

From: Lee Freedman

Sent: Wednesday, April 28, 2021 4:08 PM

To: 'Jessica H. Miller' <jessica@jhmillerlaw.com>

Cc: Wes Wollenweber <WWollenweber@pwflegal.com>; Keely Garcia <KGarcia@pwflegal.com>

Subject: RE: Roosevelt Ridge Homeowners Association: DEMAND FOR CANCELLATION OF TONIGHT'S MEETING AND FURTHER OBJECTIONS TO THE NOTICE AND ANTICIPATED BOARD MEETING

Jessica:

I attempted to call you a few minutes ago, but only reached your voice mail. I did leave you a message regarding these issues. As I also stated earlier, we are preparing a much more detailed letter setting for objections to your ongoing legal representation of the Association, the notice to tonight's Board meeting, the conduct of tonight's Board meeting, and the right to vote at tonight's Board meeting.

As to Mr. Nolan's objection to the notice for the Board meeting, the notice did not contain any location for the Board meeting as required by Section 6.1. CCIOA only permits a Board meeting to be held by means other than in person if the Bylaws allow it. The Roosevelt Ridge HOA Bylaws do not contain any language allowing the Board meeting to be held by any technological means or allowing the Board to participate and act by any technological means. Section 6.1 states that the meeting must be held at the Association's principal office "or such other place, within or convenient to the Project Area." Zoom is not a "place."

However, that is not the only problem with the notice. The Notice was not sent at least 3 days before the meeting. The Notice was sent to the membership at 9:25 pm Sunday night. The meeting is scheduled for 6:00 p.m. tonight, which is less than 3 days later (actually it is 2 days, 20 hours, and 35 minutes). As this meeting was not set by Resolution available to the membership, timely notice is required to be provided to the membership.

As such, we are demanding that the Association cancel the meeting immediately and reset the meeting with proper notice to the membership.

Further, the Board simply may not approve the proposed Settlement Agreement as the Board is currently constructed. First, Section 6.9 provided that Board members may only vote in person. Again, attending by technological means is not considered "in person." Second, Mr. Bertele clearly has a conflict of interest which would prohibit him from voting on this matter. The Settlement Agreement clearly attempts to release debt owed by Mr. Bertele and claims which the Association and its members may have against Mr. Bertele, as the proposed Settlement Agreement involves lots/parcels owned by him. Also, the proposed Settlement Agreement also involves a relative of Mr. Bertele - his brother-in-law, Scott Shorer, which along create a conflict of interest per the Conflict of Interest Policy and the Colorado Nonprofit Revised Corporations Act. As you know, the Conflict of Interest Policy must address both whether a Board member with such a conflict can participate in discussion about the conflict of interest transaction or in the vote on such conflict of interest transaction. As the Conflict of Interest Policy does not provide the right to a conflicted Board member to vote on the conflict of interest transaction, Mr. Bertele must abstain from voting. As such, only 1 Board member could vote to approve or disapprove the proposed Settlement Agreement, which is not enough as the Bylaws require a majority of the Board (or 2 Board members) to act.

These same issues also give rise to an unwaivable conflict of interest as to your ongoing representation of the Association. The admissions also made in the proposed Settlement Agreement as to Mr. Shorer's direction and control of the Association as the sole member of Lone Pine when you were hired and representing the Association and the negative impact such representation has on the members of the Association also support your need to immediately recuse yourself as counsel for the Association.

Please confirm that that Board will, at least, cancel tonight's Board meeting and reset it with proper notice. Again, if you want to discuss these issues further, please email me or contact me on my cell at 303-917-5832.

Lee