

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

Sharath Chandra, Administrator,
Real Estate Division, Department of
Business & Industry, State of Nevada,

Case No. 2016-628

Petitioner,

vs.

Margaret Thayer,

Respondent.

FILED

MAY 22 2017

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

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

The Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Michelle D. Briggs, Senior Deputy Attorney General, hereby notifies Respondent MARGARET THAYER (the "RESPONDENT" or "THAYER") of an administrative hearing before the Commission for Common-Interest Communities and Condominium Hotels, State of Nevada, which is to be held pursuant to Chapters 233B and Chapters 116 and 116A of the Nevada Revised Statutes ("NRS") and Chapters 116 and 116A of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if an administrative penalty will be imposed on RESPONDENT pursuant to the provisions of NRS 116A.900.

JURISDICTION AND NOTICE

1. During the relevant times mentioned in this complaint, Respondent MARGARET THAYER engaged in the management of a common-interest community as defined by NRS 116A.110 in the state of Nevada.

2. THAYER is subject to the provisions of Chapters 116 and 116A of both the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC") and is

1 subject to the jurisdiction of the Division, and the Commission for Common Interest
2 Communities and Condominium Hotels.

3 FACTUAL ALLEGATIONS

4 3. On or about December 2, 2015, a homeowner within Los Prados Community
5 Association (the "Association") filed a complaint against the Association, its board
6 members and RESPONDENT MARGARET THAYER.

7 4. The Association is a master planned community with approximately 1,120
8 units, and an annual budget of over \$4.8 million.

9 5. THAYER provides services to the Association under an employment
10 agreement dated October 1, 2011.

11 6. The complainant alleged in his complaint that THAYER made
12 misrepresentations to the board when she was hired as the Association's "Chief Operating
13 Officer" and "General Manager"

14 7. THAYER has never had a certificate from the Division to perform
15 community management.

16 8. THAYER'S employment contract states:

17 WHEREAS, the COO is not a licensed community association manager
18 within the State of Nevada and the Association shall at all times during the
19 Term of this Agreement (as hereinafter defined) retain the services of a
20 licensed community manager in compliance with NRS Chapter 116 to advise
the Board and COO with respect to issues of compliance with statutes,
Nevada regulations, CC&R's, Articles of Incorporation, Association Rules
and Regulations, and Bylaws.

21 9. In 2011, the Association employed the services of Gerry Northfield, a
22 certificated community manager.

23 10. Annual filings with the Division state that the Association is self-managed.

24 11. Mr. Northfield stopped working for the Association on April 30, 2012 and no
25 other community manager was hired at that time.

26 12. According to THAYER'S contract, she performs "management of the
27 Association's financial affairs in accordance with the provisions of policies adopted by the
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1 Board," and she assists and advises "the Board in all matters of administration."

2 13. THAYER'S specific job duties include, without limitation:

3 a. Assisting with the preparation of the budgets;

4 b. Collecting assessments;

5 c. Preparing delinquency lists for the board;

6 d. Implementing the assessment collections procedure;

7 e. Accounting for all funds received and deposited;

8 f. Maintaining a record of all income and expenses, utilizing the accrual
9 method of accounting, with a monthly summary statement;

10 g. Preparing checks;

11 h. Complete accounting of all financial transactions monthly;

12 i. Administer and monitor an investment program as developed by the Board
to optimize revenues;

13 j. Provide all documents necessary to perform annual audit;

14 k. Provide accountant all necessary documents to file taxes;

15 l. Maintain a comprehensive system of records and files;

16 m. Cooperate with the Board in investigating and administering all
17 accidents or claims for damage;

18 n. Attend meetings of the board, owners, and committees;

19 o. Prepare agenda and meeting minutes;

20 p. Prepare a report for the monthly compliance committee meeting on any
violation or evidence of violations of the governing documents;

21 q. Prepare annual list of officers for the Secretary of State;

22 r. Prepare a report to the monthly ACC Committee meeting;

23 s. Prepare and distribute all notices, newsletters and general correspondence
24 for the Association;

25 t. Cooperate with any efforts to pursue or defend any claims made by or
against the Association;

26 u. Conduct drive through and/or on sight inspections of the property for the
27 purpose of determining the condition of the common elements and checking
for violations of the governing documents;

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- 1 v. Negotiate and execute contracts for grounds area maintenance;
2 w. Evaluate subcontractor's bids and made recommendations to the board;
3 x. Oversee activities of subcontractors; and
4 y. Negotiations of warranty claims, insurance claim investigation, and
5 accounting activities associated with any special assessments or special
6 billings to an individual unit.

7 14. THAYER'S contract requires that her activities be supervised by a
8 community manager.

9 15. After Mr. Northfield ended his agreement with the Association, THAYER
10 performed her duties without any supervision from a community manager.

11 16. THAYER signed over 95 Association checks from December 2012 through
12 the beginning of 2015.

13 17. By letter dated March 9, 2016, the Division issued a Cease and Desist to
14 THAYER directing her to stop performing community management services without a
15 certificate.

16 18. By email dated March 18, 2016, the Association's counsel informed the
17 Division that a community manager was retained on a temporary basis.

18 19. In response to the investigation, THAYER stated that the Association is self-
19 managed and does not need a community manager.

20 20. Through counsel, THAYER responded to the Division saying she never
21 served on the board or as an officer, but is an employee of the Association.

22 21. The community manager hired by the Association serves as a consultant "on
23 an as-needed basis," and the Association remains self-managed.

24 22. THAYER continues to perform community management duties under the
25 terms of her employment contract without the supervision of a community manager.

26 23. According to her contract, THAYER'S annual salary is \$65,000 per year.

27 VIOLATIONS OF LAW

28 24. RESPONDENT violated NRS 116A.400(1) by engaging in the management
of a common-interest community without a community manager certificate from the

1 Division.

2 **DISCIPLINE AUTHORIZED**

3 Pursuant to the provisions of NRS 116A.900 the Commission has discretion to
4 impose discipline as it deems appropriate, including, but not limited to one or more of the
5 following actions:

6 1. Impose a fine not to exceed the amount of any gain or economic benefit
7 RESPONDENT derived from the violation or \$10,000, whichever is greater.

8 2. Require the RESPONDENT to pay the costs of the investigation and
9 hearing; and

10 3. Take such other disciplinary action as the Commission deems appropriate.

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

13 **NOTICE OF HEARING**

14 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider
15 this Administrative Complaint against the above-named RESPONDENTS in accordance
16 with Chapters 233B and 116 and 116A of the Nevada Revised Statutes and Chapters 116
17 and 116A of the Nevada Administrative Code.

18 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled for
19 June 27-29, 2017, beginning at approximately 9:00 a.m. each day, or until such time as
20 the Commission concludes its business. The Commission meeting will be held at the
21 Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las
22 Vegas, Nevada 89102 with videoconferencing to Department of Business & Industry,
23 Director's Office, 1830 East College Parkway, Suite 100, Carson City, Nevada 89706.

24 **STACKED CALENDAR:** Your hearing is one of several hearings that may be
25 scheduled at the same time as part of a regular meeting of the Commission that is
26 expected to take place on June 27-29, 2017. Thus, your hearing may be continued until
27 later in the day or from day to day. It is your responsibility to be present when your case
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1 is called. If you are not present when your hearing is called, a default may be entered
2 against you and the Commission may decide the case as if all allegations in the complaint
3 were true. If you need to negotiate a more specific time for your hearing in advance
4 because of coordination with out of state witnesses or the like, please call Claudia
5 Rosolen, Commission Coordinator, at (702) 486-4606.

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

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


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

26 Note that under NAC 116.575, not less than five (5) working days before a hearing,
27 RESPONDENT must provide to the Division a copy of all reasonably available documents
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1 that are reasonably anticipated to be used to support his or her position, and a list of
2 witnesses RESPONDENT intends to call at the time of the hearing. Failure to provide
3 any document or to list a witness may result in the document or witness being excluded
4 from a RESPONDENT'S defense. The purpose of the hearing is to determine if the
5 RESPONDENT has violated the provisions of Chapter 116A, and to determine what
6 administrative penalty is to be assessed against RESPONDENT.

7 DATED this 19th day of May, 2017.

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9 REAL ESTATE DIVISION
10 DEPARTMENT OF BUSINESS &
11 INDUSTRY, STATE OF NEVADA

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