

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 Nos. 2015-291

Petitioner,

FILED

vs.

JUL 27 2016

ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION, PENNIE PUHEK, JAMES
LAUTH, and CHARLES HERNANDEZ,

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Respondents.

**REPLY TO RESPONDENT PENNIE PUHEK'S
OPPOSITION TO MOTION FOR SUMMARY JUDGMENT AND
OPPOSITION TO REQUEST FOR TIME TO CONDUCT DISCOVERY PER NRCP §56(f)**

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 files its Reply to Respondent Pennie Puhek's Opposition to Motion for Summary Judgment and Opposition to Request for Time to Conduct Discovery Per NRCP §56(f). This reply and opposition is made and based on the following memorandum of points and authorities as well as any and all pleadings on file herein and any oral argument that may be heard at the time of the hearing of this matter.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

PUHEK submitted her opposition to the Division's motion for summary judgment, but fails to establish any material issues of fact. In addition, PUHEK requests discovery pursuant to NRCP §56(f), but such discovery is not provided for in NAC 116.557, and therefore, not required. The Nevada Rules of Civil Procedure do not specifically apply to administrative proceedings. Moreover, PUHEK fails to identify any need for the extensive discovery

1 requested. It is not clear what additional facts need to be determined that would be material
2 to this matter. PUHEK does not believe she violated the law by posting the disparaging
3 comments about another homeowner. She made the postings and she was a board member
4 at that time. This Commission can determine based on those facts whether her conduct
5 violated the law. In the interests of an efficient resolution to this matter, the Division requests
6 summary adjudication.

7 PUHEK'S opposition tries to take the Commission's attention away from the specific
8 language PUHEK used to attack a fellow homeowner by blaming the Division and its counsel
9 for doing their job. The Division is a regulatory agency charged with investigating and
10 pursuing complaints before this Commission for violations of NRS 116 and NAC 116. As
11 unimportant as PUHEK thinks her conduct is; the Division takes board member retaliation
12 against a homeowner very seriously. This sort of behavior fosters animosity and distrust and
13 can lead to significant financial losses to the Association. The Division's administrator tried to
14 discuss his concerns with her, but PUHEK, as she continues to do, refused to accept that her
15 conduct violated NRS 116. This matter could have been resolved in 2015 if PUHEK would
16 have conceded that her behavior was inappropriate. Her refusal left the Division with no other
17 option, but to bring this matter to the Commission for adjudication. PUHEK'S attacks on the
18 Division and its counsel for simply prosecuting this case are childish and inappropriate. This
19 Commission should not tolerate such behavior.

20 II. LEGAL ARGUMENT

21 A. PUHEK FAILED TO IDENTIFY ANY MATERIAL ISSUES OF FACT TO BE DECIDED 22 BY THIS COMMISSION.

23 The motion for summary judgment requests that this matter be heard based on the
24 material facts as agreed to by PUHEK in her answer to the complaint. The motion states
25 those facts. There are no material factual allegations that need to be determined by this
26 Commission. PUHEK fails to raise any material disputed facts.

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1 **1. PUHEK alleges she was not acting in the capacity of a board member.**

2 PUHEK alleges the violations of law require a finding that she was acting *in the*
3 *capacity* of a board member. That was not alleged as a fact and need not be shown.
4 Retaliating against a homeowner is by definition not acting in the capacity of a board
5 member. Board members should not be retaliating against owners. It is against the law. The
6 complaint does not state that PUHEK'S conduct was board action or directed by the board.
7 But her action was taken as a board member. The comments she made were based on her
8 experience as a board member against a homeowner, and her comments were directed to
9 other homeowners in the Association.

10 Being a board member is not a hat that you can take on and off when it's convenient
11 for you. Being a board member includes a fiduciary duty to *always* do what is in the best
12 interests of the Association. As that relates to communications with other homeowners, the
13 Division expects board members to be respectful and professional. When their conduct
14 violates NRS 116.31183 – it violates their fiduciary duty.

15 The conduct of a board member is under the jurisdiction of the Division and this
16 Commission. To argue that jurisdiction is limited only to when the board member is *acting in*
17 *their capacity as a board member* would lead to absurd results. A board member is not acting
18 in their capacity as a board member when they take petty cash from the Association, but it
19 would be a violation of their fiduciary duty, and they would be subject to discipline. A board
20 member is not acting in their capacity as a board member when they fail to hold meetings or
21 file annual registration forms with the Division, but they are held accountable, because they
22 are board members.

23 Similarly, retaliation is prohibited by NRS 116.31183. The language of the statute does
24 not require that the board member's actions be in their capacity as a board member.
25 Retaliatory action does not necessarily occur at a board meeting. The language of the statute
26 prohibits taking action or directing or encouraging another person to take any retaliatory
27 action against a homeowner because the homeowner has complained about the association.
28 PUHEK'S comments violated NRS 116.31183 and her fiduciary duty as a board member.

1 **2. PUHEK alleges the administrator's previous testimony supports her posting.**

2 PUHEK'S support for her posting based on the administrator's testimony in June is
3 misplaced. Mr. Decker testified that he met with the complainant, Robert Stern, and PUHEK
4 to discuss this complaint among others. PUHEK'S comment had already been made when
5 Mr. Decker met with Stern and when he met with PUHEK. She could not have known on
6 January 16, 2015, when she made the post, what the Division was going to do with other
7 complaints Stern had filed.

8 What she did already know about; however, is the Informal Conference Agreement
9 ("ICA"). The ICA speaks for itself. It says Stern was paid over \$30,000 by the Association,
10 and that it resolved 10 complaints that are listed by number. PUHEK'S post that the Division
11 "shut him down by basically dismissing his petty complaints" is not true and misleading. She
12 wrote it to discredit Stern and encourage other owners to dislike him as well.

13 **3. PUHEK alleges she was not on the board at all times during the conflict with**
14 **Stern.**

15 It is true that PUHEK was elected to the board, resigned from the board and was
16 reappointed to the board at various times in 2014, but she also had personal knowledge of
17 the Association's civil cases against Stern, and the complaints he filed with the Division. The
18 posts she made are evidence of her intense feelings about Stern. To claim she was not
19 interested in what was happening with Stern is laughable.

20 The Association's records reflect the following:

21 Jan. 22, 2014 – PUHEK was on the board. At this time, the board was in litigation with
22 Stern. It was approved by the board that PUHEK would serve to consult with legal counsel
23 regarding the litigation with Stern.¹

24 Jan. 25, 2014 – PUHEK submitted her resignation to the Association and it was
25 accepted at its meeting on February 26, 2014.²

26 Mar. 18, 2014 – PUHEK attended an executive session of the board just to discuss
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28 ¹ See Association Executive Session Minutes dated January 22, 2014 at Ex A.

² See Association Meeting Minutes dated February 26, 2014 at Ex. B.

1 rescinding the ICA settlement with Stern that had just been approved in February. According
2 to the minutes, PUHEK'S presence at the executive session was challenged by one board
3 member, but because she was previously appointed by the board "as agent of the board to
4 act on behalf of the board to consult and work with all legal matters associated with litigation
5 regarding Robert Stern and all accompanying legal matters including but not limited to the
6 state of Nevada Real Estate Division and has complete authority to do same and work with
7 any third parties in furtherance of same,"³ the other board members did not object to her
8 being there.

9 PUHEK also serves on virtually all of the subcommittees of the Board and reported
10 back to the board at its March regular session meeting. She also submitted written public
11 comment about Stern and her dislike of him.⁴

12 Sept. 10, 2014 – PUHEK was appointed to the board for the unexpired term ending
13 May 27, 2015.⁵ She then became the vice-president.⁶

14 Jan. 16, 2015 – PUHEK made the posts on Nextdoor about Stern which became the
15 basis for the complaint in this matter.

16 Jan. 28, 2015 – PUHEK and the rest of the board discuss in executive session taking
17 action against Stern and litigation against Stern is on-going.⁷

18 PUHEK'S knowledge of and participation in the conflicts with Stern are very clear from
19 a reading of the Association's meeting minutes. She was certainly on the board in January of
20 2015 when she made the disparaging comments. To claim that she was not concerned about
21 Stern or the complaints he filed against the Association is in direct conflict with the language
22 in her posts, as well as the minutes from the Association's meetings. PUHEK writes in her
23 post that Stern has "terrorized" the community, and she even mentions that he filed a number
24 of complaints that the Division dismissed.⁸ It is clear from PUHEK'S own words that she

25 ³ Association Executive Session Meeting Minutes dated March 18, 2014 at Ex. C.

26 ⁴ See Association Meeting Minutes dated March 26, 2014 at Ex. D.

27 ⁵ See Association Meeting Minutes dated September 10, 2014 at Ex. E.

28 ⁶ See id.

⁷ See Association Executive Session Meeting Minutes dated January 28, 2015 at Ex. F.

⁸ See Complaint at 3, ln 7-10.

1 dislikes Stern immensely based on her own personal experiences. This case is not about
2 PUHEK'S comments being rude or impolite. This case is about her comments constituting
3 retaliatory action, and as a result, she violated NRS 116.

4 **4. PUHEK alleges Stern's residence is not confidential based on his book which**
5 **gave her consent to disclose his primary residence.**

6 PUHEK states that Stern consented to her disclosing his primary residence in North
7 Carolina; and therefore, she could not have violated the law regarding revealing confidential
8 information about a unit owner. As evidence of Stern's consent, PUHEK uses an excerpt from
9 his book. First of all, the law does not say that information that can be obtained in a way other
10 than through the Association's records is no longer confidential. For example, the names of
11 owners may not be revealed to candidates running for a board seat. The names of the
12 owners are confidential. But anyone could research the public records to find the owner's
13 name. Just because the owner's name is available through the public records does not make
14 the Association's records public or any less confidential as it relates to a board member
15 releasing that information. The Division would also take the position that consent must be
16 given to the board, and done so knowingly. In the case of an owner requesting a fine hearing
17 at an open board meeting, the owner knowingly consents to the disclosure of confidential
18 information about that owner. Stern's book does not give the Association or its board
19 members consent to disclose any of his personal information, no matter how much
20 confidential information is mentioned in his book.

21 Furthermore, PUHEK'S use of Stern's book as evidence of his consent to disclose his
22 primary residence is not logical. Her posts were made the day the book was released. She
23 could not have received the book, read the book, and accepted the book as consent from him
24 to release his primary residence prior to her posting.

25 The real issue here is not so much that she mentioned his primary residence. It is that
26 her post is trying to use that information against him. She is trying to use the information
27 against him by telling other owners that he really lives in North Carolina only coming to "Las
28

1 Vegas during election time to terrorize our community so he can write more books."⁹ She
2 wants the owners to believe that Stern does not care about the Association, so they will think
3 the same way she does. She knows where he lives based on her experience as a board
4 member. She provides nothing else to establish consent by Stern to allow her to release his
5 primary residence. She had no right to release the information or to use it in retaliation for the
6 complaints he made about the Association.

7 **5. PUHEK misuses the Division's advisory opinion regarding retaliatory conduct to**
8 **claim she did not violate NRS 116.31183.**

9 PUHEK includes one excerpt from the Division's advisory opinion on retaliatory
10 conduct. The entire advisory opinion is attached hereto.¹⁰ What is stated in the advisory
11 opinion is that retaliatory action "is the harmful, punitive action taken by an Association or its
12 representatives against another person that would not have been taken but for such person
13 having," among other things, complained about a violation of NRS 116.¹¹ PUHEK'S post is
14 nothing if not punitive and harmful. She intends to cause harm by telling owners how terrible
15 he is and telling them not to buy his book, or vote for him or anyone he endorses. She states
16 in her post the reason for it – all the complaints he's made against the Association and its
17 managers. There is no clearer case of retaliatory conduct.

18 PUHEK'S argument that she has a First Amendment free speech right to say whatever
19 she wants to say about another homeowner as a board member is just wrong. Everything you
20 say is not protected by the First Amendment. NRS 116.31183 and other provisions of
21 NRS 116 and NAC 116 limit the speech of a board member. If board members do not want to
22 limit their free speech rights, they should not be board members. But to the extent PUHEK
23 wants to make a constitutional challenge of NRS 116.31183 – she can do that in court. It is
24 not appropriate in this proceeding. This Commission enforces the law as adopted by the
25 Nevada Legislature. PUHEK violated NRS 116.31183 based on the language of the statute.

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27 ⁹ Complaint at 3, ln 4-5.

28 ¹⁰ See NRED Advisory Opinion 15-02 at Ex. G.

¹¹ Id. at 1.

1 **B. PUHEK IS NOT ENTITLED TO DISCOVERY AS REQUESTED.**

2 PUHEK argues that she needs time for discovery. She cites to caselaw and
3 NRCP 56(f) that is simply not applicable to this proceeding. Dutchess Business Services tried
4 to make a similar argument to the Nevada Supreme Court in 2008 and failed.¹² The Court
5 found that there is no constitutional right to discovery in administrative proceedings.¹³ In fact,
6 Nevada Rules of Civil Procedure do not apply to administrative proceedings and the Nevada
7 Administrative Procedures Act does not contain any provision for discovery.¹⁴ The only
8 discovery permitted would be what is set forth in the statutes and regulations for the
9 commission.¹⁵ This Commission's only applicable regulation is NAC 116.557.

10 NAC 116.557 sets forth the purposes of a prehearing conference. Puhek previously
11 requested a pre-hearing conference, which is not opposed by the Division. Of course for
12 matters like simplifying the issues for the hearing, obtaining admissions of fact and
13 stipulations, exchanging documents, and identifying witnesses, Puhek could discuss those
14 matters at any time with the Division. The prehearing conference is also intended to have the
15 Commission rule on pending motions and establish a schedule for the completion of
16 discovery. In terms of discovery, the issue is what facts need to be explored. PUHEK does
17 not identify any specific need for the discovery. There is nothing that would be relevant to this
18 matter. PUHEK's prior requests are for confidential investigative files and depositions of
19 Division staff. PUHEK seems to be trying to make a case that the Division did something
20 wrong or has a vendetta against her. There is nothing PUHEK could find that would justify her
21 making the retaliatory posts. Additional discovery is not required by the law, and it is not
22 necessary.

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26 ¹² Dutchess Business Services, Inc. v. Nevada State Board of Pharmacy, 124 Nev. 701, 191
27 P.3d 1159 (2008).

¹³ See Dutchess, 124 Nev. at 713-14, 191 P.3d 1167-68.

¹⁴ See id.

¹⁵ See id.

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III. CONCLUSION

PUHEK'S opposition to the Division's motion for summary judgment fails to demonstrate any material fact at issue in this matter. The discovery requested is not required in administrative proceedings, and she failed to establish any need for the extensive discovery requested, including access to unrelated confidential investigative files and four depositions of Division staff.

The only matter this Commission needs to determine is if PUHEK'S disparaging posts violated NRS 116.31183 and NRS 116.3103 as a matter of law. All the relevant facts are undisputed. For the foregoing reasons, the Division respectfully requests summary judgment in favor of the Division be granted as to the violations of law against PUHEK.

DATED this 26th day of July, 2016.

ADAM PAUL LAXALT
Attorney General

By: 
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(702) 486-3420
Attorneys for Real Estate Division

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Las Vegas, Nevada 89101

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Office of the Attorney General and that on the 27th day of July, 2016, I served the foregoing REPLY TO RESPONDENT PENNIE PUHEK'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO REQUEST FOR TIME TO CONDUCT DISCOVERY PER NRCP §56(f) by causing a true and correct copy thereof to be served via U.S. Mail, Postage Prepaid addressed to the following:

Edward D. Boyack, Esq.
Boyack Orme & Taylor
401 N. Buffalo Drive #202
Las Vegas, Nevada 89145
Attorney for Anthem Highlands Community Association and Charles Hernandez

Gregory P. Kerr, Esq.
3556 E. Russell Rd., 2nd Floor
Las Vegas, NV 89120
Attorney for James Lauth

John B. Marcin, Esq.
Marcin Lambirth LLP
3960 Howard Hughes Parkway, 5th Floor
Las Vegas, NV 89169
Attorney for Pennie Puhek


An Employee of the Office of the Attorney General

EXHIBIT "A"

EXHIBIT "A"

Anthem Highlands Community Association

Executive Session Meeting Minutes

Terra West Management Services

11135 S. Eastern Ave., Suite 120

Henderson, NV 89052

January 22, 2014 - 4:30 PM

Board Members Present

Rick Romano President
Charles Hernandez Treasurer
Pennie Mossett-Puhek Secretary
Frank Capello Director

Board Member Absent

James Lauth Vice President

Others Present

Carmen Eassa, Community Manager, CMCA Terra West Management Services
Tanya Matysek, Administrative Assistant Terra West Management Services
Ted Boyack, Association Counsel Boyack, Beck and Taylor

I. Call to Order and Establishment of Quorum

Rick Romano called the meeting to order at 4:30 PM and a quorum was established to conduct business.

II. Approval of Executive Session Minutes

A. December 11, 2013 Executive Session

Rick Romano moved to approve the December 11, 2013 Executive Session meeting minutes as presented. Frank Capello seconded the motion. Pennie Mossatt-Puhek and Charlie Hernandez voted in favor. James Lauth was absent. Motion carried by majority vote of the Board members present.

III. Compliance/Hearing:

Fine Policy: FINE \$50.00 Initially, wait 14 days then begin fining \$100.00 per week or per occurrence, whichever is less, until the violation is corrected for the findings indicating "FINE" below.

Rick Romano moved to implement the decisions as noted below for each violation called to hearing and as recommended by the Compliance Committee. Frank Capello seconded the motion. Pennie Mossett-Puhek and Charles Hernandez voted in favor. James Lauth was absent. Motion carried by majority vote of the board members present.

VIOLATION HEARINGS:

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MISCELLANEOUS VIOLATIONS

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A. Homeowner Correspondence:
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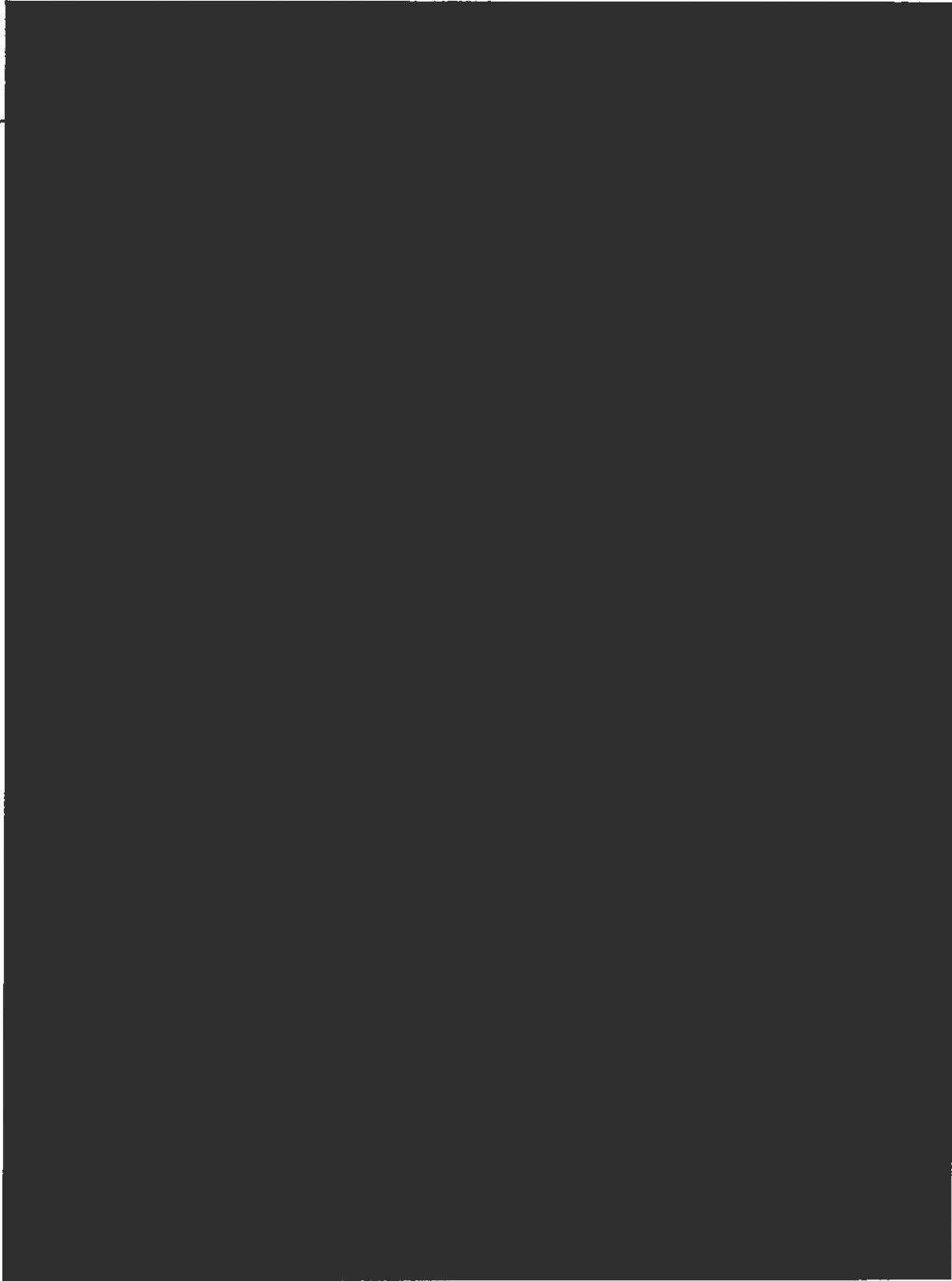
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LATE / INTEREST / INTENT TO LIEN FEES

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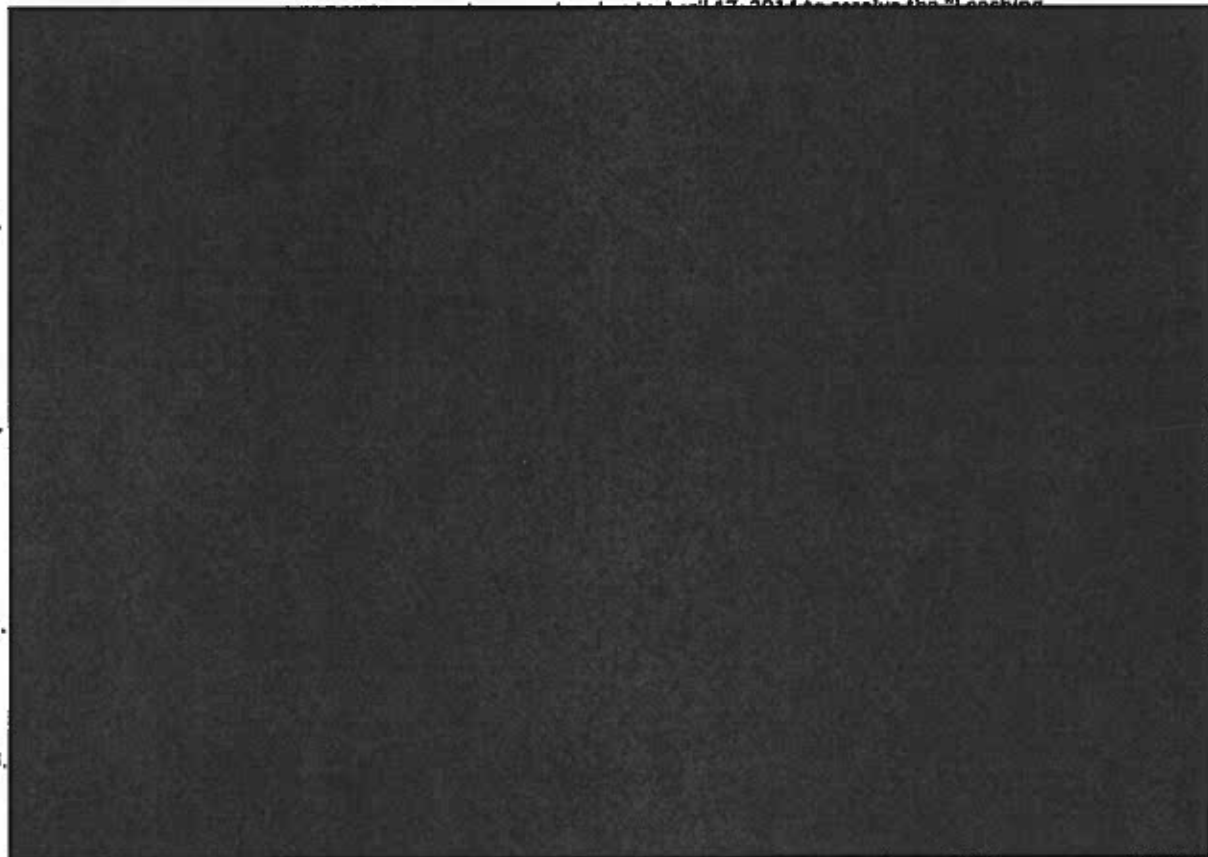
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ARC SUBMITTALS

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New Business:

1. Discuss/Review: 2639 Lochleven Way; Certified Letter dated December 12, 2013 to the Anthem Highlands Board of Directors regarding civil lawsuit and the filing of an Intervention Affidavit against the Board. Rick Romano,

Pennie Mossett-Puhek, Charles Hernandez and Frank Capello acknowledged the receipt of the letter. James Lauth was absent.

2. Discuss/Review: 2639 Lochleven Way: Certified Letters dated December 11 and December 12, 2013 to the Anthem Highlands Board of Directors regarding \$175 assessment credit, civil lawsuit and indemnification. Rick Romano, Pennie Mossett-Puhek, Charles Hernandez and Frank Capello acknowledged the receipt of the letter. James Lauth was absent.
3. Discuss/Review: 2639 Lochleven Way: Fax letter dated January 15, 2014 to the Anthem Highlands Board of Directors regarding reimbursement of legal fees in reference to the Anthem Highlands vs. Robert Stern case. Rick Romano, Pennie Mossett-Puhek, Charles Hernandez and Frank Capello acknowledged the receipt of the letter. James Lauth was absent.

Legal:

Anthem Highlands vs. Robert Stern

Discuss/Motion: Approve unit owner Pennie Mossett-Puhek to consult with association counsel as needed in order to help coordinate discovery requests and to prepare for trial. Rick Romano moved to appoint Pennie Mossett-Puhek as agent of the board to act on behalf of the board to consult and work with all legal matters associated with litigation regarding Robert Stern and all accompanying legal matters including but not limited to the state of Nevada Real Estate Division and has complete authority to do same and work with any third parties in furtherance of same. Frank Capello seconded the motion. Charles Hernandez voted in favor. Pennie Mossett-Puhek abstained and James Lauth was absent. Motion carried by majority vote of board members present.

Legal Update

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5. Anthem Highlands vs. Robert Stern
Ted Boyack, Boyack Beck & Taylor, sent letter dated January 8, 2014 to Mr. Kerr regarding Mr. Stern to cease and desist contact between Anthem Highlands, its agents, representatives, and management company. The Board discussed to need to continue the case of Anthem Highlands vs. Robert Stern. Pennie Mossett-Puhek voted to settle.

IV. **Manager's Report**

A. **Review Architectural Comprehensive Report**

The Board acknowledged and reviewed the Architectural Comprehensive Report as presented.

B. **ARC Submittals:**

The Board acknowledges receipt and review of the previously approved ARC submittals and completion forms by the ARC Committee as presented.

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]

C. **Review Delinquency Summary Report**

The Board reviewed and acknowledged the Delinquency Summary Report as presented.

D. **Collection Write Offs Requests:**

Rick Romano moved to approve the write offs as noted below. The motion was seconded by Pennie Mossatt-Puehek. Frank Capello and Charles Hernandez voted in favor. James Lauth was absent. Motion carried by majority vote of the board members present.

[REDACTED]	\$739.84	Assessments (Foreclosure)
[REDACTED]	\$699.48	Assessments (Foreclosure)
[REDACTED]	<u>\$3,000.00</u>	Violations (Foreclosure)
	Total:	\$4,439.32

E. **Collection Fee Report**

The Board reviewed and acknowledged the collection fee reports from AMS and RRFs as presented.

F. **Call Log**

The Board reviewed the Call Log as presented.

G. **Discuss/Review/Motion: RRFs (Red Rock Financial Services) Liened Accounts**

Unfinished Business

1. [REDACTED]

New Business

1. [REDACTED]
2. [REDACTED]

EXHIBIT "B"

EXHIBIT "B"



Anthem Highlands Community Association

Board of Directors Meeting Minutes

Terra West Management Services

11135 S. Eastern Ave., Suite 120

Henderson, NV 89052

February 26, 2014 - 6:00 PM

Board Members Present

Rick Romano

James Lauth

Charles Hernandez

Matthew Zanlewski

President

Vice President

Treasurer

Secretary (Appointed to Board- left meeting at 8:00 PM)

Board Member Absent

Frank Capello Director

Others Present

Carmen Eassa, Community Manager, CMCA

Vince Plsciuneri, V.P. of Business Development

Carlos Correa

Mike Gold

Joshua Steelman

Kevin Wright

4 Homeowners

Terra West Management Services

Bilmar Landscape

Bilmar Landscape

L.E.D. Source reserved for 6:15pm

Advanced Lighting Services reserved for 6:30pm

Wright Ventures reserved for 7:00pm

I. Call to Order and Establishment of Quorum

Rick Romano called the meeting to order at 6:01 PM and a quorum was established to conduct business.

II. Homeowners' Forum: The floor was opened to owners' comments on agenda items in accordance with NRS 116. The following comments were made:

- Homeowner commented on how awesome the Board is and the time and effort they put into handling association business.
- Thanked Bilmar Landscape for an awesome and informative Spring Planting Seminar they conducted for the homeowners
- Removal of Texas Rangers and opposed rejuvenation, remove perennials, flowers in the median need to be removed, rocks by the new Bicentennial sign need to be revamped
- Reimbursement of expenses incurred by HOA for the Lennar steep slope Chapter 40 case
- Leaching walls

III. Presentations by Bidding Lighting Contractors

Mike Gold, L.E.D. Source, Kevin Wright, Wright Ventures and Joshua Steelman, Advanced Lighting Services, attended the meeting to present their services, warranty and product information for the L.E. D. transition lighting project as well as answer questions from the Board.

IV. Approval of Meeting Minutes

January 22, 2014 Regular Session

Charlie Hernandez moved to postpone approval of the January 22, 2014 meeting minutes to the next Board meeting pending majority approval by Board members that were present at the January 22, 2014 meeting. Rick Romano seconded the motion. James Lauth voted in favor. Motion carried.

V. Landscape Report by Bilmar Landscape: Vince Plsciuneri, Bilmar,

Vince presented the February Landscape report to the Board. The Board discussed the dense landscape in the paseo.

Vince discussed and distributed several proposals for landscape improvements in the community to each Board member for review and consideration. Vince also discussed soil sample report was discussed as well.

Anthem Highlands Community Association

Board of Directors Meeting Minutes

February 26, 2014 - 6:00 PM

Page 1 of 4

NRED0101

VI. Review of Financial Reports

- A. December 2013: Charles Hernandez moved to postpone review and approval of the draft 2013 December year-end financials to the next Board meeting pending completion of the 12/31/13 year-end audit review of the financials by association CPA. Rick Romano seconded the motion. James Lauth voted in favor. Motion carried.

VII. Committee Report and Actions

- A. ARC Committee Report: ARC Committee Chairperson, Frank Capello, was not present to provide a report.
- B. Amend landscape committee appointments to include Rick Romano, Chairperson, Pennie Mossett-Puhek, Dahl Capello, and Charlie Hernandez as committee members
Charles Hernandez moved to amend the members of the Landscape Committee by appointing Rick Romano as Chairperson, with Pennie Mossett-Puhek, Dahl Capello, and Charles Hernandez as Landscape Committee members. Rick Romano seconded the motion. James Lauth voted in favor. Motion carried.
1. Landscape Committee Report: Report was provided by Blimar Landscape
- C. Compliance Committee; Amend Compliance Committee Appointments, to include Matthew Zanlewski as Chairperson, committee members to include Linda Rich, Frank Capello and Pennie Mossett-Puhek
Charles Hernandez moved to amend the members of the Compliance Committee by appointing James Lauth as Chairperson, with Linda Rich, Frank Capello and Pennie Mossett-Puhek as Compliance Committee members. Rick Romano seconded the motion. James Lauth voted in favor. Motion carried.
1. Compliance Committee Report: No report was given at this time.
- D. Neighborhood Watch Committee Report
James Lauth reported a meeting will held in late March with the City of Henderson Police Dept. to answer questions from homeowners about the Neighborhood Watch program. An email blast will be sent to the homeowners with the specific date and time of the meeting.
- E. Social/Newsletter Committee Report: No report was given at this time.

VIII. Legal

- A. Update on Higher Ground et al vs. Anthem Highlands
Kaleb Anderson from Lipson, Neilson, Cole, Seltzer, & Garlin
The case is on-going.
- B. Update on Anthem Highlands vs. Developers Regarding Yellow Brass
The Board reviewed the emailed correspondence from Terry Riedy, association counsel noting the case is on-going.
- C. Bank of America vs. Anthem Highlands
The Board reviewed the emailed correspondence from Tim Elson, association counsel noting the case is on-going.
- D. Chapter 40 Steep Slope
The Board reviewed the emailed correspondence from Colby Beck, association counsel. Lennar needs to reimburse the association for fees incurred for the steep slope case. Case to continue pending resolution.
- F. Settlement Agreement regarding Anthem Highlands vs Robert Stern
NRED Informal Conference Agreement between Robert Stern and Anthem Highlands dated 2-20-14
The Board approved the settlement agreement pending conditions regarding the Anthem Highlands vs. Robert Stern case in the Executive Closed Session Meeting.
- F. Montesa LLC, et al., vs Anthem Highlands Case No. A-13-685833
The Board reviewed the emailed correspondence from Colby Beck, association counsel noting the case is on-going.
- G. Southern-Nevada Acquisitions, et al vs. Anthem Highlands Case No. A-13-685798
The Board reviewed the emailed correspondence from Colby Beck, association counsel noting the case is on-going.
- H. ADR 14-59: LCH Vegas, LLC, Claimant v Anthem Highlands Community Association, Respondent
Colby Beck - Boyack, Beck & Taylor - case was settled

IX. Manager's Report

- A. Management reported that there were thirteen (13) violation hearings held in the Executive Session and thirteen (13) ARC Applications were submitted for review.
- B. Action Items: The Board reviewed the action list as presented and additional action items addressed by management. Management discussed pending action items; community updates for Haddington and Edinburgh with street closing notices for asphalt sealing project and the upcoming April 5-6 Art Walk event. Management read correspondence received from homeowners commenting on the excellent customer service provided by management.

X. Unfinished Business

- A. Approve to Update Anthem Highlands Community Association (AHCA) Rules and Regulations
Charles Hernandez moved to approve to update the Anthem Highlands Community Association Rules and Regulations. Rick Romano seconded the motion. James Lauth voted in favor. Motion carried.
- B. Approve proposal for LED light transition (sealed bids)
After the Board listened to the presentations from the L.E. D. lighting companies, they opened the sealed bids for review and consideration. Bids submitted were as follows: LED Source, Master \$15,205.60; Haddington \$4,731.94 and Edinburgh \$4,633.03; Advanced Lighting Services Master association \$26,647.92, Haddington \$6,437.61, and Edinburgh \$5,236.61; Wright Ventures, Master \$20,830.00, Haddington \$4,850.00, Edinburgh \$4,140.00; and Desert Clark County Lighting, Master \$36,805.14, Haddington \$8,497.52, and Edinburgh \$4,819.81.
Charles Hernandez moved to approve the Advanced Lighting Services proposals as follows: for the master association \$26,647.92, Haddington -\$6,437.61, and Edinburgh -\$5,236.61 and to appoint Matt Zaniewski as the lighting liaison for the project and to work with Advanced Lighting on the NV Energy credit. Rick Romano seconded the motion. James Lauth voted in favor. Motion carried.

XI. New Business

- A. Acknowledge Pennie Mossett-Puhek Resignation from the Board effective January 25, 2014
The Board acknowledged Pennie Mossett-Puhek's resignation from the Board effective January 25, 2014.
- B. Appoint Matthew Zaniewski to fill vacant position to unexpired term May 28, 2014
Rick Romano moved appoint Matthew Zaniewski to fill the vacant position to unexpired term, May 28, 2014. Charles Hernandez seconded the motion. James Lauth voted in favor. Motion carried.
- C. Approve Reorganization of Officers
Rick Romano moved to reorganize the officers to the following positions: Charles Hernandez, President; Rick Romano, Director; Frank Capello, Vice President; James Lauth, Treasurer; and Matthew Zaniewski, Secretary. Charles Hernandez seconded the motion. James Lauth and Matthew Zaniewski voted in favor. Motion carried by the majority vote of the Board members present.
- D. Approve to appoint Ken Brensinger as the Liaison for Haddington to replace Charles Hernandez
Charles Hernandez moved to appoint Ken Brensinger as Liaison for Haddington to replace himself (Charles Hernandez). Rick Romano seconded the motion. James Lauth and Matthew Zaniewski voted in favor. Motion carried by the majority vote of the Board members present.

Matthew Zaniewski left the meeting at 8:00 PM

E. Approve Bilmar landscape proposals

Charles Hernandez moved to approve replacing soaker tubing not to exceed \$3,400 pending recommendation by Bilmar; approve Bilmar proposals #19659, \$28,857 for landscape improvements at Anthem Highlands Dr. & Democracy West and East Side and Anthem Highlands Dr. & Bicentennial East and West Side; #19653, \$9,550 for plant replacement at community monument entries; #19652, \$3,645 install plants at center island median at Bicentennial & Anthem Highlands Dr. south and east center median and Democracy at Anthem Highlands Dr. north and east/west center median; #19356, \$13,570 for rock refreshment at Montrose parks; #19347, \$4,706 for re-landscape Portpatrick at Holmfault /Craigton; #19346, \$3,744 for landscape beautification at Blythwood crash gate (Portpatrick); #18224, \$18,594 for park area enhancement at Edinburgh; and #18220, \$18,198 for park enhancement at Haddington. Rick Romano seconded the motion. James Lauth voted in favor. Motion carried.

- F. Approve to amend the Bilmar landscape contract to include four (4) fills for the fertigation tanks per year
 Charles Hernandez moved to approve to amend the Bilmar landscape contract to include four (4) Yard Feeder Tank fills per year for a cost of \$557.00/month. Rick Romano seconded the motion. James Lauth voted in favor. Matthew Zaniewski was not present. Motion carried.
- G. Approve proposal to install cameras in the Edinburgh and Haddington park areas
 Charles Hernandez moved to approve the Advanced Technology proposals to install one (1) common element security camera and pole in the Edinburgh park area for \$1,175.00 and install one (1) common element security camera and pole in the Haddington park area for \$1,175.00. Rick Romano seconded the motion. James Lauth voted in favor. Matthew Zaniewski was not present. Motion carried.
- H. Terminate Wright Ventures Lighting Maintenance Contract effective April 1st, 2014
 The Board discussed the transition to L.E.D. lighting. Charles Hernandez moved to approve to terminate the Wright Ventures Lighting Maintenance Contract effective April 1, 2014. Rick Romano seconded the motion. James Lauth voted in favor. Motion carried.
- I. Approve to amend Holbrook Asphalt proposals for Edinburgh and Haddington to include concrete joint sealing
 Charles Hernandez moved to approve to amend the Holbrook Asphalt proposals for Edinburgh and Haddington to include the concrete joint sealing in the amount of \$3,869.46 for Edinburgh and \$4,466.70 for Haddington. Rick Romano seconded the motion. James Lauth voted in favor. Motion carried.
- J. Approve a 6 month service cancellation of street sweeping for March thru September for Haddington and Edinburgh due to the asphalt work in the communities
 Charles Hernandez moved to approve to cancel for six (6) months (March thru September) street sweeping service for Haddington and Edinburgh due to the asphalt sealing project. Rick Romano seconded the motion. James Lauth voted in favor. Motion carried.

XII. Homeowners' Forum: The forum was open to homeowners. No comments were made.

XIII. Next Scheduled Meeting: The next regular session meeting will be held on March 26, 2014 at 6:00 PM at the Terra West Henderson Office.

XIV. Adjournment:
 Charles Hernandez moved to adjourn the meeting at 8:40 PM as there is no further business to conduct. Rick Romano seconded the motion. Motion carried.

Respectfully submitted by Terra West Management Services,

Approved By:

	<i>President</i>	<i>3-26-2014</i>
Board Signature	Title	Date

EXHIBIT "C"

EXHIBIT "C"

Anthem Highlands Community Association

Special Executive Session Meeting Minutes

Terra West Management Services

11135 S. Eastern Ave., Suite 120

Henderson, NV 89052

March 18, 2014 ~ 7:00 PM

Board Members Present Via Telephone Conference

Charles Hernandez	President
Frank Capello	Vice President
James Lauth	Treasurer
Matthew Zanlewski	Secretary
Rick Romano	Director

Others Present Via Telephone Conference

Carmen Eassa, Community Manager, CMCA	Terra West Management Services
Ted Boyack, Association Counsel	Boyack Beck & Taylor

Pennie Mossett-Puhek – Present at 7:21 PM – 7:33 PM

I. Call to Order and Establishment of Quorum

Charles Hernandez, Board President, called the meeting to order at 7:05 PM and a quorum was established to conduct business. Due to time constraints of the settlement agreement the board found it necessary to call a special emergency meeting Charles felt it was necessary

Rick Romano opposed Pennie Mossett-Puhek's presence at the meeting as this was an emergency meeting of the Board of Directors. Pennie Mossett-Puhek was appointed and approved by the Board at the January 22, 2014 Executive Session meeting as agent of the Board to act on behalf of the board to consult and work with all legal matters associated with litigation regarding Robert Stern and all accompanying legal matters including but not limited to the state of Nevada Real Estate Division and has complete authority to do same and work with any third parties in furtherance of same. Charles Hernandez, Frank Capello, James Lauth and Matthew Zanlewski did not object to Pennie's presence at the meeting.

II. Approve to Rescind February 26, 2014 motion regarding the Anthem Highlands vs Robert Stern Settlement Agreement

Ted Boyack was present to answer the Board's questions regarding the settlement agreement. Charles Hernandez moved to rescind the motion made on February 26, 2014 Executive Closed Session meeting regarding the Anthem Highlands vs Robert Stern settlement agreement. Frank Capello seconded the motion. James Lauth, Rick Romano, and Matthew Zanlewski voted no. The motion failed.

III. Adjournment

Charles Hernandez moved to adjourn the meeting at 7:36 PM as there was no further business to conduct. Frank Capello seconded the motion. Motion carried.

Respectfully submitted by Terra West Management Services,

Approved By:

 PRESIDENT 4-23-14

Board Signature

Title

Date

EXHIBIT “D”

EXHIBIT “D”



Anthem Highlands Community Association

Board of Directors Meeting Minutes
Terra West Management Services
11135 S. Eastern Ave., Suite 120
Henderson, NV 89052
March 26, 2014 - 6:00 PM

Board Members Present

Charles Hernandez President
Frank Capello Vice President
James Lauth Treasurer
Matthew Zaniewski Secretary

Board Member Absent

Rick Romano Director

Others Present

Carmen Eassa, Community Manager, CMCA Terra West Management Services
One homeowner

I. Call to Order and Establishment of Quorum

Charles Hernandez called the meeting to order at 6:30 p.m. and a quorum was established to conduct business.

II. Homeowners' Forum: The floor was opened to owners' comments on agenda items in accordance with NRS 116. The following comments were made:

- Need for landscape maintenance and cleanup at the trails and the paseo, as well as the drainage wash area in the paseo

III. Approval of Meeting Minutes

A. January 22, 2014 Regular Session

Charlie Hernandez moved to postpone approval of the January 22, 2014 meeting minutes to the next Board meeting pending majority approval by Board members that were present at the January 22, 2014 meeting. Frank Capello seconded the motion. James Lauth and Matthew Zaniewski voted in favor. Motion carried.

B. February 26, 2014 Regular Session

Charlie Hernandez moved to approve the February 26, 2014 meeting minutes. Matthew Zaniewski seconded the motion. James Lauth and Frank Capello voted in favor. Motion carried.

IV. Landscape Report by Bilmar Landscape

The Board reviewed the monthly landscape report as presented by Bilmar Landscape.

V. Review of Financial Reports

A. December 2013

Motion by Charles Hernandez: I move to acknowledge that we have fulfilled our duty as a Board to review the financial statements for December 2013 in accordance with NRS 116.31083 subject to the year-end audit. The motion was seconded by Frank Capello. James Lauth voted in favor. Matthew Zaniewski abstained as he did not have time to review the financials. Motion carried.

B. January 2014

Motion by Charles Hernandez: I move to acknowledge that we have fulfilled our duty as a Board to review the financial statements for January 2014 in accordance with NRS 116.31083 subject to the year-end audit. The

Anthem Highlands Community Association
Board of Directors Meeting Minutes
March 26, 2014 - 6:00 PM

motion was seconded by Matthew Zaniewski. James Lauth and Frank Capello voted in favor. Motion carried unanimously by the Board members present.

VI. Committee Report and Actions

A. ARC Committee Report

Acknowledge Lynn Romano resignation from the ARC committee effective March 23, 2014 and appoint replacement to be announced at the meeting: The Board acknowledged Lynn Romano's resignation from the ARC Committee. Charles Hernandez moved to appoint Pennie Puhek to the ARC Committee. James Lauth seconded the motion. Frank Capello and Matthew Zaniewski voted in favor. Motion carried unanimously by the Board members present.

B. Landscape Committee and Report

Acknowledge Richard Romano's resignation as Chairperson of the Landscape Committee effective March 24, 2014: The Board acknowledged Richard Romano's resignation from the Landscape Committee effective March 24, 2014. Landscape Report: Pennie Puhek reported in addition to the landscape maintenance issues in the drainage wash, paseo and the trails, the side lot improvements and funding need to be resolved. Recommendations were made to address the number of dedicated manpower to the community when updating the landscape contract. A status report regarding the palms located on Bicentennial Pkwy. and the fertilization needed was also provided to the Board. Frank Capello recommended adding Mitchell Brower and Linda Rich to the Landscape Committee with James Lauth as the Chairperson. The Landscape Committee is comprised of James Lauth, Chairperson, with Frank Capello, Charles Hernandez, Linda Rich, Pennie Puhek, Dahl Capello and Mitchell Brower.

C. Compliance Committee Report

Pennie Puhek provided an update report to the Board regarding the landscape moratorium period ending and the need to have an additional Executive Closed Session Meeting in May to hold hearings for the landscape violations.

D. Social/Newsletter Committee Report

Pennie Puhek provided a report of the upcoming social events; Art Walk, April 5-6 at the Albertson Shopping Center on Bicentennial Pkwy; Egg Hunt on April 19 at Esselmont Park; Aloha Day at Avondale Park on May 31st; Newsletter; plans for an Esselmont Booth in the fall at the next Art Walk; upcoming Treasure Hunt and Garage sale were also discussed.

E. Neighborhood Watch Committee Report

James Lauth reported the next NW meeting is scheduled for April 1st at 6:00 p.m. at Esselmont Park; City of Henderson Police Sergeant will be present at the meeting.

VII. Legal

A. Update on Higher Ground et al vs. Anthem Highlands

Kaleb Anderson from Lipson, Neilson, Cole, Seltzer, & Garin
The Board reviewed the emailed correspondence from Kaleb Anderson, association counsel, noting the case is on-going with regards to case items F. and G. below.

B. Update on Anthem Highlands vs. Developers Regarding Yellow Brass

Terry Riedy, Canepa, Riedy & Rubino
The Board reviewed the emailed correspondence from Terry Riedy, providing an update on the Yellow Brass case. The case is on-going.

C. Bank of America vs. Anthem Highlands

Tim Elson, Lewis, Brisbois, Bisgaard, & Smith LLP (LBBS)
The Board reviewed the emailed correspondence from Tim Elson noting the case is on-going.

D. Chapter 40 Steep Slope

Colby Beck - Boyack, Beck & Taylor Settlement
The Board reviewed the emailed correspondence from Colby Beck, association counsel. Case is on-going pending resolution and reimbursement of costs incurred from Lennar.

- E. Anthem Highlands vs Robert Stern Settlement Agreement Inclusion to March 26, 2014 minutes
Ted Boyack - Boyack, Beck & Taylor
The settlement agreement will be included with the March 26, 2014 meeting minutes.
- F. Montesa LLC, et al. vs Anthem Highlands Case No. A-13-685833
Colby Beck – Boyack, Beck & Taylor
The updated email correspondence from association counsel Colby Beck was reviewed by the Board noting the case is on-going.
- G. Southern Nevada Acquisitions, et al vs. Anthem Highlands Case No. A-13-685798
Colby Beck – Boyack, Beck & Taylor
The updated email correspondence from association counsel Colby Beck was reviewed by the Board noting the case is on-going.

VIII. **Manager's Report**

- A. Management reported that there were nineteen (19) violation hearings held in the Executive Session and twenty-three (23) ARC Applications were submitted for review.
- B. **Action Items**
The Board reviewed the action list as presented. Management reported the following: upcoming social events, replacement of the Calgary pedestrian gate lock due to vandalism; Candidate Meet and Greet to take place at the Art Walk event on April 5 & 6; ATV maintenance due in April and status of pending inspections for ARC completion forms submitted.

IX. **Unfinished Business:** There were no unfinished agenda items to address.

X. **New Business**

- A. Approve Billmar landscape proposals for Earlstone/Glengarry Park/Haddington Park
Charles Hernandez moved to postpone the Earlstone/Glengarry Park landscape proposal to April 23rd meeting and approve the Haddington Park landscape change order proposal as presented. Frank Capello seconded the motion. James Lauth and Matthew Zaniewski voted in favor. Motion carried by majority vote of the Board members present.
- B. Approve to obtain bids for landscape monthly maintenance service and also approve John Smith to update RFP/Contract to include language concerning paseo and trail maintenance requirements as well as updating liquid fertilizer requirements vs granular fertilizer
Charles Hernandez moved to approve to obtain bids for monthly landscape maintenance service and also approve John Smith, HCI, to update the RFP/contract to include language concerning paseo and trail maintenance requirements as well as update the liquid fertilizer requirements versus granular fertilizer. Frank Capello seconded the motion. Discussion was held regarding the request for proposal and updated language for the monthly landscape service. Recurring lack of maintenance to the property including delays in flower installation by Billmar was also discussed. James Lauth voted in favor. Matthew Zaniewski voted no. Motion carried by majority vote of the Board members present.
- C. Appoint Board President Charles Hernandez as Legal Liaison in place of former President Rick Romano
Charles Hernandez, Board President, moved to approve himself as legal liaison to replace former Board President, Rick Romano. Frank Capello seconded the motion. Discussion was held regarding the purpose for the co-liaison position. James Lauth and Matthew Zaniewski voted in favor. Motion carried by majority vote of the Board members present.

D. Approve to appoint management co-liaison to assist the Board President through officer change and upcoming election

Charles Hernandez moved to approve to appoint Frank Capello as management co-liaison to assist the Board President through officer change and upcoming election. Frank Capello seconded the motion. Discussion was held regarding the co-liaison position. James Lauth and Mathew Zaniewski voted in favor. Motion carried unanimously by the Board members present.

E. Approve second phase of common element camera monitoring proposal to include mounting poles. Approve a committee of two, one of which will be Pennle Mossett-Puhek, to select location and placement of cameras with maps and serial numbers

Charles Hernandez moved to approve second phase of common element camera monitoring proposal to include mounting poles and appoint a committee of two, James Lauth and Matthew Zaniewski, to select location and placement of cameras with maps and serial numbers. James Lauth seconded the motion. Frank Capello and Mathew Zaniewski voted in favor. Motion carried unanimously by the Board members present.

F. Approve signs for common element camera monitoring estimated at \$51.00 each

Charles Hernandez moved to approve purchasing approximately 21 signs at \$51.00 each for the phase 2 of the common element camera monitoring placements. Frank Capello seconded the motion. James Lauth and Mathew Zaniewski voted in favor. Motion carried unanimously by the Board members present.

G. Approve two-person committee to monitor LED light change out project and report monthly to the management company

Charles Hernandez moved to approve to appoint James Lauth and Matthew Zaniewski on a committee to monitor the LED light transition project and provide a monthly report to management on the progress. Frank Capello seconded the motion. James Lauth and Mathew Zaniewski voted in favor. Motion carried unanimously by the Board members present.

H. Approve to seek proposals for LED bollard lighting in the paseos due to safety concerns. Once proposals are received, an RFP will be created and sent out for bid

Charles Hernandez moved to approve to obtain proposals for LED bollard lighting in the paseos due to safety concerns; an RFP will be created and sent out for bid. Frank Capello seconded the motion. Discussion was held by James Lauth regarding the type of bollard lighting that will be used. James Lauth and Mathew Zaniewski voted in favor. Motion carried unanimously by the Board members present.

I. Approve newsletter to include information on construction defect issues of limitations and inform homeowners of process in filling out a claim with the builder. Approve attorney to review language prior to printing of newsletter

Charles Hernandez moved to approve newsletter to include information on construction defect issues of limitations and inform homeowners of process in filling out a claim with the builder and approve attorney to review language prior to printing of newsletter. Frank Capello seconded the motion. Discussion was held regarding the construction defect case. Association counsel will review the language at no cost to the association. James Lauth and Mathew Zaniewski voted in favor. Motion carried unanimously by the Board members present.

XI. Homeowners' Forum

The forum was open to homeowners and the following comments were made:

Lighting in the community

- Landscape maintenance issues; lack of flower installations at specified time
- Homeowner submitted comments for inclusion to the minutes regarding Anthem Highlands vs Robert Stern settlement agreement

XII. Next Scheduled Meeting

The next regular session meeting will be held on April 23, 2014 at 6:00 PM at the Terra West Henderson Office.

Anthem Highlands Community Association
Board of Directors Meeting Minutes
March 26, 2014 - 6:00 P.M.

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NRED0110

XIII. **Adjournment:**

Charles Hernandez moved to adjourn the meeting at 7:50 PM as there is no further business to conduct. Frank Capello seconded the motion. Motion carried.

Respectfully submitted by Terra West Management Services,

Approved By:

	PRESIDENT	4/23/2014
Board Signature	Title	Date

Comments for Inclusion March 26,2014--Anthem Highlands V. Robert Stern

It appears based on the agenda item regarding a settlement in the civil action, that the Board of Directors was finally able to get this offending unit owner to curb his abusive and retaliatory behavior towards management and the Board of Directors. I applaud you for being strong and sticking to your principles to make sure that the management company and the community didn't suffer, because of his obvlous antics that have created chaos and loss of productivity in the community over the last 4 years. This Board remained strong and united and was able to move the community forward regardless of the cyber bullying and threats of personal financial ruin to Board members who disagreed with him (which has been just about every board member for 4 years). Also, I am happy that the association attorney informed the Board that this type of action was covered under the insurance policy which allowed the Board to properly negotiate with the defendant to achieve its objectives. This meant that any settlement reached to pay attorney fees would be paid by the insurance carrier and not the homeowners.

It is public knowledge that this defendant has filed over 30 complaints with the Real Estate Division against the Board of Directors. The majority were thrown out as frivolous and harassing. In the handful left that the Board was asked to respond to, the Real Estate Divisions Compliance Investigator ruled in the Boards favor and determined that the board did not violate the law as alleged by this defendant, but instead acted appropriately as Board members. I was given this information by NRED employees once I left the Board and became a homeowner.

Unfortunately, the Real Estate Division put notification of these findings on hold until a settlement was reached, because I can only assume that they didn't want to let the defendant know that, ONCE AGAIN, he was wrong and then have to deal with continued harassment. I am sure the Ombudsman would have suggested having the defendant agree to close his latest round of complaints as a condition of this settlement, so they could actually focus on real issues. I think the hope, by this defendant, was that if you file enough complaints, one might stick.

Well, none of them did!!!!!! It is clear by this settlement that even though this defendant claimed he was fighting for homeowners, he did not hesitate to save his own 'bacon' and agreed to curb his harassment, so he could get reimbursed his costs. I doubt the homeowners will thank him once the full truth comes out and maybe I won't have to be asked anymore" who is that crazy old man that keeps sending out the community updates, doesn't he have a life". It's just getting old. It would be naïve for anyone to think this settlement will completely stop this defendant's behavior. Its' actually quite sad, because this continued behavior clearly exhibits low self-worth and an obsessive desire to be praised. Going forward, therapy might be more cost effective.

Paul Miller 3-26-14

EXHIBIT "E"

EXHIBIT "E"



Anthem Highlands Community Association

Board of Directors Meeting Minutes
Terra West Management Services
11135 S. Eastern Ave., Suite 120
Henderson, NV 89052
September 10, 2014 ~ 5:30 PM

Board Members Present

Charles Hernandez	President
Pennie Puhek	Vice President (Appointed to the Board, arrived at 5:40 PM)
James Lauth	Treasurer (via telephone conference; left at 6:09 PM)
Linda Rich	Secretary (left at 6:09 PM)
Ronnie Young	Director

Others Present

Carmen Eassa, Community Manager, CMCA Terra West Management Services
Homeowners

I. Call to Order and Establishment of Quorum

Charles Hernandez called the meeting to order at 5:33 p.m. and a quorum was established to conduct business.

II. Homeowners' Forum: The floor was opened to owners' comments on agenda items in accordance with NRS 116. No comments were made at the time.

III. Unfinished Business

A. Approve Holiday Lighting proposal

Charles Hernandez moved to approve the holiday lighting proposal as presented in the amount of \$10,030 and \$1,000 to install and remove the wreaths from the storage unit and return all holiday lighting materials to the storage unit. Ronnie Young seconded the motion. Linda Rich and James Lauth voted in favor. Motion unanimously approved by the voting board members present. Motion carried.

IV. New Business

A. Approve to appoint member to fill the vacant position to unexpired term to May 27, 2015 on the Anthem Highlands Community Association Board of Directors

Charles Hernandez moved to appoint Pennie Puhek to fill the vacant position to the unexpired term to May 27, 2015 on the Anthem Highlands Community Association Board of Directors. Linda Rich seconded the motion. Discussion: Ronnie Young recommended appointment of Michael Duberchin to fill the unexpired term on the Board. James Lauth voted in favor of the motion. Motion unanimously approved by the voting board members present. Ronnie Young voted no. Motion carried.

B. Approve Reorganization of officers

Charles Hernandez moved to reorganize the officers to the following positions:
Charles Hernandez will remain as President, Pennie Puhek as Vice President, Linda Rich will remain as Secretary, James Lauth will remain as Treasurer, and Ronnie Young will remain as Director. on the Anthem Highlands Community Association Board of Directors. Linda Rich seconded the motion with Pennie Puhek, James Lauth, and Ronnie Young voting favor. Motion unanimously approved. Motion carried.

C. Approve Valley Crest landscape proposals for area cleanup of Earlstone Paseo, Haddington Paseo; Montrose Paseo; Montrose paseo tree replacements; side lot plant replacements for AHCA Master, Edinburgh and Haddington

The Board members reviewed all of the proposals in their board package as presented. Charles Hernandez moved to approve the side lot plant replacement proposals as follows:

Valley Crest proposals: # 540549 (\$230.00); #541575 (\$1039.00); #540556(\$407.00); #540560 (\$46.00); #541592 (\$638.00); #541602(\$255.00); #541619 (\$253.00); Haddington #540559 (\$391.00); Edinburgh #540553 (\$370.00). Valley Crest will be responsible to provide information to the association if plant loss is due to homeowner neglect to water them as required by the easement agreement, which allows the association to seek reimbursement from the unit owner. Discussion: Linda Rich commented on the side lot proposals and the paseo clean up scope of work as presented from Valley Crest. Pennie Puhek seconded the motion. Linda Rich, Ronnie Young and James Lauth voted in favor. Motion unanimously approved. Motion carried.

Approve Valley Crest landscape proposals for area cleanup of Earlstone Paseo, Haddington Paseo, Montrose Paseo

Charles Hernandez commented the paseo cleanup needs to take place for fire and personal safety purposes because of overgrowth of plant material. Extensive demolition is needed in all 3 paseos as noted above. This work is not included in the landscape maintenance contract, therefore separate proposals were obtained. Once the demolition is complete, the Board will seek proposals for any new plant, tree, or rock material that needs to be replaced.

Motion: Charles Hernandez moved to approve Valley Crest landscape proposals for area cleanup of Earlstone Paseo, #545329 (\$5,853.75); Haddington Paseo, #539879 (\$12,412.50); and the Montrose Paseo #545310 (\$9,930). The Montrose paseo tree replacements #545359 (\$885) will be placed on hold pending demolition of the Montrose Paseo. Linda Rich seconded the motion. Discussion: James Lauth commented on the paseo cleanup and the landscape contract; clarification was provided between maintenance and demolition scope of work; Ronnie Young commented on the labor costs and equipment fees. Pennie Puhek, James Lauth and Ronnie Young voted in favor. Motion unanimously approved. Motion carried.

- D. Association to send official letter to C.O.H. (City of Henderson) requesting traffic control measures at the corner of Democracy and Anthem Highlands Dr. due to safety concerns or to receive approval to allow private traffic control. Letter to also be sent to Madeira Board of Directors asking for potential cost share in private traffic control of Democracy and Anthem Highlands Dr. during peak hours

Charles Hernandez moved to approve to send official letter to C.O.H. (City of Henderson) requesting traffic control measures as noted in agenda item D above. Ronnie Young seconded the motion. Discussion: Pennie Puhek commented that she plans to attend the Planning Commission meeting tomorrow night to discuss this agenda item. Pennie Puhek, James Lauth and Linda Rich voted in favor. Motion unanimously approved. Motion carried.

- E. Approve to seek proposals for private traffic control at Democracy and Anthem Highlands Drive for 1 hour in the morning and 1 hour in the evening during peak traffic hours

Charles Hernandez moved to approve to seek proposals for private traffic control as presented in agenda item E. Pennie Puhek seconded the motion. Linda Rich, Ronnie Young and James Lauth voted in favor. Motion unanimously approved. Motion carried.

- F. Approve to install camera at Portpatrick pedestrian gate leading to Esselmont Park

The Board discussed the drainage easement in Portpatrick has a pedestrian gate that leads to the dog park. This area is very dark at night and there have been several issues regarding vandalism of the gate. A monitoring camera is needed. Charles Hernandez moved to approve installation of a monitoring camera at the Portpatrick pedestrian gate for safety purposes. Linda Rich seconded the motion with Pennie Puhek, James Lauth, and Ronnie Young voting in favor. Motion unanimously approved. Motion carried.

- G. Approve to convert 4 bullet fixtures to L.E.D. in Portpatrick center island median

Charles Hernandez moved to approve to convert 4 bullet fixtures to L.E.D. in the Portpatrick center island median at \$385 each with final review and approval of the costs and scope of work at completion. Ronnie Young seconded the motion with Pennie Puhek, James Lauth, and Linda Rich voting in favor. Motion unanimously approved. Motion carried.

H. Approve to convert to L.E.D. landscape fixtures at both monument signage at Democracy and Anthem Highlands Drive

Charles Hernandez moved to approve to convert to L.E.D. landscape fixtures at both monument signage areas at Democracy and Anthem Highlands Drive for \$6,750 through Innovative Systems Group (I.S.G.). Linda Rich seconded the motion. James Lauth, Ronnie Young and Pennie Puhek voted in favor. Motion unanimously approved. Motion carried.

I. Approve to offer mediation through the Office of the Ombudsman to unit owners who refuse to comply with the setback requirements as required in the Rules and Regulations in order to close a leaching wall violation

Charles Hernandez moved to approve to offer mediation through the Office of the Ombudsman to unit owners who refuse to comply with the setback requirements as required in the Rules and Regulations in order to close a leaching wall violation where a dispute exists. Pennie Puhek seconded the motion. Discussion was held by Pennie Puhek explaining the purpose of agenda item I as presented. James Lauth, Ronnie Young, and Linda Rich voted in favor. Motion unanimously approved. Motion carried.

V. Homeowner Correspondence

Unit Owner request for mediation reimbursement

Charles Hernandez moved to deny the unit owner request for mediation reimbursement of \$50 as it does not conform to the settlement agreement provisions requiring arbitration. Pennie Puhek seconded the motion. Discussion: Ronnie Young and the Board discussed the mediation reimbursement request by the Unit Owner. James Lauth and Linda Rich voted in favor of the motion. Motion unanimously approved by the voting board members present. Ronnie Young voted no. Motion carried.

VI. Homeowners' Forum: The forum was open to homeowners and the following comments were made:

- Wall leaching
- Security and vandalism
- Neighborhood Watch
- Installation of additional lighting is in progress
- Garage Sale
- Gas Station on Bicentennial & Anthem Highlands Drive

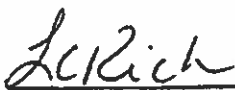
VII. Next Scheduled Meeting: The next regular session meeting will be held on September 24, 2014 at 6:00 PM at the Terra West Henderson Office.

VIII. Adjournment:

Charles Hernandez moved to adjourn the meeting at 6:23 PM as there was no further business to conduct. Pennie Puhek seconded the motion. Motion carried.

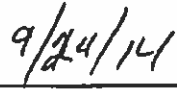
Respectfully submitted:
Carmen Eassa, Community Manager, CMCA®
Terra West Management Services

Approved By:



Board Signature

Title



Date

EXHIBIT "F"

EXHIBIT "F"

Anthem Highlands Community Association

*Executive Session Meeting Minutes
Terra West Management Services
11135 S. Eastern Ave., Suite 120
Henderson, NV 89052
January 28, 2015 ~ 4:30 PM*

Board Members Present

Charles Hernandez	President
Pennie Puhek	Vice President
James Lauth	Treasurer
Linda Rich	Secretary
Ronnie Young	Director

Others Present

Carmen Eassa, Community Manager, CMCA	Terra West Management Services
Tanya Matysek, Administrative Assistant	Terra West Management Services
Ted Boyack, Association Counsel	Boyack, Beck and Taylor via telephone conference (5:00 PM-5:20 PM)

I. Call to Order and Establishment of Quorum

Charles Hernandez called the meeting to order at 4:30 p.m. and a quorum was established to conduct business.

II. Approval of Executive Session Minutes

December 10, 2014 Executive Session

Charles Hernandez moved to approve the December 10, 2014 Executive Session Meeting Minutes as submitted. Pennie Puhek seconded the motion. Motion carried unanimously.

III. Compliance/Hearing:

A. Violation Hearings

Fine Policy: FINE \$50.00 Initially, wait 14 days then begin fining \$100.00 per week or per occurrence, whichever is less, until the violation is corrected. Charles Hernandez moved to implement the decisions as noted on the attached; Night hearing list (Attachment A, 8 pages); Regular monthly hearing list (see Attachment B, 14 pages) and Wall Leaching Hearing list (Attachment C, 11 pages) for each violation called to hearing, and as recommended by the Compliance Committee. Pennie Puhek seconded the motion. Motion carried unanimously.

Unfinished Business: Hearings from 12/10/14 meeting

2834 Kinknockle Way / Long / Acct.# 329-3270 Wall leaching violation extension was granted to 12/29/14.

Violation closed by compliance committee on 12/16/14.

The Board acknowledged the wall leaching violation was closed as noted above.

2836 Kinknockle Way / Chan/ Acct.# 295-9036: Wall leaching violation extension granted to 12/29/14 pending meeting with the homeowner to explain the violation. Onsite meeting is set for 1/23/15 with the compliance committee.

Pennie Puhek re-scheduled the meeting with the homeowner to 1/30/15 to discuss the violation. The homeowner was granted a 10 day extension (due 2/12/15) to choose a protocol and 45 days to complete. Charles Hernandez moved to grant the extension. Pennie Puhek seconded the motion. Motion carried unanimously.

B. Homeowner Correspondence/Requests/Disputes:

2692 Niddrie Ave /Frankl/ Sub.# 297-8745: Homeowner is requesting to waive \$250 violation fine to paint the cable to match the home. Current on assessments. \$250 open violation on account. Violation closed on the 2/6/14 inspection.

Charles Hernandez moved to postpone homeowner violation fine waiver request to Feb. 25, 2015 meeting pending updated account information. Pennie Puhek seconded the motion. Motion carried unanimously.

2795 Lochleven Way/Luo/ Sub.# 297-7526: Homeowner is requesting to waive \$50 violation fine to remove and replace the dead plants. Current on assessments. \$50 open violation on account. Violation is still open as of the 1/8/15 inspection. Charles Hernandez moved to deny homeowner request to waive \$50 violation fine. Homeowner needs to replace plants and re-apply for waiver. Pennie Puhek seconded the motion. Motion carried unanimously.

2836 Blythswood Sq. /Blythswood LLC / Sub.# 296-9330: Homeowner is requesting to waive \$450 violation fine for "wall leaching." Current on assessments. \$450 open violation on account. Violation still open as of the 1/23/14 inspection. Charles Hernandez moved to deny homeowner request to waive \$450 violation fine, resolve the wall leaching violation in 15 days, (due 2/17/15) and re-apply. Violation will remain open on the "continue to fine" status until it reaches the maximum \$1,000. If the violation is not resolved, the violation will be forward to Legal Counsel per Section 7.2.4 of the C.C.& R.s for damage to the common area wall. Pennie Puhek seconded the motion. Motion carried unanimously.

2849 Trossachs St. / Colfin AI-NV 2, LLC / Sub. # 330-3005: Homeowner is requesting to waive \$800 violation fine to remove and replace dead plants and for the burned out address light. Current on assessments. \$835 open violation on account including a \$35 lien audit processing fee. Violations closed on the 1/6/15 inspection. Charles Hernandez moved to waive 75% of the violation fine, \$600, with the condition the unit owner pays \$200 violation fine and \$35 lien audit processing fee within 30 days. Pennie Puhek seconded the motion. Motion carried unanimously.

3090 Tara Murphy Dr. / Mel / Sub.# 298-1334: Homeowner is requesting to waive \$150 violation fine to remove tree suckers. Current on assessments. \$150 open violation on account. Violation in compliance and picture received on 1/22/15. Charles Hernandez moved to postpone their request to waive the violation fines to the 2/25/15 meeting. Pennie Puhek seconded the motion. Motion carried unanimously.

2749 Drumlanrig St.: / Lopez / Sub. #297-2848: Homeowner is requesting to waive \$450 violation fine to remove tree suckers. Current on assessments. \$450 open violation on account. Violation closed on the 9/4/14 inspection. James Lauth moved to waive 75% of the violation fine, \$337.50, with the condition the unit owner pays \$112.50 within 30 days. Linda Rich seconded the motion. Motion carried unanimously.

2667 Dirleton Pl. / Ward / Sub. # 297-2521: Homeowner is requesting to waive \$450 violation fine to remove tree suckers. Current on assessments. \$450 open violation on account. Violation closed on the 9/4/14 inspection. There is one open violation to remove trash container. Trash container not observed at the 1/26/15 inspection and trash violation letter has been sent (if violation is observed in 30 days, fine). James Lauth moved to waive 75% of the violation fine, \$337.50, with the condition the unit owner pays \$112.50 within 30 days. Linda Rich seconded the motion. Motion carried unanimously.

2760 Kildrummie St. / Cox / Sub. # 297-4448: Homeowner is requesting to waive \$1,000 violation fine for wall leaching violation. Current on assessments. \$450 open violation on account. Violation closed on the 11/7/14 inspection. Charles Hernandez moved to send the new wall leaching protocol letter to the homeowner. Once the protocol has been implemented, the homeowner can re-apply for a waiver. Pennie Puhek seconded the motion. Motion carried unanimously.

2563 Dirleton Pl. / Kerney/Acct. # 295-5454: Homeowner received a violation for the landscape being too close to the wall. As a result, the wall is starting to deflect. The homeowner sent in a response stating "Those very expensive Canary Palms were approved by the ARC committee over 4 years ago." Photo was attached. James Lauth moved for the homeowner to remove the tree within 15 days (due 2/17/15) or provide a Structural Engineer report that the integrity of the wall has not been compromised. Pennie Puhek seconded the motion. Motion carried unanimously.

Unfinished Business from 10/22/14 Meeting

2729 Tarbert St. / Silver / Acct. # 295-4720: Homeowner is requesting an extension to 3/30/15 to submit an ARC application for back yard landscape installation. Charles Hernandez moved to grant the extension to submit an ARC application to 3/30/15. Once the ARC application is approved, the homeowner has 90 days to complete the back yard landscape installation. Pennie Puhek seconded the motion. Motion carried unanimously.

C. Late Fees/Interest: Request to Waive Fees

2518 Denholme St./Potts/ Acct.# 295-5438: Homeowner is disputing \$204.13 in late charges and interest. Homeowner also has paid \$450 in violation fines for a burned out address light violation. Violation closed on the 1/6/15 inspection. Current on assessments and there are no open violations. Charles Hernandez moved to deny the homeowner's request to waive late fees and interest. Homeowner can request a waiver for the violation fines. Pennie Puhek seconded the motion. Motion carried unanimously.

Legal Matters

1. Approve to obtain second legal opinion regarding clarification of the AHCA v Stern agreement dated Feb. 20, 2014

Linda Rich moved to obtain a second opinion on the requirement for a homeowner vote in the current civil case based on the Division's position that getting a legal opinion does not waive the Board's fiduciary requirement. James Lauth seconded the motion. Discussion: Pennie Puhek and Charles Hernandez discussed the fact that they were confident that association counsel, Ted Boyack's opinion was correct and a second opinion was not needed or warranted. Ronnie Young voted yes, Charles Hernandez and Pennie Puhek voted no. Motion carried.

2. Approve assessing Robert Stern legal fees for violation of the settlement agreement and continued harassment that results in the association having to consult with Association counsel

Charles Hernandez moved to postpone to March 25, 2015 meeting agenda item #2 under Legal Matters pending legal consultation regarding the settlement agreement. Pennie Puhek seconded the motion. Motion carried unanimously.

3. Approve to file Intervention Affidavit against unit owner, Robert Stern, for continued harassment of the community manager for threats to file complaints against her license

Charles Hernandez moved to direct Terra West Management to file an Intervention Affidavit to stop the abuse, retaliatory actions, and harassment by Mr. Stern and to also provide Ms. Eassa legal counsel to respond to unit owner Robert Stern's allegations in letters sent to her that she violated the law. If Terra West fails to take the necessary actions to protect its employee and maintains the position that the duty to defend is owed by the association under the indemnification provision of the management contract, the Board approves for Ms. Eassa to engage outside legal counsel to provide these services to her. The Board will at a later date address the issue that it believes it does not owe indemnification based on the unauthorized actions of a Terra West employee as well as the failure to provide support to Ms. Eassa in her management duties as a Terra West employee. Pennie Puhek seconded the motion. Motion carried unanimously.

4. Letter dated 1/7/2015 from Loosvelt Law Group, Advanced Lighting Services counsel, previously sent to the Board

Charles Hernandez moved to postpone agenda item #4 under Legal Matters to the Feb. 25, 2015 meeting pending Earlstone decision regarding the Advanced Lighting Invoice. James Lauth seconded the motion. Motion carried unanimously.

Legal Update and Pending Litigation

1. Anthem Highlands vs Developers/Yellow Brass Update

The Board reviewed the emailed correspondence from counsel noting there was a settlement in the case.

2. Chapter 40 Steep Slope between Anthem Highlands and Lennar Corporation et al. Pending

Ted Boyack, Association Counsel provided an update on the case. Case is pending additional information from the Geo Tech Engineer.

3. Bank of America vs Anthem Highlands; Other; Title to Property, Pending litigation
The case is pending; status check on 4/2/15. Sale postponed regarding 2904 Rothesay
4. Bank of America vs Anthem Highlands; Other Real Property, Pending litigation
The case is regarding 2713 Auchmull. The Court has set a status check hearing for 4/15/15.
5. Bank of America vs Anthem Highlands; Super Priority Lien; (case no. A-17-670230-B) Pending litigation
Court continued the stay and set another status check for March 19, 2015.
6. Elsinore LLC vs Anthem Highlands, Super Priority Lien; Inactive
7. Anthem Highlands Community Association vs Robert Stern; Other Contract; Pending
No legal update provided. Case is on-going.

IV. Manager's Report

- A. Review Open Violation Detail Report: The Board reviewed the previously emailed open violation detail report.
- B. ARC Submittals: The Board acknowledged the conditionally approved ARC submittals by the ARC Committee as noted below.

1. 2755 Kindeace Ave.: Homeowner submitted an ARC application to install solar panels. ARC committee approved on 1/15/15.
2. 2781 Rosenheartly Dr.: Homeowner submitted an ARC application to paint the house exterior AHCA color scheme #9. ARC committee approved on 1/8/15.
3. 2420 Balgavles Ct.: Homeowner submitted an ARC application to install landscape, patio cover, shed and paint. ARC committee approved on 12/17/14.
4. 2755 Leys Burnett Ave.: Homeowner submitted an ARC application to install a pool. ARC committee approved on 12/17/15.

- C. Review Delinquency Summary Report

The Board reviewed the Delinquency Summary Report as presented.

- D. Collection Fee Reports

The Board reviewed the Collection Fee Reports as presented.

- E. Call Log

The Board reviewed the Call Log as presented.

- F. Discuss/Review/Motion: Collection Requests:

1. Payment Plan Requests

2404 Tyneside St. /McIntyre/ Acct. # 296-5444: Payment plan request has been submitted for \$250 per month to pay a total of \$2,727.98 of which \$916.00 are collection fees. This is the second time they are requesting a payment plan. The account is with RRFs. Charles Hernandez moved to reject the terms of the requested payment plan at this time. The Board will reconsider a payment plan request at the next Board meeting scheduled on Feb. 25, 2015. Pennie Puhek seconded the motion. Motion carried unanimously.

2756 Leys Burnett/Zadeh/RRFS #33714: Payment plan request \$100/month, Total \$3,013.63, pending short sale; 9 month super priority paid; sale date set for 1/30/15. Charles Hernandez moved to deny the payment plan request and move forward with the sale.

Charles Hernandez moved to reject the terms of the requested payment plan at this time. The Board will reconsider a payment plan request at the next Board meeting scheduled on Feb. 25, 2015. All sales will be postponed a day prior to sale date if payment in full is not received. Pennie Puhek seconded the motion. Motion carried unanimously.

2620 Lochleven Way / Wong / Acct. # 296-0151: Payment plan request has been submitted for \$250 per month to pay a total of \$2,868.32. This is the fourth time they are requesting a payment plan. Total amount owed is \$2,868.32 of which \$1,406.86 are collection fees. The account is with RRFs.

Charles Hernandez moved to reject the terms of the requested payment plan at this time. The Board will reconsider a payment plan request at the next Board meeting scheduled on Feb. 25, 2015. All sales will

be postponed a day prior to sale date if payment in full is not received. Pennie Puhek seconded the motion. Motion carried unanimously.

2868 Kinknockle Way / Smiley / Acct. # 295-9308: Payment plan request has been submitted for \$100 per month to pay a total of \$4,347.75 of which \$1,730.62 are collection fees. This is the first time they are requesting a payment plan. The account is with RRFS.

Charles Hernandez moved to reject the terms of the requested payment plan at this time. The Board will reconsider a payment plan request at the next Board meeting scheduled on Feb. 25, 2015. Pennie Puhek seconded the motion. Motion carried unanimously.

2717 Ardchonnell St. / Johlfs / Acct. # 295-0226: Payment plan request has been submitted to pay \$1,436.49 (of which \$530.44 are collection fees) in 3 months. This is the first request for a payment plan. The account is with HOA Services.

Ronnie Young moved to approve three payment plans with the first one due on February 15, March 15 and April 15, 2015. James Lauth seconded the motion. Motion carried unanimously.

2679 Lochleven Way / Foster / Acct. # 296-0449: Payment plan request has been submitted to pay a total of \$3,136.67. This is the first time they are requesting a payment plan. The account is with AMS.

Charles Hernandez moved to reject the terms of the requested payment plan at this time. The Board will reconsider a payment plan request at the next Board meeting scheduled on Feb. 25, 2015. Pennie Puhek seconded the motion. Motion carried unanimously.

2975 Tara Murphy Dr./296-4296/RRFS #805250: Payment plan request has been submitted to pay a total of \$2,215.35 of which \$250.00 are collection fees. Homeowner was present at meeting.

Charles Hernandez moved to postpone the payment plan request to the Feb. 25, 2015 meeting pending update on bankruptcy from Red Rock Financial Services. Pennie Puhek seconded the motion. Motion carried unanimously.

2812 Kinknockle Way/Aulicino/RRFS #791903/set sale date 2/10/15 (\$4,815.85 of which \$2,564.53 are collection fees)

Charles Hernandez moved to reject the terms of the requested payment plan at this time. The Board will reconsider a payment plan request at the next Board meeting scheduled on Feb. 25, 2015. All sales will be postponed a day prior to sale date if payment in full is not received. Pennie Puhek seconded the motion. Motion carried unanimously. Permission to Publish/Notice of Default:

2782 Lochleven Way/Best/AMS #14673-149057/Notice of Default as presented

Charles Hernandez moved to approve the Notice of Default as presented from AMS. Pennie Puhek seconded the motion. Motion carried unanimously.

2. RRFS Units Current Sales Status:

2760 Leys Burnett/Horn/RRFS #31762/set sale date 2/3/15 (Total \$6,292.69 of which \$3,049.67 are collection fees)

Charles Hernandez moved to postpone the sale for an additional 45 days if payment in full is not received prior to the sale date. Pennie Puhek seconded the motion. Motion carried unanimously.

2790 Alnwick/ Willhite/RRFS #91448/sale set 2/3/15 (Total \$5,410.15 of which \$2,747.19 is collection fees)

Charles Hernandez moved to postpone the sale for an additional 45 days if payment in full is not received prior to the sale date. Pennie Puhek seconded the motion. Motion carried unanimously.

2785 Rosenheartly/J. Carman/RRFS #27021/set sale date 2/10/15 (\$15,862.52 of which \$1,950.00 are collection fees)

Charles Hernandez moved to postpone the sale for an additional 45 days if payment in full is not received prior to the sale date. Pennie Puhek seconded the motion. Motion carried unanimously.

2812 Dunnottar/Dyhrkopp/RRFS #805215/sale postponed to 2/13/15 Pending RRFS info/update

Charles Hernandez moved to postpone the sale for an additional 45 days if payment in full is not received prior to the sale date. Pennie Puhek seconded the motion. Motion carried unanimously.

3. Collection Write Offs: Total Write Offs \$5,103.13

2693 Niddrie Ave./Palas/Acct #2962081: Foreclosure – Assessment, Late fees/interest = \$2,318.13

2693 Niddrie Ave./Palas/Acct #2978758: Violations \$2,785.00

Charles Hernandez moved to approve the write offs in the amount of \$5,103.13 as noted above. Ponnle Puhok seconded the motion. Motion carried unanimously.

V. **Adjournment:**

There being no further business to discuss Charles Hernandez moved to adjourn the meeting at 7:35 p.m. James Lauth seconded the motion. The motion carried.

Respectfully Submitted:

Carmen Eassa, Community Manager, CMCA®
Terra West Management Services

Approved By:

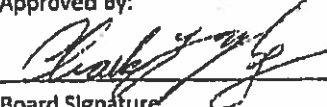
	PRESIDENT	2-25-1015
Board Signature	Title	Date

EXHIBIT “G”

EXHIBIT “G”

BRIAN SANDOVAL
Governor

STATE OF NEVADA



BRUCE H. BRESLOW
Director

JOSEPH (JD) DECKER
Administrator

DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION
www.red.state.nv.us

ADVISORY OPINION 15-02
Replaces: N/A

May 20, 2015

QUESTION:

What is retaliatory action prohibited by NRS 116.31183?

SHORT ANSWER:

Retaliatory action is the harmful, punitive action taken by an Association or its representatives against another person that would not have been taken but for such person having:

1. Complained in good faith about an alleged violation of NRS 116 or the governing documents,
2. Recommended the selection or replacement of an attorney, community manager or vendor, or
3. Requested in good faith to review the books, records or other papers of the association.

ANALYSIS OF THE ISSUE:

NRS 116.31183 prohibits taking, or directing or encouraging another person to take any retaliatory action against an owner.

NRS 116.31183 provides as follows:

1. An executive board, a member of an executive board, a community manager or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:

(a) Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association;

(b) Recommended the selection or replacement of an attorney, community manager or vendor; or

(c) Requested in good faith to review the books, records or other papers of the association.

2. In addition to any other remedy provided by law, upon a violation of this section, a unit's owner may bring a separate action to recover:

- (a) Compensatory damages; and
- (b) Attorney's fees and costs of bringing the separate action.

The issue is what constitutes "retaliatory action." Retaliation generally is the act of harming someone in response to an action they took that is perceived to have warranted punishment. NRS 116 prohibits board members, officers, employees, and community managers from taking retaliatory action against an owner for having done any of the 3 things listed in Subsection 1 above. Therefore, board members, officers, employees, and community managers may not take or direct another to take harmful, punitive action against an owner based on such owner having done any of those 3 things.

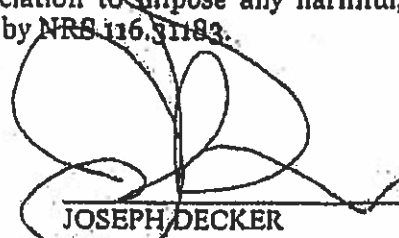
The Commission for Common Interest Communities and Condominium Hotels tried to clarify the meaning of retaliation at a meeting July 31, 2011. The minutes from that meeting state:

Chairman Buckley asked if the Commission would like to provide clarity on retaliatory action. Commissioner O'Donnell moved the Commission will clarify NRS 116.31183 which deals with retaliatory action to clarify that retaliatory action means taking actions that affect the unit owner's rights as a unit owner. Seconded by Commissioner Brainard. Unanimous decision.

The Commission never elaborated on what a unit owner's rights are. Owners have rights specifically provided in NRS 116, like a hearing before a fine and notice of meetings. But generally speaking, unit owners expect to have the right to enjoy their property and live in their community without being harassed or bullied. In fact, NRS 116.31184 makes such behavior a misdemeanor offense. In line with the Commission's previous attempt to clarify retaliatory action, the Division finds that any harmful, punitive action taken against an owner by an Association or its representatives that would not have otherwise occurred but for the owner having complained in good faith about the board or a vendor or having asked to see records (as further detailed in NRS 116.31183(1)) is retaliatory action.

ADVISORY CONCLUSION:

Owners have the right to complain about the actions of the board, the community manager and any other vendor, and to request records. The misuse of a position as a board member, community manager, officer, agent or employee of an Association to impose any harmful, punitive action in response is retaliatory action and prohibited by NRS 116.31183.


JOSEPH DECKER
Administrator
Real Estate Division