

1                                   BEFORE THE COMMISSION FOR COMMON-INTEREST  
2                                   COMMUNITIES AND CONDOMINIUM HOTELS  
                                          STATE OF NEVADA

3 Sharath Chandra, Administrator,  
4 Real Estate Division, Department of  
5 Business & Industry, State of Nevada,

6                                   Petitioner,

7 vs.

8 Rose Garden Owners Association, Gary  
9 Martin, Lynne Fillingame, Jeff Hahn,  
10 Barbara Brink,

11                                   Respondents.

Case No. 2020-566

**FILED**

JAN 20 2022

NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

*Kelly Valadez*

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

14           The Real Estate Division of the Department of Business and Industry, State of  
15 Nevada (the "Division"), by and through its counsel, Aaron D. Ford, Attorney General of  
16 the State of Nevada, and Virginia T. Tomova, Deputy Attorney General, hereby notifies  
17 RESPONDENTS ROSE GARDEN OWNERS ASSOCIATION ("Association"), GARY  
18 MARTIN, LYNNE FILLINGAME, JEFF HAHN, JOHN (JACK) MATCHA, and  
19 BARBARA BRINK (collectively, "RESPONDENTS") of an administrative hearing before  
20 the Commission for Common-Interest Communities and Condominium Hotels, State of  
21 Nevada, which is to be held pursuant to Chapters 233B and 116 of the Nevada Revised  
22 Statutes ("NRS") and Chapter 116 of the Nevada Administrative Code ("NAC"). The  
23 purpose of the hearing is to consider the allegations stated below and to determine if an  
24 administrative penalty will be imposed on the RESPONDENTS pursuant to the provisions  
25 of NRS and NAC including, but not limited to, NRS 116.785 and NRS 116.790.

26                                   **JURISDICTION AND NOTICE**

27           1.       During the relevant times mentioned in this complaint, RESPONDENTS  
28 GARY MARTIN, LYNNE FILLINGAME, JEFF HAHN, JOHN (JACK) MATCHA and  
BARBARA BRINK served as board members and/or officers of ROSE GARDEN OWNERS

1 ASSOCIATION (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 the  
6 Division, and the Commission for Common-Interest Communities pursuant to the  
7 provisions of NRS 116.750.

### 8 FACTUAL ALLEGATIONS

9 3. ROSE GARDEN OWNERS ASSOCIATION consists of 96 mobile homes in a  
10 planned community located in Las Vegas, Nevada.

11 4. At all relevant times, the Association was governed by five resident board  
12 members, who are Respondents Gary Martin, Lynne Fillingame, Jeff Hahn, John (Jack)  
13 Matcha, and Barbara Brink.

14 5. According to the Association's filings with the Division, dated July 21, 2020  
15 and May 3, 2021:

- 16 a. Gary Martin was the President of the Association.
- 17 b. Barbara Brink was the Vice President for the Association.
- 18 c. Jeff Hahn was the treasurer for the Association.
- 19 d. Lynne Fillingame was the secretary of the Association.

20 6. Since 2017, the Association was managed by Ellectic Property Management.

21 7. On or about July 13, 2020, the Division properly notified the Association, that  
22 it had opened an investigation against the Association, for failure:

- 23 a. To pay the annual unit fees to the Division and has been delinquent since  
24 May 1, 2020 as required by NRS 116.31155; and
- 25 b. To renew annual registration with the Ombudsman and has been delinquent  
26 since May 1, 2020 as required by NRS 116.31158.

27 8. In that correspondence, the Division requested that the Association provide:

- 28 a. Copies of all meeting minutes from January 2018 through June 2020;
- b. Copies of all interim financial statements pursuant to NAC 116.451 from  
January 2018 through June 2020;

...

- 1 c. Copies of bank statements for all accounts (including check copies) from  
2 January 2018 through June 2020; and  
3 d. A copy of the most current reserve study.

4 9. The Association failed to respond to the request for documents.

5 10. On or about September 15, 2020, the Division sent a second request for the  
6 documents previously requested.

7 11. On or about September 25, 2020, Jennifer Medeiros, the Association's  
8 community manager, provided some of the above requested documents to the Division.  
9 However, financial and bank statements for January, March, April, June, July,  
10 September, and October of 2018 were not provided. In addition, such statements were not  
11 provided for February, March, May, June, August, September, October, November of 2019  
12 and January, February, April, June, and July of 2020.

13 12. According to the board minutes from September 18, 2018, the board rebuilt  
14 the lift station pump with only one bid.

15 13. The 2018 board minutes also did not show that the board sought three bids  
16 for the 2019-2020 management contract, lift station repairs and the gate/call box.

17 14. On or about October 5, 2020, the Division sent another correspondence to the  
18 Association asking for additional information:

- 19 a. Copies of the 2018, 2019 and 2020 Budgets;  
20 b. A copy CPA-audited or reviewed financial statements from 2017, 2018 and  
21 2019;  
22 c. Interim financial statements:  
23 i. Balance Sheet for periods 12/31/17, 12/31/18, 12/31/19 and 8/31/20  
24 (accrual)  
25 ii. Comparative (budget to actual) Profit & Loss Statements filtered for  
26 1/1/17 - 12/31/17, 1/1/18 - 12/31/18, and 1/1/20 - 8/31/20;  
27 iii. Copies of all receipts and invoices from 1/1/17 - 8/31/20 for all  
28 expenditures from all accounts, excluding such bills for utilities (i.e.  
water, electricity);  
iv. Copy of bank signature cards for all open association accounts;  
v. Copies of all vendor and employee contracts in force from 2017 through  
8/31/20;  
vi. Copies of all W9s issued to vendors in 2017, 2018, and 2019;  
vii. Copies of association aging reports dated 12/31/17, 12/31/18, 12/31/19,  
8/31/20;





1 If the meeting will not be conducted in person, then you will be notified  
2 by known email or mail as soon as possible that the Commission will conduct a  
3 virtual meeting using Webex.com with the meeting information below:

4 DIAL-IN NUMBER: (844) 621-3956 or Webex.com

5 TUESDAY, MARCH 1, 2022 MEETING NUMBER ACCESS CODE: 2493 368 6567  
6 MEETING PASSWORD: tS5NAtpd33 (87562827333 from phones and video systems)

7 WEDNESDAY, MARCH 2, 2022 MEETING NUMBER ACCESS CODE: 2491 202 8116  
8 MEETING PASSWORD: 7G8UyK8Hdvf (74889584383 from phones and video systems)

9 THURSDAY, MARCH 3, 2022 MEETING NUMBER ACCESS CODE: 2491 892 6520  
10 MEETING PASSWORD: 4aK5pBPipt2 (42557274782 from phones and video systems)

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 March 1-3, 2022. 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 is  
16 called, a default may be entered against you and the Commission may decide the  
17 case as if all allegations in the complaint were true. If you need to negotiate a  
18 more specific time for your hearing in advance because of coordination with out  
19 of state witnesses or the like, please call Kelly Valadez, Commission  
20 Coordinator, at (702) 486-4606.

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

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

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

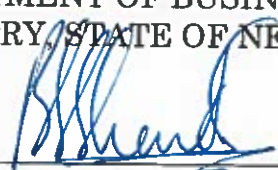
12       Note that under NAC 116.575, not less than five (5) working days before a hearing,  
13 RESPONDENTS must provide to the Division a copy of all reasonably available  
14 documents that are reasonably anticipated to be used to support his position, and a list of  
15 witnesses RESPONDENTS intend 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 determine

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

3 DATED this \_\_\_ day of January, 2022.

4  
5 REAL ESTATE DIVISION,  
6 DEPARTMENT OF BUSINESS &  
7 INDUSTRY, STATE OF NEVADA

8 By:   
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13 AARON D. FORD  
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15 By: *Virginia T. Tomova*  
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