BEFORE THE COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

STATE OF NEVADA

SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS AND INDÚSTRY, STATE OF NEVADA,

Case No. 2023-394



DEC 23 2024

NEVADA COMMISSION FOR COMMON INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

Petitioner.

VS.

VISTA DEL SUR TOWNHOUSE ASSOCIATION. (Entity Number 1094-1985)

Respondent.

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This matter came on for hearing before the Commission for Common-Interest Communities and Condominium Hotels, State of Nevada (the "Commission") during a regular agenda set on a three-day stack beginning at 9:00 a.m. on December 3, 2024 (the "Hearing"). Donna A. Zanetti, with Leach Kern Gruchow Anderson Song, appeared on behalf of Vista Del Sur Townhouse ("RESPONDENT"), with the Supervisory Community Manager ("CAM") Theresa "Terri" M. Kenyon (CAM.0001064-SUPR), with Kenyon & Associates, and Board members Lisa Newberg and James Lamb present. Christal Park Keegan, Deputy Attorney General ("DAG") with the Nevada Attorney General's Office, appeared on behalf of the Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division").

The RESPONDENT did not contest the Division's factual allegations and violations of law in its Complaint filed August 1, 2024. The parties stipulated admission of the Division's documents Exhibits A-C, bate stamped pages NRED 000001-000036, and the RESPONDENT Exhibits 1-14 to their Response filed on November 14, 2024, Exhibits 15-21 to their Amended Response filed November 22, 2024, were all admitted.

DAG Keegan informed the Commission the RESPONDENT has a proposed plan of compliance for consideration by the Commission.

FINDINGS OF FACT

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

1. Between about March 13, 2023, to May 12, 2023, the Division conducted an audit for the Vista Del Sur Townhouse Association ("RESPONDENT"). Exhibit 1, CICC 000003.

A. Delinquent CPA Reviews and Audits

- The RESPONDENT admitted it only had CPA audits for 2014 and 2017.
 Exhibit 3, CICC 000030.
- 3. But RESPONDENT'S budget requires it to have a CPA Review or CPA Audit performed annually. Exhibit 1, CICC 000008.
- 4. The RESPONDENT admitted the audits had not been done. Exhibit 3, CICC 000030.
- 5. The RESPONDENT claimed the Board approved the Engagement Letter for their 2022 Audit which allegedly had been completed. Exhibit 3, CICC 000030.
- 6. The RESPONDENT anticipated it would approve the Engagement Letter for their 2023 Audit. Exhibit 3, CICC 000030.
- 7. The RESPONDENT feels like it was the responsibility of their prior management company to have had the audits completed. Exhibit 3, CICC 000030.

B. Low Reserve Funding

- 8. The RESPONDENT admitted "the reserve fund is extremely underfunded." Exhibit 3, CICC 000029.
- 9. The RESPONDENT admitted it "currently has \$48,584.09 in their reserve account" but that the reserve study shows the year-end balance should be \$170,504.56 (or approximately 28.89% funded). Exhibit 3, CICC 000030.

- 10. The RESPONDENT admitted that the reserve study shows the year-end balance to be 100% funded and it should be \$653,549.72 (or approximately 7.43% funded). Exhibit 3, CICC 000030.
- 11. The RESPONDENT reasoned it has spent \$255,000.00 this year on repairs. Exhibit 3, CICC 000030.

C. Increased Due-to Reserve Balances Owed

- 12. The RESPONDENT'S records revealed increased Due-to-Reserve balances year-over-year. Exhibit 1, CICC 000009 CICC 000013, and CICC 000014.
- 13. The RESPONDENT admitted starting with the new budget, the Board has increased their assessments to be able to increase the amount deposited into the reserve account. Exhibit 3, CICC 000030.
- 14. The RESPONDENT admitted the reserve study stated an annual transfer of \$125,000.00 and it planned on transferring over that amount to the reserves. Exhibit 3, CICC 000030.
- 15. The RESPONDENT also stated the Board intends not to proceed with any improvements until the reserve account is built up. Exhibit 3, CICC 000030.
- 16. Therefore, on or about October 12, 2023, the Division sent the RESPONDENT its first request for information letter with a deadline to respond by October 26, 2023. Exhibit 2, CICC 000018 CICC 000020.
- 17. Given the RESPONDENT'S limited response, on or about January 22, 2024, the Division sent the RESPONDENT a follow-up to its original request for information. Exhibit 3, CICC 000029, and Exhibit 2, CICC 000021 CICC 000023.
- 18. On or about February 23, 2024, the Division issued a Letter of Instruction upon the RESPONDENT regarding its responsibility to maintain compliance. Exhibit 2, CICC 000024 CICC 000025.

19. On or about August 2, 2024, the Division informed the RESPONDENT the case would be forwarded to the Commission on the outstanding violations. Exhibit 2, CICC 000026 – CICC 000027.

CONCLUSIONS OF LAW

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

- 20. RESPONDENT violated NRS 116.31144(1)(b), and/or (c) by admission for delinquencies in completing its annual audits.
- 21. RESPONDENT violated NRS 116.31152 by admission for having low reserves funding.
- 22. RESPONDENT violated NRS 116.3115(2)(b) for failing to adequately address its Due-to Reserve balance owed.

ORDER

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

- 1. RESPONDENT shall provide the Division with copies of the outstanding completed audits within six (6) months of entry of Order;
- 2. RESPONDENT shall pay to the Division a total amount of Four Thousand Five Hundred Ninety Two and Ninety Eight Cents (\$4,592.98) within twelve (12) months of entry of Order. This total amount reflects no administrative fine amounts for committing the above-stated violations of law, but the costs of the investigation, the attorney's fees, and the hearing;
- 3. If payment is not actually received by the Division on or before its due date, it shall be a default by RESPONDENT. In the event of default, the unpaid balance of the administrative fine and costs, together with any attorney's fees and costs that may have been assessed, shall be due in full to the Division within ten (10) calendar days of the date of default, and the Division may obtain a judgment for the amount owed, including collection fees and costs; and

1	4. The Commission retains jurisdiction for correcting any errors that may have
2	occurred in the drafting and issuance of this document.
3	DATED this 23_ day of December, 2024.
4	COMMISSION FOR COMMON-INTEREST
5	COMMUNITIES AND CONDOMINIUM HOTELS, DEPARTMENT OF BUSINESS
6	AND INDUSTRY, STATE OF NEVADA
7	By: Why lly & 1 Comer-
8	CHAILWAN
9	Submitted by:
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