

December 3, 2024 Meeting with Unit Owners.

Good Evening and welcome everyone.

- **On the Zoom:**
 - Daniel Stermer, Receiver
 - George Shoup from DSI
 - Brian Rich/Michael Niles from Berger Singerman, LLP
 - Alessandra Stivelman/Alex Alonso from Eisinger Law
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- If you wish to use the closed captioning function, please click on same at the bottom of the screen and choose the language of your choice.
- This Meeting is being recorded and will be posted on the Receiver's website.
- As an initial matter, I want to remind everyone that we have created and continue to update a website with all of the pleadings filed in Receiver's Case including monthly reports of the work performed by the Receiver and his team. I invite and encourage everyone to monitor this website: www.heronpondreceiver.com.

a. **Termination Complaint:**

- i. On October 18, 2024, the Receiver filed the Complaint of Judicial Termination of Condominium.
- ii. Florida Statutes provides an alternative mechanism to terminate a condominium when there is substantial damage to or destruction of all or a substantial part of the condominium property. Based upon the Receiver's diligence and the reports provided by engineers and other professionals, the Heron Pond Condominium Property has substantial damage and destruction that cannot be repaired within a reasonable period of time or reasonable cost.
- iii. As such, the Complaint filed seeks equitable relief to terminate the Heron Pond Condominium Structure pursuant to Florida Statute § 718.118. The Complaint does not impose personal liability on any Unit Owner but provides for a structured termination of the Condominium and will propose a plan of termination that will provide for the sale of the Property, and distribution of the sale proceeds to Unit Owners.

b. **Acceptance of Service:**

- i. On or about November 12, 2024, the Court issued summonses for each of the Unit Owners and Other Interested Parties. A summons is a form issued by the Court that informs the Unit Owners that they are named party in the Condo Termination Case. The Court issued one summons per Unit Owner. The Receiver is required to serve a copy of the Complaint and Summons on each Unit Owner and Other Interested Party. Service of the Summons and Complaint is the first step of the condo termination process.
- ii. As an alternative to personally serving every Unit Owner, we have requested Unit Owners sign Acceptance of Service and Waiver of Process, which waives the formal service requirement of the Complaint and Summons. S
- iii. As of December 3, 2024, we have received Acceptance of Service and Waiver of Process from Unit Owners representing 130 Units, have served 111 Units via process server (Federated) and will begin to serve via process server other Unit Owners. The Acceptance of Service allows us to avoid having to pay a process server to personally deliver a copy of the Complaint and Summons on each Unit Owner. It will also expedite the case and reach a sale of the property quicker. We are still working to either serve or obtain Acceptance of Service on owners of 63 Units. If you are interested in signing an Acceptance of Service, please let us know.
- iv. If you have signed the Acceptance of Service, you will receive a copy of the Complaint and Summons in short order. We are receiving numerous Acceptances and are processing them as quickly as possible.
- v. If you do not sign an Acceptance of Service, we will need to employ a process server who will need to locate you and personally serve the Complaint and summons on you. This is a time consuming and costly process, especially because there are so many Unit Owners. We would respectfully request that you sign an Acceptance of Service soonest.
- vi. We are also in the process of serving the Complaint and Summons on each of the Other Interested Parties. There are 54 Other interested Parties that are being served (these include lenders and lien holders). This process commenced in mid-November and our process server is continuing to work through the list of Other Interested Parties.

vii. The Waiver and Acceptance of Service does not necessarily mean you are consenting to the Termination of the Condo nor the sale of the Property. It simply confirms you have received a copy of the Complaint and summons. In the upcoming weeks, we will be filing additional pleadings requesting the Court approve the termination of the Condominium Structure of the Property and to propose a sale process using the professionals already retained by the Receiver.

c. Responding to the Complaint

- i. If Unit Owner's do not respond to the Complaint seeking termination of the Complaint and a default is entered by the Court as to a particular Unit Owner, it will be presumed by the Court that the Unit Owner consents to the relief requested in the Complaint. We cannot provide you with independent legal advice as to whether a response to the Termination Complaint is necessary or appropriate. The less responses we get the faster the process will move forward.
- ii. We will continue to post all relevant pleadings and information to the Receiver's website

d. Plan of Termination:

- i. Upon termination of the Condominium, myself as the appointed Termination Trustee shall obtain legal title to the Heron Pond Property subject to the Plan of Termination, which will require the Termination Trustee to hold title to the Property for the benefit of the Unit Owners and to market and convey the Property through a competitive sale process.
- ii. As we have previously reported, we are working with Avison Young and Fisher Auctions in order to confer with professionals in the industry and locality to confirm that any offers received represents the best offer for unit owners.
- iii. We are also working with Stewart Title Company, who will be providing title insurance on the potential sale of the Property to confirm that this proceeding will result in clear title. This will help in obtaining the highest price for the Property.
- iv. We are currently working on Bid Procedures and a draft Purchase Agreement which will be circulated to all potential bidders of the Property. The Bid Procedures will help make sure that only qualified bidders, who have the ability to close on the transaction, participate in the auction process and will help make sure the sale process is fair and equitable.

- v. Unit Owners will have the ability to review the sale process and the ultimate sale, however the Termination Trustee/Receiver will have the final decision as to whether, in his business judgment the process and the sale are in the best interest of the Unit Owners and should be approved by the Court. The Court will have the final say on approval. Any objections will be addressed with the Court. Again, the more objections that are received the more costly and time consuming the process will be.
- vi. The proceeds of the sale will be apportioned among the Unit Owners pursuant to their respective interests of the Units and the Common Elements as specified in the Declaration. This is similar as to how monthly assessments are attributed to each of the Units and Unit Owners.

e. Other Interested Parties:

- i. The Plan of Termination will provide for the transfer of any liens held by the Other Interested Parties in any of the Condo Property to the proceeds from the ultimate sale. For example, outstanding balances on mortgages, utilities, etc. The liens will attach to the individual unit owner's proceeds as allotted through the Plan of Termination.
- ii. We do not have independent information regarding what or the monetary amount of liens and encumbrances on each of the Units. We ordered a Title Commitment which provides the names of the entities and individuals that filed liens in the public records of Broward County on the Units. The Complaint is being served on all of these entities and individuals. The Other Interested Parties are identified in the Complaint along with the encumbrance and the Unit Number impacted by their lien.
- iii. The Plan of Termination will include a claim process for the Other Interested Parties to file Claims on the specific Units alleging the amount owed to them as of the Claim Date.
- iv. These Claims, if not objected to, will be paid first from the proceeds of the Sale prior to the individual Unit Owner receiving their pro-rata share of the proceeds.

f. Monthly Assessments

- i. The Association will need to continue to collect Monthly assessments from the Unit Owners. There are still significant expenses that the Receiver is still responsible for paying on a monthly basis. These expenses include fencing, security,

premium financing on the insurance coverages, certain due diligence obligations for the marketing of the Condo Property and our professional fees. My Team and I are reviewing the proposed budget for 2025 and will, in all likelihood, be reducing the Monthly Assessments in 2025 but I cannot tell you this evening exactly what that amount will be. We also know that you will need to receive new coupon books and we will be working on that as well.

- ii. Similarly, with regard to the Special Assessments, last year at this time, the BOD, imposed a Special Assessment for the first phase of the projected rehabilitation of the 19 Buildings totaling in excess of \$3.4MM – this Special Assessment amount was for the projected cost to rehabilitate the balconies, bay windows, and stairs. The Special Assessment was to be collected over 2024 in 4 installment payments in January, April, August, and December 2024. The BOD collected the January and April installments and after I was appointed, I suspended the collection of the August and December 2024 installment payments. Each and every Unit Owner has been and continues to be obligated to remit the January and April 2024 Special Assessment installments as required by the vote of the Board of Directors and provided for in the Association governing documents. Many of the Unit Owners have been paying their January and April 2024 Special Assessment installments and it's crucial that all Unit Owners are held accountable.
- iii. The monies collected for the Special Assessment have been and continue to be deposited into a special segregated Special Assessment Account and have been used for the costs and expenses related to the prior rehabilitation project and reimbursing the Association from any invoices paid through the general operating account to fund the prior rehabilitation project. My Team and I have also been utilizing the Special Assessment funds collected to pay for certain professionals that I engaged to assist me in carrying out my duties as Receiver, including my engineer and construction consultants, and certain other Vendors related to the marketing/sale of the Property. NONE of the Special Assessment dollars collected was used to pay the Receiver and/or his professionals fees that were approved, awarding, and authorized to be paid by the Court – those professional fees/costs were paid from the Operating Account

- iv. We will be proposing a Motion seeking to forbear on the collection of the Special Assessments from the Unit Owners until the sale of the Condo Property and the disbursement of the proceeds through the Plan of Termination. The Motion will allow Unit Owners who have not paid their January and April 2024 Special Assessment installments to hold off on paying their Special Assessments until the sale of the Property and the amount due from each Unit Owner who has not previously paid their Special Assessment installments will be deducted from that Unit Owner's distributive share and put into the overall amount that will be available for distribution to all Unit Owners as a form of set off. The Motion will provide for a nominal interest charge through the Closing Date.
- g. **Real Estate Taxes:**
 - i.
- h. **Continued investigation.**
 - i. We are continuing to investigate all potential claims that may be appropriate for the Association to bring. We have issued subpoenas to management companies, banks and other third parties. We have started to receive and review the responses to help piece together the Associations prior operations and financials. If after the completion of our investigation, it appears litigation may be appropriate, I will take appropriate action on behalf of the Receivership Estate.
 - ii. The termination of the Condo will not impact the Associations ability to bring claims of action.

Adjournment