

1 Gina M. Austin (SBN 246833)
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3 AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
4 San Diego, CA 92110
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6 Attorneys for Defendants
San Diego United Holdings Group, LLC, Ninus Malan
7 And Balboa Ave Cooperative

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
09/06/2017 at 02:58:00 PM
Clerk of the Superior Court
By Mary E. Bane, Deputy Clerk

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN DIEGO- CENTRAL DIVISION**

11
12 MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION, a
13 California Nonprofit Mutual Benefit
Corporation,

14 Plaintiff,

15 vs.

16 BALBOA AVE COOPERATIVE, a
California corporation; SAN DIEGO
17 UNITED HOLDINGS GROUPS, LLC, a
California limited liability company;
18 NINUS MALAN, an individual; RAZUKI
INVESTMENTS, LLC, a California
19 limited liability company; SALAM
RAZUKI, an individual; and DOES 1
20 through 25, inclusive;

21 Defendants.

CASE NO. 37-2017-00019384-CU-CO-CTL

Assigned to Judge: Honorable Ronald L. Styn

**SUPPLEMENTAL DECLARATION OF
GINA M. AUSTIN IN SUPPORT OF
DEFENDANTS BALBOA AVE
COOPERATIVE, SAN DIEGO UNITED
HOLDINGS GROUP, LLC, AND NINUS
MALAN'S OPPOSITION TO PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTION**

[IMAGED FILE]

DATE: September 8, 2017
TIME: 11:00 a.m.
DEPT: C-62

22
23
24 I, Gina M. Austin, declare:

25 1. I am a member in good standing of the California state bar and am the Managing
26 Attorney at Austin Legal Group, APC. I make this supplemental declaration in support of
27 defendants San Diego United Holdings Group, LLC, Balboa Ave Cooperative, and Ninus Malan's
28 Opposition To Plaintiff's Motion For Preliminary Injunction. I have personal knowledge of the

AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
San Diego, CA 92110

1 facts stated in this declaration, except as to those facts stated upon information and belief, which
2 facts I believe to be true.

3 2. On September 1, 2017, the Court heard testimony and oral argument on Plaintiff's
4 motion for preliminary injunction including argument and testimony related to the Association's
5 insurance policy. When the hearing concluded, the Court ordered counsel for Plaintiff and
6 counsel for Defendants to meet and confer on the insurance issues and the validity of the original
7 amendment.

8 3. On September 5, 2017 at noon, the parties met and conferred by telephone to
9 discuss the insurance issues and the 2015 amendment. Throughout the day, both sides exchanged
10 information related to the insurance and the 2015 amendment. I e-mailed Ms. Hexom insurance
11 quotes and information from and Ms. Hexom e-mailed me, among other things, a board resolution
12 from the same morning which purported to ratify the 2015 Amendment.

13 4. During the ongoing information exchange, we learned that there were a variety of
14 other issues impeding the Association's ability to get insurance and realized that we would need
15 the Association's current broker, Arthur Hopkins, to offer further testimony on the current
16 Association insurance policy.

17 5. On September 5, 2017 our office was informed by Ms. Hexom that her office had
18 subpoenaed Arthur Hopkins (which we did not know as we were not given a copy of the
19 subpoena) as Mr. Hopkins was prohibited by his employer from filing a written declaration and
20 that it was necessary to take his oral testimony. Ms. Hexom also informed me that Mr. Hopkins
21 is unavailable Friday September 8, 2017 to testify in this case as he has a pre-planned family
22 gather out of the County.

23 6. Our office shortly thereafter sent a subpoena to Mr. Hopkin's office for testimony
24 on September 8, 2017. Mr. Hopkins was not in the office to accept service yesterday although he
25 will be served today. His employer did inform Mr. Hopkins that we were attempting to serve
26 him.

27 7. Subsequently, Mr. Hopkins called my cell phone to let me know that he would not
28 be available Friday September 8, 2017 to testify as he would be out of town for a special family

1 gathering. He gave me some information on the Association's insurance situation and reiterated
2 that his employer would not let him give a written declaration but that if subpoenaed, he could
3 give testimony.

4 8. I immediately emailed Ms. Hexom and requested the parties stipulate to a
5 continuance for one week so that Mr. Hopkins would be available to provide testimony related to
6 the multiple factors that are preventing the Association from obtaining insurance in addition to
7 the fact that the currently policy will cancel on October 15, 2017 regardless of whether the
8 dispensary is operating or not. Attached hereto as Exhibit 1 is a true and correct copy of the
9 September 5, 2017 email.

10 9. Ms. Hexom indicated that Plaintiff was unwilling to continue the hearing.
11 Attached hereto as Exhibit 2 is a true and correct copy of the September 5, 2017 email.

12 10. As a result of Mr. Hopkins unavailability, I spoke with Mr. Hopkins about the
13 various issues that are preventing the Association from obtaining insurance. Mr. Hopkins
14 informed me that the mid-term cancellation was due to multiple risk factors including the “armed
15 guards” required by the conditional use permit. However, Mr. Hopkins was unaware if Farmers
16 Insurance would object to batons or tazers. He stated he would contact Farmer’s underwriting
17 and ask for clarification.

18 11. I also asked Mr. Hopkins if Farmer’s insurance would rescind the termination of
19 insurance coverage set for October 15, 2017 if the dispensary ceased to exist before October 15
20 2017. Mr. Hopkins stated that he did not think the policy could be re-instated but he would
21 contact Farmer’s underwriting and ask for additional clarification.

22 12. I also asked Mr. Hopkins if there were factors other than the dispensary that were
23 impacting the ability of the Association to obtain new insurance coverage. Mr. Hopkins informed
24 me that there were a variety of factors including, but not limited to, prior claims settled by the
25 insurance carrier, current pending litigation, and a current restraining order against one of the
26 directors/officers.

27 13. Over the last month, the Association has produced well over a thousand pages of
28 documents at member San Diego United's request. I have attached as Exhibit 3 the only minutes

AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
San Diego, CA 92110

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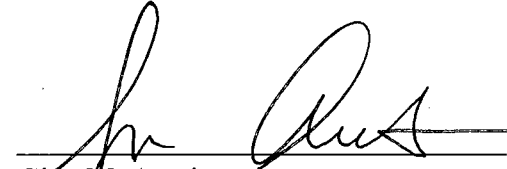
produced by the Association.

14. Attached as Exhibit 4 is a true and correct copy of the Civil Harrasment Restraining Order restraining Daniel Burakowski and protecting Defendants employee, Anthony Avila, until July 20, 2020, based on unlawful violence, a credible threat of violence, or stalking. Ms. Hexom respresented Mr. Burakowski at the restraining order hearing.

15. Attached as Exhibit 5 are true and correct copies of Peter Michelet's signature on Association documents from 2014.

16. Attached as Exhibit 6 is a true and correct copy of minutes from a 2008 Association meeting.

I declare under penalty of perjury under California state law that the foregoing is true and correct. Executed on September 6, 2017.



Gina M. Austin

Exhibit 1

Austin, Gina

From: Austin, Gina
Sent: Tuesday, September 5, 2017 4:58 PM
To: 'Mandy D. Hexom'
Cc: Leetham, Tamara; Rian W. Jones
Subject: RE: Arthur Hopkins

Mandy,

As I have just come to understand there are multiple reasons why the Association can't get insurance and that information has to come from Art. As you know, he is not allowed to provide a declaration. In addition, it appears that whether the dispensary is open or closed will not affect the fact that the insurance is being cancelled in October. Therefore, we need Art to testify to the above. If you would like to stipulate to the fact that there are many reasons why the Association cannot get insurance and that issuing the preliminary injunction will not change the fact that the insurance will be cancelled in October then we wouldn't have to have him testify.

Please let me know right away if you are willing to continue the hearing so he will not have to miss his niece's 10th birthday party.

Gina

From: Mandy D. Hexom [<mailto:MHexom@epsten.com>]
Sent: Tuesday, September 5, 2017 4:29 PM
To: Austin, Gina
Cc: Leetham, Tamara; Rian W. Jones
Subject: RE: Arthur Hopkins

Gina:

Art already testified. What is your offer of proof/what is so important that Art needs to testify to? We can submit supplemental papers and/or declarations as permitted by the court by tomorrow. Having Art testify a second time just seems unnecessary. Art has not been able to find an alternative insurance policy for the Association. That has not changed. The purpose of our meet and confer to exchange information, try to come to a resolution and submit papers on disputed items.

Mandy D. Hexom
Senior Attorney at Law
10200 Willow Creek Road, Suite 100 | San Diego, CA 92131
Phone: (858) 527-0111 | Fax: (858) 527-1531 | Direct Dial: (858) 444-9664 | www.epsten.com

Epsten Grinnell & Howell
Attorneys Serving Community Associations™

San Diego | Coachella Valley | Inland Empire



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From: Austin, Gina [<mailto:gaustin@austinlegalgroup.com>]

Sent: Tuesday, September 05, 2017 4:18 PM

To: Mandy D. Hexom

Cc: Leetham, Tamara

Subject: Arthur Hopkins

Mandy,

We just received a call from Arthur Hopkins related to the subpoena for his testimony on Friday. He said he has plans to go to Bakersfield on Friday. He asked if the hearing could be moved. We do not have a problem to stipulating to moving the hearing. I told Art that it would be up to your firm but I would reach out to see if you would be agreeable. Please let me know asap.

Gina

Gina M. Austin

AUSTIN LEGAL GROUP, APC | 3990 Old Town Ave., Ste A112, San Diego, CA 92110 |

Ofc: 619-924-9600 | Cell 619-368-4800 | Fax 619-881-0045

Confidentiality Notice

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EXHIBIT 2

Austin, Gina

From: Mandy D. Hexom <MHexom@epsten.com>
Sent: Tuesday, September 5, 2017 6:51 PM
To: Austin, Gina
Cc: Rian W. Jones; Leetham, Tamara
Subject: RE: Arthur Hopkins
Attachments: 3315027_1_Reporters Transcript Hearing on 2017-09-01 - Part 01.PDF

Follow Up Flag: Follow up
Flag Status: Flagged

Gina:

The Board does not want to spend any more time and expense on this. The Board wants to move forward on Friday. There is no guaranty that the court is available on Friday the 15th and no guaranty (unless you go in ex parte) that the court is willing to listen to Art's testimony. I attached the transcript. The court limited the continued hearing to supplemental briefing and/or declarations.

Mandy D. Hexom
Senior Attorney at Law
10200 Willow Creek Road, Suite 100 | San Diego, CA 92131
Phone: (858) 527-0111 | Fax: (858) 527-1531 | Direct Dial: (858) 444-9664 | www.epsten.com



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Exhibit 3

Mailed: April 9, 2013

Montgomery Field Business Condos
Board Meeting Notice
RESCHEDULED

Dear Montgomery Field Business Condo Owner:

Please be advised of the RESCHEDULED board meeting of the:

Montgomery Field Business Condos

When: ~~Monday April 15, 2013~~ Moved: Friday April 19, 2013

Time: 10:00 AM

Where: Zephyr Motors 8863 Balboa Ave "B", San Diego, CA 92123

Topics on agenda include:

- I. Call to Order
- II. Review of Financials
- III. Approval of Lien
 - a. APN 369-150-13-01
- IV. Open Forum
- V. Adjournment

Any scheduling conflict can be resolved with Dan Burakowski 619-507-8994

On behalf of the Board of Directors,

Amber Myers
Associated Professional Services



Montgomery Field Business Condos
Board Meeting Notice

Mailed: February 7, 2014

Dear Montgomery Field Business Condo Owner:

Please be advised that there will be a board meeting of the:

Montgomery Field Business Condos

When: Monday February 17, 2014

Time: 9:00 AM.

Where: Zephyr Motors 8863 Balboa Ave "B", San Diego, CA 92123

Topics on agenda include:

- I. Call to Order
- II. Discussion RE: Parking
 - a) Designated Spaces & Common Areas
 - b) Application Process For Extended Parking
 - c) Owner Responsibilities and Fine Procedures
 - d) Handicap Access Rule
 - e) Hiring Private Security for Parking Enforcement
- III. Financial Review
 - a) Review of Fines Levied Against Owners
- IV. Open Forum
- V. Adjournment

Any scheduling conflict can be resolved with Dan Burakowski 619-507-8994

On behalf of the Board of Directors,

Amber Myers



Associated Professional Services

Montgomery Field Business Condos
Board Meeting Notice

June 11, 2014

Dear Montgomery Field Business Condo Owner:

Please be advised that there will be a board meeting of the:

Montgomery Field Business Condos

When: Wednesday June 25, 2014

Time: 9:00 AM

Where: Zephyr Motors 8863 Balboa Ave "B", San Diego, CA 92123

Topics on agenda include:

- I. Call to Order
- II. Financial Review
 - a. Delinquency Review
- III. Maintenance
 - a. Paint front buildings
 - b. Repair concrete behind HiTech Auto
- IV. Discussion re: Liens & Bankruptcy
- V. Limiting Retail Activity in Complex
 - a. CC&Rs prohibit retail
 - b. Medical Marijuana Dispensary restrictions
- VI. Open Forum
- VII. Adjournment

Any scheduling conflict can be resolved with Dan Burakowski 619-507-8994

On behalf of the Board of Directors,

Amber Myers
Associated Professional Services

Montgomery Field Business Condos
Emergency Meeting Notice

June 4, 2015

Dear Montgomery Field Business Condo Owner:

Please be advised that there will be an Emergency Board meeting of the:

Montgomery Field Business Condos

When: Wednesday June 10, 2015

Time: 10:00 AM

Where: Zephyr Motors

8863 Balboa Ave Unit B San Diego, CA 92123

Topics on agenda include:

- I. Call to Order
- II. Discuss Proposed Dues Increase and/or Assessment
(to cover legal cost necessary to oppose a Marijuana Collective from opening a dispensary in complex)
- III. Open Forum
- IV. Adjournment

Please call Dan Burakowski 619-507-8994 if you wish to talk about the issues prior to the meeting.

On behalf of the Board of Directors,

Jenna Warriner
Associated Professional Services

Montgomery Field Business Condos

Special Meeting Minutes

September 3, 2014

CALL TO ORDER

The Special Meeting was called to order at 10:00AM and held at the offices of Associated Professional Services located at 7007 Mission Gorge Road, Suite 201, San Diego CA 92120.

QUORUM:

A quorum was established with over fifty-one percent of votes from owners entitles to cast votes, or a total of 616 out of 740 total votes represented by ballot. Owners present in person: Glenn Strand. Also present was Amber Myers of Associated Professional Services.

BALLOT TO AMEND CC&RS

The ballot to amend the CC&Rs was sent to all members under the authority of Corporations Code Section 7513 and Article XIII, Section 2 of the CC&Rs. The proposed amendment would prohibit the use of Units for sale or distribution of medical marijuana or the operation of a medical marijuana collective, a medical marijuana cooperative, or a medical marijuana dispensary.

616 of 740 total votes were received from owners entitle to vote in this election establishing a quorum over 51%. To approve the proposed amendment, owners in the aggregate possessing not less than seventy-five percent of the voting power of the Association, or 555 "Yes" votes must vote in favor. Amber Myers served as the Inspector of Elections and the results of the ballots received is as follows:

553 Votes In Favor of the Proposed Amendment

63 Votes Against the Proposed Amendment

With insufficient votes to pass the assessment, the CC&Rs will not be amended at this time.

ADJOURNMENT

There being no additional business to discuss, the Meeting was unanimously adjourned at 10:55AM

Respectfully submitted by: Amber Myers - Associated Professional Services

Montgomery Field Business Condos

Special Meeting Minutes

October 20, 2014

CALL TO ORDER

The Special Meeting was called to order at 12:00PM and held at the offices of Associated Professional Services located at 7007 Mission Gorge Road, Suite 201, San Diego CA 92120.

QUORUM:

A quorum was established with over fifty-one percent of votes from owners entitles to cast votes, or a total of 624 out of 740 total votes represented by ballot. Present was Amber Myers of Associated Professional Services.

BALLOT TO AMEND CC&RS

The ballot to amend the CC&Rs was sent to all members under the authority of Corporations Code Section 7513 and Article XIII, Section 2 of the CC&Rs. The proposed amendment would prohibit the use of Units for sale or distribution of medical marijuana or the operation of a medical marijuana collective, a medical marijuana cooperative, or a medical marijuana dispensary.

624 of 740 total votes were received from owners entitle to vote in this election establishing a quorum over 51%. To approve the proposed amendment, owners in the aggregate possessing not less than seventy-five percent of the voting power of the Association, or 555 "Yes" votes must vote in favor. Amber Myers served as the Inspector of Elections and the results of the ballots received is as follows:

534 Votes In Favor of the Proposed Amendment

90 Votes Against the Proposed Amendment

With insufficient votes to pass the assessment, the CC&Rs will not be amended at this time.

ADJOURNMENT

There being no additional business to discuss, the Meeting was unanimously adjourned at 12:45 PM

Respectfully submitted by: Amber Myers - Associated Professional Services

Montgomery Field Business Condos

Special Meeting Minutes

February 13, 2015

CALL TO ORDER

The Special Meeting was called to order at 4:00PM and held at the offices of Associated Professional Services located at 7007 Mission Gorge Road, Suite 201, San Diego CA 92120.

QUORUM:

A quorum was established with over fifty-one percent of votes from owners entitles to cast votes, or a total of 700 out of 740 total votes represented by ballot. Present was Amber Myers of Associated Professional Services.

BALLOT TO AMEND CC&RS

The ballot to amend the CC&Rs was sent to all members under the authority of Corporations Code Section 7513 and Article XIII, Section 2 of the CC&Rs. The proposed amendment would prohibit the use of Units for sale or distribution of medical marijuana or the operation of a medical marijuana collective, a medical marijuana cooperative, or a medical marijuana dispensary.

700 of 740 total votes were received from owners entitle to vote in this election establishing a quorum over 51%. To approve the proposed amendment, owners in the aggregate possessing not less than seventy-five percent of the voting power of the Association, or 555 "Yes" votes must vote in favor. Amber Myers served as the Inspector of Elections and the results of the ballots received is as follows:

660 Votes In Favor of the Proposed Amendment

40 Votes Against the Proposed Amendment

With a majority of voters voting to pass the assessment, the CC&Rs will be amended in accordance with the vote of a majority of owners.

ADJOURNMENT

There being no additional business to discuss, the Meeting was unanimously adjourned at 5:00 PM

Respectfully submitted by: Amber Myers - Associated Professional Services

THE MONTGOMERY FIELD BUSINESS CONDOS

Board Meeting

June 10, 2015

The meeting was held in the office of Zephyr Motors, located at 8863 B Balboa Ave. The meeting was called to order 10:00 AM. A quorum was established. In attendance was Dan Burakowski, President; Glenn Strand, Vice President/Treasurer; Peter Michelet, Secretary. Also owners in attendance were: Spencer Harris, Ed Quinn, and Chris Williams.

PROPOSED DUES INCREASE

The Board voted and passed unanimously to increase the monthly assessments by 20%. The budget will be reviewed annually. Owners will be notified prior to the billing of the increase.

CONTRACTS

The Board voted and agreed to let contracts and start building 2 van accessible spaces.

FINANCIAL

The Board voted and agreed to stop spending money on further projects and legal until after the vote of the planning committee on 6-25-2015 and a vote of the Board of Directors.

The meeting was adjourned at 11:30 AM.

Minutes By: Ed Quinn

THE MONTGOMERY FIELD BUSINESS CONDOS
Board Meeting
July 22, 2015

The meeting was held in the office of Zephyr Motors, located at 8863 B Balboa Ave. The meeting was called to order 9:20 AM. A quorum was established. In attendance was Dan Burakowski, President; Glenn Strand, Vice President/Treasurer; Peter Michelet, Secretary. Also in attendance were Spencer Harris and Ed Quinn, owners and Neal Chazin of Associated Professional Services.

MINUTES -

The minutes of the 6-4-15 emergency meeting were read by Ed Quinn. A motion was made by Dan to approve the minutes as amended. The motion was seconded and passed unanimously.

The Board agreed to have Associated Professional Services to prepare an agenda and take meeting minutes for this meeting and future meetings.

8863 Ste E

On 6-24-14 Ed Quinn, spoke to David Chadwick, CEO of Leading Edge Real Estate requesting a meeting with the Board. He also spoke to Michael Sherlock on 7-13-15.

Dan made a motion to send a letter to David Chadwick and granting him an opportunity to speak to the Board and ask him to submit in writing the issues he wants to talk about. A motion was seconded by Glenn and passed unanimously.

PARKING – Spencer Harris inquired if the Board would consider reassigning parking spaces. Discussion will be held at a future meeting.

HANDICAPPED PARKING -

Some of the new handicapped spaces have taken away parking spaces for some of the owners. We were told by the SACP inspector that the handicapped spaces could be moved to the back. Dan got bids to alter the asphalt to allow putting a new handicap parking space to give building 8863 A the two spaces back. Restriping would also give 8873 an additional two spaces. The board voted to table a decision on this until another consultant can advise on the feasibility.

The meeting was adjourned at 11:23 AM. The next Board meeting will be scheduled after receiving a response from David Chadwick.

Minutes By: Neal Chazin

Montgomery Field Business Condos
Board Meeting Notice

Dear Montgomery Field Business Condo Owner:

Please be advised that there will be an open Board meeting of the:

Montgomery Field Business Condos

When: Thursday, September 17, 2015

Time: 10:00 AM

Where: Zephyr Motors

8863 Balboa Ave Unit B San Diego, CA 92123

Topics on agenda include:

- I. Call to Order
- II. Financial Status
- III. Outstanding Bills
- IV. Procedures for Spending
- V. Parking Issues
- VI. Set-up Meeting RE: 8863 Balboa Ave Ste E
- VII. Set-up of Annual Meeting
- VIII. Homeowner Open Forum
- IX. Meeting Adjournment

Please call Dan Burakowski at 619-507-8994 if you wish to talk about the issues prior to the meeting.

On behalf of the Board of Directors,
Associated Professional Services

THE MONTGOMERY FIELD BUSINESS CONDOS

Board Meeting September 17, 2015

The meeting was held in the office of Zephyr Motors, located at 8863 B Balboa Ave. The meeting was called to order 10:07 AM. A quorum was established. In attendance was Dan Burakowski, President; Glenn Strand, Vice President/Treasurer; Peter Michelet, Secretary. Also in attendance were Spencer Harris and Ed Quinn, owners and Neal Chazin of Associated Professional Services.

MINUTES - The minutes of the July 22, 2015 meeting were read. A motion was made by Glen to approve the minutes. The motion was seconded by Peter and passed unanimously.

FINANCIAL STATUS - The total assets as of August 31, 2015 is \$17,925.37. The cash balance is \$12,388.79 and the net operating income for the month of August was \$1,837.27.

The insurance claim liability on the balance sheet was from a claim from many years ago. The board agreed to authorize APS to make an adjusting entry to remove it from the balance sheet.

It was determined that the balance owed on unit [REDACTED] is uncollectible due to the bankruptcy discharge. Glen made a motion to write off the balances on unit [REDACTED] and [REDACTED]. The net write off is \$4,570.32. The motion was seconded by Dan and passed unanimously.

OUTSTANDING BILLS - There is an outstanding legal bill from Epstein, Grinnell & Howell for \$7,319. Ed Quinn and Glenn Strand offered to pay \$1,800 for their part of the bill, however, Ed was able to get them to adjust \$800 from the amount they owe. Therefore they offered to pay \$500 each toward the legal bill. Dan made a motion to accept the offer. The motion was seconded by Peter and passed unanimously. The association will pay the bill - \$2,000 the first month and \$1,000 each month until the amount of \$6,519 is paid.

There may be additional bills for minor issues.

PROCEDURES FOR SPENDING - Dan has been spending \$150 to \$200 per month for minor expenses. A motion was made by Glen to authorize Dan to spend up to \$150 per month without the approval of the other Board members. The motion was seconded by Peter and passed unanimously.

PARKING - Spencer Harris will submit a recommendation as to how to accommodate two more parking spaces in the front.

Dan made a motion to move the 2 handicap spaces at 8863 B to the southwest corner of the same building in order to give Ed Quinn his two parking spaces back. In addition the handicap parking spaces at the 8867 will be moved to the southeast corner of building 8873. The work will be done as the association's finances allow. Peter seconded the motion and it passed unanimously.

Set Up Meeting with 8863 Ste E - The meeting will be held at a regularly scheduled board meeting

ANNUAL MEETING –The scheduling of the annual meeting was tabled.

OPEN FORUM - Spencer suggested that the buildings will need some painting soon and that a reserve study should be prepared.

The meeting was adjourned at 11:34 AM. The next Board meeting will be scheduled as needed..

Minutes By:

Neal Chazin

Exhibit 4

CH-130 Civil Harassment Restraining Order After Hearing

Clerk stamps date here when form is filed.

FILED
SAN DIEGO SUPERIOR COURT
JUL 21 2017
Clerk of the Superior Court
By: L. Pena-Sanchez

Person in ① must complete items ①, ②, and ③ only.

① Protected Person

a. Your Full Name: ANTHONY AVILA
Your Lawyer (if you have one for this case):
Name: IN PRO PER State Bar No.: _____
Firm Name: ANTHONY AVILA
b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):
Address: 8863 BALBOA AVE. STE. E
City: SAN DIEGO State: CA Zip: 92123
Telephone: _____ Fax: _____
E-Mail Address: _____

Fill in court name and street address:

Superior Court of California, County of
SAN DIEGO
330 W BROADWAY
SAN DIEGO CA 92101
CENTRAL

Court fills in case number when form is filed.

Case Number:
37-2017-00020519-CU-HR-CTL

② Restrained Person

Full Name: DANIEL FRANCES BURAKOWSKI

Description:

Sex: M F Height: 6'1" Weight: 210 Date of Birth: Unknown
Hair Color: Gray Eye Color: Brown Age: 67 Race: White
Home Address (if known): 8861 BALBOA AVE. STE. D
City: SAN DIEGO State: CA Zip: 92123
Relationship to Protected Person: NEIGHBOR

③ Additional Protected Persons

In addition to the person named in ①, the following family or household members of that person are protected by the orders indicated below:

Full Name	Sex	Age	Lives with you?	How are they related to you?
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Check here if there are additional persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.

④ Expiration Date

This Order, except for any award of lawyer's fees, expires at:

Time: _____ a.m. p.m. midnight on (date): 7-20-2020

If no expiration date is written here, this Order expires three years from the date of issuance.

This is a Court Order.

5 Hearing

- a. There was a hearing on (date) JUL 21 2017 at (time): 8:30 AM in Dept.: C04 Room: _____
 (Name of judicial officer): FREDERICK A. MANDABACH made the orders at the hearing.
- b. These people were at the hearing:
 (1) The person in ① (3) The lawyer for the person in ① (name): _____
 (2) The person in ② (4) The lawyer for the person in ② (name): Mandy Hexom
 Additional persons present are listed at the end of this Order on Attachment 5.
- c. The hearing is continued. The parties must return to court on (date): _____ at (time): _____

To the Person in ② :

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

6 Personal Conduct Orders

- a. You must **not** do the following things to the person named in ①
 and to the other protected persons listed in ③:
- (1) Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
 (2) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by e-mail, by text message, by fax, or by other electronic means.
 (3) Take any action to obtain the person's address or location. If this item (3) is not checked, the court has found good cause not to make this order.
 (4) Other (specify): _____
 Other personal conduct orders are attached at the end of this Order on Attachment 6a(4).
- b. Peaceful written contact through a lawyer or process server or other person for service of legal papers related to a court case is allowed and does not violate this Order.

7 Stay-Away Orders

- a. You must stay at least 100 yards away from (check all that apply):
- (1) The person in ① (7) The place of child care of the children of the person in ①
 (2) Each person in ③ (8) The vehicle of the person in ①
 (3) The home of the person in ① (9) Other (specify): _____
 (4) The job or workplace of the person in ①
 Stay away order reduced to 20 feet when respondent at work.

 (5) The school of the person in ①
 (6) The school of the children of the person in ①

This is a Court Order.

b. This stay-away order does not prevent you from going to or from your home or place of employment.

8 No Guns or Other Firearms and Ammunition

a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.

b. If you have not already done so, you must:

- Within 24 hours of being served with this Order, sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms in your immediate possession or control.
• File a receipt with the court within 48 hours of receiving this Order that proves that your guns or firearms have been turned in, sold, or stored. (You may use form CH-800, Proof of Firearms Turned In, Sold, or Stored, for the receipt.)

c. [] The court has received information that you own or possess a firearm.

9 [] Lawyer's Fees and Costs

The person in _____ must pay to the person in _____ the following amounts for:

a. [] Lawyer's fees b. [] Costs

Table with 4 columns: Item, Amount, Item, Amount. Includes dollar signs and blank lines for entry.

[] Additional items and amounts are attached at the end of this Order on Attachment 9.

10 [] Possession and Protection of Animals

a. [] The person in (1) is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household. (Identify animals by, e.g., type, breed, name, color, sex.)

Blank lines for listing animals.

b. [] The person in (2) must stay at least _____ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

11 [] Other Orders (specify):

Blank lines for specifying other orders.

[] Additional orders are attached at the end of this Order on Attachment 11.

This is a Court Order.

To the Person in ① :

⑫ Mandatory Entry of Order Into CARPOS Through CLETS

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (Check one):

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, the person in ① or his or her lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

Additional law enforcement agencies are listed at the end of this Order on Attachment 12.

⑬ Service of Order on Restrained Person

- a. The person in ② personally attended the hearing. No other proof of service is needed.
- b. The person in ② did not attend the hearing.
 - (1) Proof of service of form CH-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are the same as in form CH-110 except for the expiration date. The person in ② must be served with this Order. Service may be by mail.
 - (2) The judge's orders in this form are different from the temporary restraining orders in form CH-110. Someone—but not anyone in ① or ③—must personally serve a copy of this Order on the person in ②.

⑭ No Fee to Serve (Notify) Restrained Person

The sheriff or marshal will serve this Order without charge because:

- a. The Order is based on unlawful violence, a credible threat of violence, or stalking.
- b. The person in ① is entitled to a fee waiver.

⑮ Number of pages attached to this Order, if any: 0

Date: JUL 21 2017

Frederick A. Mandabach
Judicial Officer
FREDERICK A. MANDABACH

This is a Court Order.

Warning and Notice to the Restrained Person in ② :**You Cannot Have Guns or Firearms**

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms that you have or control as stated in item ⑧ above. The court will require you to prove that you did so.

Instructions for Law Enforcement**Enforcing the Restraining Order**

This Order is enforceable by any law enforcement agency that has received the Order, is shown a copy of the Order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

Start Date and End Date of Orders

This Order *starts* on the date next to the judge's signature on page 4 and *ends* on the expiration date in item ④ on page 1.

Arrest Required If Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed it, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person "served" (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was at the restraining order hearing or was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the order and then enforce it.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

This is a Court Order.

Conflicting Orders—Priorities of Enforcement

If more than one restraining order has been issued, the orders must be enforced according to the following priorities: (See Pen. Code, § 136.2; Fam. Code, §§ 6383(h)(2), 6405(b).)

1. *EPO*: If one of the orders is an *Emergency Protective Order* (form EPO-001) and is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No-Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes a no contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. Any nonconflicting terms of the civil restraining order remain in effect and enforceable.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

Clerk's Certificate
[seal]

(Clerk will fill out this part)
—Clerk's Certificate—

I certify that this *Civil Harassment Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: JUL 21 2017 Clerk, by M. Dixon, Deputy

M. DIXON



This is a Court Order.

Exhibit 5

AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
San Diego, CA 92110

1 2. I served as the Secretary and Board member beginning in 2010 and resigned from
2 both positions effective June 3, 2017.

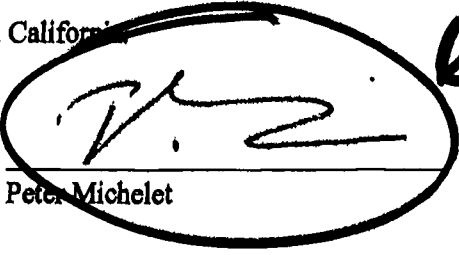
3 3. As per the Association CC&Rs, a copy of each amendment shall be certified by at
4 least two officers of the Association.

5 4. An amendment to the CC&Rs, executed February 26, 2015, was signed by Dan
6 Burakowski and Ed Quinn, as President and Secretary, respectively. (See Exhibit A - 2015
7 Amendment to Declaration of Covenants, Conditions and Restrictions for Montgomery Field
8 Business Condominiums Association) Mr. Quinn was not the Secretary at the time, as I was five
9 years into my role as Secretary. I do not know why Mr. Burakowski allowed Mr. Quinn to sign as
10 Secretary, knowing that I was the serving Secretary.

11 5. The Certificate of Board President and Secretary of the Association was also
12 signed and certified by Dan Burakowski, as President, and Ed Quinn, as Secretary. (See Exhibit B
13 – Certificate of Board President and Secretary of Montgomery Filed Business Condominiums
14 Association) I do not know why Mr. Burakowski allowed Mr. Quinn to sign as Secretary,
15 knowing that I was the serving Secretary.

16 6. I did not receive notice, as required by the Association's Bylaws, of any special
17 meeting of the Board of Directors to discuss, or vote to authorize the filing, of the Montgomery
18 Field Business Condominiums Association vs. Balboa Ave Cooperative, et al. lawsuit. I did not
19 vote for such authorization. Nor did I give my written authorization in lieu of a meeting of the
20 Board of Directors, for this lawsuit to be filed. I also have not voted on any authorization to pay
21 any legal fees for any lawsuit.

22 I declare under penalty of perjury under California state law that the foregoing is true and
23 correct. Executed on August 3, 2017 in San Diego, California

24  ↙
25
26 Peter Michelet

27
28

Unit



FAX TRANSMITTAL

DATE: 5/10/2017

TO: Associated Professional Services Inc

ATTENTION: Neal Chazin - as arranged.

MESSAGE: Re: Repairs on Montgomery Field Bus/Condor

Please refund to Peter Michelet - \$342.24 for repairs done in our complex as arranged with Glenn Strand

1. Board Member: Glenn Strand

Sign: *Glenn Strand*

2. Board Member: Peter Michelet

Sign: *P. Michelet*

FROM:

PAGES TO FOLLOW (NOT INCLUDING THIS COVER SHEET)

FACSIMILE NUMBER: (619) 277-7610

IF TRANSMITTAL HAS NOT BEEN COMPLETED, PLEASE CONTACT OUR COMPANY AS SOON AS POSSIBLE AT (619) 277-2540. THANK YOU.

Regards

P. Michelet

ADVANCE

8850 BALBOA AVENUE, SUITE 5 - SAN DIEGO, CALIFORNIA 92123
(619) 277-9540

REIMBURSEMENT
REQUEST

INVOICE

Daniel Burakowski

DATE: DECEMBER 2, 2014

8861 Balboa Ave. "D", San Diego, Ca. 92123

TO Associated Professional Services
Montgomery Field Business Assoc.
P.O. Box 602090
San Diego, Ca. 92160
619-507-8994

SHIP TO Montgomery Field Business ASSOC.
8855-8873 Balboa Ave.
San Diego, Ca. 92123

SALESPERSON	JOB	SHIPPING METHOD	SHIPPING TERMS	DELIVERY DATE	PAYMENT TERMS	DUE DATE
					Due on receipt	

QTY	ITEM #	DESCRIPTION	UNIT PRICE	DISCOUNT	LINE TOTAL
		Reimbursement the following items:			
		Max Labor Hours: gutter cleaning, sprinkler repair, light bulb replacement, paint touch up, fence repair \$5.00/hr X 45 = 675.00			675.00
		Imperial Sprinkler			41.84
		GED Electrical parts			207.36
		Drillbit (3)			162.34
		Marshalls Hardware (3)			114.32
		Pep Boys, O'Reilly Auto:			40.36
		Home Depot (2)			226.48

TOTAL DISCOUNT

Approved by:

APPROVED

SUBTOTAL
SALES TAX
TOTAL \$1,467.67

Make all checks payable to Daniel Burakowski

REIMBURSEMENT
REQUEST

INVOICE

Daniel Burakowski

8861 Balboa Ave. "D", San Diego, Ca. 92123

INVOICE #10-14
DATE: OCTOBER 10, 2014

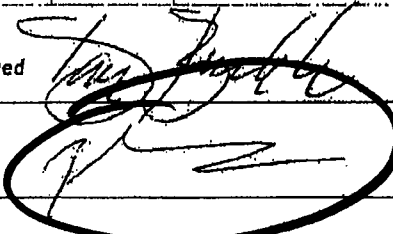
TO Associated Professional Services
Montgomery Field Business Assoc.
P.O. Box 602090
San Diego, Ca. 92160
619-507-8994

SHIP TO Montgomery Field Business ASSOC.
8855-8873 Balboa Ave.
San Diego, Ca. 92123

SALESPERSON	JOB	SHIPPING METHOD	SHIPPING TERMS	DELIVERY DATE	PAYMENT TERMS	DUE DATE
					Due on Receipt	

QTY	ITEM #	DESCRIPTION	UNIT PRICE	DISCOUNT	LINE TOTAL
		Reimbursement the following items:			
		Max labor for 8855 Stem Wall Reconstruction 38hrs X 15.00			570.00
		ADA compliant signage invoice			149.85
		Max labor sign installation			120.00

Approved by:



TOTAL DISCOUNT

SUBTOTAL

SALES TAX

TOTAL

839.85

REIMBURSEMENT
REQUEST

INVOICE

Daniel Burakowski

8861 Balboa Ave, "D", San Diego, Ca. 92123

INVOICE #19-15-14
DATE: OCTOBER 15, 2014

TO Associated Professional Services
Montgomery Field Business Assoc.
P.O. Box 602090
San Diego, Ca. 92160
619-507-8994

SHIP TO Montgomery Field Business ASSOC.
8855-8873 Balboa Ave.
San Diego, Ca. 92123

SALESPERSON	JOB	SHIPPING METHOD	SHIPPING TERMS	DELIVERY DATE	PAYMENT TERMS	DUE DATE
					Due on receipt	

QTY	ITEM #	DESCRIPTION	UNIT PRICE	DISCOUNT	LINE TOTAL
		Reimbursement the following items:			
		Max labor for 8855 Stern Wall Reconstruction 30hrs X 15.00			450.00
		Max labor for low water use planter conversion, 49hrs X 15.00			735.00
		Village Nurseries			43.37
		Imperial Sprinkler supply (2)			125.26
		Staples Office Supply			153.88
		Ehmcke Sheet Metal			378.23

TOTAL DISCOUNT

Approved by:

Tom Baschke
[Signature]

SUBTOTAL

SALES TAX

TOTAL

1885.74

Make all checks payable to Daniel Burakowski
THANK YOU FOR YOUR BUSINESS!

REIMBURSEMENT
REQUEST

INVOICE

DATE: SEPTEMBER 10, 2014

Daniel Burakowski

8861 Balboa Ave. "D", San Diego, Ca. 92123

TO Associated Professional Services
Montgomery Field Business Assoc.
P.O. Box 602090
San Diego, Ca. 92160
619-507-8994

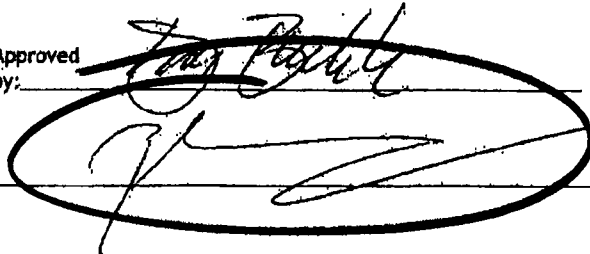
SHIP TO Montgomery Field Business ASSOC.
8855-8873 Balboa Ave.
San Diego, Ca. 92123

SALESPERSON	JOB	SHIPPING METHOD	SHIPPING TERMS	DELIVERY DATE	PAYMENT TERMS	DUE DATE
					Due on receipt	

QTY	ITEM #	DESCRIPTION	UNIT PRICE	DISCOUNT	LINE TOTAL
		Reimbursement the following items:			
		Max Labor Hours for water intrusion issues on 8855 Balboa Ave building: 120 hrs x \$15.00 =			\$1800.00

TOTAL DISCOUNT

Approved by:



SUBTOTAL

SALES TAX

TOTAL

\$1800.00

REIMBURSEMENT
REQUEST

INVOICE

Daniel Burakowski

DATE: SEPTEMBER 23, 2014

8861 Balboa Ave. "D", San Diego, Ca. 92123

TO Associated Professional Services
Montgomery Field Business Assoc.
P.O. Box 602090
San Diego, Ca. 92160
619-507-8994

SHIP TO Montgomery Field Business ASSOC.
8855-8873 Balboa Ave.
San Diego, Ca. 92123

SALESPERSON	JOB	SHIPPING METHOD	SHIPPING TERMS	DELIVERY DATE	PAYMENT TERMS	DUE DATE
					Due on receipt	

QTY	ITEM #	DESCRIPTION	UNIT PRICE	DISCOUNT	LINE TOTAL
		Reimbursement the following items:			
		Industrial Metal Supply			89.81
		ADA Signs			184.36
		McMaster-Carr Supply			152.54
		Imperial Sprinkler			29.61
		Home Depot			269.83
		Staples Office Supply			32.48
		Dixelline Lumber			257.89
		Marshall's Hardware			12.86
		Village Nurseries			37.80
		<i>Total</i>			<i>6,070.01</i>

Approved by:

[Signature]
[Signature]

TOTAL DISCOUNT

SUBTOTAL

SALES TAX

TOTAL

6,070.01

REIMBURSEMENT
REQUEST

INVOICE

Daniel Burakowski

8861 Balboa Ave. "B", San Diego, Ca. 92123

INVOICE # 9-26-14
DATE: SEPTEMBER 24, 2014

TO Associated Professional Services
Montgomery Field Business Assoc.
P.O. Box 602090
San Diego, Ca. 92160
619-507-8994

SHIP TO Montgomery Field Business ASSOC.
8855-8873 Balboa Ave.
San Diego, Ca. 92123

SALESPERSON	JOB	SHIPPING METHOD	SHIPPING TERMS	DELIVERY DATE	PAYMENT TERMS	DUE DATE
					Due on receipt	

QTY	ITEM #	DESCRIPTION	UNIT PRICE	DISCOUNT	LINE TOTAL
		Reimbursement the following items:			
		Building materials for 8855 Stem Wall Reconstruction... see Dixieline Invoice 14-40686-8			511.28

TOTAL DISCOUNT

Approved by: 

SUBTOTAL

SALES TAX

TOTAL

511.28

Exhibit 6

**MONTGOMERY FIELD BUSINESS ASSOCIATION
MINUTES OF THE REGULAR BOARD MEETING
June 17, 2008**

The following directors and homeowners were present, establishing a quorum:

- Gerry Mavrinc
- Representative from Mauricio Torre's unit
- Glenn Strand
- Daniel Burakowski
- Spencer Harris
- Bill Moore
- Peter Michelet

Guests present:

Maria Callico - APS Representative

9:00am Meeting called to order.

Approval of Minutes

The last meeting minutes were approved unanimously.

Old Business

1. Fence was completed and appears to be in goodworkmanship.
2. Gila Lackritz is in compliance with the backflow installation. The board took on the responsibility by getting three bids and moving forward with the best proposal. Gil Lackritz will be billed for the amount of the invoice submitted by the vendor.
3. Daniel Burakowski has not received his reimbursement check for the loan he made the Association for the fence work.
4. Boar's banner, Deli signs will be removed per Gil Lackritz' statement to Daniel Burakowski.

New Business

1. Mr. Hermann's request for applying a wheelchair accessible ramp was unanimously approved by the Board. The area in question is Mr. Hermann's but will benefit the Montgomery Field Business Association.
2. The backflow device will have a security key which will be provided to the Board.
3. Gil Lackritz claims his unit's roof hasn't been done in 25 years. ASP will investigate history of roof work through the archives and files.
4. The mechanical equipment from Gil Lackritz' unit was discussed and it was decided upon that a roof inspection will take place prior to deciding where to allocate the equipment.
5. Daniel Burakowski suggested the removal or replacement of the light blue sign at the front of the building. Options will be considered once this becomes an official project.
6. New telephone cables have been placed too low, per the Association's standards, they need to run up against the walls or underground.
7. The telephone lock box needs to be upgraded/updated. The Board will get bids.

Violations

1. Vending machines from Peter's unit are now out of the common areas and in the unit.
2. Peter reported that the forklift from his unit has broken down. The Boar requested it's immediate repair and removal. A \$25/day violation will continue until said issue is remedied.
3. Broken down cars have been reported. The Board will start instituting towing action after three days of a car being stationed within the complex.

Meeting adjourned at 10:00am.

Respectfully submitted by Maria Callico, Acting Secretary