

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

IN RE: PETITION FOR RECALL ARBITRATION

**LAUDERDALE OAKS CONDOMINIUM
XVII, INC.,**

Petitioner,

v.

Case No. 2012-02-2360

UNIT OWNERS VOTING FOR RECALL,

Respondent.

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SUMMARY FINAL ORDER

On May 9, 2012, Lauderdale Oaks Condominium XVII, Inc. (the Association) filed a petition for recall arbitration with the Division of Florida Condominiums, Timeshares and Mobile Homes. The petition seeks to affirm the decision of the Association's board of directors not to certify the recall of the following board members: Wayne Johnson, Deborah Bauer, Lasonja Manly, Johnny Bhajan and Louise Lapointe.

On May 23, 2012, the arbitrator entered an Order Requiring Answer to Petition for Recall Arbitration. A unit owner representative was not designated in the petition for arbitration, and none appeared on any of the recall ballots filed. Accordingly, the Association was directed, in an Order Requiring Posting dated May 23, 2012, to post the Order Requiring Answer, the recall rules of procedure, and a copy of the Petition for Recall Arbitration, along with its attachments, in a conspicuous place where meeting notices are usually posted. On May 30, 2012, the Association filed proof of compliance with the Order Requiring Posting.

Respondent's answer was due no later than June 13, 2012. As of the date of this Order, no answer or other pleading disputing the allegations contained in the petition for recall arbitration has been filed by, or on behalf of, Respondent. Therefore, the arbitrator concludes that Respondent is no longer challenging the facts as stated in the petition. Accordingly, a Summary Final Order is appropriate in this case pursuant to Rule 61B-50.119(3), Florida Administrative Code.

The petition states that all five members of the board were subjects of the recall. The written recall agreement was received by the board on May 2, 2012. The board determined not to certify the recall at a meeting held on May 7, 2012.

The total number of voting interests in the Association is 30; therefore, 16 votes for recall are necessary to recall a board member. The petition states that 16 purported recall ballots were cast against each of the five members on the board. Thus, if one recall ballot was properly rejected, the recall will fail for a lack of a majority.

The petition states, and the recall meeting minutes reflect, that the board rejected 5 recall ballots for having an invalid unit owner name or signature. Given that Respondent no longer contests this allegation; the arbitrator concludes that the board properly rejected these 5 recall ballots. Thus, there are, at most, only 11 recall ballots cast against each of the five members on the board. Accordingly, the recall fails for a lack of a majority. Because of this result, the arbitrator need not consider, and neither accepts nor rejects, the propriety of any of the other recall ballot rejections. The board's decision not to certify the recall will be affirmed due to a failure to obtain a majority vote to recall any board member.

Based on the foregoing, it is **ORDERED**:

The Association's decision not to certify the recall is AFFIRMED.

DONE AND ORDERED this 6th day of July, 2012, at Tallahassee, Leon County,
Florida.

David R. Slaton, Arbitrator
Department of Business and
Professional Regulation
Arbitration Section
1940 North Monroe Street
Tallahassee, Florida 32399-1029
Telephone (850) 414-6867
Facsimile (850) 487-0870

Certificate of Service

I hereby certify that a true and correct copy of the foregoing final order has been sent by U.S. Mail to the following persons on this 6th day of July, 2012:

John DePasquale
3060 NW 47th Terrace
Lauderdale Lakes, FL 33313
Qualified Representative for the Association

Clovis Andrew
2950 NW 46th Avenue, Unit 215
Lauderdale Lakes, FL 33313
(courtesy copy)

Hugh Jex
2950 NW 46th Avenue, Unit 110
Lauderdale Lakes, FL 33313
(courtesy copy)

David R. Slaton, Arbitrator