

**WICKHAM PARK HOMEOWNERS ASSOCIATION, INC.**

**SPECIAL MEMBERS MEETING**

**September 10, 2018**

**Meeting:** The Special Members Meeting of the Association will be held at 6:00 p.m. on Monday, September 10, 2018, at the Wickham Park Clubhouse, 12822 Emersondale Ave., Windermere, Florida 34786.

**Purpose:** The purpose of this meeting is to vote on pursuing a claim through litigation or arbitration against the developer and general contractor, as enclosed with this mailing.

**Limited Proxy:** For those property owners who are unable to attend the meeting, a Limited Proxy, and instructions for its use, is enclosed with this notice. A Limited Proxy is for the purpose of appointing another person to attend the meeting for you, and vote as instructed by you, and will count toward obtaining the necessary quorum to conduct the meeting. It must be signed by an owner of the property in order to be valid.

**Designated Voter:** **A Certificate of Designated Voter is required** by the Association's governing documents. A blank pink Certificate is enclosed with this mailing. Information and instructions for completing the Certificate are on the reverse side of the pink Certificate form. The completed Certificate (signed by all owners) must be received in the mail prior to the meeting, or brought by the Designated Voter to the meeting.

**Questions:** For additional information, please contact your association's community manager:

Name: Michelle Figueroa  
Phone: 407-846-6323 ext. 55001  
mfigueroa@sentrymgt.com

**Enclosures:** Attorney Letter  
Limited Proxy (Blue Document)  
Designated Voter Certificate (Pink Document)  
Cover page (with separate Pink and Blue Return Address Slips)

August 9, 2018

**\*\*\*Attorney-Client Privileged Communication\*\*\***

**Re: Wickham Park Homeowners' Association, Inc. v. Ashton Orlando Residential, L.L.C.  
Orange County Circuit Court Case No. 2018 CA 001241**

Dear Wickham Park Homeowners:

As you may be aware, your Association's Board of Directors is concerned about possible defects and damages related to faulty construction at your community. The Association has retained our law firm to investigate the construction conditions and to pursue the Association's legal options, as necessary, to resolve any faulty construction issues with the developer and general contractor, Ashton Orlando Residential, L.L.C., Ashton Woods Orlando Limited Partnership and Ashton Woods Lakeside L.L.C. (collectively "Ashton").

Our first step was to evaluate the community's construction. Experts were retained, on the Association's behalf to perform this assessment. The investigation included visual examination of the building envelopes, destructive testing and window testing. Our experts have confirmed severe defects throughout your community including defective stucco and window installation as well as damage from water intrusion.

As a result of the investigation, the Association's expert compiled a list of known defects. The list was sent to Ashton pursuant to Chapter 558, Florida Statutes. The Statute afforded Ashton with an opportunity to offer repairs and avoid litigation. Ashton attended our testing and inspected the conditions, but has not offer repairs. The Association must now press forward with its claim on behalf of itself and its members.

Under Florida law, a homeowners' association may bring a lawsuit or arbitration for defects in the buildings' common elements and other components for which it has an obligation to maintain. Before bringing a lawsuit involving over \$100,000 in claimed damages, "the association must obtain the affirmative approval of a majority of the voting interests at a meeting of the membership at which a quorum has been attained." This ratification vote is required by the Florida Statutes.

Your Board of Directors has scheduled a meeting for **Monday, September 10, 2018**. A vote will take place seeking approval to proceed with the lawsuit or arbitration.

In anticipation of the most frequently asked questions, we provide the following for your consideration:

**Q: How will the Association pay for this claim?**

**A:** We were retained by your Board of Directors on a contingency fee basis. This means we are paid attorneys' fees only if we recover money on your Association's behalf. Additionally, we have agreed to advance the costs of the expert investigation and all court/arbitration costs. Unless the Association terminates the claim, there is no obligation to pay our firm for the costs advanced to prosecute your case. If nothing is recovered, your Association owes no attorneys' fees or costs to this firm.

**Q: Is there a downside to filing a lawsuit or demand for arbitration?**

**A:** Because of the discovery of the defects, you and your Association are obliged to disclose to a potential buyer any and all defects known to exist in your home and common areas. You may have heard from your builders or contractors that this lawsuit will affect your ability to sell your home or lower the value of your home. This is a scare tactic and is false. It is not the lawsuit that triggers the requirement to disclose the defects; rather it is the defects themselves. Should you choose to sell your home, we recommend contacting our firm for a "disclosure packet" which will provide the information obtained from the experts' investigations. If you know of any other issues that are not contained in the reports, you will be responsible for disclosing those too.

In the event the claim is unsuccessful, your Association may be liable for the opposing party's attorneys' fees and can be liable for the opposing party's costs. Because of the substantial nature of the defects which have been discovered by the experts, (*and observed by Ashton's own experts*) we believe this is a remote possibility.

**Q: What happens if we decide not to vote or vote no to pursuing the claim?**

**A:** If the Association does not pursue the claim, the cost to fix the problems is the responsibility of the Association's members. Your Board of Directors is determined to hold responsible those parties who created the defects instead of calling for a special assessment.

**Q: What are the benefits of voting in favor of pursuing the claim?**

**A:** In Florida, the builder is responsible for, among other damages, the cost to repair the defects. By voting in favor of the litigation you are authorizing the Association to file an action on behalf of the homeowners that will seek to hold the building contractors responsible to the community. A vote in favor of the

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August 9, 2018  
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**\*\*\*Attorney-Client Privileged Communication\*\*\***

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litigation will protect your long-term interests in preserving and maintaining your community. In our opinion, there is minimal risk to the homeowners in pursuing this litigation given the substantial nature and extent of the defects.

We have enclosed a few exemplar photos for your review showing some of the conditions of concern that were exposed by the destructive testing. If you have any questions, please feel free to give us a call.

Best regards,

**PURSIANO BARRY BRUCE LAVELLE, LLP**



W. Todd Demetriades

WTD:lm  
enclosures

**LIMITED PROXY**

The undersigned owner or designated voter for the property located at \_\_\_\_\_, Windermere, Florida in the Wickham Park Homeowners' Association, Inc. hereby designates:

\_\_\_\_\_  
PRINT NAME OF PROXY HOLDER

or the Association President (if left blank) as my proxy holder to attend the meeting of the members of the Wickham Park Homeowners' Association, Inc. **to be held at 6:00 p.m., on Monday, September 10, 2018, at the Wickham Park Clubhouse, located at 12822 Emersondale Avenue, Windermere, Florida.**

The proxy holder designated above has the authority to vote and act for me to the same extent that I would if personally present, with power of substitution, except that my proxyholder's authority is limited as indicated below.

**I approve of the Wickham Park Homeowners' Association, Inc. pursuing a claim through litigation or arbitration against the developer, general contractor and any other persons or entities that may be responsible for construction deficiencies within the Wickham Park Townhome community.**

\_\_\_\_\_ YES \_\_\_\_\_ NO

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE of OWNER or DESIGNATED VOTER

**SUBSTITUTION OF PROXYHOLDER**

The undersigned, appointed as proxyholder above, designates \_\_\_\_\_ to substitute for me in voting the proxy as set forth above. (Printed name)

\_\_\_\_\_  
SIGNATURE OF PROXY HOLDER

\_\_\_\_\_  
DATE

THIS PROXY IS REVOCABLE BY THE UNIT OWNER AND IS VALID ONLY FOR THE MEETING FOR WHICH IT IS GIVEN AND ANY LAWFUL ADJOURNMENT. IN NO EVENT IS THE PROXY VALID FOR MORE THAN NINETY DAYS (90) FROM THE DATE OF THE ORIGINAL MEETING FOR WHICH IT WAS GIVEN.

WICKHAM PARK HOMEOWNERS ASSOCIATION, INC.

DESIGNATED VOTER CERTIFICATE

(See reverse side for instructions)

SPECIAL MEMBERS MEETING

September 10, 2018

TO THE SECRETARY OF WICKHAM PARK HOMEOWNERS ASSOCIATION, INC.:

THIS IS TO CERTIFY:

As of this date: \_\_\_\_\_ (Month Day, Year)

All owners of record for: \_\_\_\_\_ (Property Street Address – include unit number if the street address is shared)

Have designated: \_\_\_\_\_ (Print Name of one Designated Voter - must be an owner of this property)

as their DESIGNATED VOTER to cast all votes and to express all approvals that such owners may be entitled to cast or express at all meetings of the membership of the Association and for all other purposes provided by the governing documents of the Association.

This Certificate is made pursuant to the governing documents of the Association and shall revoke all prior Certificates and be valid until revoked by a subsequent Certificate.

\_\_\_\_\_  
(1) PROPERTY OWNER'S NAME (PRINTED)

\_\_\_\_\_  
(1) PROPERTY OWNER'S SIGNATURE

\_\_\_\_\_  
(2) PROPERTY OWNER'S NAME (PRINTED)

\_\_\_\_\_  
(2) PROPERTY OWNER'S SIGNATURE

\_\_\_\_\_  
(3) PROPERTY OWNER'S NAME (PRINTED)

\_\_\_\_\_  
(3) PROPERTY OWNER'S SIGNATURE

**This Certificate is not valid until all owners of record have signed above, including the Designated Voter.**

CORPORATE OWNERSHIP ATTESTATION:

If this property is owned by a corporation, this Designated Voting Certificate must be signed by the President or Vice President of the Corporation and attested by the Secretary or Assistant Secretary of the Corporation.

\_\_\_\_\_  
Officer Name (Printed)

\_\_\_\_\_  
Officer Signature

\_\_\_\_\_  
Corporate Title (President or VP)

\_\_\_\_\_  
ATTEST: Secretary Name (Printed)

\_\_\_\_\_  
Secretary Signature

NOTE: This form is not a Proxy and should not be used as such.

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## **DESIGNATED VOTER CERTIFICATE INSTRUCTIONS**

A Designated Voting Certificate is required by your Association for the purpose of establishing who is authorized to vote for a property owned by more than one person (even if husband and wife), or a corporation. A Designated Voting Certificate is not needed if the unit is owned by only one person. Only one owner or corporate officer can be the Designated Voter.

Only the person designated on the Voting Certificate will be authorized to cast the Ballot for the election. This information will remain in effect until a change in the record ownership of the property occurs, or the property owners choose to designate a new Designated Voter.

The Voting Certificate must be submitted to the Association prior to the scheduled time of the meeting. A Voting Certificate is not a Proxy and may not be used as such.

To complete and submit the Designated Voter Certificate:

*(Note, do not send with Proxy – 2 return envelopes provided)*

1. Complete the date in the appropriate space (Required).
2. Print the property street address in the appropriate space (Required). It is necessary to include unit number if the street address is shared amongst multiple units.
3. Print the name of the Designated Voter in the appropriate space (Required). This must be an owner of record, or corporate office for the corporation that owns the property. If two names are listed in this space, the Certificate is invalid.
4. Have all owners of record sign the document on the provided lines (Required). The Designated Voter also needs to sign the document. All owners of record must sign the Certificate for it to be valid. Note, if the owner of the property is a corporation, only the Corporate Ownership Attestation needs to be signed. If there are more than three owners of record, please make a copy of this form, complete #1 - #3 above on the copy and have the additional owners sign the copy/second page.
5. If the property is owned by a corporation, the Corporate Ownership Attestation needs to be completed by the appropriate officers.
6. Return the Designated Voter Certificate for the Special Members Meeting by either:
  - a. Having the Designated Voter bring it to the meeting
  - b. Mailing the Certificate: Detach the pink return address slip included on the cover page. Place the pink return address slip and the folded Certificate in the provided return double window envelope. For proper delivery, please be sure the mailing address with pink background is visible through the window.

## **RETURNING YOUR PROXY**

Have the Proxy-holder bring it to the meeting.

Mail the Proxy: Detach the blue return address slip included on the cover page. Place the blue return address slip and the folded Proxy in the provided return double window envelope. For proper delivery, please be sure the mailing address with blue background is visible through the window.

It is encouraged that the Proxy form be submitted well in advance of the meeting to avoid delay in registration.

**The Proxy form must be received before the commencement of the meeting to be valid.**