

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

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

Case Nos. 2017-1579 and 2018-136

7                                   Petitioner,

**FILED**

8 vs.

SEP 21 2018 

9 Sherryl Baca,

NEVADA COMMISSION OF  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

10                                  Respondent.

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

13                   The Real Estate Division of the Department of Business and Industry, State of  
14 Nevada (the "Division"), by and through its counsel, Adam Paul Laxalt, Attorney General  
15 of the State of Nevada, and Michelle D. Briggs, Esq., Senior Deputy Attorney General,  
16 hereby notifies Respondent Sherryl Baca ("RESPONDENT" or "BACA") of an  
17 administrative hearing before the Commission for Common-Interest Communities and  
18 Condominium Hotels, State of Nevada, which is to be held pursuant to Chapters 233B  
19 and Chapters 116 and 116A of the Nevada Revised Statutes ("NRS") and Chapter 116  
20 and 116A of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to  
21 consider the allegations stated below and to determine if an administrative penalty will  
22 be imposed on the RESPONDENT pursuant to the provisions of NRS and NAC including,  
23 but not limited to, NAC 116A.360.

24                                   **JURISDICTION AND NOTICE**

25                   1.     During all relevant times mentioned in this complaint, BACA held, and  
26 currently holds, a supervisory community manager certificate from the Division  
27 (CAM.0001439-SUPR) and is, therefore, subject to the jurisdiction of the Division and the  
28 provisions of NRS Chapters 116 and 116A and NAC Chapters 116 and 116A.

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## FACTUAL ALLEGATIONS

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2       2.     In January 2016, the Division's auditor requested documents from  
3 RESPONDENT BACA as the manager for Cottonwood on Alexander Homeowners  
4 Association (the "Association") for an audit.

5       3.     The Association appeared to be underfunded in its reserves based on annual  
6 registration filings, but no documents were provided by BACA as requested by the  
7 auditor.

8       4.     The Division investigated the Association and requested certain financial  
9 information.

10      5.     Based on records provided by BACA, the Division requested additional  
11 records, including her management contract with the Association.

12      6.     After the second letter requesting the management contract, BACA  
13 requested additional time to respond and was given until January 18, 2017.

14      7.     The Division received no further response from BACA and sent two  
15 additional letters to the Association through BACA.

16      8.     In March through May, 2017, the Division sent emails and letters to BACA  
17 requesting that she send her management contract.

18      9.     BACA emailed the investigator saying she would provide the management  
19 contract the first week of April. She did not.

20      10.    In July 2017, the Division opened an investigation against BACA for  
21 impeding the Division's investigation of the Association (Case No. 2017-1579) by failing to  
22 provide her management contract.

23      11.    The Division sent letters dated July 13, 2017, August 8, 2017, December 5,  
24 2017, and March 29, 2018.

25      12.    In July 2017, the Association hired a new manager. The new manager could  
26 not find any management contracts in the Association's records.

27      13.    The Association's records indicate BACA signed 259 checks from the  
28 Association's operating and construction defect accounts in 2014, 2015, and 2016.

1 14. The Division opened a new investigation against BACA regarding her  
2 authority to sign checks on behalf of the Association (Case No. 2018-136).

3 15. The Association's records also showed the 2014 and 2015 audits were  
4 ordered in September 2016, and completed in June 2017.

5 16. None of the Association's minutes are signed.

6 17. The Division received an affidavit from BACA on March 30, 2018 saying:

7 Community Management & Sales has a continuous management contract in  
8 place with Cottonwood on Alexander since 2004. We have been unable to  
locate the signed contracts for the years 2014, 2015, and 2016...

9 18. The Division sent additional letters requesting the "continuous management  
10 contract."

11 19. On May 25, 2018, BACA provided an additional affidavit and a copy of her  
12 contract from 2006.

13 20. The 2006 contract states:

14 This Agreement shall commence on November 1, 2006 and continue in effect  
15 until October 31, 2007 following which is [sic] shall automatically renew for  
16 one (1) year periods, unless either party notifies the other of its intent to  
terminate the contract at least thirty (30) days before the end of the one (1)  
year term.

17 21. In 2009, NRS 116A.620 was enacted which prohibits management contracts  
18 from containing an automatic renewal provision.

### 19 VIOLATIONS OF LAW

20 1. BACA violated NRS 116A.620 and NAC 116A.325 by performing community  
21 management services for the Association without a signed management contract from  
22 2010 to 2017.

23 2. BACA violated NRS 116A.630(1)(a) and NAC 116A.320 by failing to act as a  
24 fiduciary in her relationship with the Association.

25 3. BACA violated NRS 116A.630(1)(b) and NAC 116A.320 by failing to exercise  
26 ordinary and reasonable care in the performance of her duties.

27 4. BACA violated NRS 116A.630(2)(a) and NAC 116A.320 by failing to comply  
28 with state laws.



1 impose discipline as it deems appropriate, including, but not limited to one or more of the  
2 following actions:

- 3 1. Revoke or suspend the certificate;
- 4 2. Refuse to renew or reinstate the certificate;
- 5 3. Place the community manager on probation;
- 6 4. Issue a reprimand or censure to the community manager;
- 7 5. Impose a fine of not more than \$5,000 for each violation of a statute or  
8 regulation;
- 9 6. Require the community manager to pay restitution;
- 10 7. Require the community manager to pay the costs of the investigation and  
11 hearing;
- 12 8. Require the community manager to obtain additional education relating to  
13 the management of common-interest communities; and
- 14 9. Take such other disciplinary action as the Commission deems appropriate.

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

17 **NOTICE OF HEARING**

18 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider  
19 this Administrative Complaint against the above-named RESPONDENT in accordance  
20 with Chapters 233B and 116 and 116A of the Nevada Revised Statutes and Chapters 116  
21 and 116A of the Nevada Administrative Code.

22 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled for  
23 November 6-8, 2018, beginning at approximately 9:00 a.m. each day, or until such time as  
24 the Commission concludes its business. The Commission meeting will be held at the  
25 Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las  
26 Vegas, Nevada 89102 with videoconferencing to Division of Insurance, 1818 E. College  
27 Parkway, Carson City, Nevada 89153.

1           **STACKED CALENDAR:** Your hearing is one of several hearings that may be  
2 scheduled at the same time as part of a regular meeting of the Commission that is  
3 expected to take place on November 6-8, 2018. Thus, your hearing may be continued until  
4 later in the day or from day to day. It is your responsibility to be present when your case  
5 is called. If you are not present when your hearing is called, a default may be entered  
6 against you and the Commission may decide the case as if all allegations in the complaint  
7 were true. If you need to negotiate a more specific time for your hearing in advance  
8 because of coordination with out of state witnesses or the like, please call Samiel  
9 Williams, Commission Coordinator, at (702) 486-4606.

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

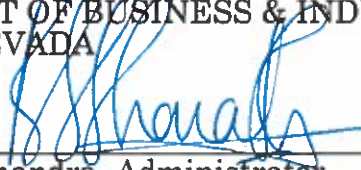
16           As a **RESPONDENT**, you are specifically informed that you have the right to  
17 appear and be heard in your defense, either personally or through your counsel of choice.  
18 At the hearing, the Division has the burden of proving the allegations in the complaint  
19 and will call witnesses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

23           You have the right to request that the Commission issue subpoenas to compel  
24 witnesses to testify and/or evidence to be offered on your behalf. In making this request,  
25 you may be required to demonstrate the relevance of the witness's testimony and/or  
26 evidence. Other important rights and obligations, including your obligation to answer the  
27 complaint, you have are listed in NAC 116A.560 through NAC 116A.655, NRS Chapter  
28 233B, and NRS Chapters 116 and 116A and NAC 116 and 116A. Note that under NAC


1 116A.585, not less than five (5) working days before a hearing, RESPONDENT must  
2 provide to the Division a copy of all reasonably available documents that are reasonably  
3 anticipated to be used to support his or her position, and a list of witnesses  
4 RESPONDENT intends to call at the time of the hearing. Failure to provide any  
5 document or to list a witness may result in the document or witness being excluded from  
6 RESPONDENT'S defense. The purpose of the hearing is to determine if the  
7 RESPONDENT has violated any of the provisions of NRS and NAC Chapters 116 and  
8 116A, and to determine what administrative penalty is to be assessed against  
9 RESPONDENT, if any, pursuant to NAC 116A.360.

10 DATED: September 21, 2018.

11 REAL ESTATE DIVISION,  
12 DEPARTMENT OF BUSINESS & INDUSTRY,  
13 STATE OF NEVADA

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