

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 Santa Barbara Village Homeowners
10 Association, Larry Denman, Janet Cook-
11 Denman,

12 Respondents.

Case No. 2021-1139

FILED

AUG 10 2022

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Kelley Valadez

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 Virginia T. Tomova, Deputy Attorney General, hereby notifies
18 RESPONDENTS SANTA BARBARA VILLAGE HOMEOWNERS ASSOCIATION (the
19 "Association"), LARRY DENMAN and JANET COOK-DENMAN (collectively,
20 "RESPONDENTS") of an administrative hearing before the Commission for Common-
21 Interest Communities and Condominium Hotels, State of Nevada, which is to be held
22 pursuant to Chapters 233B and 116 of the Nevada Revised Statutes ("NRS") and Chapter
23 116 of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider
24 the allegations stated below and to determine if an administrative penalty will be imposed
25 on the RESPONDENTS pursuant to the provisions of NRS and NAC including, but not
26 limited to, NRS 116.785 and NRS 116.790.

27 **JURISDICTION AND NOTICE**

28 1. During the relevant times mentioned in this complaint, RESPONDENTS
LARRY DENMAN and JANET COOK-DENMAN served as board members and/or officers
...

1 of SANTA BARBARA VILLAGE HOMEOWNERS ASSOCIATION (the "Association"), a
2 common-interest community located in North Las Vegas, 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. SANTA BARBARA VILLAGE HOMEOWNERS ASSOCIATION consists of
10 40 condominium units in a planned community located in North Las Vegas, Nevada.

11 4. At all relevant times, the Association was governed by three resident board
12 members, two of whom were respondents Larry Denman and Janet Cook-Denman.

13 5. The third member was Robert Sult ("Mr. Sult"), who resigned on January 2,
14 2022.

15 6. Based on the Annual Association Registration form, dated October 12, 2021,
16 the last reserve study for the Association was conducted on November 25, 2018 (the
17 "November reserve study.")

18 7. Based on the Annual Association Registration form, the required reserve
19 account balance for the Association was \$76,325.00.

20 8. Based on the Annual Association Registration form, the projected reserve
21 account balance for the Association as of the end of the Association's current fiscal year
22 was \$9,625.23, a deficit of \$66,699.77.

23 9. On or about December 17, 2021 ("December correspondence"), the Division
24 properly notified the Association, that it had opened an investigation against the
25 RESPONDENTS, for failure:

- 26 a. To fund the reserves, as the required reserve balance was reported as
27 \$76,325.00, but the projected balance was estimated at \$9,625.23, even
28 though the Association was utilizing the Full Funding Method, which was a
violation of NRS 116.3115 (2) (a) and (b);

- 1 b. To submit the Annual Association Registration form for 2021, which is a
2 violation of NRS 116.31158 (1) and (2);
3 c. By the Association to pay the annual unit fee to the Ombudsman for 2021,
4 which is a violation of NRS 116.31155 (1) and (2); and
5 d. To respond to the Division's request for information to the above allegations,
6 which is a violation of NRS 116.3103 through NAC 116.405(5).

7 10. On or about October 20, 2021, the Division received the Annual Association
8 Registration form for 2021.

9 11. In the December correspondence, the Division requested that the Association
10 and the board members provide a response to these allegations and any supporting
11 documentation on or before December 27, 2021.

12 12. Neither the Association nor the board members provided the requested
13 information or responded to the allegations.

14 13. On or about March 10, 2022, the Division sent its second request for the same
15 information.

16 14. In the second request, the Division requested that the Association and its
17 board members provide the additional following information:

- 18 a. Copies of all interim financial statements (pursuant to NAC 116.451) from
19 January 1, 2019 through present;
20 b. Copies of bank statements for all accounts (including check copies) from
21 January 2019 through present;
22 c. A copy of the current management contract; and
23 d. Copies of meeting minutes for ALL meetings from January 1, 2019 through
24 present.

25 15. The Association and the board members failed to respond to the second
26 request for documents.

27 16. On or about March 15, 2022, the Division sent its third request for the same
28 information.

17. Again, neither the Association nor the board members, responded to the third
request from the Division.

...

1 18. With the exception of the Annual Association Registration form which was
2 received by the Division on October 20, 2021, to date, the RESPONDENTS have not
3 provided any of the other documents requested by the Division.

4 19. On or about April 19, 2022, the Division properly gave notice to the
5 RESPONDENTS, that it will file a Complaint against them regarding their failure to
6 produce the Association's records pursuant to the Division's letters dated December 17,
7 2021, March 10, 2022, and March 15, 2022.

8 VIOLATIONS OF LAW

9 20. RESPONDENTS violated NRS 116.3115 (2)(a) and (b) when they failed to
10 establish adequate reserves, funded on a reasonable basis, as the required reserve balance
11 was reported as \$76,325.00, but the projected balance was estimated at \$9,625.23.

12 21. RESPONDENTS violated NRS 116.3103 through NAC 116.405(5) by failing
13 to exercise their duties in the best interests of the Association when they failed to comply
14 with a request by the Division to provide information and/or documents.

15 22. RESPONDENTS violated NRS 116.3103 through NAC 116.405(3) by failing
16 to act in good faith and in the best interests of the Association when they committed an
17 act or omission which amounts to incompetence, negligence, or gross negligence by failing
18 to comply with Nevada law.

19 23. RESPONDENTS violated NRS 116.3103 through NAC 116.405(8)(a) by
20 failing to act in good faith and in the best interests of the Association when they failed to
21 cause the Association to comply with all state laws and regulations, and the governing
22 documents of the Association.

23 24. RESPONDENTS violated NRS 116.31155 (4), by failing to pay the
24 Association's annual fee for 2021 to the Ombudsman's office on time and as a result
25 incurred past due fees including interest and penalty a ~~penalty~~ of \$21.44, which is
26 currently outstanding.

27 ...

28 ...

1 **DISCIPLINE AUTHORIZED**

2 Pursuant to the provisions of NRS 116.615; NRS 116.755; NRS 116.785; and NRS
3 116.790, the Commission has discretion to take any or all of the following actions:

4 1. Issue an order directing RESPONDENTS to take affirmative action to correct
5 any conditions resulting from the violation.

6 2. Impose an administrative fine of up to \$1,000 for each violation by
7 RESPONDENTS.

8 3. IF RESPONDENTS are found to have knowingly and willfully committed a
9 violation of NRS and NAC 116 and it is in the best interests of the Association, such
10 RESPONDENTS may be removed from his/her position as a director and/or officer.

11 4. Order an audit of the ASSOCIATION, at the expense of the ASSOCIATION.

12 5. Require RESPONDENTS to pay the costs of the proceedings incurred by the
13 Division, including, without limitation, the cost of the investigation and reasonable
14 attorney's fees.

15 6. Take whatever further disciplinary action as the Commission deems
16 appropriate.

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

21 **NOTICE OF HEARING**

22 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider this
23 Administrative Complaint against the above-named RESPONDENTS in accordance with
24 Chapters 233B and 116 of the Nevada Revised Statutes and Chapter 116 of the Nevada
25 Administrative Code.

26 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled
27 for September 13-15, 2022, beginning at approximately 9:00 a.m. each day, or
28 until such time as the Commission concludes its business. The Commission

1 meeting will be held at the Nevada State Business Center, 3300 W. Sahara
2 Avenue, Nevada Room, Suite 400, Las Vegas, Nevada 89102 with
3 videoconferencing to Division of Insurance, 1818 E. College Parkway, Ste. 103,
4 Carson City, Nevada 89706.

5 **STACKED CALENDAR:** Your hearing is one of several hearings that may
6 be scheduled at the same time as part of a regular meeting of the Commission
7 that is expected to take place on September 13-15, 2022. Thus, your hearing may
8 be continued until later in the day or from day to day. It is your responsibility
9 to be present when your case is called. If you are not present when your hearing
10 is called, a default may be entered against you and the Commission may decide
11 the case as if all allegations in the complaint were true. If you need to negotiate
12 a more specific time for your hearing in advance, please call Kelly Valadez,
13 Commission Coordinator, at (702) 486-4606.

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

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

27 You have the right to request that the Commission issue subpoenas to compel
28 witnesses to testify and/or evidence to be offered on your behalf. In making this request,

1 you may be required to demonstrate the relevance of the witness' testimony and/or
2 evidence. Other important rights and obligations, including your obligation to answer the
3 complaint, are listed in NRS Chapter 116 and NAC Chapter 116, including without
4 limitation, NRS 116.770 through 116.780, and NAC 116.500 through NAC 116.635 and
5 NRS Chapter 233B.

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

14 DATED this 9 day of August, 2022.

15 REAL ESTATE DIVISION,
16 DEPARTMENT OF BUSINESS &
17 INDUSTRY, STATE OF NEVADA

18 By: 

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22 AARON D. FORD
23 Attorney General

24 By: /s/ *Virginia T. Tomova*

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