



## Update Regarding Fripp Island Resort's (FIR's) Self-Proclaimed Right to Rental Exclusivity on Fripp Island

July 27, 2024

Dear Fripp Island Neighbors,

We are writing this letter to provide you with an important update regarding the current situation concerning the Fripp Island Resort/Seascape Hospitality Group, LLC, and their alleged right to rental exclusivity over ALL residential properties. As a Fripp Island property owner, you are likely aware of the ongoing dispute regarding the Resort's assertions that they maintain the exclusive right to rent all homes on the island. You are likely also aware of recent communications from both the Resort and FIPOA, detailing their ongoing disputes surrounding these issues, as well as the lawsuit filed by one of your fellow Fripp Island neighbors, Alberta Rosenberg, seeking judicial clarity over this issue. We urge you to review the linked pleadings to better understand the island-wide dispute over our property rights and our concern regarding the formation of a monopoly. We believe that any individual who owns residential property on Fripp Island has every right to voice their opinions on issues that may substantially affect all owners' property rights.

Before offering our opinion on these recent developments, we believe it is important to reaffirm the stance of Fripp Forward. In a recent club member meeting, Resort ownership made comments regarding this dispute over exclusivity, specifically restating that it was having a difficult time finding the motive behind our quarrel, as it has yet to take action to enforce its alleged exclusivity rights. **Our issue is and has always been with the Resort's reservation of a right that we do not believe exists.** If we fail to address this issue now that it has been asserted, we may be prevented from doing so in the future.

The current lawsuit mentioned above seeks the following Judicial determination:

- **Do the recorded covenants that govern residential properties on Fripp Island bestow upon the Resort the exclusive right to manage the rental of your home at their discretion?**
- **Do property owners have the right of personal choice regarding renting their properties, whether individually, through FIR, or through any off-island third-party rental company they desire?**

You may have attended the Resort's recent member meeting and may be scratching your head regarding these recent developments, as the Resort's owners clearly stated that they would never enforce rental exclusivity against homeowners who manage four homes or fewer. Accordingly, in fact, they are asserting exclusivity for homeowners who manage more than four homes. The Resort even went as far as to state that at the member meeting, they would commit that guarantee to writing. To date, no such writing appears to have been drafted.

### **What actually is the Resort's stance or current intentions regarding rental exclusivity?**

While the recent "promises" may have alleviated your concerns over your current ability to rent your home through the channels of your choosing, in our view, these recent statements only served to further muddy the waters, as the Resort's owners have continuously done since they took ownership in January 2023. To that end,



below is a timeline of conflicting comments from the Resort regarding their position on exclusivity. This list is not exhaustive.

**February 23, 2023** (first town hall meeting with new owners) – “Without waiving our right to do so in the future, we are not enforcing exclusivity at this time.” New owners reasserted they have the Legal Right to exclusivity and that they are “not in a position to enforce it today”. ~ Joe Guerra

**March 31, 2023** – “While we have the right to enforce our exclusivity, we do not have the present intention to do so relative to individual homeowners who manage four homes or fewer.” ~ Joe Guerra

**April 21, 2023** – “Presently, SHC intends to enforce those rights to exclusivity as to all for-profit management companies managing rentals on the island and any Fripp Island property owners managing more than four individual properties.” ~ Joe Guerra

**September 19, 2023** – “We have also been clear that we have no current intention to exercise this right with regard to the Plaintiff (Mrs. Rosenberg) or any other property owners.” ~ Joe Guerra

**April 22, 2024** – “Because exclusivity is off the table, and because it was not enforceable, and all the lawyers who have looked at this from both sides have said, OKAY this makes no sense, we will be renegotiating a new 1% agreement with the FIPOA.” ~ Joe Guerra

### **Fripp Island Resort’s (FIR’s) Claim to Estoppel**

FIR has asserted in the current litigation that all owners on Fripp Island should be barred from contesting FIR’s self-proclaimed right to exclusivity as a result of our failure to contest exclusivity in years past. FIR is basing its exclusivity on a 1983 agreement with the Fripp Island Property Owners’ Association, which, in fact, in no way grants exclusivity rights for rentals on the island. Never before has any developer asserted that they have a right to exclusively rent our properties until the new owners purchased interests in the Resort. The reason no other developer has ever asserted exclusivity is because it does not exist. Now that the new Resort’s owners have asserted exclusivity, we are compelled to have the Court make a legal determination as to our rights. If we fail to take action, as per the position of new owners we may be barred from doing so in the future from this point forward. We urge you to review FIR’s Answer to the Pleadings filed wherein they have asserted Estoppel. Estoppel is defined as a judicial device in common law legal systems whereby a court may prevent one from asserting a claim or right that contradicts what one has said or done before or what has been legally established as true.

Since exclusivity has been claimed, we cannot sit silent so as to later be estopped (prevented) from contesting exclusivity for not timely contesting their position.

We understand that many of you have invested in properties on Fripp Island with the expectation of being able to rent them out to guests, whether for short-term vacations or long-term stays. Even if you have no intentions of ever renting your home, it may be important for your home’s resale value to be able to include the benefit of independent short- or long-term vacation rental to help defray costs. Having only a monopolistic property management company to choose from may inhibit some persons seeking investment properties from considering purchasing your home or others on Fripp Island.



Another question arises regarding the Resort's claim of exclusivity, which is rarely mentioned. If FIR claims they have the exclusive right to control the rental of your home, then can they prevent it from being able to be rented?

Our goal is to ensure that property owners retain their most sacred property rights, which encompasses the flexibility and autonomy they need to make the most of their investments while also maintaining the high standards and appeal of Fripp Island as a premier vacation destination. The creation of a monopoly has many drastic repercussions regarding rental prices, high management fees, ability to control the rental of your home, ability to enter your premises, repairs performed by third parties, amenity requirements, discounts, cleaning services, lawn requirements, linen fees, pet considerations, monthly rental requirements, pest control, cable requirements, the cost to change a lightbulb, etc.

If a monopoly is formed, there will be no way to regulate fees as a result of a lack of competition. If a monopoly is formed, there will be no way for us to control pricing on the island. If a monopoly is formed, do you think home buyers or investors will want to purchase property on Fripp Island? Further, you should also understand that if there is a monopoly on rentals on Fripp Island, whatever contract they offer is the one you have to sign. If there are contents of that contract that you cannot accept, then you may be in a position where you cannot rent your home even through the Resort. In fact, what happens if the Resort refuses to allow your home to join their rental program for whatever reason? Does that then put you in the position of not being able to rent your home?

Thank you for your attention to this matter and for your continued support of Fripp Forward. Together, we will navigate through these challenges and emerge stronger than ever. We encourage you to read the pleadings of public record involving the current lawsuit available through our website at <https://www.frippforward.org> or through the court's website by searching

**Case - 2023CP0701629**

**<https://publicindex.sccourts.org/Beaufort/PublicIndex/PISearch.aspx>**

We believe that your opinions on these issues should only be made after you have been given all the available facts.

We are currently awaiting a date for mediation with the Resort on the above matter.

Thank you,

Fripp Forward, LLC

*Joan Barnes | Philip Berlinsky | Chris Cromer | Mark Rosenberg | Steve Shanks*

*Fripp Forward is a group of property owners of Fripp Island who are vigilant in protecting owners' rights. To learn more <https://www.frippforward.org> and to join this important fight.*