

**STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
DIVISION OF FLORIDA LAND SALES, CONDOMINIUMS, AND MOBILE HOMES**

IN RE:            PETITION FOR RECALL ARBITRATION

LES CHATEAUX AT INTERNATIONAL  
GARDENS CONDOMINIUM ASSOCIATION

Petitioner,

Case No. 2006-02-2607

v.

UNIT OWNERS VOTING FOR RECALL,

Respondents.

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**NOTICE OF FILING AND SUGGESTION OF MOOTNESS**

The Petitioner, LES CHATEAUX AT INTERNATIONAL GARDENS CONDOMINIUM ASSOCIATION, INC., by and through counsel, hereby gives notice of filing the following documents as set forth below in the within action, attached hereto, and suggests that the instant case is moot and in support thereof states as follows:

Established precedent makes it clear that alleged irregularities occurring in an intervening election cannot be scrutinized in the course of a petition for recall arbitration. If the proponents of the recall wish to contest the validity of the election, they may do so by filing a petition for arbitration pursuant to Section 718.1255(1)(b)1, Florida Statutes. *Greentree Condominium Association, Inc. v. Unit Owners Seeking Recall*, Arb. Case No. 98-5427, Final Order Dismissing Petition for Arbitration (March 4, 1999)(recall petition was moot where an election for all positions on the board was held while the petition for arbitration was pending, even though the unit owners disputed the manner in which the intervening election was held); *Hacienda Del Sol Condominium*,

*Association, Inc. v. Unit Owners Voting for Recall*, Arb. Case No. 01-3566. Final Order (September 14, 2001) (an intervening election in which all board members subject to recall are re-elected makes the recall attempt moot, noting that if the owners wished to contest the validity of the intervening election, their recourse is to file a petition for arbitration pursuant to Section 718.1255(1)(b) 1., Fla. Stat.); *Riviera Villas Condominium Association, Inc. v. Unit Owners Voting for Recall*, Arb. Case No. 2003-04-5722. Final Order Dismissing Petition for Recall Arbitration (April 22, 2003) (petition for recall arbitration was moot due to intervening election despite unit owners' argument that there were irregularities in the intervening election). *See also* Chapter 61B-45, The Mandatory Non-Binding Arbitration Rules of Procedure, and Chapter 61B-50, The Rules of Procedure Governing Recall Arbitration, establishing different rules for arbitrations pursuant to Section 718.1255(1)(b)1, Florida Statutes (mandatory non-binding arbitration) and Section 718.112(2)(j)3, Florida Statutes (recall arbitration).

While it is the Association's position that in this proceeding the Association is only required to make a *prima facie* showing that an election has occurred and that it is NOT required to defend the validity of the election in this proceeding, attached please find or note the following, under the Association's vehement objection:

1. Resignation from Board of Directors of Yasmin M. Perez dated April 20, 2004
2. Resignations from Board of Directors of Kelly Cyrus dated January 10, 2006.
3. Resignation from Board of Directors of Claudia Rodriguez dated February 26, 2006.
4. Resignation from Board of Directors of Marta Gonzalez dated March 2, 2006.
5. First Notice of Annual Meeting/Elections of the Membership dated March 10,

2006.

6. Affidavit of Mailing dated March 10, 2006.
7. Notice of Intent to be a Candidate of Yolanda Figueroa, dated March 22, 2006.
8. Notice of Intent to be a Candidate of Norma C. Andrews, dated March 28, 2006.
9. Notice of Intent to be a Candidate of Richard Lima, date March 26, 2006.
10. Letter dated April 25, 2006 from All Florida Management Company.
11. Affidavit of Richard Lima dated April 25, 2006.
12. Minutes of Annual Meeting of Les Chateaux at International Gardens Condominium

Association, Inc., held on May 16, 2005. At that meeting, the following persons were seated on the Board: Martha Gonzalez, Richard Lima, Claudia Rodriguez and Enrique Uribarri.

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13. Minutes of Board of Directors Meeting of Les Chateaux at International Gardens Condominium Association, Inc., held on January 31, 2006, showing that at that time the Board was composed of the four (4) members seated in May, 2005, and that Yolanda Figueroa was appointed to the Board. As a result of the resignations of Martha Gonzalez and Claudia Rodriguez, and the appointment of Yolanda Figueroa, at the time the written agreements were served the Board consisted of Yolanda Figueroa, Richard Lima, and Enrique Uribarri.

14. Minutes of Annual Meeting of Les Chateaux at International Gardens Condominium Association, Inc., held on May 10, 2006, showing the board members to be Norma C. Andrews, Yolanda Figueroa and Richard Lima.

In addition to the foregoing, the Association would state that (a) there was no need for casting ballots, as only three candidacies were received to fill five vacancies. Section 718.112(2)(d)3, Florida Statutes; and (b) a quorum was not sought to be established because under Section 718.112(2)(d)3, Florida Statutes, there is no quorum requirement for the election of Directors.

Having made an ample *prima facie* showing that the election took place on May 10, 2006, well beyond the normal requirements of a *prima facie* showing, and addressed the two primary issues identified in the Arbitrator's May 15, 2006 Order, to wit, the validity of the May 10, 2006 election and the composition of the board at or near the time of service of the recall agreements, the Association unequivocally states that a valid election took place and respectfully requests that the instant petition be dismissed as moot.

As regards paragraphs 9B and C of the Answer, the Association would state that (a) this is not one of the issues identified in the May 11, 2006 case management call; (b) that it is premature to address the substance of those issues pending the resolution of the herein suggestion of mootness; and (c) the Association does not have sufficient knowledge to either admit the facial veracity of the documentation submitted by the Respondent in support of the allegations contained in paragraphs 9B and C of its answer, and those allegations are therefore denied.

**WHEREFORE**, for the reasons stated above, the Petitioner respectfully requests that the instant petition be dismissed as moot.

Respectfully submitted,

FEIN & MELONI, ESQS.  
Attorneys for Petitioner  
900 S. W. 40<sup>th</sup> Avenue  
Plantation, Florida 33317

By: 

EDO MELONI, ESQ.  
FBM 836842