



November 6, 2008

Via email [mwpuragua@yahoo.com](mailto:mwpuragua@yahoo.com)

Michael Winer, President  
Silver Springs Homeowners Association, Inc.  
5009 North Silver Springs road  
Park City, UT 84098

Re: **The Silver Springs Single Family Homeowners Association, Inc.**

Dear Michael:

This letter is written to you, as <sup>not ~~selected~~</sup> President of the Silver Springs Board of Trustees regarding the recent annual meeting and election which was held on October 13, 2008. It is my understanding that you will be sharing this letter with the other members of the Association Board.

As you are well aware, there is a significant dispute among those who were in attendance at that meeting as to what transpired and the outcome of the meeting. You asked me to investigate what did transpire, and to advise the Board as to how this dispute should be handled.

I spoke to a number of attendees at the October 13 meeting, including Lucy Archer, Bill Gunter, Sue Pollard and Skip Domenick. All of those with whom I spoke described the October 13 meeting as having been contentious; there were some minor discrepancies as to the explanation of what happened during the meeting.

In addition to the telephone conversations which I have had, I have reviewed a number of documents including a chronology prepared by Lucy Archer which she titled "My synopsis of events leading to the Ambush." I have also reviewed documents provided by Bill Gunter as to a motion, made, seconded and past at the outset of the meeting, regarding some Trustees' concerns about the election.

Having reviewed all of the foregoing materials, and most significantly having reviewed the Bylaws of the Silver Springs Homeowners Association, it is apparent that there were a number of serious irregularities in the manner in which the meeting was <sup>by Sue & Bill</sup> conducted and the new Board was elected. It is impossible to predict with absolute certainty as to how a court would treat these irregularities; but, based upon the number and nature of the irregularities, that the validity and outcome of the meeting would be set aside if it were challenged. Furthermore, it is ★ apparent from the description of events by all parties that there are serious issues regarding the past and current governance of the Silver Springs Homeowners Association which must be remedied and addressed at a meeting or meetings in the future.



at Nov 6 mtg  
all agreed  
Hobbs got  
this wrong.

\*1  
false

Ms. Archer describes, in her phone conversation and in her chronology, a significant amount of effort which she undertook, in an effort to orchestrate the October 13 meeting. Others have indicated, with varying degrees, that they had indicated to her that the meeting should not be held on that date. Nonetheless she proceeded to schedule the meeting and the meeting was held on October 13. One of the first items of business was a motion made by a member of the Board and seconded by another member of the Board, and approved by a majority of the Board, to address irregularities respecting the meeting and election.

see board  
numerous  
emails for  
describing  
plans to  
hold Oct 13  
meeting

\*2  
false

A review of the Association's Bylaws reveals, without any question, that there were several improper aspects of the meeting. First of all, the Bylaws specifically provide: "If the day for the annual meeting of the Members falls on a legal holiday, the meeting will be held at the same hour on the first business day following which is not a legal holiday, provided that the Board of Trustees may by resolution fix the date of the annual meeting on such other date as it may deem appropriate."

Many Annual meetings have been held "on Second Monday in October"

NSS met  
on same  
day in  
adjoining  
room.

This provision is clearly unfortunate as it mandates a meeting date which was illegal from the outset. The second Monday in October is observed in the United States as Columbus Day, clearly a legal holiday although not observed by all private businesses. The provisions of the Bylaws "quite clearly mandate" that in that instance the meeting ~~is to~~ be held on the first business day following that day; under the clear provisions of the Bylaws the meeting should have been held on Tuesday, October 14, unless the Board of Trustees had moved the date of the annual meeting. .. but they didn't.

\*3  
false

Next, the Bylaws require that notice of the meeting is to be given "by mailing a copy of such notice, postage prepaid, at least ten days before such meeting..." Ms. Archer indicates that a number of the notices were hand delivered and others were mailed; even if hand delivery is arguably a better means of delivery, it is not in compliance with the Bylaws and constitutes improper notice.

... or by delivering such notice to the member at such members' lot address." Precedence had been set

Same used on 12/15/99 ballots  
\*4  
false

A proposed ballot and proxy was delivered with the notice; this proxy and ballot, if completed, would not have constituted a secret ballot, and it called for the election of seven Trustees, none of whom were properly nominated.

Nominating Committee rarely used proxy, but was this year Art. V section 1

proxies have to be signed  
ballots at meeting not

Based upon the fact that it is clear that the date of the annual meeting was improper; that the notice of the meeting was improper; that the Trustees who were nominated were not properly nominated; that an improper number of Trustees was nominated; and lastly that the Trustees were not elected by secret written ballot, as is required, it appears as though the meeting results were invalid. I would not even encourage that this matter be litigated so as to avoid the considerable expense that would be incurred by all parties if that were to occur.

precedence that lots are to be on ballots to avoid multiple vot from on lot.

New Board was elected by quorum + of Association members.  
\*5

The existing Board, which remains in office in light of the deficiency in the prior election, must decide how to proceed in light of the problem. In connection with that decision, the Board must carefully and objectively evaluate the accuracy and propriety of Ms. Archer's concerns about past irregularities in the governance of the Association. Without doubt, the governing body of the Association will lose credibility by virtue of the election which did occur and the

only Oct 13<sup>th</sup> irregularity was rogue member ambush of Assoc. mtg.

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election which will need to reoccur; it is imperative that the Association act extraordinarily carefully in noticing and conducting a substitute meeting. At that meeting, the Association must carefully determine how it will proceed to rectify past governance problems. *of rogue board members*

It appears quite certain, based upon the conversations I have had with virtually everybody, that members of the Association Board have either carelessly or willfully disregarded the Bylaws for a number of years. This is somewhat understandable in light of the problems with the Bylaws; nonetheless, I strongly recommend that the Association govern itself according to the Bylaws unless and until they are amended. An amendment of the Bylaws would obviously be desirable, at least insofar as is they call for actions which the Association apparently wishes not to take. *which are...?*

In light of all the foregoing, I would suggest that the Board, at its next meeting, should deliberate among themselves as to how to have the membership ratify and/or elect an *already ratified + elected on Oct 13<sup>th</sup>* appropriate number of replacement Trustees; the Association should make certain that that meeting is properly noticed and that all members of the Association are given an opportunity and encouraged to attend. I would be happy to assist in the scheduling and preparation for that Board meeting and the subsequent annual meeting; *at \$250 an hr* I strongly recommend that the Association use extraordinary care to attempt to avoid any disputes which could lead to litigation respecting the outcome of that meeting.

@ \$250 ?  
an hour?

Very truly yours,

HOBBS & OLSON, L.C.

  
Lincoln W. Hobbs

LWH/lbo

Michael Winer and the other rogue board members have made no effort to honestly discuss these events and activities or to remedy this situation without legal council.