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10 *Highlands Road HOA*

**FILED**

**DEC 01 2021**

**NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS**

*Kelly Valadez*

11 **BEFORE THE COMMISSION FOR COMMON-INTEREST COMMUNITIES AND**  
12 **CONDOMINIUM HOTELS, STATE OF NEVADA**

13 SHARATH CHANDRA, ADMINISTRATOR,  
14 REAL ESTATE DIVISION, DEPARTMENT  
15 OF BUSINESS & INDUSTRY, STATE OF  
16 NEVADA,

17 **Petitioner,**

18 vs.

19 HIGHLANDS ROAD ASSOCIATION,  
20 CHARLES A. LANE, ERIC MORTARA,  
21 CATHY LYNCH, AND BARBARA SMALL,

22 **Respondents.**

CASE NO. 2021-807

(Combined with Case Nos 2021-808 &  
2021-810)

**ANSWER**

23 Respondents, Highlands Road Association, Charles A. Lane, Eric Mortara, Cathy  
24 Lynch, and Barbara Small (hereinafter "Respondents"), by and through its counsel of record,  
25 Van Duyne Law Group, hereby submits its Answer to Petitioner's Complaint, and answers and  
26 responds as follows:

27 **JURISDICTION AND NOTICE**

28 1. Answering Paragraphs 1 of the Complaint, Respondents admit that they all served on  
the Board of the entity known as the Highlands Road Association at varying times but deny that  
this Association had been existing or had been run as a common-interest community under  
NRS 116 in Washoe County, Nevada at any time since any of the homes in the area were built.

1 2. Answering Paragraph 2 of the Complaint, the Respondents deny that neither their  
2 neighborhood nor Respondents are subject to the provisions of NRS 116 or NAC 116 pursuant  
3 to NRS 116.750.

4 **FACTUAL ALLEGATIONS**

5 3. Answering paragraph 3, Respondents Admit the allegation noting that the word  
6 Association is not meant to be a Homeowners Association.

7 4. Answering paragraph 4, Respondents Admit noting that the word Association is not  
8 meant to be a Homeowners Association.

9 5. Answering paragraph 5, Respondents Admit noting that the word Association is not  
10 meant to be a Homeowners Association.

11 6. Answering paragraph 6, Respondents Admit noting that the word Association is not  
12 meant to be a Homeowners Association.

13 7. Answering paragraph 7, Respondents Admit noting that the word Association is not  
14 meant to be a Homeowners Association.

15 8. As to paragraph 8, Respondents are without sufficient information or knowledge upon  
16 which to form a belief as to the truth of the allegations contained in said Paragraph as they  
17 pertain to acts of an unnamed unit owner and the Division, and Respondents have no direct  
18 information about the actions or activities of either of those persons, entities, and due to that  
19 can neither admit nor deny the allegations.

20 9. As to paragraph 9, Respondents are without sufficient information or knowledge upon  
21 which to form a belief as to the truth of the allegations contained in said Paragraph as they  
22 pertain to events which the Respondents have no knowledge. Based upon filings with the  
23 Secretary of State's Office, Respondents are aware that there was a cooperative corporation  
24 association known as the "Highlands Road Association" formed called the Highlands Road  
25 Association August 11, 1993, which then was permanently revoked in 1999. Later, another  
26 Association named Highlands Road Association was formed on December 18, 2001. That  
27 Association's registered agent is identified as being Daniel C. Scinto of 180 Mule Deer Drive,  
28 Reno NV 89523 with PO Box 34462, Reno NV 89533-3446. Respondents are unaware of any

1 Association being established on September 7, 1978, called "Mogul Highlands Homeowners  
2 Association" though they aware of maps which have been recorded identifying the general area  
3 where they now live as the Mogul Highlands Unit 1 area. There is also a limited liability  
4 company listed on the Secretary of States Website called Mogul Highlands Land Company, a  
5 Nevada LLC, which was formed on March 31, 1993, and was still active until 2009 or  
6 thereabouts. Respondents have seen no documents of any kind that indicate that a  
7 Homeowners Association called Mogul Highlands Homeowners Association was formed on  
8 September 7, 1978. Rather, all later restrictions recorded against neighboring lots indicate that  
9 while no HOA is in existence one may be useful at an unspecified later date when the  
10 neighborhood contains many more lots.

11 10. As to paragraphs 10, Respondents admit that a document titled "Amended Declaration  
12 of Restriction of Mogul Highlands and total rescission of Prior Restrictions" was recorded with  
13 the Washoe County Recorder's office dated December 21, 1984, as document 969179.  
14 Respondents have read the sentence in paragraph 24(a) on page 4 stating that the formation of a  
15 homeowner's Association may become necessary for the benefit of the ultimate 147 lot owners  
16 in the Mogul Highlands Subdivision; therefore, each purchaser of a lot in any of the Mogul  
17 Highlands subdivision, by acceptance of a Conveyance for a lot agrees to become a member of  
18 the Mogul Highlands Homeowner's Association should such an association be formed.  
19 Respondents admit that the words speak for themselves but do not admit that at any time an  
20 HOA was formed, nor do they admit that at any time there have been 147 lot owners in their  
21 Road Association as was referenced in the document.

22 11. With regards to the allegation in paragraph 11, the Respondents admit that a document  
23 entitled "Supplemental and amended declaration of restrictions on Parcel Map No. 2426 by  
24 Mogul Highlands Land Company, recorded as document 1657975 on March 25, 1993. It  
25 appears that the Mogul Highlands Land Company had been formed as an LLC and had possibly  
26 obtained the land in question from the prior Mogul Highlands Land Partnership at that time.  
27 The LLC recorded restrictions on their property at that time. Again, in Paragraph 6(a) on page  
28 4 of this recorded document, then then owners the LLC state that the formation of a

1 Homeowner's Association may become necessary for the benefit of the ultimate lot owners of  
2 lots located within the Property and the Owners of the Parcels in the Parcel Maps hereinabove  
3 described, therefore each purchase of one of these parcels, or any portion thereof, by  
4 acceptance of a convenience of any portion of the land described herein agrees to become a  
5 member of the Association, which shall be known as Highlands Road Association should such  
6 an association be formed. Later, the document states that the purpose is the maintenance and  
7 snow removal on the public roadways and though there is mention of a Homeowners  
8 Association that may later be formed, the document's require persons to strictly to abide by  
9 "THIS ROAD MAINTENANCE AGREEMENT" and if anything appears to be forming a  
10 limited purpose organization which is not subject to the entirety of NRS 116 provisions. With  
11 regards to the allegation that the current Board President LANE, signed this amendment as read  
12 and approved, Respondents do not in any way admit that LANE had anything to do with the  
13 drafting of, voting on, recording of this document and note that the signature was just one  
14 affixed by Respondent Lane and his wife on one of the many documents provided during their  
15 escrow signing when they purchased their home in 2011 not anytime around the actual 1993  
16 document's recordation.

17 12. With regards to paragraph 12 and the allegation that the Association prepared Articles  
18 of Incorporation for the "Highlands Road Association," Respondents have no information upon  
19 which to either admit or deny this and so deny based upon the Secretary of State's records  
20 showing the formation of a cooperative association which was revoked by operation of law in  
21 or about 2,000 and which never existed as a community interest association. Also,  
22 Respondents are unaware of any executed articles referenced in the Complaint.

23 13. With regards to paragraph 13, the Respondents have inadequate information to either  
24 admit or deny the exact date the Division sent or did not send letters to Respondent/s but note  
25 that the May 4, 2021 letter which is referenced in this paragraph was not addressed to the  
26 Respondent/s, the Board or any of the individual Respondents but was addressed and  
27 assumably mailed to Chris Lyngstad, a non-board member and non-Association representative,  
28 on May 4, 2021 said letter regarding file No 2021-273 and signed by Charvez Forger which

1 letter does include language stating that the May 4<sup>th</sup> letter was to be considered a “Letter of  
2 Instruction” for the Board to cause compliance with the provisions of NRS 116. It also  
3 included contact information regarding the Northern Nevada Training Officer but again, there  
4 is no indication that this letter was in fact sent to Respondents at any time. The Highlands  
5 Road Association’s registered agent was not identified anywhere on the correspondence either.

6 14. With regards to allegations set forth in paragraph 14, Respondents are unable to admit  
7 or deny the allegation as they have no information regarding actions of the unknown  
8 Complainant referenced in the Complaint and or what type of recording, they may or may not  
9 have requested or received or not received at any particular time. If this allegation relates to the  
10 July 14<sup>th</sup> annual members meeting (not any sort of executive board meeting), then Respondents  
11 deny that there was any requirement for a recording to be made. Respondents recall that Mr.  
12 Lyngstad did attend an annual owners meeting (not a board meeting) on July 14<sup>th</sup> and argued  
13 with several of the neighbors. The July 14<sup>th</sup> meeting was not any type of executive board  
14 meeting and there would have been no obligation for a recording to be made.

15 15. As to paragraph 15, Respondent Lane affidavit speaks for itself and supports the fact  
16 that the Road Association has only ever been run as a limited purpose landscaping entity and  
17 not as a common interest community and that never has a common interest community  
18 (“HOA”) that was only discussed as an idea in some of the various restrictions that were  
19 recorded, been actually formed or come into existence.

20 16. As to paragraph 16, Respondents are unable to admit or deny as no information  
21 regarding identity if complainant nor the specific request is available. The Respondents have  
22 emails showing that they did offer any/all available financial information to the various owners  
23 in the neighborhood at various times.

24 17. As to paragraph 17, Lane’s affidavit speaks for itself, supports fact that this  
25 neighborhood has never been an HOA. All financial information was provided to all parties  
26 within the Association.

27 18. As to paragraph 18 unable to admit or deny what the unknown owner may or may not  
28 have done or received and so based upon that, deny this allegation because the Respondents

1 have offered the financial records of the entity for inspection to all owners involved.

2 19. As to paragraph 19, Lane's affidavit speaks for itself, in that this entity has never been  
3 or been run as an HOA. Respondents admit that the Lane affidavit states what it states but note  
4 that their entity is not in fact an HOA under NRS 116.

5 20. With regards to other affidavits mentioned in Paragraph 20, Respondents admit that  
6 such affidavits exist and note that they speak for themselves but note that the affidavits do not  
7 state that audio recordings of meetings, ratified budgets of the keeping of property financial any  
8 particular audio recordings of meetings, ratified budgets, or proper financial records have not  
9 been kept so Respondents deny the allegation as to those facts.

10 21. With regards to paragraph 21, unable to admit or not when the Division mailed or may  
11 have mailed a letter advising of the Divisions threat to file a complaint but do note that there  
12 was a certified letter to LANE including a threat to file a complaint. Noteworthy is that the  
13 letter was sent to the Highlands Road Association at Mr. Lane's private residence instead of the  
14 identified Registered Agent of the Association.

15 **VIOLATIONS OF LAW**

16 22. Answering Paragraph 22 Respondents deny that they are in violation of such statutes as  
17 no HOA has ever been formed and no HOA has ever been in existence to run the community as  
18 an HOA since the various partnerships and original building company recorded restrictions  
19 stating specifically that no HOA was in existence and only may come into existence once 147  
20 Lots are part of the Association. Furthermore, with regards to the July 14<sup>th</sup> meeting which has  
21 been used as an example of a meeting which went unrecorded – that was an annual membership  
22 meeting and there was no need to have that meeting recorded.

23 23. Respondents deny that they violated NRS 116.31151(3) as they have never existed nor  
24 acted as an HOA and are not subject to the NRS 116 statutes referenced in paragraph 23. Also,  
25 inspection of or copies of financial information has always been provided to owners upon  
26 request.

27 24. Respondents deny that they have violated NRS 116.31175 as they are not an HOA nor  
28 subject to such statute and because their Association has in fact maintained financial records,

1 which have been made available to interested parties upon request.

2 **DISCIPLINE AUTHORIZED**

3 25. With regards to paragraph 1-8, Respondents deny that discipline is merited as the  
4 community has never been run as an HOA. Volunteer community helpers simply tried to help  
5 their neighborhood and should not be held liable for things they were told did not apply to their  
6 neighborhood. There is no evidence that an HOA was ever formed. The HOA "registration"  
7 was only done due to statements from Division Representative threatening fines and other  
8 actions if the registration was not done. There was never an intent to form or run an HOA.  
9 This, if anything, was structured as a cooperative or a limited purpose organization not subject  
10 to the full set of NRS 116 regulations and requirements. Noteworthy, the Association owns no  
11 common area, never has owned common area, has never been built out to the originally  
12 contemplated 147 lots, and none of the recorded restrictions have ever stated that an HOA was  
13 in fact formed but to the contrary clearly indicate that an HOA has not yet been formed.

14 **AFFIRMATIVE DEFENSES**

15 1. The Association is not subject to NRS 116 and NAC 116 as it is not a Common Interest  
16 Community.

17 2. An original entity referenced in the Division's Complaint called Highlands Road  
18 Association was a Cooperative Corporation and was revoked permanently around the year  
19 2000. The unsigned, unexecuted Articles and the Bylaws, referenced in the Division's  
20 Complaint, by their dates, appear to have been related to this revoked cooperative corporation  
21 and not any currently existing entity to which Respondents now belong.

22 3. None of the restrictions have ever indicated that an HOA has ever been formed or  
23 would definitely ever be formed and to the contrary state that none has yet been formed as if  
24 the time of the various documents' recordations.

25 4. None of the Owners wanted to form an HOA and voted against doing at various times  
26 during the neighborhood's history.

27 5. The Respondents are community volunteers that have only tried to maintain the  
28 landscaping and snow removal in their neighborhood in accordance with the recorded

1 documents similar to how a limited purpose association would operate.

2 6. The Respondents have also tried to keep their finances current and have always offered  
3 to provide any/all documents to other neighbors upon request.

4 7. Respondent, LANE, is not under any legal or moral obligation to accept mail from  
5 unidentified persons addressed to him personally at his private residence. Noteworthy, in any  
6 such letter which was claimed to have been refused, there was never any mention or marking  
7 on such letter that it had anything to do with the Road Association or any "HOA" type  
8 business.

9 8. The Mogul Highlands Land Company LLC was dissolved in 2008 or 2009. There is no  
10 indication that that company ever built out a previously contemplated 147 lots and/or created  
11 any sort of HOA and/or ever transferred or sold any common area land to an HOA. Land  
12 identified on mapping as "Common Area" or APN 038-730-00 is not owned by the  
13 Respondents, any HOA run by the Respondents, and is simply identified as being owned by the  
14 "Owners of Mogul Highlands" and not an actual entity or person.

15 9. According to the Complaint, Petitioner states that the HOA was formed in 1978 and  
16 first called the Mogul Highlands Homeowners Association. NRS 116 does not apply to that  
17 HOA if even it was formed then, as it was formed prior to 1992.

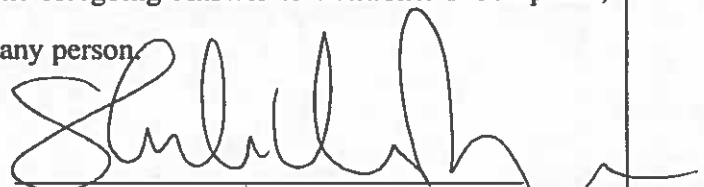
18 10. Under the various recorded documents, there has never been a creation of Common  
19 Interest Community in accordance with the requirements of NRS 116.

20 11. There is no legal or statutory obligation for Respondents to make or provide audio  
21 recordings of annual meetings of the lot owners living in the neighborhood.

22 **AFFIRMATION**

23 The undersigned hereby affirms that the foregoing Answer to Petitioner's Complaint,  
24 does not contain the social security number of any person.

25 Dated 1<sup>st</sup> day of December 2021.

26 

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 1<sup>st</sup> day of December 2021, a true and correct copy of  
3 **ANSWER**, was placed in an envelope, postage prepaid, addressed as stated below, in a basket  
4 for outgoing mail at the firm of VAN DUYNE LAW GROUP. The firm has established mail  
5 procedures so that all mail placed in the basket is taken that same day and deposited in a U.S.  
6 Mailbox.

7 COMMON-INTEREST COMMUNITIES  
8 AND CONDOMINIUM HOTEL  
9 3300 W. Sahara Ave., Suite 350  
10 Las Vegas, Nevada 89102  
11 Attn: Legal Administrative Officer  
12 [kvaladez@red.nv.gov](mailto:kvaladez@red.nv.gov)

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18 By:     // Betty Chronister //      
19 Betty Chronister, an employee of  
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