



Legislation Text

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**File #:** 24-1353, **Version:** 1

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**Interoffice Memorandum**

**DATE:** August 29, 2024

**TO:** Mayor Jerry L. Demings and County Commissioners

**THROUGH:** N/A

**FROM:** Tanya Wilson, AICP, Director, Planning, Environmental and Development Services Department

**CONTACT:** Joseph C. Kunkel, P.E., DRC Chairman

**PHONE:** (407) 836-7971

**DIVISION:** Development Review Committee

**ACTION REQUESTED:**

Approval and execution of Hold Harmless and Indemnification Agreement Parcel ID: 27-24-28-4340-00-010, 27-24-28-4340-00-040, 27-24-28-4340-00-050, 27-24-28-4340-00-080, and 27-24-28-4340-00-090 by and between Castleman Holdings, Inc. and Orange County, otherwise known as the Paradise Cove PD. District 1. (Development Review Committee)

**PROJECT:** Hold Harmless and Indemnification Agreement Case #HHA-24-06-142

**PURPOSE:** The Paradise Cove Planned Development (PD) is generally located at the southeast corner of Ski Holiday Drive and Lake Bryan Drive.

The Paradise Cove PD was approved by the Board on November 12, 2019, and is currently approved for a water sports rental, wedding, and banquet venue. The PD included a waiver from the Normal High Water Elevation (NHWE) setback requirements for existing structures that existed on the property at the time of approval.

Through this request, the applicant is seeking approval of a Hold Harmless and Indemnification Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the structure(s) are no closer than two feet from the NHWE of Lake Bryan, in lieu of 50 feet, as stipulated by the Board on November 12, 2019, through condition of approval #24.

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This proposed agreement received a recommendation of approval from the Development Review Committee on August 14, 2024.

**BUDGET: N/A**

BCC Mtg. Date: September 24, 2024

Instrument prepared by:  
David C. Benjamin, President  
Castleman Holdings, Inc.  
13245 Lake Bryan Dr.  
Orlando, FL 32821

Return to:  
Orange County Attorney's Office  
P.O. Box 1393  
Orlando, Florida 32802-1393

NOTICE: THIS DOCUMENT WAS ACCEPTED BY ORANGE COUNTY, FLORIDA, A GOVERNMENTAL ENTITY, AS PART OF, OR AS A CONDITION OF, A DEVELOPMENT PERMIT, DEVELOPMENT ORDER, OR OTHER LAW, REGULATION, OR REGULATORY APPROVAL AND IS NOT SUBJECT TO ALTERATION OR INVALIDATION BY THE FLORIDA MARKETABLE RECORD TITLE ACT. (See Section 712.04, Florida Statutes)

**HOLD HARMLESS AND  
INDEMNIFICATION AGREEMENT**

**Parcel ID: 27-24-28-4340-00-010, 27-24-28-4340-00-040, 27-24-28-4340-00-050, 27-24-28-4340-00-080, and 27-24-28-4340-00-090**

This Hold Harmless and Indemnification Agreement (the "Agreement") is made by and between Castleman Holdings, Inc., a Florida corporation formerly known as Water Sports Management, Inc., a Florida corporation, whose mailing address is 13245 Lake Bryan Dr. Orlando, FL 32821, (the "Property Owner") and Orange County, a charter county and political subdivision of the State of Florida, whose mailing address is P.O. Box 1393, Orlando, Florida 32802-1393 (the "County").

**WITNESSETH:**

**WHEREAS**, the Property Owner holds fee simple title to certain contiguous tracts of real property situated in Orange County, Florida, which are more particularly described in **Exhibit "A,"** attached hereto and incorporated herein by this reference (the "Property"); and

**WHEREAS**, the Property is not the homestead of the Property Owner under the laws and

constitution of the State of Florida in that the neither the Property Owner nor any member of the household of the Property Owner resides thereon; and

**WHEREAS**, the Property Owner has constructed multiple buildings (the “Improvements”) up to two (2) feet from the normal high water elevation (“NHWE”) of Lake Bryan, in lieu of the fifty (50) or the required setback distance under the respective zone district requirement per Section 38-1501, Orange County Code of Ordinances foot setback; and

**WHEREAS**, the Property Owner sought a waiver from the County to allow:

- a. A waiver from Section 38-1503 to allow for a normal high water elevation setback of two (2) feet, in lieu of a normal high water elevation setback of fifty (50) feet of Lake Bryan.

**WHEREAS**, on November 12, 2019, the Board of County Commissioners (the “Board”) granted approval of the Property Owner’s requested waiver subject to the conditions ratified or established by the Board; and

**WHEREAS**, the Property Owner understands and agrees that placing and allowing the Improvements to remain within the fifty (50) foot or the required setback distance under the respective zone district requirement per Section 38-1501, Orange County Code of Ordinances setback of the NHWE increases the risk of damage to structures, shoreline, and associated assets from flooding of Lake Bryan, as well as the risk of other losses and injuries, and, in spite of such risks, the Property Owner desires to place and allow the Improvements to remain within the setback area; and

**WHEREAS**, because this Agreement will be executed and recorded in the Public Records of Orange County, Florida, this Agreement will serve as notice that, as authorized by the waiver approved with conditions ratified or established by the Board on November 12, 2019, the

improvements are located no closer than two (2) feet from the NHWE of Lake Bryan.

**NOW, THEREFORE**, in consideration of these premises, the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Property Owner and the County hereby agree as follows:

1. **RECITALS.** The above recitals are true and correct and are hereby incorporated as a material part of this Agreement by this reference.

2. **HOLD HARMLESS AND INDEMNIFICATION.** The Property Owner, on behalf of himself and all successors, assigns, heirs, grantees, representatives, invitees, and permittees, hereby assume(s) sole and entire responsibility for any and all damage and loss to property and persons sustained as a result of the County's granting of waiver request Case Number LUP-18-09-308/District 1 on November 12, 2019. The Property Owner hereby agrees to release, indemnify, defend (with legal counsel acceptable to the County), and hold harmless the County, its Board members, officers, employees, contractors, agents, and elected and appointed officials from and against any and all claims, suits, judgments, demands, liabilities, damages, costs, and expenses (including, but not limited to, attorneys' fees, paralegals' fees, consultants' fees and costs at all administrative, pretrial, trial, and appellate levels) of any kind or nature whatsoever including, without limitation, damage and loss to property and persons arising out of or related in any way to the activities or operations on or use of the Improvements and the Property resulting from the County's granting of the waiver request Case Number LUP-18-09-308/District 1 on November 12, 2019.

3. **COVENANTS RUNNING WITH THE LAND.** This Agreement shall run with the Property, and shall be binding on all parties having any right, title, or interest in the Property

described herein or any portion thereof, and their heirs, representatives, successors, and assigns.

4. **AMENDMENT/TERMINATION.** This Agreement may be amended or terminated only by express written instrument approved by the Board and the Property Owner.

5. **APPLICABLE LAW.** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

6. **SOVEREIGN IMMUNITY.** Notwithstanding anything to the contrary herein, nothing contained in this Agreement shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. Further, the foregoing shall not constitute an agreement by the County to assume any liability of any kind for the acts, omissions, and/or negligence of the Property Owner, their successors, assigns, heirs, grantees, representatives, invitees, permittees, contractors, agents, or other representatives, or any liability related to the Improvements and the Property.

7. **RECORDATION.** An executed original of this Agreement shall be recorded, at the Property Owner's expense, in the Public Records of Orange County, Florida.

8. **EFFECTIVE DATE.** This Agreement shall become effective on the date of execution by the County or the date of execution of the Property Owner, whichever is later.

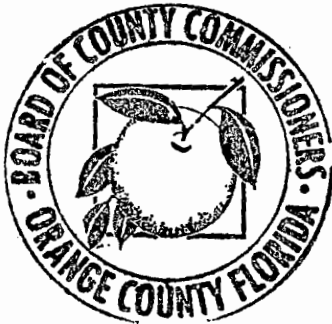
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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives on the dates set forth below.

COUNTY

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners



*Jerry L. Demings*  
for Jerry L. Demings  
Orange County Mayor

Date: September 24, 2024

ATTEST: **Phil Diamond, CPA, County Comptroller**  
As Clerk of the Board of County Commissioners

BY:

*David Rooney*  
Deputy Clerk

David Rooney  
Printed Name

[REMAINING SIGNATURE ON FOLLOWING PAGE]

Hold Harmless & Indemnification Agreement  
Castleman Holdings, Inc.  
Paradise Cove (LUP-18-09-308), 2024

Signature of TWO witnesses and their mailing addresses are required by Florida law, F.S. 695.26

[Signature]  
WITNESS #1  
Signature

Katelyn Clark  
Print Name

Mailing Address: 9 Lake George Plaza

City: Lake George State: NY

Zip Code: 12845

[Signature]  
WITNESS #2  
Signature

Tina Mattison  
Print Name

Mailing Address: 9 Lake George Plaza

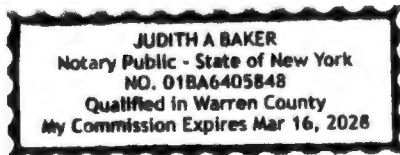
City: Lake George State: NY

Zip Code: 12845

STATE OF New York  
COUNTY OF Warren

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this 23 day of August, 2024, by David C. Benjamin, as President, of Castleman Holdings, Inc., a Florida corporation, f/k/a Water Sports Management, Inc., a Florida corporation, on behalf of the corporation. The individual  is personally known to me or  has produced driver's license as identification.

(Notary Stamp)



[Signature]  
Notary Signature

Judith A Baker  
Print Notary Name

Notary Public of: New York

My Commission Expires: March 16, 2028

PROPERTY OWNER

Castleman Holdings, Inc.,  
a Florida corporation, f/k/a Water Sports  
Management, Inc., a Florida corporation

By: [Signature] Pres.  
David C. Benjamin, President



Hold Harmless & Indemnification Agreement  
Castleman Holdings, Inc.  
Paradise Cove (LUP-18-09-308), 2024

**EXHIBIT "A"**

**THE PROPERTY**

Legal Description:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, Lake Bryan Shores, according to the plat thereof as recorded in Plat Book V, Page 28, of the Public Records of Orange County, Florida.