements or association property of the individual condominium associations, including, but not limited to the Commercial Buildings, by PBAC without a membership vote consists a breach of Chapter 718 and/or The Management/Administrative Agreement.

Due to PBAC's foregoing breaches of Chapter 718 and/or The Management/Administrative Agreement in failing to hold a membership vote prior to taking any action to material alter any common area or property, this is a statutory offer to participate in pre-suit mediation pursuant to Fla. Stat. § 718.1255 from the Owners (the "Claimants") to the Association. The Claimants, as the alleged aggrieved party, hereby demands that PBAC, as the responding party, engage in mandatory pre-suit mediation in connection with the following dispute:

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<sup>1</sup> Nothing in The Management/Administrative Agreement appears to override the obligation that the Individual Condominium Associations obtain the required membership votes.

- 1) PBAC's failure to hold a membership vote prior to taking any action to material alter any common area or property.

Pursuant to section 718.1255, Florida Statutes, this demand to resolve the dispute through pre-suit mediation is required before a lawsuit can be filed concerning the dispute. Pursuant to the statute, the parties are required to engage in pre-suit mediation with a neutral third-party mediator to attempt to resolve this dispute without court action, and the Claimants demand that you likewise agree to this process. If you fail to participate in the mediation process, suit may be brought against you without further warning.

The process of mediation involves a supervised negotiation process in which a trained, neutral third-party mediator meets with all parties and assists them in exploring possible opportunities for resolving part or the entire dispute. By agreeing to participate in pre-suit mediation you are not bound in any way to change your position. Furthermore, the mediator has no authority to make any decisions in this matter or to determine who is right or wrong and merely acts as a facilitator to ensure that all parties understand the position of the other parties and that all options for reasonable settlement are fully explored.

If an agreement is reached, it shall be reduced to writing and becomes a binding and enforceable commitment of the parties. A resolution of the dispute in this fashion avoids the needs to litigate this issue in court. The failure to reach an agreement, or the failure of a party to participate in the process, results in the mediator declaring an impasse in the mediation, after which the Claimants may proceed to court on all outstanding, unsettled disputes. If you have failed or refused to participate in the entire mediation process, you will not be entitled to recover attorney's fees, even if you prevail.

The Claimants have selected and hereby list five (5) certified mediators who we believe to be neutral and qualified to mediate the dispute. You have the right to select any one of these mediators. The fact that one party may be familiar with one (1) or more of the listed mediators does not mean that the mediator cannot act as a neutral or impartial facilitator. Any mediator who cannot act in this capacity is required ethically to decline to accept engagement. The mediators that we suggest, and their current hourly rates, are as follows:

**Harold Oehler, Esquire**

Oehler Mediation

3225 MacDill Avenue, Suite 129-341

Tampa, FL 33629

Telephone: (813) 758-6284

Reduced Rate: \$125.00/hour per party

Email: [Harold@OehlerMediation.com](mailto:Harold@OehlerMediation.com)

**Bryan B. Levine, Esq.**

Knox Levine, P.A.

36354 U.S. Hwy 19 N

Palm Harbor, FL 34684

Telephone: (727) 223-6368

Rate: \$125.00/hour per side

(No Min/No Canc.)

Available In-Person or Zoom

[www.knoxlevine.com](http://www.knoxlevine.com)

**Brian M. Ross**

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Brian M Ross P A  
Post Office Box 172547  
Tampa, Florida 33672  
Telephone: (813) 505-2722  
Rate: \$220.00/hour (\$110.00/hour per  
side) Minimum of 2 hours for mediation

**Hon. Gregory Holder**

Zinobar Diana & Monteverde, PA  
607 W Horatio Street  
Telephone: (813) 644-3736  
Rate: \$450.00/hour (\$225.00/hour per  
side) Minimum of 4 hours for  
mediation

**Rod Barrett Neuman**

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Gibbons, Neuman, Bello, Segall, Allen  
& Halloran, P.A.  
3321 Henderson Blvd  
Tampa, Florida 33609-2921  
Telephone: (813) 463-2809  
Rate: \$275.00/hour (\$137.50 per side)  
Available In-Person or Zoom

You may contact the offices of these mediators to confirm that the listed mediators will be neutral and will not show any favoritism toward either party. The Florida Supreme Court can provide you a list of certified mediators.

Unless otherwise agreed by the parties, Sections 718.1255(5) and 720.311(2)(b), Florida Statutes, require that the parties share the costs of pre-suit mediation equally, including the fee charged by the mediator. An average mediation may require three (3) to four (4) hours of the mediator's time, including some preparation time, and the parties would need to share equally the mediator's fees as well as their own attorney's fees if they choose to employ an attorney in connection with the mediation. However, use of an attorney is not required and is at the option of each party. The mediator may require the advance payment of some or all of the anticipated fees. The Claimants hereby agree to pay or prepay one-half of the mediator's estimated fees and to forward this amount or such other reasonable advance deposits as the mediator requires for this purpose. Any funds deposited will be returned to you by the mediator if these are in excess of your share of the fees incurred.

To begin your participation in pre-suit mediation to try to resolve the dispute and avoid further legal action, please sign the enclosed Agreement to Mediate and clearly indicate which mediator is acceptable to you. We will then ask the mediator to schedule a mutually convenient time and place for the mediation conference to be held. The mediation conference must be held within ninety (90) days of the date of this letter, unless extended by mutual written agreement. In the event that you fail to respond to this letter within twenty (20) days from the date of this letter, or if you fail to agree to at least one of the mediators that we have suggested or to pay or prepay to the mediator one-half of the costs involved, the Claimants will be authorized to proceed with

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the filing of a lawsuit against you without further notice and may seek an award of attorney's fees or costs incurred in attempting to obtain mediation.

Therefore, please give this matter your immediate attention. By law, your response must be mailed by certified mail, return receipt requested, and by first-class mail, to the address shown on this demand.

Sincerely,

Jonathan J. Ellis

JJE/CRM  
cc: Tim and Danielle Jenkins  
Colleen R. McNerney, Esq.

**AGREEMENT TO MEDIATE**

The undersigned hereby agrees to participate in pre-suit mediation and agrees to attend a mediation conducted by the following mediator [please check the mediator you wish to use] as someone who would be acceptable to mediate this dispute:

**Harold Oehler, Esquire**  
Oehler Mediation  
3225 MacDill Avenue, Suite 129-341  
Tampa, FL 33629  
Telephone: (813) 758-6284  
Reduced Rate: \$125.00/hour per party  
Email: [Harold@OehlerMediation.com](mailto:Harold@OehlerMediation.com)

**Bryan B. Levine, Esq.**  
Knox Levine, P.A.  
36354 U.S. Hwy 19 N  
Palm Harbor, FL 34684  
Telephone: (727) 223-6368  
Rate: \$125.00/hour per side  
(No Min/No Canc.)  
Available In-Person or Zoom  
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**Brian M. Ross**  
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Gibbons, Neuman, Bello, Segall, Allen & Halloran, P.A.  
3321 Henderson Blvd  
Tampa, Florida 33609-2921  
Telephone: (813) 463-2809  
Rate: \$275.00/hour (\$137.50 per side)  
Available In-Person or Zoom

Date: \_\_\_\_\_

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\_\_\_\_\_ Telephone contact information