

Via Federal Express

January 18, 2018

Morris County Superior Court  
Chancery Division  
Morris County Courthouse  
Washington & Court Streets  
Morristown, New Jersey 07963

Re: Fox Hills at Rockaway Condominium Association v. Applebaum  
Docket No. C-130-17  
Opposition to Plaintiff's Request for Entry of Injunctive Relief  
Hearing Date – Friday, February 2, 2018, at 9:00 a.m.

Dear Madam or Sir:

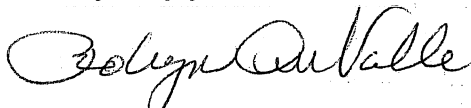
I represent defendant Barbara Applebaum. Enclosed are the following:

- Letter brief in opposition to plaintiff's Order to Show Cause requesting injunctive relief;
- Certification of Barbara Applebaum;
- Certification as to Facsimile Signature;
- Certification of Robyn Ann Valle; and
- Stamped, self-addressed envelope for the Court's order, when issued.

Kindly forward my letter brief to the Honorable Robert J. Brennan.

Thank you for your assistance in these regards.

Very truly yours,



Robyn Ann Valle

Enclosures

C (via email, hard copy furnished upon request):

Ms. Barbara Applebaum (via email)

David J. Byrne, Esq., Attorney for Plaintiff ([djb@ansellgrimm.com](mailto:djb@ansellgrimm.com))

Michael A. Saffer, Esq., Attorney for Alan Rothstein ([msaffer@lawfirm.ms](mailto:msaffer@lawfirm.ms))

Gary W. Moylen, Esq., Attorney for Paul Kardos ([gmoylen@comcast.net](mailto:gmoylen@comcast.net))

January 18, 2018

Hon. Robert J. Brennan  
Chancery Division, General Equity Part  
Morris County Superior Court  
Washington & Court Sts.  
Morristown, NJ 07963-0910

Re: Fox Hills at Rockaway Condominium Association v. Applebaum  
Docket No. C-130-17  
Opposition to Plaintiff's Request for Entry of Injunctive Relief  
Hearing Date – Friday, February 2, 2018, at 9:00 a.m.

Dear Judge Brennan:

I represent Barbara Applebaum, one of the defendants in the above matter. Kindly accept this letter brief, in lieu of a more formal brief, in opposition to plaintiff's request for a temporary injunction restraining my client from "coming within 100 feet of" all Board members of the homeowner association, Fox Hills at Rockaway Condominium Association ("Association").

### **STATEMENT OF FACTS**

1. Barbara Applebaum is the owner of a unit that is situated in the Association. She is a licensed New Jersey Realtor, active in the community both professionally and socially, and a regular participant in Association meetings. Certification of Barbara Applebaum ("B.A. Cert.") ¶ 1.
2. At 8:27 a.m. on Wednesday, December 6, 2017, Paul Kardos, a defendant and homeowner in the Association, sent an email to approximately twenty-two other homeowners, including Ms. Applebaum and Alan Rothstein, also a homeowner and defendant herein. In that email, Mr. Kardos questioned why Gloria Stahl, the "least

favorite director,” had been elected president of the Board, and asked how the situation could be remedied. B.A. Cert., Ex. A, # 1.<sup>1</sup>

3. At 9:46 a.m. that same morning, Ms. Applebaum wrote “Shoot her?” in an email that was sent to the numerous other parties on the email thread. B.A. Cert., Ex. A, #2.

4. At 10:44 a.m., Mr. Rothstein sent an email that read: “I agree. Who will to [sic] drive to Virginia to buy the gun? However, we should all write the [Board] that the least vote winner should not be president. That is just plain nuts. It is a kick in the pants to all of us. Maybe a Petition would even be a better way since it would send a clear message.” B.A. Cert., Ex. A, #3.

5. At 11:38 a.m., another homeowner wrote, in pertinent part: “I don’t think we should not [sic] be talking about killing anyone or buying guns, even though you are not serious.” B.A. Cert., Ex. A, #5.

6. At 12:01 p.m., a little over two hours after her original email, Ms. Applebaum sent the following email: “Sorry if I offended anyone. It was just a smart\_ \_ \_ remark on my part. Of course I don’t mean it. As far as I’m concerned, they are the Board, and they can elect whomever they want to be the leader. I don’t think it means much to us, the residents.” B.A. Cert., Ex. A, #6.

7. On or about December 13, 2017, the Association filed a Verified Complaint against Ms. Applebaum and Messrs. Kardos and Rothstein, alleging, among other things, that they were engaged in a “conspiracy to murder” Ms. Stahl, the Board president.

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<sup>1</sup> The emails were numbered by Ms. Applebaum for ease of reading.

8. Thereafter, the Association filed the Order to Show Cause at issue here, requesting restraints prohibiting defendants from coming closer than 100 feet to any Board member.
9. Ms. Applebaum lives on the same floor and within 100 feet of one Board member, and her unit is situated just above another Board member. She regularly and frequently attends Association meetings, as well as social functions at which Board members are often present. B.A. Cert. ¶ 3.
10. The imposition of the requested restraints would preclude Ms. Applebaum from attending any Association meetings or social functions, and require that she vacate her home.
11. At no time between December 6 and December 13, 2017 – indeed, to this day -- has Ms. Applebaum had any adverse interaction with Ms. Stahl or any other Board member. B.A. Cert. ¶ 5.
12. Ms. Applebaum never anticipated that anyone would take her email seriously. B.A. Cert. ¶ 4. She clarified her response within about two hours after another person on the email thread suggested they should not pursue the topic, even though he knew she “was not serious.” B.A. Cert., Ex. A, ## 5, 6.

### **LEGAL ARGUMENT**

#### **A. The Association Lacks Standing to Bring this Action.**

The threshold question here is whether the Association has standing to bring this action. Standing inures to an association where “(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization’s purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” Association for Fairness

in Business Inc. v. State of New Jersey, 82 F. Supp., 353, 355 (D.N.J. 2000), quoting with approval Hunt v. Washington State Apple Advertising Comm'n, 432 U.S. 333, 343 (1977).

Here, the action fails the second and third prongs. In its Complaint, the Association describes the defendants' emails as a "conspiracy to commit murder," and then, in an attempt to create a violation of its Master Deed and By-Laws, speciously characterizes them as "noxious, hazardous, or offensive behavior." There is nothing in the governing documents to indicate that the Association's purpose is to prevent Association members from expressing their criticism of the Board – no matter how inartful -- either verbally or in writing. Plaintiff may not gin up "standing" by the charade that it is protecting its members' interests when, in fact, there was one single Board member who was the subject of criticism that was poorly worded but clearly not serious. See Society Hill Condo. Ass'n v. Society Hill Assocs., 347 N.J. Super. 163, 169 (App. Div. 2002) (holding that where damage was to individual units, association had no standing to assert claims for those damages).

As to the third prong, in order to be entitled to injunctive relief, the Association must prove irreparable harm. Those proofs necessarily must come from individual members, specifically, Ms. Stahl, who has not submitted any certification to support a finding of irreparable harm. For example, did she see the email chain before Ms. Applebaum's apology at 12:01 p.m.? If not, did she take any protective measures between 9:46 a.m. and 12:01 p.m.? If so, what were those measures? Did she contact the Rockaway police department? File a police report? Absent responses to those and other questions, how does the Association prove harm?

B. Criteria to Be Considered in an Application for Injunctive Relief.

The grant of injunctive relief is the “strongest weapon at the command of a court of equity . . . .” Light v. National Dying and Printing Co., 140 N.J. Eq. 506, 510 (Ch. 1947). Accordingly, it requires “the exercise of great caution, deliberation and sound discretion.” Id. The purpose of granting temporary relief is to “prevent some threatening irreparable mischief, which should be averted until opportunity is afforded for a full and deliberate investigation of the case.” Crowe v. DeGioia, 90 N.J. 126, 132 (1982) (citation omitted). Simply put, the purpose is to maintain the status quo. Peters v. Public Service Corp., 132 N.J. Eq. 500, 511 (Ch. 1942).

The factors to be considered in granting such relief are well settled: (i) whether the plaintiff will suffer immediate irreparable harm if relief is not granted; (ii) whether there exists a settled legal basis for plaintiff’s claim; (iii) whether defendant disputes the facts that are crucial to plaintiff’s case; and (iv) whether the harm to the defendant if the injunction is granted outweighs the harm to plaintiff if not granted. Crowe v. DeGioia, supra, 90 N.J. at 132-34.

The factors necessary to warrant injunctive relief are absent here. First, there can be no immediate irreparable harm that will befall the plaintiff, as it is clear that no harm was intended or inflicted on the Association. In other words, the status quo will be maintained without the requested restraints. The Association was flourishing and all Board members were alive prior to December 6<sup>th</sup>, remain so today, and will continue to be so (barring, of course, any untoward events over which defendants have no control) until the case is decided on its merits.

Second, plaintiff's Verified Complaint fails to state a viable cause of action, therefore, there exists no legal basis for plaintiff's claim. The provision in the By-Laws upon which plaintiff relies is as follows:

12. Nuisance. No noxious, hazardous, or offensive activities shall be carried on, in or upon the Common Elements or in any Unit nor shall anything be done therein either willfully or negligently which may be or become an annoyance or nuisance to the other residents or which interferes with the peaceful possession and proper use of the Units or the Common Elements by the other Owners. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction over the Development shall be observed.

In order to get a better sense of what is prohibited by the By-laws, this provision must be considered in the context of the entire section in which it appears. So, for example, a unit owner may not: obstruct any access to the common elements (#5); hang out clothes, sheets, laundry, etc. (# 10); keep more than two dogs in the unit (# 11); make changes that "impair the structural integrity" of the unit (#13); or use the unit as a "dumping ground for rubbish" (#15). These provisions provide a clear and unambiguous recital of prohibited activities. It strains credulity, then, to classify an exchange of emails critical of the Board as violative of the Association's By-Laws when, at worst, those emails contained some tasteless words.

Next, as to the "fact" that underpins plaintiff's case, Ms. Applebaum wrote two words, "shoot her," followed by a question mark. For any of the twenty-two people on the email who took that query seriously, Ms. Applebaum set the record straight approximately two hours later. Thus, the "fact" upon which plaintiff rests its case is nothing more than a poor choice of words. We have all heard expressions such as "I'd like to wring his/her neck" or "he/she should be shot," without calling 911 (which call does not appear to have been made here). A case in point. On January 23, 2016, our

President boasted at a campaign rally: "I could stand in the middle of 5<sup>th</sup> Avenue and shoot somebody and I wouldn't lose voters."<sup>2</sup> In any event, despite the tangent that some emails took, it is clear that the main focus of the exchanges was displeasure with the Board's action and whether there was anything to be done about it.

The final and fourth factor also militates for a denial of plaintiff's request for restraints. The hardship to Ms. Applebaum in the event the restraints are granted far outweighs any hardship to plaintiff. As noted, she lives on the same floor, and within 100 feet of a Board member; and she lives directly above another Board member. In addition, she is active both in the Association and in many social functions at which Board members would be present. In fact, if the restraints are granted, she not only will be unable to attend Board meetings (which may be plaintiff's ultimate purpose), she will have to vacate her home. Finally, Ms. Applebaum is a licensed New Jersey realtor and the majority of her business is within the Fox Hills community. If the restraints are granted, she would suffer grave harm both socially and professionally.

### **CONCLUSION**

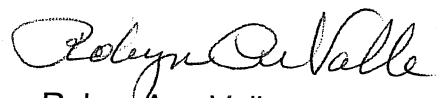
This action is a bald-faced attempt by the Board to intimidate the defendants. The allegation of "conspiracy to commit murder" and the outrageous claim that one participant has the skill to get away with murder because he is a retired lawyer are ludicrous. Simply stated, this action is frivolous and motivated by an attempt to silence critics. As such, it is a shameful waste of judicial resources and everyone's time -- all at the expense of every homeowner in Fox Hills.

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<sup>2</sup> Lucky for him that he did not live in Fox Hills at the time.



Respectfully submitted,

A handwritten signature in cursive script that reads "Robyn Ann Valle". The signature is written in black ink and is positioned above the printed name.

Robyn Ann Valle

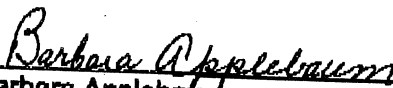
### CERTIFICATION OF BARBARA APPLEBAUM

I, Barbara Applebaum, of full age and having knowledge of the facts herein, certify and say:

1. I am the owner of a unit that is situated in the Association, which unit has an address of 3210 Franklin Lane. I am a licensed New Jersey Realtor, and the majority of my business occurs in the Fox Hills community. I am socially active in the community.
2. I am familiar with the emails that are set forth on Exhibit A criticizing the Board's decision with respect to its election of the president.
3. My unit is on the same floor and within 100 feet of one Board member, and is situated directly above another Board member's unit. I regularly and frequently attend Association meetings, as well as social functions at which Board members are often present.
4. I never anticipated that anyone would take my email seriously.
5. Since December 6, 2017, I have had no adverse interaction with Gloria Stahl or any other Board member.
6. I am confident that the Association filed the Verified Complaint and Order to Show Cause in order to suppress the criticism of the Board by Paul Kardos, Alan Rothstein and me, and to limit our active participation in the community and at the Board meetings.

I certify that the above statements are true. I understand that if the statements are willfully false, I will be subject to punishment.

Date signed: January 18, 2018

  
Barbara Applebaum

**EXHIBIT A**

Subject: Re: Board

3 } I AGREE. Who will to drive to Virginia to buy the gun? However, we should all write the bd that the least vote winner should not be president. That is just plain nuts. It is a KICK IN THE PANTS to ALL OF US. Maybe a Petition would even be a better way since it would send a clear message.

\* 2 } On Wed, Dec 06, 2017 at 09:46 AM, Barbara wrote:

Shoot her?

1 } —Original Message—

From: Paul Kardos <pkardos1@yahoo.com>  
To: Barbara Applebaum <baumappl@aol.com>; Gene Borgna <ejbklb@gmail.com>; ERNEST BLICKERS <joernie@att.net>; Rudi Sabatino <rmipasab@optonline.net>; Ben Suntag <gatnus@gmail.com>; Laura Greenberg <mrssugargeorge@aol.com>; Walter Reiling <wsrmnj@aol.com>; Munro Ross <muncee@optonline.net>; Gwen Franklin <gwenfranklin01@gmail.com>; David Bishop <equicon1@aol.com>; Lloyd Kishinsky <lkishinsky@gmail.com>; David Solomon <dsbraces@gmail.com>; ALAN ROTHSTEIN <abrrock@optimum.net>; Anne Gallagher <gallaghera@att.net>; Kathy Mack <kmackaroni1@verizon.net>; Sheila and Jerry Frost <jsfrost2@verizon.net>; Barbara Grimaldi <sirdavydickens@gmail.com>; Lenny Richman <annlen1@verizon.net>; Marion Aaronson <maaronson1@optimum.net>; Joseph & Janice Wolkenberg <janjoe2@optonline.net>; Geoffrey Kantor <geoffkantor@gmail.com>; Sue Flannery <sskf331@aol.com>

Sent: Wed, Dec 6, 2017 8:27 am

Subject: Board

Current board, votes received when elected (percent of total vote):

Peter Forman 405 (82%)  
Eleanor Hunt 358 (75%)  
Connie Kelly 347 (78%)  
Jay Amdur 314 (66%)  
Barrie Werfel 308 (69%)  
Bonnie Cohen 279 (59%)  
Gloria Stahl 268 (54%)

Does anyone find it odd that the least favorite director is the president? Shouldn't one of the top vote getters be the pres.? Any ideas on how to correct this situation?

Note: Unnumbered emails are also included in this Exhibit A.

Paul, what is your opinion,

On Wed, Dec 06, 2017 at 12:01 PM, Barbara wrote:

\* 6 } Sorry, if I offended anyone. It was just a smart\_ \_ \_ remark on my part. Of course I don't mean it.

As far as I'm concerned, they are the Board, and they can elect whomever they want to be the leader. I don't think it means much to us, the residents. Barbara

-----Original Message-----

From: David Solomon <[dsbraces@gmail.com](mailto:dsbraces@gmail.com)>

To: Barbara <[baumappl@aol.com](mailto:baumappl@aol.com)>

Cc: Alan Rothstein <[abrrock@optimum.net](mailto:abrrock@optimum.net)>; Paul Kardos <[pkardos1@yahoo.com](mailto:pkardos1@yahoo.com)>; Eugene Borgna <[ejbklb@gmail.com](mailto:ejbklb@gmail.com)>; joernie <[joernie@att.net](mailto:joernie@att.net)>; rmpasab <[rmpasab@optonline.net](mailto:rmpasab@optonline.net)>; gatnus <[gatnus@gmail.com](mailto:gatnus@gmail.com)>; mrssugargeorge <[mrssugargeorge@aol.com](mailto:mrssugargeorge@aol.com)>; wsrnj <[wsrnj@aol.com](mailto:wsrnj@aol.com)>; Munro Ross <[muncee@optonline.net](mailto:muncee@optonline.net)>; gwenfranklin01 <[gwenfranklin01@gmail.com](mailto:gwenfranklin01@gmail.com)>; equicon1 <[equicon1@aol.com](mailto:equicon1@aol.com)>; lkishinsky <[lkishinsky@gmail.com](mailto:lkishinsky@gmail.com)>; gallaghera <[gallaghera@att.net](mailto:gallaghera@att.net)>; kmackaroni1 <[kmackaroni1@verizon.net](mailto:kmackaroni1@verizon.net)>; jsfrost2 <[jsfrost2@verizon.net](mailto:jsfrost2@verizon.net)>; Barbara Grimaldi <[sirdavydickens@gmail.com](mailto:sirdavydickens@gmail.com)>; annlen1 <[annlen1@verizon.net](mailto:annlen1@verizon.net)>; maaronson1 <[maaronson1@optimum.net](mailto:maaronson1@optimum.net)>; janjoe2 <[janjoe2@optonline.net](mailto:janjoe2@optonline.net)>; geoffkantor <[geoffkantor@gmail.com](mailto:geoffkantor@gmail.com)>; sskf331 <[sskf331@aol.com](mailto:sskf331@aol.com)>

Sent: Wed, Dec 6, 2017 11:38 am

Subject: Re: Board

5 } I don't think we should not be talking about killing anyone or buying guns, even though you are not serious.

Statements like that lead to trouble. For what it is worth an insider is telling me that there will be a change. Let's hope that person is right.

It would be healthy for Board and the Fox Hills community if a change in leadership does occur.

David

\* 4 } On Wed, Dec 6, 2017 at 10:44 AM, Barbara <[baumappl@aol.com](mailto:baumappl@aol.com)> wrote:

I agree with Gene that this is not our fight. They can elect whomever they want. Barbara

-----Original Message-----

From: ALAN ROTHSTEIN <[abrrock@optimum.net](mailto:abrrock@optimum.net)>

To: Barbara <[baumappl@aol.com](mailto:baumappl@aol.com)>

Cc: Paul Kardos <[pkardos1@yahoo.com](mailto:pkardos1@yahoo.com)>; Gene Borgna <[ejbklb@gmail.com](mailto:ejbklb@gmail.com)>; Ernie Bickers <[joernie@att.net](mailto:joernie@att.net)>; rmpasab <[rmpasab@optonline.net](mailto:rmpasab@optonline.net)>; Ben Sontag <[gatnus@gmail.com](mailto:gatnus@gmail.com)>; mrssugargeorge <[mrssugargeorge@aol.com](mailto:mrssugargeorge@aol.com)>; wsrnj <[wsrnj@aol.com](mailto:wsrnj@aol.com)>; muncee <[muncee@optonline.net](mailto:muncee@optonline.net)>; gwenfranklin01 <[gwenfranklin01@gmail.com](mailto:gwenfranklin01@gmail.com)>; equicon1 <[equicon1@aol.com](mailto:equicon1@aol.com)>; lkishinsky <[lkishinsky@gmail.com](mailto:lkishinsky@gmail.com)>; dsbraces <[dsbraces@gmail.com](mailto:dsbraces@gmail.com)>; gallaghera <[gallaghera@att.net](mailto:gallaghera@att.net)>; kmackaroni1 <[kmackaroni1@verizon.net](mailto:kmackaroni1@verizon.net)>; Jerry Frost <[jsfrost2@verizon.net](mailto:jsfrost2@verizon.net)>; sirdavydickens <[sirdavydickens@gmail.com](mailto:sirdavydickens@gmail.com)>; annlen1 <[annlen1@verizon.net](mailto:annlen1@verizon.net)>; maaronson1 <[maaronson1@optimum.net](mailto:maaronson1@optimum.net)>; janjoe2 <[janjoe2@optonline.net](mailto:janjoe2@optonline.net)>; geoffkantor <[geoffkantor@gmail.com](mailto:geoffkantor@gmail.com)>; sskf331 <[sskf331@aol.com](mailto:sskf331@aol.com)>; Paul Kardos <[pkardos1@yahoo.com](mailto:pkardos1@yahoo.com)>; Ernie Bickers <[joernie@att.net](mailto:joernie@att.net)>

Sent: Wed, Dec 6, 2017 10:36 am

On Thursday, December 07, 2017 05:40:20 PM EST, Barbara <baumappl@aol.com> wrote:

\*  
9 }

Would someone please explain to me, other than running 4 meetings a year, what is the job of the president of the board?

—Original Message—

From: Paul Kardos <pkardos1@yahoo.com>  
To: Barbara <baumappl@aol.com>; ALAN ROTHSTEIN <abrrock@optimum.net>  
Cc: dsbraces <dsbraces@gmail.com>; Gene Borgna <ejbklb@gmail.com>; Ernie Bickers <joernie@att.net>; rmpasab <rmpasab@optonline.net>; Ben Suntag <gatnus@gmail.com>; mrssugargeorge <mrssugargeorge@aol.com>; wsrnj <wsrnj@aol.com>; muncee <muncee@optonline.net>; gwenfranklin01 <gwenfranklin01@gmail.com>; equicon1 <equicon1@aol.com>; lkishinsky <lkishinsky@gmail.com>; gallaghera <gallaghera@att.net>; kmackaroni1 <kmackaroni1@verizon.net>; Jerry Frost <jsfrost2@verizon.net>; sirdavydickens <sirdavydickens@gmail.com>; annlen1 <annlen1@verizon.net>; maaronson1 <maaronson1@optimum.net>; janjoe2 <janjoe2@optonline.net>; geoffkantor <geoffkantor@gmail.com>; sskf331 <sskf331@aol.com>; dcbraces <dcbraces@gmail.com>; Cuthbert Twilley <ctwilley00@yahoo.com>  
Sent: Thu, Dec 7, 2017 3:17 pm  
Subject: Re: Board

8 }

I agree with Dave - "we should not be talking about killing anyone or buying guns, even though you are not serious." We can make the changes required through persuasion and, if necessary, litigation. Hmm... if the board keeps electing a president who is so unpopular (and for the past 3 years has held office illegally), maybe we should change the bylaws so that the president is elected directly by homeowners, just like the president of the USA. No electoral college though, popular vote only!  
Paul

On Thursday, December 07, 2017 11:11:10 AM EST, ALAN ROTHSTEIN <abrrock@optimum.net> wrote:

Barbara,

I don't know how you can say that. Why have a person that is arrogant and nasty and got the least votes as the president. How can anyone respect such a person. Since when does the person with least votes become president. That is not only dishonest but as I said previously a kick in the pants to all of us. A directorship is not supposed to be a second career. That is why a Petition is very applicable.

Barbara: Your remark may have been a smart ... one but, if I could get away with it I'd buy a gun and pull the trigger.

Subject: Re: Board

From: pkardos1@yahoo.com

To: abrrock@optimum.net; baumappl@aol.com

Cc: dsbraces@gmail.com; ejbklb@gmail.com; joernie@att.net; rmpasab@optonline.net; gatnus@gmail.com; mrssugargeorge@aol.com; wsrnj@aol.com; muncee@optonline.net; gwenfranklin01@gmail.com; equicon1@aol.com; lkishinsky@gmail.com; gallaghera@att.net; kmackaroni1@verizon.net; jsfrost2@verizon.net; sirdavydickens@gmail.com; annlen1@verizon.net; maaronson1@optimum.net; janjoe2@optonline.net; geoffkantor@gmail.com; sskf331@aol.com; adubovy@yahoo.com; lucien371@gmail.com

Bcc: hloconnor@optonline.net

Date: Friday, December 08, 2017 05:24:29 PM EST

The board must decide anything and everything by voting, and the president is entitled to only one vote out of 7, the same as any other director.

Since the president "shall preside at all meetings of unit owners," and since no bylaw or rule specifies how a meeting is to be conducted (e.g. Sturgis Code, Roberts Rules, Cushing Manual), the president is free to ignore the fundamental right of unit owners to conduct business at their own meeting.

Paul

On Friday, December 08, 2017 10:57:38 AM EST, Barbara <baumappl@aol.com> wrote:

I don't find the position, even after reading Article V, Section 4, all that powerful.

B

-----Original Message-----

From: Paul Kardos <pkardos1@yahoo.com>

To: abrrock <abrrock@optimum.net>; Barbara <baumappl@aol.com>

Cc: dsbraces <dsbraces@gmail.com>; ejbklb <ejbklb@gmail.com>; joernie <joernie@att.net>; rmpasab <rmpasab@optonline.net>; gatnus <gatnus@gmail.com>; mrssugargeorge <mrssugargeorge@aol.com>; wsrnj <wsrnj@aol.com>; muncee <muncee@optonline.net>; gwenfranklin01 <gwenfranklin01@gmail.com>; equicon1 <equicon1@aol.com>; lkishinsky <lkishinsky@gmail.com>; gallaghera <gallaghera@att.net>; kmackaroni1 <kmackaroni1@verizon.net>; jsfrost2 <jsfrost2@verizon.net>; sirdavydickens <sirdavydickens@gmail.com>; annlen1 <annlen1@verizon.net>; maaronson1 <maaronson1@optimum.net>; janjoe2 <janjoe2@optonline.net>; geoffkantor <geoffkantor@gmail.com>; sskf331 <sskf331@aol.com>; dcbraces <dcbraces@gmail.com>; ctwilley00 <ctwilley00@yahoo.com>

Sent: Thu, Dec 7, 2017 11:56 pm

Subject: Re: Board

see bylaw article V section 4

Subject: Re: Board

I AGREE. Who will to drive to Virginia to buy the gun? However, we should all write the bd that the least vote winner should not be president. That is just plain nuts. It is a KICK IN THE PANTS to ALL OF US. Maybe a Petition would even be a better way since it would send a clear message.

On Wed, Dec 06, 2017 at 09:46 AM, Barbara wrote:

Shoot her?

-----Original Message-----

From: Paul Kardos <[pkardos1@yahoo.com](mailto:pkardos1@yahoo.com)>  
To: Barbara Applebaum <[baumappl@aol.com](mailto:baumappl@aol.com)>; Gene Borgna <[ejbklb@gmail.com](mailto:ejbklb@gmail.com)>; ERNEST BLICKERS <[joernie@att.net](mailto:joernie@att.net)>; Rudi Sabatino <[rmpasab@optonline.net](mailto:rmpasab@optonline.net)>; Ben Sntag <[gatnus@gmail.com](mailto:gatnus@gmail.com)>; Laura Greenberg <[mrssugargeorge@aol.com](mailto:mrssugargeorge@aol.com)>; Walter Reiling <[wsrmnj@aol.com](mailto:wsrnj@aol.com)>; Munro Ross <[muncee@optonline.net](mailto:muncee@optonline.net)>; Gwen Franklin <[gwenfranklin01@gmail.com](mailto:gwenfranklin01@gmail.com)>; David Bishop <[equicon1@aol.com](mailto:equicon1@aol.com)>; Lloyd Kishinsky <[lkishinsky@gmail.com](mailto:lkishinsky@gmail.com)>; David Solomon <[dsbraces@gmail.com](mailto:dsbraces@gmail.com)>; ALAN ROTHSTEIN <[abrrock@optimum.net](mailto:abrrock@optimum.net)>; Anne Gallagher <[gallaghera@att.net](mailto:gallaghera@att.net)>; Kathy Mack <[kmackaroni1@verizon.net](mailto:kmackaroni1@verizon.net)>; Sheila and Jerry Frost <[jsfrost2@verizon.net](mailto:jsfrost2@verizon.net)>; Barbara Grimaldi <[sirdavydickens@gmail.com](mailto:sirdavydickens@gmail.com)>; Lenny Richman <[annlen1@verizon.net](mailto:annlen1@verizon.net)>; Marion Aaronson <[maaronson1@optimum.net](mailto:maaronson1@optimum.net)>; Joseph & Janice Wolkenberg <[janjoe2@optonline.net](mailto:janjoe2@optonline.net)>; Geoffrey Kantor <[geoffkantor@gmail.com](mailto:geoffkantor@gmail.com)>; Sue Flannery <[sskf331@aol.com](mailto:sskf331@aol.com)>

Sent: Wed, Dec 6, 2017 8:27 am

Subject: Board

Current board, votes received when elected (percent of total vote):

Peter Forman 405 (82%)  
Eleanor Hunt 358 (75%)  
Connie Kelly 347 (78%)  
Jay Amdur 314 (66%)  
Barrie Werfel 308 (69%)  
Bonnie Cohen 279 (59%)  
Gloria Stahl 268 (54%)

Does anyone find it odd that the least favorite director is the president? Shouldn't one of the top vote getters be the pres.?  
Any ideas on how to correct this situation?



Paul, what is your opinion,

On Wed, Dec 06, 2017 at 12:01 PM, Barbara wrote:

Sorry, if I offended anyone. It was just a smart\_ \_ \_ remark on my part. Of course I don't mean it.

As far as I'm concerned, they are the Board, and they can elect whomever they want to be the leader. I don't think it means much to us, the residents. Barbara

-----Original Message-----

From: David Solomon <[dsbraces@gmail.com](mailto:dsbraces@gmail.com)>

To: Barbara <[baumappl@aol.com](mailto:baumappl@aol.com)>

Cc: Alan Rothstein <[abrrock@optimum.net](mailto:abrrock@optimum.net)>; Paul Kardos <[pkardos1@yahoo.com](mailto:pkardos1@yahoo.com)>; Eugene Borgna <[ejbklb@gmail.com](mailto:ejbklb@gmail.com)>; joernie <[joernie@att.net](mailto:joernie@att.net)>; rmpasab <[rmpasab@optonline.net](mailto:rmpasab@optonline.net)>; gatnus <[gatnus@gmail.com](mailto:gatnus@gmail.com)>; mrssugargeorge <[mrssugargeorge@aol.com](mailto:mrssugargeorge@aol.com)>; wsrnj <[wsrnj@aol.com](mailto:wsrnj@aol.com)>; Munro Ross <[muncee@optonline.net](mailto:muncee@optonline.net)>; gwenfranklin01 <[gwenfranklin01@gmail.com](mailto:gwenfranklin01@gmail.com)>; equicon1 <[equicon1@aol.com](mailto:equicon1@aol.com)>; lkishinsky <[lkishinsky@gmail.com](mailto:lkishinsky@gmail.com)>; gallaghera <[gallaghera@att.net](mailto:gallaghera@att.net)>; kmackaroni1 <[kmackaroni1@verizon.net](mailto:kmackaroni1@verizon.net)>; jsfrost2 <[jsfrost2@verizon.net](mailto:jsfrost2@verizon.net)>; Barbara Grimaldi <[sirdavydickens@gmail.com](mailto:sirdavydickens@gmail.com)>; annlen1 <[annlen1@verizon.net](mailto:annlen1@verizon.net)>; maaronson1 <[maaronson1@optimum.net](mailto:maaronson1@optimum.net)>; janjoe2 <[janjoe2@optonline.net](mailto:janjoe2@optonline.net)>; geoffkantor <[geoffkantor@gmail.com](mailto:geoffkantor@gmail.com)>; sskf331 <[sskf331@aol.com](mailto:sskf331@aol.com)>

Sent: Wed, Dec 6, 2017 11:38 am

Subject: Re: Board

I don't think we should not be talking about killing anyone or buying guns, even though you are not serious.

Statements like that lead to trouble. For what it is worth an insider is telling me that there will be a change. Let's hope that person is right.

It would be healthy for Board and the Fox Hills community if a change in leadership does occur.

David

On Wed, Dec 6, 2017 at 10:44 AM, Barbara <[baumappl@aol.com](mailto:baumappl@aol.com)> wrote:

I agree with Gene that this is not our fight. They can elect whomever they want. Barbara

-----Original Message-----

From: ALAN ROTHSTEIN <[abrrock@optimum.net](mailto:abrrock@optimum.net)>

To: Barbara <[baumappl@aol.com](mailto:baumappl@aol.com)>

Cc: Paul Kardos <[pkardos1@yahoo.com](mailto:pkardos1@yahoo.com)>; Gene Borgna <[ejbklb@gmail.com](mailto:ejbklb@gmail.com)>; Ernie Bickers <[joernie@att.net](mailto:joernie@att.net)>; rmpasab <[rmpasab@optonline.net](mailto:rmpasab@optonline.net)>; Ben Suntag <[gatnus@gmail.com](mailto:gatnus@gmail.com)>; mrssugargeorge <[mrssugargeorge@aol.com](mailto:mrssugargeorge@aol.com)>; wsrnj <[wsrnj@aol.com](mailto:wsrnj@aol.com)>; muncee <[muncee@optonline.net](mailto:muncee@optonline.net)>; gwenfranklin01 <[gwenfranklin01@gmail.com](mailto:gwenfranklin01@gmail.com)>; equicon1 <[equicon1@aol.com](mailto:equicon1@aol.com)>; lkishinsky <[lkishinsky@gmail.com](mailto:lkishinsky@gmail.com)>; dsbraces <[dsbraces@gmail.com](mailto:dsbraces@gmail.com)>; gallaghera <[gallaghera@att.net](mailto:gallaghera@att.net)>; kmackaroni1 <[kmackaroni1@verizon.net](mailto:kmackaroni1@verizon.net)>; Jerry Frost <[jsfrost2@verizon.net](mailto:jsfrost2@verizon.net)>; sirdavydickens <[sirdavydickens@gmail.com](mailto:sirdavydickens@gmail.com)>; annlen1 <[annlen1@verizon.net](mailto:annlen1@verizon.net)>; maaronson1 <[maaronson1@optimum.net](mailto:maaronson1@optimum.net)>; janjoe2 <[janjoe2@optonline.net](mailto:janjoe2@optonline.net)>; geoffkantor <[geoffkantor@gmail.com](mailto:geoffkantor@gmail.com)>; sskf331 <[sskf331@aol.com](mailto:sskf331@aol.com)>; Paul Kardos <[pkardos1@yahoo.com](mailto:pkardos1@yahoo.com)>; Ernie Bickers <[joernie@att.net](mailto:joernie@att.net)>

Sent: Wed, Dec 6, 2017 10:36 am

On Thursday, December 07, 2017 05:40:20 PM EST, Barbara <baumappl@aol.com> wrote:

Would someone please explain to me, other than running 4 meetings a year, what is the job of the president of the board?

-----Original Message-----

From: Paul Kardos <pkardos1@yahoo.com>

To: Barbara <baumappl@aol.com>; ALAN ROTHSTEIN <abrrock@optimum.net>

Cc: dsbraces <dsbraces@gmail.com>; Gene Borgna <ejbklb@gmail.com>; Ernie Bickers <joernie@att.net>; rmpasab <rmpasab@optonline.net>; Ben Suntag <gatnus@gmail.com>; mrssugargeorge <mrssugargeorge@aol.com>; wsrnj <wsrnj@aol.com>; muncee <muncee@optonline.net>; gwenfranklin01 <gwenfranklin01@gmail.com>; equicon1 <equicon1@aol.com>; lkishinsky <lkishinsky@gmail.com>; gallaghera <gallaghera@att.net>; kmackaroni1 <kmackaroni1@verizon.net>; Jerry Frost <jsfrost2@verizon.net>; sirdavydickens <sirdavydickens@gmail.com>; annlen1 <annlen1@verizon.net>; maaronson1 <maaronson1@optimum.net>; janjoe2 <janjoe2@optonline.net>; geoffkantor <geoffkantor@gmail.com>; sskf331 <sskf331@aol.com>; dcbraces <dcbraces@gmail.com>; Cuthbert Twilley <ctwilley00@yahoo.com>

Sent: Thu, Dec 7, 2017 3:17 pm

Subject: Re: Board

I agree with Dave - "we should not be talking about killing anyone or buying guns, even though you are not serious." We can make the changes required through persuasion and, if necessary, litigation. Hmm... if the board keeps electing a president who is so unpopular (and for the past 3 years has held office illegally), maybe we should change the bylaws so that the president is elected directly by homeowners, just like the president of the USA. No electoral college though, popular vote only!

Paul

On Thursday, December 07, 2017 11:11:10 AM EST, ALAN ROTHSTEIN <abrrock@optimum.net> wrote:

Barbara,

I don't know how you can say that. Why have a person that is arrogant and nasty and got the least votes as the president. How can anyone respect such a person. Since when does the person with least votes become president. That is not only dishonest but

as I said previously a kick in the pants to all of us. A directorship is not supposed to be a second career. That is why a Petition is very applicable.

Barbara: Your remark may have been a smart ... one but, if I could get away with it I'd buy a gun and pull the trigger.

Subject: Re: Board

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From: pkardos1@yahoo.com

To: abrock@optimum.net; baumappl@aol.com

Cc: dsbraces@gmail.com; ejbklb@gmail.com; joernie@att.net; rmpasab@optonline.net; gatnus@gmail.com; mrssugargeorge@aol.com; wsrnj@aol.com; muncee@optonline.net; gwenfranklin01@gmail.com; equicon1@aol.com; lkishinsky@gmail.com; gallaghera@att.net; kmackaroni1@verizon.net; jsfrost2@verizon.net; sirdavydickens@gmail.com; annlen1@verizon.net; maaronson1@optimum.net; janjoe2@optonline.net; geoffkantor@gmail.com; sskf331@aol.com; adubovy@yahoo.com; lucien371@gmail.com

Bcc: hloconnor@optonline.net

Date: Friday, December 08, 2017 05:24:29 PM EST

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The board must decide anything and everything by voting, and the president is entitled to only one vote out of 7, the same as any other director.

Since the president "shall preside at all meetings of unit owners," and since no bylaw or rule specifies how a meeting is to be conducted (e.g. Sturgis Code, Roberts Rules, Cushing Manual), the president is free to ignore the fundamental right of unit owners to conduct business at their own meeting.

Paul

On Friday, December 08, 2017 10:57:38 AM EST, Barbara <baumappl@aol.com> wrote:

I don't find the position, even after reading Article V, Section 4, all that powerful.

B

-----Original Message-----

From: Paul Kardos <pkardos1@yahoo.com>

To: abrock <abrock@optimum.net>; Barbara <baumappl@aol.com>

Cc: dsbraces <dsbraces@gmail.com>; ejbkib <ejbkib@gmail.com>; joernie <joernie@att.net>; rmpasab <rmpasab@optonline.net>; gatnus <gatnus@gmail.com>; mrssugargeorge <mrssugargeorge@aol.com>; wsrnj <wsrnj@aol.com>; muncee <muncee@optonline.net>; gwenfranklin01 <gwenfranklin01@gmail.com>; equicon1 <equicon1@aol.com>; lkishinsky <lkishinsky@gmail.com>; gallaghera <gallaghera@att.net>; kmackaroni1 <kmackaroni1@verizon.net>; jsfrost2 <jsfrost2@verizon.net>; sirdavydickens <sirdavydickens@gmail.com>; annlen1 <annlen1@verizon.net>; maaronson1 <maaronson1@optimum.net>; janjoe2 <janjoe2@optonline.net>; geoffkantor <geoffkantor@gmail.com>; sskf331 <sskf331@aol.com>; dcbraces <dcbraces@gmail.com>; ctwilley00 <ctwilley00@yahoo.com>

Sent: Thu, Dec 7, 2017 11:56 pm

Subject: Re: Board

see bylaw article V section 4

**CERTIFICATION AS TO FACSIMILE SIGNATURE**

1. I, Robyn Ann Valle, am the attorney for defendant Barbara Applebaum, and her certification is submitted herewith.

2. On January 18, 2018, I spoke by telephone with Ms. Applebaum and she acknowledged the genuineness of her signature on said Certification.

4. The document with original signature affixed will be filed if requested by the Court or any party.

I certify that the foregoing statements by me are true to the best of my knowledge, information and belief. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date: January 18, 2018

By:   
Robyn Ann Valle

## CERTIFICATION OF ROBYN ANN VALLE

I, Robyn Ann Valle, of full age, certify and say:

1. I am an attorney at law, licensed to practice in the States of New Jersey and New York.

2. I attended Rutgers School of Law – Newark. I was a diligent and motivated student, attending all my classes, completing all my course work, and graduating with high honors.

3. Immediately after graduation, I clerked for Appellate Division judge, the Honorable Charles E. Villanueva.

4. In other words, I had an excellent and thorough legal education, which included taking courses in criminal law and criminal procedure.

5. I was the public defender in Parsippany Municipal Court for approximately ten years.

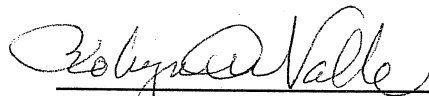
6. Over the past twenty-two years of my legal career, I have read hundreds of cases involving criminal defendants. Nonetheless, I have not acquired one scrap of “knowledge and skill to plan a murder in such a way as to avoid being thwarted prior to [committing] murder and/or avoid arrest after the murder.”

7. In fact, those hundreds of cases that I’ve read all had one common scenario: *someone got caught and arrested.*

8. As any good and ethical lawyer knows, a law degree prepares you for a noble career, not a life of crime.

I certify that the above statements are true. I understand that if the statements are willfully false, I will be subject to punishment.

Date signed: January 18, 2018

  
\_\_\_\_\_  
Robyn Ann Valle