

Statement of William L. Roth
2022 Secretary, Sierra Ranchos POA
to the Members of the Nevada Commission for
Common Interest Communities and Condominium Hotels

May 31 - June 2nd , 2022

RE: Sierra Ranchos Property Owners Association (SRPOA)
Case No. 2018-1663 Review of Stipulation and Settlement Order (“Order”)

Members of the Commission,

I have previously written (March 30, 2021) to Commission members as a group on the general subjects of the history, geographical layout and social interactions of our Association and its membership as a background document for Cases and Complaints coming from SRPOA. The events, stipulations and settlements associated with the subject case occurred before I was a member of the SRPOA Board. Despite a 20+ year history living and building in this valley, I had - up until the Spring of 2019 - no desire to serve on the SRPOA Board. My previous relationships with my neighbors and 2001 - 2018 Boards were friendly and cooperative. Actions of the SRPOA Board in 2019 and 2021 changed all of that. At the request of neighbors, I ran for a seat on the 2020 Board, being essentially ignorant not only of the circumstances of Case 2018-1663, but also, as for most first-time Board members, ignorant of CCIC regulations.

As a “*Duly Elected*” Board member (Nov. 2019) and *unanimously acclaimed* (by Annual Meeting attendees) President for 2020, I was immediately introduced to this Order and its requirements, as well as expectations of the residents of SRPOA, which were, and remain - based on decades of past experience - not on the current realities of our budget and changing local population.

I have tried to learn about CIC Law (as required by the Order), to listen to my constituents, and otherwise do my best to follow the Law and the first 8 - essential - requirements of the Order. As is probably the case with any politician who tries to change the existing practices / expectations of their constituents, I have become a “Target” for both reasonable complaints from those who want progress, and for wild, unfounded accusations of misfeasance by those who want me *gone*. I accept this fact as the price of making positive change. However, I do expect the Commission to read and listen to my Testimony as they would want their own experiences to be heard.

I. Major Problems Encountered

a) The major problem I have faced as President, and later as Secretary, has been collusion between SRPOA’s “*attorneys of record*” (Leach , Kerns and Gruchow - “LKG”) and the Community Managers (CAMs) to lien and foreclose on members who in many cases knew NOTHING of the CAMs (name, address, phone #, et cetera). Some tried to pay their assessments via automatic Mortgage escrow accounts, but since the CAMs (Opus 1 and later, Terra West) abandoned the traditional SRPOA post office box (see **Address Addendum**) and

made no effort to correct old addresses, many of these SRPOA members were *unable* to make assessment payments. When I became aware of this as 2020 President, I was able to “recover” the P.O. Box and then began to find payments, County “Violation Notices” and other important mail that had been LOST for more than 6 months. My attendance at NRED CIC Education Classes alerted me to the fact that LKG was working with OPUS1 to place liens, and moving to foreclose on member properties without authorization by the Board. When I confronted John Leach (LKG) on this subject, he agreed to stop, but blamed OPUS1 for the practice. He then resumed this practice in 2021 as soon as Terra West resumed management with a more compliant Board - **but never corrected the flawed liens**. SRPOA members who were subjected to this abuse (and LARGE profits by LKG) were FURIOUS ! NO MEMBER SHOULD BE EXPLOITED FOR THEIR IGNORANCE OF CHANGES IN COMMUNITY MANAGEMENT.

b) The second, almost equally disturbing problem I have faced as a Board Member has been the outright antagonism of the *acting* 2019 and 2021 President towards me and my efforts to simply follow CIC regulations (RE: voting on and spending of Reserve Funds). He was told by LKG that he *could* use Reserve Funds for Routine Maintenance [contrary to NRS 116.3115(B)(2)] and proceeded to spend all but \$ 3.00 of the 2020 Reserve Fund Balance on a reckless effort to destroy road improvement work I had performed as 2020 President (subject of **Case 2020-524**). Why would he do this ? Because NRED considered the merits of his Complaint and disagreed.

II. Specific Items of the Order

The remainder of this Statement will attempt to address each of the first 8 items of the 2018-1663 Order, my efforts to adhere to each provision, and the outcomes of our efforts.

1. “... hold an election within 90 days (of Sept. 26, 2019)”. Our new 2019-2020 Community Manager - OPUS 1 - sent out forms for self-nomination to all members. Since there were only 3 volunteers for 3 seats, no ballots were sent and no *real* election was held. All three (Javier Godinez, William Roth and Harry Smith) were “Duly Elected”. Javier withdrew prior to the Nov. 7th, 2019 Annual Meeting. Former Secretary Greg Mayer was appointed to the 2020 Board by William Roth and Harry Smith - *on the recommendation of OPUS 1 and attending SRPOA members* - since neither Harry nor I knew or had worked with Greg Mayer in the past.

This same process was followed in Oct. 2020 by Terra West Management. Once again, only 3 members volunteered for 3 seats (Greg Defehr, Loren Pierce, and William Roth). No ballots were sent out, and these volunteers were “Duly Elected”. Greg Defehr and Loren Pierce appointed themselves as Treasurer and President without consulting Annual Meeting attendees.

As a result of excessive spending on attorneys (LKG), nothing but destruction of our roads, and a Special Meeting presented by LKG to announce that SRPOA was nearly INSOLVENT, anger in the community had risen by Oct. 2021, and 7 members nominated themselves to serve. Ballots were sent out, but the Annual Meeting / Election was delayed until Nov. 22, 2021 (versus Nov. 7-8 in 2019 and 2020). Winning votes were 55 for Joy Marvin, 42 for William Roth, 32 for Greg Defehr. **A meeting to seat Board members for 2022 was delayed to Dec. 21, 2021.**

2. “... *hire and maintain the services of a community manager* ...” (a) **OPUS 1** : A Request for Proposals (RFP) was sent out by the 2019 Board before the Stipulation and Order of Case 2018-1663 was completed. OPUS 1 was the successful proposer, and became 2019-2020 CAM for SRPOA. Although the 2020 Board invited OPUS 1 to submit a renewal proposal, OPUS 1 declined, and 5 other proposals were solicited via RFP to local Certified CAM companies.

(b) **Terra West** : We received 2 replies to our 2020 RFP - First Service Residential and Terra West. Terra West was selected at our July 20th, 2020 Board meeting. Terra West began work on Sept. 1st, 2020 and abruptly TERMINATED its Agreement after our Sept. 28th meeting - effective Oct. 31, 2020. The 2020 Board briefly signed a new Agreement with First Service Residential in Oct. 2020, but that Agreement was rescinded before Oct. 31st 2020. Terra West then RETURNED - *unannounced* - to our Annual Meeting on Nov. 7th, 2020, accompanied by “Duly Elected” Board members Loren Pierce and Greg Defehr. No new Contract or revision was signed by the new Board or Terra West before December 2020. Terra West again TERMINATED immediately after our 2021 Election (Nov. 22, 2021) - effective Dec. 31, 2021.

(c) **Controlled Resources Management (CRMG)** : After developing a list of 13 local Certified CAMs from NRED’s list of Certified Community Managers, the SRPOA Board found 4 companies interested in new work. RFPs were sent to these companies in Jan. 2022, and two proposals were received by our deadline in Feb. CRMG was selected at our Feb. 19th Board meeting, and agreed to begin work by April 1st. After several weeks of introductory work on SRPOA records, CRMG received a letter from the CCIC requesting it to participate in the “status check” meeting on Case No. 2018-1663. CRMG then informed the SRPOA Board that it had not been involved in this case, and did not want to be involved - was inclined to terminate its CAM Agreement. We did not dispute CRMG’s right to do so, or question its decision.

At this point we are disappointed that we were not able to keep CRMG on as a CAM, given what we came to know about Mr. Defalco and his company. Our past experiences with CAMs has not been good. They have been more interested in controlling SRPOA than in working with us.

3. “... **funding plan for reserves** ...” OPUS 1 generated a budget for 2019, which included funding for a new reserve study (Level 1, with on-site visit). The site visit was completed in Jan. 2021, and the Final Reserve Study (Complex Solutions, Inc.) completed by March 2021. The Board adopted this Reserve Study on June 10th, 2020. It included a 1-time Special Assessment to begin culvert pipe replacement and road repairs, and average Reserve Fund contributions of \$ 1,285 per month - or \$ 15,420 per year. Attempts to review the Reserve Study in 2021 were confused and unproductive, as the dominant Board Members did not like the 2020 study, tried to complete a new Level 1 study with inclusion of a \$ 61K + Engineering Plan and ultimately failed to come up with the funds needed to do either. An update could be completed by Complex Solutions in 2022, but this would not be completed in time for a 2022 SRPOA Budget update.

4. “... **hire ... properly licenced ... bookkeeping and road maintenance services.**”

Bookkeeping service has, up to 2022, been provided by Community Management companies, who we assumed were properly licenced to do this work. CAMs apparently lost payment checks or confused them (between co-managed Associations) as was mentioned in Section I (a). When CAMs are attempting to manage 12 - 15 Associations / manager, and maybe hundreds of Associations / company, things get mixed up and accountability of / to the Board is lost.

Hiring a competent, licenced road maintenance contractor is equally difficult. First, in the present economic environment, ALL contractors are very busy and cannot be counted on to do any work in a short time-frame UNLESS they will make BIG BUCKS ! They may be out of the local region for months on end if they can get profitable work elsewhere.

In my experience, construction contractors of ALL types MUST be supervised - preferably by the project designer and or engineer. Before I came to Reno, I had some experience with the USEPA supervising the design of Super Fund Site cleanup Plans. I also designed and built my own home, with a Team of other engineers and several local contractors. Supervision is essential !

Since 2019, SRPOA has hired two different licenced Excavation companies : (a) Dyer All Terrain Excavation, and (b) West Coast Dirt Works. Both needed close supervision to ensure that they did the work outlined. Dyer's equipment operator did excellent work under my supervision in 2020. The supervisor Dyer initially provided (March 2020) was *clueless*. However, with only brief *verbal* direction from a different, and inexperienced Board member, the same operator - in December - scraped away a layer of compacted surface rock he just applied to Frontier Rd. in the Spring of 2020 (under my supervision). Resulting damage was ~ \$ 17,000 ! The West Coast Dirt Works operator was somewhat more experienced, but still required explanation and cautions to prevent further damage when he smoothed our roads in Nov. 2021. This dirt smoothing work (Not described in the 2020 Reserve Study) lasted only about 6 weeks!

An EXCLUSIVE contract will probably not work. Multiple contractors must be solicited to ensure that at least one will be available to do the work we want done in a timely fashion.

5. "...each board member shall take 6 hours of education offered by the Division ..."

This has been one of the most valuable provisions of the 2018-1663 Order. The classes offered by NRED, after a shaky start during the 2020 Pandemic Shutdown, have been of high quality, the instructors both pleasant and willing to accept questions / criticism. As a former instructor of professionals (continuing education) and graduate students, I found these instructors and the material they taught to be well - measured for the students they were attempting to teach. Without these classes, I would have been unaware of multiple problems and questionable practices I have encountered as a board member with SRPOA - despite "reading" NRS 116. In 2020, I was unable to get my fellow board members to attend. However, my fellow board members in 2021 did seem to realize that they had to comply with the Order, and signed up for some classes. Joy Marvin, as President for 2022, has - like me - greatly enjoyed, and tells me that she believes she is greatly benefitting from these classes.

6. " Association shall not allow any non-board member to make motions ... or participate in board action..."

This has not been a problem since 2019, although it has been necessary to explain the rules to some attending members at some meetings. Members often feel that they should be able to "vote" on issues discussed at ALL meetings - not just Annual Meetings.

7. "Association shall place money it receives ... [case 2018-1488] ... in its Reserve account"

We believe that OPUS 1 made this deposit, but are reviewing available records to ensure.

8. “...not allow any non-board member or non-officer to sign Association checks ...”

As a new, inexperienced officer (President) in 2020, this made a lot of sense, but I was often confused when the CAM - OPUS 1- tried to get me to sign payments that I did not feel were appropriate. It is my understanding that the problem originated with a few Boards with no members willing to take responsibility for signing. In fact, I found a set of older Minutes where the board members concluded that they had to have Mr.Seifert (not a board member - deceased) sign because none of the Board members were on the Bank signature list !

In 2020 both the CAM (OPUS 1) and President signed checks for less than 3 % of the annual budget. Only board members signed larger checks (> 3 % of budget). I did not sign any checks for the 2021 Board. It appeared to me that the 2021 Board was following the rules - EXCEPT that in Dec. 2020, the Board ACTED *without* (a) Agenda Item, (b) vote or ANY attempt to achieve an outside-of-meeting Unanimous Consent to spend ~ 22% of SRPOA’s Annual Budget from the Reserve Account to have Dyer Excavation perform what was to have been Routine Maintenance - but turned out to be destructive road grading. This ACTION by the dominant Board Members was the subject of a Complaint filed with NRED on Jan. 25th, 2021.

Another problem that I noted in both 2019 and 2021, was Board member ignorance of SRPOA’s By-Laws, wherein it is stated :

Article V (1)(i) *“Notwithstanding any or all of the foregoing powers, the Board of Directors' shall not enter into any contracts which bind the Association for a period in excess of one year, unless reasonable cancellation provisions are included therein ...”*

No such time restrictions were included in the Engagement Letter or consulting contracts of 2021 **Both the “Attorneys of Record [LKG]” and CAMs led both 2019 and 2021 board members to believe that ANY board member could sign contracts for the Association (and they did).**

Conclusion

I am sorry that this Statement has been so lengthy, but given the amount of work I have done for SRPOA, and the number of problems I have had to contend with as a Board member from December 2019 through May 2022, I feel the need to be candid and fully expansive with the Commission. This may be the only opportunity we have to get help from the CCIC. **Our Founding Documents expire in June of 2024 - we don’t have much time to turn things around.**

Address / HOA Contact Addendum
(from Complaint filed with NRED in Nov. 2020)

The State of Nevada / CIC Ombudsman Forms have only a single line for the “Address for the Homeowners Association”. In our particular case, this has been a complex question and in order to meet the needs of the Ombudsman’s Office for complete information, the following discussion and list of address / contact information is provided.

A Post Office box (**P.O. 11513 Reno, NV 89510**) had been the official address for Sierra Ranchos Property Owners Association (SRPOA) for about 25 years prior to hiring of a Community Manager (CAM - OPUS 1) in 2019 under the settlement of Case 2018-1663. OPUS 1 did not access or pay rent on this P.O. Box when operating as SRPOA’s CAM. When, as 2020 President, I discovered this fact and successfully recovered the same P.O. box, I began to receive overdue invoices (to SRPOA), property owner assessment payments (how many were lost ?) and Notices from Washoe County. None of these entities had received notification of SRPOA’s changed address (to OPUS 1's Sparks, NV Office address). A similar problem occurred recently, when NRED did not receive proper notice of the CAM change to Terra West (CAM from Sept 1 - Oct. 31, 2021) and your office consequently sent a copy of NRED’s Closure Letter for Case # 2020-524 to OPUS 1 rather than Terra West management.

Since SRPOA currently has no valid CAM contract (Terra West terminated Oct. 31), I assume that NRED needs address information to properly contact and notify all parties to this complaint. With that understanding, I provide the following additional information and address list.

Terra West has been primarily represented to SRPOA by Dawn Osterode, but CEO K. Matheson apparently made the SRPOA termination decision, and supported renewal with Mr. Pierce as SRPOA’s 2021 President, as evidenced by her signature on both the Termination Letter and on Terra West’s reinstatement letter / revised proposal. These addresses are therefore provided:

Name	Address	Phone
Katherine D. Matheson CEO, Terra West	TerraWest Management Services 6655 S. Cimarron Road, Suite 200 Las Vegas, Nevada 89113	702.362.6262
Dawn Osterode Strategy Officer	Terra West Management Services 10651 Professional Circle, Suite A Reno, NV 89521	775.853.9777
Loren Pierce 2021 President, SRPOA	300 Cinch Circle Reno, NV 89508	Unknown

Nevada Dept. of Business and Industry
Real Estate Division
Common Interest Community Commission
3300 W. Sahara Ave, suit 325
Las Vega, Nevada 89102

March 30th, ~~2012~~
2021

CIC Commissioner,

I recently submitted two complaints to the Ombudsman's Office concerning what I, as 2020 President and 2021 Secretary of our Executive Board, consider to be intentional dishonesty, conspiracy and identifiable law violations on the part of new Board members and a Community Management Company (CAM) which are damaging to our Property Owners Association (POA). [complaints submitted Nov. 11, 2020 and Jan. 25, 2021]

Although I have no assurance that these new complaints will reach you, or that the Commission will take action, I believe that you need an overview of our POA given the number of recent complaints and actions the CICC has already taken against it since 2018*. Although these actions have had the beneficial effect of making our community and POA Board members aware that there are Nevada Laws and Regulations that need to be understood and followed, CICC actions have also had the undesirable effect of alerting the less scrupulous CAMs and law firms to the fact that our POA is now required to utilize them - that is to say "*we are ripe for picking*".

Education and Regulation: Lack of knowledge of NV CIC Law has been a major factor in past and present violations. Classes offered by NRED on CIC Law are certainly helpful, but historical and geographic circumstances drive everything in our community, and must be understood to find effective solutions to the problems which drive these conflicts.

Development of adequate infrastructure is the primary limitation to the development of communities worldwide. Successful development of infrastructure generally requires application of engineering standards for each structure or utility, and regulation of such construction. Plumas-Sierra Rural Electric and Rural Telephone developed regulated services throughout our region early on, and although improvement is still ongoing, no scandals or major issues exist. Likewise, home building, water wells and septic systems are all regulated in an integrated fashion by Washoe County. Rural POA **road development and maintenance are not regulated** in any significant fashion, and attempts by both local associations (SRPOA and RHPOA) to maintain roads have been primitive at best - and are a source of conflict when weather and increasing levels of traffic result in damage to what are primitive, "*fair to poor*" roads to begin with.

POA History and Demography

Our POA is not a "Gated Community" or a group of closely connected condominiums. We are a rural community, most of whom do not know or see their neighbors without making an effort. ***The only things that connect us are our roads and the extent to which we work together.*** Prior to 1971, The POA now called Sierra Ranchos (SRPOA) was an open range ranching area explored by Occidental Petroleum for mineral exploitation. It was sold to Eagle Peak Corp. for rural / residential development, and eventually divided into two Associations : Sierra Ranchos POA and Rancho Haven POA (RHPOA). Each of these POAs was divided into hundreds of 10-

12 acre parcels for sale (see attached Map). None of the roads of either POA were paved or significantly improved at the time of inception. The only artery for entry or exit from the POAs - Red Rock Road, remained unpaved through SRPOA until 1999. This meant that ALL of the properties of SRPOA, including 40 parcels directly fronted on Red Rock Rd, depended at least in part on SRPOA for road maintenance. After 1999, Red Rock Rd residents had no dependence on SRPOA to maintain access to their homes. Roads for other SRPOA properties remained dirt roads. Since most of the earlier residents (vs investors) of SRPOA wanted rural land where they could keep animals, build their own homes, and otherwise be relatively self-sufficient, primitive road conditions were not a source of conflict until the damaging floods of 2017-2019. Older, longer term residents often tell me RE: complaints “*we just want to be left alone*”. More recent home purchasers (vs original owner-builders) expect better road conditions than dirt roads and traditional SRPOA maintenance efforts can deliver with increasing traffic levels.

Several areas interior to SRPOA (Lee’s Flat on USGS maps) are not part of SRPOA (light blue), although some do pay road maintenance fees to SRPOA. These property owners (~ **40 parcels**) depend on SRPOA’s work for access to their properties but have no voting rights or obligation to follow rules of SRPOA’s Governing Documents.

A majority of SRPOA’s parcels are vacant, unimproved or investment properties. Their owners - many out of State - have little or no knowledge of the community or actions of SRPOA’s Board. They do not attend Board meetings or vote on the rare occasions that elections are ordered. As a result of this situation, SRPOA has poor community participation and great difficulty getting even 35 % of eligible owners to vote on ANY issue. Board members are “*Duly Elected*”.

Overall, of about 250 parcels of land in the Lee’s Flat area which were once dependent on SRPOA roads for access to their properties, 40 are no longer dependent on SRPOA, 40 are not Association members, and at least 70 are owned by non-residents. Thus, more than 150 properties once dependent on SRPOA for access are either no longer dependent or have disinterested owners.

SRPOA is supposed to be a non-profit corporation (originally *Red Rock Ranch Association*), created in 1974 for the maintenance of road access to a willing group of Lee’s Flat property owners. Demands for more money by the Board, its contract Community Managers, and their Attorneys will not result in willing compliance by those who feel that they are receiving nothing of value in return for their payments. SRPOA’s Articles of Incorporation (1974 Red Rock Ranch Corp) will expire in 2024. If we want to re-incorporate SRPOA, we will have to give 51 % of its proposed membership a reason to support it. Road improvement is all we can do for SRPOA.

I hope that this overview is useful in your consideration of SRPOA complaints and decisions.

William Roth
Sierra Ranchos POA member

Sierra Ranchos POA (Outlined in Green)

Rancho Haven

Red Rock

