

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 AND INDUSTRY, STATE OF  
7 NEVADA,

8                                   Petitioner,

9 vs.

10 DEL REY ESTATES HOMEOWNERS  
11 ASSOCIATION,  
12 (Entity Number C11413-1995)

13                                   Respondent.

Case No. 2023-929

**FILED**

JUN 20 2024

NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

*meallo*

14                                   **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

15                   This matter came on for hearing before the Commission for Common-Interest  
16 Communities and Condominium Hotels, State of Nevada (the "Commission") during a  
17 regular agenda set on a three-day stack beginning at 9:00 am on June 11, 2024 (the  
18 "Hearing."). Henry H. Kim, with Gordon Rees Scully Mansukhani, appeared on behalf of  
19 Del Rey Estates Homeowners Association ("RESPONDENT") with new Board President  
20 Dean Allen. The complainant Jon Margalit was present. Christal P. Keegan, Deputy  
21 Attorney General with the Nevada Attorney General's Office, appeared on behalf of the  
22 Real Estate Division of the Department of Business and Industry, State of Nevada  
(the "Division").

23                   Since the RESPONDENT admitted to the Division's factual allegations and  
24 violations of law in its Complaint filed April 15, 2024, the parties made statements  
25 regarding the RESPONDENT'S Proposed Resolution/Settlement in its Answer filed May  
26 28, 2024. Additional information was provided by Board President Mr. Allen.  
27 Complainant Mr. Margalit also made a statement.

28 . . .

1 **FINDINGS OF FACT**

2 Based on a preponderance of the evidence in the record, the documents admitted at  
3 the Hearing, and by stipulation of the parties, the Commission voted, to find all the  
4 following factual allegations were proven:

5 1. On or about November 1, 2023, the Division received a homeowner complaint  
6 against the RESPONDENT executive board. *Exhibit 2, CIC 010.*

7 2. Therefore, on or about November 16, 2023, the Division opened an  
8 investigation against the RESPONDENT, with a deadline to respond by December 1, 2023.  
9 *Exhibit 3, CIC 036-038.*

10 3. On December 1, 2023, RESPONDENT failed to respond to the Division.  
11 *Exhibit 3, CIC 039-041.*

12 4. Therefore, on or about December 5, 2023, in the Division's second attempt  
13 to the RESPONDENT, it extended the deadline to respond by December 19, 2023.  
14 *Exhibit 3, CIC 039-041.*

15 5. On or about December 27, 2023, RESPONDENT Brian K. Berman as  
16 its Board President finally remitted his untimely response to the Division. *Exhibit 4,*  
17 *CIC 047-051.*

18 6. At all times relevant, RESPONDENT'S Board was comprised of three (3)  
19 members, Board President Berman, Secretary Dean Allen, and Treasurer John  
20 Hernandez. *Exhibit 1, CIC 002, and Exhibit 4, CIC 068.*

21 7. At all times relevant, President Berman was also acting as the  
22 RESPONDENT'S attorney and custodian of records. *Exhibit 1, CIC 002, Exhibit 4,*  
23 *CIC 072.*

24 8. RESPONDENT President Berman represented that the Association is run  
25 by him and Secretary Allen. *Exhibit 4, CIC 068.*

26 9. RESPONDENT President Berman represented Treasurer Hernandez moved  
27 to Georgia and "has not been involved with association affairs in a number of years."  
28 *Exhibit 4, CIC 068.*

1           10.    At all times relevant, the RESPONDENT President Berman admitted “there  
2 has not been an annual meeting in a number of years” but claimed “it is not for want of  
3 trying”. *Exhibit 4, CIC 050.*

4           11.    In a letter to the homeowners dated February 20, 2018, RESPONDENT  
5 President Berman indicated the last four annual meetings were attempted, claiming  
6 quorum prevented it from holding elections and conducting official business. *Exhibit 4,*  
7 *CIC 050.*

8           12.    As a result, RESPONDENT President Berman stated: “I have basically given  
9 up trying.” *Exhibit 4, CIC 050.*

10          13.    RESPONDENT President Berman advised the Division “that there are no  
11 meeting minutes, no election records, no financial statements and no budgets from the  
12 requested timeframe [January 1, 2020, to present].” *Exhibit 4, CIC 064.*

13          14.    RESPONDENT President Berman admitted “[t]here has never been a  
14 reserve study.” *Exhibit 4, CIC 065.*

15          15.    RESPONDENT President Berman reasoned its 25-year history established  
16 that a professionally prepared reserve study was an entirely unnecessary expenditure.  
17 *Exhibit 4, CIC 065.*

18          16.    Despite missing from RESPONDENT’S bank statements, President Berman  
19 produced a check copy of Check #1080 dated March 3, 2021, to “Brian Berman, Chtd.” with  
20 President Berman as the sole signatory. *Exhibit 5, CIC 314.*

21          17.    RESPONDENT President Berman represented to the Division that he only  
22 reimbursed himself for “\$22.30 reimbursement for postage” and “a reimbursement for the  
23 Association’s Nevada Secretary of State annual filings.” *Exhibit 5, CIC 073.*

24          18.    But carbon copy of duplicate Check #1068 dated February 20, 2019, to “Brian  
25 K. Berman” indicated otherwise. *Exhibit 5, CIC 324.*

26          19.    The carbon copy of duplicate check #1075 dated July 1, 2020, to “Dean Allen”  
27 with “void” written in black ink contradicts other evidence of a note that it was paid: “pd  
28 7/1/20”. *Exhibit 5, CIC 331, and CIC 304.*

1 20. Subsequently, a carbon copy of duplicate check #1077 dated July 2, 2020, was  
2 made to “Dean Allen”. *Exhibit 5, CIC 333.*

3 21. Other carbon copies of duplicate checks (#s1083 dated July 31, 2021, to  
4 “Brian K. Berman” and check #1093 dated June 15, 2023, to “Brian K. Berman”) do not  
5 indicate the requisite number of signatures. *Exhibit 5, CIC 339, and CIC 349.*

6 22. RESPONDENT’S letters demonstrate Berman signed in his capacity as  
7 President but utilized his law firm’s letterhead. *Exhibit 4, CIC 062-063.*

8 **CONCLUSIONS OF LAW**

9 Based on the foregoing factual findings and the preponderance of the evidence, the  
10 Commission voted, that all the following violations of law occurred:

11 23. RESPONDENT violated NRS 116.31083(1) by admission for failing to adhere  
12 to all meeting requirements, including failing to conduct annual meetings, hold elections,  
13 and/or keep records of board decisions.

14 24. RESPONDENT violated NRS 116.3108(1), (3), (4), (5), and/or (6) by  
15 admission for failing to adhere to all annual meeting requirements, including notices,  
16 meeting minutes, agendas, financial statements, or budgets and/or election records.

17 25. RESPONDENT violated NRS 116.31153 by failing on numerous occasions to  
18 have the requisite number of signatures required to withdraw association funds.

19 26. RESPONDENT violated NRS 116.31151 by admission for failing to adhere  
20 to the requirement to prepare budgets.

21 27. RESPONDENT violated NRS 116.3115 by admission for never doing a  
22 reserve study over the course of 25 years.

23 28. RESPONDENT violated NRS 116.3103(1) by and through President  
24 Berman’s for misusing his law firm’s letterhead in communications.

25 ...

26 ...

27 ...

28

1 **ORDER**

2 The Commission, being fully apprised in the premises and good cause appearing,  
3 ORDERS as follows:

4 1. RESPONDENT shall pay the costs of the investigation and the hearing in  
5 the amount of \$3,818.34 which are actual, reasonable, and necessary within 60 days of  
6 entry of Order.

7 2. RESPONDENT shall perform a reserve study by a licensed reserve study  
8 specialist, and such requirement may be stayed until the next Commission meeting if the  
9 Association determines it is a limited-purpose association for exemption purposes.

10 3. RESPONDENT shall provide a status report at the September 10-12, 2024  
11 Commission Meetings on the following:

- 12 a. Bank statements from December 31, 2023 to August 2024;
- 13 b. Draft budget for 2025; and
- 14 c. Tax return filings for years 2022 and 2023.

15 4. All three (3) board members must be present and appear at the September  
16 10-12, 2024 Commission Meetings.

17 5. If payment is not actually received by the Division on or before its due date,  
18 it shall be a default by RESPONDENT. In the event of default, the unpaid balance of the  
19 administrative fine and costs, together with any attorney's fees and costs that may have  
20 been assessed, shall be due in full to the Division within ten (10) calendar days of the date  
21 of default, and the Division may obtain a judgment for the amount owed, including  
22 collection fees and costs;

23 ...  
24 ...  
25 ...

1           6.       The Commission retains jurisdiction for correcting any errors that may have  
2 occurred in the drafting and issuance of this document.

3           DATED this 20<sup>th</sup> day of June, 2024.

4    COMMISSION FOR COMMON-INTEREST  
5    COMMUNITIES AND CONDOMINIUM  
6    HOTELS, DEPARTMENT OF BUSINESS  
7    AND INDUSTRY, STATE OF NEVADA

8    By: Phyllis M. Tomasso  
9    PHYLLIS TOMASSO  
  CHAIRWOMAN

10       Submitted by:

11       AARON D. FORD  
12       Attorney General

13       By: eptkeegan  
14       CHRISTAL P. KEEGAN (Bar No. 12725)  
15       Deputy Attorney General  
16       5420 Kietzke Lane, Suite 202  
          Reno, Nevada 89511  
          (775) 687-2141  
          ckeegan@ag.nv.gov

17       *Attorney for Real Estate Division*

- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28