

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 Highlands Road Association, Charles A.
10 Lane, Eric Mortara, Cathy Lynch, and,
11 Barbara Small.

12 Respondents.

Case No. 2021-807
(Combined with Case Nos 2021-808 and
2021-810)

FILED

NOV 04 2021

NEVADA COMMISSION FOR
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 Matthew Feeley, Deputy Attorney General, hereby notifies
18 RESPONDENTS HIGHLANDS ROAD ASSOCIATION, ("ASSOCIATION"), CHARLES
19 A. LANE ("LANE"), ERIC MORTARA ("MORTARA"), CATHY LYNCH ("LYNCH"), and
20 BARBARA SMALL ("SMALL"), (collectively, "RESPONDENTS"), of an administrative
21 hearing before the Commission for Common-Interest Communities and Condominium
22 Hotels, State of Nevada, which is to be held pursuant to Chapters 233B and 116 of the
23 Nevada Revised Statutes ("NRS") and Chapter 116 of the Nevada Administrative Code
24 ("NAC"). The purpose of the hearing is to consider the allegations stated below and to
25 determine if an administrative penalty will be imposed on the RESPONDENTS pursuant
26 to the provisions of NRS and NAC including, but not limited to, NRS 116.785 and NRS
27 116.790.
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1 **JURISDICTION AND NOTICE**

2 1. During the relevant times mentioned in this complaint, RESPONDENTS
3 LANE, MORTARA, LYNCH, and SMALL served on the Board of the ASSOCIATION, a
4 common-interest community located in Washoe County, Nevada.

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

10 **FACTUAL ALLEGATIONS**

11 3. HIGHLANDS ROAD ASSOCIATION (“ASSOCIATION”) is an Association
12 located in Washoe County, Nevada, consisting of 28 single-family units.

13 4. As of at least April 15, 2021, CHARLES A. LANE (“LANE”), has served on
14 the ASSOCIATION’s Board of Directors and as the President.

15 5. As of at least April 15, 2021, ERIC MORTARA (“MORTARA”), has served
16 on the ASSOCIATION’s Board of Directors and as the Vice President.

17 6. As of at least April 15, 2021, BARBARA SMALL (“SMALL”), has served on
18 the ASSOCIATION’s Board of Directors and as the Treasurer.

19 7. As of at least April 15, 2021, CATHY LYNCH (“LYNCH”) has served on the
20 ASSOCIATION’s Board of Directors and as the Secretary.

21 8. Based on a May 2021 Complaint from a unit owner within the
22 ASSOCIATION (the “COMPLAINANT”), the Division began an investigation into the
23 Activities of the ASSOCIATION.

24 9. Through the investigation, the Division learned the ASSOCIATION was
25 established on September 7, 1978, and at that time reflected the name “Mogul Highlands
26 Homeowners Association.”

27 10. An amended Declaration was recorded in December 1984 under the name
28 Mogul Highlands and reflects a Homeowners Association may become necessary to

1 benefit lot owners.

2 11. Another amendment was made in March of 1993. The current Board
3 President, LANE signed this amendment as read and approved.

4 12. In 1992, the ASSOCIATION prepared Articles of Incorporation calling the
5 Association "Highlands Road Association" though the Division found no evidence that the
6 1992 Articles of Incorporation were signed or recorded.

7 13. The Division's Ombudsman's Office sent a letter of instruction to the
8 ASSOCIATION on May 4, 2021, and again on July 8, 2021 noting that the Association
9 needed to comply with the governing documents and NRS 116. Additionally, the
10 Ombudsman's Office suggested training and provided the contact information for the
11 Northern Nevada Training Officer. Presently, the ASSOCIATION has not contacted the
12 Northern Nevada Training Office regarding any training.

13 14. The COMPLAINANT alleged that they were denied, upon request, a copy of
14 the audio from an ASSOCIATION meeting.

15 15. LANE provided an affidavit that indicated that there are no recordings of
16 any ASSOCIATION meetings, as he was not aware of the requirement, however, "[t]he
17 other officers and I are now aware of the regulation that Executive Committee meetings
18 "shall" be recorded..."

19 16. The COMPLAINANT alleged that he was denied, upon request, a copy of
20 the homeowner ratified operating budget.

21 17. LANE provided an affidavit that indicated that "in the +25 years the HRA
22 has been in existence, there has never been a ratified budget..."

23 18. The COMPLAINANT alleged that they were denied, upon request, a copy
24 of certain documents which would include financial statements of the association and a
25 budget of the association.

26 19. LANE provided affidavit that indicated that "in the +25 years the HRA has
27 been in existence, there has never been a ratified budget..." and that "[t]he other officers
28 and I are aware of the requirement and process for establishing an operating budget

1 ratified by the general membership as required by the regulations under NRS 116.31151
2 and the need to establish a fiscal year. We are working towards those goals.”

3 20. RESPONDENTS LYNCH, SMALL, and MORTARA also provided affidavits,
4 however they also did not indicate the existence of any audio recordings of meetings, the
5 existence of any ratified budgets, or the past keeping of proper financial records.

6 21. On November 3, 2021, the Division sent a letter to the ASSOCIATION and
7 specifically LANE, advising LANE that “[t]he Division has obtained sufficient evidence
8 to commence a disciplinary action against you and intends to do so by filing a complaint
9 for hearing before the Commission for Common-Interest Communities and Condominium
10 Hotels (the "Commission").”

11 **VIOLATIONS OF LAW**

12 22. RESPONDENTS violated NRS 116.31083(5)(a) and NRS 116.31083(8) in
13 that the ASSOCIATION has never caused any meeting of the executive board to be audio
14 recorded; additionally, and as such, RESPONDENTS have never provided any such
15 recording to a unit owner.

16 23. RESPONDENTS violated NRS 116.31151(3) by failing to, within 60 days
17 after adoption of any proposed budget for the common-interest community, provide a
18 summary of the proposed budget to each unit's owner and set a date for a meeting of the
19 units' owners to consider ratification of the proposed budget.

20 24. RESPONDENTS violated NRS 116.31175 in that the ASSOCIATION failed
21 to maintain financial statements of the association and budgets of the association as
22 required pursuant to NRS 116.31151, and as such failed to provide said documents to
23 unit owners upon request.

24 **DISCIPLINE AUTHORIZED**

25 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS
26 116.790 the Commission has discretion to take any or all of the following actions:

27 1. Issue an order directing RESPONDENTS to cease and desist from
28 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 with Chapters 233B and 116 of the Nevada Revised Statutes and Chapter 116 of the Nevada Administrative Code.

THE HEARING WILL TAKE PLACE at the Commission meeting(s) scheduled for December 7-9, 2021, beginning at approximately 9:00 a.m. each day, or until such time as the Commission concludes its business. The

1 Commission meeting will be held at the Nevada State Business Center, 3300 W.
2 Sahara Avenue, Nevada Room, 4th Floor, Las Vegas, Nevada 89102 or virtually
3 through WebEx. To join the hearing virtually, go to the website Webex.com and
4 enter the Meeting ID and Password:

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6 **TUESDAY, DECEMBER 7, 2021** MEETING NUMBER ACCESS CODE: 146 752 0106
MEETING PASSWORD: P95Phxnp33m (79574967336 from phones and video systems)

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8 **WEDNESDAY, DECEMBER 8, 2021** MEETING NUMBER ACCESS CODE: 146 424 1716
MEETING PASSWORD: Tqp3YDiCV47 (87739342847 from phones and video systems)

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10 **THURSDAY, DECEMBER 9, 2021** MEETING NUMBER ACCESS CODE: 146 867 6638
MEETING PASSWORD: 2Vsn3Jd49qm (28763534976 from phones and video systems)

11 If you do not have internet access, you may attend by phone at (844) 621-3956.
12 Some mobile devices may ask attendees to enter a numeric meeting password provided
13 above. If you would like an email containing this information or a direct link for the
14 virtual meeting, before the hearing, please contact Kelly Valadez, Commission
15 Coordinator, at (702) 486-4606 or KValadez@red.nv.gov.

16 **STACKED CALENDAR:** Your hearing is one of several hearings that may
17 be scheduled at the same time as part of a regular meeting of the Commission
18 that is expected to take place on December 7-9, 2021. Thus, your hearing may be
19 continued until later in the day or from day to day. It is your responsibility to
20 be present when your case is called. If you are not present when your hearing
21 is called, a default may be entered against you and the Commission may decide
22 the case as if all allegations in the complaint were true. If you need to negotiate
23 a more specific time for your hearing in advance, please call Kelly Valadez,
24 Commission Coordinator, at (702) 486-4606.

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

1 the transcription.

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

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

16 Note that under NAC 116.575, not less than five (5) working days before a hearing,
17 RESPONDENTS must provide to the Division a copy of all reasonably available
18 documents that are reasonably anticipated to be used to support his position, and a list
19 of witnesses RESPONDENTS intend to call at the time of the hearing. Failure to provide
20 any document or to list a witness may result in the document or witness
21 being excluded from RESPONDENTS' defense. The purpose of the hearing is to

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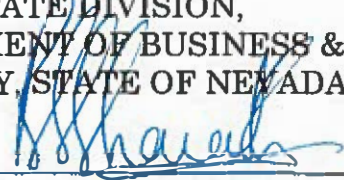
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1 determine if the RESPONDENTS have violated the provisions of NRS 116, and to
2 determine what administrative penalty is to be assessed against RESPONDENTS.

3 DATED this 4 th day of November, 2021.

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REAL ESTATE DIVISION,
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