The community of Shelter Bay is situated on about 420 acres of land, located within the Swinomish Indian Reservation at the south end of Fidalgo Island. The Shelter Bay subdivision includes 914 residential lots, a marina, a golf course, other recreational facilities and open greenbelts on a total of about 420 acres. Of this, about 20 acres (44 residential lots in Division 1) are owned by members in fee simple. The remaining 400 acres (870 residential lots in Divisions 2 through 5) are owned by the Swinomish Indian Tribal Community and are under long-term lease, through June 30, 2044, to the Shelter Bay Company. This long-term lease is referred to as the Master Lease. Shelter Bay Company is a wholly-owned subsidiary of Shelter Bay Community, Inc. (To view the actual lease, click the “Master Lease” link on the Owner/Buyer Info web page.)

Shelter Bay Company holds individual leases with the 870 residential lots in Divisions 2 through 5. These individual leases are referred to as Subleases. The terms of the subleases mirror the Master Lease, and extend through June 30, 2044.

1. How does the Lease affect my home?

The homes located in Shelter Bay Divisions 2 through 5 are situated on leased land, and are subleased from Shelter Bay Company. The subleases extend through the June 30, 2044, as does the Master Lease. There is an annual leasehold fee, which is provided in the disclosure statement. The leasehold fees will increase effective July 1, 2013, and will remain constant for ten years. The next increases will be in the years 2023, and 2033. The sublease increase is indexed to the Seattle CPI.

Sublease funds are used by Shelter Bay Company to pay the Master Lease rent to the Tribe. The Master Lease rent is adjusted on the same schedule as the subleases. The rent, however, is calculated differently than the subleases. The rent is determined as 7% of the current market value of the unimproved land, rather than being indexed to the Seattle CPI.

2. What if the new Master Lease rent is more than is collected by sublease rents?

The sublease rents are locked in by the individual sublease agreements, and will most likely not be renegotiated to a higher fee. Since the Shelter Bay Company is owned by the Community, the community HOA can decide to assess its members for the deficit balance. For the rent period of July 1, 2013 through June 30, 2023, the sublease rents collected by the Shelter Bay Company are less than the total rent amount due to the Tribe/BIA under the master lease. In past years, members of the Shelter Bay Community, Inc. have ratified an assessment for “Supplemental Rent”, which works to supplement the annual leasehold income (from sublease rents) to the Shelter Bay Company. It is highly likely that similar assessments will be approved and ratified for future years. Information on this assessment can be obtained from the Shelter Bay office:
3. Will there be an extension on the lease?

If the Master Lease is extended, the subleases will be automatically extended. Shelter Bay and the Swinomish Tribe have begun negotiations with the goal of developing a new long term Master Lease to replace the existing master leases. Representatives of the Department of the Interior are also participating in the discussions. Specifics of the lease terms require more work; they are under ongoing consideration, and will be disclosed when the parties reach agreement. A new master lease would be subject to approval by Shelter Bay Community members and by the Swinomish Tribal Senate, individual Indian Landowners, and the Department of the Interior.

4. If the lease is not extended, what will happen to our house in 2044?

Both the Master Lease and the subleases provide for the homeowner's option to remove any personal property improvements upon the leased land within 60 days after the June 30, 2044 termination of the lease. The decision to leave or remove improvements is to be made by the homeowner.

5. How does the Skagit County Treasurer Compute taxes on the leasehold property/homes?

The Skagit County Assessor considers two components to the assessed valuation of your property/home: Land Value and Building Value. On leased land in Divisions 2 through 5, the Assessor's Statement of Value will include a Land Value for information purposes, however, the Skagit County Treasurer computes taxes only on the Building Value basis.

SHELTER BAY
MASTER LEASE AND SUBLEASE OVERVIEW

This overview is provided only to inform members on the relationship between the Shelter Bay Company, Shelter Bay Community, Inc., Master Leases, and Subleases. Shelter Bay cannot guarantee its timeliness or accuracy. This overview was last updated in April 2013.

What is Shelter Bay Community, Inc., and What is Shelter Bay Company

Shelter Bay Community, Inc. is a Washington State corporation, and is the HOA. This corporation purchased the stock of Shelter Bay Company in November 2004. The Shelter Bay Company consists of the master leases and the marina improvements. The Company manages and operates the Marina facilities and bills and collects the sublease fees. Sub-lessees pay their land rent to the Company, which in turn makes the required payment to the Tribe. Also, the Company, because it holds all the subleases, approves and processes the sublease assignments and mortgage consents at the time of a refinancing or sale.

Master Lease Rent Determination

When we talk about the “Master Lease”, we are actually talking about two separate lease contracts. Lease Contract No. 5020 covers the leased land in Divisions 2, 3 and 5. Lease
Contract No. 5086 covers the leased land in Division 4. Both leases expire on June 30, 2044. (For simplification, we often use the singular term “Master Lease” to refer to both contracts.) The two leases contain identical provisions for establishing the rent due to the Tribe/Indian Owners. They specify the rent due to the Tribe/Indian Owners as 7% of the value of the raw land, and call for the parties to recalculate the raw land value every ten years between 1993 and 2044. From 1993 to 2003, the determined raw land value was $3 million, resulting in an annual rent payment of $210,000 each year for that 10-year period.

In cases where the parties are unable to agree on the raw land value, the Master Lease provides that the parties may determine the raw land value through arbitration. Both the Tribe and Shelter Bay Company agreed to use the arbitration process to determine the land value for the 2003 rental adjustment. In January 2008 the arbitration judge determined the land value to be $19.4 million, resulting in rent due under the two master leases to be $1,358,000 annually until the next ten-year adjustment in July 2013.

Shelter Bay and the Tribe/Indian Landowners worked together on determination of the land values for the 2013 rent adjustment, avoiding costly arbitration. The value increased 50% over the $19.4 million value, resulting in a final value of $29.2 million, with rent equaling $2,044,000 annually. Members of the Shelter Bay Community were asked to approve this value, which they did in a Special Election on February 20, 2013. This value will remain fixed until the 2023 rent adjustment.

**Master Lease – Sublease Relationship**

The subleases between Shelter Bay Company and Sub-Lessees also include a 10-year rent adjustment, with an adjustment date that aligns with the Master Lease. The annual sublease fees for the period 1993-2003 totaled $303,128. In July of 2003 the annual sublease fees were increased to $409,910. In July of 2013 the annual sublease fees will increase to $527,026. According to the subleases, the 10-year rent adjustment is determined by the Seattle Consumer Price Index (CPI), which is very different from the method of adjustment for the rent for the Master Leases which is 7% of the land value.

**Sublease Fees are Less than Master Lease Changes in Rent**

Beginning July 1, 2013 the rent paid to the Company by the Sub-Lessees does not cover the annual rent to the Tribe. For sublease rents paid to the Company the rent is fixed until the next adjustment in July 2023. The Company (the holder of the master lease) has turned to its holding company, Shelter Bay Community, Inc., to assist with the payment of the $2,044,000 annual rent liability each year going forward.

For the past four years, members of the Shelter Bay Community, Inc. have ratified an assessment for “Supplemental Rent”, which works to supplement the annual leasehold income (from sub-lessees) to the Shelter Bay Company. The Supplemental Rent also varies in the range of $1,000 to $3,700 per lot per year, again based on the land value of the lot. This will be a recurring assessment as long as the master lease rent exceeds the proceeds of the Company’s annual sublease fees received.

**Master Lease Extension Beyond 2044**
Shelter Bay Company has expressed the desire to have the Tribe/Indian Owners extend the terms of the Master Lease beyond June 30, 2044. An extension would help to maintain property values and facilitate buyers in securing mortgage financing. Most mortgage loan underwriters look for at least 30 years + 5 years remaining under the lease as criteria to underwrite a 30-year loan. As we have passed the 35-year underwriting countdown, the ability to get loans on the property has been somewhat diminished. Both the Tribe and Shelter Bay Company acknowledge this dilemma.

As a result, Shelter Bay and the Swinomish Tribe have begun negotiations with the goal of developing a new long term Master Lease to replace the existing master leases. Representatives of the Department of the Interior are also participating in the discussions. Specifics of the lease terms require more work; they are under ongoing consideration, and will be disclosed when the parties reach agreement. A new master lease would be subject to approval by Shelter Bay Community members and by the Swinomish Tribal Senate, individual Indian Landowners, and the Department of the Interior.