

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,

7 **Petitioner,**

8 vs.

9 Los Verdes Community Association, Ruby
10 Consing, Sayeh Sadegh, Monica Blake, and
11 Mary Baumgartner,

12 **Respondents.**

Case No. 2018-1481

FILED

JAN 25 2019

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

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

15 The Real Estate Division of the Department of Business and Industry, State of
16 Nevada (the "Division"), by and through its counsel, Aaron D. Ford, Attorney General of
17 the State of Nevada, and Michelle D. Briggs, Senior Deputy Attorney General, hereby
18 notifies RESPONDENTS LOS VERDES COMMUNITY ASSOCIATION, RUBY
19 CONSING, SAYEH SADEGH, MONICA BLAKE, and MARY BAUMGARTNER
20 (hereinafter, "RESPONDENTS") of an administrative hearing before the Commission
21 for Common-Interest Communities and Condominium Hotels, State of Nevada, which is
22 to be held pursuant to Chapters 233B and 116 of the Nevada Revised Statutes ("NRS")
23 and Chapter 116 of the Nevada Administrative Code ("NAC"). The purpose of the
24 hearing is to consider the allegations stated below and to determine if an administrative
25 penalty will be imposed on the RESPONDENTS pursuant to the provisions of NRS and
26 NAC including, but not limited to, NRS 116.785 and NRS 116.790.

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1 11. In response to the Division's investigation, RESPONDENT MARY
2 BAUMGARTNER stated:

3 On October 9, 2018, Shelley Leobold read the letter from the Division that
4 Ruby Consing was voted off the board, but she refuses to step down.

5 12. The Division sent the Association and its board a letter dated October 30,
6 2018, stating:

7 Based on the facts listed above, the removal election was successful, and Ms.
8 Consing is no longer a member of the Los Verdes Community Association Board
9 of Directors. Please be advised if Ms. Consing continues to remain on the board
10 and does not comply with the determination of the Division as stated in this
11 letter, the Division will commence disciplinary action against her by filing a
12 complaint for hearing before the Commission for Common-Interest Communities
13 and Condominium Hotels.

14 13. The Association requested an advisory opinion based on the Division's
15 interpretation of voting members.

16 14. The Division provided its Advisory Opinion No. 19-01, entitled "What does
17 'voting members' mean as used in NRS 116?"

18 15. The Association hired separate counsel to represent only RESPONDENT
19 CONSING.

20 16. RESPONDENT CONSING continues to be president and a member of the
21 Association's board.

22 VIOLATIONS OF LAW

23 17. RESPONDENTS violated NRS 116.3103 (through NAC 116.405(3)) by
24 failing to act in good faith and in the best interests of the Association when they
25 committed an act or omission which amounts to incompetence, negligence or gross
26 negligence by failing to abide by the outcome of a removal election.

27 18. RESPONDENTS violated NRS 116.3103 (through NAC 116.405(3)) by
28 failing to act in good faith and in the best interests of the Association when they
committed an act or omission which amounts to incompetence, negligence or gross
negligence by failing to follow an Advisory Opinion of the Division.

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1 19. RESPONDENTS violated NRS 116.31036 by failing to consider
2 RESPONDENT CONSING removed from the board based on the removal election that
3 took place on August 21, 2018.

4 20. RESPONDENT CONSING violated NRS 116.3103 (through NAC
5 116.405(2)) by breaching her fiduciary duty to the Association by acting out of reasons of
6 self-interest by remaining on the board despite the removal election and the Division's
7 instructions.

8 DISCIPLINE AUTHORIZED

9 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS
10 116.790 the Commission has discretion to take any or all of the following actions:

11 1. Issue an order directing RESPONDENT to cease and desist from
12 continuing to engage in the unlawful conduct that resulted in the violation.

13 2. Issue an order directing RESPONDENT to take affirmative action to
14 correct any conditions resulting from the violation.

15 3. Impose an administrative fine of up to \$1,000 for each violation by
16 RESPONDENT.

17 4. IF RESPONDENTS ARE FOUND TO HAVE KNOWINGLY AND
18 WILLFULLY COMMITTED A VIOLATION of NRS or NAC 116 AND it is in the best
19 interest of the Association, such RESPONDENTS may be removed from his/her position
20 as a director and/or officer.

21 5. Order an audit of the ASSOCIATION, at the expense of the
22 ASSOCIATION.

23 6. Require the BOARD MEMBERS to hire a community manager who holds a
24 certificate.

25 7. Require RESPONDENTS to pay the costs of the proceedings incurred by
26 the Division, including, without limitation, the cost of the investigation and reasonable
27 attorney's fees.

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1 After the evidence and arguments, the commission may conduct a closed meeting to
2 discuss your alleged misconduct or professional competence. A verbatim record will be
3 made by a certified court reporter. You are entitled to a copy of the transcript of the
4 open and closed portions of the meeting, although you must pay for the transcription.

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

12 You have the right to request that the Commission issue subpoenas to compel
13 witnesses to testify and/or evidence to be offered on your behalf. In making this request,
14 you may be required to demonstrate the relevance of the witness' testimony and/or
15 evidence. Other important rights and obligations, including your obligation to answer
16 the complaint, you have are listed in NRS Chapter 116 and NAC Chapter 116, including
17 without limitation, NRS 116.770 through 116.780, and NAC 116.500 through NAC
18 116.635 and NRS Chapter 233B.

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

9 DATED: January 25, 2019.

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

13 By: 
14 SHARATH CHANDRA, Administrator
15 3300 W. Sahara Ave. Ste 350
16 Las Vegas, Nevada 89102
(702) 486-4033

17 AARON D. FORD
18 Attorney General

19 By: 
20 MICHELLE D. BRIGGS
21 Senior Deputy Attorney General
22 555 E. Washington Ave. Ste 3900
23 Las Vegas, Nevada 89101
24 (702) 486-3420
25 Attorneys for Real Estate Division
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CERTIFICATE OF SERVICE
(NRS 116.770)

I hereby certify that on this 6th day of February 2019; I deposited a true and correct copy of the foregoing:

**COMPLAINT AND NOTICE OF HEARING,
NOTICE OF DOCUMENTS PRODUCED,**

And NOTICE OF COMPLAINT AND OBLIGATION TO RESPOND

in the United States Mail, postage pre-paid, in Las Vegas, Nevada, through the State of Nevada mailroom, by certified mail addressed to the following respondents at his last known address as follows

Certified No. 7017 1450 0000 8967 9729

Monica Blake
PO Box 475233
San Francisco, CA 94147-5233

Certified No. 7017 1450 0000 8967 9699

Ruby Consing
c/o Lipson Neilson
Kaleb Anderson and Megan Hummel
9900 Covington Cross Dr. Ste. 120
Las Vegas, Nevada 89144

Certified No. 7017 1450 0000 8967 9675

Los Verdes Community Association
c/o Edward Boyack
7432 W. Sahara Ave. Ste. 101
Las Vegas, Nevada 89117

Regular Mail

Soleil Association Management
Attention: Shelley Lebold
7200 Las Vegas Blvd, Ste. A
Las Vegas, Nevada 89119

Certified No. 7017 1450 0000 8967 9712

Mary Baumgartner
4831 S. Torrey Pines Dr., Unit 101
Las Vegas, Nevada 89103

Certified No. 7017 1450 0000 8967 9705

Sayeh Sadegh
4823 S. Torrey Pines Dr. Unit 201
Las Vegas, Nevada 89103

By: 

Samuel Williams
Commission Coordinator
3300 W. Sahara Avenue, Suite 350
Las Vegas, NV 89102