



## The Residence at Seashore Point

### Issue 2. June 4, 2024

The purpose of this issue is to provide information to residents, especially new residents that moved in after the lawsuit was filed. This is background information about what's in the lawsuit to help owners better understand what it's all about and how it may affect them. This is not an update on the status of the lawsuit.

Read the "**Complaint**" at: [Compton, et al v. Point Group Care, LLC, et al](#)

### Control

The lawsuit against the **Pointe Group/Holdco (PG Holdco)** is about two things: **control** and **money**. **Control** is important mainly because whoever is in control makes the decisions about money. They decide how the money is spent, who pays and how much they pay. So, control and money often go hand in hand.

The residents were cheated out of control by **Deaconess** (the predecessor of **PG Holdco**) when they created the Condominium Trust in 2012. By law, the amount of control you have is tied to the amount of money you have invested in the Condominium. It does this by requiring that our **Percentage Interests (Beneficial Interests** in a Trust) are tied to the **fair market value** of each unit on the day the Condominium was formed. Somebody who spends \$1 million on a condo unit should have more say than somebody who spends \$100,000. They have more at stake if the condo fails, they pay more in Condo Fees, and they should have greater say in what happens in order to protect their investment.

### Establishing Fair Market Value

Deaconess filed the **fair market value** of the Phase 1 condo units with the Town of Provincetown on the same day (May 24, 2012) that they created the Condo Trust. In the filing they listed 43 residential units with a total value of **\$14,776,100** which means they had an average value of **\$343,630** (this included the affordable units which are mainly studio units). They also filed documents saying that the Service Units were valued at **\$4,270,200**.

It's important to note that the square foot area of the Service Units was only **32,000 SF** on the initial filing. When they filed the Amendment, the square foot area of the Phase 1 Service Units increased to **37,400 SF** as they claimed that mechanical closets, lobby areas, trash rooms and storage closets were supposedly condominium units. As we'll see, they intended to change the **Beneficial Interests** from being tied to the **fair market value** to being tied to the **square foot area** and it made a difference for control.

It must have belatedly dawned on **Deaconess** that they would no longer have control of the Condominium since the **Residential Units** had a fair market value of **\$14.7 million** and the **Nursing Home** was only worth **\$4.2 million**. So, they amended the Master Deed with the First Amendment. They needed to manipulate the data in the hopes of retaining control of the Condominium.

### Fraud and Deception

Six months after Deaconess filed the **Master Deed**, they filed the **First Amendment** (February 27, 2013). In it they did acknowledge the value of the Residential Units. Figure 1, which is a screenshot from the **First Amendment**, shows that the combined value of Phase 1 and Phase 2 **Residential Units** was **\$31,141,400** out of a total value for the building of **\$36,958,624**. That meant the **Residential Units** controlled **84.26%** of the **Beneficial Interests**. Since there were 81 residential units, the average value per unit was **\$384,462**.




	Phase 1	Phase 1 & 2	
Res Suite %	71.65%	84.26%	
Res Suite \$	\$ 15,481,400	\$ 31,141,400	
Total Value	\$ 21,608,140	\$ 36,958,624	

Figure 1: Screenshot of Exhibit C of the 1st Amendment, p. 10

Instead of using the **fair market value**, Deaconess decided to use the **square foot area** of the units. You can see in Figure 2 that the data under “Area” are the square feet values of each group. They simply divided those numbers by the total square foot area of **118,830 SF** to calculate the “**Beneficial Interest**”. So, the Residential units' **61,973.72 SF** divided by the total **118,830.80 SF** yields a Beneficial Interest of **52.15%**.

SSPT Condo Doc		Beneficial Interest Calculation Final Method				5/1/2012	
	Area		Total	Beneficial Interest		Phase 1	Phase 1 & 2
	Phase 1	Phase 2		Phase 1	Phase 1 & 2		
Garage		14,844.82	14,844.82	0.00%	12.49%	\$ -	\$ 4,617,021
Residential	29,126.66	32,847.06	61,973.72	44.15%	52.15%	\$ 9,540,940	\$ 19,274,997
- Market	25,319.33	32,847.06	58,166.39	38.38%	48.95%		
- Affordable	3,807.33	0.00	3,807.33	5.77%	3.20%		
RH-XX	2,244.93		2,244.93	3.40%	1.89%	\$ 735,365	\$ 698,215
RS-XX	14,322.62	5,173.41	19,496.03	21.71%	16.41%	\$ 4,691,622	\$ 6,063,634
SA-XX	3,812.46		3,812.46	5.78%	3.21%	\$ 1,248,838	\$ 1,185,748
SN-XX	16,458.84		16,458.84	24.95%	13.85%	\$ 5,391,375	\$ 5,119,009
	65,965.51	52,865.29	118,830.80	100.00%	100.00%	\$ 21,608,140	\$ 36,958,624

Figure 2. Screenshot from Exhibit C, First Amendment, p 9

Deaconess then divided the total value of the building (**\$36,958,624**) by the total square footage (**118,830.80**) to get an average dollar per square foot value of **\$311.02/SF**. They then multiplied each of the square foot values in the above table by \$311.02/SF and that's how the Residential Units became valued at **\$19,274,997** instead of **\$31,141,400**. The residential units went from an average value of **\$384,462** per unit down to a value of only **\$237,963** per unit.

Likewise, the **Service** and **Garage Units** went from being valued at **\$5,817,224** to now being valued at **\$17,683,627**, which is still less than the **\$19,274,997** for the **Residential Units**. We can see in Figure 2 that even with the improper use of the unit's square foot area instead of the fair market value that the **Residential Units** were still **52.15%**, the **Garage Unit** was **12.49%**, and the total of all the **Service Units** comes to only **35.36%**. Yet the **Residential Units (52.15%)** were awarded only **2 Trustee seats** on the board and the **Service Units (35.36%)** were awarded **4 Trustee seats**.

## Count 1 of the Lawsuit

The Plaintiffs are asking the judge to issue a **Declaratory Judgment** that the **Residential Unit Owners** should control the Board of Trustees.

71. The provisions contained in the Master Deed and Declaration of Trust allow for perpetual control of the Condominium Trust, including but not limited to the selection of a majority of trustees (4 of 7) by the Pointe Group as the owner of Service Units, violates the Massachusetts Condominium Act, G.L. c. 183A § 10 which provides:

Each unit owner shall have the same percentage interest in the corporation, trust or unincorporated association provided for in the Master Deed for the management and regulation of the condominium as his proportionate interest in the common areas and facilities.

72. The purpose of G.L. c. 183A § 10 is to allow unit owners to participate in the management of the condominium by the same percentage interest by which they pay common expenses.

## Control is Important

Whoever controls the board makes important decisions. Phase 1 was opened in 2006 and has not had the interior hallways and lobbies repainted since then. The carpet has become worn and faded. Phase 2 had carpet tiles installed in the hallways that are pulling loose and presenting a trip hazard to a 55+ population. Phase 2's common area walls have not been painted in ten years and many areas are scuffed and unsightly. The hallways and lobby areas are what the public sees first, make a lasting impression and affect the value of our residential units. If it looks old, worn, and tired, it becomes less attractive, less desirable and less valuable.

To address this a **Residents Design Committee** was appointed by the Board in May 2022. They spent several months working with interior design specialists to select paint colors and carpet design/colors, got feedback from other residential owners, and submitted their report and recommendations in August 2022 to the Board. Management took the recommendations and got bids for painting and carpeting by February 2023. Yet here we are entering the summer of 2024 and the walls still need painting, the carpet is still worn and faded, and the carpet tiles are still curling up.

These hallways are in the residential portion of the building and their being well maintained adds value for the residents. They add no value to the Nursing Home. Yet the **Nursing Home** owner will have to pay **54%** of the cost of improving the residential hallways and lobbies because of Deaconess' deceptive manipulation of the data. And the Nursing Home controls **4 of the 7 Trustee seats** that decide whether and when the painting and carpeting will be done.

We have an even more serious problem facing us with the building envelope which was not properly sealed. Water penetration is causing structural damage to the exterior of the building. The vast majority of the envelope covers the outer surface of the residential units. Yet again, the **Nursing Home** will have to pay **54%** of the cost. The costs are estimated to be between **\$4 million** and **\$5 million dollars**. The residents have the most to lose if the envelope is not repaired in a timely manner. Yet they control only **2 of the 7 Board Seats**.

Control and money go hand in hand, and there is a lot at stake with respect to the value of a very significant asset for residential owners.

This lawsuit asks that the **Residential Unit Owners** with **52.15%** of the **Beneficial Interests** be awarded the **majority of Trustee seats** on the Board of Trustees.

Warmest Regards,

**Rob Compton**

**Residential Trustee**

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