

ROZ BERMAN

President, Sun City Anthem Community Association, Inc.
2450 Hampton Road, Henderson, NV 89052
June 25, 2008

HAND DELIVERED

Director Robert Frank

CC: Director Carl Weinstein, Vice President; Director Shirley Cheri, Treasurer; Director Roger Cooper, Secretary; Director Barry Friedman and Director Mike Dixon.
2450 Hampton Road, Henderson, NV 89052

Mr. Frank:

This document is to acknowledge receipt of your e-mail messages of June 23, 2008 at 10:21 a.m. and 11:17 a.m., respectively.

In the first e-mail message that you sent to me, you requested that the Board at "an open Executive Session on June 26, 2008" agree to reimburse you for legal fees in the amount of \$28,782.20, allegedly incurred on your behalf by the law firm of Robert C. Maddox & Associates. Please be advised that your request will be placed on the agenda for the July Board of Directors meeting. Since you have requested that the issue be addressed at the open meeting, it will be placed on the agenda for the general membership meeting and not the executive session.

NRS 116.31083(12) defines an "emergency" as:

. . . any occurrence or combination of occurrences that:

- (a) Could not have been reasonably foreseen;
- (b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;
- (c) Requires the immediate attention of, and possible action by, the executive board; and
- (d) Makes it impracticable to comply with the provisions of subsection 2 or 5."

It does not appear that the issue raised in your request falls within the scope of the definition of an "emergency." Therefore, your request that the item be placed on the agenda for the June 26, 2008 Board of Directors meeting is denied. However, as noted above, the issue will be placed on the agenda for the general Board of Directors meeting scheduled for July 24, 2008.

There is one issue that needs clarification in anticipation of addressing the legal fees incurred by the Maddox law firm. The Board has received correspondence and communication indicating that Joseph P. Garin of the law firm of Lipson, Neilson, Seltzer and Garin, LLC, is representing you in the Ombudsman Intervention Action, NRED Case No. IS-07-1588. The Association's records reflect that Mr. Garin was appointed by CNA, the Association's directors' and officers' insurer, to represent you in that matter. It would appear that CNA's appointment of

Mr. Garin and his firm satisfies the requirement in the Association's governing documents and applicable provisions of Nevada law to indemnify and defend you. You are certainly free to retain the counsel of your choosing in addition to the counsel appointed by CNA, but it would be at your own expense. The Association is not obligated to reimburse you for expenses incurred by counsel of your choosing when the Association has already provided you with legal counsel. Perhaps you can explain to the Board why the Association should be responsible for the Maddox legal fees in light of Mr. Garin's representation.

In the second e-mail message that you forwarded to me, you demanded that the Board of Directors "take emergency action [no later than] June 26, 2008 to require Director Mike Dixon to terminate his . . . Intervention Affidavit that . . . led to the establishment of Nevada Real Estate Division Case IS-07-1588." You also requested that the Board schedule "an open Board Hearing to review all related facts."

The Board understands that Mr. Dixon initiated a claim with the NRED against you for allegedly violating NRS 116.3103 (breaching your fiduciary duty) and Nevada Administrative Code ("NAC") 116.405 (1) (acting outside the scope of your authority), NAC 116.405 (2) (acting for reasons of self-interest, prejudice or revenge), NAC 116.405 (3) (committing an act of incompetence or gross negligence) and NAC 116.405 (4) (disclosing confidential information). Mr. Dixon did not need nor did he receive authority from the Board to file the Ombudsman Intervention Affidavit. Thus, the Board is not in a position to take action requiring Mr. Dixon to terminate the proceeding. If the Division believes that the Ombudsman Intervention Affidavit lacks merit and does not warrant any further action, then the Board is confident that the Division will dismiss the case without any additional action by the Board or Mr. Dixon.

In your e-mail, you have requested that emergency action be taken on your request to terminate NRED Case No. IS-07-1588. I refer you to NRS 116.31083 (12), which is quoted above. Once again, it does not appear that the issue raised in your request falls within the scope of an emergency proceeding as defined in Nevada law. In fact, the Board has concluded that no action is required by the Board on this issue. Thus, the Board is not inclined to add this item to the agenda for the July 24, 2008 Board meeting. See NRS 116.31087 (2).

In your correspondence you also suggested that there is an obligation on the part of the Board to discuss the status of the Ombudsman Intervention proceedings with the membership. Quite frankly, your allegation is not consistent with Nevada law which governs Board meetings and disclosure of financial information at those meetings. NRS 116.31083(6) provides that at least every 90 days, the Board is required to discuss financial information at one of its meetings, including "the current status of any civil action or claims submitted to arbitration or mediation in which the association is a party." The Association is not a party to the Ombudsman Intervention action. Thus, it does not fall within the scope of this statutory provision. If you believe that there are some other statutory provisions that address this issue, then please feel free to resubmit your request with a reference to the authority that you are relying upon.

I hope that this addresses the issues and concerns that you raised in your messages. If you have any other questions, then please do not hesitate to communicate with me.

Sincerely

Roz Berman
SCA CAI President

June 25, 2008

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