

# DEAN | MEAD

Dean, Mead & Dunbar  
106 East College Avenue  
Suite 1200  
Tallahassee, Florida 32301

(850) 999-4100  
(850) 577-0095  
www.deanmead.com

Orlando  
Fort Pierce  
Tallahassee  
Viera/Melbourne  
Vero Beach  
Stuart (by appointment)

PETER M. DUNBAR  
850.999.4100  
pdunbar@deanmead.com

## MEMORANDUM

**TO:** Board of Administration  
On Top of the World Condominium Association, Inc.

**FROM:** Barrie Buenaventura and Peter Dunbar

**DATE:** May 10, 2023

**SUBJECT:** Budget Approval Recommendations

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In light of the recent changes to the Condominium Act (“the Act”) in the 2022 Special Session D and the pending changes from the 2023 Regular Session, our objective is to provide guidance for the Board of Administration and the membership in the adoption of the budget for the upcoming fiscal year. Although changes in the law speak to modifying prospective requirements for budget reserves and the waiver of reserves, we do not believe the changes in 2022 or the pending changes in 2023 affect the procedures for the upcoming fiscal year at On Top of the World (“OTOW”).

The changes that took effect in May of 2022 continue to permit the waiver of reserves by a majority vote at a meeting where a quorum of the members is present until December 31, 2024.<sup>1</sup> The current OTOW budget format has been approved by the Division of Florida Condominiums, Timeshares and Mobile Homes; and the Division’s approval specifically recognizes the procedures for the waiver of reserves consistent with provisions in the Act as of May 2022.<sup>2</sup>

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<sup>1</sup> §§ 718.112 (2)(f) 2.a., F.S. (2022).

<sup>2</sup> Amended Consent Final Judgment, *On Top of the World Condominium Association, Inc. v. On Top of the World, Inc.; State of Florida, Department of Business and Professional Regulation*, Case No. 85-007557-CI (Oct. 19, 2021).

During the 2023 Regular Legislative Session that concluded on May 5<sup>th</sup>, provisions in the Act relating to reserves and the waiver of reserves were modified further,<sup>3</sup> and a new alternative for meeting reserve obligations was included in the legislation for which OTOW qualifies.<sup>4</sup> This measure has not been delivered to the Governor as of the date of this memo, but assuming it is approved by the Governor when it is delivered, we believe OTOW fully meets the qualifications of the new alternative, and OTOW members have the option to continue to waived reserves as approved by the Division.<sup>5</sup> If the Governor rejects the 2023 change, the 2022 provisions of the Act remain unchanged.

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<sup>3</sup> See CS/CS/SB 154 (2023).

<sup>4</sup> See Section 4 of CS/CS/SB 154: "Alternative funding method" means a method approved by the division for funding the capital expenditures and deferred maintenance obligations for a multicondominium association operating at least 25 condominiums which may reasonably be expected to fully satisfy the association's reserve funding obligation by the allocation of funds in the annual operating budget." 718.103 (1), F.S.

<sup>5</sup> See Paragraphs 10.b. and 10.d. of Amended and Restated Stipulation of Amended Consent Final Judgment, *supra* note 2