

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
6 OF BUSINESS & INDUSTRY, STATE OF
7 NEVADA,

Case No. 2023-204

Petitioner,

FILED

AUG 16 2023

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

mgallo

8 vs.

9 CASA ROSA HOMEOWNERS
10 ASSOCIATION, SHEILA MATHERLY,

Respondents.

11 **COMPLAINT AND NOTICE OF HEARING**

12 The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND
13 INDUSTRY, STATE OF NEVADA (“Division”), by and through its counsel, Aaron D. Ford,
14 Attorney General of the State of Nevada, and Samuel J. Taylor, Deputy Attorney General,
15 hereby notifies the CASA ROSA HOMEOWNERS ASSOCIATION (“Association” or
16 “RESPONDENT Association”) and SHEILA MATHERLY (“RESPONDENT Matherly”),
17 Treasurer of the Casa Rosa Homeowners Association, (collectively “RESPONDENTS”) of
18 an administrative hearing before the Commission for Common-Interest Communities and
19 Condominium Hotels (“Commission”) State of Nevada, which is to be held pursuant to
20 Chapter 233B and Chapters 116 of the Nevada Revised Statutes (“NRS”) and the Nevada
21 Administrative Code (“NAC”). The purpose of the hearing is to consider the allegations
22 stated below and to determine if RESPONDENTS should be subject to an administrative
23 penalty or other remedy that may be imposed on RESPONDENTS as authorized under
24 NRS 116.750 through 116.795.

25 **JURISDICTION AND NOTICE**

26 1. At all times relevant in the Complaint, RESPONDENT Matherly served as a
27 board member and/or officer of the Association, a common-interest community located in
28 Las Vegas, Nevada.

1 2. RESPONDENTS are subject to the provisions of NRS Chapter 116 and NAC
2 Chapter 116 and are subject to the jurisdiction of the Commission for Common-Interest
3 Communities pursuant to the provisions of NRS 116.750 through 116.795.

4 FACTUAL ALLEGATIONS

5 1. The Association is an 84-unit single family home community located in Las
6 Vegas, Nevada ("The Community"). [CICC028-31].

7 2. According to Division records, at all times relevant to this Complaint,
8 RESPONDENT Matherly was the Treasurer of the Association. [CICC028-31, 043].

9 3. On March 30, 2023, the Division notified the Association and RESPONDENT
10 Matherly that an investigation has begun to determine whether there have been violations
11 of Chapters 116 of the NRS and NAC. [CICC001-009].

12 4. In that March 30, 2023 Notice of Investigation, the Division requested that
13 the Association provide the following documents to the Division on or before April 20, 2023:

- 14 a) Governing Documents (CCRS, Amendments), Bylaws, Collection
15 Policy, Violations Policy, Rules & Regulations, Resolutions.
- 16 b) Current Certificate of Insurance for all policies issued to the
17 association.
- 18 c) Meeting Minutes and Agendas from 1/1/21 - 3/31/23 (i.e., Annual,
19 Budget, Executive including Financial Review packages, Special
20 Meetings, Executive Session, and Budget Ratification packages).
- 21 d) CPA Audits for years 2020, 2021, and 2022.
- 22 e) Budgets for years 2021, 2022, and 2023.
- 23 f) The most recent Reserve Study with Site Visit.
- 24 g) Interim Financial Statements (presented on an Accrual basis):
- 25 i. Balance Sheets dated 12/31/21, 12/31/22, and 3/31/2023.
- 26 ii. Comparative Budget to Actual Income Statement for fiscal years
27 2021, 2022, and 3/31/2023.
- 28

1 iii. Assessment Delinquent report dated 12/31/21, 12/31/22, and
2 3/31/2023.

3 h) Statements of association accounts including, but not limited to,
4 operating, reserve, contingency, investment, credit card, and loan
5 accounts from 1/1/21 – 3/31/23:

6 i. Checks – Fronts and backs of checks from the Operating and
7 Reserve funds from 1/1/21 – 3/31/23.

8 ii. If using electronic payment methods, then return a copy of the
9 Invoice Approval and Payment register showing Board
10 approvals.

11 iii. If using electronic payment methods, then return a copy of the
12 Resolution approving said method of payment.

13 iv. Bank signature cards for all association accounts open in 2021,
14 2022, and 2023.

15 i) Vendor agreements/contracts (i.e., management, landscaping, pool).

16 j) Invoices, receipts for disbursements from the Operating and Reserve
17 funds, excluding utilities, from 1/1/21 – 3/31/23.

18 k) General Ledger Statements – 2021, 2022, and 3/31/2023.

19 l) Return a completed Reserve Study Summary form (#609).

20 m) Updated form 623 showing all current members on the Board
21 of Directors.

22 [CICC001–005].

23 5. The Association failed to submit any of the requested documents by the April
24 20, 2023, deadline.

25 6. On April 20, 2023, the Division sent a second Notice of Investigation and
26 request for the Association to provide the documents set out in Paragraph 3, above, by
27 May 5, 2023. [CICC006–009].

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1 7. The Association failed to provide any of the requested documents to the
2 Division by the May 5, 2023, deadline, aside from a partial response for Item K (i.e., general
3 ledger statements for calendar year 2022 only and not CY2021 and CY2023).
4 **[CICC045-052].**

5 8. As of the date of the filing of this Complaint, the 2022 general ledger
6 statements are the only documents that have been provided to the Division.

7 9. The Association is currently not in good standing with the Nevada Secretary
8 of State despite receiving notice from the Division that the annual registration Form 562
9 for the March 31, 2022, through March 31, 2023, cycle was due on March 31, 2023.
10 **[CICC020-024].**

11 10. According to the last Annual Association Registration Form received by the
12 Division, the last reserve study was conducted in March of 2017 and adopted by the Board
13 in May of 2017, and is more than one year overdue.¹ **[CICC031, 043].**

14 11. According to the last Annual Association Registration Form received by the
15 Division on July 1, 2022, the last meeting of the Association was held on August 3, 2021.²
16 **[CICC026, 043].**

17 12. According to the last Annual Association Registration Form received by the
18 Division on July 1, 2022, and the resignation letter of the President dated March 23, 2023,
19 there are not enough officers/directors of the Association to adequately conduct the
20 business of the Association. **[CICC043, 044].**

21 13. On or about July 7, 2023, the Division properly notified RESPONDENTS it
22 intended to file a complaint against them for disciplinary action before the Commission.
23 **[CICC053-054].**

25 ¹ There is conflict in the dates between the May 2017 Reserve Study Summary Form
26 and the 2022 Annual Association Registration Form, as to when the reserve study was
conducted and adopted by the Board.

27 ² There is some indication, via an e-mail from the Association President, that a
28 meeting may have been held on March 22, 2023, but that information has not been reported
to the Division via an Annual Association Registration Form.

1 **VIOLATIONS OF LAW**

2 RESPONDENTS have committed the following violations of law:

3 14. RESPONDENTS violated NRS 116.3103, as applied via NAC 116.405(3), by
4 failing to act in good faith and in the best interests of the Association when they committed
5 acts or omissions amounting to incompetence, negligence or gross negligence by failing to
6 comply with Nevada law.

7 15. RESPONDENTS violated NRS 116.3103, as applied via NAC 116.405(5)(a) by
8 impeding or otherwise interfering with an investigation of the Division by failing to comply
9 with multiple requests by the Division to provide information or documents.

10 16. RESPONDENT Association violated NRS 116.3103, as applied via NRS
11 116.31034 by failing to elect an executive board of at least three members, all of whom must
12 be unit owners.

13 17. RESPONDENTS violated NRS 116.3013, as applied via NAC 116.405(8)(c) by
14 failing to hold meetings of the executive board with such frequency to properly and
15 efficiently address the affairs of the Association when they failed to hold executive board
16 meetings in 2022.

17 18. RESPONDENTS violated NRS 116.3013, as applied via NRS 116.31152 by
18 failing to undertake a reserve study every five (5) years or submit a summary of that
19 reserve study to the Division as required under NRS 116.31152(4).

20 **DISCIPLINE AUTHORIZED**

21 Pursuant to the provisions of NRS 116.615, NRS 116.755, NRS 116.785 and NRS
22 116.790, the Commission has the discretion to take any or all of the following actions:

- 23 a. Issue an Order directing RESPONDENTS to cease and desist from continuing
24 to engage in the unlawful conduct that resulted in the violations.
- 25 b. Issue an Order directing RESPONDENTS to immediately take affirmative
26 action to correct any conditions resulting from the violation.
- 27 c. Impose an administrative fine of up to one-thousand dollars (\$1,000.00) for
28 each violation the RESPONDENTS engaged in.

- 1 d. If the RESPONDENTS have been found to have knowingly and willfully
2 committed a violation of Chapters 116 of the NRS and NAC, they may be
3 removed from his/her position as a director or officer.
- 4 e. Order an audit of the Association, at the expense of the Association.
- 5 f. Require RESPONDENTS to pay for the cost of the investigation and
6 proceedings, including reasonable attorney fees.
- 7 g. Take whatever further action the Commission deems appropriate.

8 The Commission may order any one or any combination of the actions described
9 above. If the Commission finds that RESPONDENTS knowingly and willfully violated the
10 provisions of Chapters 116 of the NRS or NAC, the Commission may order that
11 RESPONDENTS be personally liable for all fines and costs imposed by the Commission.

12 NOTICE OF HEARING

13 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider the
14 Administrative Complaint against the above-named RESPONDENT in accordance with
15 Chapters 233B and 116 of the Nevada Revised Statutes and Chapter 116 of the Nevada
16 Administrative Code.

17 **THE HEARING WILL TAKE PLACE** at the Commission meeting(s)
18 scheduled for September 26–28, 2023, beginning at approximately 9:00 a.m. each
19 day, or until such time as the Commission concludes its business. The
20 Commission meeting will be held at the Nevada State Business Center, 3300 West
21 Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102, with
22 videoconferencing to the Nevada Division of Insurance, 1818 E. College Parkway,
23 Suite 103, Carson City, Nevada 89706.

24 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled
25 at the same time as part of a regular meeting of the Commission that is expected
26 to last from September 26, 2023, through September 28, 2023, or earlier if the
27 business of the Commission is concluded. Thus, your hearing may be continued
28 until later in the day or from day to day. It is your responsibility to be present

1 **when your case is called. If you are not present when your hearing is called, a**
2 **default may be entered against you and the Commission may decide the case as**
3 **if all allegations in the complaint were true. If you need to negotiate a more**
4 **specific time for your hearing in advance because of coordination with an out of**
5 **state witness or the like, please call Maria Gallo Commission Coordinator at**
6 **(702) 486-4074.**

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

12 As the RESPONDENT, you are specifically informed that you have the right to
13 appear and be heard in your defense, either personally or through your counsel of choice.
14 At the hearing, the Division has the burden of proving the allegations in the complaint and
15 will call witnesses and present evidence against you. You have the right to respond and to
16 present relevant evidence and argument on all issues involved. You have the right to call
17 and examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any
18 matter relevant to the issues involved.

19 You have the right to request that the Commission issue subpoenas to compel
20 witnesses to testify and/or evidence to be offered on your behalf. In making the request,
21 you may be required to demonstrate the relevance of the witness' testimony and/or
22 evidence. Other important rights you have are listed in NRS Chapter 116, NAC Chapter
23 116, including without limitation, NRS 116.770 through 116.780 and NAC 116.500 through
24 NAC 116.635 and NRS Chapter 233B.

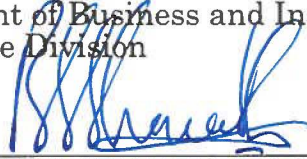
25 Please note that under NAC 116.575, not less than five (5) working days prior to a
26 hearing, RESPONDENTS must provide to the Division a copy of all reasonably available
27 documents that are reasonably anticipated to be used in support of their position, and a
28 list of witnesses RESPONDENTS intend to call, including: (1) the name of the witness; (2)

1 the company for whom the witness works and the title of the witness; and (3) a brief
2 summary of the expected testimony of the witness. Failure to provide any document or
3 witness information may result in the document or witness being excluded from your
4 defense.

5 The purpose of the hearing is to determine if the RESPONDENTS have violated
6 NRS Chapter 116 and/or NAC Chapter 116 and if the allegations contained herein are
7 substantially proven by the evidence presented and to further determine what
8 administrative penalty is to be assessed against the RESPONDENTS, if any.


9
10 DATED this 15 day of August, 2023.

State of Nevada
Department of Business and Industry
Real Estate Division

11
12
13 By: 
14 SHARATH CHANDRA, Administrator
3300 West Sahara Avenue, Suite 350
Las Vegas, Nevada 89102

15 DATED this 15th day of August, 2023.

AARON D. FORD
Attorney General

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17 By: 
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