

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

IN RE: PETITION FOR ARBITRATION

**Carmel Townhomes
Condominium Association, Inc.,**

Petitioner,

v.

Case No. 2006-01-8684

Unit Owners Voting For Recall,

Respondent.

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FINAL ORDER OF DISMISSAL

On April 3, 2006, Carmel Townhomes Condominium Association, Inc. (the association) filed a petition for recall arbitration. The group of unit owners voting in favor of the recall is the respondent in this matter.

On April 10, 2006, the undersigned issued an order allowing answer. Since the unit owners voting for recall had not designated a unit owner representative, the undersigned directed the association to post a copy of the order allowing answer and the recall petition in a conspicuous public location on the condominium property. On April 26, 2006, the association filed an affidavit of posting indicating that the order and petition were posted on April 17, 2006. On May 24, 2006, the association filed a suggestion of mootness indicating that the regularly scheduled election for the seats of the members of the board of directors subject to the recall was held on May 15, 2006.

In *Board of Directors of Greentree Condominium Association, Inc., v. Unit Owners Signing Written Agreement*, Arb. Case No. 97-2461, Order Granting Suggestion

of Mootness and Dismissing Recall (February 17, 1998), the arbitrator held that the petition for recall arbitration was moot after the directors sought to be recalled were re-elected without an election pursuant to section 718.112(1)(d)3., Fla. Stat. In *Greentree Condominium Association, Inc. v. Unit Owners Seeking Recall*, Arb. Case No. 98-5427, Final Order Dismissing Petition for Arbitration (March 4, 1999), the arbitrator held that the 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. In *Hacienda Del Sol Condominium Association, Inc. v. Unit Owners Voting for Recall*, Arb. Case No. 01-3566, Final Order (September 14, 2001), the arbitrator held that 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., Florida Statutes. In *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), the arbitrator dismissed the petition for recall arbitration as moot due to an intervening election despite the unit owners argument that there were irregularities in the intervening election, noting that unit owners wishing to contest the validity of the intervening election could file a petition pursuant to section 718.1255(1)(b)1., Florida Statutes. Therefore, the election held on May 15, 2006, for the seats of the members of the board of directors subject to the recall has rendered the instant recall dispute moot.

Based upon the foregoing, it is ORDERED:

Arbitration case number 2006-01-8684 is dismissed as moot. The association shall post a copy of this order in a conspicuous public location on the condominium property.

DONE AND ORDERED this 30th day of May 2006, at Tallahassee, Leon County, Florida.

James W. Earl, Arbitrator
Department of Business and
Professional Regulation
Arbitration Section
Northwood Centre
1940 North Monroe Street
Tallahassee, Florida 32399-1029

Certificate of Service

I hereby certify that a true and correct copy of the foregoing final order dismissal has been sent by U.S. Mail to the following person on this 30th day of May 2006:

Edo Meloni, Esq.
Fein & Meloni, Esqs.
900 S.W. 40th Avenue
Plantation, Florida 33317
Facsimile: 954.316.5890

James W. Earl, Arbitrator