

BEFORE THE COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM HOTELS
STATE OF NEVADA

JOSEPH (J.D.) DECKER, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Case No. IN-1650 (2013-1203)

Petitioner,

vs.

222 INCLINE COURT, LLC; FALCON
CAPITAL, LLC; GORDON R. LANE; and
GLENN HARTMAN,

Respondents.

FILED

DEC 01 2015

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND ORDER

This matter came on for hearing before the Commission for Common-Interest Communities and Condominium Hotels, Department of Business and Industry, State of Nevada (the "Commission"), during its regular meeting on November 18, 2015 at 1818 E. College Pkwy, 1st Floor Hearing Room, Carson City, Nevada and video conferenced to 2501 E. Sahara Ave., 2nd Floor, Las Vegas, Nevada. The Respondents 222 Incline Court, LLC and Glenn Hartman failed to appear or answer the complaint on file herein. Michelle D. Briggs, Esq., Senior Deputy Attorney General with the Nevada Attorney General's Office, appeared on behalf of the Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division").

Ms. Briggs requested that the Commission issue a default against Respondents 222 Incline Court, LLC and Glenn Hartman. The Commission, satisfied that notice to 222 Incline Court, LLC and Glenn Hartman was proper and no good cause existed for Respondents' failure to attend or answer the complaint, entered a default against Respondents 222 Incline Court, LLC and Glenn Hartman. The Commission enters the following Findings of Fact, Conclusions of Law, and Order. Under Nevada Revised Statutes (NRS) and Nevada

1 Administrative Code (NAC) Chapter 116 and 116A, the Commission has legal jurisdiction and
2 authority over this matter.

3 **FINDINGS OF FACT**

4 In accordance with NAC 116.585, the Commission considers the following factual
5 allegations to be true.

6 1. Northwood Unit-Owners' Association (the "Association") created in 2008 governs
7 property consisting of 8 condominium units.

8 2. The condominium units are located in two buildings that were built in 2006 and
9 sold beginning in 2011.

10 3. According to the Declaration of Covenants, Conditions and Restrictions for
11 Northwood Condominiums (CC&R's) recorded December 2, 2008 the buildings were
12 converted to condominiums and RESPONDENT 222 INCLINE COURT, LLC is the declarant.

13 4. An amendment by re-recording of the CC&R's on March 13, 2009 includes a
14 handwritten strike through of RESPONDENT 222 INCLIDE COURT, LLC to state
15 RESPONDENT FALCON CAPITAL, LLC.

16 5. RESPONDENT FALCON CAPITAL, LLC was the owner of the property which
17 became subject to the CC&R's until it transferred the property to RESPONDENT 222
18 INCLINE COURT, LLC by deed recorded November 19, 2009.

19 6. RESPONDENT 222 INCLINE COURT, LLC sold the condominium units to
20 buyers beginning in 2011.

21 7. RESPONDENT GORDON R. LANE is the managing member of RESPONDENT
22 FALCON CAPITAL, LLC.

23 8. RESPONDENT GLENN HARTMAN is the managing member of RESPONDENT
24 222 INCLINE COURT, LLC.

25 9. RESPONDENTS GLENN HARTMAN and GORDON R. LANE are listed as the
26 board members and officers of the Association in the Initial Association Registration form
27 submitted to the Division on or about October 27, 2008.

28 10. The Initial Registration Form lists RESPONDENT FALCON CAPITAL, LLC as
the declarant and custodian of records.

1 11. Seventy-five percent of the units were sold as of April 20, 2012.

2 12. Transition of control of the Association's board occurred on October 19, 2012.

3 13. On March 18, 2013, the Association's board president filed an intervention
4 affidavit against the declarant alleging noncompliance with the turnover requirements of NRS
5 116.31038.

6 14. The Association states that it did not receive original governing documents, as
7 built landscape plans, audited financial statements from the date the Association received
8 money, a reserve study prepared by a reserve study specialist, funded reserve account,
9 disclosure of subsidized amounts, personal property, plans and specifications of the
10 improvements, certificates of occupancy, renewable permits and approvals, warranties from
11 subcontractors, roster of owners and mortgage holders, contracts, conveyance of common
12 elements to the Association, or the public offering statement.

13 15. The Association had a reserve study prepared by a reserve study specialist as
14 of January 22, 2013 which concluded the reserve beginning balance should be \$125,000, but
15 it had just over \$12,000.

16 16. RESPONDENT GORDON R. LANE denied any knowledge about the
17 Association stating he was the original developer of the units, but not part of the condominium
18 conversion.

19 RESPONDENT GORDAN R. LANE signed the re-recorded CC&R's on March 13, 2009 which
20 lists RESPONDENT FALCON CAPITAL, LLC as the declarant.

21 17. Attorneys for RESPONDENT GLENN HARTMAN object to having 222 INCLINE
22 COURT, LLC referred to as the declarant, but do agree to provide what documents they have.
23 RESPONDENT 222 INCLINE COURT, LLC sold the units in the Association under a common
24 promotional plan to sell all the units not previously sold, which is the definition of "declarant"
25 under NRS 116.035, and is still the owner of the common element parcel.

26 **CONCLUSIONS OF LAW**

27 The Commission concludes the following violations of law have been proven by a
28 preponderance of the evidence as to 222 Incline Court, LLC and Glenn Hartman:

1 18. RESPONDENTS knowingly and willfully violated NRS 116.310395 by failing to
2 fund the converted building reserve deficit at the time of each close of escrow of a unit in the
3 Association.

4 19. RESPONDENTS violated NRS 116.31038(1) by failing to provide the original or
5 a certified copy of the recorded declaration as amended, the articles of incorporation, articles
6 of association, articles of organization, certificate of registration, certificate of limited
7 partnership, certificate of trust or other documents of organization for the association, the
8 bylaws, minute books and other books and records of the association and any rules or
9 regulations which may have been adopted.

10 20. RESPONDENTS violated NRS 116.31038(2) by failing to provide an accounting
11 for money of the Association and audited financial statements for each fiscal year and any
12 ancillary period from the date of the last audit of the Association to the date the period of the
13 declarant's control ends.

14 21. RESPONDENTS violated NRS 116.31038(3) by failing to provide a complete
15 study of the reserves of the Association, conducted by a person who is registered as a
16 reserve study specialist pursuant to chapter 116A of NRS.

17 22. RESPONDENTS violated NRS 116.31038(3)(a) and (b) by failing to provide a
18 reserve account with declarant's share then due and by failing to disclose the amount the
19 declarant subsidized the Association's dues on a per unit basis.

20 23. RESPONDENTS violated NRS 116.31038(5) by failing to provide all of the
21 declarant's tangible personal property that has been represented by the declarant as property
22 of the Association or, unless the declarant has disclosed in the public offering statement that
23 all such personal property used in the common-interest community will remain the declarant's
24 property, all of the declarant's tangible personal property that is necessary for, and has been
25 used exclusively in, the operation and enjoyment of the common elements, and inventories of
26 the properties.

27 24. RESPONDENTS violated NRS 116.31038(6) by failing to provide a copy of any
28 plans and specifications used in the construction of the improvements in the common-interest
community which were completed within 2 years before the CC&R's were recorded.

1 committing the violations of law, plus \$4,515.86 for the Division's attorney's fees and costs.
2 The total fine shall be paid within 30 days of the date of this Order. Respondents 222 Incline
3 Court, LLC and Glenn Hartman are jointly and severally liable for the total fine.

4 2. Respondent 222 Incline Court, LLC shall transfer the common area parcel with
5 Washoe County Assessor's parcel number 124-911-01 currently in the name of 222 Incline
6 Court, LLC to the Northwood Unit-Owners' Association within 30 days of the date of this
7 Order.

8 3. Respondents 222 Incline Court, LLC and Glenn Hartman shall pay to Northwood
9 Unit-Owners' Association c/o Incline Property Management, 848 Tanager Street, Suite M,
10 Incline Village, NV 89451 the sum of \$102,802.01 within 30 days of the date of this Order.
11 Respondents 222 Incline Court, LLC and Glenn Hartman shall be jointly and severally liable
12 for the sum due to the Association.

13 4. The Division may institute debt collection proceedings for failure to timely pay the
14 total fine. Further, if collection goes through the State of Nevada, then Respondents 222
15 Incline Court, LLC and Glenn Hartman shall also pay the costs associated with collection.

16 DATED this 24th day of November, 2015.

18 COMMISSION FOR COMMON-INTEREST
19 COMMUNITIES AND CONDOMINIUM
20 HOTELS DEPARTMENT OF BUSINESS &
21 INDUSTRY STATE OF NEVADA

21 By: 
22 SCOTT SIBLEY, CHAIRMAN

23 Submitted by:
24 ADAM PAUL LAXALT
25 Attorney General

26 By: 
27 MICHELLE D. BRIGGS
28 Senior Deputy Attorney General
555 East Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
Attorney for Real Estate Division

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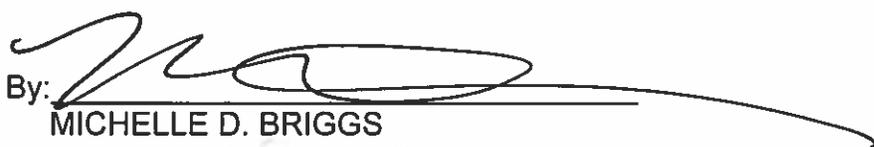
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20 HOTELS DEPARTMENT OF BUSINESS &
INDUSTRY STATE OF NEVADA

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