

Keeping the HSV Property Owners Informed

THE FOLLOWING IS THE ROSE LAW FIRM'S RESPONSE TO THE POA'S REFUSAL TO PROVIDE REQUESTED INFORMATION:

October 11, 2018

To the Members of the Board of Directors, Hot Springs Village Property Owners Association, Inc.
ATTN: Tom Weiss, Chairman

Re: Cooper Communities, Inc. Request for Information



Dear Mr. Weiss:

I represent Cooper Communities, Inc. Joh11 A. Cooper III sent me your letter of October 3, 2018 responding to his letter of September 25, 2018 in which he, on behalf of Cooper Communities, Inc. ("CCI"), a member of the Hot Springs Village Property Owners Association, Inc. (the "Association"), requested certain information contained in the books and records of the Association pursuant to Ark. Code Ann. § 4-28-218.

Your letter requests that CCI provide a written articulation of the purpose for which CCI seeks the information. Let me assure you CCI is acting in good faith to protect its rights as a Member of the Association. As you know, the Association's Board of Directors ("Board") proposes to modify the Declaration and the Articles of Incorporation of the Association (the "Proposal"). The Proposal will have a significant impact on CCI's interests. The requests for information are all designed to provide CCI with information necessary to assess that impact and to prepare a course of action to protect those interests. I will address more specifically the purpose for which CCI seeks information for each category listed in my letter of September 25.

1. CCI requests current and historical financial information to assess the financial strength or weakness of the Association as any responsible member would want to do. Moreover, the information is needed to assess the feasibility of both the Proposal and the CMP.
2. CCI requires the names and contact information of members of the Association in order to communicate with these members regarding the Proposal which will be submitted to the membership for approval. Your denial of this request based upon provisions contained in the Association's Policy Guide is contrary to the CCI's statutory right under Ark. Code Ann. § 4-28-218. A majority of courts across the country have held articles of incorporation and by-laws cannot restrict the member or shareholder's statutory inspection rights. CCI is confident an Arkansas court will not allow a "Policy Guide" to restrict the broad inspection rights afforded to a member or shareholder under Ark. Code Ann. §4-28-218. I urge you to reconsider your position and to provide this information.
3. As with category number 1, CCI requested this financial information to assess the financial strength or weakness of the Association as any reasonable member would want to do. As stated in category number 1, detailed financial information is needed to assess the feasibility of the Proposal. Category number 3 seeks more granular data to access the financial management of the Association on a day to day basis. CCI is only asking for data which the Association actually possesses. You say this data is only available for a three-year period and CCI takes your word for that.
4. CCI requires the information in a category number 4 to assess the strength and weaknesses of the Proposal and to evaluate the procedures put in place for the Association's membership to comment on the Proposal.
5. CCI requires the information requested in category number 5 to assess the reasonableness and market rate of the Association's employment contract with its chief executive officer. Keeping this information from the membership is a recipe for fraud and mismanagement. Transparency has always been the guardian against fraud and overreach in corporate governance. Once again, the Association's "Policy Guide" cannot restrict a member or shareholder's statutory rights. We do not believe your position would be sustained by an Arkansas court. I urge you to reconsider your position and to provide this information.
6. CCI requires the Association's tax returns for the same purposes as set forth in category numbers 1 and 3.
7. As stated in category number 5, CCI requires the information requested in category number 7 to assess the reasonableness and market rate of the Association's employment contracts with key personnel. This information is not only useful for a concerned member to assess how the Board is managing the Association, it is in the best interest of the Association. If employment contracts are exorbitant and not consistent with comparable contracts in the relevant market, the Association's membership should be made aware so steps can be taken in the best interest of the Association as a whole. It bears repeating that a "Policy Guide" cannot restrict a member or shareholder's statutory right. I urge you to reconsider your position and to provide this information.

Please let me know by 5:00 p.m. on Monday, October 15, 2018 if the Association intends to stand by its denial of the information requested in category numbers 2, 5 and 7 so that CCI can take steps necessary to protect its interests.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard T. Donovan'.

Richard T. Donovan, Attorney for Cooper Communities, Inc.

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A Professional Association

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