

To: Dewey Beach Solicitor Fred Townsend
Town of Dewey Beach c/o Acting Town Manager Jim Dedes
Dewey Beach Town Council
Dewey Beach Board of Elections

Dear Mr. Townsend and Mr. Dedes:

This follows on your request to me dated September 5, 2020 to submit my complaint and application to you in a writing.

By way of this complaint and application I have requested that the Town ensure that the qualifications of David Moskowitz to run for Town Commissioner in the upcoming September 26 election be promptly judged by the Commissioners and, as necessary, addressed by the Board of Elections.

Simply enough, I am asking for the Town to ensure a fair upcoming election that follows the rules concerning qualification to run and to serve as a Town Commissioner.

Town Charter References

Section 5b of the Town Charter provides that:

A Resident Commissioner shall have the following qualifications: 1) shall be a bona fide resident and domiciliary of the Town; and 2) shall own real estate within the Town...

Section 5e of the Town Charter states:

If any one of the Commissioners shall, during his term of office fail to continue to be qualified as above stated, he shall *ipso facto* vacate his office.

The Commissioners shall be the judges of the qualifications of the members.
(my emphasis).

Section 7b of the Town Charter seems to indicate that a “loss of residence or freeholdership, in the Town of Dewey Beach” is a “disqualifying event” that would result in a vacancy in an office of Commissioner. It says:

In the case of a vacancy created in any office of Commissioner of Dewey Beach or in the office of Commissioner of Dewey Beach having the title of

Mayor of the Town of Dewey Beach either by death, resignation, loss of residence or freeholdership, in the Town of Dewey Beach, or other disqualifying event, or otherwise, the Commissioners of Dewey Beach shall fill such vacancy for the residue of the whole term.

Section 6c of the Town Charter:

It shall be the duty of members of the Board of Elections, as empowered by 15 Del. C. § 7501 et seq. and the ordinances of the Town, to perform prescribed duties with fidelity and without favor or electioneering to accomplish the proper conduct of municipal candidate elections within the Town of Dewey Beach. (again, my emphasis).

Document and Deed References

On August 18, 2020 David Moskowitz filed an application as candidate for the 2020 Election. This application, in its entirety is included here as **Exhibit A**.

In the application, Mr. Moskowitz lists his bona fide residence as 25 Read Ave. Unit 7, in Dewey Beach and affirmed his qualifications as a “Resident” candidate including that he is the owner of the real estate located at 25 Read Ave. Unit 7, in Dewey Beach or other real estate within the Town.

On June 3, 2020 the Sussex County Recorder of Deeds recorded a deed indicating that Mr. Moskowitz transferred ownership in his residence at 25 Read Ave, Unit 7 in Dewey Beach to Limited Liability Company called “BEACHTIME.COM, LLC.” This recorded deed is included as **Exhibit B**.

Based on my belief and review of public records, Mr. Moskowitz is not listed as the owner of real estate within the Town.

My understanding of the Town Charter sections above is that if Mr. Moskowitz ceased to be an owner of real estate within the Town as of June 3, 2020 his qualifications to continue to serve as a Resident Commissioner ceased and that office of Commissioner became *ipso facto* vacant.

My further understanding is that if Mr. Moskowitz did not restore his qualifications as of the time of his August 18, 2020 application to run and serve as Resident Commissioner in the upcoming election, then he is not eligible to appear on the ballot in the upcoming election.

Under the Town Charter, the qualifications of any current member of the Town Council is required to be “judged” by the Commissioners themselves—

presumably with Mr. Moskowitz not participating in the same. It says: "The Commissioners shall be the judges of the qualifications of the members." (my emphasis).

I respectfully request that the Council immediately schedule a special emergency meeting of the Commissioners this week to judge Mr. Moskowitz' current qualifications to continue to serve as a Resident Commissioner and judge his current qualifications to run as a Resident Commissioner and appear on the ballot in the upcoming election. Any undue delay in scheduling a special meeting could create liability for the Town since, if Mr. Moskowitz does not meet the balloting requirements, it would seriously prejudice this election, the qualified candidates and the absentee votes that are already being cast. State Open Meeting laws allow for special/emergency meetings to be held with 24 hour posting notice.

If the Commission judges that Mr. Moskowitz does not meet the qualifications to serve as a Resident Commissioner, then I ask that his August 18, 2020 application be rejected and his name removed from the ballot in the upcoming election and notice of such action be mailed to all registered voters in the town.

I thank the Commissioners for their prompt review and expeditious adjudication of this qualification issue.

And I thank the work and considerations of the individuals and volunteers of the Dewey Beach Board of Elections to ensure and "accomplish the proper conduct" of the upcoming election.

Sincerely,



David M. (Dave) Davis
Dewey Beach property owner



TOWN OF DEWEY BEACH

www.townofdeweybeach.com

CANDIDATE FILING FORM

EXHIBIT 'A'

105 Rodney Avenue
Dewey Beach, DE 19971
302-227-6363 (voice)
877-227-6331 (toll free)
302-227-8319 (fax)

Candidate Filing Forms are considered Public Information under the Delaware Freedom of Information Act.

Date 8/18/2020

I, David Moskowitz

, born on 6/22/77

Please print name as it is to appear on the ballot

Date of Birth

and residing at the following address

25 Read Ave Unit 7 Dewey Beach DE 19971
House # Street City State Zip Code

Mailing address if different from home address

Dewey Beach address if different from home address

hereby affirm that I will be at least twenty-one (21) years of age on or before the date of the election, that I will have been a qualified elector in the Town of Dewey Beach for at least one (1) year prior to the date of the election, that I have not been convicted of a felony, and that I meet all qualifications of Mayor and Commissioners, as specified in the Dewey Beach Town Charter.

Further, I hereby file as a candidate for the Office of (Mark the appropriate category) ☒ Resident or ☐ Non-resident Commissioner in the Town of Dewey Beach _____ Municipal Elections.

Year

David Moskowitz
Signature with full legal name

302-300-4000
Telephone number (Optional)

DeweyBeach2020@GMAIL.COM
E-mail Address (Optional)

DeweyBeach2020.com
Web Page Address (Optional)

Form must be notarized unless it is completed at Town Hall.

For Town Use Only

Date and time
received 8/18/20 9:30am

Received by [Signature]

Notary Information

Subscribed and sworn to before me on the following date:

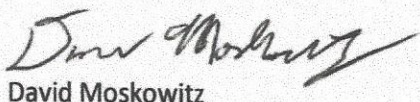
Notary Public Signature

Date

August 18, 2020

Town Manager's Office
105 Rodney Avenue
Dewey Beach, DE 19971

I intend to run for re-election to the position of Town Commissioner as a Resident in the September 2020 election.

A handwritten signature in dark ink, appearing to read "David Moskowitz", with a stylized flourish at the end.

David Moskowitz
25 Read Ave Unit 7
Dewey Beach, DE 19971

Document# 2020000023239 BK: 5248 PG: 272
 Recorder of Deeds, Scott Dailey On 6/3/2020 at 11:26:01 AM Sussex County, DE
 Consideration: \$0.00 County/Town: \$0.00 State: \$0.00 Total: \$0.00
 Doc Surcharge Paid Town: DEWEY BEACH

TAX MAP AND PARCEL #: 334-20.18-203.01 #7
 PREPARED BY & RETURN TO:
 Murray, Phillips & Gay
 215 E. Market Street
 Georgetown, DE 19947

DEED PREPARATION ONLY
 NO TITLE SEARCH REQUESTED OR PERFORMED

THIS DEED, made this 28 day of May, 2020.

-BETWEEN-

DAVID E. MOSKOWITZ of 25 Read Avenue, Unit 7, Dewey Beach, DE 19971, party of the first part;

-AND-

BEACHTIME.COM, LLC by DAVID E. MOSKOWITZ, sole member of 25 Read Avenue, Unit 7, Dewey Beach, DE 19971, party of the second part,

WITNESSETH: That the said part of the first part, for and in consideration of the sum of One Dollar and No Cents (\$1.00) lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the party of the second part, and his heirs and assigns, in fee simple, the following described lands, situate, lying and being in Sussex County Delaware:

ALL THAT CERTAIN unit known as UNIT SEVEN (7) in the condominium Project known as SEA BREEZE VILLAGE, situate lying and being in Dewey Beach, Lewes and Rehoboth Hundred, Sussex County, Delaware, fronting on the east side of Delaware State Route 1 and Read Avenue, with access to McKinley Avenue, being more particularly bounded and described in the Declaration of and for SEA BREEZE VILLAGE, dated July 6, 1984, and recorded in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware in Deed Book 1274, Page 323, &c., and in the Declaration Plan of and for SEA BREEZE VILLAGE, dated July 6, 1984, and filed for record in the Office of the Recorder of Deeds, aforesaid, in Plot Book 30, Page 233, &c., all pursuant to the provisions of the "Unit Property Act" of the State of Delaware, 25 Del.C., Section 2201, et Seq., said property being subject to a Code of Regulations of record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 1275, Page 1, &c.

TOGETHER with a proportionate undivided interest totaling eight and one-third (8 1/3) percent in all of the common elements of the said SEA BREEZE VILLAGE, as said common elements are more particularly bounded and described in the aforesaid Declaration Plan.

AND TOGETHER WITH all other rights, title, interest and privileges provided for or created by the said Unit Property Act (25 Del. C. Section 2201, et. Seq.) for and in the owners of property made subject to the provisions of the said Act.

SUBJECT, HOWEVER, to the following restrictions, covenants, or conditions:

(1) The Grantees, for and on behalf of the Grantees and the Grantees' heirs, personal representatives, successors and assigns, by the acceptance of this deed, covenant and agree to pay such charges for the maintenance of, repairs to, replacement of, and expenses in connection with the common elements as may be assessed from time to time by the Council in accordance with the "Unit Property Act" of the State of Delaware (Chapter 22 of Title 25 of the Delaware Code), and further covenant and agree that the unit conveyed by this deed shall be subject to a charge for all amounts so assessed and that, except insofar as Sections 2236 and 2237 of Title 25 of the Delaware Code may relieve a subsequent unit owner of liability for prior unpaid assessments, this covenant shall run with and bind the land or unit hereby conveyed and all subsequent owners thereof.

(2) All the rules, regulations, restrictions, covenants, or conditions duly imposed upon the property by the Declaration and any amendments thereof and the Code of Regulations of the Condominium, as the same may be from time to time further amended.

Unless the context shall indicate otherwise or unless otherwise defined, the terms used herein shall have the meanings ascribed to them in the Declaration, the Code of Regulations, or this Indenture. However, if such definition should be in conflict with the definition of such terms in the Unit Property Act, then the definition contained in the Unit Property Act, then the definition contained in the Unit Property Act shall control.

BEING the same land conveyed unto David Eric Moskowitz by Deed of Thomas N. Murphy, Robert E. Sobun and Shawn J. Murphy, dated June 21, 2013, and recorded June 24, 2013, in the Office of the Recorder of Deeds, in and for Sussex County, Delaware, in Deed Book 4140, Page 305.

SUBJECT to any and all restrictions, reservations, conditions, easements and agreements of record in the Office of the Recorder of Deeds, in and for Sussex County, Georgetown, Delaware.

THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, the party of the first part has hereunto set his hand and seal
the day and year first above written.

Witness

DAVID E. MOSKOWITZ

STATE OF DELAWARE

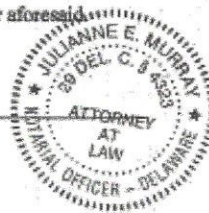
COUNTY OF SUSSEX

BE IT REMEMBERED, that on this 26 day of May, 2020;
personally came before me, the subscriber, **DAVID E. MOSKOWITZ**, party of the first part to
this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act
and deed.

GIVEN under my Hand and Seal of Office the day and year aforesaid.

THE TOWN OF DEWEY
REALTY TRANSFER TAX
SERIAL NO. 23522
AMOUNT OF TOWN TAX 0
DATE RECORDED 6-2-2020
RECEIVED BY M. Schmeyer-Lawler

Notary Public





SUSSEX COUNTY, DE
SCOTT DAILEY
Recorder of Deeds

Web Detail Report

Instrument #	Document Type	Record Date	Book / Page	Tax Map	Legal Description	Consideration
2020000023238	DEEDS-D	6/3/20 11:26 am	5248 270	334-20.14-18.00	334-20.14-18.00 LRH Unit-C-7 IZZY PLAZA	\$0.00
Grantees						
MOSKOWITZ DAVID E						
Grantors						
MOSKOWITZ DAVID E						
2020000023239	DEEDS-D	6/3/20 11:26 am	5248 272	334-20.18-203.01	334-20.18-203.01 LRH Unit-7 SEA BREEZE VILLAGE	\$0.00
Grantees						
MOSKOWITZ DAVID E						
MOSKOWITZ DAVID						

Total Documents: 2