

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

IN RE: PETITION FOR ARBITRATION

**JAMES SPINELLI, in his capacity as Unit Owner
Representative,**

Petitioner(s)

v.

Case No. 2018-01-0735

ELDORADO PLAZA WEST ASSOCIATION, INC.,

Respondent(s)

SUPPLEMENTAL RESPONSE TO ORDER REQUIRING FILING

COMES NOW the Petitioner by and through his undersigned counsel and files these additional arguments in support of his Response to the Order Requiring Filing filed on March 15, 2018.

1. The arbitrator is requiring proof of advanced written notice of the dispute.
2. Pursuant to section 718.112(2)(j)7., Florida Statutes, the Division may not accept a recall petition filed by a unit owner when there are 60 or fewer days until the scheduled reelection of the board member sought to be recalled (hereinafter referred to as the time limitation).
3. Section 718.1255(4)(b), Florida Statutes, requires that pre-arbitration notice provide a respondent with a reasonable opportunity to comply with the petitioner's demanded relief.
4. The Respondent was served with the recall ballots on February 19th, 2018. The Respondents therefore had until February 26th, 2018 to hold their meeting to decide whether or not to certify the recall. In fact, that is when the meeting was allegedly held. In this particular case, as previously provided to the arbitrator, the Respondent held a closed

door meeting and did not even bother to inform the Petitioner or the community of their decision as to whether or not to certify or reject the recall.

5. Even if the Respondent had done the right thing and notified the Petitioner of its decision not to certify the recall on February 26th, 2018, and within two days, the Petitioner gave the Respondent a pre arbitration demand for seven (7) days to agree to switch their minds and now certify the recall, that would have given Respondent until March 7th, 2018 to change their mind at the earliest.
6. **March 7th, 2018 is only 58 days before the next scheduled election and the arbitration petition would have been rejected by the arbitrator as untimely as the next election is less than 60 days away.**
7. Requiring pre-arbitration notice for a petition filed by a unit owner pursuant to section 718.112(2)j.4., Florida Statutes, would enlarges the time limitation. In addition to the 60 day limitation specifically provided for by the statute, the time limitation would necessarily include the reasonable time for an association to comply with the petitioning unit owner's demand to certify the recall.
8. Arbitration is intended to reduce court dockets and offer a more efficient, cost-effective option to court litigation. Sec. 718.1255(3), Fla. Stat.
9. Section 718.112(2)(j)7., Florida Statutes, prohibits the Division from accepting a recall petition filed by a unit owner when there are 60 or fewer days until the scheduled reelection of the board member sought to be recalled. The statute does not specifically limit the right of unit owner to seek relief in court.
10. If pre-arbitration notice is required where, as in the instant case, it is impossible to provide the association with a reasonable opportunity to comply before the 60 day time limitation

becomes applicable, an aggrieved unit owner's only option will be to seek certification of the recall by filing a complaint for emergency relief in the circuit court. This would defeat the intended purpose of arbitration.

11. In the instant case, the Petitioner did all he could to comply with the statute in all respects and without violating the 60 day deadline. On the contrary, the Respondents failed to hold an open door properly noticed recall meeting. The Respondent's behavior cannot and should not be rewarded by allowing the Respondent not to comply with the statutory requirements of an open door meeting to decide whether or not to certify the recall, never telling the community of its decision, and then penalizing the Petitioner for failing to comply with the pre-arbitration demand requirements that it was reasonably possible to comply with in light of the next election being scheduled for May 4th, 2018, less than 60 days away.

WHEREFORE, the Petitioner moves the arbitrator for an order accepting the petition, certifying the recall and all other relief deemed appropriate.

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**FIRST NOTICE OF ELECTION & ANNUAL MEETING FOR
ELDORADO PLAZA WEST ASSOCIATION**

NOTICE IS HEREBY GIVEN that the Annual Meeting and election to fill vacancies on the Board of Administration of the ELDORADO PLAZA WEST ASSOCIATION will be held on

May 4, 2018 – 7 P.M.

At

ELDORADO PLAZA WEST CLUBHOUSE

180-200 Northeast 12th Avenue

Hallandale Beach, Florida 33009

Any eligible unit-owner desiring to be a candidate for the Board of Administration should complete the form on the reverse side or provide a letter stating his or her intent to run for the Board to be properly delivered to

ELDORADO PLAZA WEST ASSOCIATION, INC.

C/O REAL ASSET MANAGEMENT

150 SE 2ND AVENUE, # 300

MIAMI, FLORIDA 33131

on or before March 16, 2018.

Questions may be addressed to: Edy Quin, LCAM – 786.636.1880 or eqrealasset@gmail.com

DATED AND MAILED February 5, 2018.

Management Office

150 SE 2nd Avenue, # 300

Miami, Florida 33131

Exhibit A