BEFORE THE COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

STATE OF NEVADA

SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA, Petitioner, vs. VILLAGIO COMMUNITY ASSOCIATION. (Entity Number C11529-1997) Respondent.	Case No. 2023-38

FILED

JUN 20 2024

NEVADA COMMISSION FOR COMMON INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

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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 June 11, 2024 (the "Hearing."). John E. Leach, with Leach Kern Gruchow Song, appeared on behalf of Villagio Community Association ("RESPONDENT") with provisional community manager Jennifer Thompson (CAM.0010458-PROV), Francesca ("Frankie") Stevenson (CAM.0000274-SUPR), and board member Gary Renis. Christal P. Keegan, Deputy Attorney General 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").

Since the RESPONDENT admitted to the Division's factual allegations and stipulated to violations of law numbered 16 and 17 in the Complaint filed April 19, 2024, Mrs. Keegan presented limited testimony from the Division's Auditor Noel Thornton regarding her audit findings substantiating violation of law NRS 116.31151(1)(a) and (b). The parties stipulated to the Division's documents CICC 001-198, and the

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RESPONDENT'S funding plan was admitted. Additional information was provided by Board Member Mr. Renis.

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. RESPONDENT'S Registration Filing Addendum dated March 8, 2023, reported its two current executive board members as, President Fran Dugan, and Treasurer/Secretary Gary Renis. *Exhibit 1, NRED Files, CICC 003.*

2. The Registration Filing Addendum indicated former President Francisco Jimenez's term expired December 15, 2022, and former Director Shervin Melamed resigned October 24, 2022. *Exhibit 1, NRED Files, CICC 003.*

3. On or about March 13, 2023, the Division opened an investigation against the RESPONDENT pursuant to its audit findings, with a deadline to respond by March 27, 2023. *Exhibit 3, NRED Letter, CICC 024 – 027.*

4. At all times relevant, RESPONDENT'S community manager Francesca "Frankie" Stevenson (CAM.0000274-SUPR) of Pinnacle Community Association Management, requested an extension which the Division granted.

5. Thereafter, RESPONDENT'S CAM Stevenson responded to the Division by the new due date.

6. On or about January 8, 2023, the Division sent a second request for information following up on the case. *Exhibit 3, NRED Letter, CICC 028 – 030.*

7. On or about March 30, 2024, the Division closed its investigation and notified the RESPONDENT its case would proceed formally before the Commission. *Exhibit 3, NRED Letter, CICC 031 - 032.*

8. The RESPONDENT'S reserve study dated on or about March 29, 2023, determined the Association's current funding plan was below baseline funding and recommended increasing funding. *Exhibit 5, Reserve Studies, CICC 045.*

9. The Reserve Study recommended Contribution in the amount of $204,000 for the 2024 baseline funding plan. *Exhibit 5, Reserve Studies, CICC 057.*

10. Yet, the 2024 Reserve Budget ratified on or about December 14, 2023, indicated only $113,089.00 in total annual income, despite stating that it was "[b]ased upon the reserve analysis report prepared by McCaffrey Reserve Consulting March 2023." *Exhibit 6, Budgets, CICC 137.*

11. RESPONDENT'S Reserve Study Summary Form dated January 23, 2024, admitted the monthly funding was lower than the recommended contribution per the reserve study. *Exhibit 5, Reserve Studies, CICC 043.*

12. At all times relevant, RESPONDENT'S financial records demonstrated large "due-to" account balances owed from the Operating account. *Exhibit 5, Reserve Studies, CICC 043, and Exhibit 6, Budgets, CICC 137.*

13. At all times relevant, RESPONDENT'S financials demonstrated losses in the Operating fund each year. *Exhibit 5, Reserve Studies, CICC 043, and Exhibit 6, Budgets, CICC 137.*

14. At all times relevant, RESPONDENT prepared budgets that continued to underfund the Reserve account. *Exhibit 5, Reserve Studies, CICC 043, and Exhibit 6, Budgets, CICC 137.*

CONCLUSIONS OF LAW

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

15. RESPONDENT violated NAC 116.415 for failing to reasonably reconcile the amount required to adequately fund the reserves.

16. RESPONDENT violated NRS 116.31152 for failing to take the necessary steps to fund the Reserve account.

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ORDER

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

1. RESPONDENT shall pay the costs of the investigation and the hearing in the amount of $5,022.71 which are actual, reasonable, and necessary within 60 days of entry of Order.

2. RESPONDENT shall provide a status report at the September 10-12, 2024 Commission Meeting on the following:

   a. Funding plan;

   b. Due to the reserve amount funding $131,829;

   c. Construction defect account; and

   d. Draft budget for 2025.

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.

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

DATED this 26th day of June, 2024.

COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS
DEPARTMENT OF BUSINESS AND INDUSTRY
STATE OF NEVADA

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