

Stephen H. Moriarty
shmoriarty@chadwickwashington.com



CHADWICK
WASHINGTON
MORIARTY
ELMORE &
BUNN P.C.

Admitted to practice in
Virginia

3201 Jermantown Road, Suite 600
Fairfax, Virginia 22030
(703) 352-1900 • FAX (703) 352-5293

www.ChadwickWashington.com
Firm Email: Mail@ChadwickWashington.com

April 19, 2024

Mr. & Mrs. Gerald Denney
743 Talon Ridge Court
Pittsville, Virginia 24139

By Regular and Certified Mail

No. _____

Re: Notice of Final Board Decision

Dear Mr. & Mrs. Denney:

You will find enclosed Memorandum, consisting of the decision of the Board of Directors in response to your complaint.

Please take note:

The Association's CICB License Number is 0550005974.

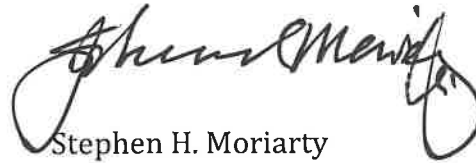
You have a right to file a Notice of Final Adverse Decision with the CICB. The contact information is as follows:

Office of the Common Interest Community Ombudsman
Department of Professional and Occupational Regulation
9960 Mayland Drive, Suite 400
Richmond, VA 23233
804/367-2941
CICOMBudsman@dpor.virginia.gov

The Board deliberated at length on all of the issues raised. I am hopeful that this concludes the matter.

Best regards,

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Moriarty". The signature is fluid and cursive, with a large initial "S" and a stylized "M".

Stephen H. Moriarty

Enclosure

cc: Board of Directors
Brownstone Properties

In order of Mr. Denney's complaint/accusations, here are EPS's responses:

1. Meetings without notice:

The board has not conducted any meetings without providing the members notice; every meeting this board has conducted has been orchestrated by the management company. On 2/8/23, Marsha (with Brownstone) emailed the board about getting some training through the HOA's legal counsel, so the board could have a better understanding of their positions and duties. This training session was discussed/advertised during the 3/20/23 regular board meeting, but a date/time had not yet been determined. The training session was conducted on 6/5/23; no regular HOA business or decisions were made.

2. Falsifying Minutes: Electronic votes being "ratified", or language added, illegal communication taking place on the sale of the 21 acres, etc.

During 10/3/22 board meeting, the board approved, unanimously, to proceed with selling the 21 acres. During the 1/16/23 meeting, it was announced that, in December, the board approved unanimously to proceed with executing a contract to sell the 21 acres (after receiving approval from the HOA's counsel).

On 3/31/23 a resolution was executed by all board members on proceeding with the sale of the 21 acres (this was ratified at the next board meeting, 6/6/23).

On 5/12/23 a final decision was made by the board members and legal on the verbiage within the Deed (this was also ratified at the next board meeting, 6/6/23).

Nonetheless, in the future, all electronic resolutions will be raised at the next board meeting and made the subject of a ratifying vote.

As for meeting minutes: they do not need to be word-for-word transcripts of discussions conducted; all that is required is that the minutes contain a record of the Board attendance, and the decisions made at that time.

3. Illegal Sale of Association Property:

During the 8/1/22 board meeting, Mr. Denney made the initial motion to proceed with the process for selling the 21 acres. During the 10/3/22 board meeting, the board announced it would proceed with selling the 21 acres. This was announced, again, during the 11/21/22 board meeting (advertising receipt of advice from legal, that the board could proceed with the transaction); this was discussed, again, during the 1/16/23 meeting.

On 3/31/23 a resolution was executed by all board members on proceeding with the sale of the 21 acres (this was ratified at the next board meeting, 6/6/23).

On 5/12/23 a decision was made by the board members, and legal, on the verbiage within the Deed (this was also ratified at the next board meeting, 6/6/23).

4. Improper Request and Appropriation of Funds by Board President.

Mr. Firnhaber (either in his capacity as a lot owner or Board President) did not receive any funds.

Mr. Firnhaber, as President of QPCI (contractor), submitted his invoice directly to the management company; as is protocol (no other service companies, maintenance companies, contractors, etc. ever submit their invoice[s] directly to the board – they are submitted directly to the management company).

Nonetheless, the Board inspected and approved the boat launch repairs; the repairs were also inspected and approved by AEP (under their FERC contract, and in their capacity as owner of the Leesville Lake Reservoir).

This is a closed matter.

5. Requested Remedy (in order):

- A. Immediate resignation of Lyle Firnhaber and Rob Johnson from the Board.

Response: No.

- B. EPS Board to demand “contractual completion of the boat launch.”

Response: Inspected by all board members and approved by all board members (including approval from AEP, who also inspected the repairs, and possessed a copy of QPCI’s proposal).

- C. EPS Board should immediately “limit its use of electronic resolutions.”

Response: The Board will engage in electronic resolutions as circumstances require, in light of the remote locations of its Directors.

- D. EPS Board to include Brownstone Properties on all communications.

Response: The Board will engage Brownstone as it determines is required by the circumstances; they are not required (contractually, or otherwise), to be included in all correspondence.

- E. EPS Board to cease “acting as a private club.”

Response: The Board has and intends to comply with all legal requirements.

- F. Requests by members for Books and Records need to be addressed in a timely fashion.

Response: It is the Board’s policy to comply with all legal requirements; however, all of EPS’s books and records are to be obtained from our management company (not individual board members), at the requestor’s expense, at a date/time agreed upon with the management company.

- G. Full disclosure of the events contained in the Denney complaint to the entire EPS community.

Response: The Board will comply with all legal requirements.

H. EPS to "buy back the 21-acre parcel."

Response: No.

I. Reclamation of legal fees be considered.

Response: The Board has no reason or basis to do so.