

# BAL HARBOUR

- V I L L A G E -

OFFICE OF THE VILLAGE MANAGER

LETTER TO COUNCIL

NO. 062-2018

To: Mayor Gabriel Groisman and Members of the Village Council

From: Jorge M. Gonzalez, Village Manager

Date: April 6, 2018

Subject: **Automatic Tipping Ordinance Outreach and Implementation**

The purpose of this Letter to the Council (LTC) is to transmit to you our outreach efforts regarding the implementation of Village Code; Section 9-2 - Automatic Tip Regulations. This ordinance was approved by the Village Council at the October meeting and became effective on February 1, 2018.

In an effort to provide for the implementation of this ordinance, Village staff drafted an informational letter for all the affected establishments. The letter provided context as well as suggested actions needed to gain compliance with the ordinance. The establishments were categorized as either restaurants, hotels or condominiums. The establishments were then personally visited by the Code Enforcement Director to review the letter and answer any questions associated with the ordinance.

The six affected restaurants were all located within the Bal Harbour Shops. There were three restaurants; Makoto, Le Zoo and The Grill at Bal Harbour which do not currently add automatic tips to their bills. The remaining three restaurants; Carpaccio, Santa Fe and Zodiac only add automatic tips for groups of six or more. The ordinance allows for these tips to be mandated. All the restaurants which add automatic tips have included the required disclosures on their bills.

The three hotel properties; St. Regis, Sea View Hotel and Ritz-Carlton all add automatic tips to their food bills. All of these properties agreed to add the required disclosures as well taking measures to comply with the intent of the ordinance by adding distinctive features such as asterisks or capitalization to their bills. The challenge encountered was that costly software upgrades would be required in order to make additional changes to their existing bill formats. The remaining hotel property, Quarzo Bal Harbour, does not currently add automatic tips to their bills nor do they serve food.

There are twelve condominium properties which are all located in the Ocean Front District. There are three which do not have a restaurant associated with the property. Those

properties are the Tiffany, Plaza of Bal Harbour and the Kenilworth. The remaining nine properties all have restaurants which are associated with the property. Those properties are; Majestic, Bal Moral, Bal Harbour Tower, The Palace, Bal Harbour 101, Oceana, Bellini, Carlton Terrace and the Harbour House.

As a result of these site visits, a situation unique to the condominium properties became apparent. The condominium properties which have restaurants as accessories are only open to residents and their guests. Additionally, these properties subsidize the operation of the restaurants through the association and maintenance dues for each property. The majority of these restaurants, excluding the Carlton Terrace and Bal Harbour 101, add a service charge. The residents are credited for the amount of food they consume through a monthly statement system. The servers at these restaurants, in many instances, are not compensated through the tips but rather by receiving a higher hourly wage. On its face, it appears the intent of the ordinance did not account for this situation in where the restaurant may meet the statutory definition of a public eating establishment but is not truly open to the public. Furthermore, according to Village Code; Section 21-281(8) f - Permitted Uses, requires that any of these properties wishing to be open to the public seek Village Council approval.

The implementation has revealed that the restaurant and hotel properties have not encountered significant issues in complying with the ordinance. However, it appears the current configuration of the condominium restaurants may not be in line with the original intent of the ordinance. As such, we have prepared a modest housekeeping amendment to the ordinance which exempts the Ocean Front restaurants within residential condominium buildings as long as they exclusively serve their respective residents and their guests, but not open to the general public. The amendment will be presented at the April 17, 2018 Council meeting for your consideration.

Should you have any questions or require additional information, please contact Code Enforcement Director Mauricio Escarra or me directly.

JMG/RF/ME