

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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DIVISION OF INDUSTRY SERVICES  
4822 MADISON YARDS WAY  
MADISON WI 53705  
Contact Through Relay  
<http://dsps.wi.gov/programs/industry-services>  
[www.wisconsin.gov](http://www.wisconsin.gov)



**ORDER 0007958**

**Tony Evers, Governor**

**Dawn B. Crim, Secretary**

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**NOTICE OF VIOLATIONS AND ORDERS**

April 29, 2022

TOBY WATSON  
2808 KOHLER MEMORIAL DR  
STE 1  
SHEBOYGAN, WI 53081

**SITE: TIKI BEACH BAR AND RESORT**  
**Municipality: TOWN OF OSCEOLA**  
**Location Address: W921 Kettle Moraine Lane**  
**Campbellsport, WI 53010**

**Regulated Objects:**

Nature of Complaint Summary: Property has building and plumbing code violations.

Object Type: Complaint (21 COM 112)

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**INVESTIGATION NOTES:** The Department received a complaint alleging that the resort contained building and plumbing code violations. This order stems from that investigation. Upon information and belief, the main plumbing system and commercial buildings are owned by South Pier LLC with Toby Watson as the registered agent. If this information is incorrect please contact the Department to discuss. Due to the ownership nature of this property, i.e. condominium ownership, additional orders may be necessary. It is your responsibility to hire the appropriate licensed individuals to perform the work necessary to gain compliance with this Order. Please work with the Department on how to gain compliance.

**1. Violation:** Extensive remodeling throughout the resort has been conducted recently to areas included in the main resort building footprint. These areas include but are not limited to the following:

1. Part of the banquet hall and commercial kitchen areas have been converted to condominiums. The public shower rooms were included in the scope of the alterations to the resorts water distribution and sanitary drainage systems. The total number of fixtures included in the overall scope of the alteration remodeling activities to these systems exceed the 16 allowed per SPS 382. **Plumbing plans are required to be submitted for review by DSPS.**
2. Various plumbing violations were observed throughout the resort property during inspection. **The observed violations would be corrected as a result of the plan review process.**
3. **Sizing requirements of the sanitary drain system would be addressed during the plan review process.** This would also address the sewer back up issues in the areas of the condos related to the newly installed public showers based on proper sizing and proper pitch of the sanitary drain piping.

**SPS 382.20 Plan review and cross connection control assembly registration. (1) GENERAL.** Plans and specifications shall be submitted to the department or to an approved agent municipality for review in accordance with pars. (a) and (b).

(a) Department review. Plumbing plans and specifications for the types of plumbing installations, except direct replacements, listed in Table 382.20-1 shall be submitted to the department for review, regardless of where the installation is to be located. A municipality shall be designated as an agent municipality in accordance with sub. (2). Written approval for the plumbing plans shall be obtained prior to installation of the plumbing.

Table 382.20-2, 1. New installations, additions and alterations to drain systems, vent systems, water service systems, and water distribution systems involving 16 or more plumbing fixtures to be installed in connection with public buildings.

**Required action:** submit plans to the Department concerning the plumbing work that was done throughout the resort.

**2. Violation:** Modifications were made to existing structures that impact the POWTS.

**SPS 383.03(1)(c)** Modifications to existing structures served by existing POWTS. When an addition or alteration is proposed to an existing building, structure or facility that is served by an existing POWTS and the proposed addition or alteration will result in a change that affects the wastewater flow or wastewater contaminant load beyond the minimum or maximum capabilities of the existing POWTS, the POWTS shall be modified to conform to the rules of this chapter.

**Required action:** Consult with DSPS Private Onsite Wastewater Treatment Systems (POWTS) section regarding the building modification(s).

**3. Violation:** Unsafe water supply.

**Wis. Admin. Code § SPS 382.10 Basic plumbing principles. (2) BASIC REQUIREMENTS.** (a) Every building intended for human occupancy shall be provided with an adequate, safe and potable water supply.

**Required action:** Refer the unsafe samples collected from the suspect well for investigation. The well in question is in close proximity to the septic tank serving the 4-unit apartment area of the property.

### **Building**

**Violation:** Construction performed at the site (condominium conversion at banquet hall and commercial kitchen areas) without proper plan submittal. **Plan submittal required.**

**Wis. Admin. Code § SPS 361.03 Application.**

**(1) Standards.**

(a) The design and construction of public buildings and places of employment shall comply with s. SPS 361.05, except as otherwise provided in chs. SPS 361 to 366.

(b) The codes and standards that are referenced in this chapter, and any additional codes and standards which are subsequently referenced in those codes and standards, shall apply to the prescribed extent of each such reference, except as modified by this chapter.

(c) The requirements in IBC Appendix C may be applied to certain agricultural buildings, as specified in s. SPS 362.3600 (2), in lieu of corresponding, otherwise applicable requirements of chs. SPS 361 to 366.

(8) Alterations. All portions, elements, systems or components of existing buildings and structures to be altered or modified, where the alteration or the modification affects a building element or component relating to subject matters regulated by chs. SPS 361 to 366, shall be designed, constructed, and maintained in accordance with the rules of chs. SPS 361 to 366 as the rules exist on one of the following:

(a) Pursuant to s. SPS 361.30, the date plans for the alteration or modification are approved by the department or authorized representative.

(b) The date the local building permit is issued, if plan submission and approval is not required under s. SPS 361.30.

(c) The date the alteration is initiated, where pars. (a) and (b) do not apply.

(11) Change of occupancy or use. Except as provided in sub. (12), no change may be made in the use or occupancy of any building or structure, or any space within a building or structure, that would place the building, structure or space either in a different division of the same group of occupancies or in a different group of occupancies, unless the building, structure or space complies with the requirements of chs. SPS 361 to 366 for the new division or group of occupancies, as these requirements exist on one of the following dates:

(a) Pursuant to s. SPS 361.30, the date when plans for the change in occupancy or use are approved by the department or authorized representative.

(b) The date a local building permit is issued, if plan submittal and approval is not required under s. SPS 361.30.

(c) The date construction is initiated, where pars. (a) and (b) do not apply.

(d) The date an occupancy permit is issued, where pars. (a) to (c) do not apply.

#### **Wis. Admin. Code § SPS 361.30 Plan review and approval.**

(1) Types of buildings.

(a) Except as provided in par. (b), Table 361.30-1, and sub. (4), the construction of, the alteration of, or the addition to a public building or a place of employment may not commence unless plans for the project have been submitted to and approved by the department or its authorized representative in accordance with s. SPS 361.31.

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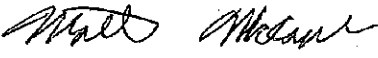
You are hereby ordered to have the installation corrected to conform to the indicated provisions of the Wisconsin Administrative Code and/or Wisconsin Statutes. This installation shall be corrected by the compliance date noted, and upon correction of violations Tony Martin, Brian Noe and I must be notified. If you fail to comply, this order is enforceable in circuit court pursuant to Wis. Stat. 101.02(13), Stats., with forfeitures ranging from \$10 to \$100 per day for each violation.

If you have any questions regarding this matter, please contact Brian Noe at (920) 420-4796 or Tony Martin at (608) 576-4925.

**Wis. Admin. Code § SPS 303.03 Permits any person affected by a rule of the department to petition for a variance of the rule. The petition needs to establish equivalency to the rule, be provided on the form from the department and be submitted with accompanying fee and municipal recommendation.**

**Wis. Stat. § 101.02(6) Any employer or other person interested either because of ownership in or occupation of any property affected by any such order, or otherwise, may petition for a hearing on the reasonableness of any order of the department in the manner provided in this subchapter. All requests**

must be received within 30 days of the date of this Order and shall set out specifically and in full detail the order upon which a hearing is desired and every reason why such order is unreasonable, and every issue to be considered by the department on the hearing. The petitioner shall be deemed to have finally waived all objections to any irregularities and illegalities in the order upon which a hearing is sought other than those set forth in the petition.

|  |            |                                   |
|--|------------|-----------------------------------|
| ATTORNEY NAME: Matthew McCasland   |            | INVESTIGATION DATE: 8/2021        |
| PHONE/WORK HOURS: (608) 266-9814   |            |                                   |
| E-MAIL: matthew.mccasland@wisconsin.gov  |            | INVESTIGATION TYPE: Requested     |
| SIGNATURE:   | DATE:      | INVESTIGATION SOURCE: Other       |
|  | 04/29/2022 | <b>COMPLIANCE DATE: 6/15/2022</b> |
|  |            |                                   |
|  |            |                                   |

cc: Brian Noe

Lucas Dederich

Tony Martin

Phil Harkleroad



April 29, 2022

TOBY WATSON  
South Pier LLC  
2808 KOHLER MEMORIAL DR STE 1  
SHEBOYGAN, WI 53081

*Re: 21 COM 112 – TIKI BEACH BAR RESORT*

Mr. Watson:

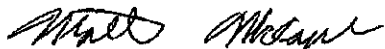
The Department of Safety and Professional Services (DPS or “The Department”) has received another complaint against your property and the condominiums at the property alleging building code and plumbing code violations. As you are aware, the Department had a previous complaint against this site and sent a letter to condominium owners, including yourself, on January 14, 2020, educating all parties involved as to the code requirements if the condominiums are being used for short-term rentals. As a reminder, any individual using their condominium as their own private residence or renting to individuals for a period of time longer than 30 days is not in violation of the code. The letter put all condominium owners on notice that if they choose to rent out their condominium for stays of less than 30 days, automatic sprinkler systems are required. I just checked your website and I see that you are renting condo 6 on your website. The Department was also made aware that you may be renting Condo 6A. Upon information and belief 6A is being advertised as livable condo but the condo does not have the appropriate escapes for fire and was built as an office space and not a living space. Please advise. Any action in violation of the building code must immediately cease. Failure to abide by the building code can lead to the Department issuing Stop Use Orders on the site which would forbid any use of the property until compliance with the building code is gained.

In addition, the Department was made aware of potential plumbing code violations. Specifically, the condos are experiencing sewer back-ups that impacts the bar, campground, restaurant as service needs to be turned off. There are questions regarding the capacity of the systems to hold up to the demand on this property during peak season. There are wells that serve the site and water samples have come back with unsafe levels for the well that serves the campground, beach bar, laundry, and condos 1,2,3,4 & 11. Based on the above the Department performed an inspection on August 4, 2021. The results of the inspection found plumbing code violations throughout the site. The Department is entering the attached Orders against the site. Please work with Tony Martin and Brian Noe on the best practices to gain compliance with the code. Their contact information is found in the Orders.

In addition, the Department is concerned that the water from the wells may not be safe and sanitary for use. Please work with the Department of Natural Resources concerning this matter. I have also reached out to the DNR to have them investigate this matter.

If you have any questions, please feel free to contact me.

Thank you,



Matthew K. McCasland

Attorney

Division of Legal Services and Compliance|Wisconsin Department of Safety and Professional Services

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P: 608-266-9814|F: 608-266-2264

E-mail: [matthew.mccasland@wisconsin.gov](mailto:matthew.mccasland@wisconsin.gov)

CC: Lucas Dederich (via email)

Brian Noe (via email)

Tony Martin (via email)



January 14, 2020

TIKI CONDOMINIUM OWNERS

*Re: 18 COM 140 – TIKI BEACH BAR RESORT*

To Whom It May Concern:

The Department of Safety and Professional Services (DPS or "The Department") has received a complaint alleging that the condominiums located at the Tiki Beach Bar Resort, W921 Kettle Moraine Lane, Town of Osceola, are in violation of the Wisconsin Commercial Building Code. The Department has opened an investigation to determine if there are building code violations, and if so, to enter Orders against the property requiring the site to become compliant with the code. This letter is being sent to provide additional information and to demand that you comply with the building code.

The investigation has found that there are potentially six (6) condominiums at W921 Kettle Moraine Lane that may be available for rent to individuals for less than 30 days. The Department is sending this letter to the six condominium owners in order to educate all parties involved as to the code requirements if the condominiums are being used for short-term rentals.

Upon information and belief these condominiums were constructed as part of a building previously owned by Nancy Manning. The building was sold to South Pier LLC in 2014/2015 and South Pier LLC sold individual condominiums to individuals starting in or around 2018. It is the Department's understanding that the building was originally built as an R-2 Non-Transient Occupancy Building and that the original construction for the site was done prior to 2008. The code at the time of initial construction did not require automatic sprinkler systems. It should be noted that any individual using their condominium as their own private residence or renting to individuals for a period of time longer than 30 days is not in violation of the code and this letter does not apply to your condominium as you are "grandfathered" into your condominium as allowed by Wis. Admin. Code § SPS 361.03(13).

According to the IBC, an R-2 rating focuses on "the length of the occupants' stay plus the arrangement of the facilities provided. The occupants are primarily non-transient. An R-1 rating applies when occupants are considered transient in nature (i.e. those whose length of stay is not more than 30 days). There is an expectation that the occupants are not as familiar with the building as those residents in nontransient facilities." *See generally* IBC 310.4, 310.3.

The Department was made aware that the Fond Du Lac County Health Department inspected the condominiums on July 31, 2018, and licensed 6 Tourist Rooming Houses under ATCP 72 (condominiums 1, 3, 4, 5, 8, and 9). The Department then investigated the website, [www.tikibeachrentals.com](http://www.tikibeachrentals.com), and attempted to book a rental for less than 30 days through the website. An investigator asked if it were possible to rent a condo for four days and it was stated that the investigator could rent a condo for 4 days if the condo was available. There is a preponderance of evidence that condominiums are being rented for less than 30 days and thus the condominiums would be considered R-1, transient use, and no longer considered R-2. Note, as of January 9, 2019, the website lists condominiums 1, 8, and 9 as available and condominiums 3 and 4 as reserved for the whole year. The Department takes the position that condominiums 3 and 4 being listed as rented for the whole year is a work around with the website to indicate that condominiums 3 and 4 are not being rented at this time.



This change of use from R-2 to R-1 by allowing short term rentals would require you to comply with the 2015 IBC Code which states that "An automatic sprinkler system shall be provided throughout all buildings with a Group R fire area." IBC 903.2.8. The Department considers this to be a "Change of Use" and Wis. Admin. Code § SPS 361.03(11) requires that at the time of a change of use the building be brought up to current code standards.

Based on this information the Department believes that Orders may be necessary requiring the condominiums to be sprinklered. The Department wants to provide each condominium owner the opportunity to voluntarily comply with the code or cease from renting out their condominium before entering any orders. Therefore, this letter is being sent to put all condominium owners on notice that if you choose to rent out your condominium for stays of less than 30 days, automatic sprinkler systems are required in your condominium. If you are not renting out the condominium, then you do not need to take further action as your condominium is currently in compliance with the code. **Please respond to this letter no later than February 15, 2020, with your plans for your condominium or with any other information that you believe pertinent if you believe that the Department is mistaken in its analysis.** If you choose to rent, the Department will assist you in gaining compliance with the code.

Thank you,



Matthew K. McCasland

Attorney

Division of Legal Services and Compliance|Wisconsin Department of Safety and Professional Services

P.O. Box 7190|4822 Madison Yards Way|Madison, WI 53707-7190

P: 608-266-9814|F: 608-266-2264

E-mail: [matthew.mccasland@wisconsin.gov](mailto:matthew.mccasland@wisconsin.gov)

CC: Dennis Beggs (via email)  
Brian Noe (via email)