

Redacted as to names and specific locations...

Steve

Telephone.
Email

Superior Court of California

Small Claims Division

Steve

Plaintiff,

vs.

HOA, Inc.,

Defendant

Case #

Trial Brief - Non-Compliance with
9/14/2007 Court Order & Breach of
Contract, Etc.

Date: 1/11/2008

Time: 8:30 AM

Location: Division

Introduction - Background

We all live in a 10 unit apartment building build around 1977 that was converted to Condo's around 6/2004. The "developer" ran Zzz Home Owner's Association, Incorporated (herein referred to as HOA), without elections, meetings or any type of financial disclosure until 1/2005 at which point he facilitated an organizational meeting and turned control over to the members. At this point Mr. Steve Xxx (Steve) was handed a stack of papers, including a letter from State Farm dated 11/2004 that notified the HOA of a doubling of premiums, that was not even on the Agenda. The prior Property Management Company had done nothing on this issue. Steve was able to negotiate with State Farm and keep the premiums the same, thus saving the HOA \$6,000/year. Steve is very concerned that the 3/2005 minutes written by Ms. Terri Yyy, (Terri) then secretary, stated that the premiums were never going to increase. It took 2 years for Steve and our State Farm Agent to explain this

1 to the Board and get the minutes corrected.

2 We are \$150/month per home over budget, which was supposed to include funding our
3 reserve account. Our roof needs repairs to the tune of \$2,000 to \$3,000/member, for
4 which there isn't a Reserve Fund. There have been illegal assessments allegedly for legal
5 fees to create rules that do not comply with the law or Court Order.

6
7 Most of the members have never owned property before, nor ever served on any type of
8 Board and several state they are not fluent in English. Some have said that the Property
9 Management company is supposed to do everything. The Board forgets that by law and
10 our CC & R's it's their responsibility, especially when they are on notice that the former and
11 current Property Management Company has not been performing to contract, had has a
12 [BBB rating](#) of "F".

13
14 These are some of the reasons Steve wants current financial information, to which he and
15 every member are entitled by the law, bylaws, CC & R's, Court Order and the Contract
16 dated 12/5/2005. That way he can let the Board know what to look out for, either by email
17 or Open Forum. Like why haven't they done our roof repairs under warranty. Steve is
18 running for Treasurer. However, the Board has been illegally discussing this in [Executive](#)
19 [Session](#).

20 HOA Violations

- 21 1. The HOA has refused to comply with the 9/14/2007 Court Order, Member's contract
22 with Steve dated 12/5/2005 and Civil Code [§1365.2](#) that all records of the HOA
23 were to be provided to any member and the HOA Rules be amended to reflect this.
 - 24 a. On 12/7/2007 Commissioner Fxxx ordered that Steve send a new request
25 specifically detailing what documents he wanted and that the parties come
26 back to court on 1/11/2008 to verify compliance and deal with the remaining
27 issues.
- 28 2. The Order also mandated for the creation of [Lawful Election Rules](#), which has not
been complied with.

3. The HOA is derelict in their duties as they are also in violation of most of the Requirements of the Open Meeting Act - Civil Code [§1363.05](#)

Relief Requested

1. Fines are statutory + Court Costs

a. \$ 500 failure to provide records

b. \$ 500 for failure to create lawful election rules

2. Damages for Breach of Contract executed on 12/5/2005 \$1,080

3. Writ of Mandamus¹ - Equitable Relief²:

a. Obey all court orders

b. Obey all statutes, lawful Board Resolutions, Bylaws, CC & R's & 12/5/2005 Contract to provide records

i. Especially those on Fiduciary Responsibility, Records Access & Open Meetings, with Member input i.e. Open Forum.

c. The Board and interested Members, attend Classes on Condominium Law and on how to have Efficient Board Meetings

i. This way we don't have to continue rehashing the same issues that were settled by this court in 11/2005.

4. Facilitate the Mandatory Meet & Confer that the Board refuses to comply with.

¹A **writ of mandamus** ... is issued by a ... court to compel a ... officer to perform mandatory or purely ministerial duties correctly. Mandamus is a judicial remedy which is in the form of an order from a ... court to any government, ..., **corporation**...to do or forbear from doing some specific act which that body is obliged under law to do or refrain from doing, as the case may be, and which is in the nature of public duty and in certain cases of a statutory duty. Wikipedia

²Just, conforming to principles of justice and fairness - lectlaw.com

Failure to produce Records & Breach of 12/5/2005 Contract

Background

This action is based on the failure to comply with the new requests for records sent per Commissioner Michele Fxxx's Order of 12/7/2007, and Terri's refusal to allow Steve to hear the oral³ records and written if any, of the 2nd plumbers diagnosis & Bid on 11/2/2007. If the HOA does comply, then Steve has finally gotten compliance with the 9/14/2007 Order, the 12/5/2005 Contract, the law and the CC & R's, basically all he has been asking for since 3/2005. Civil Code §1365.2⁴, the Member Meeting Minutes of 12/5/2005, the Court Order dated 9/14/2007 Exhibit # ¹ where Judge Peter Mxx clearly, specifically, and unequivocally said that it was an ORDER and stated that any member could get ANY records, that were not confidential. This court clearly had the authority to issue this equitable remedy⁵ under Code of Civil Procedure §116.610. (a),⁶ On 12/5/2005 Steve and the HOA contracted to waive the 11/18/2005 \$1,080 Judgement as memorialized in the 12/5/2005 minutes @ Section 6 and the 12/5/2005 letter per Civil Code §1363.840 (5)⁷ from Mike Dxxx, Director & Vice President.

³The Order says ANY record.

⁴Civil Code §1365.2. Inspection of Books and Records (a) For the purposes of this section, the following definitions shall apply: (1) "Association records" means all of the following: (E) Written board approval of vendor or contractor proposals or invoices. (2) "Enhanced association records" means (1) The association shall make the specified association records available for inspection and copying in the **association's business office within the common interest development**. (3) the association may mail copies of the specifically identified records to the member by first-class mail (f) A member of an association may bring an action to enforce the member's right to inspect and copy the association records. ...may assess a **civil penalty of up to five hundred dollars (\$500)** for the denial of each separate written request. A cause of action under this section may be brought in **small claims court** (h) Requesting parties shall have the option of receiving specifically identified records by **electronic transmission** or machine-readable storage

⁵In the law of remedies, an order of specific performance is an order of the court which requires a party to perform a specific act. While *specific performance* can be in the form of any type of forced action, it is usually used to complete a previously established transaction, thus being the most effective remedy in protecting the expectation interest of the innocent party to a contract. Wikipedia

⁶Code of Civil Procedure §116.610. (a) The small claims court shall give judgment for damages, or equitable relief, or both damages and equitable relief,...and may make any orders...as the court deems just and equitable for the resolution of the dispute.

⁷Civil Code 1363.840 (5) A resolution of the dispute agreed to by the parties shall be memorialized in writing (c) An agreement reached under this section binds the parties and is judicially enforceable...

1 On 12/7/2007 Terri Yyy - the defacto President and unlawfully elected director⁸ stated
2 under Oath that the Board met and decided that the HOA would no longer honor this
3 agreement and said that since Steve signed off on the Judgment, that the HOA didn't have
4 to keep it's end of the bargain.

5 **Argument**

6 1. This violates Civil Code 1550. It is essential to the existence of a contract that there
7 should be:

8 a. Consent Meeting of the minds -

9 i. I was under the impression that I would get documents per the 2
10 requests that Judge Beverly M... found to be clear and concise and
11 within my rights under the law and upon which she imposed the
12 maximum fine

13 (1) one of them was a request for records that were going to be
14 discussed at the next Board meeting, one would think that you
15 could get those records, prior to the meeting, so you could
16 make intelligent and informed Open Forum comments.

17 b. Consideration⁹

18 i. Civil Code 1605 Legal Duty is not consideration -

19 (1) CC & R's at Page 34 & 35 Article 8 Section 4 b, state any
20 member can view books & minutes!

21 (a) so the agreement must give something extra, than the
22 law requires.

23 ii. The part were I signed off on the Judgement clearly states that I was
24

25 ⁸I counted the ballots under duress, as at the prior meeting when I brought up the irregularities in the
26 election - Terri said I was disruptive, threatened to call the police (extortion) and closed the meeting. She was
27 prepared and even got on the stand, to testify under oath at the 9/14/2007 hearing that I was disruptive. We
are a small HOA, we don't have much of a pool to select directors from. I'm running for Treasurer, which is
selected by the BOD.

28 ⁹Consideration - If the other side is to be held to the contract, you must give up something in
exchange. This is called consideration. No side can have a free way out or the ability to obtain something of
value without providing something in exchange. Money is the most common form of compensation, but it can
also be property, giving up a right or valid claim, making a promise to do or not to do something, or anything
of value. Law.Free.Advice.com emailed to the HOA on 2/26/2006

- 1 paid or otherwise satisfied¹⁰. What did I get?
- 2 c. The BOD had no right to overturn the Members wishes
- 3 i. It was not announced in an Agenda
- 4 ii. No Open Forum was taken
- 5 iii. Clearly this is dereliction, lack of good faith and not the actions of the
- 6 ordinarily prudent person¹¹, we object to the ruling that Terri did not
- 7 exceed her authority under Civil Code §1365.7 and be dismissed from
- 8 this action.
- 9 d. Thus, ALL records¹², not just those under Civil Code §1365.2 are available
- 10 for inspection onsite or be delivered to any member within 10 days.
- 11 i. I've tried to explain this to the BOD numerous times, namely in my
- 12 2/26/2006 email Exhibit # ²
- 13 2. The fines of up to \$500 should be maximized per legislative intent¹³,
- 14 a. albeit limited as the Summons only asked for \$2,000 in damages, as a
- 15 monetary award can be conditioned upon compliance with Court Order's,
- 16 which it was not.
- 17 b. Steve should get \$1,080 for breech of contract
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23 ¹⁰1. to do or offer enough to make somebody feel pleased or content 3. to achieve or be of sufficient
24 standard to meet a requirement or condition encarta.com

25 ¹¹...an ordinarily prudent person, knowing what director knew at that time, would not have acted
26 similarly under the circumstances. Frances T. v. Village Green Owners Assn. 42 Cal.3d 490, 723 P.2d 573,
229 Cal.Rptr. 456 (Cal.,1986)

27 ¹²n. in business, particularly corporations, all the written business documents, especially about
28 financial dealings. Thus, shareholders and partners are entitled to access to the "records" of the business.
dictionary.law.com 2: something that records: as a: something that recalls or relates past events merriam-
webster.com - one's mind certainly does that, as in witness evidence.

¹³Section 1 of Stats.1992, c. 142 (S.B.1376) ...when a small claims court believes that a conditional
judgment is appropriate...(the court may) condition an award of damages on noncompliance with the court's order."

1 **Failure to Create Election Rules and Provide for Rules to allow any member to get**
2 **Any Record**

3 It's easy to see that the failure to comply with the Court Order, the members wishes per
4 the 12/5/2005 member meeting minutes and the code was intentionally, willfully and
5 knowingly as can be clearly seen from the 11/21/2007 letter announcing December Board
6 Meetings Exhibit # ³ and the proposed Rules. The proposed rules not only do not comply
7 with the 9/14/2007 order, the 12/5/2005 contract, they are much more restrictive than Civil
8 Code §1365.2 allows, and certainly not in compliance with legislative intent¹⁴.

9
10 While the Board did approve Election rules in Executive Session on 11/17/2007, this does
11 not count as they did not comply with Civil Code §1357.130¹⁵, by allowing Open Forum (in
12 any format, oral, written, etc.) on the proposed rules, nor are Election Rules even an
13 allowed topic for Executive Session under Civil Code §1363.05 (b)¹⁶

14
15 Fines may be imposed up to \$500/violation as relates to creation of Election Rules¹⁷ in
16 compliance with Civil Code §1363.03¹⁸ and of course the Court Order, with the

17
18 ¹⁴associations either do not disclose to homeowners how their money is being spent or else they
19 report it inaccurately. AB 1098 assures that association shareholders (i.e., homeowners) have access to the
20 association financial records to find out how boards are spending the billions under their control. It makes
21 good fiscal sense that homeowners, who have the biggest financial stake, should be watching the books. AB
22 1098 Page 1 CONCURRENCE IN SENATE AMENDMENTS AB 1098 (Jones) As Amended September 2,
23 2005 Majority vote

24 ¹⁵Civil Code §1357.130 (a) The board of directors shall provide written notice of a proposed rule
25 change to the members at least 30 days before making the rule change. The notice shall include the text of
26 the proposed rule change and a description of the **purpose and effect** of the proposed rule change. (b) A
27 decision on a proposed rule change shall be made at a meeting of the board of directors, **after consideration**
28 **of any comments made by association members**

¹⁶Civil Code §1363.05 (b) ... executive session (may only) consider litigation, matters relating to the
formation of contracts with third parties, (not including the bidding process per Board's Attorney) member discipline,
personnel matters, or to meet with a member, upon the member's request, regarding the member's payment of
assessments, ...©) Any matter discussed in executive session shall be generally noted in the minutes of the
immediately following meeting that is open to the entire membership

¹⁷Civil Code §1363.09 (b) ...civil penalty of up to five hundred dollars (\$500) for each violation... ©)
A cause of action ...may be brought in small claims court ...

¹⁸Civil Code §1363.03. (a) An association shall adopt (*election*) rules,...that do all of the following: (1)
...access to association media...(2) Ensure access to the common area meeting space...(3) Specify the

1 enhancement per legislative intent Section 1 of Stats.1992, c. 142 (S.B.1376) as the BOD
2 refused to comply with the Court Order, where the Court attempted an equitable remedy,
3 rather than fines.

qualifications for candidates (4) Specify the qualifications for voting,...(5) ...inspectors, of election ...(6)
...count and tabulate votes...

Writ of Mandamus

We are requesting Equitable Relief in the form of a Writ of Mandamus, written very clearly in plain English, so that the directors, officers, members and law enforcement are very clear as to what is required. HOA's clearly function like a Mini-Government¹⁹, which makes a Writ an appropriate remedy. The Writ should include the following requirements:

1. Post on the **Bulletin Board** detailed Agenda's in compliance with SB 528²⁰, our bylaws²¹ and Carlson v. Paradise School District²².
 - a. Allow other opinions to be expressed - i.e. Written Open Forum
 - b. A meeting includes any time two or more members discuss HOA business, per Civil Code §1363.05 (f)
 - i. Thus, a copy of the minutes and court order must be distributed for today's hearing, and an agenda should have been posted.
2. **Open Forum**²³ after each action item along with a General Open Forum, for items

¹⁹homeowners association functions as a second municipal government, regulating many aspects of their daily lives. "quasi-governmental" nature of homeowners associations. " one clearly sees the association as a quasi-government entity paralleling in almost every case the powers, duties, and responsibilities of a municipal government. As a "mini-government," the association provides to its members, in almost every case, utility services, road maintenance, street and common area lighting, and refuse removal. All of these functions are financed through assessments or taxes levied upon the members of the community, with powers vested in the board of directors ... clearly analogous to the governing body of a municipality.' " (Id. at p. 651, italics added.) [Chantiles v. Lake Forest II Master Homeowners Assn \(1995\) 37 Cal.App.4th 914](#)

²⁰SB 528 amends Civil Code §1363.05 (f) as of 1/1/2008...The notice shall contain the agenda for the meeting, Notice shall be given by posting the notice in a prominent place or places within the common area. leginfo.ca.gov/bilinfo.html It was emailed to WPE on 10/15/2007.

²¹Page 10 Section 6 of Bylaws

²²Carlson v. Paradise Unified Sch. Dist. , 18 Cal.App.3d 196[Civ. No. 12830. Court of Appeals of California, Third Appellate District. June 3, 1971.] it is imperative that the agenda of the board's business be made public and in some detail so that the general public can ascertain the nature of such business. It is a well-known fact that public meetings of local governing bodies are sparsely attended by the public at large unless an issue vitally affecting their interests is to be heard. To alert the general public to such issues, adequate notice is a requisite. In the instant case, the school board's agenda contained as one item the language "Continuation school site change." **This was entirely inadequate notice** to a citizenry which may have been concerned over a school closure. **the agenda item, though not deceitful, was entirely misleading and inadequate to show the whole scope of the board's intended plans.** It would have taken relatively little effort to add to the agenda that this "school site change" also included the discontinuance of elementary education at Canyon View

²³Civil Code §1363.05. (l) The board of directors of the association shall permit any member of the association to speak at any meeting of the association or the board of directors, This is also in the proposed rules at 2.2b ...

not on the Agenda

a. Prohibit Directors or Acting President from using extortion and threats to call the police when a member wants to exercise his right to be heard.

3. Comply with **Mandatory Meet & Confer**²⁴ and Proposed rules, should they pass lawfully

4. **Executive Sessions** Agenda's comply with Civil Code §1363.05 (b) and The Board Attorney's Website Article, there are only 4 confidential items allowed in Executive Session

5. Take **classes** under Civil Code §1363.001²⁵ or equivalent²⁶.

a. Classes^{27 28} in Parliamentary Procedure²⁹, would also be quite helpful

i. They would learn valuable things like Meetings can even be carried out ONLINE³⁰, telephone and video conferencing.

ii. Having a Reserve Account, of which the membership is NOT aware that we don't have one, nor was Mike Dxxx, past Vice President,

²⁴Civil Code §1363.840 b (2) The association may not refuse a request to meet and confer

²⁵... on-line education course for the board of directors of an association regarding the role, duties, laws, and responsibilities of board members and prospective board members...

²⁶If nothing else, the Board be ordered to read and submit a summary of the newsletters & Articles on their own attorney's websites <http://davis-stirling.com/newsletter.html> <http://www.rh4law.com/articles.html> there are many other HOA's in the area, they can be invited and have the 8 hour course with 8 DRE credits taught by this instructor <http://bgcondolaw.com/DSAclass.html> Mr. Carmen Trutanich, Esq. a former associate professor of Real Estate Law at L.A. Harbor College, etc. www.tmlp.com and Candidate for "Attorney General" City of Los Angeles has also volunteered to put on a seminar.

²⁷www.Snapmeetings.com

²⁸While there might be some expense to these classes, they can be in lieu of the fines. Terri and the Board sure want to WASTE the HOA's money by proposing \$4,800 in expense on legal fees and not even saying why it's needed. I presume to find ways to hide the Board's negligence in being over budget and not having a reserve account and constantly refusing to provide records, i.e. 11/2005 judgement and 12/2005 Member Meeting Minutes where the members voted to go ahead and provide all records..

²⁹Civil Code §1363 (d) Meetings of the membership of the association shall be conducted in accordance with a recognized system of parliamentary procedure or any parliamentary procedures the association may adopt

³⁰Corporations Code §7211(6) Members of the board may participate in a meeting through use of conference telephone, electronic video screen communication, or electronic transmission - Parliamentary rules are online at <http://www.parliamentaryprocedure.org/pdf/AIPemeet5.PDF>

particularly when the Board when way over budget on gardening fees and not giving any indication of this on the Agenda. This way we have would have funds for repairs like the roof & painting.

(1) Maybe Mike did this, as his home was sold recently thereafter and he wanted new landscaping to get him a better sales price.

6. **Prohibit Serial Meetings**

a. One current Director admitted and a past director bragged about having Serial Meetings³¹ with the members on the issue of collecting our own dues and paying maybe 10 bills/month - which could be done automatically on "bill pay"

i. How is the membership to know the advantages of saving \$300/month, if it's never been on the agenda, with sufficient time for it to be explained to them?

7. **Review WPE's contract** and consider a local vender or self management and save \$300/month, which can be used towards maintenance, repairs & upkeep.

a. They've given bad advise and have a BBB rating of "F" due to 4 other complaints besides mine.

b. Appoint someone to do the work Steve has been doing, that by contract WPE was supposed to be doing, as Terri's harassment, changing the locks without authority and refusal to allow access to the water heater have made it impossible for him to continue to:

i. Adjust Lighting Timer

ii. Graffiti Removal, fire safety - red curb requests to proper government authorities

iii. Pointing out problems to gardeners, like the flower bed adjacent to the

³¹Typically, a serial meeting is a series of communications, each of which involves less than a quorum ..., but which taken as a whole involves a majority of the body's members. California First Amendment Coalition

- 1 mail boxes.
- 2 iv. Emergency Repairs - Hot Water Heater Leak then 2 weeks later a
- 3 complete breakdown
- 4 v. Occasional outdoor vacuuming
- 5 8. Follow Board's own rules and **censure directors who make threats**, harassment,
- 6 disrupt meetings or commit other torts & crimes, under color of authority or lack of
- 7 authority.
- 8 a. Have meetings at a public venue, like the Library or Cabrillo Bathhouse,
- 9 which are better patrolled by law enforcement
- 10 b. Allow tape & video recording of meetings, including bringing a witness or
- 11 "comfort" person to avoid threats and unlawful actions.
- 12 i. Judge Mxx already said this was OK and a good idea
- 13 9. Keep copies of all non-confidential **records ON SITE**
- 14 a. The "office" (the storage room where the timer is) would be a good spot - The
- 15 boiler room can store tools, like the outdoor vacuum cleaner.
- 16 i. It would help everyone keep track of paper, old bids, business cards,
- 17 repair manuals, tools, etc. The 2nd place vendor today, might be the
- 18 one you need, when the winning vendor retires and moves to Hawaii.
- 19 ii. It was already agreed to in Meet & Confer 12/2005
- 20 b. Allow View Only³² Access to all members for all banking and reserve
- 21 accounts
- 22 i. Pacific Club HOA, also managed by Wilshire Pacific has all their
- 23 documents on the Internet and the Wilshire Pacific Website states
- 24 that all clients get a free website for posting everything Exhibit # ⁴
- 25
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³²With Wells Fargo Business Online Banking, you can assign view-only account access to anyone who needs it. Add up to 25 people — for example, your bookkeeper, accountant, or other key employees. Allow others to take care of the tasks you don't have time for, like ensure a payment has been received, checks have cleared, and more

10. Comply with Reserve Studies per Civil Code §1365.5³³ and allow any member to have a copy of it, along with supporting documents as required by law.

a. How about just putting it the "office." Then a member could read it and put it back. How much paper does each member want to store in his home?

11. Comply with **Financial Disclosure** Laws under Civil Code §1365³⁴

a. Budget be reviewed quarterly in accordance with Civil Code 1365.5³⁵ especially considering our being \$150/month over budget and reserves going down from 11k to 5 k

i. This has not been done since 9/2005 and the HOA was fined \$1,000 for not providing the proposed financials for that meeting

(1) How could there be any meaningful Open Forum - when it was prohibited by Mr. Josh S... and worst of all, many of the expenses were more than budgeted at that time. It's not inflation - the budget was wrong from the start.

³³Civil Code §1365.5. Financial Duties of Board; Reserve Transfers (a) ..., the board of directors of the association shall do all of the following: (1) Review a current reconciliation of the association's operating accounts on at least a quarterly basis. (2) Review a current reconciliation of the association's reserve accounts on at least a quarterly basis. (3) Review, on at least a quarterly basis, the current year's actual reserve revenues and expenses compared to the current year's budget. (4) Review the latest account statements prepared by the financial institutions where the association has its operating and reserve accounts. (5) Review an income and expense statement for the association's operating and reserve accounts on at least a quarterly basis. (b) The signatures of at least two persons, who shall be members of the association's board of directors, or one officer who is not a member of the board of directors and a member of the board of directors, shall be required for the withdrawal of moneys from the association's reserve accounts. ****This means WPE can't do it.* ... (e) At least once every three years, the board of directors shall cause to be conducted ... a study of the reserve account requirements ... reviewed, annually

³⁴Civil Code §1365. Financial Records and Reporting (a) A pro forma operating (2) A summary of the association's reserves (D) The current deficiency in reserve funding expressed on a per unit basis. (b) reserve funding plan The summary shall include notice to members that the full reserve study plan is available upon request, and the association shall provide the full reserve plan to any member upon request. (f) (1) A summary of the association's ... insurance policies (3) ... specified in the insurance policy declaration page, the association may meet its obligation to disclose that information by making copies of that page and distributing it to all of its members. (4) ... Any association member may, upon request and provision of reasonable notice, review the association's insurance policies ...

³⁵1365.5. (a) **the board of directors of the association shall** do all of the following: (1) Review a current reconciliation of the association's operating accounts on at least a **quarterly basis**. (2) ... reserve accounts.. (3)... current year's actual reserve revenues and expenses compared to the current year's budget. (4) ... latest account statements prepared by the financial institutions where the association has its operating and reserve accounts. (5) ... income and expense statement... .

- 1 b. Compliance with Civil Code 1366³⁶ not assessing the members anything
2 over 5% of budget and getting membership approval which is also required
3 by our CC & R's at page 22 section 3
4 c. Reviewing our Insurance. It hasn't been done in 3 years
5 d. Civil Code §1365.7 duty of good faith, stay within course and scope of duties,
6 ordinarily prudent person
7 12. If a Board member resigns promptly appoint a new one per:
8 a. Corporate Code 7224 (a)...vacancies on the board may be filled by approval
9 of the board...
10 b. Bylaws at Page 10, Section 5 - pretty much copies the code this law & bylaw
11 work to make sure there are always 3 on the Board
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28 ³⁶Civil Code §1366(b) ...the board of directors may not impose a regular assessment that is more than
20 percent greater than the regular assessment for the association's preceding fiscal year or impose special
assessments which in the aggregate exceed **5 percent** of the budgeted gross expenses of the association
for that fiscal year without the approval of owners...

Meet & Confer Issues

The HOA has refused to Meet & Confer as mandated by law³⁷, their own proposed rules, which are alleged to have been promulgated by Adams Kessler the firm that publishes www.DavisSterling.com and Commissioner Fzzzrer's Offer. Steve is requesting the Court address these issues today. These issues are before the court as they were noticed in the Summons as Dereliction of Duty, failure to comply with the law and Terri's refusal of the Court's Offer to have Meet & Confer facilitated by a neutral 3rd party, stating that she wanted to address all the issues in Court.

1. Forgiving Steve's late fees as his numerous request for records were never on the agenda until 9/2005, when he was forced to withhold dues to get the Board's attention and then again in 10/2006.
 - a. Then to add insult to injury, he wasn't even allowed to speak on this issue at the meeting, even though Donyelle and Mike said he would be permitted to. Without any warning - President Josh S... threatened him with expulsion from the meeting if he even said one word on this agenda item and the other Board members did not speak up.
 - b. Also the \$165 assessment, as he was never given the documents requested on this and it's illegal as it violates the law and our CC & R's.
2. Converting back half of common parking area to a patio
3. Check into saving \$\$\$ on earthquake Insurance coverage, per LA Times article previously emailed to WPE and if the membership even wants it at \$4k premium and a \$250k deductible
4. Reimbursing Steve for out of pocket emergency expenses in Outdoor Vacuum vs. Blower - complaints from neighbors, Angelo, Gene and unknown. This has gone on so long and has been discussed illegally in Executive Session that Steve has been forced to file a Mechanics Lien.
 - a. Hot Water Heater Billing

³⁷Civil Code §1363.840 b 2 The association may not refuse a request to meet and confer. It's also in the proposed rules @ §4.9

1 b. Censure of Terri Yyy for her harassment, fighting words, threats, etc. on this
2 issue. It's in the Proposed Rules.

3 5. Apology & notice to the members about the recording false minutes as to Steve
4 saving the HOA \$600/month on their Fire Insurance and refusal to correct them for
5 2 years. Exhibit # ⁵

6 a. This is probably the crux of Steve's confusion with the HOA. Why make it so
7 hard to view these documents, as Judge Mxx said with more members
8 helping the more we can save.

9
10
11 Respectfully submitted by:

12
13
14
15 Steve Xxx

16
17
18 We reserve the right to amend this brief.

19
20
21 Revision Date: May 29, 2008 (1:47pm)

1 Exhibit List

- 2 _____
- 3 1. 9/14/2007 Order to create election rules and rules to allow any member to get any
- 4 record Case # 07 S 00727
- 5 2.Email explaining the 5 points to a valid contract
- 6 3. 11/21/2007 letter from WPE announcing Board meetings and including rules
- 7 4.Pacific Club HOA
- 8 5. Amended 3/17/2005 minutes where the HOA's State Farm Agent confirmed the former
- 9 Property Manager did nothing, when notified of a doubling of premiums and in fact it was
- 10 Steve that worked with him to keep the premiums the same.
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