

SUMMARY OF OWNERS' MEETING – FEBRUARY 21, 2025

Timbers purchased South Seas Resort (hereinafter referred to as “SSR”) from Blackstone September 30, 2021. After purchasing the resort, Timbers announced on August 9, 2022, that timeshare owners, without an amenities agreement, will not have access to the SSR amenities. The South Seas Club Board (hereinafter referred to as “SSC”), through my office, immediately began negotiations with SSR without making a public comment on any ongoing issues. SSC chose to conduct negotiations with SSR for the sole purpose of securing amenities for the timeshare owners. During this time, the SSR suffered multiple hurricanes and was shut down multiple times. SSC and its counsel, through my office, have been actively involved throughout the past years and months of negotiations with SSR. Eventually the CFO of Timbers, John Starr, got involved in these discussions.

Timbers was fully aware of the fact that SSC owners were granted a Family Membership at SSR. Unfortunately, this grant was stated only in the Prospectus and was never included in the Declaration or recorded in the Public Records of Lee County.

During the lengthy and ongoing negotiations, multiple options were considered when attempting to secure SSC owners amenities at the resort. The SSC Board spent countless hours working on these options. The irony of all of this was that, for most of this time, no amenities existed at SSR. SSC, during this time, implemented its own amenities that included food trucks and live music.

Eventually, general terms were worked out with SSR, and a formal Agreement was requested. At this point, it started to become clear what the SSC Board and I had believed was Timbers' real agenda. That agenda was to pigeonhole and isolate current timeshare owners so that only the owners could use SSR amenities and never an owner's guest, family or renter if the owner were not on site.

On its face, the general terms looked potentially possible but then, during a call with Timbers' legal counsel to work out the terms, it became clear it would never work, as Timbers was requiring that anyone who wanted to rent a timeshare week

had to list the rental through Timbers. However, Timbers stated they had no intent to have a timeshare rental department. That was a revelation and a serious deal breaker. More importantly, Timbers slipped into the Agreement terms that, if any one of the owners, not just the Board, publicly stated anything negative about what Timbers was doing at SSR, Timbers could cancel not only that owner's access but terminate the amenities agreement for ALL SSC owners. So, any owner who was upset with Timbers and posted their disapproval on Facebook, would provide Timbers with the legal basis to terminate and cancel the entire amenities agreement. Clearly this term, along with the no rental/no guest amenity access term, made any agreement unworkable.

The SSC Board wanted to sue but I recommended it wait until the Summary Judgment was granted by Judge Shenko in the Captiva Community Panel mediated settlement case. This Mediated Settlement set in place in March of 2003 confirmed that only 912 units could be built. The referenced Summary Judgment was entered recently, and SSC requested my firm draft and file a Declaratory Judgment Action to have a judge determine the equitable rights to use and access the amenities. Furthermore, SSC waited to begin litigation to try every possible option to negotiate because once litigation commences, you either win or lose. Negotiations can get you, most of the time, what you want but Timbers gave SSC no other choice but to file a declaratory action and this action has been served on Timbers. The litigation process will work its way through the court system and can take up to 24 months for a decision to be reached.

SSC is also protecting your rights to access Sunset Beach via the 30-foot access easement that Timbers attempted to illegally block. SSC along with the seven other Boards filed a suit to prevent Timbers from blocking the easement or preventing you from parking on the easement. That litigation is currently pending. Recently, the homeowners to the south of the easement intervened in this litigation and joined their lawsuit with ours. Timber's is attempting to infringe on the easement in numerous ways.

The other major issue pending is Timbers' request to rezone the property to more than double the number of buildings on the property, which, in my opinion, is

more than Timbers is allowed. Historically, and by agreement (The 2003 Mediated Settlement), buildings on SSR were and are presently, limited to 912 units. It is important to note that Hotel rooms were counted in that determination. In an attempt to make an end run around on the 912 building cap, the County revised its zoning rules to exempt SSR from having to count hotel rooms against this total. As I previously mentioned, there was a mediated settlement put into place in 2003 from a lawsuit filed by The Captiva Community Panel that reaffirmed the 912 units. Timbers is trying to rezone the property to build 435 new hotel rooms and 193 new condominiums and timeshare units. Timbers has currently appealed the current court case that ordered the County not to issue any more than 912 units. Timbers hopes that if it can line up the rezone, set up all its dominos in a row, and if it prevails on appeal, to reverse the Summary Judgment capping the number of building permits, they can move forward with the entire new development.

As you can see, SSC has been very vigilant in trying to protect your owner rights to amenities even though you may not have publicly seen those efforts as we have been negotiating behind the scenes. However, this is no longer the case because all negotiations with Timbers have failed and we are proceeding, on all fronts, with litigation.