

Lipson, Neilson, Cole, Seltzer & Garin, P.C.
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1 BEFORE THE COMMISSION FOR COMMON-INTEREST
2 COMMUNITIES AND CONDOMINIUM HOTELS
3 STATE OF NEVADA

4 JOSEPH (JD) DECKER, Administrator,
5 REAL ESTATE DIVISION, DEPARTMENT
6 OF BUSINESS & INDUSTRY, STATE OF
7 NEVADA,

Case No. IN-1608

Petitioner,

8 vs.

FILED

NOV 05 2015

9 SIERRA RANCHOS PROPERTY OWNERS
10 ASSOCIATION; ROGER SEIFERT; SCOTT
11 DALMAN; SCOTT CROW; BRENT
12 JOHNSON; AND RON WIX,

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Respondents.

RESPONSE TO COMPLAINT FOR DISCIPLINARY ACTION

13 Respondents Sierra Ranchos Property Owners Association; Roger Seifer; Scott
14 Dalman; Scott Crow; Brent Johnson; and Ron Wix, by and through their attorney of record,
15 the law firm of Lipson, Neilson, Cole, Seltzer & Garin, P.C., hereby submit their Response to
16 Complaint for Disciplinary Action as follows:

JURISDICTION AND NOTICE

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18 1. As to paragraph 1 of the Complaint, Respondents admit the individual
19 Respondents were, at certain times, members of the Board of Directors for the Sierra Ranchos
20 Property Owners Association. Roger Seifert admits he is a current member of the Board of
21 Directors. The remaining individual Respondents deny that they are currently members of the
22 Board of Directors for the Sierra Ranchos Property Owners Association.

23 2. As to paragraph 2 of the Complaint, Respondents assert this paragraph calls for
24 a legal conclusion for which no response is required. To the extent a response is required,
25 Respondents deny the remaining allegations contained therein.

FACTUAL ANALYSIS

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27 3. As to paragraph 3 of the Complaint, Respondents admit the allegations
28 contained therein.

1 4. As to paragraph 4 of the Complaint, Respondents admit the allegations
2 contained therein.

3 5. As to paragraph 5 of the Complaint, Respondents are without sufficient
4 knowledge or information to form a belief as to the truth of the allegations contained therein
5 and therefore deny them.

6 6. As to paragraph 6 of the Complaint, Respondents are aware that Ms. Anderson
7 submitted an Intervention Affidavit against the Association and the Board. Respondents
8 contend that the Intervention Affidavit was improper as it did not follow the dictates of NRS
9 116.760(2) which require the notice be mailed to the Respondents' last known address and
10 specify in reasonable detail, the alleged violation, any actual damages by the aggrieved
11 person as a result of the alleged violation, and any corrective action proposed by the
12 aggrieved person. To date, Respondents have never been provided with a copy of the
13 required notice.

14 7. As to paragraph 7 of the Complaint, Respondents are without sufficient
15 knowledge or information to form a belief as to the truth of the allegations contained therein
16 and therefore deny them.

17 8. As to paragraph 8 of the Complaint, Respondents admit that Respondent
18 Johnson made complaints regarding Mr. Anderson's stallion and barking dogs to Washoe
19 Animal Control. Respondent Johnson also admits he reported Ms. Anderson to the United
20 States Bureau of Land Management because she was feeding wild horses on her property.

21 9. As to paragraph 9 of the Complaint, Respondents admit that Respondent
22 Johnson's property adjoins Ms. Anderson's property.

23 10. As to paragraph 10 of the Complaint, Respondent Johnson admits he made two
24 written complaints to the Washoe County Animal Control and filled out their reporting sheet
25 listing the times that Ms. Anderson's stallion was screaming and her dogs were barking and
26 howling. As to the remaining allegations, Respondents deny them.

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1 11. As to paragraph 11 of the Complaint, Respondents are without sufficient
2 knowledge or information to form a belief as to the truth of the allegations contained therein
3 and therefore deny them.

4 12. As to paragraph 12 of the Complaint, Respondents admit Mr. Johnson was
5 appointed to fill a vacancy on the Board of Directors. As to the remaining allegations,
6 Respondents deny them.

7 13. As to paragraph 13 of the Complaint, Respondents admit the allegations
8 contained therein.

9 14. As to paragraph 14 of the Complaint, Respondents deny the allegations
10 contained therein. Respondent Johnson asserts that a property owner had reported over 80
11 plastic and steel barrels stored by Ms. Johnson's common property line. Respondent Johnson
12 did not personally observe that quantity.

13 15. As to paragraph 15 of the Complaint, to the extent this paragraph refers to a
14 written document, that document speaks for itself, and Respondents deny the remaining
15 allegations contained therein.

16 16. As to paragraph 16 of the Complaint, Respondents agree with the allegations
17 contained therein.

18 17. As to paragraph 17 of the Complaint, Respondents agree with the allegations
19 contained therein. To the extent the allegations refer to a written document, that document
20 speaks for itself.

21 18. As to paragraph 18 of the Complaint, Respondents agree with the allegations
22 contained therein. To the extent the allegations refer to a written document, that document
23 speaks for itself.

24 19. As to paragraph 19 of the Complaint, Respondents are without sufficient
25 knowledge or information to form a belief as to the truth of the allegations contained therein
26 and therefore deny them.

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1 20. As to paragraph 20 of the Complaint, Respondents are without sufficient
2 knowledge or information to form a belief as to the truth of the allegations contained therein
3 and therefore deny them.

4 21. As to paragraph 21 of the Complaint, Respondents admit the allegations
5 contained therein.

6 22. As to paragraph 22 of the Complaint, Respondents admit the allegations
7 contained therein.

8 23. As to paragraph 23 of the Complaint, Respondents admit the allegations
9 contained therein. To the extent the allegations refer to a written document, that document
10 speaks for itself.

11 24. As to paragraph 24 of the Complaint, Respondents admit the allegations
12 contained therein.

13 25. As to paragraph 25 of the Complaint, Respondents admit the allegations
14 contained therein.

15 26. As to paragraph 26 of the Complaint, Respondents deny the allegations
16 contained therein. To the extent the paragraph refers to a written document, that document
17 speaks for itself.

18 27. As to paragraph 27 of the Complaint, Respondents admit the allegations
19 contained therein.

20 28. As to paragraph 28 of the Complaint, Respondents deny the allegations
21 contained therein.

22 29. As to paragraph 29 of the Complaint, Respondents admit Ms. Anderson
23 requested a hardship exemption.

24 30. As to paragraph 30 of the Complaint, Respondents admit Ms. Anderson
25 requested meeting minutes in 2012.

26 31. As to paragraph 31 of the Complaint, to the extent this paragraph refers to a
27 written document, that document speaks for itself, and Respondents deny the remaining
28 allegations contained therein.

1 32. As to paragraph 32 of the Complaint, to the extent this paragraph refers to a
2 written document, that document speaks for itself, and Respondents deny the remaining
3 allegations contained therein.

4 33. As to paragraph 33 of the Complaint, Respondents admit the February 16, 2012
5 minutes were sent to Ms. Anderson by letter dated August 16, 2012. To the extent this
6 paragraph refers to a written document, that document speaks for itself.

7 34. As to paragraph 34 of the Complaint, Respondents admit the allegations
8 contained therein. To the extent this paragraph refers to a written document, that document
9 speaks for itself.

10 35. As to paragraph 35 of the Complaint, Respondents admit the allegations
11 contained therein.

12 36. As to paragraph 36 of the Complaint, Respondents admit the allegations
13 contained therein.

14 37. As to paragraph 37 of the Complaint, Respondents admit the allegations
15 contained therein.

16 38. As to paragraph 38 of the Complaint, Respondents admit the allegations
17 contained therein.

18 39. As to paragraph 39 of the Complaint, Respondents are without sufficient
19 knowledge or information to form a belief as to the truth of the allegations contained therein
20 and therefore deny them.

21 40. As to paragraph 40 of the Complaint, Respondents admit the allegations
22 contained therein. To the extent this paragraph refers to a written document, that document
23 speaks for itself.

24 41. As to paragraph 41 of the Complaint, Respondents admit the allegations
25 contained therein. To the extent this paragraph refers to a written document, that document
26 speaks for itself.

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1 42. As to paragraph 42 of the Complaint, Respondents admit the allegations
2 contained therein. To the extent this paragraph refers to a written document, that document
3 speaks for itself.

4 43. As to paragraph 43 of the Complaint, Respondents admit the allegations
5 contained therein. To the extent this paragraph refers to a written document, that document
6 speaks for itself.

7 44. As to paragraph 44 of the Complaint, Respondents admit the allegations
8 contained therein.

9 45. As to paragraph 45 of the Complaint, Respondents admit the allegations
10 contained therein. To the extent this paragraph refers to a written document, that document
11 speaks for itself.

12 46. As to paragraph 46 of the Complaint, Respondents admit that Ms. Anderson
13 emailed the Association's attorney on June 22, 2013 indicating that she had moved a horse
14 shelter.

15 47. As to paragraph 47 of the Complaint, Respondents are without sufficient
16 knowledge or information to form a belief as to the truth of the allegations contained therein
17 and therefore deny them.

18 48. As to paragraph 48 of the Complaint, Respondents are without sufficient
19 knowledge or information to form a belief as to the truth of the allegations contained therein
20 and therefore deny them.

21 49. As to paragraph 49 of the Complaint, Respondents are without sufficient
22 knowledge or information to form a belief as to the truth of the allegations contained therein
23 and therefore deny them.

24 50. As to paragraph 50 of the Complaint, Respondents admit the allegations
25 contained therein. To the extent this paragraph refers to a written document, that document
26 speaks for itself.

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1 51. As to paragraph 51 of the Complaint, Respondents admit the allegations
2 contained therein. To the extent this paragraph refers to a written document, that document
3 speaks for itself.

4 52. As to paragraph 52 of the Complaint, Respondents admit the allegations
5 contained therein.

6 53. As to paragraph 53 of the Complaint, Respondents admit the allegations
7 contained therein.

8 54. As to paragraph 54 of the Complaint, Respondents admit that the referenced
9 owner filed an application for protective order against Respondent Johnson in 2014. Said
10 application was denied.

11 55. As to paragraph 55 of the Complaint, Respondents admit the allegations
12 contained therein.

13 56. As to paragraph 56 of the Complaint, Respondents deny the allegations
14 contained therein.

15 57. As to paragraph 57 of the Complaint, Respondents deny the allegations
16 contained therein.

17 **VIOLATIONS OF LAW**

18 58. As to paragraph 58 of the Complaint, Respondents deny the allegations
19 contained therein.

20 59. As to paragraph 59 of the Complaint, Respondents deny the allegations
21 contained therein.

22 60. As to paragraph 60 of the Complaint, Respondents deny the allegations
23 contained therein.

24 61. As to paragraph 61 of the Complaint, Respondents deny the allegations
25 contained therein.

26 62. As to paragraph 62 of the Complaint, Respondents deny the allegations
27 contained therein.

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1 63. As to paragraph 63 of the Complaint, Respondents deny the allegations
2 contained therein.

3 64. As to paragraph 64 of the Complaint, Respondents deny the allegations
4 contained therein.

5 65. As to paragraph 65 of the Complaint, Respondents deny the allegations
6 contained therein.

7 **AFFIRMATIVE DEFENSES**

8 COME NOW, Respondents, by and through their counsel of record, LIPSON,
9 NEILSON, COLE, SELTZER & GARIN, P.C., hereby give notice of the following defenses:

10 1. The Complaint and evidence served with the Complaint does not by a
11 preponderance of the evidence demonstrate that each of the sections identified in the
12 complaint (paragraphs 58-65) have been violated.

13 2. The Division should be estopped from pursuing this matter as NRS 116.760 was
14 not complied with prior to the submission of the intervention affidavit.

15 3. The Division should be estopped from seeking enforcement of the sections
16 identified in the complaint (paragraphs 36-59).

17 4. Respondents substantially complied with statutes and administrative code
18 provisions at issue.

19 5. Respondents made good faith attempts to comply with statutes and
20 administrative code provisions at issue.

21 6. Respondents' actions are excused by necessity and were at all times for the
22 benefit of the HOA.

23 7. Respondents' responses to the Division's requests were made in good faith,
24 based on information believed to be correct at the time responses were submitted.

25 8. The Division lacks jurisdiction to consider any claims arising from and based
26 upon the application, interpretation and enforcement of the governing documents of the
27 Association. The jurisdiction of the Division to adjudicate claims is strictly limited, as a matter
28 of law, and per an official directive from the State of Nevada Attorney General's Office made

1 pursuant to NRS 116.620(3). See NRS 116.745; NRS 116.750. The Division is not granted
2 jurisdictional authority by Nevada law to adjudicate disputes involving the governing
3 documents of common-interest community associations between such associations and their
4 members.

5 9. Division is specifically prohibited by Nevada law from interfering in any internal
6 activities of an association except to the extent necessary to prevent or remedy a "violation"
7 as defined in NRS 116.745. NRS 116.755(3). In contrast, the claims made in the instant
8 matter arise from the application, interpretation, and enforcement of the governing documents
9 of the Association which the Division clearly does not have jurisdiction to investigate or
10 adjudicate.

11 10. Any complaints under NRS 116.31083(7) are time barred and should not be
12 considered.

13 **PRAYER FOR RELIEF**

14 Respondents respectfully request that this matter be dismissed without discipline.

15 DATED this 5th day of November, 2015.

16 LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.

17
18 By: 

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23 Attorneys for Respondents *Sierra Ranchos Property*
24 *Owners Association; Roger Seifer; Scott Dalman;*
25 *Scott Crow; Brent Johnson; and Ron Wix*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 5th day of November, 2015, service of the foregoing
3 **RESPONSE TO COMPLAINT FOR DISCIPLINARY ACTION** was made as follows:

4 **Via U.S. Mail**

5 Joseph (J.D.) Decker, Administrator
6 Nevada Real Estate Division
7 2501 East Sahara Avenue
8 Las Vegas, NV 89104-4137

Via Email and U.S. Mail

Michelle D. Briggs, Esq.
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Attorney for Real Estate Division

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11 An employee of
12 LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.
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