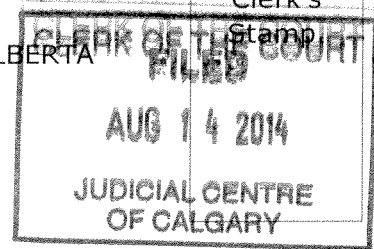


COURT FILE NUMBER 1401-00013
 COURT COURT OF QUEEN'S BENCH OF ALBERTA
 JUDICIAL CENTRE CALGARY
 APPLICANT/RESPONDENT CONDOMINIUM CORPORATION
 BY CROSS-APPLICATION NO. 0312235
 RESPONDENTS/APPLICANT GEOFFREY SCOTT and
 BY CROSS-APPLICATION DONNA SCOTT
 DOCUMENT **AFFIDAVIT OF THE RESPONDENT BY
 CROSS-APPLICATION**
 ADDRESS FOR SERVICE McLEOD LAW LLP
 AND CONTACT 300, 14505 Bannister Road SE
 INFORMATION OF PARTY Calgary, AB T2X 3J3
 FILING THIS DOCUMENT Tel: (403) 278-9411
 Fax: (403) 271-1769



Attn: Stephanie Whyte / File 100606

AFFIDAVIT OF DEAN JARVEY

Sworn on Wednesday, the 13th day of August, 2014

I, Dean Jarvey, of the City of Calgary, in the Province of Alberta, SWEAR AND SAY THAT:

1. I am a member of the Board of Directors of Condominium Corporation No. 0312235, also known as Mystic Springs, the Respondent by Cross-Application herein, and as such have personal knowledge of the matters hereinafter deposed to except where stated to be based on information and belief and whereso stated I do verily believe same to be true.
2. This Affidavit in sworn in reply to the Scotts' Application against the Condominium Corporation. I hereby adopt the statements made in my Affidavits of January 8, 2014 and June 16, 2014 as if each were reaffirmed herein.
3. The Applicants by Cross-Application, Geoffrey Scott and Donna Scott (the "Scotts"), have brought an Application against the Condominium Corporation seeking a declaration that the conduct of the Condominium Corporation amounts to improper conduct pursuant to section 67 of the *Condominium Property Act* (the "Act") R.S.A. 2000 c. C-22.
4. The Scotts' claim of improper conduct appears to be based on the Condominium Corporation enforcing Article 14 of the Corporation's Bylaws and the Scotts' dissatisfaction with the Corporation's disclosure of financial records.
5. The Scotts allege that the Condominium Corporation enforcing Article 14 of the Bylaws amounts to improper conduct, based on their opinion that Article 14 is contrary to the Act.

6. Pursuant to sections 37(1) and 28(7) of the Act, the Condominium Corporation, as directed by the Board of Directors, is statutorily obligated to uphold the Bylaws of the Corporation. The Act holds as follows:

37(1) A corporation is responsible for the enforcement of its bylaws and the control, management and administration of its real and personal property and the common property.

28(7) The powers and duties of a corporation shall, subject to any restriction imposed or direction given in resolution passed at a general meeting, be exercised and performed by the board of the corporation.

Attached hereto to this my Affidavit and marked as **Exhibit "A"** are relevant sections of the Act referenced herein.

7. Pursuant to section 32(3) of the Act (Exhibit "A"),

32(3) Any bylaw may be amended, repealed or replaced by special resolution.

8. The Bylaws were properly amended by Special Resolution which was effective January 1, 2010. The amendment was registered with the South Alberta Land Titles Office on the 13th day of January, 2010 as Instrument Number 101 013 191. The Bylaw amendment is attached as Exhibit "I" to my prior Affidavit, sworn January 8, 2014.

9. Regardless of the opinion of the Scotts, so long as Article 14 remains in effect the Corporation is required to enforce it as the failure to do so amounts to improper conduct on the Corporation's part under section 67(1)(a)(i) of the Act (Exhibit "A").

10. The mechanism by which Bylaws are amended or repealed is by Special Resolution of the Corporation. At the Annual General Meeting held April 27, 2013 the Respondent, Geoffrey Scott, made a motion to have a Special Resolution to repeal Article 14. Of the owners present at the meeting, only 7 voted in favour of having a Special Resolution while 24 voted against. Attached hereto to this my Affidavit and marked as **Exhibit "B"** is a true copy of the April 27, 2013 AGM Minutes.

11. Pursuant to the Act, not only is the Corporation statutorily required to enforce the Bylaws, the Owners are statutory required to abide by the Bylaws pursuant to section 32(2) of the Act (Exhibit "A") which states,

32(2) The owners of the units and anyone in possession of a unit are bound by the bylaws.

12. The Scotts have shown a blatant disregard for the Bylaws of the Corporation, renting their Units outside of the Rental Pool and offering their services to act as Rental Manager to other Owners.

13. The Scotts have further claimed that the manner by which the Corporation provided access to financial records amounts to improper conduct pursuant to section 67 of the Act.

14. Pursuant to section 4.1(e) of the Bylaws the "Books of Accounts" of the Corporation is the record of all money received and spent by the Corporation, with the details for such receipts or expenditures. Section 4.1(e) of the Bylaws states,

4.1 The Board shall

- (e) cause proper books of account to be kept in respect of all sums of money received and expended by it and all and the matters in respect of which receipt and expenditure shall take place

15. Pursuant to section 4.1(h),

4.1 The Board shall

- (h) on written application of an Owner or Mortgagee, or any person authorized in writing by him, to make the books of account available for inspection at all reasonable times

Attached hereto to this my Affidavit and marked as **Exhibit "C"** are relevant portions of the Bylaws of Corporation.

16. On or about March 18, 2013 Geoffrey Scott requested by email to Peka Management that an electronic copy of the "General Ledger" for 2011 and 2012 be forwarded to him, though the entitlement under the Bylaws is to inspect the Books of Account. A copy of the email is attached as Exhibit "A" to the Affidavit of Geoffrey Scott.

17. In reply to Mr. Scott's request, by emails dated April 17 and April 20, 2013 I advised Mr. Scott that he could make an appointment with Peka Management to review the books of account for the Corporation, which information would be subject to redaction for privacy issues. Attached hereto to this my Affidavit and marked as **Exhibit "D"** is a true copy of the email exchange resulting from Mr. Scott's March 18, 2013 request.

18. I am advised by Cathy Robinson of Peka Management, Property Manager for Mystic Springs, that by emails dated May 10, 2013 and May 17, 2013 she offered Geoffrey Scott the opportunity to attend at the offices of Peka Management at his convenience to inspect the bank statements of the Corporation together with the paid bills, both of which provide details of the receipts and disbursements of the Corporation. Attached hereto to this my Affidavit and marked as **Exhibit "E"** is a true copy of the email exchange between Cathy Robinson and the Scotts, portions of which were attached to the Affidavit of Geoffrey Scott.

19. Based on my review of the email exchange between Cathy Robinson and the Scotts (Exhibit "E") I do verily believe that on September 1, 2013 Geoffrey Scott indicated he would like to review the bank records and paid invoices. Ms. Robinson advised that the documents would be made available for his review and asked for the date and time he wished to attend.

20. Further based on my review of the email exchange between Cathy Robinson and the Scotts (Exhibit "E") I do verily believe that Donna Scott indicated on September 3, 2013 that

they were not interested in reviewing the bank statements and paid invoices but instead required an inspection of the "General Ledger" as it was their "right as owners per our current bylaws" and insisted the ledger be made available 9:00 AM September 5, 2013.

21. There is no entitlement under the Bylaws to review the "General Ledger" but only an entitlement to inspect the "Books of Account" as defined under section 4.1(e). The Corporation's bank statements as created by the banking institution is a proper Book of Account detailing all receipts and expenditures of the Corporation.

22. By email dated September 12, 2013 I advised the Scotts that the bank statements and paid invoices were available for their review. Attached hereto to this my Affidavit and marked as **Exhibit "F"** is a true copy of my September 12, 2013 email. Further attached is a copy of Mr. Scott's September 27, 2013 reply to my email.

23. The Scotts continued to insist that they be given the opportunity to review the "General Ledger," as a result of which Mystic Springs sought direction from the Office of the Information and Privacy Commission. By letter dated October 31, 2013 the Privacy Commission confirmed that the *Personal Information Protection Act* ("PIPA"), S.A. 2003 c. P-6.5 does apply to Mystic Springs. Attached hereto to this my Affidavit and marked as **Exhibit "G"** is a true copy of the October 31, 2013 correspondence from the Privacy Commission.

24. Pursuant to section 7(1) of PIPA,

7(1) Except where this Act provides otherwise, an organization shall not, with respect to personal information about an individual,

(d) disclose that information unless the individual consents to the disclosure of that information.

Attached hereto to this my Affidavit and marked as **Exhibit "H"** is a true copy of section 7(1) of PIPA.

25. The owners within Mystic Springs have not provided their consent to have their personal information disclosed and, in fact, some owners have expressly asked that their personal information not be released.

26. Though it was beyond the scope of the obligation under section 4.1(h) of the Bylaws, the Corporation offered Geoffrey Scott the opportunity to review the "General Ledger" of the Corporation on January 2, 2014, which was redacted in accordance with the PIPA legislation such that all Units were identified by only the Unit number. Beyond the removal of the owners names, no other alterations were made to the records that Mr. Scott inspected.

27. Pursuant to section 74 of the Act and section 3.3(t) of the Bylaws, the Corporation is entitled to charge a fee for such services. Section 74 of the Act (Exhibit "A") provides,

71. The corporation may charge a reasonable fee to compensate it for the expenses it incurs in producing and providing a document required under this act.

28. While section 3.3(t) of the Bylaws (Exhibit "C") provides,

3.3 In addition to the powers and rights conferred upon the Corporation under the Act, the Corporation may, and is hereby authorized to:

(t) charge a reasonable fee in respect of either the issuance of any Estoppel Certificate of any information which the Corporation is required or may produce to an Owner, Mortgagee or other party hereunder or pursuant to the Act.

29. It is the practice of the Corporation that the fee associated with the provision of information is the cost charged by Peka Management in providing any such service. As a courtesy, the Corporation did not charge a fee for Mr. Scott's January 2, 2014 review, though he has been advised that there will be a cost associated with any future requests.

30. Section 4.1(i) of the Bylaws provides,

4.1 The Board shall

(i) cause to be prepared and distributed to each Owner and to each Mortgagee a copy of the audited Financial Statement, a copy of the receipts of contributions of all Owners towards the Common Expenses and disbursements made by the Corporation and a copy of the Auditor's Report within 120 days after the end of the fiscal year of the Corporation

31. On or about March 18, 2013 Geoffrey Scott requested by email to Peka Management that he be provided a "copy of the receipts of contributions of all Owners toward the Common Expenses" pursuant to 4.1(i). A copy of the email is attached as Exhibit "A" to the Affidavit of Geoffrey Scott.

32. In accordance with section 4.1(i) of the Bylaws, each year the financials for the fiscal year are distributed to the owners in advance of the Annual General Meeting. In the financial package is a Statement of Operations which includes the amount received in contributions paid by the owners towards the common expenses and the disbursements made by the Corporation for that year. The Respondents have been provided a copy of each years' financial package as it is distributed to the Owners.

33. The Bylaws of the Corporation allow for inspection of the books of account, not for photocopies or electronic copies of same. The only electronic financial documentation that is provided to any owner within the Corporation are the year-end financials. Further all owners are required to pay the fee charged by Peka Management for providing special services, and the provision of additional information is a special service.

34. The Scotts seek "full access to the complete and un-redacted financial records of the Corporation, by furnishing electronic and hard copies," with the associated fee for same being only the cost of photocopying. The Scotts seek preferential treatment that is not offered or available to any other owner and that is over and above that which is allowed under the Bylaws of the Corporation.

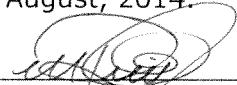
35. The Scotts further seek a declaration that there is "no privacy issue as between owners of units within the Corporation". This is contrary to the direction of the Office of the Information and Privacy Commission and in opposition to the wishes of other owners within the Corporation.

36. The Condominium Corporation has and does comply with the Bylaws with respect to disclosure of financial information to all owners, including the Respondents.

37. I swear this Affidavit in opposition to the Application of Geoffrey Scott and Donna Scott, seeking the following relief:


- a. A declaration that the conduct of the Condominium Corporation is not improper conduct pursuant to section 67 of the Condominium Property Act;
- b. Dismissal of the Application of Geoffrey Scott and Donna Scott;
- c. Awarding costs on the basis of a solicitor as rendered to his own client, which costs shall be added to and become part of the monthly assessment for the Unit;
- d. Directing that the Corporation may charge interest on any costs incurred with respect to this matter until all amounts owing to the Corporation are paid in full, which interest shall be at the rate stipulated in the Applicant's bylaws;
- e. Granting the Corporation a charge over the lands to enforce payment of any amount owing pursuant to this matter; and
- f. Such further and other relief as this Honourable Court may deem just.

Sworn before me at the City of Calgary)
in the Province of Alberta, this 13th)
day of August, 2014.)



A Commissioner for Oaths in and)
for the Province of Alberta)

Myleen Dale Ring
A Commissioner for Oaths
in and for the Province of Alberta
My Commission Expires November 24, 2015



DEAN JARVEY

Board of directors

28(1) A corporation shall have a board of directors that is to be constituted as provided by the bylaws of the corporation.

(2) Every member of a board shall exercise the powers and discharge the duties of the office of member of the board honestly and in good faith.

(3) Where a member of the board has a material interest in any agreement, arrangement or transaction to which the corporation is or is to become a party, that person

(a) shall declare to the board that person's interest in the agreement, arrangement or transaction,

(b) shall not vote in respect of any matter respecting that agreement, arrangement or transaction, and

(c) shall not be counted when determining whether a quorum exists when a vote or other action is taken in respect of the agreement, arrangement or transaction.

(4) Subsection (3) does not apply to an agreement, arrangement or transaction in which the member of the board has a material interest if that material interest exists only by virtue of that member of the board owning a unit.

(5) A corporation shall, within 30 days from the conclusion of the corporation's annual general meeting, file at the land titles office a notice in the prescribed form stating the names and addresses of the members of the board.

(6) Notwithstanding subsection (5), a corporation may at any time following a change in

(a) the membership of the board,

(b) the name of a member of the board, or

(c) the address of a member of the board,

THIS IS EXHIBIT " A "
Referred to in the Affidavit of

Dean Jarvey

Sworn before me this 13th

day of August 2014



A Commissioner of Oaths in and for
the Province of Alberta

Myleen Dale Ring

A Commissioner for Oaths

in and for the Province of Alberta

My Commission Expires November 24, 2015

file at the land titles office a notice in the prescribed form stating the change

(7) The powers and duties of a corporation shall, subject to any restriction imposed or direction given in a resolution passed at a general meeting, be exercised and performed by the board of the corporation.

(8) A person who

(a) is a bona fide third party dealing at arm's length with the corporation, and

(b) does not have notice of a restriction or direction referred to in subsection (7),

is not liable for or otherwise affected or bound by any breach of or failure to follow that restriction or direction by the corporation.

(9) All acts done in good faith by a board are, notwithstanding that it is afterwards discovered that there was some defect in the election or appointment or continuance in office of any member of the board, as valid as if the member had been properly elected or appointed or had properly continued in office.

(10) At least $\frac{2}{3}$ of the membership of the board of directors of the corporation shall be unit owners or mortgagees unless the bylaws provide otherwise.

RSA 1980 cC-22 s23;1996 c12 s21

Bylaws

- 32(1) The bylaws shall regulate the corporation and provide for the control, management and administration of the units, the real and personal property of the corporation and the common property.
- (2) The owners of the units and anyone in possession of a unit are bound by the bylaws.
- (3) Any bylaw may be amended, repealed or replaced by a special resolution.
- (4) An amendment, repeal or replacement of a bylaw does not take effect until
- (a) the corporation files a copy of it with the Registrar, and
 - (b) the Registrar has made a memorandum of the filing on the condominium plan.
- (5) No bylaw operates to prohibit or restrict the devolution of units or any transfer, lease, mortgage or other dealing with them or to destroy or modify any easement implied or created by this Act.
- (6) The bylaws bind the corporation and the owners to the same extent as if the bylaws had been signed and sealed by the corporation and by each owner and contained covenants on the part of each owner with every other owner and with the corporation to observe and perform all the provisions of the bylaws.
- (7) If there is a conflict between the bylaws and this Act, this Act prevails.

RSA 1980 cC-22 s26;1996 c12 s26

Control and management

37(1) A corporation is responsible for the enforcement of its bylaws and the control, management and administration of its real and personal property and the common property.

(2) Without restricting the generality of subsection (1), the duties of a corporation include the following:

(a) to keep in a state of good and serviceable repair and properly maintain the real and personal property of the corporation and the common property;

(b) to comply with notices or orders by any municipal authority or public authority requiring repairs to or work to be done in respect of the parcel.

(3) A corporation may by a special resolution acquire or dispose of an interest in real property.

RSA 1980 cC-22 s30;1996 c12 s60

Court ordered remedy

67(1) In this section,

(a) “improper conduct” means

(i) non-compliance with this Act, the regulations or the bylaws by a developer, a corporation, an employee of a corporation, a member of a board or an owner,

(ii) the conduct of the business affairs of a corporation in a manner that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of an interested party,

(iii) the exercise of the powers of the board in a manner that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of an interested party,

(iv) the conduct of the business affairs of a developer in a manner that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of an interested party or a purchaser or a prospective purchaser of a unit, or

(v) the exercise of the powers of the board by a developer in a manner that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of an interested party or a purchaser or a prospective purchaser of a unit;

(b) “interested party” means an owner, a corporation, a member of the board, a registered mortgagee or any other person who has a registered interest in a unit.

(2) Where on an application by an interested party the Court is satisfied that improper conduct has taken place, the Court may do one or more of the following:

(a) direct that an investigator be appointed to review the improper conduct and report to the Court;

(b) direct that the person carrying on the improper conduct cease carrying on the improper conduct;

(c) give directions as to how matters are to be carried out so that the improper conduct will not reoccur or continue;

(d) if the applicant suffered loss due to the improper conduct, award compensation to the applicant in respect of that loss;

(e) award costs;

(f) give any other directions or make any other order that the Court considers appropriate in the circumstances.

(3) The Court may grant interim relief under subsection (2) pending the final determination of the matter by the Court.

RSA 2000 cC-22 s67;2009 c53 s40

Fees for documents

74 The corporation may charge a reasonable fee to compensate it for the expenses it incurs in producing and providing a document required under this Act.

RSA 1980 cC-22 s66

THIS IS EXHIBIT " 13 "
Referred to in the Affidavit of
Dean Jarvey
Sworn before me this 13th
day of August 2014

Mystic Springs Chalets & Hot Pools Condominium
Annual General Meeting
Held April 27, 2013 at 11:30 a.m. at Riverstone Hall

[Signature]
A Commissioner of Oaths in and for
the Province of Alberta

1. **Call to Order:** The meeting was called to order at 12:03 p.m. by Dean Jarvey. No objections from those in attendance to Chuck Patel (of PEKA) hosting the meeting and Amanda Paynton (of PEKA) recording the minutes on behalf of the Condominium Corporation.
2. **Calling of the Roll:** 26 units present and 10 by proxy. Quorum declared.
3. **Proof of Notice of Meeting:** Proof of notice of the meeting acknowledged by those in attendance.
4. **Approval of the November 19, 2011 A.G.M. Minutes:** Motion by Dean Jarvey, seconded by Dean Miles, to approve the minutes of the A.G.M. held November 19, 2011 with the following amendment:
 - Remove all names and replace with appropriate unit numbers.Motion carried.
5. **Business Arising From the November 19, 2011 A.G.M. Minutes:**
 - (a) **Grant Thornton:** Unit 137 asked a question of Grant Thornton regarding potential bias with having both Bellstar and Mystic Springs as clients. Dale Brown of Grant Thornton responded that they work with independence and objectivity or they would have resigned from the assignment.
 - (b) **Bellstar:** Unit 105 asked if the record is "straight" from Bellstar. PEKA reiterated that the Ownership will need to rely on the Grant Thornton accountants who provided "review engagement" financials for the past three years to validate information.
6. **Reports:** None.
7. **Financial Review:** Kelly Ross & Dale Brown (of Grant Thornton) gave an overview of the financials for the years ending December 31, 2010, December 31, 2011 and December 31, 2012 with those present.
 - 2010 financials show the transition from a condominium corporation hotel to condo fees. The expenses went down. Note 1 outlines the nature of the split.
 - 2011 financials show the first 9 months with Bellstar and the remaining 3 months with PEKA. Expenditures equal less than cash reserves.
 - 2012 financials show a surplus of \$74,000. Note 2 explains the changes to the accounting framework under the new standards.
 - The Board showed gratitude to Del Reinhart for acting as a liaison with Grant Thornton and the Board.
 - Those present thanked Grant Thornton for attending and explaining the financials.

Myleen Dale Ring
A Commissioner for Oaths
in and for the Province of Alberta
My Commission Expires November 24,

- Unit 113 questioned the fees in 2011 i.e. the legal and management fees. Grant Thornton explained that the legal fees included the transition from Bellstar and the Bylaw review.
8. **Appointment of Accountant:** Dale Brown (of Grant Thornton) explained the three levels of accounting; notice to reader, review engagement and a full audit. Motion by Del Reinhart, seconded by Glenn Street, to appoint Grant Thornton to provide a “Review Engagement” for the year ending December 31, 2013. Motion carried.
 9. **Election of Board:** Dean Jarvey, Dean Miles, Glenn Street, Chris Stathonikos and Donna Scott volunteered and Del Reinhart was nominated to serve on the Board. Two scrutineers were volunteered to count the votes once completed. The ballots will be destroyed following the meeting. Motion by Shawna Ciezki, seconded by David Adelman to have the scrutineers count the votes. Motion carried.

Those present elected by a vote Dean Jarvey, Dean Miles, Glenn Street, Chris Stathonikos and Del Reinhart to the Board.

The Board and those present thanked Donna Scott for the years she served on the Board.

10. **New Business:**
 - (a) Bylaws Article 14: Unit 114 expressed the opinion that article 14 of the Condominium Bylaws is illegal since it restricts Owner rentals. The Board would prefer to send out revised Bylaws with the deficiencies changed after the Alberta Condominium Property Act has been revised.

Motion by Geoff Scott, seconded by Mike Rana to have a Special Resolution of the Owners to remove section 14 of the Bylaws. Seven (7) votes in favor, twenty-four (24) votes opposed, and two (2) abstained. Motion defeated.
 - (b) Special Resolution of January 2012: The proposed special resolution of the Bylaws in January 2012 was not passed due to a lack of Owner involvement. The Board will send out another set of revised Bylaws for Special Resolution after the Alberta Condominium Property Act has been revised.
 - (c) Board Communication: The Board will provide regular communication throughout the year which will come directly from the president after the Board has met and composed a singular answer together.
11. **Adjournment:** Motion to adjourn by Glenn Street at 2:45 p.m.

DISCLAIMER: Until reviewed and approved at a future general meeting, at which time changes may be made, minutes are unapproved.

telephone rooms, water and sump rooms, storage and janitorial equipment spaces, trash compactor and garbage storage areas, mail rooms, generator rooms, mechanical, furnace and electrical rooms, gas meter rooms, diesel fuel storage rooms, central alarm and control rooms, cooling towers, hallways, stairs and stairwells and all grassed or landscaped areas of the Common Property and maintenance of all Exclusive Use Areas;

- (j) provide adequate garbage receptacles or containers on the Common Property for use by all the Owners and provide for regular collection therefrom;
- (k) at all times keep and maintain for the benefit of the Corporation and all owners, copies of all warranties, guarantees, drawings and specifications, plans, written agreements, certificates and approvals provided to the Corporation pursuant to section 46 of the Act;
- (l) maintain and keep current registers pertaining to Exclusive Use Areas and leases of Common Property in respect to the Project; and
- (m) not plant any trees or substantial landscaping or make any unauthorized grade changes within any lands which are the subject of an easement or similar grant to any utility company, municipality or local authority.

3.3 Powers of the Corporation

In addition to the powers and rights conferred upon the Corporation under the Act, the Corporation may, and is hereby authorized to:

- (a) purchase, hire or otherwise acquire personal property for use by Owners in connection with the maintenance, repair, replacement or enjoyment of the real and personal property of the Corporation, the Recreational Facilities, or the Common Property;
- (b) purchase, acquire, own and operate real property for the general use or benefit of the Owners, provided any acquisition is first ratified by a majority of Owners;
- (c) borrow monies required by it in the performance of its duties or in the exercise of its powers provided that each such borrowing or combination of borrowings in excess of 25% of the current year's Budget for Common Expenses shall be approved or ratified by Special Resolution;
- (d) secure the repayment of monies borrowed by it, and the payment of interest thereon, by negotiable instrument, or mortgage of unpaid contributions (whether levied or not), or mortgage of any property vested in it, or by combination of those means;

THIS IS EXHIBIT _____
 Referred to in the Affidavit of
Dean Jarvey
 Sworn before me this 13th
 day of August 2014
[Signature]
 A Commissioner of Oaths in and for the Province of Alberta

- (e) invest as it may determine any contributions towards the Common Expenses subject to the restrictions set forth in the Act;
- (f) make an agreement with the Owner or Occupant of any Unit for the provision of amenities or services either by the Corporation to the Unit or to the Owner or Occupant thereof or by the Owner or Occupant to the Unit or the Project;
- (g) grant to any Owner or Occupant the right (be it exclusive, or not) to use and enjoy any part of the Common Property (be it otherwise designated for exclusive use, or not), by lease or otherwise, upon such terms and conditions as may be determined or approved of by the Board from time to time, where, in the Board's reasonable opinion, such grant will regulate and control the use of such Common Property for the general benefit and betterment of the Project and shall not otherwise cause material prejudice to the interests of any specific Owner or Owners;
- (h) make such Rules and Regulations and enact such Resolutions, as it may deem necessary or desirable from time to time in relation to the maintenance, safety, repair, use and enjoyment of the Project, the Units, the Parking Units, the Recreational Facilities, and Common Property, and for the control, management and administration of the Project generally, and do all things reasonably necessary for the enforcement of the By-laws, rules, regulations and resolutions, including without limiting the generality of the foregoing, the commencement of and taking action under the Act, and all subsequent proceedings relating thereto;
- (i) make such Rules and Regulations and enact such Resolutions (either through the Board or by the Owners generally) for the purposes of either regulating or prohibiting (from time to time) the keeping of animals, pets or livestock in the Project (whether within any Unit or on Common Property or on or in the Recreational Facilities or in any structure on the Project), with specific authority to impose or require terms for keeping such animals, pets or livestock and requiring damage deposits (and enter into agreements with specific Owners in respect thereto) in connection therewith;
- (j) determine from time to time the amounts to be raised and collected for the purposes hereinbefore mentioned;
- (k) raise amounts so determined by levying assessments on the Owners in proportion to the Unit Factors for their respective Units or as otherwise herein provided;
- (l) charge interest as permitted under the Act on any contribution or common expenses owing to it by an Owner at the Interest Rate;

- (m) pay an annual honorarium or stipend to Members of the Board in the manner and in the amounts as may be from time to time determined by ordinary resolution at a General Meeting;
- (n) in the event of any infraction or violation of, or default under these By-laws or any rules, regulations or resolutions of the Corporation on the part of an Owner, an Occupant, or any of their servants, agents, licensees, or invitees, correct, remedy, or cure, and any costs or expenses incurred or expended by the Corporation in correcting, remedying or curing such infraction, violation or default may be charged to such Owner and shall be added to and become part of the assessment of such Owner for the month next following the date when such costs or expenses are expended or incurred (but not necessarily paid) by the Corporation and shall become due and payable on the date of payment of such monthly assessment and shall bear interest at the Interest Rate until paid;
- (o) recover from an Owner by an action for debt in any court of competent jurisdiction any sum of money which the Corporation is required to expend as a result of any act or omission by the Owner, his servants, agents, licensees, invitees, or tenants, which violates the By-laws or any rules, regulations or resolutions established by the Corporation and there shall be added to any judgment, all costs of such action including costs as between solicitor and his client and nothing herein shall be deemed to limit any right of any Owner to bring an action or proceeding for the enforcement and protection of his rights and the exercise of his remedies;
- (p) exercise the powers provided for in section 36 of the Act;
- (q) appoint an Insurance Trustee if determined appropriate, prudent or necessary in accordance with Article 6.15;
- (r) if at any time it appears that the annual assessments or contributions towards the Common Expenses will be insufficient to meet the Common Expenses, assess and collect a special contribution or contributions against each Unit in an amount sufficient to cover the additional anticipated Common Expenses, provided that the Corporation shall give notice of such further assessment to all Owners which shall include a written statement setting out the reasons for the assessment and each assessment shall be due and payable by each Owner in the manner and on the date or dates specified in the notice;
- (s) whenever and if the allocation of expenses, costs or charges hereunder are inequitably assessed on the basis of Unit Factors, weigh, allocate and assess against the Owners and their respective Units such expenses, costs and charges in such equitable manner as the Board shall from time to time and at any time resolve, provided that such manner of weighing, allocation and assessment will be notified to Owners on assessment and without

limiting the generality of the foregoing, allocation and assessment of the whole of an expense, cost or charge to a single Owner or Unit shall be permitted;

- (t) charge a reasonable fee in respect of either the issuance of any Estoppel Certificate or any information which the Corporation is required or may produce to an Owner, Mortgagee or other party hereunder or pursuant to the Act;
- (u) in the event of any lease of a Unit in breach of these By-laws and in addition to such powers arising on breach or default of these By-laws:
 - (i) give notices to give up possession of Units under the Act; and,
 - (ii) make applications to the Court under the Act;
- (v) do all things which are, either or both, incidental to or conducive to the exercise of its powers granted, both, under the Act and the By-laws; and
- (w) subject to any limitations and prohibitions expressed or imposed by the Act, do all things and have such rights, powers and privileges available to any corporation under the *Business Corporations Act* of Alberta (as amended and replaced from time to time) and do all things and have such rights, powers and privileges of a natural person.

3.4 General Powers of the Corporation

The powers, rights, duties, and obligations given to and imposed upon the Corporation under this By-law and all parts thereof are in addition to all and any powers, rights, duties, and obligations given to and imposed upon the Corporation under the Act, and at law.

3.5 Resolutions in Writing by the Owners

Subject to Article 3.6 and Article 9.0 hereof, the Corporation shall carry on its business and exercise and perform its powers and duties pursuant to duly enacted resolutions made from time to time at General Meetings of the Corporation; provided that any resolution of the Owners, made in writing and signed by each Owner (or the person so required and authorized to sign same), shall have the same effect as a resolution duly enacted at a duly convened general meeting of the Corporation.

3.6 General Business of the Corporation

Subject to such restrictions as are hereinafter set forth or imposed by resolution of the Owners enacted from time to time at General Meetings of the Corporation or by resolution in writing pursuant to Article 3.5 hereof, the powers and duties of the Corporation, including the day-to-day general business of the Corporation, shall be exercised, performed, and carried out by the Board.

3.7 Corporate Seal

The Corporation shall have a common seal, which will be in such form as may be adopted by the Board, by resolution, and the Board may from time to time make such provisions or regulations as the Board sees fit with respect to affixing the said common seal and the appointment of Board Members or Officers or other persons to attest by their signature that such said common seal is duly affixed; provided that in the absence of such said provisions or regulations, the said common seal shall be affixed only in the presence of and as attested by 2 Board Members, except where the Board is constituted by only 1 Board Member, in which case that Board Member's signature, alone, shall suffice.

**ARTICLE 4
The Board**

4.1 Duties of the Board

The Board shall:

- (a) subject to any limitations specifically imposed by the Corporation, perform and carry out the directions, duties, and responsibilities of the Corporation, and particularly, those directions of the Corporation imposed on the Board from time to time pursuant to Article 3.6 hereof;
- (b) perform and carry out the duties and responsibilities of the Board as are imposed by the By-laws of the Corporation;
- (c) keep minutes of its proceedings, and, upon written request, provide copies thereof to Mortgagees;
- (d) cause minutes to be kept of general meetings of the owners, and, upon written request, provide copies thereof to Mortgagees;
- (e) cause proper books of account to be kept in respect of all sums of money received and expended by it and all the matters in respect of which receipt and expenditure shall take place;
- (f) prepare proper accounts relating to all monies of the Corporation, and the income and expenditure thereof, for each Annual General Meeting;
- (g) maintain financial records of all assets, liabilities and equity of the Corporation;
- (h) on written application of an Owner or Mortgagee, or any person authorized in writing by him, make the books of account available for inspection at all reasonable times;

- (i) cause to be prepared and distributed to each Owner and to each Mortgagee a copy of the audited Financial Statement, a copy of the receipts of contributions of all Owners towards the Common Expenses and disbursements made by the Corporation and a copy of the Auditor's Report within 120 days after the end of the fiscal year of the Corporation;
- (j) cause to be prepared and distributed to each Owner a copy of the approved reserve fund plan prior to the collection of any funds for the purposes of those matters dealt with in the reserve fund plan;
- (k) within 15 days of a person becoming or ceasing to be a Member of the Board, file or cause to be filed at the Land Titles Office a notice in the prescribed form stating the name and address of that person and the day that the person became or ceased to be, as the case may be, a Member of the Board; and,
- (l) file or cause to be filed at the Land Titles Office a notice in the prescribed form of any change in the address for service of the Corporation.

4.2 Powers of the Board

The Board may:

- (a) subject to Article 9.0 hereof and any restrictions imposed or direction given by the Owners, carry on the day-to-day business and affairs of the Corporation, with all of the due and proper authority of the Corporation, and without limiting the generality of the foregoing, enact either Resolutions or Rules and Regulations on behalf of the Corporation as permitted under Article 3.3 hereof;
- (b) meet together for the conduct of business, adjourn and otherwise regulate its meetings as it thinks fit, and it shall meet when any Member of the Board gives to the other Members of the Board not less than 3 days' notice of a meeting proposed by him, specifying the reason for calling the meeting provided that the Board shall meet at the call of the President on such notice as he may specify without the necessity of the President giving reasons for the calling of the meeting;
- (c) appoint or employ for and on behalf of the Corporation such agents or servants as it thinks fit in connection with the control, management and administration of the Common Property and the exercise and performance of the powers and duties of the Corporation;
- (d) subject to any restriction imposed or direction given by the Owners, delegate to one or more Members of the Board such of its powers and duties as it thinks fit, and at any time revoke such delegation;



"EXHIBIT" D
 Referred to in the Affidavit of
Dean Jarvey
 Sworn before me this 13th
 day of August 20 14
[Signature]
 A Commissioner of Oaths in and for
 the Province of Alberta
 Sat, Apr 20, 2013 at 10:33 AM

FW: General ledger disclosure and Scott legal costs

Dean Jarvey <dean.jarvey@gmail.com>
 To: Geoff Scott <geoffcanmore@gmail.com>
 Cc: Glenn Street <topdog@mascots.com>, Chris Strathonikos <domna@shaw.ca>, Dean Miles
 <dmiles02@shaw.ca>, Donna Scott <outnaboutcanmore@gmail.com>

Myleen Dale Ring
 A Commissioner for Oaths
 in and for the Province of Alberta
 My Commission Expires November 2014

Thanks Geoff,

Regarding the legal costs we would require a formal written request including specific reasons for making the request and supporting documentation including the referred to motion and any other formal correspondence from the Board, any backup data data supporting your position, copies of your Lawyers invoice(s) and proof of payment from you.

Regarding the inspection of books, while we do not believe you have been denied access to the book of accounts for inspection (Peka's response dealt with a specific request that may have privacy issues), we will request that Peka allow you inspect the books of account as called for in the Mystic Springs Bylaws. I sent an email to Chuck and Cathy asking what is their standard process for such an inspection and whether privacy regulations require a redaction of personal information prior to an inspection. I am waiting for a reply. I imagine that he will want Cathy to deal with this and she is on vacation so this process may have to wait until her return.

Dean Jarvey

On Thu, Apr 18, 2013 at 7:54 AM, Geoff Scott <geoffcanmore@gmail.com> wrote:
 I am formally requesting in this email for the Board to consider reimbursement of my legal costs of \$2,691.99 for the Board's motion to contravene the Condo Act, among other things.

Regarding the inspection of books: I understand all the Property Manager's correspondence with owners goes through you for approval. Thus as you know, the Property Manager refused me to see the books. If you have changed your mind please advise the Property Manager that I may inspect the books.

Geoff Scott

On 2013-04-17, at 9:47 PM, Dean Jarvey <dean.jarvey@gmail.com> wrote:

Hi Geoff,

Regarding the inspection of books, I think our Property Manager has already answered your question for you. I believe if you set up an appointment they would allow you to come and inspect the books of account at their offices.

With reference to your legal costs, at no time has the Board restricted you from renting your unit. You have been advised that you are in contravention of the Bylaw (which is technically correct and a part of the Board's duty), but at no time have you been told to cease and desist.

If anything, the Board has cooperated with you approving such things as new locks on your units and adopting a magnetic key policy consistent with other properties in the area.

I do not believe there would any appetite from the Board Members to reimburse you for any

costs. If you wish, you may put your request in writing for the Board to consider.

Dean Jarvey

On Wed, Apr 17, 2013 at 8:44 AM, Dean Jarvey <dean.jarvey@gmail.com> wrote:

Hi Geoff,

Thanks for addressing us directly. Whenever you do so we will try to respond in a reasonable time frame, as we would to any owner query. On the other hand, emails that are sent to a large distribution list will usually be ignored.

I am at work and in meetings much of today but will attempt to respond this evening.

Dean J

On Tue, Apr 16, 2013 at 7:39 PM, Dean Miles <dmiles02@shaw.ca> wrote:

From: Geoff Scott [mailto:geoffcanmore@gmail.com]
Sent: April-16-13 9:08 AM
To: Dean Miles; Glenn Street; Chris Stathonikos
Cc: Donna Scott
Subject: General ledger disclosure and Scott legal costs

Mr. Jarvey, I'm back from a 2 week holiday in Maui and haven't heard anything from you regarding disclosure of the general ledger to me. As I point out below it is a requirement of our bylaws. Will you provide me with the general ledger? If you ignore my request I think it's clear you would be contravening our bylaws, not a good thing.

Scott Legal Costs:

I'm concerned about the legal costs I have incurred to defend myself against you, Mr. Street, Mr. Miles and Mr. Stathonikos for your collective attempt to prevent me from renting my unit and therefore contravening the Alberta Condominium Property Act. I'd like to hear any suggestions you have to reimburse me.

Geoff Scott

On 2013-03-28, at 7:48 PM, Geoff Scott <geoffcanmore@gmail.com> wrote:

Cathy, I understand that all Peka communications with owners are first "filtered" to Dean Jarvey for his approval or modification. I'd call him a gatekeeper of all communication, so I'll direct my request directly to him. Thanks for your work Cathy.

Dean, I am asking for Peka to send me the general ledger and it appears you are refusing them to do so. Is that true?

Dean, under our bylaws, section 4.1(h), a duty of the Board is to "make the books of account available for inspection at all reasonable times". The books of account comprise 3 documents: 1) cash book, 2) Journals, and 3) Ledgers. The Ledgers are comprised of a 1) sales ledger, 2) purchase ledger, and 3) general ledger.

Mr. Jarvey, I suggest you be mindful that Board members need to "act in good faith" or could be held personally liable for their actions. Kinda like trying to pass illegal bylaws, it's against the law.

Section 4.1(h):

<PastedGraphic-3.png>

Geoff Scott

If you do not wish to be included in these emails please advise.

On 2013-03-27, at 5:17 PM, Cathy Robinson <Cathy_Robinson@Pekamanagement.ca> wrote:

Unfortunately, Geoff, I wouldn't be able to provide the Accounts Receivable information to you as it is a privacy matter for those owners. The total receivables will be noted in the financial statements when provided by the Accountants.

Regards,
Cathy Robinson
Operations Manager/Condominium Property Manager
PEKA Professional Property Management
#105, 1002 8th Avenue
Canmore, AB T1W 0C4
Phone: (403) 678-6162 x 224
Fax: (403) 678-4990
www.peka.ca

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error or are not the named recipient(s), please notify the sender, delete this message and do not disclose or relay this e-mail message to anyone.

-----Original Message-----

From: Geoff Scott [mailto:geoffcanmore@gmail.com]
Sent: Wednesday, March 27, 2013 4:35 PM
To: Cathy Robinson
Subject: Re: General ledger

not looking for the financials but for the general ledger. The general ledger is an accounting thing, it's where every revenue and cost item is recorded in one big database. (In particular I want to check if the two folks who were behind ~\$30,000 in condo fees prior to Peka taking over have paid up, I don't think they have from looking at prior financial statements)

Thanks,
Geoff
On 2013-03-27, at 12:10 PM, "Cathy Robinson"
<Cathy_Robinson@Pekamanagement.ca> wrote:

Geoff,

I'm sorry, I have been doing some training with a colleague and this fell off my radar....Please accept my apologies.

The financials are not yet received from the accountant. This production of the financials is what is deemed to be the report of receipts of expenditures. We are hoping to have these returned in time for the AGM package mailing on April 12th.

Regards,
Cathy Robinson
Operations Manager/Condominium Property Manager PEKA Professional
Property Management #105, 1002 8th Avenue Canmore, AB T1W OC4
Phone: (403) 678-6162 x 224
Fax: (403) 678-4990
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-----Original Message-----

From: Geoff Scott [mailto:geoffcanmore@gmail.com]

6/8/2014

Gmail - FW: General ledger disclosure and Scott legal costs

Sent: Wednesday, March 27, 2013 12:01 PM
To: Cathy Robinson
Subject: Re: General ledger

Any progress? Your accounting should be able to just export the file

Thanks
Geoff
403-679-8151

On 2013-03-21, at 11:13 AM, "Cathy Robinson"
<Cathy_Robinson@Pekamanagement.ca> wrote:

Hi, Geoff!

I hadn't come across your email yet...as I am wading through some emergent matters. Will look for it today and advise.

Regards,
Cathy Robinson
Operations Manager/Condominium Property Manager PEKA Professional
Property Management #105, 1002 8th Avenue Canmore, AB T1W 0C4
Phone: (403) 678-6162 x 224
Fax: (403) 678-4990
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-----Original Message-----

From: Geoff Scott [mailto:geoffcanmore@gmail.com]
Sent: Thursday, March 21, 2013 10:56 AM
To: Cathy Robinson
Subject: General ledger

Any word on when I can expect to receive the general ledger?

Geoff
403-679-8151

6/8/2014

Gmail - FW: General ledger disclosure and Scott legal costs



Downloaded from https://mail.google.com/mail/u/0/?ui=2&ik=5b453f63ff&view=pt&q=geoff%20account&search=query&msg=140ea02c883fda38&dsqt=1

Re: Mystic Springs

Dean Jarvey <dean.jarvey@gmail.com>

Wed, Sep 4, 2013 at 11:26 AM

To: Donna Scott <donnacanmore@gmail.com>

Cc: Cathy Robinson <cathy@peka.ca>, Geoff Scott <geoffcanmore@gmail.com>, Cathy Robinson <Cathy_Robinson@pekamanagement.ca>, Dean Miles <dmiles02@shaw.ca>, Chris Stathonikos <domna@shaw.ca>, "djrein@telusplanet.net Del Reinhart" <djrein@telusplanet.net>, "Chuck_Patel@Pekamanagement.ca Patel" <Chuck_Patel@pekamanagement.ca>

Donna and Geoff,

Yesterday we requested a legal opinion on this matter and will adhere to the advice of our lawyer. That opinion is unlikely to be returned by Thursday at 9:00. Until the Lawyer responds, we will continue with our current assumption that the paid invoices and bank statements are sufficient fulfillment of the requirements of the bylaws.

Dean

On Tue, Sep 3, 2013 at 7:13 PM, Donna Scott <donnacanmore@gmail.com> wrote:

Cathy, Geoff has requested **"to inspect the general ledger per the bylaws"**. *NOT JUST THE PAID BILLS AND BANK STATEMENTS*. Do you understand? This is our right as owners per our current bylaws. We request a meeting with you Thursday, 9:00 am to review the General Ledgers starting from October 1st 2011 to-date. See you then unless otherwise advised to make another appt per your availability.

Donna Scott, Owner

Out'n About Vacation Chalets
Out'n About Vacation Townhomes
Canmore, Alberta, Canada
outnaboutcanmore@gmail.com
Mobile: 403-609-9174


On 2013-09-03, at 12:04 PM, Cathy Robinson <cathy@peka.ca> wrote:

Good day, Geoff!

As per the Mystic bylaws the books of the account (paid bills and bank statements) will be made available to you to view. Please advise what date/time will work for you so that I may arrange a meeting room for your use.

Kind regards,
Cathy Robinson, BA
Operations Manager/Condominium Property Manager

Please update your records to reflect my new email address of cathy@peka.ca. Please remove any old addresses from your contacts. Thank-you!

THIS IS EXHIBIT " E "
Referred to in the Affidavit of
Dean Jarvey
Sworn before me this 13th
day of August 2014

A Commissioner of Oaths in and for
the Province of Alberta

Myleen Dale Ring
A Commissioner for Oaths
in and for the Province of Alberta
My Commission Expires November 24, 2015

PEKA Professional Property Management Ltd.
Phone: (855) 306-4899 Ext: 224

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From: Geoff Scott [mailto:geoffcanmore@gmail.com]

Sent: Sunday, September 01, 2013 9:09 PM

To: Cathy Robinson

Cc: Dean Miles; Chris Stathonikos; djrein@telusplanet.net Del Reinhart; Dean Jarvey; Donna Scott

Subject: Re: Mystic Springs

Cathy, I would like to inspect the general ledger per the bylaws, but since the Board is breaking the bylaws by not letting me see the general ledger I'd like to inspect the paid invoices and bank statements, this week or next if convenient for you.

Yours truly,

Geoff Scott, P.Eng.

403-679-8151

On 2013-05-17, at 6:28 PM, Cathy Robinson <Cathy_Robinson@pekamanagement.ca> wrote:

Geoff,

You are welcome to see the paid invoices, and the bank statements as these are readily accessible. This is what is made available to owners for viewing. The general ledger is a compilation of the paid bills and bank transactions, so this is generally not offered to owners for viewing. You are not being denied anything, it is simply the format that we are easily able to provide for review.

Is there something particular you are seeking? Perhaps I can assist in another manner.

Regards,

Cathy Robinson

Operations Manager/Condominium Property Manager

PEKA Professional Property Management

#105, 1002 8th Avenue

Canmore, AB T1W 0C4

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From: Geoff Scott [mailto:geoffcanmore@gmail.com]

Sent: Friday, May 17, 2013 8:55 AM

To: Cathy Robinson

Subject: Re: Mystic Springs

Awesome

Geoff

403-679-8151

On 2013-05-17, at 8:25 AM, "Cathy Robinson" <Cathy_Robinson@Pekamanagement.ca> wrote:

Good morning, Geoff!

I have received your email. I am just going into a meeting, but will anticipate an answer for you later today.

Regards,

Cathy Robinson

Operations Manager/Condominium Property Manager

PEKA Professional Property Management

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From: Geoff Scott [<mailto:geoffcanmore@gmail.com>]
Sent: Wednesday, May 15, 2013 5:56 PM
To: Cathy Robinson
Subject: Re: Mystic Springs

Hi Cathy, I'm confused about what I can and cannot see. The bylaws say I can inspect the general ledger but the Board, by way of you, say I can't because of some nonsensical reason from a appendix from a condo act rule 35 years ago. The board then writes, by way of you, that I can see only see paid bills and bank statements.

To be clear, can I or can I not see the general ledger?

Also, I don't want to presume anything. Is the board directing you what to say to me? Not responding to this questions means a yes. Just checking off the boxes.

Thanks,
Geoff Scott, P.Eng.
403-679-8151

On 2013-05-10, at 5:14 PM, Cathy Robinson <Cathy_Robinson@Pekamanagement.ca> wrote:

Hi, Geoff!

Yes; we are pleased to make an appointment that you may come in to review the paid bills for the corporation. Bank statements may also be reviewed at this time.

Please let me know what time will work for you and we will set aside a board room for you to inspect the records so long as one is available.

Regards,
Cathy Robinson
Operations Manager/Condominium Property Manager

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From: Geoff Scott [mailto:geoffcanmore@gmail.com]
Sent: Friday, May 10, 2013 2:48 PM
To: Cathy Robinson
Subject: Re: Mystic Springs

Cathy, I read Appendix 2, 11 (e) of the condo act and yes it applies to properties incorporated before May 16, 1978 and thus it's not applicable to Mystic Springs. What is applicable to Mystic Springs is it's bylaws. Section 4.1 (h) states a duty of

the board is to "make the books of account available for inspection at all reasonable times". Thus I want to see the books of account. Will you provide me this?

P.S. Hi 5 amigos!

Geoff Scott, P.Eng.
403-679-8151

On 2013-05-02, at 6:30 PM, Cathy Robinson
<Cathy_Robinson@Pekamanagement.ca> wrote:

Just let me know in advance when you would like
to come in so that I may book a meeting room for

you to review the files.

Regards,
Cathy Robinson
Operations Manager/Condominium Property
Manager
PEKA Professional Property Management
#105, 1002 8th Avenue
Canmore, AB T1W 0C4
Phone: (403) 678-6162 x 224
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From: Geoff Scott [mailto:geoffcanmore@gmail.com]
Sent: Thursday, May 02, 2013 5:14 PM
To: Cathy Robinson
Subject: Re: Mystic Springs

LOL, I know who wrote that. That's fine, I'll look at the monthly bills for now

Thanks,
Geoff

On 2013-05-02, at 4:27 PM, Cathy Robinson
<Cathy_Robinson@Pekamanagement.ca> wrote:

Geoff,

The provision for reviewing the

books of account in the
Mystic bylaws is from in the condo
act, appendix 2, 11(e) which applies
only to properties incorporated
before 1978. As such, the year end
financials and monthly paid bills are
available to the owners; these items
give a clear picture of paid expenses
and income.

Regards,
Cathy Robinson
Operations Manager/Condominium
Property Manager
PEKA Professional Property
Management
#105, 1002 8th Avenue
Canmore, AB T1W 0C4
Phone: (403) 678-6162 x 224
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anyone.

From: Geoff Scott
[mailto:geoffcanmore@gmail.com]
Sent: Thursday, May 02, 2013 1:49
PM
To: Cathy Robinson
Subject: Re: Mystic Springs

I really want to see the general ledger, I thought the board okay'd it?

Thanks, Geoff

On 2013-05-02, at 11:20 AM,
"Cathy Robinson"
<Cathy_Robinson@Pekamanagement.ca> wrote:

Good day, Geoff!

I have now returned to the office and Chuck has asked me to follow up with you regarding your request to review the receipts for the condominium. As previously discussed, although the General Ledger is not issued, the year end financial statements are provided to owners for review. I believe you received these at the AGM.

Additionally, as a shareholder in the Corporation, you are most welcome to make an appointment in our office to review the paid bills. This will show invoices with accounting of work done and the cheque stubs to indicate payment. Should you wish to review these, please let me know and

9/6/13

Gmail - Re: Mystic Springs
we can set up a time
that is convenient for
you and that we have a
meeting room available
for your use.

Please let me know if
you have questions.

Regards,
Cathy Robinson
Operations
Manager/Condominium
Property Manager
PEKA Professional
Property Management

#105, 1002 8th
Avenue
Canmore, AB T1W
OC4
Phone: (403) 678-
6162 x 224
Fax: (403) 678-4990
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the named recipient(s),
please notify the sender.

9/6/13

Gmail - Re: Mystic Springs
~~XXXXXXXXXXXXXXXXXXXX~~
delete this message and
do not disclose or relay
this e-mail message to
anyone.



Re: Mystic Springs

Dean Jarvey <dean.jarvey@gmail.com>

Thu, Sep 12, 2013 at 12:11 PM

To: Geoff Scott <geoffcanmore@gmail.com>

Cc: Donna Scott <donnacanmore@gmail.com>, Cathy Robinson <cathy@peka.ca>, Cathy Robinson <Cathy_Robinson@pekamanagement.ca>, Dean Miles <dmiles02@shaw.ca>, Chris Stathonikos <domna@shaw.ca>, "djrein@telusplanet.net Del Reinhart" <djrein@telusplanet.net>, "Chuck_Patel@Pekamanagement.ca Patel" <Chuck_Patel@pekamanagement.ca>

Hi Geoff,

The bylaw specifically reads that upon written application you are entitled to review the "books of account". The book of accounts is what would historically be found in the journal kept by the Corporation detailing money that has come into and been paid out of the Corporation. This information is found on the bank statements of the Corporation which we are providing for your review. We are further offering you the opportunity to review the paid invoices of the Corporation. The "Books of Account" you are demanding to review ceased to exist with the advent of electronic banking.

Providing you with access to bank records and accompanying invoices is fulfillment of the requirement stated in the bylaw.

Dean

On Wed, Sep 11, 2013 at 2:33 PM, Geoff Scott <geoffcanmore@gmail.com> wrote:

It's been 1 week since you expected your legal opinion. What's the holdup? Are you really getting a legal opinion or is this a bluff?

Geoff Scott, P.Eng.
403-679-8151

On 2013-09-04, at 11:26 AM, Dean Jarvey <dean.jarvey@gmail.com> wrote:

Donna and Geoff,

Yesterday we requested a legal opinion on this matter and will adhere to the advice of our lawyer. That opinion is unlikely to be returned by Thursday at 9:00. Until the Lawyer responds, we will continue with our current assumption that the paid invoices and bank statements are sufficient fulfillment of the requirements of the bylaws.

Dean

On Tue, Sep 3, 2013 at 7:13 PM, Donna Scott <donnacanmore@gmail.com> wrote:

Cathy, Geoff has requested **"to inspect the general ledger per the bylaws"**. *NOT JUST THE PAID BILLS AND BANK STATEMENTS*. Do you understand? This is our right as owners per our current bylaws. We request a meeting with you Thursday, 9:00 am to review the General Ledgers starting from October 1st 2011 to-date. See you then unless otherwise advised to make another appt per your availability.

Donna Scott, Owner

Out'n About Vacation Chalets
Out'n About Vacation Townhomes
Canmore, Alberta, Canada
outnaboutcanmore@gmail.com
Mobile: 403-609-9174

On 2013-09-03, at 12:04 PM, Cathy Robinson <cathy@peka.ca> wrote:

THIS IS EXHIBIT " F "
Referred to in the Affidavit of
Dean Jarvey
Sworn before me this 13th
day of August 2013
[Signature]
A Commissioner of Oaths in and for
the Province of Alberta

Good day, Geoff!

----- Forwarded message -----

From: **Geoff Scott** <kiteshredder@me.com>

Date: Fri, Sep 27, 2013 at 6:42 PM

Subject: Improper Conduct Order

To: Dean Miles <dmiles02@shaw.ca>, "djrein@telusplanet.net Del Reinhart" <djrein@telusplanet.net>, Chris Stathonikos <domna@shaw.ca>, Dean Jarvey <dean.jarvey@gmail.com>, Glenn Street <topdog@mascots.com>

WITHOUT PREJUDICE

"Improper Conduct Order" Do you funny guys now about this?

Your's Truly, Geoff



Office of the Information
and Privacy Commissioner

Suite 2460
801 - 6th Avenue SW
Calgary, Alberta
Canada T2P 3W2
Tel.: (403) 297-2728
Toll Free 1-888-878-4044
Fax: (403) 297-2711
Web: www.oipc.ab.ca
Email: generalinfo@oipc.ab.ca

October 31, 2013

Mr. Dean Jarvey, President
Mystic Springs Condominium Corporation
6047 Dalford Hill NW
Calgary, Alberta T3A 1L5

Dear Mr. Jarvey:

Re: OIPC Reference #P2476

This letter is in response to your correspondence received by our Office on September 30, 2013 regarding a request for information sent to Mystic Springs Condominium Corporation.

You stated that an owner has requested access to a "General Ledger" which contains information of all other owners. The *Personal Information Protection Act* (PIPA or the Act) applies to Mystic Springs Condominium Corporation since it is an "organization" as defined in section 1.1.(k). Under PIPA, an individual may make a written request for their own personal information and the organization has 45 days to respond. I am enclosing PIPA Advisories #2,3,5,6,7 which will provide you with more information regarding access requests; however, it does not appear that PIPA applies to the request you received.


Also, we wish to inform you that our Office would not be able to provide you specific answers to the questions you posed, as that may be perceived as having predetermined any issues that may come before the Commissioner.

I hope this clarifies this matter. Please note that our Office does not provide legal advice. The information we do provide is our interpretation of PIPA. Should any matter be formally investigated by the Commissioner, the findings may differ as specific details can alter the assessment. Thank you.

Sincerely,

Anima Kotowski, B.A.
Case Manager, Mediation and Investigation

Enclosures

THIS IS EXHIBIT " G "
Referred to in the Affidavit of
Dean Jarvey
Sworn before me this 13th
day of August 2014

A Commissioner of Oaths in and for
the Province of Alberta

Myleen Dale Ring
A Commissioner for Oaths
in and for the Province of Alberta
My Commission Expires November 24, 2015

Consent required

7(1) Except where this Act provides otherwise, an organization shall not, with respect to personal information about an individual,

(a) collect that information unless the individual consents to the collection of that information,

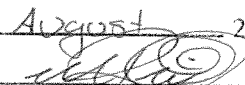
(b) collect that information from a source other than the individual unless the individual consents to the collection of that information from the other source,

(c) use that information unless the individual consents to the use of that information, or

(d) disclose that information unless the individual consents to the disclosure of that information.

(2) An organization shall not, as a condition of supplying a product or service, require an individual to consent to the collection, use or disclosure of personal information about an individual beyond what is necessary to provide the product or service.

(3) An individual may give a consent subject to any reasonable terms, conditions or qualifications established, set, approved by or otherwise acceptable to the individual.

THIS IS EXHIBIT " H "
 Referred to in the Affidavit of
Dean Jarvey
 Sworn before me this 13th
 day of August 2014

 A Commissioner of Oaths in and for
 the Province of Alberta

Myleen Dale Ring
 A Commissioner for Oaths
 in and for the Province of Alberta
 My Commission Expires November 24, 2015