

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

IN RE: PETITION FOR ARBITRATION-HOA with
Arbitration Section

JANIE NELSON,

SEP 15 2017

Petitioner,

v.

Div. of FL Condos, Timeshares & MH
Dept. of Business & Professional Reg

Case No. 2017-00-4510

**MEADOW GLENN OF MARION COUNTY
HOMEOWNERS' ASSOCIATION, INC.,**

Respondent.

SUMMARY FINAL ORDER

I, David R. Slaton, the undersigned Arbitrator, have been appointed by the Florida Division of Condominium, Timeshares and Mobile Homes, and have reviewed the record and the motions for summary disposition. Petitioner was represented by Attorney Paul Kim and Respondent was represented by Attorney Joel Martin McTague. The Arbitrator grants Petitioner's requested relief, making the following findings of fact and conclusions of law:

1. Meadow Glenn of Marion County Homeowners' Association, Inc. (the Association), is responsible for the operation of Meadow Glenn.
2. Petitioner is an owner of a lot within the Association and is therefore, a member of the Association.
3. The Association's annual election was held on November 29, 2016. There were only two candidates for the one, non-developer seat up for election, Petitioner and Gina Junglas.

4. Adams Homes of Northwest Florida, Inc. (Adams) and Reed Homes at Meadow Glenn, LLC (Reed) are builders who construct improvements on lots within the Association for resale.
5. Gina Junglas is an employee of Adams.
6. A total of 100 votes were cast at the Association's election for the non-developer seat. The Association determined that the results of the election were that 68 votes were cast for Gina Junglas and 32 votes were cast for Petitioner.
7. In the Association's election, Adams cast 43 votes for Gina Junglas and Reed cast 7 votes for Gina Junglas.
8. Petitioner challenged the Association's decision to allow Adams and Reed to vote for the non-developer seat on the basis that these entities were builders who were not legally entitled to vote for this seat.
9. Section 720.307(2), Florida Statutes, provides, "Members other than the developer are entitled to elect at least one member of the board of directors of the homeowners' association if 50 percent of the parcels in all phases of the community which will ultimately be operated by the association have been conveyed to members."
10. At least 50 percent of the parcels within the Association have been conveyed to its members. Therefore, pursuant to Section 720.307(2), "members other than the developer" were entitled to elect at least one member of the Association's board of directors.
11. Section 720.307(1), Florida Statutes, provides, "For purposes of this section, the term "members other than the developer" shall not include builders, contractors,

or others who purchase a parcel for the purpose of constructing improvements thereon for resale.”

12. Adams and Reed are “builders, contractors, or others who purchase a parcel for the purpose of constructing improvements thereon for resale” within the meaning of Section 720.307(1). Therefore, Adams and Reed are not “members other than the developer” and were not entitled to vote for the Association’s non-developer seat. Accordingly, the 43 votes Adams cast for Gina Junglas and the 7 votes Reed cast for Gina Junglas should not have been counted in the Association’s election results tally.
13. When the 50 votes the Association improperly counted in its election results are removed from the vote total for Gina Junglas, Petitioner is the winner of the election by a 32 to 18 vote.
14. The Association has demonstrated no valid legal basis for the votes of Adams and Reed to be counted for the non-developer seat.
15. The arbitrator finds that the Association violated Sections 720.307(1) and 720.307(2), Florida Statutes, by allowing Adams and Reed to vote for the non-developer seat. The Association should have declared Petitioner the winner of the non-developer seat.
16. The Association argues that the arbitrator should conclude that no quorum existed at the election. However, the Association did not make that finding at the election itself, and instead declared a winner. The arbitrator will not permit the Association to challenge its own election in this case.
17. All other relief requested and not expressly granted is denied.

18. This decision shall be binding on the parties.
19. 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-80.123, Florida Administrative Code.

For all the foregoing reasons, Petitioner's requested relief is **GRANTED**. As of the date of this Order, Petitioner Janie Nelson shall take a seat on the Association's board and shall serve out the remainder of the term for which she was elected in 2016. Gina Junglas, or any other person who has been appointed to the non-developer seat is hereby removed from the board. Within five full business days from the date of this Order, Gina Junglas, or any other person who has been appointed to the non-developer seat shall deliver to the Association any and all records of the Association in his or her possession.

DONE AND ORDERED this 15th day of September, 2017, at Tallahassee, Leon County, Florida.



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Professional Regulation
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Certificate of Service

I hereby certify that a true and correct copy of the foregoing final order has been sent by U.S. Mail and email to the following persons on this 15th day of September, 2017:

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David R. Slaton, Arbitrator