

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,

Petitioner,

vs.

Eldora Plaza, Inc., Barbara Jackson, and
Amalia Dominguez.

Respondents.

Case No. 2017-2476

FILED

JUL 01 2020

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Kelly Valadez

**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, Aaron D. Ford, Attorney General of the State of Nevada, Michelle D. Briggs, Senior Deputy Attorney General, and Karissa D. Neff, Deputy Attorney General, hereby notifies RESPONDENTS ELDORA PLAZA, INC., ("Association"), BARBARA JACKSON ("JACKSON"), and AMALIA DOMINGUEZ ("DOMINGUEZ") (collectively, "RESPONDENTS") 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 116 of the Nevada Revised Statutes ("NRS") and Chapter 116 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 the RESPONDENTS pursuant to the provisions of NRS and NAC including, but not limited to, NRS 116.785 and NRS 116.790.

JURISDICTION AND NOTICE

1. During the relevant times mentioned in this complaint, RESPONDENTS AMALIA DOMINGUEZ and BARBARA JACKSON served on the Board of ELDORA

1 PLAZA, INC. (the "Association"), a common-interest community located in Las Vegas,
2 Nevada.

3 2. RESPONDENTS are subject to the provisions of Chapter 116 of each the
4 Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC")
5 (hereinafter collectively referred to as "NRS 116") and are subject to the jurisdiction of
6 the Division, and the Commission for Common-Interest Communities pursuant to the
7 provisions of NRS 116.750.

8 FACTUAL ALLEGATIONS

9 3. ELDORA PLAZA, INC. is an Association located in Las Vegas, Nevada,
10 consisting of 18 fourplexes, containing a total of 72 units.

11 4. On or around October 1, 2012, Board members Daryl Morse and JACKSON
12 appointed DOMINGUEZ to the Board after the Association's former president and
13 treasurer resigned.

14 5. From approximately October of 2012 through March of 2018, DOMINGUEZ
15 served as president/treasurer of the Association.

16 6. JACKSON served on the Association's Board as its secretary.

17 7. Mr. Morse served on the Board through May of 2016 at which time he
18 resigned and has since passed away.

19 8. Following Mr. Morse's resignation, the third position on the Association's
20 Board remained vacant.

21 9. While on the Board, DOMINGUEZ performed bookkeeping services and
22 other services for the Association that ordinary would be performed by a community
23 manager.

24 10. To compensate DOMINGUEZ for her services while on the Board, the Board
25 members agreed that DOMINGUEZ's monthly HOA assessments would be waived by
26 fifty percent.

27 11. DOMINGUEZ and her husband own two buildings in the Association either
28 personally and/or through different business entities.

1 12. JACKSON continued to pay her full monthly assessments while on the
2 Board.

3 13. The Division initiated an audit of the Association on or around October 18,
4 2017, when it discovered that the Association failed to submit its Annual Registration
5 form to the Division.

6 14. Based on the audit's findings, on or around December 5, 2017, the Division
7 properly notified RESPONDENTS that it had opened an investigation and requested a
8 response to a variety of allegations, including, without limitation, failing to hold
9 meetings, failing to hold elections, failing to hire properly licensed vendors, giving board
10 members reduced assessments, failing to prepare proper financial statements, failing to
11 properly sign checks, failing to fund reserves, and failing to fulfill the Association's
12 maintenance obligations.

13 15. The Association was self-managed until approximately April 1, 2018, at
14 which time the Association employed Phillip Michaelson of Griswold Real Estate
15 Management as its community manager, and now uses Yvonne Culliver of 5STRMGT,
16 LLC

17 16. RESPONDENT DOMINGUEZ provided a response to the Division dated
18 January 25, 2018, which was received by the Division on April 17, 2018.

19 17. On August 26, 2019, the Association's attorney sent a letter to the Division
20 proposing a plan to bring the Association into compliance with Nevada law.

21 18. In the letter to the Division, the attorney pointed out that most of the initial
22 allegations brought against the Association were due to the Association being self-
23 managed but have since been remedied after the Association hired a community manager
24 in 2018.

25 19. The plan the Association's attorney submitted to the Division to bring the
26 Association into compliance with Nevada law was as follows:

- 27 • With respect to the reserve study and funding, the Association was soliciting
28 bids for its 2019 Reserved Study, understood its reserve account was

underfunded, and intended to consider a reserve assessment if necessary.

- With respect to the Association's operations, the Association believed that since it had retained professional management, issues regarding violations related to notices, frequency, agendas, minutes of Board meetings, the need to solicit bids, and properly holding elections would be remedied.
- With respect to the Association's finances, by retaining professional management, the Association believed issues related to properly signing checks, approval of electronic payments, adequately funding the operating account, properly setting monthly assessments, and preparing and distributing interim financial statements would be remedied.
- With respect to contractors, the Board understood it must hire only licensed vendors to provide services to the Association.
- With respect to Association's placing maintenance obligations for the exterior of buildings on the unit owners, the Association stated it planned to propose an amendment to the Declaration to address the maintenance and repair of the buildings and if the membership approved the amendment, it would be recorded.
- With respect to DOMINGUEZ's paying 50 percent of her assessments while on the Board, the Association responded that in January 2018 DOMINGUEZ began paying full assessments for units in both buildings she owns.

20. DOMINGUEZ owes the Association for the portion of her improperly waived assessments given to her in exchange for her providing the Association bookkeeping services from approximately October of 2012 through December of 2017.

21. The amount owed by DOMINGUEZ to the Association for the improperly waived assessments is approximately \$15,600 dollars.

VIOLATIONS OF LAW

22. RESPONDENTS violated NRS 116.31187(1) by permitting DOMINGUEZ to be compensated for performing bookkeeping services while on the Board by waiving her

1 monthly assessments due to the Association by fifty percent.

2 23. RESPONDENTS violated NRS 116.3103 by failing to perform their
3 fiduciary duties by improperly waiving DOMINGUEZ's monthly assessment by fifty
4 percent to compensate her for providing bookkeeping services while on the Board.

5 24. RESPONDENT DOMINGUEZ violated NRS 116.3103 through NAC
6 116.405(2) by acting for reasons of self-interest and gain by accepting compensation for
7 performing bookkeeping services while on the Board by only paying fifty percent of her
8 monthly assessments.

9 25. RESPONDENTS violated NRS 116.31083 (8), (9), and (11) by failing to
10 properly take minutes and maintain audio recordings during meetings.

11 26. RESPONDENTS violated NRS 116.31083(1) by failing to hold meetings at
12 least once every quarter, and not less than once every 100 days and at a time other than
13 standard business hours at least twice annually.

14 27. RESPONDENTS violated NRS 116.31153(1) and (2) by failing to obtain two
15 signatures from the proper individuals from the Association when making withdrawals
16 from the Association's accounts.

17 28. RESPONDENTS violated NRS 116.31034 by failing to properly hold
18 elections.

19 29. RESPONDENTS violated NRS 116.3115(2)(b) by failing to properly fund the
20 reserve account for the common expenses of the Association.

21 30. RESPONDENTS violated NRS 116.3103 through NAC 116.405(8)(d) by
22 failing to contract with properly licensed and insured vendors that provided services to
23 the Association.

24 31. RESPONDENTS violated NRS 116.3103 through NAC 116.405(8)(a) by
25 failing to maintain the exterior of the buildings as required by the governing documents.

26 32. RESPONDENTS violated NAC 116.451(4) by failing to properly prepare and
27 distribute the Association's interim financial statements.

DISCIPLINE AUTHORIZED

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

1. Issue an order directing RESPONDENTS to cease and desist from continuing to engage in the unlawful conduct that resulted in the violation.
2. Issue an order directing RESPONDENTS to take affirmative action to correct any conditions resulting from the violation.
3. Impose an administrative fine of up to \$1,000 for each violation by RESPONDENTS.
4. IF RESPONDENTS ARE FOUND TO HAVE KNOWINGLY AND WILLFULLY COMMITTED A VIOLATION of NRS or NAC 116 AND it is in the best interest of the Association, such RESPONDENTS may be removed from his/her position as a director and/or officer.
5. Order an audit of the ASSOCIATION, at the expense of the ASSOCIATION.
6. Require the BOARD MEMBERS to hire a community manager who holds a certificate.
7. Require RESPONDENTS to pay the costs of the proceedings incurred by the Division, including, without limitation, the cost of the investigation and reasonable attorney's fees.
8. Take whatever further disciplinary action as the Commission deems appropriate.

The Commission may order one or any combination of the discipline described above. If the Commission finds that the RESPONDENTS knowingly and willfully violated the provisions of NRS or NAC 116, the Commission may order that RESPONDENTS be personally liable for all fines and costs imposed.

NOTICE OF HEARING

PLEASE TAKE NOTICE, that a disciplinary hearing has been set to consider this Administrative Complaint against the above-named RESPONDENTS in accordance

1 with Chapters 233B and 116 of the Nevada Revised Statutes and Chapter 116 of the
2 Nevada Administrative Code.

3 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled
4 for August 4-6, 2020, beginning at approximately 9:00 a.m. each day, or until
5 such time as the Commission concludes its business. The Commission meeting
6 will be held as a virtual meeting with the Commission and Respondents
7 participating through Webex. Upon receiving this Notice, the Respondents will
8 need to contact the Commission Coordinator at (702) 486-4606 or
9 kvaladez@red.nv.gov to provide an email address to receive the virtual meeting
10 invitation.

11 **STACKED CALENDAR:** Your hearing is one of several hearings that may
12 be scheduled at the same time as part of a regular meeting of the Commission
13 that is expected to take place on August 4-6, 2020. Thus, your hearing may be
14 continued until later in the day or from day to day. It is your responsibility to
15 be present when your case is called. If you are not present when your hearing
16 is called, a default may be entered against you and the Commission may decide
17 the case as if all allegations in the complaint were true. If you need to negotiate
18 a more specific time for your hearing in advance, please call Kelly Valadez,
19 Commission Coordinator, at (702) 486-4606.

20 **YOUR RIGHTS AT THE HEARING:** Except as mentioned below, the hearing is
21 an open meeting under Nevada's open meeting law, and may be attended by the public.
22 After the evidence and arguments, the commission may conduct a closed meeting to
23 discuss your alleged misconduct or professional competence. You are entitled to a copy of
24 the transcript of the open and closed portions of the meeting, although you must pay for
25 the transcription.

26 As a **RESPONDENT**, you are specifically informed that you have the right to
27 appear and be heard in your defense, either personally or through your counsel of choice.
28 At the hearing, the Division has the burden of proving the allegations in the complaint


1 and will call witnesses and present evidence against you. You have the right to respond
2 and to present relevant evidence and argument on all issues involved. You have the right
3 to call and examine witnesses, introduce exhibits, and cross-examine opposing witnesses
4 on any matter relevant to the issues involved.

5 You have the right to request that the Commission issue subpoenas to compel
6 witnesses to testify and/or evidence to be offered on your behalf. In making this request,
7 you may be required to demonstrate the relevance of the witness' testimony and/or
8 evidence. Other important rights and obligations, including your obligation to answer the
9 complaint, you have are listed in NRS Chapter 116 and NAC Chapter 116, including
10 without limitation, NRS 116.770 through 116.780, and NAC 116.500 through NAC
11 116.635 and NRS Chapter 233B.

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

20 DATED this 1st day of July, 2020.

21
22 REAL ESTATE DIVISION,
23 DEPARTMENT OF BUSINESS &
INDUSTRY, STATE OF NEVADA

24 By: 
25 SHARATH CHANDRA, Administrator
26 3300 W. Sahara Ave. Ste 350
27 Las Vegas, Nevada 89102
28 (702) 486-4033

AARON D. FORD
Attorney General

By: /s/ *Karissa Neff*

MICHELLE D. BRIGGS (Bar No. 7617)
Senior Deputy Attorney General
Karissa D. Neff (Bar No. 9133)
Deputy Attorney General
555 E. Washington Ave. Ste 3900
Las Vegas, Nevada 89101
(702) 486-3420
Attorneys for Real Estate Division