

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

IN RE: PETITION FOR ARBITRATION

TOWNVIEW CONDOMINIUM
ASSOCIATION, INC.,

Petitioner,

v.

Case No. 2006-00-2456

UNIT OWNERS VOTING FOR RECALL,

Respondent.

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SUMMARY FINAL ORDER

This final order is entered pursuant to rule 61B-50.119(3), Florida Administrative Code, which provides that "[a]t any time after the filing of the petition, if no disputed issues of material fact exist, the arbitrator shall summarily enter a final order awarding relief and failing to certify the recall if the arbitrator finds that no meritorious defense exists or if substantial compliance with the requirements of the rules and statutes relating to recall has not been demonstrated, and the petition is otherwise appropriate for relief."

On January 9, 2006, Townview Condominium Association, Inc. (respondent or association), filed a petition for recall arbitration with the Division. Subsequently, the case was assigned to the undersigned arbitrator. In the petition, the petitioner restated the numerous reasons why the board determined not to certify the recall at the meeting held on December 29, 2005, including failure to attain a majority of the voting interests and failure to provide recall and retain spaces for each board member sought to be recalled. Standing alone, either of these two issues render a recall agreement void *ab initio*. Thus, on February 1, 2006, the arbitrator issued an "Order Requiring Posting and

Order To Show Cause," requiring the petitioner to post the petition and the order in a conspicuous location on the common elements of the condominium and submit proof of posting to the arbitrator, and allowing the respondent the opportunity to respond to the petition and to specifically address in their response the failure to obtain a majority vote and the failure to provide separate recall and retain spaces on the ballots. The response was due no later than ten days from the date of posting. On February 7, 2006, the petitioner filed an affidavit as proof of posting the order and the arbitration petition on the condominium property on February 3, 2006. As of the date of this order, however, no response has been filed on behalf of the unit owners voting for recall. Therefore and based on the February 1, 2006, "Order Requiring Posting and Order to Show Cause," where the arbitrator found the recall to be fatally flawed for failing to include separate recall and retain lines for each board member sought to be recalled, the petitioner's decision to reject the recall agreement is AFFIRMED. The petitioner shall also post a copy of this order in the same manner as previously required by the arbitrator.

DONE AND ORDERED this 1st day of March, 2006, at Tallahassee, Leon County, Florida.



Susan Wilkinson Harnden, Arbitrator
Division of Florida Land Sales,
Condominiums, and Mobile Homes
Dept. of Business & Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-1029

Certificate of Service

I hereby certify that a true and correct copy of the foregoing summary final order has been sent by facsimile and U.S. Mail to the following persons on this 1st day of March, 2006:

Bennett L. Rabin, Esquire
200 North Pine Avenue, Suite A
Oldsmar, FL 34677
fax: (813) 792-3495



Susan Wilkinson Harnden, Arbitrator