



LAW OFFICES  
WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP

Michael T. Schulman  
mschulman@wrslawyers.com

RN5034-001

August 20, 2018

**VIA ELECTRONIC AND U.S. MAIL**  
tracy.carter@fsresidential.com

Board of Directors  
Somerset Owners Association  
c/o First Service Residential  
7650 Town Square Way  
Reno, Nevada 89523

Attention: Tracy Carter

Re: Somerset Owners Association (the "Association")

Dear Board Members:

This is a letter which is not subject to the attorney client privilege and which may be disseminated to members of the Association regarding certain matters in which we are presently representing the Association. The purpose of this letter is to apprise the members of such matters and/or for them to utilize such letter in complying with NRS 116.4109 if they are selling their homes.

**Somerset Owners Association adv. Herbert and Linda James**  
Washoe Co. District Court Case No. CV16-00220

On or about February 12, 2016, the Jameses filed a complaint in the district court alleging that the Association did not have the right to enforce the CC&Rs against additional property the Jameses acquired from the former Northgate golf course adjacent to their original parcel, and which they subsequently incorporated into their original parcel. Among other things, the Jameses are seeking a declaration from the court that the Association cannot enforce its CC&Rs against the Jameses' entire property, only the original portion. The Association filed an answer and cross-complaint against the Jameses relating to their failure to comply with the Association's CC&Rs with respect to the Northgate land acquisition and incorporation of it into their original parcel.

On August 19, 2016, the Association amended its declaratory relief crossclaims to add thirteen homeowners, in addition to the Jameses, who purchased former Northgate golf course property and incorporated it into their original parcels. After the Association served each of the 13 new owners with copies of the counterclaims against them, counsel representing 12 of the new parties filed a motion to dismiss the claims, arguing the Association must proceed through the NRS Chapter 38 mediation requirements before it can file suit against the 13 owners. The Association unsuccessfully went through the mediation process with Mr. and Mrs. James. On November 18, 2016, the Association filed an opposition to the motion to dismiss, along with a motion asking that, if the court agrees with the new parties that the claims against them must first go to mediation, it stayed the James' claims until the mediation can be completed with the 13 new parties and the Association can then name any of the 13 owners in the James' suit if the mediation is not successful with such owners. Otherwise the Association might have to pursue the 13 owners (or some of them) in a different case than the James case, even though the issues are exactly the same.

The Association does not want to try the same issues in different district courts as the cases might provide different results, leaving the Association and the owners with inconsistent rulings. On December 1, 2016, the attorney for the 12 new parties filed their reply brief in support of their motion to dismiss the new claims. On December 7, 2016, the attorney for the Jameses filed their opposition to our motion to stay their portion of the case pending Ch. 38 mediation with the 13 new parties.

We prevailed as to the issue of stay, and agreed to dismissal followed by re-filing after mediation with the new parties. The mediation took place on June 16, 2017, with all parties except the Vasquez owners. The Association was able to reach settlements with all of the owners, except for the Jameses and Vasquez. The Association negotiated settlement agreements to reflect the terms agreed to with all defendants except the Jameses and Vasquez.

On August 30, 2017, the parties attended a Pre-Trial Conference, wherein the parties reported that six Settlement Agreements have been executed and four were expected to be executed within the next two weeks. The parties also moved to vacate the September 7, 2017 Status Check and the September 11, 2017 Trial date. The Judge denied as to the Status Check and granted vacating the trial date and lifted the stay. The parties were ordered to prepare a Stipulation and Order, which was filed on August 31, 2017.

On September 7, 2017, the parties attended the Status Hearing. The parties reported that seven of the twelve Settlement Agreements had been executed. The Court scheduled a Status Hearing for November 9, 2017. On September 11, 2017, an Order Lifting Stay and Vacating Trial Setting Date was filed.

The settlement checks are being prepared for those that the lot expansion agreements have been recorded.

An additional day of mediation was held on October 10, 2017, to address the issues of Homeowner Vasquez. The mediation was successful and the parties concluded the final details of Homeowner Vasquez's Lot Expansion Agreement. As a result, in addition to Mr. and Mrs. James, the litigation will go forward with only two remaining property owners.

On December 27, 2017, the Association filed a First Amended Counterclaim (Third Party Complaint) against Homeowners Ditchvevs and McCullochs. The McCullochs have responded to the First Amended Counterclaim (Third Party Complaint) and filed a counterclaim. The Association responded to McCullochs' Counterclaim on March 15, 2018.

The Ditchvevs settled and a lot expansion agreement was recorded against their property. The Ditchvevs have been dismissed from the action.

A status hearing took place on April 10, 2018. During the status check, Plaintiffs notified the Court they are ready to move the case forward. Counsel for Somerset indicated the need for additional discovery. The Court inquired as to whether the parties would participate in a Settlement Conference. Somerset counsel agreed, however, noted that this matter has been mediated twice previously. Plaintiffs' counsel indicated that settlement has not worked in the past as key legal issues exist. The Court entered a trial Scheduling Order and set a firm bench trial date for November 19, 2018.

As part of the discovery phase of the case, James and McCulloch have filed Motions for Summary Judgment. The opposition deadlines have been extended to August 24, 2018. We have scheduled the depositions of Mr. and Mrs. James and Mr. and Mrs. McCulloch and various other deponents to be conducted throughout September.

**Somerset Owners Association adv. Lawrence Adam Morrison**  
Washoe Co. District Court Case No. CV14-01081

On or about May 20, 2014, Lawrence Adam Morrison filed a complaint in the district court against Pulte Mortgage, LLC, Barbara Holmes and Bank of America, N.A. ("BANA") requesting quiet title on the property. Mr. Morrison is asking the court to rule that he, as the present owner post-foreclosure, owns the property free and clear of the other parties' interests in the property, such as a bank lien due to the original owner's mortgage. On June 3, 2016, BANA filed their Amended Answer and Counterclaim against the Association and served the Counterclaim on July 25, 2016. BANA's Counterclaim is arguing that the foreclosure was improper and therefore they still have a security interest in the property, i.e. that their original

mortgage lien was not wiped out by the foreclosure. On August 15, 2016, the Association filed their Answer with a Counterclaim against United Legal Services, Inc. (“ULS”) and Atkinson Law Associates, Ltd. The Association alleged that they contracted with and relied upon ULS to perform the collections and/or foreclosure services correctly and in accordance with all legal requirements.

On August 22, 2016, the Association filed a Voluntary Dismissal of Atkinson Law Associates. On September 1, 2016, an Order extending discovery deadlines was executed and filed. The original discovery cut off was January 5, 2017. The Association served their initial disclosures on September 21, 2016. Additionally, the Association will begin analyzing the documents disclosed by the other parties. To date, a trial date has not been set in this matter. On March 3, 2017, due to a pending Supreme Court case, the court stayed the case and ordered the Plaintiff to maintain the status quo and payments.

A status conference was scheduled for August 18, 2017, however it did not go forward and we expect that the court will reschedule to a later date.

On September 15, 2017, counsel for Plaintiff filed a Motion to Withdraw due to non-payment of attorney’s fees. On November 1, 2017, the Law Office of Mike Beede, PLLC substituted in as counsel for Plaintiff, Lawrence Adam Morrison. On November 30, 2017, this matter was stayed by the Court. The matter is still stayed.

**Somerset Owners Association v. Somerset Development, et al.**  
Washoe County District Court Case No. CV17-02427

On December 29, 2017, on behalf of the Association we filed a civil action against Somerset Development and other parties regarding defects found by American Geotechnical in the over 70,000 lineal feet of common area rockery walls. One day earlier we served the NRS Chapter 40 defect notices on the same entities. We are in the very early stages of these proceedings, therefore no Court dates have yet been set. The developer has engaged counsel who has been in contact with the Association’s counsel to discuss preliminary issues and scheduling. We will be in a position to provide more details in future updates as the litigation proceeds.

On April 11, 2018, a Doe Amendment to the Complaint was filed, substituting true named parties for fictitious names.

Inspections of the property took place on April 23, 2018. On April 27, 2018, Parsons Bros Rockeries California, Inc. was dismissed without prejudice and on May 10, 2018, Parsons Rocks! LLC was also dismissed without prejudice.

On May 3, 2018, a First Amended Complaint was filed on behalf of the Association. On May 10, 2018, a Stipulation and Order for Dismissal Without Prejudice was filed, dismissing Parsons Rocks! LLC.

Mediation between the principal litigants was held on June 22, 2018. Mediation proceedings are confidential, so the details of the session cannot be disclosed. However, although the case did not settle significant progress was made among and between respective counsel regarding certain procedural matters which will expedite determining the rights of the parties and the course of the case.

On July 31, 2018, as part of discovery, we began disclosing documents to all parties on behalf of the Association and will continue to disclose as required by the rules.

On August 13, 2018, Q&D Construction filed its Answer to the First Amended Complaint. On August 17, 2018, Somerset Development Company filed an Answer to the First Amended Complaint and Cross-Claim was filed. To date, we have not been served with the Answer and Cross-Claim.

**Somerset Owners Association adv. Unknown Owner - NRED Case #2018-784**

On June 18, 2018, the Association received notification from the Nevada Real Estate Division (“NRED”) that an owner had filed a complaint with the NRED alleging that the Association did not comply with the language of NRS 116.31088 in obtaining the ratification of the filing of the litigation relating to the construction defects in the rockery walls. The Association will be responding to such complaint.

The Association submitted a Confidential response to NRED on July 30, 2018 and provided the requested copies of the governing documents of the Association and the documents relating to the actual vote to ratify the filing of the lawsuit.

**Todd and Rachelle Shaw versus Somerset Owners Association NRED case NRED 19-04**

On or about July 19, 2018, the Shaws, who own a home in Somerset Owners Association, served a complaint on the association. The complaint was filed in the Nevada Real Estate Division seeking mediation. The complaint alleges that the association improperly denied the Shaws architectural changes to their home consisting of certain lights and painting and that the association improperly fined them for installing the changes without association approval.

Board of Directors  
Somerset Owners Association  
August 20, 2018  
Page 6

The Association tendered the complaint to its insurance company for defense and or coverage and will review the claims with counsel. The insurance company assigned this matter to the law firm of Lewis Brisbois. Lewis Brisbois filed a response on behalf of the Association.

Except as stated herein, the undersigned knows of no other pending litigation of the Association, as of the date of the writing of this letter. You should contact the Community Manager to determine whether or not the Association is involved in any other litigation matters.

Very truly yours,

WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP



MICHAEL T. SCHULMAN

MTS:tam/nrm