

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 No. 2018-766

7 Petitioner,

**FILED**

8 vs.

**NOV 13 2018**

9 Hillside Homeowners Association, Sourav  
10 Hazra, Roy Whitmore, Kyle Hagemaiier,  
11 George Smith, and Ramiro Ramirez,

NEVADA COMMISSION OF  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

12 Respondents.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

13 This matter came on for hearing before the Commission for Common-Interest  
14 Communities and Condominium Hotels, Department of Business and Industry, State of  
15 Nevada (the "Commission"), during a regular agenda on November 6, 2018, at the  
16 Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las  
17 Vegas, Nevada 89102 with videoconferencing to Division of Insurance, 1818 E. College  
18 Parkway, Suite 103, Carson City, Nevada 89706 (the "Hearing"). The Real Estate  
19 Division of the Department of Business and Industry, State of Nevada (the "Division")  
20 appeared, by and through its counsel, Michelle D. Briggs, Senior Deputy Attorney  
21 General. Attorneys Adam Clarkson and John Aylor appeared on behalf of the  
22 RESPONDENTS HILLSIDE HOMEOWNERS ASSOCIATION, SOURAV HAZRA, ROY  
23 WHITMORE, KYLE HAGEMAIER, GEORGE SMITH, and RAMIRO RAMIREZ. None  
24 of the board members attended. Commissioner Niggemeyer disclosed a family member  
25 lives in the Association and recused himself from the Hearing. The Division presented  
26 testimony from Christina Pitch (Division investigator), Levi Dickson and Lisa Kemp.  
27 Respondents offered no testimony.

28 After hearing the allegations, the respective arguments of counsel, and having

1 considered the evidence introduced and being fully advised, the Commission enters the  
2 following Findings of Fact, Conclusions of Law, and Order. Under Nevada Revised  
3 Statutes (NRS) and Nevada Administrative Code (NAC) Chapter 116, the Commission  
4 has legal jurisdiction and authority over this matter.

#### 5 FINDINGS OF FACT

6 The Commission, by a vote of 5-1-1, based upon the evidence presented during the  
7 Hearing, finds that by a preponderance of the evidence in the record the following facts  
8 have been proven.

9 1. In 2015, the Division received a complaint against the manager for  
10 RESPONDENT HILLSIDE HOMEOWNERS ASSOCIATION (the "Association") based  
11 on the manager's failure to recognize the complainant as an owner.

12 2. The complainant provided a signed and notarized deed evidencing  
13 ownership.

14 3. The deed transfers title from the original title holder back to her and the  
15 complainant together as joint tenants.

16 4. The Division closed the case with the understanding that the Association  
17 would allow the complainant to run for the board.

18 5. The same owners complained that the Association's October 2015 election  
19 did not allow cumulative voting as is permitted by the governing documents.

20 6. In July 2016, the owners hired an attorney to respond to a letter from the  
21 Association's attorney refusing to accept the deed and recognize both of them as owners  
22 and to challenge the 2015 election.

23 7. The Association held a curative election in October 2016 with the prior  
24 year's positions being up for election.

25 8. The Association continued to take the position that the deed had to be  
26 recorded in order for the owner to be recognized by the Association.

27 9. Despite the Association's assertion that the deed is ineffective, the  
28 Association directed or authorized their attorneys to notify the lenders on the unit that a

1 deed had been given by their borrower.

2 10. The letter to the lenders dated February 28, 2018 from the Association's  
3 attorney includes a copy of the deed and was sent to the lender without the owners'  
4 consent.

5 11. In the letter to the lender, the Association makes reference to a potential  
6 deed of trust violation and quotes a portion of the deed of trust entitled "Grounds for  
7 Acceleration of Debt... Sale Without Credit Approval."

8 12. In June 2018, one of the owners filed an intervention affidavit with the  
9 Division against the Association and its board for among other things refusing to  
10 recognize him as an owner of a unit.

11 13. The owner is prohibited from attending board meetings, talking to the  
12 community manager and running for the board.

13 14. The Division requested a notarized response from each board member to  
14 the allegation that the complainant was denied the rights of an owner under NRS 116.

15 15. Instead of providing a notarized affidavit from each board member, the  
16 Association's board responded through its attorney that they did not accept the deed  
17 because it was not recorded in the real property records.

18 16. The Division issued an advisory opinion dated December 12, 2013 pursuant  
19 to NRS 116.623 entitled: What is a "unit's owner"? (Advisory No. 14-01-116) (hereinafter  
20 "Advisory Opinion"). A copy of the Advisory Opinion was attached as Exhibit 1 and  
21 incorporated by reference into the Complaint.

22 17. The Advisory Opinion discusses issues where two people occupy a unit, but  
23 only one of them is on the recorded deed.

24 18. A deed need not be recorded in the real property records to be effective  
25 under state law.

26 19. Based on Nevada law, the Division's Advisory Opinion provides that "a  
27 unit's owner is a person or entity that can provide a written conveyance or other writing  
28 that transfers a unit to them."






1           4.     The Division may institute debt collection proceedings for failure to timely  
2 pay the total fine and may pursue reducing the order to a judgment. Further, if  
3 collection goes through the State of Nevada, then the Association shall also pay the costs  
4 associated with collection.

5 DATED: November 8, 2018.

Commission for Common-Interest Communities  
and Condominium Hotels, Department of  
Business & Industry, State of Nevada

8  
9 By:   
Michael Burke, Chairman

11 Submitted by:  
12 ADAM PAUL LAXALT  
13 Attorney General

14 By:   
15 Michelle D. Briggs  
16 Senior Deputy Attorney General  
17 555 East Washington Avenue, Suite 3900  
18 Las Vegas, Nevada 89101  
19 (702) 486-3809  
20 Attorneys for Real Estate Division  
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