

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-1620

Petitioner,

vs.

FILED

DEC 01 2015

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

COTTONWOOD COURT TOWNHOMES
HOMEOWNERS' ASSOCIATION, INC.;
ANN TISUE; GILBERT TISUE; and
WILLIAM MASTON,

Respondent.

FINDINGS OF FACT, 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 a regular agenda on November 17, 2015. The Respondent, Cottonwood Court Townhomes Homeowners' Association, Inc. (the "Association") appeared through its counsel, Peter Smith, Esq. Respondents Ann Tisue, Gilbert Tisue, and William Maston did not appear either in person or through counsel. 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").

The parties present agreed to stipulate to the facts alleged in the Complaint. Evidence was provided to the Commission that the Association obtained a reserve study performed by a reserve study specialist in 2015 and submitted the reserve study to the Division. The reserve study states that the Association is underfunded by the amount of \$31,897.08. Mr. Smith represented to the Commission that the Association collects \$40 per month per unit to be paid

1 to the reserve account. The reserve study provides that the reserve assessment should be
2 \$62.51 per month if the shortfall is paid and that \$91.83 per month should be paid if the
3 shortfall is not paid. Present at the hearing was a new board member, Paul Gore, who
4 purchased units from Respondents after the Complaint was filed.

5 The Commission, given the stipulation to factual allegations and the reserve study
6 produced by Respondents, and being fully advised, enters the following Findings of Fact,
7 Conclusions of Law, and Order.

8 JURISDICTION

9 ANN TISUE, GILBERT TISUE, and WILLIAM MASTON are, and were at all relevant
10 times mentioned in this complaint, members of the executive board for COTTONWOOD
11 COURT TOWNHOMES HOMEOWNERS' ASSOCIATION, INC. (the "Association") located in
12 Carson City, State of Nevada. Under Nevada Revised Statutes (NRS) and Nevada
13 Administrative Code (NAC) Chapter 116 and 116A, the Commission has legal jurisdiction and
14 authority over this matter.

15 FINDINGS OF FACT

16 The parties present at the hearing stipulated to the factual allegations in the Complaint,
17 based on a preponderance of the evidence, the following findings of fact have been proven:

18 1. By letter dated November 2, 2012, the Division notified RESPONDENTS ANN
19 TISUE, GILBERT TISUE, and WILLIAM MASTON that the Division was investigating a
20 possible violation of NRS 116.31152 based on the Reserve Study Summary Form #609
21 submitted on behalf of the Association.

22 2. The Association's attorney responded to the Division.

23 3. Through its attorney, the Association contends that it does not need to maintain
24 a separate reserve account in accordance with NRS 116.31152, because while there are 13
25 residential units, there are only two owners.

26 4. The owners agreed to pay for repair and replacement of major components
27 through one-time assessments as the expense occurs.

28 5. The Association does not have a reserve study.

6. The Association does not fund a reserve account.

