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February 24, 2020

Via Email

Board of Directors
Arbor Hills Condominium Association
c/o Casa Bella Property Management
850 N. Crooks Road, Suite 100
Clawson, MI 48017

Re: 2019 Annual Meeting

Dear Members of the Board:

You have requested our opinion as to a number of issues arising out of the 2019 annual meeting convened in October 2019. We understand quorum was not attained. We further understand that some Co-owners have questioned the Board's decision not to call another annual meeting and the authority of the Board of Directors following that meeting. This correspondence shall address those issues, and will reaffirm that the Board has acted in an appropriate fashion and has full authority to adopt corporate action on behalf of the Association.

Both MCL 450.2402 and Section 10.3 of the Association's Bylaws require the Association to schedule an annual meeting of the Association. The primary goal of the annual meeting is to elect directors pursuant to section 10.3 of the Bylaws. Section 10.1 of the Bylaws provides that meetings of the Association are to be conducted in accordance with Sturgis's Code of Parliamentary Procedure, Robert's Rules of Order or some other parliamentary procedure manual selected by the Board. Robert's Rules (11th Edition) provides that any business transacted in the absence of quorum is "null and void." However, Robert's Rules goes on to state that even if quorum was not attained, a society's rules requiring the meeting to be held were complied with. Thus, it was appropriate for the Board not to entertain a motion at the 2019 annual meeting to conduct official business in the absence of quorum.

Given that the Association complied with the obligation to call its annual meeting, there is no duty to reschedule the 2019 annual meeting. In fact, section 10.6 of the Bylaws offer the Co-owners present at a meeting failing to achieve quorum an opportunity to vote to adjourn the meeting to a time not less than 48 hours from the original meeting date. There is no record of any motion being made by a Co-owner to adjourn the 2019 annual meeting to a different date as a result of failing to achieve quorum.

While there may have been an informal show of support for two incumbent candidates who were up for reelection at the 2019 annual meeting, that straw vote has no impact on the status of those

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individuals as current directors on the Board. MCL 450.2505(3) of the Nonprofit Corporation Act indicates that the Articles of Incorporation or Bylaws of a corporation “shall specify the term of office and the manner of election or appointment of directors.” Section 12.2.3.4 of the Bylaws states that directors “shall hold office until their successors *have been elected* and hold their first meeting.” Thus, any individuals who were directors leading up to the 2019 annual meeting in October, continued as directors after that meeting on account of the failure to elect successors. Therefore, the sitting board has all of the powers and duties afforded it under sections 12.3 and 12.4 of the Bylaws to administer the affairs of the Association. That includes voting to fill a vacancy created by a resignation in accordance with section 12.6 of the Bylaws.

Finally, the Board has correctly announced to the community that all directors will be up for election at the 2020 annual meeting. Since a valid election did not occur at the 2019 annual meeting, no one was installed for a new two-year term pursuant to section 12.2.3.4 of the Bylaws. Therefore, the process of electing directors on staggered two-year terms will continue at the 2020 annual meeting with some terms only lasting until 2021, and those terms expiring in 2020 to be filled until 2022.

If you should have any additional questions regarding these issues, please call.

Very truly yours,
MAKOWER ABBATE GUERRA
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Jeffrey L. Vollmer