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On behalf of the newly elected Board of Directors of Bonnie Brae Homeowner's Association, Inc.

Babb & Brown
505 W. Butler Road
Greenville, SC 29607

Attn: Everette Babb

April 29, 2016

Dear Mr. Babb,

In regards to your letter of March 10, 2016, you claim you have given your legal opinion to the matter. With all due respect, your opinion is wrong. You ask us to refer to 33-31-702 (a)(1), but you obviously fail to read the final word in that section "OR". The "or" means that section 33-31-702 (a)(2) applies as Bonnie Brae is NOT a religious corporation. SC 33-31-702 does in fact override the Bonnie Brae bylaws with regards to the requirement of calling a special meeting, and in fact, 5% of the voting power is sufficient. We can cite several sources, who agree your interpretation is incorrect.

You have incorrectly advised your client as to their legal obligation under SC 33-31-702, and as a result they failed to call the meeting as they were petitioned to do so.

1. The petition was called, legally under SC Code of Law 33-31-702. Special Meeting.

SECTION 33-31-702. Special meetings.

(a) A corporation with members shall hold a special meeting of members: [Bonnie Brae is a corporation with members].

(1) on call of its board or the person or persons authorized to do so by the articles or bylaws; or [notice the legal word "or"].

(2) [except as provided in the articles or bylaws of a religious corporation], if the holders of at least five percent of the voting power of any corporation sign, date, and deliver to any corporate officer one or more written demands for the meeting describing the purpose or purposes for which it is to be held. [Bonnie Brae is not a religious corporation, therefore, if the holders of at least five percent of the voting power... The Board claim there are 276 homeowners in the Bonnie Brae Association, (25% = 69 homeowners, therefore 5% is 14 homeowners. The Board claim 6 of the 22 signatures on the petition were invalid, therefore 16 of the signatures were valid, which is more than the 14 homeowners required to call a special meeting].

(b) The close of business on the thirtieth day before delivery of the demand or demands for a special meeting to any corporate officer is the record date for the purpose of determining whether the five percent requirement of subsection (a) has been met.

(c) If a notice for a special meeting demanded under subsection (a)(2) is not given pursuant to Section 33-31-705 within thirty days after the date the written demand or demands are delivered to a corporate officer, regardless of the requirements of subsection (d), a person signing the demand or demands may set the time and place of the meeting and give notice pursuant to Section 33-31-705. [the Board refused to acknowledge the petition, and refused to set the meeting as required under this section. Therefore, as it states "a person signing the demand or demands may set the time and place of the meeting and give notice... As the Board did not operate under the law of South Carolina, the ones demanding the special meeting have sent out notice to the homeowners of the meeting to be held, as is required by law. This meeting is therefore legal, valid, and will be binding on the Association].

(d) Special meetings of members may be held in or out of this State at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, special meetings must be held at the corporation's principal office.

(e) Only those matters that are within the purpose or purposes described in the meeting notice required by Section 33-31-705 may be conducted at a special meeting of members.

HISTORY: 1994 Act No. 384, Section 1.

The notice that was delivered to homeowners is legitimate under South Carolina Law, and whether the Board of Directors sanction it or not, the meeting is sanctioned under South Carolina Law. The law is there to protect the homeowners from boards (and managing agents) acting specifically in the manner in which Bonnie Brae's board was, where they totally ignore the law for their own benefit, whatever that may be. You state the Board operates strictly in compliance with the By-Laws, but that is simply not true, we have many examples we could cite where they are operating illegally, such as refusing to accept proxies at the annual meeting, in violation of SC Code of Law. We understand you have to accept what your client (or your client's managing agent) tells you, but in this instance they are untruthful, and the contents of your letters show a total lack of interpretation of the law, or maybe you are just trying to intimidate us? It would probably be in your best interest to drop this client, and their managing agent, as soon as possible.

The bylaws are the governing documents for the Board to operate under, the homeowners are bound by the CCRs and the bylaws. However, as you are aware, there are sections of the bylaws that are superseded by South Carolina Code of Laws. The ability to challenge the Board of directors is something which is afforded to members under the protection of South Carolina State Law. By exercising this right, neither you, the board, or the board's managing agent are permitted to threaten us. There is no civil conspiracy, and your suggestion there is, is not only offensive, but is absolutely outrageous. Homeowner's Associations are probably one of the last remaining, truly democratic processes left in this fine country, and threats that we are committing a civil conspiracy will be defended strenuously.

The contract between the Board and the management company is of no concern, at this moment in time to the petitioners, and other concerned homeowners. Contracts are something which are decided by the Board of directors, and once this matter is concluded, any contracts between the association and their vendors will be reviewed. It would seem that your client's agent, on whose instructions you are actually taking, is unethically trying to protect themselves by having you threaten the petitioners. This is something that is in direct violation of their governing body ethics. As the contract clearly states it may be terminated at any time without cause, there shall be no damages claimable, except for the standard notice as is required to terminate the agreement.

In reference to your letter of April 20, 2016.

As pointed out above, the call for the special meeting was legitimate and legal under SC law. Your client's failure to accept that is of no concern to us. The meeting has gone ahead as planned and the result of the meeting was the existing Board of directors were removed, and a new Board of directors were elected, by votes of 70-0. These votes were not counted by the petitioners, but by two independent members of the Bonnie Brae homeowner's association. The ballots may be inspected by you, the previous board (who have now been removed), and the association's managing agent at any time. Please contact us so a suitable time and location can be established.

As the new board has been elected in a democratic manner, in strict accordance with the Bonnie Brae bylaws and South Carolina Code of Law where applicable, technically we, as the new board of directors for Bonnie Brae Homeowners Association, Inc., are now your client. As such we would advise you to inform your other clients (former board members, and Bonnie Brae's managing agent), of these material facts and instruct the managing agent that they are now to consider this new Board of directors as their point of contact for the Bonnie Brae Homeowners Association, Inc.

Your former client (former board members) and the association agent's continued threat of taking legal action against us will no longer be tolerated, and we request that you advise them to cease and desist, immediately.

We shall be in contact with the managing agent in the next few days, and will expect the association's documents and records to be turned over to us without resistance. The initial documents required should be inclusive of, but not limited to, website/email login and passwords, pool security system login and passwords, vendor contracts, vendor invoices, bank statements, and detailed homeowner account balances. Electronic copies of these will be sufficient.

Should you, the former board members of Bonnie Brae, or the association's agent continue in your illegal activities, misrepresentation of the law, and attempts to intimidate and threaten us, we are prepared to take the matter to the courts.

We trust it will not come to this, and look forward to an amicable transition between the previous board and the newly elected Board of Directors.

Sincerely,



Roman Kanach
President
Bonnie Brae Homeowner Association Inc.



Tom Wells
Vice President
Bonnie Brae Homeowner Association Inc.