

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**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,

Petitioner,

vs.

MAX MCCOMBS; and ENGLISH MILL
CONDOMINIUMS HOMEOWNERS
ASSOCIATION,

Respondent.

Case No. 2014-1179

FILED

OCT 15 2015

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

**COMPLAINT FOR DISCIPLINARY
ACTION AND NOTICE OF HEARING**

The Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Michelle D. Briggs, Senior Deputy Attorney General, hereby notifies Respondents MAX MCCOMBS and ENGLISH MILL CONDOMINIUM HOMEOWNERS ASSOCIATION of an administrative hearing before the Commission for Common-Interest Communities and Condominium Hotels, State of Nevada, which is to be held pursuant to Chapters 233B and 116 of the Nevada Revised Statutes ("NRS") and Chapter 116 of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if an administrative penalty will be imposed on the RESPONDENT pursuant to the provisions of NRS and NAC including, but not limited to, NRS 116.785 and NRS 116.790.

JURISDICTION AND NOTICE

1. During the relevant times mentioned in this complaint, RESPONDENT MAX MCCOMBS was an officer and director of ENGLISH MILL CONDOMINIUM HOMEOWNERS ASSOCIATION which governs a common interest community located in Reno, Nevada.

1 by letter dated August 25, 2014 to the Division's education officer.

2 15. The Association does not have regular meetings of the board or annual
3 meetings of the owners.

4 16. The Association is in permanently revoked status with the Nevada Secretary of
5 State.

6 17. The Association does not have a reserve study or reserve funds.

7 18. The Association charges an assessment of \$50 per month.

8 19. The minutes and budgets supplied to the Division by RESPONDENT MAX
9 MCCOMBS appear to have been created just to satisfy the Division's requests.

10 20. The Association owes the Division approximately \$438.54 in unit fees, late
11 charges and interest.

12 **VIOLATIONS OF LAW**

13 21. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS
14 116.3103 by failing to transition the Association to the owners in accordance with NRS
15 116.31038 and NRS 116.31032.

16 22. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS
17 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to
18 incompetence, negligence or gross negligence by failing to have annual meetings and
19 elections for the board.

20 23. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS
21 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to
22 incompetence, negligence or gross negligence by failing to have a reserve study performed.

23 24. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS
24 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to
25 incompetence, negligence or gross negligence by failing to cause the Association to have an
26 adequately funded reserve account.

27 25. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS
28 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to

1 incompetence, negligence or gross negligence by failing to cause the Association to file
2 annual registration forms with the Division required by NRS 116.31158 and pay the fees
3 required by NRS 116.31155.

4 26. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS
5 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to
6 incompetence, negligence or gross negligence by failing to cause the Association to file an
7 annual list of officers and directors with the Nevada Secretary of State's Office.

8 27. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS
9 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to
10 incompetence, negligence or gross negligence by failing to have annual meetings of the
11 owners in accordance with NRS 116.3108.

12 28. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS
13 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to
14 incompetence, negligence or gross negligence by failing to have board meetings in
15 accordance with NRS 116.31083.

16 29. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS
17 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to
18 incompetence, negligence or gross negligence by failing to prepare a budget in accordance
19 with NRS 116.31151.

20 30. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS
21 116.3103 (through NAC 116.405(5)(a)) by impeding or otherwise interfering with an
22 investigation of the Division by failing to comply with a request by the Division.

23 31. RESPONDENT MAX MCCOMBS knowingly and willfully violated NRS
24 116.3103 (through NAC 116.405(5)(b)) by impeding or otherwise interfering with an
25 investigation of the Division by supplying false or misleading information to an investigator.

26 **DISCIPLINE AUTHORIZED**

27 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS
28 116.790 the Commission has discretion to take any or all of the following actions:

- 1 1. Issue an order directing RESPONDENTS to cease and desist from continuing to
- 2 engage in the unlawful conduct that resulted in the violation.
- 3 2. Issue an order directing RESPONDENTS to take affirmative action to correct any
- 4 conditions resulting from the violation.
- 5 3. Impose an administrative fine of up to \$1,000 for each violation by RESPONDENTS.
- 6 4. IF RESPONDENT MAX MCCOMBS IS FOUND TO HAVE KNOWINGLY AND
- 7 WILLFULLY COMMITTED A VIOLATION of NRS or NAC 116 AND it is in the best
- 8 interest of the Association, such RESPONDENT may be removed from his/her position
- 9 as a director and/or officer.
- 10 5. Order an audit of the ASSOCIATION, at the expense of the ASSOCIATION.
- 11 6. Require the BOARD to hire a community manager who holds a certificate.
- 12 7. Require RESPONDENTS to pay the costs of the proceedings incurred by the Division,
- 13 including, without limitation, the cost of the investigation and reasonable attorney's
- 14 fees.
- 15 8. Take whatever further disciplinary action as the Commission deems appropriate.

16 The Commission may order one or any combination of the discipline described above.

17 If the Commission finds that the RESPONDENTS knowingly and willfully violated the

18 provisions of NRS or NAC 116, the Commission may order that RESPONDENTS be

19 personally liable for all fines and costs imposed.

20 NOTICE OF HEARING

21 PLEASE TAKE NOTICE, that a disciplinary hearing has been set to consider this

22 Administrative Complaint against the above-named RESPONDENTS in accordance with

23 Chapters 233B and 116 and 116A of the Nevada Revised Statutes and Chapters 116 and

24 116A of the Nevada Administrative Code.

25 THE HEARING WILL TAKE PLACE at the Commission meeting scheduled for

26 November 17-19, 2015 beginning at 9:00 a.m. each day or until such time as the Commission

27 concludes its business. The Commission meeting on November 17, 2015, will be located at

28 the Nevada State Gaming Control Board, 1919 College Parkway, Carson City, Nevada

1 89706, with videoconferencing to the Nevada State Gaming Control Board at the Grant
2 Sawyer Building, 555 E. Washington Ave., Room 2450, Las Vegas, Nevada 89101. The
3 Commission meeting on November 18 and 19, 2015, will be located at the State of Nevada,
4 Department of Business and Industry, Division of Insurance, 1818 East College Parkway, 1st
5 floor Hearing Room, Carson City, Nevada 89706, with videoconferencing to the Department
6 of Business and Industry, 2501 E. Sahara Avenue, 2nd Floor Conference Room, Las Vegas
7 Nevada 89104.

8 STACKED CALENDAR: Your hearing is one of several hearings that may be
9 scheduled at the same time as part of a regular meeting of the Commission that is expected
10 to take place on November 17-19, 2015. Thus, your hearing may be continued until later in
11 the day or from day to day. It is your responsibility to be present when your case is called. If
12 you are not present when your hearing is called, a default may be entered against you and
13 the Commission may decide the case as if all allegations in the complaint were true. If you
14 need to negotiate a more specific time for your hearing in advance because of coordination
15 with out of state witnesses or the like, please call Claudia Rosolen, Commission Coordinator,
16 at (702) 486-4606.

17 YOUR RIGHTS AT THE HEARING: Except as mentioned below, the hearing is an
18 open meeting under Nevada's open meeting law, and may be attended by the public. After
19 the evidence and arguments, the commission may conduct a closed meeting to discuss your
20 alleged misconduct or professional competence. A verbatim record will be made by a certified
21 court reporter. You are entitled to a copy of the transcript of the open and closed portions of
22 the meeting, although you must pay for the transcription.

23 As a RESPONDENT, you are specifically informed that you have the right to appear
24 and be heard in your defense, either personally or through your counsel of choice. At the
25 hearing, the Division has the burden of proving the allegations in the complaint and will call
26 witnesses and present evidence against you. You have the right to respond and to present
27 relevant evidence and argument on all issues involved. You have the right to call and
28 examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter

1 relevant to the issues involved.

2 You have the right to request that the Commission issue subpoenas to compel
3 witnesses to testify and/or evidence to be offered on your behalf. In making this request, you
4 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
5 Other important rights and obligations, including your obligation to answer the complaint, you
6 have are listed in NRS Chapter 116 and NAC Chapter 116, including without limitation, NRS
7 116.770 through 116.780, and NAC 116.500 through NAC 116.635 and NRS Chapter 233B.

8 Note that under NAC 116.575, not less than five (5) working days before a hearing,
9 RESPONDENTS must provide to the Division a copy of all reasonably available documents
10 that are reasonably anticipated to be used to support his position, and a list of witnesses
11 RESPONDENTS intend to call at the time of the hearing. Failure to provide any document or
12 to list a witness may result in the document or witness being excluded from RESPONDENTS'

13 ///

14 ///

15 ///

16

17

18

19

20

21

22

23

24

25

26

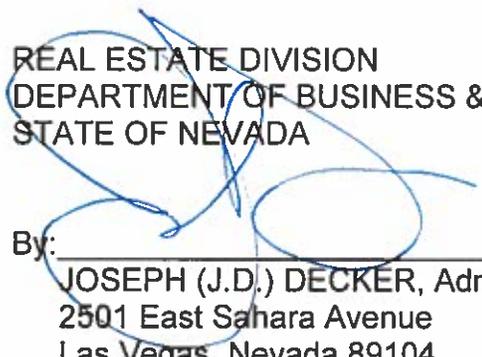
27

28

1 defense. The purpose of the hearing is to determine if the RESPONDENTS have violated the
2 provisions of Chapter 116, and to determine what administrative penalty is to be assessed
3 against RESPONDENTS.

4 DATED this 15th day of October, 2015.

5
6 REAL ESTATE DIVISION
7 DEPARTMENT OF BUSINESS & INDUSTRY
8 STATE OF NEVADA

9 By: 
10 JOSEPH (J.D.) DECKER, Administrator
11 2501 East Sahara Avenue
12 Las Vegas, Nevada 89104
13 (702) 486-4033

14 ADAM PAUL LAXALT
15 Attorney General

16 By: 
17 MICHELLE D. BRIGGS
18 Senior Deputy Attorney General
19 555 East Washington Avenue, Suite 3900
20 Las Vegas, Nevada 89101
21 (702) 486-3809
22 Attorneys for Real Estate Division
23
24
25
26
27
28