

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES AND MOBILE HOMES**

**IN RE: PETITION FOR NON-BINDING ARBITRATION – CONDOMINIUM ELECTION
DISPUTE**

ANTHONY MARSELLA AND ROBERT WOLFSON,

Petitioners,

v.

Case No. 2025-00-2994

**CHELSEA MEADOWS CONDOMINIUM
ASSOCIATION, INC.,**

Filed with
Arbitration Section

Respondent.

OCT - 8 2025

SUMMARY FINAL ORDER

Div. of FL Condos, Timeshares & MH
Dept. of Business & Professional Reg

Issues

1. Were Petitioners Marsella and Wolfson properly qualified candidates for the Association's Board of Directors.

2. Did the Association properly conduct its process for its Annual Meeting and Election scheduled for November 7, 2024.

Salient Procedural History

On January 10, 2025, Petitioners, Anthony Marsella and Robert Wolfson filed a Non-Binding Petition for Arbitration against Chelsea Meadows Condominium Association, Inc. (the "Association"), alleging that the Association wrongfully disqualified candidates for, and improperly conducted its annual meeting and election process for the election scheduled for November 7, 2024, in violation of Florida Law and the Association's governing documents. On January 16, 2025, an Order Requiring Answer was issued.

On February 5, 2025, the Association filed a Motion to Dismiss. On February 24, 2025, Petitioners' Response to Respondent's Motion to Dismiss Petition was filed. On

February 25, 2025, an Order Denying Respondent's Motion to Dismiss Petition and Requiring Answer to the Petition was issued. On March 18, 2025, Respondent's Answer was filed. On April 1, 2025, Petitioners' Response to Respondent's Answer was filed. On April 3, 2025, an Order Setting Hearing for Case Management was issued.

By Notice dated April 10, 2025, Attorney John R. Whittles, with the law firm Mathison Whittles LLP, made his appearance on behalf of Petitioners. On April 15, 2025, a telephonic Hearing for Case Management was conducted with Counsel for the Parties participating. The issues and the further development of facts through discovery were discussed with the Parties.

On April 30, 2025, Petitioner Marsella's Response in Opposition to Respondent's Response to Petitioners' Annual Meeting Position and Petitioners' Discovery Requests were filed. On May 2, 2025, Respondent's Amended Answer and Supplemental Filings Per Arbitrator's Order dated April 16, 2025, were filed. On May 2, 2025, Petitioners' Request for Attorneys' Fees and Costs was filed.

On May 7, 2025, an Order Requiring Response to Respondent's Amended Answer was issued. On May 15, 2025, Petitioners' Motion to Strike Respondent's Amended Affirmative Defenses was filed. On May 21, 2025, Petitioners' Response to Respondent's Amended Answer was filed.

On May 27, 2025, an Order Setting Hearing for Case Management was issued. On June 5, 2025, a telephonic Hearing for Case Management was conducted with Counsel for the Parties participating and Petitioner Marsella observing. The issues were discussed and on June 19, 2025, the Parties filed their Final Briefs.

Findings of Fact

1. Petitioner Anthony Marsella is the representative of the owner of Unit 5 in the

Association, which is owned by The Chelsea 5 Land Trust. Mr. Marsella is the manager of Pasco Condo, LLC the entity that serves as the Trust's trustee. Petitioner Robert Wolfson is the representative of Unit 185 in the Association, which is owned by RCWFP, LLC. Mr. Wolfson is the registered agent and principal of RCWFP, LLC.

2. The Association is the corporate entity responsible for the operation and maintenance of the Chelsea Meadows Condominium.

3. Association Annual Reports filed with the Florida Secretary of State reflect that Petitioner Marsella served on the Association's Board of Directors from 2018 into 2024 and Petitioner Wolfson served on the Board from 2018 into 2022. The Association raised no formal issues with regard to Petitioners Marsella's and Woodson's eligibility to serve on the Board prior to 2024.

Unit 5 Ownership

4. By Quit Claim Deed recorded on December 29, 2019, the Association transferred Unit 5 in the Association to Woody Development Corporation ("Woody Development"), in accordance with the terms of the Deed, and the Chelsea 5 Land Trust Agreement dated November 30, 2017.

5. On August 12, 2024, Electronic Articles of Incorporation for a Florida Limited Liability Company, Pasco Condo, LLC, were filed with the Florida Secretary of State which listed Anthony Marsella as the person authorized to manage the LLC.

6. On September 6, 2024, the Association issued the "First Notice of Election of Directors" ("First Notice") scheduling the annual election and annual meeting for November 7, 2024. The First Notice required that any eligible person desiring to become a candidate for election to the board shall provide written notice to the Association

Secretary, at the address provided by September 28, 2024, and required that candidate information sheets be received by October 3, 2024.

7. On September 9, 2024, Petitioner Marsella sent an email to Ross Corcoran, the Association's Community Manager, which attached a copy of the Declaration of Appointment of Successor Trustee for Association Units 5, 37, and 56. The Declaration for Appointment of Successor Trustee transferred the trustee of Unit 5 from Woody Development to Pasco Condo, LLC. The Declaration of Appointment was recorded in the Pasco County records on September 3, 2024. Petitioner Marsella requested in the email that Mr. Corcoran update the Association's ownership records to reflect the changes of Trustees.

8. On September 23, 2024, a designated Voting Certificate dated September 19, 2024, naming Petitioner Marsella as the designated voter for Pasco Condo LLC the Trustee for the Chelsea 5 Land Trust for Unit 5, and his notice of intent to run as a candidate for the Board were hand-delivered to the Association's Community Management firm Wise Property Management. By email dated September 24, 2024, Mr. Corcoran confirmed that he had received Petitioner Marsella's intent to run form.

9. The Association's Homeowners Transaction History dated September 27, 2024, listed Pasco Condo, LLC Trustee, as the owner of Unit #5 and shows a credit balance of \$654.00.

10. The Association's three letters dated August 1, 2024, November 6, 2024, and December 27, 2024, were directed to the delinquency of Unit 14, and the Association has produced no evidence that Unit 5 was delinquent. Unit 14 is owned by the Chelsea Meadows 14 Land Trust Agreement, and not by the Chelsea 5 Land Trust which owns Unit 5.

Unit 185 Ownership

11. By Warranty Deed recorded on November 30, 2017, Folake Olagunju Oyelola transferred Unit 185 in the Association to RCWFP LLC, a New Jersey, limited liability company. RCWFP LLC's Annual Report with the State of New Jersey, dated September 26, 2024, lists Robert Charles Woodson as the registered agent and sole officer and director.

12. On September 18, 2024, Petitioner Wolfson sent an email to the Association Manager that attached his written notice of intent to run for the Board of Directors. He also attached Notices for two other candidates representing Units owned by RCWFP LLC for the Board election. On September 23, 2024, a Resolution by the Members for RCWFP, LLC stated that the members decided that:

As a single member LLC, operating under the laws of the State of New Jersey and bound by the default rules of the State that: Robert Charles Wolfson shall be designated representative for 4427 Dylan Loop, Unit 185, Land O Lakes, FL 34639 as of the effective date of this resolution.

13. Petitioners Marsella and Wolfson timely submitted their respective candidate intent forms with information sheets for positions on the Association's Board of Directors by the September 28, 2024, and October 3 2024, deadlines.

14. The Association's updated Listing of Homeowner's dated October 3, 2024, lists relevant Unit Owners as follows:

Owner	Address
Robert Wolsfon	4415 Dylan Loop #177
RCWFP, LLC Wolfson	4415 Dylan Loop #178
	<u>4427 Dylan Loop #185</u>
	22726 Gage Loop #41
	22620 Gage Loop #21
	22620 Gage Loop #22
	22706 Gage Loop #33
	22630 Gage Loop #8

RCWFP, LLC Wolfson

4427 Dylan Loop #175

Pasco Condo, LLC Trustee

22630 Gage Loop #5

22706 Gage Loop #37

[**Bold emphasis added**]

15. On October 15, 2024, Petitioner Wolfson sent an email to the Association attaching Resolutions authorizing himself and three other persons to represent RCWFP, LLC in the upcoming election for the Units specified. The email specifically identified Petitioner Wolfson as representing RCWFP LLC's, Unit #185 in the upcoming election and as the LLC's Manager. The email also included a copy of the New Jersey Annual Report for RCWFP LLC which listed Mr. Wolfson as the Registered Agent and sole Officer and Director of the LLC. Mr. Wolfson also attached a Resolution By Members, dated September 23, 2024, for RCWFP LLC, a single member LLC, which named Charles Wolfson the designated representative for Unit 185 within the Association.

16. The Notice of the Association's Board of Directors Meeting, date of meeting, October 18, 2024, under the section titled RATIFICATION, provides in pertinent part, as follows:

Reorganization of the Board of Directors – Guy Shir has brought to attention the fact that since Tony Marsella has removed his name from Woody Development LLC that he is no longer an owner and unable to continue as a board member. Ihab Fadly has been appointed his replacement to serve the remainder of the term.¹

17. At the October 18, 2024, Board meeting Mr. Marsella informed the entire Board that the Trust's trustee had been changed from Woody Development to Pasco Condo, LLC. It was requested at the meeting that Mr. Marsella provide

¹ The Association provided no notice for this meeting that properly noticed the removal would be addressed, and no minutes reflecting that the removal was properly addressed with Mr. Marsella having an opportunity to participate or present evidence in his behalf, that the Board had the authority to remove him, and that the Board properly voted for his removal.

proof that Pasco Condo, LLC, was now the trustee of Unit 5. See, Findings of Fact (“FOF”) No. 7.

18. By email dated October 23, 2024, Counsel for the Association advised Mr. Corcoran that candidates Philip Devinski, Harold Riling, Chas Wolfson, and Margo Wolfson are all registered under RCWFP LLC, which doesn’t exist in the State of Florida and for which there are no documents filed to provide proof of any authority to represent those interests. Counsel further stated in pertinent part, as follows:

Even if they were, which they were not, they own at least 10 units and under the law at the time of purchase, they are considered developers and therefore are limited to voting for 2 persons to serve on the Board and therefore, they cannot block vote all four of them, they would have to have limited it to two persons to serve, so they are not permitted at this point to run, since they exceed the two members to which a developer block is permitted to vote for. Moreover, there is no human name on the deed and again, no proof of membership in the LLC

Finally, as to Mr. Marsella – his ownership in Woody was removed and therefore, from the records I have, he has no right to serve under the documents I have been provided....

19. The Association has submitted no evidence to support the delinquency of Unit 185 or RCWFP LLC.

20. By its second Notice of Annual Meeting, dated October 24, 2024, and the attached Agenda the Association notified the members that the Annual meeting would be held on November 7, 2024, and advised the members, in pertinent part, as follows:

BALLOT. There is no election as five (5) candidates were qualified by associations counsel, running for five (5) positions. Those candidates are Ihad Fadly, Jennie Gudino, Barbara Maimoni, Zoraida Rosado, and Marianella Yopez.

[Emphasis in original.]

21. The undated Chelsea Meadow Candidates sheet reflects that there were 11 candidates for the Board with only five determined to be qualified. The two Petitioners

and one of the qualified candidates were referenced on the sheet as follows:

....Tony Marsella – 22630 Gage Loop Unit 5
STILL IN WOODY DEVELOPMENT CORP TRUSTEE – HE REMOVED
HIMSELF FROM THE SUNBIZ REGISTRATION.

Chas Wolfson – 4427 Dylan Loop Unit 185
SAME ISSUE WITH RCWFP LLC – DOESN'T EXIST

Zoraida Rosado – 22706 Gage Loop Unit 40
ROSADO IS A MANAGER OF THE LLC THAT OWNS THE UNIT – SO
FINE

22. The five candidates that were qualified by the Association's Counsel were the five Board Members sitting on the Board after Mr. Marsella was removed from the Board at the October 18, 2024, Board Meeting.²

23. By letter "RE: Annual Meeting", dated October 31, 2024, the Association's Counsel by regular mail and posting, advised the members, in pertinent parts, as follows:

....This letter is to clarify the meeting and explain the actual format of the Annual Members' meeting. Since a determination was made that there are fewer members running for the seats available and there is no other business to transact, there is no requirement, much less a purpose for an annual members' meeting...

As a result of the disqualification of a number of unverifiable candidates, it is apparent that fewer persons are running for the Board of Directors than open seats exist, causing the annual meeting to be cancelled since a membership vote is no longer required. The only other requirement for an annual meeting is to pass an amendment or take other action only authorized by the membership and not just the Board. To my knowledge no such matters have to be addressed and therefore, the meeting is canceled....

24. On November 7, 2024, a Zoom only meeting was held with no quorum of members determined, no election taking place, and no minutes of the meeting produced.

Conclusions of Law

The Division has jurisdiction over this matter pursuant to Section 718.1255(1)(b)1,

² While not an issue in this dispute the authority of the Board to remove a duly elected Director from the Board under the circumstances, alleged here by the Association, is dubious at best.

Florida Statutes ('Fla. Stat.'). The undersigned finds that because there are no issues of material fact in dispute after the submission of evidence provided by the Parties, this case is appropriate for summary disposition pursuant to Rule 61B-45.030, Florida Administrative Code ("F.A.C.").

Petitioners assert that Petitioners Marsella and Wolfson were the authorized representatives of the LLC's that owned Units 5 and Unit 185 respectively, and were therefore valid candidates for the Association's November 7, 2024, annual election. Petitioners assert that they timely submitted their intents to run in the November 7, 2024, annual election, submitted supporting documentation that they were the authorized representatives of the owners, were thus valid candidates for the Association's Board of Directors, and the Association had no valid reason to disqualify them as candidates and to cancel the November 7, 2024 election.

The Association argues that Petitioners own no Units in the Association, and that Petitioners provided no proof that they owned entities that owned any units in the Association. The Association asserts that the Financial Statements for September 2024 were not provided to the Association by their Property Manager until October 28, 2025, making it impossible to verify that Unit 5 ownership was changed from Woody Development to Pasco Condo LLC. The Association also maintains that the updated membership roster showing ownership of Unit 5 by Pasco Condominium LLC and not Woody Development was not provided to the Association by its Community Manager until October 25, 2024. The Association asserts that at the October 18, 2024 Board meeting it requested that Mr. Marsella provide them with documentation that he was representing Units in the Association under Pasco Condo LLC, and that he never provided the information. The Association asserts that its Community Manager also did not provide

requested documentation. The Association claims that RWCFP LLC was a developer because it owned ten units in the Association and therefore could only vote for two Board members. The Association also claims that the Petitioner Wolfson was not an eligible candidate because RWCFP LLC was delinquent in assessments to the Association. The Association also maintains that the Petition was filed more than sixty days after the date of the annual meeting and therefore the Petition was not timely and should have been dismissed.³

Applicable Florida Statutes

Section 718.112(2)(d)3., Fla. Stat.(2025), provides, in pertinent part:

.... For purposes of this paragraph, the term “candidate” means an eligible person who has timely submitted the written notice, as described in subparagraph 5.a., of his or her intention to become a candidate.... A unit owner in a residential condominium desiring to be a candidate for board membership must comply with sub-subparagraph 5.a. and must be eligible to be a candidate to serve on the board of directors at the time of the deadline for submitting a notice of intent to run in order to have his or her name listed as a proper candidate on the ballot or to serve on the board. A person who has been suspended or removed by the division under this chapter, or who is delinquent in the payment of any assessment due to the association, is not eligible to be a candidate for board membership and may not be listed on the ballot. For purposes of this paragraph, a person is delinquent if a payment is not made by the due date as specifically identified in the declaration of condominium, bylaws, or articles of incorporation. If a due date is not specifically identified in the declaration of condominium, bylaws, or articles of incorporation, the due date is the first day of the assessment period. A person who has been convicted of any felony in this state or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, is not eligible for board membership unless such felon’s civil rights have been restored for at least 5 years as of the date such person seeks election to the board.

Section 718.112(2)(d)5.a., Fla. Stat. (2025), provides, in pertinent part:

³ The Association made the same argument that the Petition should be dismissed because it was not filed within 60 days of November 7, 2024, “election” in its February 5, 2025, Motion to Dismiss Petition. On February 25, 2025, an Order Denying Respondent’s Motion to Dismiss Petition and Requiring Answer to Petition was issued which addressed and denied the same argument made here again. See, the February 25, 2025 Order.

....A unit owner or other eligible person desiring to be a candidate for the board must give written notice of his or her intent to be a candidate to the association at least 40 days before a scheduled election....

Relevant Provisions of the Association's Governing Documents

Pursuant to Article 1.2 of the Association's Declaration of Condominium ("Declaration"), recorded on March 6, 2006, the Developer submitted the Association to the condominium form of ownership and use in the manner provided for in the Florida Condominium Act as it exists on the date hereof.

Article 2.36 of the Declaration provides that a "Unit Owner" or "Owner of a Unit" or "Owner" – means the owner of a Condominium Parcel.

Article 5.1 of the Association's Articles of Incorporation ("Articles") provides, in pertinent part, as follows:

Membership. The members of the Association shall consist of all of the record title owners of Units in the Condominium from time to time...

Article 5.3 of the Association's Articles provides as follows:

Voting. On all matters upon which membership shall be entitled to vote, there shall be only one vote for each Unit, which vote shall be exercised or cast in the manner provided by the Declaration and By-Laws. Any person or entity owning more than one Unit shall be entitled to one vote for each Unit owned.

Article 9.3 of the Association's Articles provides as follows:

Election; Removal. Directors of the Association shall be elected at the annual meeting of members in the manner determined by and subject to the qualifications set forth in the By-Laws. Directors may be removed and vacancies on the Board of shall be filled in the manner provided by the By-Laws.

Article 3.6(c) of the Association's By-Laws ("By-Laws") provides in pertinent part as follows:

Voting Member. If a Unit is owned by one person, his right to vote shall be established by the roster of members. If a Unit is owned by more than one person, those persons (including husbands and wives) shall decide among

themselves as to who shall cast the vote of the Unit. In the event that those persons cannot so decide, no vote shall be cast. A person casting a Vote for a Unit shall be presumed to have authority to do so unless the President or the Board of Directors is otherwise notified. If a Unit is owned by a corporation, the person entitled to cast the vote of the Unit shall be designated by a certificate signed by an appropriate officer of the corporation and filed with the Secretary of the Association. Such person need not be a Unit Owner. Those certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Unit concerned.

RWCFCP LLC Is Not A Developer

It is clear from the provisions of the Association's Declaration set out above, that it does not incorporate amendments to the Florida Condominium Act, Chapter 718, occurring after the date the Declaration was recorded in 2006 because Article 1.2 of the Association's Declaration provides that the Association is submitted to the Condominium Act as it existed on the date of Declaration. Therefore, Chapter 718 as it existed at the time the Declaration was filed controls as to substantive matters. See, *Kaufman v. Shere*, 347 So 2d 627 (3rd DCA, 1977).

Section 718.103(16), Fla. Stat. (2006) which was in effect when the Association's Declaration was filed states:

"Developer" means a person who creates a condominium or offers condominium parcels for sale or lease in the ordinary course of business, but does not include an owner or lessee of a condominium or cooperative unit who has acquired the unit for his or her own occupancy, nor does it include a cooperative association which creates a condominium by conversion of an existing residential cooperative after control of the association has been transferred to the unit owners if, following the conversion, the unit owners will be the same persons who were unit owners of the cooperative and no units are offered for sale or lease to the public as part of the plan of conversion....

[Emphasis added].

In pertinent part, Section 718.301, Fla. Stat. (2006) provides:

(1) . . . Unit owners other than the developer are entitled to elect at least a majority of the members of the board of administration of an association:

• • •

(e) Seven years after recordation of the declaration of condominium; or, in the case of an association which may ultimately operate more than one condominium, 7 years after recordation of the declaration for the first condominium it operates...

[Emphasis added].

The Association alleges that RCWFP LLC as a Developer cannot vote in a manner that allows it to elect a majority of the Association's five Directors. As the proponent of this assertion the Association bears the burden of proof that RCWFP LLC is a Developer. However, the Association has presented no evidence that RCWFP is indeed a Developer. Arguments and assertions without supporting facts are not evidence. The undersigned has not been presented with sufficient evidence to find that RCWFP LLC was a Developer as defined in Section 718.103(16), Fla. Stat. (2006), and therefore RCWFP LLC is not subject to the voting restrictions imposed on a Developer by that Statute.

Petitioners Marsella and Wolfson Were Valid Candidates for the November 7, 2024, Annual Election

First, the Association has not cited or produced evidence to support that Petitioners should be disqualified as candidates pursuant to Section 718.112(2)(d)3., Fla. Stat.(2025). The deadline for filing the notice of candidacy was September 28, 2024. Clearly, Petitioners filed their notices of intent prior to the September 28, 2024, deadline. See, FOF Nos. 8 and 12. On August 12, 2024, Electronic Articles of Incorporation for a Florida Limited Liability Company, Pasco Condo, LLC, were filed with the Florida Secretary of State which listed Petitioner Marsella as the person authorized to manage Pasco Condo LLC. On September 9, 2024, Petitioner Marsella submitted a Declaration of Appointment of a Successor Trustee to the Association's Community Manager that transferred the Trustee for Unit 5 from Woody Development to Pasco Condo, LLC., and requested that the Association records be updated. The Declaration of Appointment was

recorded in the Pasco County records on September 3, 2024. By email dated September 24, 2024, the Association's Community Manager confirmed receipt of Mr. Marsella's notice of intent.

On September 23, 2024, a designated Voting Certificate dated September 19, 2024, naming Petitioner Marsella as the designated voter for Unit 5 and his notice of intent to run as a candidate for the Board were hand-delivered to the Association's Community Management Company. By email dated September 24, 2024, Mr. Corcoran, the Community Manager confirmed that he had received Petitioner Marsella's intent to run form. The Association's subsequently prepared a Homeowners Transaction History dated September 27, 2024, which listed Pasco Condo, LLC Trustee, as the owner of Unit No. 5. Mr. Marsella appropriately established that he was the authorized representative of the owner of Unit 5 and a qualified candidate for the Board of Directors. See, FOF Nos. 5, 7, 8, and 9.

RCWFP LLC, received title to Unit 185 in the Association by Warranty Deed dated November 30, 2017. On September 18, 2024, Petitioner Wolfson sent the Community Manager notices of Intent to run for the Board for himself and two other representatives of RCWFP LLC. On September 23, 2024, Petitioner Wolfson sent a Resolution from the members of RCWFP LLC designating him as the representative for Unit 185. See, FOF Nos. 11 and 12.

The Association's Community Manager had in his possession documentation that Petitioners were the proper representatives of unit owners and that Petitioners had timely provided their notices of intent to run for the Board of Directors. The October 3, 2024, Listing of Homeowners listed Pasco Condo LLC Trustee as the owner of Unit 5 and RCWFP, LLC Wolfson as the owner of Unit 185. See, FOF No. 14. Prior to issuing the

second Notice of Election on October 24, 2024, the Association had credible evidence in the form of properly recorded documents that verified that both Petitioners had provided their notices of intent and were properly authorized representatives of unit owners Pasco Condo, LLC and RCWFP LLC. The Association seeks to avoid responsibility by stating that documents were not received from the Community Manager until after September 28, 2025. It is the Association's responsibility to properly conduct the election and that responsibility cannot be avoided by stating that the Community Manager did not give the Board the documentation until after September 28, 2024. What is telling is that even after receiving the copies of the Petitioners' timely updated information from the Community Manager near the end of October 2024, the Association did nothing to correct the situation. Petitioners Marsella and Wolfson were the managers of the LLCs that properly represented the owners of their Units just like Director Rosado who was deemed a qualified candidate by the Association.

The Association has presented no credible evidence challenging the documents filed by Petitioners establishing that they were qualified candidates for the November 7, 2024 annual election. The undersigned finds that Petitioners Marsella and Wolfson established that they were legitimate representatives of the LLC owners of Units in the Association who timely filed their notices of intent to be a candidate on or before September 28, 2024, and should have been included on the ballot for the Association's November 7, 2024, annual election.⁴ While Article 3.6(c), of the Association's By-Laws only required corporations to file certificates designating the person entitled to vote for a Unit, both LLC's, Pasco Condo, LLC and RCWFP LLC filed documents signed by the

⁴ It appears that the four other candidates that were disqualified were similarly qualified to run for the Board of Directors.

owner of the single-member LLC's designating the Unit's representative and the person entitled to cast the vote for each Unit.

The Association was in possession of all of the documentation required to verify that Petitioners were proper Unit representatives and eligible Board Candidates. The Associations claim that their Property Manager did not provide them with the necessary documents is without merit. The Community Manager acts on behalf of the Association. The Association failed to check their records, failed to check public records, and failed to coordinate with and to check records provided to their Community Manager by Petitioners.

The undersigned finds the Amended Defenses raised by the Association to be without merit as contradicted by the facts. The Association has produced no evidence that the Units represented by Petitioners were delinquent in any manner. The Units referenced as delinquent were not units represented by Petitioners. See, FOF No. 10.

The Association maintains that an annual meeting was held on November 7, 2025. The undersigned concludes that the "Zoom Meeting" held on November 7, 2025, was not a properly noticed and conducted annual meeting of the members. The Association produced no evidence that proper notice of a members meeting was provided, that a quorum was established, and an affidavit of notice was prepared by an officer of the Association. The Association failed to conduct a members' meeting in accordance with the requirements of Articles 3.4, and 3.5 of the Association's By-Laws. Additionally, apparently, no meeting minutes of this annual meeting were prepared to verify what occurred on November 7, 2024, which is a violation of Article 3.10 of the Association's By-Laws. See, FOF Nos. 23 & 24. Most importantly, no election took place on November 7, 2024, when the number of legitimate candidates exceeded the number of vacant seats up for election.

The undersigned finds that the Association cancelled the November 7, 2024, annual election in violation of Section 718.112(2)(d), Fla. Stat. The failure of the ballot for the November 7, 2024, election to include the name of all eligible candidates renders the results of the November 7, 2024 election process void, and a new election must be conducted. See, Rule 61B-23.0021(9)(a), F.A.C.

Appropriate Remedy

Rule 61B-23.0021(8), F.A.C. provides in pertinent part:

In accordance with the requirements of Section 718.112(2)(d), F.S., the association shall mail or deliver to the eligible voters at the addresses listed in the official records a second notice of the election, together with a ballot and any information sheets timely submitted by the candidates. The association shall mail or deliver the second notice no less than 14 days and no more than 34 days prior to the election. The second notice and accompanying documents shall not contain any communication by the board that endorses, disapproves, or otherwise comments on any candidate.

Rule 61B-23.0021(9)(a), F.A.C. provides in pertinent part:

The ballot shall indicate in alphabetical order by surname each and every unit owner or other eligible person who desires to be a candidate for the board of administration, and who gave written notice to the association not less than 40 days before a scheduled election, unless such person has withdrawn his candidacy in writing prior to the mailing of the ballot. The failure of the ballot to indicate the name of each eligible person shall require the association to mail, transmit, or deliver an amended second notice within the time required by this rule, which shall explain the need for the amended notice and include a revised ballot with the names of all eligible persons. If an amended second notice cannot be timely mailed, transmitted or delivered, then the association must re-notice and reschedule the election following the procedures as set forth in subsection (8) of this rule. If the election has already occurred, the election is deemed void and the association must renote the election following the procedures as set forth in subsection (8) of this rule. No ballot shall indicate which candidates are incumbents on the board....

[Emphasis added.]

Rule 61B-45.043(5), F.A.C. provides, in pertinent part:

The arbitrator in the final order may grant mandatory or prohibitory relief,

monetary damages, declaratory relief, or any other remedy or relief which is deemed just and equitable.

Given the fact that the Association's next annual election, based on historical data, is due to take place shortly, the undersigned finds that the remedial election to correct the errors in the November 7, 2024 election should be combined with the 2025 annual election in Order to save the Association the costs of conducting two elections in short Order. Given the need for remedial measures to correct errors in the November 7, 2024, annual election, the Association will start the election process from the First Notice of election. The 11 candidates that submitted their names prior to September 28, 2024, shall be included on the ballots for Second Notice when it is sent out by the Association, unless the Association receives written notification from a candidate that they no longer want to be a candidate for the Board. To expedite the resolution of this matter, the timeline for the conduct of the election process has been shortened slightly.

Accordingly, it is ORDERED:

1. The Petitioners' Request for Relief is GRANTED, as follows.
2. The results of the November 7, 2024, annual election process, are VOID. The Board of Directors until the new election is conducted shall be the Directors that were in place prior to the Association's October 18, 2024 Board Meeting.
3. The Association will immediately review and update where necessary its ownership and representative records consistent with the documents Petitioners provided to the Community Manager, the Association's governing documents, and this Order.
4. The Association will properly notice and conduct an election for its Board of Directors on or before December 15, 2025, to remedy the defects in the conduct of the election process for the scheduled November 7, 2024, annual election. The election process shall begin with a First Notice of Election at least 45 days prior to the election

date and a second notice of election provided at least 15 days prior to the election date. Any new candidates will have 20 days following the first notice to provide their notices of intent to run for the Board. This remedial/annual election will be properly noticed and conducted in accordance with Florida law, the Association's governing documents, and the direction provided in this Summary Final Order. The 11 candidates named on the 2024 Candidate Sheet shall be allowed to run in the new election if they remain qualified and desire to run, along with any newly qualified candidates. Pursuant to this Order, as corrective action, and to mitigate the costs to the Association, this new remedial election will replace the voided November 7, 2024, annual election and the upcoming 2025 annual election. This Summary Final Order is tailored pursuant to the authority vested in the undersigned by Rule 61B-80.121(6), Florida Administrative Code, to avoid the cost of the Association having two elections in short order.⁵

5. The Association will expeditiously contact the Office of the Florida Condominium Ombudsman and will request and secure the appointment of an Election Monitor to review the First and Second Notices of election, attend the annual meeting and conduct the election of directors.⁶

6. The First Notice of Election for the new election shall include the following statement, which shall be printed in bold, all capital letters, 12-point font size, and in a format identical to the following:

**IN ORDER TO COMPLY WITH THE OCTOBER 8, 2025, SUMMARY
FINAL ORDER, IN ARBITRATION CASE NO. 2025-00-2994 ENTERED**

⁵ Any pending Notice for the 2025 Annual Meeting and Election shall be voided and a new First Notice complying with this Order shall be issued.

⁶ Contact: Aneel Maharaj, Supervisor, Office of the Florida Condominium Ombudsman, phone: 954.202.3234, email: aneel.maharaj@myfloridalicense.com.

BY THE ARBITRATION SECTION OF THE DIVISION OF
CONDOMINIUMS, TIMESHARES AND MOBILE HOMES, FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION,
AN ELECTION TO REMEDY DEFECTS IN THE NOVEMBER 7, 2024,
ELECTION PROCESS COMBINED WITH THE 2025 ANNUAL ELECTION
MUST BE HELD COMMENCING WITH THE FIRST NOTICE OF
ELECTION. A COPY OF THE SUMMARY FINAL ORDER MAY BE
OBTAINED FROM THE ASSOCIATION OR BY CALLING 850-414-6867.

7. All pending Motions not specifically addressed herein are DENIED.

8. Petitioners are the prevailing party in this action.

Signed: Mahlon C. Rhaney, Jr.

Mahlon C. Rhaney, Jr., Chief Arbitrator
Dept. of Business and Professional Regulation
Division of Florida Condominiums,
Timeshares and Mobile Homes
Office of the General Counsel
Arbitration Section
2601 Blair Stone Road
Tallahassee, FL 32399-1030
Telephone: 850.414.6867
Facsimile: 850.487.0870

Trial de novo and Attorney's Fees

This decision shall be binding on the parties unless a complaint for trial *de novo* is filed within 30 days in accordance with Section 718.1255(4) (k), Florida Statutes and Rule 61B-45.043, Florida Administrative Code. As provided by Section 718.1255, Florida Statutes, the prevailing party in this proceeding is entitled to have the other party pay reasonable costs and attorney's fees. Any such request must be filed in accordance with Rule 61B-45.048, Florida Administrative Code.

Certificate of Service

I HEREBY CERTIFY that on October 8, 2025, copies of the foregoing final order were served by email and U.S. Mail to:

John R. Whittles, Esq.
Elizabeth F. Mercedes, Esq.
John R. Whittles LLP
5606 PGA Boulevard, Suite 211
Palm Beach Gardens, Florida 33418
Email: jwhittles@mathisonwhittles.com
Email: emercedes@mathisonwhittles.com
Attorneys for Petitioner

Guy M. Shir, Esq.
Shir Law Group, P.A.
2295 Corporate Blvd., Suite 140
Boca Raton, Florida 33431
Email: gshir@shirlawgroup.com
Attorney for Respondent

Courtesy copy sent to:

Aneel Maharaj, Supervisor
Office of the Florida Condominium Ombudsman
1400 W. Commercial Boulevard
Ft. Lauderdale, Florida 33309-3791
Email: aneel.maharaj@myfloridalicense.com

Signed: Mahlon C. Rhaney, Jr.
Mahlon C. Rhaney, Jr., Chief Arbitrator