

New Topic for <https://www.sevenlakeswest.org/mb.php>

Category: SLWLA Issues

Author: Terry Card

Topic: Letter to SLW Board of Directors, SLW Community Members, Stephen Later

Message:

May 12, 2021

Letter to SLW Board of Directors

SLW Community Members

Stephen Later, Board Outside Counsel

This open letter is to demand that the current Board seek a legal opinion from the outside Board Counsel regarding its handling of actions taken against the Community Advocate (CA) and Judicial Panel (JP) Chair that were arbitrary, questionable, and beyond the scope of Board authority. We are insisting that we be provided with such opinion, to include specific documented allegations. The Board's generalized, here say, and innuendos made concerning our competence and credibility are not acceptable.

Out of courtesy to the Board, we had been prepared to await your anticipated cooperation before copying the Community outside legal council. However, today's E-mail from the President to the JP on behalf of the Board has changed that decision and the outside council, Stephen Later, is being sent this open letter. That email achieved a serious low with respect to tact, logic, and understanding as to what a Board President's responsibilities are as an Officer of the Community.

Normally, we would not think of publicizing such an inflammatory piece. However, the Community Members deserve to see exactly how "hostile" and "vindictive" this President can be. The following is the email in question that was addressed to JP Members, with a copy to all Board Members:

"Due to recent actions of the Judicial Panel, the SLWLA Board of Directors mandates that the Panel meet with the Board at the May 25th Board meeting. It is preferable that you attend in person but if you are unable to do so, may appear via Zoom. If you are unable to attend, please let the Board know as unless there is a compelling reason that you cannot attend, your absence will be construed as a resignation from the Judicial Panel."

The present Board and the immediate past Board have made it a standard practice to either refuse to respond specifically to legitimate legal inquiries presented to it by the CA and JP; or, have elected to defuse such requests; or, have made dubious decisions by overstepping their legal boundaries as per the NC Planned Community Act; or, the Boards have gone back and rescinded prior approved legal actions, thus violating an age-old term entitled “ex post facto”.

They have made it impossible for the CA and the JP to function as the body that was duly set up under the North Carolina Planned Community Act (NCPCA) circa 2003 – 2005, to be “The Voice of the Community”, and to provide the necessary checks and balances to protect Community Members' rights and responsibilities, as they pertain to:

Compliance

Violations

Investigation

Conducting Hearings

Assessing Fines

On many occasions, what little interaction we have received by the Boards' responses to our legal inquiries have resulted in both inaccurate and misleading interpretations of the governing laws of order, and what particular laws supersede others. This Board's approach to summarily dismiss the CA and JP Chair with vague statements and innuendos, is totally opposite from the position being taken in this open letter. The following represents a few of the specific areas that have been breached by this current and immediate past Board.

Specific Examples of Allegations Against the Boards:

Example One: Boards' Assertion:

A Director recently submitted an email to the JP Chair stating the following: "According to article X section 2.1 The Judicial Panel shall, in all respects, be a committee of the Board of Directors of the SLWLA and shall operate under the authority and direction of the said Board. Nothing herein shall be construed to place any duty upon either the Board of Directors or the Judicial Panel to take any action whatsoever. I can't see how the JP an unelected body with no process for removal could ever be on equal footing with a board elected by the members with a mechanism for removal via the NCPCA. If you could provide the documentation from 17 or 18 years ago contradicting the by-laws then I could maybe get on board but otherwise I

cannot let stand, for precedence, the assertion that the JP is equal to the board, or that the board has given up any such rights other than to allow the JP to adjudicate infractions of the rules and regulations of members that the community manager or community advocate are unable to resolve."

JP Chair Rebuttal:

Email response to Director Liaison

"You are incorrect in your statement that I believe the Judicial Panel is on an "equal footing with the Board.".....What I stated was that the then Board, back some 17 -18 years ago, had decided to create an Adjudicatory Panel separate and apart from the Board pursuant to the NC Planned Community Act and that such panel has the rights and duties stated therein according to Article VI, Section 1.11 and Article X of the By-Laws. The Judicial Panel was provided the right to have complete authority, without interference from the Board,....."

Another Email Response to the Board President:

"Further, according to NCPA, § 47F-3-107.1, It clearly states "adjudicatory panel" and not "committee". If the Judicial Panel is a committee then it should have been properly placed on the SLW website years ago under the heading entitled "Committees". It has never been shown as anything other than an "adjudicatory panel". Is it because the Boards that have followed knew that it agreed to relinquish those five categories mentioned above, when SLWLA elected to be covered under the provisions of the NC Planned Community Act some 17-18 years ago? The answer is a definite yes."

Example Two: Boards' Assertion:

The JP Chair was out of town during the April 27, 2021 Zoom Board Meeting. However, he was told that the Board went into executive session to supposedly undo an approval of the JP Chair and the other JP Members that were approved for a three year term at the May 26, 2020, Board Meeting. It was believed that the President said it had to do with something procedural, and that the Board should not have approved the choosing of the JP Chair back in 2020. That is solely the responsibility of the JP Panel Members. So, the Board voted to undo the approval of May 26, 2020 altogether. They then voted their approval for the list of each JP Member, including the Chair, but, only as a Permanent Member. They then decided not to approve this JP

Member as the JP Chair. The JP was then given an ultimatum to choose a new JP Chair before the next month's Board Meeting.

JP Chair Rebuttal:

Prior to the end of the fiscal year 2019 through 2020, The JP Chair emailed the JP Liaison Director with the information that made up the Motion for the May 26, 2020 Board Meeting. By unamamous concurrence of the Permanent Members, the JP decided to continue having Terry Card as Chair. This email notice sent to the Board made the May 26, 2020 Motion a proper Motion, since 100% of the seven (7) Permanent Members had their three year terms end as of March 31, 2020. The Motion was submitted by the Vice President as follows: "Judicial Panel Vice President Ryan Fox · Motion: To appoint the following members of the Judicial Panel through fiscal, 2023: Terry Card, Chair, Bob Orr, Recording Secretary, Jack Bergquist, Kirsty Gilpin, John Hoffman, Kathy Kirst, Bill Rapp · Alternate Members (No Term Established As Yet): Larry McCallum, Joanne Sanutti, Ed Silberhorn".

The action taken by the Board on May 26, 2021, was a very unorthodox decision, and, quite frankly an illegal motion for at least one solid reason. The current President had no authority to go back and undo that 2020 Motion, and further, the JP did choose its Chair, and this information was submitted to the Liaison prior to the March 26, 2020 Board Meeting.

Example 3: Board's Assertion:

At a second March Board Meeting held on March 23, 2021, (with the first being the Annual Board Meeting on Sunday, March 21, 2021), based upon verbal testimony supplied by the President, the CA was summarily dismissed on the basis of not fulfilling the duties as thought to be appropriate according to the Board. On March 30, 2021, the Chair of Judicial received a memo from the Board regarding the Board's insistence that the JP overstepped its authority in getting involved with the CA's removal.

JP Chair Rebuttal:

The CA was not provided due process, and it is felt by the CA and the JP, that most, if not all of the allegations were purely innuendos, without specificity. Further, based upon NCPA § 47F-3-107.1, which was accepted by SLWLA some 17 to 18 years ago, administrative removal of the CA was

unauthorized and illegal. The Board has no jurisdiction with respect to interfering with any matters dealing with Compliance, Violations, Investigation, Conducting Hearings, and Assessing of Fines. As of this date, no proper, detailed notice of removal for cause has been submitted to the CA.

Example 4: Board's Assertion:

On March 16, 2021, the Board made a decision to remove two Message Board items, not once, but twice, that were placed there by the CA. Although there was no apparent reason provided for this action, it was apparent that a previous Member Complaint against the Board may have been the ultimate reason for the removals.

JP Chair Rebuttal:

A formal Compliance Violation/Complaint was properly submitted to the Community Manager (CM), and the Community Advocate (CA) by a Community Member in good standing. The gist of the complaint centers around alleged improper and inappropriate behavior of the Board in entertaining a meeting which was touted as being held in executive session, and therefore secret. Upon investigation by the CM and the CA, it was determined that it would serve no purpose to send the complaint on to the Judicial Panel. However, the CA did prepare a Letter of Reprimand addressed to the Board on March 16, 2021, and a copy was sent to me, as JP Chair. This complaint was handled correctly as per the SLW Rules and Regulations and By-Laws. Further, the determination to send a Letter of Reprimand instead of recommending a JP Hearing is totally within the jurisdiction of Compliance, ie, the CA.

Example 5: Board's Assertion:

According to the alleged charges, the CA was totally inappropriate in the handling of a complaint, which went to the JP, where a verdict was handed down, and ultimately appealed by the Respondent.

JP Chair Rebuttal:

On January 23, 2021 after investigating a legitimate complaint regarding the Board's handling of the appeal of a Judicial Panel ruling, a letter of reprimand was sent to the Board. The letter outlined the gross and inappropriate handling of information by certain committee and Board members and

detailed the Board's overall mismanagement of the appeal process. The letter of reprimand indicated that future Board actions should follow the SLWLA governing documents.

The letter of reprimand was chosen as a milder approach to managing the complaint rather than a submittal to the Judicial Panel where a more severe outcome could well have been the result.

To date, the Board has neither acknowledged nor responded to the January 23rd letter of reprimand and apparently has simply ignored it without giving it a moment of thought. However, the Board President did make innuendos at the March 23rd meeting when she orchestrated the removal of the CA in a very unprofessional manner, again, without specificity.

Rather than discuss the letters of reprimand; the legal inconsistencies apparent in our governing documents; and ways to improve the functioning of the Board in relationship to those governing documents, the Board chose to shoot the messengers. In conclusion, we are asking that the President of this Board, Pat Zlotin, be formally brought before the Community Members and that a motion for removal be undertaken.

Submitted by

Terry L. Card,
Chair, Judicial Panel (Illegally Removed)
Removed)

Ron Shepard,
Community Advocate (Illegally