

=== COVER PAGE ===

TO: _____

FROM: CONDO*HOA

FAX: 8504870870

TEL: 8504146867

COMMENT: URGENT

Department of Business Professional Regulation

Jeb Bush, Governor
Holly Benson, Secretary

Division of Land Sales, Condominiums and Mobile Homes
Arbitration Section
1940 North Monroe Street
Tallahassee, Florida 32399-1029

Phone: 850.414.8897
Fax: 850.487.0870
www.MyFlorida.com/dbr
www.MyFloridaLicense.com

Fax

To: C. RICHARDS K. PARIS	From: ARBITRATION
Fax: 319-856-4194 561-686-8021	Pages: (inc. cover)
Phone:	Date: 10-13-08
Re: RICHARDS J.	CC:

QUAIL HOLLOW CONDO. ASSO FAX:
ARB. CASE # 2008-04-6618

- Urgent
- For Review
- Please Comment/Reply
- Please Forward
- Please Recycle
- Per Your Request
- Original/Copy to follow by U.S. Mail
- Please Handle

Comments:

NOTICE: This facsimile transmission may constitute an attorney-client communication that is privileged by law. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this transmission in error, please notify the sender immediately so that our records may be corrected.

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

IN RE: PETITION FOR ARBITRATION

Claudia Richards,

Petitioner,

v.

Case No. 2008-04-6618

**Quail Hollow Condominium
Association, Inc.,**

Respondent.

FINAL ORDER OF DISMISSAL AS MOOT

On August 15, 2008, Petitioner filed a "Petition for Recall Arbitration" seeking an order to certify the recall by written agreement of Andres Villegas from the Board of Directors (board) of the Quail Hollow Condominium Association, Inc. (Association). Petitioner alleged a recall agreement was served on the board, but the Association never held a meeting to address the recall. The petition for arbitration in this case is generally referred to as a "reverse recall" petition.

Because Petitioner did not submit a copy of the more than 50 page petition, including the ballots and the condominium documents, as required so that they may be served on the respondent, administrative staff of the Arbitration Section sent a letter dated August 22, 2008, to Petitioner requesting Petitioner to provide the required copies. On September 2, 2008, Petitioner filed the copies of the documents.

On September 4 and 8, 2008, communications were received from an individual whose relation to the case is unknown. On September 5, 2008, the unit owner

representative filed a communication. None of the three communications indicated that a copy had been sent to the Association.

On September 10, 2008, a Notice of Communication, Order Striking Certain Filings and Order Requiring Answer was entered. On September 24, 2008, the law firm listed on the Florida Secretary of State's website as the registered agent for the Association filed a letter dated September 22, 2008, stating the firm no longer represented the Association and indicating the board would need to obtain new counsel.

On September 30, 2008, new counsel for the Association filed its appearance and requested an additional ten (10) days to file an Answer to Petition. On October 6, 2008, an order was entered directing the Association to file an Answer on or before October 13, 2008.

On October 6, 2008, the Association filed a Motion to Dismiss, including as an exhibit the affidavit of Trine A. Belen Campos, President of the Association, incorporating as attachments a copy of the letter of resignation of Andres Villegas from the board, dated September 9, 2008, and the minutes of the September 11, 2008, meeting of the board. The minutes of the September 11, 2008, board meeting note the resignation of Andres Villegas and the appointment of Trine A. Belen Campos to the board.

On October 6, 2008, Petitioner filed a response to Respondent's motion for enlargement of time and at Paragraph 9 acknowledged an apparent change in board members. On October 10, 2008, Petitioner filed a response to the Association's Motion to Dismiss and acknowledged at Paragraph 4 that Andres Villegas resigned from the board and at Paragraph 2 that Trine Campos was appointed to the board.

In Petitioner's October 10, 2008, filing, Petitioner asserts that he has a "mandate" to be appointed to the board by virtue of his collection of the recall ballots. Section 718.112(2)(d)8., Florida Statutes, provides, in pertinent part:

Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director.

Because the bylaws of the Association, at 3.2. - 4. and 5., do not provide otherwise in the circumstances of this case, the board may fill the vacancy created by the resignation of Andres Villegas.

Section 718.112(2)(j)5., Florida Statutes, provides, in pertinent part:

If a vacancy occurs on the board as a result of a recall or removal and less than a majority of the board members are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining directors, notwithstanding any provision to the contrary contained in this subsection.

Thus, even if Mr. Villegas had not resigned and an order had been entered certifying the recall, the remaining board members could appoint his replacement, since less than a majority of board members would have been removed.

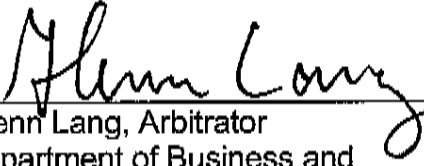
Under the circumstances of this case, the resignation of Andres Villegas renders this dispute moot.

Based upon the foregoing, it is ORDERED:

Arbitration Case Number 2008-04-6618 is DISMISSED.

DONE AND ORDERED this 13th day of October 2008, at Tallahassee, Leon

County, Florida.


Glenn Lang, Arbitrator
Department of Business and
Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-1029

Trial de novo and Attorney's Fees

This decision shall be binding on the parties unless a complaint for trial *de novo* is filed in accordance with section 718.1255, Florida Statutes. As provided by section 718.1255, Florida Statutes, the prevailing party in this proceeding is entitled to have the other party pay reasonable costs and attorney's fees. Any such request must be filed in accordance with Rule 61B-45.048, F.A.C.

Certificate of Service

I hereby certify that a true and correct copy of the foregoing final order has been sent by U.S. Mail to the following persons on this 13th day of October 2008:

Claudia Richards
Unit Owner Representative
2106 Sherwood Forest Boulevard
#17
West Palm Beach, Florida 33415
FACSIMILE: 319-856-4194

Keith H. Park, Esq.
2240 Palm Beach Lakes Boulevard
Suite 200
West Palm Beach, Florida 33409
FACSIMILE: 561-686-8021


Glenn Lang, Arbitrator