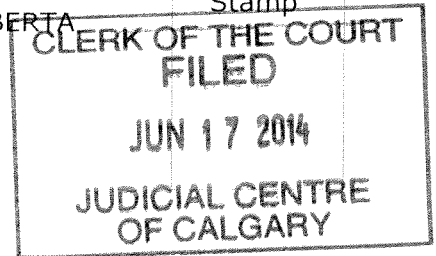


COURT FILE NUMBER 1401- 00013  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY  
APPLICANT CONDOMINIUM CORPORATION  
NO. 0312235  
RESPONDENTS GEOFFREY SCOTT and  
DONNA SCOTT  
DOCUMENT **AFFIDAVIT**  
ADDRESS FOR SERVICE McLEOD LAW LLP  
AND CONTACT 300, 14505 Bannister Road SE 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

Clerk's  
Stamp



Attn: Stephanie Whyte / File 100606

**AFFIDAVIT OF DEAN JARVEY**

**Sworn on Wednesday, the 16<sup>th</sup> day of June, 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 Applicant 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. I swear this Affidavit supplemental to my Affidavit sworn January 8, 2014 and in reply to the Affidavit of Donna Scott sworn April 10, 2014.
3. The Respondent, Donna Scott, was a member of the Board of the Directors of the Condominium Corporation as follows:
  - a. November 26, 2003 to November 24, 2007;
  - b. November 22, 2008 to November 28, 2009; and
  - c. November 27, 2010 to April 27, 2013.
4. Both Geoffrey Scott and Donna Scott were in favour of the Amendment to the Bylaws and the inclusion of Article 14. Attached hereto to this my Affidavit and marked as **Exhibit "A"** is a true copy of the executed Special Resolutions for both Geoffrey Scott and Donna Scott indicating that they approved the Bylaw Amendment.

5. Contrary to the statement contained at paragraph 14, Ms. Scott did not make a motion to the Board to obtain a "comprehensive legal opinion with respect to the validity of the Rental Bylaws" on or about December 19, 2011 or at any other time.

6. I was elected to the Board at the November 19, 2011 Annual General Meeting and therefore am aware that a Board Meeting was not held in December 2011. A meeting was held November 28, 2011 and then not again until August 22, 2012. Attached hereto to this my Affidavit and marked as **Exhibit "B"** is the Condo Papers listing of available Meeting Minutes which outlines the dates on which each Board Meeting was held.

7. I have reviewed the Meeting Minutes for November 28, 2011 and note that the Minutes confirm that Ms. Scott did not make any such Motion. Attached hereto to this my Affidavit and marked as **Exhibit "C"** is a true copy of the November 28, 2011 Meeting Minutes.

8. I am aware that a Board Meeting was held on December 19, 2012. I have reviewed the Minutes from this Meeting and note that Ms. Scott was absent from this Board Meeting and therefore did not make any such motion. Attached hereto to this my Affidavit and marked as **Exhibit "D"** is a true copy of the December 19, 2012 Meeting Minutes.

9. I, not Ms. Scott, made a Motion to the Board on January 16, 2013 to seek legal advice with respect to Article 14. Attached hereto to this my Affidavit and marked as **Exhibit "E"** is a true copy of the January 16, 2013 Meeting Minutes.

10. Contrary to the Statement found at paragraph 19 of Ms. Scott's Affidavit, the Board did not state at the 2013 Annual General Meeting, or anytime thereafter, that "it was not required to enforce certain Bylaws if they chose to do so." Attached hereto to this my Affidavit and marked as **Exhibit "F"** is a true copy of the Minutes from the April 27, 2013 AGM.

11. The Board enforces all of the Bylaws of the Corporation, properly enacted and registered with Land Titles, and has at all times acted in accordance with the responsibilities placed on them pursuant to sections 28 of the Act and 3.2 of the Bylaws.

12. Section 3.3(h) of the Bylaws states,

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

13. Article 14 of the Bylaws was intended to govern renting of Units and any revenue generated thereto, with every provision of Article 14 specifically addressing rental of a Unit in some fashion.

14. Nothing in Article 14 prohibits an Owner from withdrawing their Unit from the Rental Pool for personal use, provided such use is in accordance with the Town of Canmore Land Use Bylaw and the Bylaws of the Corporation.

15. In keeping with the intention of Article 14, the Board has created a policy that stipulates that Article 14 applies only when a Unit is being rented and not when the Unit is being used solely for the benefit of the Unit Owner, with "participation in the rental pool" interpreted as governing rentals, private and otherwise, and not personal use.

16. Contrary to the statements found in Ms. Scott's Affidavit, an Owner that is not renting their Unit but is using their Unit solely for personal use or benefit need not contribute to the Rental Expenses of the Corporation.

17. The Corporation does not forbid rentals but instead requires that, in accordance with Article 14 any Owner that rents their Unit, regardless of participation in the rental pool, must use the Rental Manager and contribute to Rental Expenses on a Unit Factor basis. It would be inequitable to allow some Owners, such as the Scotts, to reap the benefit of the investment made by other Owners while not contributing themselves.

18. To keep Rental Revenue and Expenses distinct from Condominium Contributions and Common Expenses the Corporation retains two separate legal entities, each of which handles only one side of the Project.

19. Rental Revenue is paid directly and only to Waymarker, the Rental Manager for Mystic Springs, and not to the Condominium Corporation. Waymarker then subtracts the Rental Expenses from the gross revenues of Mystic Springs each month before any funds are provided to the Owners. Waymarker is responsible for addressing necessary repairs relating to the hotel operations and any costs associated thereto, including maintenance, repair and upkeep of individual Units should it be necessary. Waymarker is not retained by the Corporation, simply approved by the Corporation.

20. Condominium Contributions are paid on a monthly basis to PEKA Professional Property Management Ltd, the Property Manager for Mystic Springs, to address the items outlined as Common Expenses in section 7.1 of the Bylaws. Maintenance, repair and upkeep of individual Units is not a Common Expense and is never paid for out of the monthly Contributions of the Owners and PEKA has absolutely no involvement with the operation of the hotel.

21. There is no ambiguity between Rental Expenses and Condominium Contributions as the funds are not co-mingled, the expenses are handled by two separate legal entities and the responsibilities of each are distinct.

22. Ms. Scott has indicated at paragraph 21 of her Affidavit that "Rental Management Expenses (Waymarker charges) are blended together with the Common Expenses" and exhibits the current budget as evidence of same.

23. Historically and during Ms. Scott's tenure on the Board, Waymarker was retained in two capacities, as Rental Manager by the individual Owners in Mystic Springs and as Landscape and Maintenance Personnel by the Condominium Corporation. The Waymarker expense found in the

current budget is with respect to landscaping and maintenance provided to the Corporation as a Common Expense pursuant to section 7.1(c) of the Bylaws.

24. The Condominium Corporation remains a non-profit Corporation and nothing with respect to the operation of the Rental Pool places this status in jeopardy as the Rental Pool operation in no way generates a profit for the Condominium Corporation.


25. All Rental Revenue is paid to Waymarker and at no time does the Corporation receive any Revenue nor do any of the Unit Owners in their capacity as Unit Owners receive a benefit, such as decreased monthly contributions from the Rental Pool.

26. The Rental Revenue is also not a benefit to the Corporation but is paid out to each individual Owner in their capacity as individuals each month, with each party being responsible for declaring this income on their personal income tax. To my knowledge this is the manner in which the Rental Pool at Mystic Springs has been operated since inception.


27. Bellstar Hotels & Resorts Ltd acted as Rental Manager in 2005, with Bellstar handling all rentals within Mystic Springs. Attached hereto to this my Affidavit and marked as **Exhibit "G"** is a true copy of the Minutes from the November 26, 2005 Annual General Meeting at which both Geoffrey and Donna Scott were present.

28. Based on my review of the November 26, 2005 AGM Minutes, I note that starting on page 4 of the Minutes it is explained that each participating Owner received an Income Statement at the end of each year from the Rental Manager and it was then the Owners responsibility to declare any income they received on their personal tax returns.

Sworn before me at the City of Calgary )  
in the Province of Alberta, this 16<sup>th</sup> )  
day of June, 2014. )

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

**STEPHANIE D. WHYTE**  
*Barrister & Solicitor*

  
\_\_\_\_\_  
DEAN JARVEY

**SPECIAL RESOLUTION OF THE OWNERS:  
CONDOMINIUM PLAN NO. 0312235 pursuant to Section 32  
of the *Condominium Property Act* (Alberta) and Article 12 of  
the Bylaws.**

3

WHEREAS:

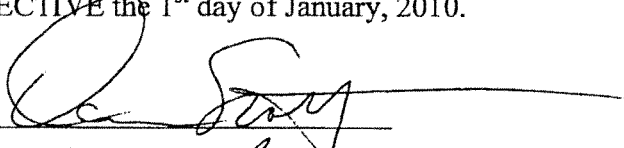
- A. It is the intention of the Owners that the Project be operated for rental purposes wherein all or substantially all of the Units are not Owner occupied and participate in the rental pool for the Project.
- B. It is the intention of the Owners that all Rental Management Expenses for the Project be shared by the Owners on the basis of Unit Factors regardless of the level of Owner participation in the rental pool for the Project.
- C. It is the intention of the Owners that Rental Revenues be pooled and shared according to a formula whereby an Owner shall only be eligible to share in Rental Revenue for a particular day when the Owner's Unit was available for rental through the Rental Manager on that day.

NOW THEREFORE BE IT RESOLVED THAT as a special resolution that the By-Laws of the Corporation are hereby amended as set out on Schedule "A" attached hereto, effective as of the date on which the Registrar of the Land Titles Office for Alberta has made a memorandum of the filing thereof on the said Condominium Plan.

The undersigned hereby adopts and approves each of the foregoing resolutions, waives notice of any meeting, waives all other formalities or irregularities in the conduct or manner of proceedings, and consents to the execution and delivery of these written resolutions in original, by facsimile, or by counterpart signature.

DATED EFFECTIVE the 1<sup>st</sup> day of January, 2010.

Signature



Signature



**Print Name of Owner**

Danra SCOTT, Geoff SCOTT

**Unit Number**

124, 114, 104

THIS IS EXHIBIT " A "  
Referred to in the Affidavit of  
Dean Jarvey  
Sworn before me this 16  
day of June 2014

A Commissioner of Oaths in and for  
the Province of Alberta

**STEPHANIE D. WHYTE**  
*Barrister & Solicitor*

**SPECIAL RESOLUTION OF THE OWNERS:  
CONDOMINIUM PLAN NO. 0312235 pursuant to Section 32  
of the *Condominium Property Act* (Alberta) and Article 12 of  
the Bylaws.**

WHEREAS:

- A. It is the intention of the Owners that the Project be operated for rental purposes wherein all or substantially all of the Units are not Owner occupied and participate in the rental pool for the Project.
- B. It is the intention of the Owners that all Rental Management Expenses for the Project be shared by the Owners on the basis of Unit Factors regardless of the level of Owner participation in the rental pool for the Project.
- C. It is the intention of the Owners that Rental Revenues be pooled and shared according to a formula whereby an Owner shall only be eligible to share in Rental Revenue for a particular day when the Owner's Unit was available for rental through the Rental Manager on that day.

NOW THEREFORE BE IT RESOLVED THAT as a special resolution that the By-Laws of the Corporation are hereby amended as set out on Schedule "A" attached hereto, effective as of the date on which the Registrar of the Land Titles Office for Alberta has made a memorandum of the filing thereof on the said Condominium Plan.

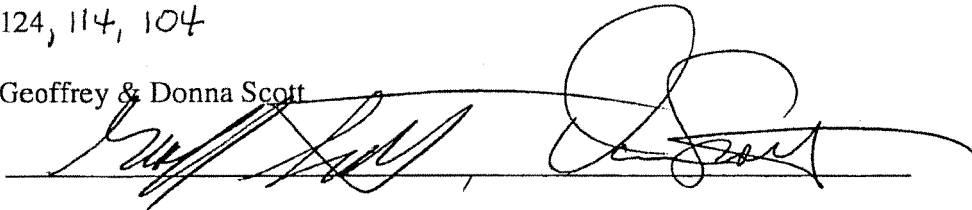
The undersigned hereby adopts and approves each of the foregoing resolutions, waives notice of any meeting, waives all other formalities or irregularities in the conduct or manner of proceedings, and consents to the execution and delivery of these written resolutions in original, by facsimile, or by counterpart signature.

DATED EFFECTIVE the 1<sup>st</sup> day of January, 2010.

Suites: 124, 114, 104

Owner: Geoffrey & Donna Scott

Signature: \_\_\_\_\_

Handwritten signatures of Geoffrey and Donna Scott, written over a horizontal line.



You are not Logged in! [Log in](#) or [register!](#)  
 Your Cart Currently holds 0 documents

**Mystic Springs Chalets & Hot Pools**

Residential, legal description: 0312235  
 140 Kananaskis Way T1W 2X2  
 Canmore Alberta Canada  
 Managed By [PEKA Professional Property Management Ltd.](#)

**To Add Documents To Your Cart**  
 Check the box beside the documents you want, scroll down the page, and click the button "Add Checked to Cart"

**Documents Available For Immediate Download**  
**Annual General Meeting Minutes**

|  |     |                              |          |         |                          |
|--|-----|------------------------------|----------|---------|--------------------------|
|  | PDF | AGM Minutes April 27, 2013   | Apr 2013 | \$15.00 | <input type="checkbox"/> |
|  | PDF | AGM Minutes November 19 2011 | Nov 2011 | \$15.00 | <input type="checkbox"/> |

**Search For Building:**  
   
 or by Management Company  
 or by Map **(NEW!)**

**Board Meeting Minutes**

|  |     |  |          |         |                          |
|--|-----|--|----------|---------|--------------------------|
|  | PDF | Board Meeting Minutes December 9, 2013   | Dec 2013 | \$10.00 | <input type="checkbox"/> |
|  | PDF | Board Meeting Minutes September 25, 2013 | Sep 2013 | \$10.00 | <input type="checkbox"/> |
|  | PDF | Board Meeting Minutes August 18, 2013    | Aug 2013 | \$10.00 | <input type="checkbox"/> |
|  | PDF | Board Meeting Minutes July 17, 2013      | Jul 2013 | \$10.00 | <input type="checkbox"/> |
|  | PDF | Board Meeting Minutes May 13, 2013       | May 2013 | \$10.00 | <input type="checkbox"/> |
|  | PDF | Board Meeting Minutes March 9, 2013      | Mar 2013 | \$10.00 | <input type="checkbox"/> |
|  | PDF | Board Meeting Minutes February 7, 2013   | Feb 2013 | \$10.00 | <input type="checkbox"/> |
|  | PDF | Board Meeting Minutes February 28, 2013  | Feb 2013 | \$10.00 | <input type="checkbox"/> |
|  | PDF | Board Meeting Minutes January 9, 2013    | Jan 2013 | \$10.00 | <input type="checkbox"/> |
|  | PDF | Board Meeting Minutes January 15, 2013   | Jan 2013 | \$10.00 | <input type="checkbox"/> |
|  | PDF | Board Meeting Minutes December 19, 2012  | Dec 2012 | \$10.00 | <input type="checkbox"/> |
|  | PDF | Board Meeting Minutes October 27, 2012   | Oct 2012 | \$10.00 | <input type="checkbox"/> |
|  | PDF | Board Meeting Minutes August 22, 2012    | Aug 2012 | \$10.00 | <input type="checkbox"/> |
|  | PDF | Board Meeting Minutes November 28 2011   | Nov 2011 | \$10.00 | <input type="checkbox"/> |
|  | PDF | Board Meeting Minutes October 4 2011     | Oct 2011 | \$10.00 | <input type="checkbox"/> |

**Recently Visited Buildings:**  
[Mystic Springs Chalets & Hot Pools](#)  
[home page](#)

**Budget**

|  |     |                              |          |         |                          |
|--|-----|------------------------------|----------|---------|--------------------------|
|  | PDF | 2014 Budget & Manager Report | Dec 2013 | \$15.00 | <input type="checkbox"/> |
|  | PDF | 2013 Budget & Manager Report | Nov 2012 | \$15.00 | <input type="checkbox"/> |

**By-Laws**

|  |     |                                       |          |         |                          |
|--|-----|---------------------------------------|----------|---------|--------------------------|
|  | PDF | Mystic Springs Bylaws with Amendments | Sep 2010 | \$45.00 | <input type="checkbox"/> |
|--|-----|---------------------------------------|----------|---------|--------------------------|

**Disclosure Statement**

|  |     |  |          |         |                          |
|--|-----|--|----------|---------|--------------------------|
|  | PDF | Disclosure Statement (Demands/Actions/Judgments) | Dec 2013 | \$30.00 | <input type="checkbox"/> |
|--|-----|--|----------|---------|--------------------------|

**Financial Statements - Unaudited**

|  |     |  |          |         |                          |
|--|-----|--|----------|---------|--------------------------|
|  | PDF | Financial statements December 31, 2012 | Dec 2012 | \$20.00 | <input type="checkbox"/> |
|--|-----|--|----------|---------|--------------------------|

**Insurance**

|  |     |   |          |      |                          |
|--|-----|---|----------|------|--------------------------|
|  | PDF | Insurance Certificate valid to November 1, 2014 | Jan 2014 | FREE | <input type="checkbox"/> |
|--|-----|---|----------|------|--------------------------|

**Misc. Documents**

|  |     |                             |          |      |                          |
|--|-----|-----------------------------|----------|------|--------------------------|
|  | PDF | Pre Authorized Payment Form | Aug 2013 | FREE | <input type="checkbox"/> |
|  | PDF |                             | Aug 2013 |      |                          |

THIS IS EXHIBIT " B "  
 Referred to in the Affidavit of  
Dean Jarvey  
 Sworn before me this 16  
 day of June 2014  
  
 A Commissioner of Oaths in and for  
 the Province of Alberta

**STEPHANIE D. WHYTE**  
*Barrister & Solicitor*

**Mystic Springs Chalets & Hot Pools Condominium  
Budget Board of Directors Meeting  
Held November 28, 2011 @ 7:00 p.m. @ PEKA**

**In attendance: Donna Scott, Glen Street (via teleconference), Dean Jarvey (via teleconference), Jason Stanyk & Chuck Patel from PEKA management.**

1. **Meeting Call to Order:** The meeting was called to order at 7:07 p.m. by **Chuck Patel**. No objections from those in attendance to Jason from PEKA recording the minutes.
2. **Additions to the agenda / approval of agenda:** Motion by Glen Street, seconded by Donna Miles, to approve the agenda. Motion carried.
3. **Budget & AGM**
  - a) **Review of financials / approval of Budget:** Motion by Glen Street, seconded by Donna Scott, to approve the budget with the following amendment;  
-Board chose to increase the Accounting and Legal category to \$5000.00 to reflect the full audit to be completed in 2012. Motion carried.
  - b) **Transfer of Reserve Funds:** There will be no transfer at this time, the Board and Chuck have agreed to table the transfer for the time being.
  - c) **AGM date & Time:** AGM is set for the month of April 2012 once PEKA is in contact with Waymarker.
4. **Approval of the October 4, 2011 minutes:** Motion by Donna Scott, seconded by Glen Street, to approve the October 4, 2011 minutes. Motion carried.
5. **Business arising from the October 4, 2011 minutes:**  
-none
6. **New Business:**
  - a) Correspondence PEKA:  
-none
  - b) Correspondence Board:  
-Donna Scott requested communication with all owners to be conducted
  - c) Hot Tub Discussion:  
-Mario from In-Depth-Pool Services has completed his work and the hot tub is currently curing for 28 days before any more work can be conducted. There was a test conducted to ensure that the tub is able to hold water and function properly. Jason is to follow up with CanWest flooring to ensure that the project is still on schedule and can hopefully have the hot tub open for the Christmas break.
  - d) PEKA to identify and record the gas meter #'s to separate the accounts and monitor the pool consumption.
7. **Set next meeting date:** TBD

THIS IS EXHIBIT " c " referred to in the Affidavit of Dean Jarvey  
Sworn before me this 16 day of June 2014  
[Signature]  
A Commissioner of Oaths in and for the Province of Alberta

**STEPHANIE D. WHYTE**  
Barrister & Solicitor



8. **Adjournment:** Motion to adjourn by Donna Scott at 8:05 p.m.

THIS IS EXHIBIT " D "  
Referred to in the Affidavit of  
Dean Jarvey  
Sworn before me this 16  
day of June 2014

**Mystic Springs Chalets & Hot Pools Condominium**  
**Board of Directors Meeting**  
**Held December 19, 2012 at 5:30 p.m. at PEKA**

**In Attendance:** Dean Jarvey, Chris Stathonikos, Dean Miles (all via teleconference) and Cathy Roberson from PEKA Management.   
Alexandra and Cathy Oaths in and for the Province of Alberta

**STEPHANIE D. WHYTE**

**Notary Public & Solicitor**

1. **Meeting Call to Order:** The meeting was called to order at 5:32 p.m. by Dean Jarvey recording the minutes.
2. **Additions to the Agenda / Approval of Agenda:** Motion by Chris, seconded by Dean J, to approve the agenda with the following additions:
  - 3. Selection of Board Positions
  - 4. Special Resolution
  - 7. g) Quote - Snow Melt System Repair
3. **Selection of Board Positions:** As it is a requirement for the Board of Directors to formally assign the roles as outlined in the Bylaws, the positions must be assigned.

Motion by Dean M., seconded by Chris to appoint Dean Jarvey in the role of President.  
Motion carried.

Motion by Dean J., seconded by Chris to appoint Dean Miles in the role of Vice President.  
Motion carried.

Motion by Chris, seconded by Dean M. to appoint Dean Jarvey to the position of Treasurer.  
Motion carried.

Motion by Dean J., seconded by Chris to appoint Dean Myles as the second signatory.  
Motion carried.

Motion by Dean J., seconded by Dean M. to appoint Chris Strathonikos in the role of Secretary. Motion carried.

As all formal positions have been filled by nomination/volunteer, the remaining elected directors, Donna Scott and Glenn Street will be considered Members at Large.

PEKA to send out an email correspondence to all owners to notify them of the Board positions.

4. **Special Resolution:** A proposed bylaw amendment (dated October 1, 2011) was sent to owners in January of 2012. It failed in special resolution process. Only 25 votes out of required 33 were received. Therefore, the owners of Mystic Springs are still bound by the bylaws dated September 5, 2003, land titles document number 031350877 and Amendment to the bylaws dated January 1, 2010: Land Titles document number 101013191. Article 14.1 (c) in the amendment states "No owner shall rent his or her unit for short term rentals other than through the Rental Manager".

*DISCLAIMER: The contents of this document have not been ratified by the Board of Directors for the Corporation, and are to be considered E. & O.E.*

5. **Approval of the October 27, 2012 Board Meeting Minutes:** Motion by Dean J., seconded by Chris, to approve the October 27, 2012 Board Meeting Minutes as presented. Motion carried.
6. **Business Arising from the October 27, 2012 Board of Directors Meeting Minutes:**
- a) Legal Bills: As the financials for 2010 are still with the Auditors for review, it is uncertain if these bills have been paid. More information will be available with the closure of the 2010 year which was the transition between PEKA and Bellstar.
  - b) High Mountain Security Charges: This contract is being discussed between Donna and Waymarker to determine if these services should be paid through condo fees or hotel revenues.
  - c) Quotes:
    - i. Contract for Cleaning: PEKA had been directed to change the cleaning contract from Waymarker to McKnight. This decision was not brought forward to the Board as a whole and was contrary to the decision made in the previous meeting minutes. The new contractor is in place and the Board will need to review the frequency of cleaning in January to determine the best level of cleaning to balance cost and service levels. The Board has directed that Dean J. to work with PEKA to resolve any outstanding issues with regards to common area cleaning.
    - ii. Pathway/sidewalk Snow Removal: Services are currently being performed by Inline.
    - iii. Routine Maintenance: PEKA to confirm the Routine Maintenance contract with Waymarker. There are currently invoices which are being disputed with Waymarker as some additional maintenance costs are determined to be included in the Routine contract and some charges are thought to be hotel expenses rather than condominium charges.
  - d) GST Discussion: PEKA has requested from Collins Barrow a professional opinion regarding GST on condo fees for resort Condominiums. This item will be deferred until the next meeting.
  - e) Outstanding Condo Fees: PEKA confirmed that everyone has paid and are up to date as of the date that PEKA began to collect fees. Prior balances for owners have not yet been received from Bellstar and until these are received it is unknown if there are outstanding arrears.
  - f) Slip and Fall of August 5, 2012: PEKA has not received an update from the insurance company yet.
  - g) Pool Contractor: Candek has put forward to the Board an option to provide reimbursement for the damages incurred from an acid spill in the mechanical room. PEKA will examine the current contract with Paddy's Pools to review the termination clause so the Board may determine an action plan with respect to recouping the damages. The Board is considering acceptance of the offer with a third party company monitoring periodically. A decision will be confirmed as soon as possible.
  - h) Wedgewood Painting: Wedgewood is going to complete the painting for three doors around the pool area when the weather is warmer.
  - i) Landscaping Quotes: Quote requested from Bloomin' Landscapes which will be provided to the Board when received.

*DISCLAIMER: The contents of this document have not been ratified by the Board of Directors for the Corporation, and are to be considered E. & O.E.*

**7. New Business:**

**a) Correspondence PEKA:**

- i. **Assessment of Common Expenses:** Correspondence was received with relation to the determination of expense division for owners not participating in the rental program. Motion by Donna received by e-mail that Mystic have a lawyer look at case law that defines what section 32(5) and/or other sections of the Alberta Condo Property Act may mean within Mystic Springs' bylaw structure (specifically in relation to the special resolution to the bylaws that Del passed under Bellstar's management Jan 2010) prior to voting for changes at the April AGM. Reason? Owners are asking that the legalities over the issue of our right to rent our own units be resolved. Motion defeated
- ii. **Pool Cover:** Geoff Scott had put forward some information regarding keeping the pool covered. This item will be tabled until the next meeting to allow for further information to be provided by Donna for Board discussion and review.
- iii. **Light Sensor between Units 101 to 109:** Just an information point for the Board, PEKA will be arranging an electrician to fix the photocell that controls units 101 to 109.

**b) Correspondence Board:** None.

**c) Correspondence Email:** As there is some concern from Owners regarding the recent emails, Dean J. will respond to individual owner queries.

**d) GST on Condominium Fees:** Discussed earlier.

**e) Newsletter Items:** None.

**f) Rental Pool Committee Update:** None.

**g) Quote – Pool Deck Snow Melt System Repair:** PEKA will clarify the requirements of the repair and send further information to the Board for review.

**8. Set Next Meeting Date:** PEKA to suggest meeting dates between January 7 – 11 to the Board via Doodle poll.

**9. Adjournment:** Motion to Adjourn by Dean J. at 6:45 p.m.

Mystic Springs Chalets & Hot Pools Condominium  
Board of Directors Meeting  
Held January 16<sup>th</sup> at 5:30 p.m. at PEKA

**In attendance:** Dean Jarvey, Dean Miles, Glen Street and Cathy Robinson (of PEKA).

1. **Meeting Call to Order:** The meeting was called to order at 6:00 p.m. by Dean J. Cathy Robinson recording the minutes.

2. **New Business:**

a) Private Rental of Units:

An emergency meeting was called by the President to discuss the matter of owners privately renting their units (outside of the rental program).

Discussion regarding the current bylaws of the corporation to clarify Section 14, which states "Owners are not permitted to rent their units unless it is through the approved rental manager (Bylaw 14.1 (c))"

Motion by Dean J., seconded by Glen, to consult with McLeod Law LLP regarding penalties and sanctions against owners who are privately renting their units. Motion carried.

3. **Adjournment:** Motion to adjourn by Dean M. at 6:12 p.m.

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

Dean Jarvey

Sworn before me this 16

day of June 20 14

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

**STEPHANIE D. WHYTE**  
*Barrister & Solicitor*

THIS IS EXHIBIT " F "  
Referred to in the Affidavit of  
Dean Jarvey

Sworn before me this 16  
day of June 2014

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

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

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.

**STEPHANIE D. WHY**  
*Barrister & Solicitor*

- 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.*

# Mystic Springs Chalets & Hot Pools

0312235 Condominium Corporation

## Association Annual General Meeting

Saturday, November 26, 2005 at 11:00 am

Location: Mystic Springs Chalets & Hot Pools

### MEETING MINUTES

In Attendance: Dave ADELMAN, Unit 1  
Chris STATHONIKOS, Unit 2  
Donna & Geoffrey SCOTT, Units 4, 14, 24  
Larry & Loretta DELL, Unit 5  
Gordon HOOVER, Unit 6, 26  
Peter FFOULKES-JONES, Unit 15 & 18  
Glenn STREET, Unit 16  
Ernie SOROCHAN, Unit 22  
Dan & Mike KICKHAM, Unit 29  
Linda ALBERDING, Unit 30  
Ken JONES, Unit 33  
Phil FOREMAN, Unit 35  
Del & Jeannette REINHART, Unit 36 & 37  
Bruce LEE, Unit 39  
Terry & Colleen HEILMAN, Unit 42  
Al PENNER, Unit 43

Proxy: Ryan HOOVER, Unit 6 (Proxy held by Gordon Hoover)  
Dick BAILLIE, Unit 10 & 21 (Proxy held by David Adelman)  
David SHERRINGTON & Sharon SASAKI, Unit 11 (Proxy held by Bruce Lee)  
Geoffrey HOOVER, Unit 26 (Proxy held by Gordon Hoover)  
Dave & Tanya HURLBERT, Unit 28 (Proxy held by David Adelman)  
Margaret KICKHAM, Unit 29 (Proxy held by Daniel Kickham)

Absent: Donald HARDING & Helle JORGENSEN, Unit 3  
Randy REY, Unit 7  
Gary & Carol Anne MARTINSON, Unit 8  
Shafin, KANJI, Unit 9  
Linda & Alain LECLERC, Unit 12  
Ernie & Phyllis HASKEWICH, Unit 13  
Frances DECOSTE, Unit 17  
Brent ZANKE, Unit 19  
Allan & Judith WILLMS, Unit 20  
Greg VERKLEY, Unit 23  
Eugene CHEN, Unit 25  
Richard KLINE, Unit 27  
Anthony FINK & Sylvia KOKTS-PORIETIS, Unit 31  
Ken, Lorraine, Jim & Cleopatra CAMPBELL, Unit 32  
Richard VERKLEY, Unit 34  
Phillip & Gail FOREMAN, Unit 35  
Hanif ASARIA, Unit 38  
Gary MACDONALD, Unit 40  
Ken & Elizabeth REID, Unit 41  
Mark KASTNER, Unit 44

Ex Officio: Ed ROMANOWSKI, President & CEO, Bellstar Hotels & Resorts Ltd.  
Christine FREWIN, General Manager, Mystic Springs Chalets & Hot Pools  
Linda HOPLOCK, Resort Services Coordinator, Mystic Springs Chalets & Hot Pools  
Don STECKLER, Manager, Accounting & Resort Services, Bellstar Hotels & Resorts Ltd.  
January KOLI, Marketing Manager

Absent: Mike ANDERSON, Manager of Operations, Bellstar Hotels & Resorts Ltd.

THIS IS EXHIBIT   G    
Referred to in the Affidavit of  
  Dean Jarvey    
Sworn before me this   16    
day of   June     2014  

A Commissioner of Oaths in and for  
the Province of Alberta

**STEPHANIE D. WHYTE**  
*Barrister & Solicitor*



**1. Meeting Called to Order and Confirmation of Quorum**

Ernie Sorochan, President, called the 3<sup>rd</sup> Annual General Meeting to order at 11:00 am and welcomed everyone to the meeting. With the owners of twenty-five (25) units represented, the quorum requirement of 25% owners was confirmed by the Chairman.

**2. Proof of Notice of Meeting or Waiver of Notice**

Proper meeting notice was served at least 7 days prior by e-mail or regular mail as applicable in accordance with the Bylaw requirements.

**3. Reading and Disposal of any Unapproved Minutes**

There were no issues arising from the AGM Minutes of November 27, 2004. The approval of the minutes was deferred.

**4. Report of Officers and Committee**

5.1 MSCHP 2006 Annual Plan was approved by the Board on November 15, 2005 as reported by President Ernie Sorochan.

5.2 MSCHP 2004 Audited Financial Statements were approved by the Board on November 15, 2005 as prepared by Grant Thornton Chartered Accountants. A copy of the 2004 Audited Financial Statements will be distributed to all owners by e-mail with the AGM minutes.

The draft copy of the 2005 Financial Statements will be distributed to all owners by the end of March 2006, prior to Board approval.

**5. Financial Report:**

**Interim to October 31, 2005**

Don Steckler, Manager, Accounting & Resort Services with Bellstar reviewed the Income Statement Year-to-Date, and the October 31, 2005 Balance Sheet. Don noted that the Income Statement and Balance Sheet were recently distributed to all owners via e-mail. The net income will be approximately \$36,000 short of budget by year-end. Don highlighted the Balance Sheet cash balance, Capital Reserve, Payables and Accruals. There were no questions regarding the Financial Report.

**6. Reserve Fund Study Reporting**

Ernie Sorochan reported that the Reserve Fund Study was recently done by a consulting company and it is currently under review by Bellstar management. The Reserve Fund Study should be in place in January. Ed Romanowski, President & CEO of Bellstar noted that under the Condominium Corporation Act in Alberta we are required to have a Reserve Fund Study done. By the end of 2005 we will have close to \$90,000 in Reserve for future Capital Expenditures. We are allocating 3% of gross revenues to the Reserve. There are no approved Capital Expenditures to date.

**7. Board Election:**

Ernie Sorochan announced that he is resigning from the Board. Chris Stathonikos, Del Reinhart, Bruce Lee and Donna Scott will stand for re-election. As there is one vacancy on the Board, Ernie Sorochan asked for nominations from the floor. The meeting was adjourned for 10 minutes for Unit Owners to discuss/review possible nominees.

Chris Stathonikos, Unit 2 nominated Dave Adelman, Unit 1 to the Board. Dave Adelman declined.

Gordon Hoover, Unit 6 & 26 nominated Al Penner, Unit 43 to the Board. Al Penner declined.

Ken Jones, Unit 33 nominated Brent Jones, Unit 33.

Moved by Peter Ffoulkes-Jones that nominations cease.

Seconded by Del Reinhart

Motion carried

None opposed

As there were five (5) nominees for a five (5) member Board, no vote was required. Ernie Sorochan declared the new Board of Directors; Chris Stathonikos, Del Reinhart, Bruce Lee, Donna Scott and Brent Jones.

## **8. New Business:**

### **8.1 Presentation of Mystic Springs 2006 Annual Plan**

Ed Romanowski began by thanking Ernie Sorochan for his valuable contribution to the Board and to Mystic Springs in 2005, and presented Ernie with a gift of appreciation.

Ed Romanowski announced that Christine Frewin has tendered her resignation. Ed thanked Christine on behalf of the Board, the owners and Bellstar Hotels & Resorts for doing a wonderful job over the past 3 years, and for her contribution to the success of Mystic Springs. Ed presented Christine with a beautiful painting of Three Sisters.

On behalf of the Bellstar Management Team, Ed thanked the Board of Directors for their support and dedication throughout 2005. Thank you Ernie, Chris, Donna, Bruce & Del.

Ed Romanowski recognized Mike Anderson, Manager of Operations and Jon Zwickel, Executive Vice President of Operations, who were both not in attendance. He also recognized Linda Hoplock, Resort Services Coordinator for Mystic Springs Chalets. Linda is attending as secretary for this meeting.

The 2006 Annual Plan for Mystic Springs Chalets & Hot Pools was presented to the Unit Owners. Ed Romanowski prefaced the presentation by stating that the strategy for Mystic Springs this coming year is to deliver a higher level of service for the same dollars. The Annual Plan outlined the 2005 Performance, Forecast and Owners Distribution YTD, Positioning and Service Strategies in the Canmore Marketplace in 2006, Marketing Strategies, 2006 Budget, Capital Expenditures and Owners Distribution. The forecasted owner's distribution from January to October 2005 is \$308,000 and the budgeted distributions for 2006 is \$396,000.

In closing, the Bellstar Management Team would like to thank Mystic Springs' Owners for their support throughout 2005. Here's to a very successful 2006.

### **8.2 Questions & Answers**

*Question:* Glenn Street questioned the strategy behind giving each owner a Gift Certificate?

*Answer:* The main objective is "Yield Management" - to build future business. For owners to give the certificate to someone who could bring potential group business. Dave Adelman added that it's a great way for owners to help raise occupancy levels. Bruce Lee suggested that the certificate could be used as a complimentary first night on a weekend stay. Christine Frewin noted that the Gift Certificate is not a free night stay - it will be applied to your individual unit as an Owner's Stay. The balance of the certificates will be distributed by mail to those owners not in attendance.

*Question:* Dave Adelman asked how Bellstar will be handling the reservations and marketing for Fire Mountain Lodge, Blackstone, etc., and how it will impact Mystic Springs?

*Answer:* January Kohli stated that each property will be marketed based on their own individual differences and what each property has to offer as a guest experience. Ed Romanowski noted that each property has its own reservation line. Bellstar's marketing budget will increase significantly in the coming years as Canmore is becoming more of a hot real estate market and holiday destination.

*Question:* Dave Adelman asked what kind of savings on overhead will Mystic have because of Bellstar managing other properties?

*Answer:* Presently we are not forecasting a significant decline in 2006. We are expecting to deliver lower costs to you in 2007, which will occur in the following areas;

- (1) Management costs.
- (2) Increase yield through higher occupancies in 2007, provided that the strategies implemented in 2006 work, which are based on delivering a higher service level.

Our key strategies in 2006 are to provide more services for the same dollars and to increase owner distributions by \$1,000 in 2006.

*Question:* Bruce Lee asked which properties in BC is Bellstar involved in?

*Answer:* Bellstar is involved in a number of BC properties. Spirit Ridge Vineyard Resorts & Spa in Osoyoos which is now open. We will be setting up an owner's cross-promoting program to other destinations. Bellstar is also involved with Bellasera Tuscan Villas & Plazas in Kelowna which has monthly rentals and operates as a Residence Club. We are also involved in Strand Lakeside Resort in Vernon which has 104 units opening in Spring 2007, and will be expanding to 500 units in the next several years. We are also working on a number of opportunities on Vancouver Island and the Whistler area.

*Comment:* Al Penner stated that he has some reservations in supporting Bellstar's statement that Mystic Springs will benefit from Bellstar managing other properties in the Canmore area, as opposed to being a detriment to Mystic Springs from managing properties that are in direct competition. Does Bellstar plan to institute a Referral Credit/Cash to Mystic Springs for their overflow bookings to other properties?

*Reply:* Ed Romanowski stated there is no plan to institute a Referral System and it would be difficult to institute from an accountability standpoint. Discussion ensued. Ed recognized Al Penner's concern and recommended that this topic be deferred to the first Board Meeting for further discussion.

*Question:* Ernie Sorochan asked what the impact will be to the town of Canmore regarding the proposed taxation penalty to non-resident owners?

*Answer:* Bellstar couldn't officially comment on the proposal other than to say that there will no doubt be a strong challenge against it.

*Comment:* Dave Adelman commented on behalf of absent owners that they have difficulty in understanding the correlation between the Income Statement versus their Individual Income Statement.

*Reply:* Don Steckler explained that the Individual Income Statement comes from the overall revenues earned at the property, less your owner stays. It's calculated on a daily basis per month. It depends on how often you use your unit. If your stays are approximately over 9 times in a year, you will make less than the average distribution. If your stays are approximately under 9 times in a year, you will make more than the average distribution. In other words, the more you stay in your unit throughout the year, the less you make and the other owners make more in distributions. Also note that the 12 previous month's usage will impact the current month. Discussion ensued. Al Penner suggested that Bellstar report at the end of 2005 what everybody's share of the undistributed income portion is, and if there is inequities there, you may need to, in addition to the 12 month running process, come up with an annualized process of equalizing any inequities that exist.

*Question:* Gordon Hoover asked what number should he put on his personal Tax Return?

*Answer:* Discussion ensued and Ed Romanowski stated that we will deal with this as a separate item. We have asked our Accountant to comment on this as well.

*Question:* Glenn Street asked that the number of Owner Usage Nights be put on the Individual Statements each month?

*Answer:* Don Steckler agreed and it will be implemented on the November Statement.

*Question:* Geoff Scott asked to see the calculation template for the Owners Distribution?

*Answer:* Don Steckler indicated that there is a document that explains the calculation process which we have been sending to owners upon request.

*Comment:* Dave Adelman commented on behalf of an absent owner, that they are taking the GST amount that we are collecting and claiming that amount of GST back, because they have a GST number.

*Reply:* Ed stated that there is a risk involved by letting everyone do their own GST. The year-end Audit process would be horrific, and we could be inviting Revenue Canada, if someone makes a mistake in their calculations. Ed recommended that we re-emphasize GST Reporting and the risks associated with it. We will also include an example on the re-sale of a unit with regard to the GST, in one of the monthly reports in 2006.

*Question:* Gordon Hoover asked if the family/friends discounts affect his owner's distribution?

*Answer:* Yes, though not significantly. This is part of the overall revenue management program.

*Comment:* Bruce Lee advised that he hasn't been receiving his Owner's Distribution Pay Stubs.

*Reply:* Ed advised that we are accumulating everyone's stubs and will be distributing them at year-end. Ed recommended that we stick with the distributed Statements as this is the best validation. We will also report YTD and November distributions on the November statement to owners.

### **8.3 Owner's Kit**

Christine Frewin went through the contents of the Owner's Kit which everyone in attendance received: the Executive Summary, Owner's Privileges, Reservation Request Form & Policies, and the Gift Certificates.

### **8.4 Use of Mystic Springs Pool by Fire Mountain Lodge**

Ed Romanowski prefaced the motion by stating that Bellstar Hotels & Resorts and the Mystic Springs Board of Directors are taking a neutral position regarding the use of the Mystic Springs Pool by Fire Mountain Lodge. The Board of Directors felt that this was an owner's decision and not a Board Decision. A one page summary including the motion, background, and Pros & Cons was distributed for review. Ernie Sorochoan presented the motion that the Condominium Corporation authorize Management to enter into an agreement for the owners and guest of Fire Mountain Lodge to utilize the pool and hot tub at Mystic Springs Chalets & Hot Pools. Ernie Sorochoan asked for a motion.

The motion was brought forward by Glenn Street.

Seconded by Bruce Lee

The floor was open for discussion.

Al Penner stated that he has a conflict of interest and that he would abstain from voting. Dave Adelman advised that he has a conflict of interest and that he would abstain from voting, but would vote on behalf of his Proxy's as they have directed him to. Ernie Sorochoan asked how many owners feel that this is a conflict of interest? With a show of hands the owners voted 14 to 6 that this is not a conflict of interest. Discussion ensued.

The Ballots were then distributed. Ernie Sorochoan stated that 75% is required for the motion to pass. Linda Hoplock and Don Steckler counted the votes. Ernie Sorochoan announced that the motion was defeated.

Motioned to destroy the Ballots by Donna Scott

Seconded by Chris Stathonikos

Motion carried

None opposed

**9. Other Business and Adjournment**

With no other business brought forward Ernie Sorochan asked for a motion to adjourn.

Motion to adjourn meeting by Bruce Lee

Seconded by Chris Stathonikas

Motion carried

None opposed

**Meeting was adjourned at 1:30 pm.**

**Next Board Meeting: Saturday, November 26, 2005 at 2:00pm (Immediately following the AGM)**