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

JOSEPH (J.D.) DECKER, ADMINISTRATOR REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA, Petitioner, v. MAX MCCOMBS; AND ENGLISH MILL CONDOMINIUMS HOMEOWNERS ASSOCIATION, Respondent.	Case No.: 2014-1179

FILED
NOV 12 2015
NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

ANSWER TO COMPLAINT FOR DISCIPLINARY ACTION AND NOTICE OF HEARING FILED OCTOBER 15, 2015

MAX MCCOMBS (hereinafter "McCombs") and ENGLISH MILL CONDOMINIUMS HOMEOWNERS ASSOCIATION (hereinafter "Association" and collectively as "Respondents") answer the Complaint for Disciplinary Action and Notice of Hearing filed on October15, 2015 filed by the Real State Division, Department of Business and Industry, State of Nevada (hereinafter "Division") as follows:

JURISDICTION AND NOTICE

1. Respondents acknowledge that McCombs is an Officer and Director of the Association.

2. Respondents acknowledge that they are subject to the provisions of Chapter 116 of the Nevada Revised Statutes.

FACTUAL ALLEGATIONS

3. Respondents acknowledge governs a 30-unit condominium project built in 1986.
4. Respondents acknowledge that McCombs is the sole board member of the Association.
5. Respondents acknowledge the Association is self-managed.
6. Respondents acknowledge their failure to submit the annual fee due to the Ombudsman's Office in 2011 with its annual registration form. Respondents were unaware of the fee.
7. Respondents have no knowledge of a letter sent by the Division dated May 25, 2011.
8. Respondents have no knowledge of the actions of the Division as stated in this paragraph.
9. Respondents have no knowledge of a letter sent to the Association dated October 19, 2011.
10. The Division did not receive a response from Respondent's as Respondents had no knowledge of any letters which required a response.
11. Respondents acknowledge that an annual registration form has not been sent to the Division since 2011. McCombs took over management of the Association from his brother, and was unaware of the requirement for the form.
12. Respondents concede that the Association opened an investigation, but have no knowledge of any details of the timing. Respondents have no knowledge of a letter from the Division dated April 8, 2014.

13. Respondents acknowledge receipt of a letter from the Division dated June 26, 2014 from the Division.

14. Respondents acknowledge that McCombs responded to the Division with all information available to Respondents on August 2, 2014 to the Division's education officer.

15. Respondents acknowledge that they do not have regular meetings of the Board or an annual meeting of Officers with anyone present except McCombs. Respondents have asked other unit owners in the Association to become Board members, but the owners are either elderly, college age students, or young families, and none have had any interest in the day-to-day running of the Association.

16. Respondents acknowledge that the Association was in permanently revoked status with the Nevada Secretary of State, but McCombs has taken care of any deficiencies the Secretary of State has deemed necessary, and is now in compliance once again. The Real Estate Division has frozen the Association's status.

17. Respondents acknowledge the Association has had no reserve study in the past. There are reserve funds of approximately $2,500. The majority of the unit owners in the Association are elderly and live on a fixed income, college age students, or very young families. It has been Respondents' policy to keep the Association fees as low as possible so that the unit owners can afford to live there. Most capital improvements and property management duties come directly from the pocket of McCombs. The Association fees cover the outside electric costs, water, and landscaping only. All other capital investment has been paid for by McCombs personally. McCombs has contacted Resource 1, a reserve study specialist, to do a

reserve study for the Association. The reserve study was completed as of November 4, 2015.

18. Respondents acknowledge the Association fees are $50.00 per month for unit owner. However, due to the economic circumstances of many owners, there are a few unit owners who have not paid Association fees in many years, and some who will never be able to pay the Association fees.

19. The minutes and budgets have been in existence since the dates of the meetings, and the creation of the budgets. Unit owners have always been informed of the availability of the minutes and budgets. Respondents acknowledge, however, that the minutes and budgets were made in a more formal manner when the Division requested the documents.

20. Respondents acknowledge the debt to the Division in the sum of $438.54 in unit fees, late charges, and interest, and stands ready to make that payment.

VIOLATIONS OF LAW

21. Respondents deny McCombs knowingly and willfully violated NRS 116.3103 by failing to transition the Association to the owners in accordance with NRS 116.31038 and NRS 116.31032. McCombs attempted on several occasions to interest the unit owners in becoming members of the Board, but no unit owner has ever shown any interest in becoming a board member, and many, in fact, actively denied any interest in the workings of the Association.

22. Respondents deny McCombs knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence, or gross negligence by failing to have annual meetings and

elections for the board. As previously stated, there was a genuine lack of interest by the unit owners to become members of the board, so annual meetings would be superfluous. McCombs sat down annually to go over the business of the Association, and created minutes and budgets to keep the unit owners informed of what the physical and financial condition of the Association was. Also as previously stated, there was a genuine lack of interest by the unit owners to become involved in the running of the Association, so annual meetings were not formally called, even though McCombs would inform the unit owners that they were more than welcome to become involved in the business of the Association. McCombs will have, however, by the time of the hearing in this matter, sent formal letters to each unit owner that an annual meeting will be held on December 5, 2015, 5:0 p.m. at 1655 Heitman Court, Reno, NV 89509. A questionnaire will be enclosed with this letter to each unit owner asking them to formally state their interest in becoming a member and/or officer of the Board of the Association.

23. Respondents deny McCombs knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence, or gross negligence by failing to have a reserve study performed. It has always been McCombs' understanding that due to the small size of the Association and the small budget for the Association that he was exempt from needing a reserve study or reserve account. The requirement for audit and review of financial statements per NRS 116.31144 starts at an annual budget of $45,000 per year. If everyone in the Association paid their dues, the annual budget of the Association would be approximately $18,000. Therefore, the Association is exempt

from review of an independent certified public accountant. McCombs believed that exemption ran to reserve study and reserve account requirements.

Capital improvements were never skimped on in the Association, and all capital improvements – reroofing all three buildings, painting the exteriors of all three buildings, replacing stairs, etc., were made by McCombs himself from his personal funds. The Association members were never assessed for these capital improvements.

24. Respondents deny McCombs knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence, or gross negligence by failing to cause the Association to have an adequately funded reserve account. As previously stated McCombs' understanding was that due to the small size of the Association and the small budget for the Association he was exempt from needing a reserve account. McCombs was trying to keep the costs affordable for his unit owners, who are mostly college-aged youth, young families, or the elderly on fixed incomes, and did not wish to burden them with the costs of capital improvements if he could keep from doing so. All capital improvements were paid by McCombs personally, and the Association's grounds are very well kept, safe, and affordable for his unit owners. Any increase in assessments or any special assessments may make owning the units for the unit owners very difficult, if not impossible, and McCombs felt he had the means to take care of those issues personally.

25. Respondents deny McCombs knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to

incompetence, negligence, or gross negligence by failing to file annual registration forms with the Division required by NRS 116.318 and pay the fees required by NRS 11.31155. McCombs was unaware of the requirement for these forms or fees, but now that he is aware, he stands willing and able to file the forms and pay the fees necessary to bring the Association into compliance.

26. Respondents deny McCombs knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence, or gross negligence by failing to cause the Association to file an annual list of officers and directors with the Nevada Secretary of State. McCombs was unaware of the necessity to file these forms each year, as he thought he only needed to file the forms if there were any changes. Now that he is aware, he stands willing and able to file the forms and pay the fees necessary to bring the Association into compliance.

27. Respondents deny McCombs knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence, or gross negligence by failing to have annual meetings of the owners in accordance with NRS 116.3108. As previously stated, there was a genuine lack of interest by the unit owners to become involved in the running of the Association, so annual meetings would be superfluous. McCombs will have, however, by the time of the hearing in this matter, sent formal letters to each unit owner that an annual meeting will be held on December 5, 2017, 6:30 p.m. at 1655 Heitman Court, Reno, NV 89509.

28. Respondents deny McCombs knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence, or gross negligence by failing to have board meetings in accordance with NRS 116.31083. As stated previously, there have been no unit owners who, after being requested by McCombs, has shown an interest in being a member of the Board or being an officer of the Board of the Association. Meetings, therefore, would have been superfluous. McCombs did, however, write up annual meeting minutes and created annual budgets. These minutes and budgets included all business of Association, the financial condition of the Association, and what repairs were needed to be done on Association communal property immediately and in the future.

29. Respondents deny McCombs knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence, or gross negligence by failing to prepare a budget in accordance with NRS 116.31151. McCombs has prepared a budget every year, and notified each unit owner of the existence of the budget. He informed each unit owner that if they wanted a copy of the budget, they could request it from him and he would supply it to them. Very few, if any unit owners have requested to see the budget, even though it does exist, the unit owners were aware of its existence, and the budget has existed every year McCombs has been with the Association.

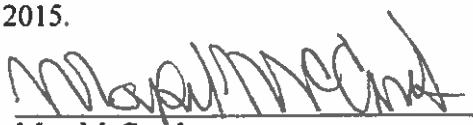
30. Respondents deny McCombs knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence, or gross negligence by failing to comply with the requests

of the Division. McCombs has complied with each request by the Division that he has been aware of. If his responses are incomplete, it is because it is a small Association and some of the records requested need to be compiled from other records of the Association. This task is ongoing, and McCombs expects to have complied with each request by the time of the hearing scheduled in this matter.

31. Respondents deny McCombs knowingly and willfully violated NRS 116.3103 (through NAC 116.405(3)) by committing an act or omission which amounts to incompetence, negligence, or gross negligence by supplying false or misleading information to an investigator. Actually, McCombs has been extremely honest in his dealings with the Division. When they requested a record, and he had no knowledge of what the record they were requesting was, he very honestly stated he did not have such a record, nor knew what information the Division was requesting. He asked for clarification on these requests, and complied with them as thoroughly as possible.

Respondents pray that the Division ascribe to Respondents the administrative penalties Respondents have admitted to in this Answer, and understand that any errors by Respondents were not made willfully or maliciously, but the intent was to help the unit owners of the Association.

Dated this 9th of November, 2015.



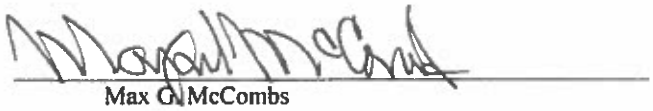
Max McCombs

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), the undersigned delivered via the United States Postal Service, postage prepaid, to:

Michelle D.Briggs
Senior Deputy Attorney General
555 East Washington Avenue
Suite 3900
Las Vegas, NV 89101

DATED this 9th day of November, 2015.



Max G. McCombs