



Correction on Article; Complaints from Former Board Chair and CEO

Description

Editors note: Frank Leeming wrote this article using the names of the ex-CEO and former Board Chair. I replaced the names with 'ex-CEO' and 'former Board Chair'. Frank was reluctant for me to do this but he still agreed to allow us to publish his article on this website. Thank you, Frank.
– Cheryl

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By Former Board Director, Frank Leeming 7-9-20

Board was talking about Balboa Porte-cochere, not Woodlands; former CEO, board chair complain about the facts

My aging ears didn't hear well enough yesterday when I was watching the POA board's work session.

The board was talking about removing the Porte-cochere at the Balboa Clubhouse, not the one between the Woodlands and Ouachita Building at the Ponce de Leon Center. Sorry for the confusion.

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In [yesterday's report](#), I also wrote:

“The board spent time trying to revise the [policy covering the release of POA information](#).

“A convoluted process was imposed by the former CEO to block the release of information, or make it extremely difficult to get. [A Saline Court circuit judge said ex-CEO's policy was illegal and information should be made available to property owners.](#)”

The ex-CEO was indignant and wrote:

“Mr. Leeming,

“I am in receipt of, among other things, your July 8, 2020, mass electronic communication accusing me of illegal acts. Your statement is false. Furthermore, you as a former HSVPOA Board member, are keenly aware that I did not establish the Records Availability policy at issue.

“Please consider this email as demand for you to immediately cease libelous and harassing communications that reference me in any form or fashion, including but not limited to those sent to your mass email database, current and former HSVPOA board members and corporate officers, attendees of your weekly group meetings, other individual HSVPOA members and the press.

“Given your numerous prior communications and my previous requests that your harassment cease, should this activity continue, be advised that I am fully prepared to pursue all civil and criminal remedies available to me.

“Regards,

“ex-CEO”

Sorry, Ms. ex-CEO, I stand by what I wrote. You might want to listen to vice-chair Lloyd Sherman’s description of what he went through trying to comply with your rules and obtain information the court said should be made available to property owners. [See video below.]

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Another voice from the past: The former board chair asked for a copy of Circuit Court Judge Robert Herzfeld’s ruling striking down the POA’s policy on denying property owners access to POA business. I sent it to her. She replied:

“I see no reference in that document to [the ex-CEO’s] policy. That’s your interpretation, perhaps, but you claim that the judge addressed the policy, of which he has no knowledge.

“We went to great lengths to make sure that your claim would be unfounded. We ran the policy and the form past the POA attorneys to MAKE SURE we ran no risk of being in conflict with the ruling. To state that any of us willingly or intentionally violated his order is just wrong, Frank.”

When I said, “I disagree with you, and so do a lot of other Villagers,” the former Board Chair said:

“What, exactly, do you disagree with, Frank? I offered no opinion, only facts.”

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Since both Ms. ex-CEO and Mrs. former Board Chair brought up [Judge Herzfeld’s](#) ruling in *Cooper Communities, Inc. v Hot Springs Village Property Owners’ Association*, I’d like to replay a few key elements of his decision:

“This is a simple business case,” he wrote.

“There is no criminal statute or penalty at stake, and there are no Constitutional or other fundamental rights implicated.

“In fact, the statute in question is endowing rights upon members of nonprofit corporations.

“Oddly, the Defendant (POA) has chosen to view the statute as limiting its own ‘right’ to keep important information secret from its members.

“The statute in question ... is therefore subject to the lowest possible standard of review with the lowest possible stakes and the Defendant has a heavy burden to demonstrate that the language simply does not work.

“So, given that standard, is the statute in question – ‘All books and records of a corporation may be inspected by any member for any proper purpose at any reasonable time’ – unconstitutionally vague?

“In a word: no.”

Judge Herzfeld went on to say, Cooper, a property owner, and his request about contacting other property owners and “investigating the current salaries of organizational employees who are paid from membership dues and assets” is reasonable and proper.

This openness is not limited to Cooper, but to all members of the association, the judge wrote.

Under Ms. ex-CEO’s leadership and in blatant disregard of the ruling, the POA sent out an eblast the next day saying the ruling “is specific to CCI and the facts of its specific document request ...”

The POA was wiggling and trying to delay as long as it could access by property owners to ex-CEO’s contract and other information.

The eblast said the POA was “working with legal counsel to revise record inspection and other policies in a manner that follows Arkansas law while upholding the POA’s purpose of preserving the value of property and promoting the health, safety, and welfare of our residents ...”

The eblast said each request by a property owner to see the secret records “must be evaluated on a case-by-case basis under the facts and circumstances that exist at the time of the request,” a contention totally contrary to Judge Herzfeld’s ruling.

He wrote:

“Whether taken in phrases or as a whole, the statutory language has plain meaning and is clear from both the corporate and member perspective.

“An average person should reasonably understand and predict that these words mean members should have reasonable access to **all** of the recorded information *held by their organization* as long as they have some kind of minimal, non-malicious purpose for wanting the information.”

The emphasis was Judge Herzfeld's, and I don't think the judge could have been any clearer.

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There are a lot of strong feelings about the Balboa Club and what should be done with it.

If the idea of re-opening a restaurant comes up while the board and staff are wrestling with the issue over the next few weeks, I hope they will dig out the excellent final report of the board's Food Service Committee.

It concluded the design of the kitchen in the clubhouse was so bad, no restaurant could be successful there.

Director Dick Garrison's suggestion that the new Finance and Planning Committee look at revenue per capita at restaurants in the area would probably lead to the same conclusion.

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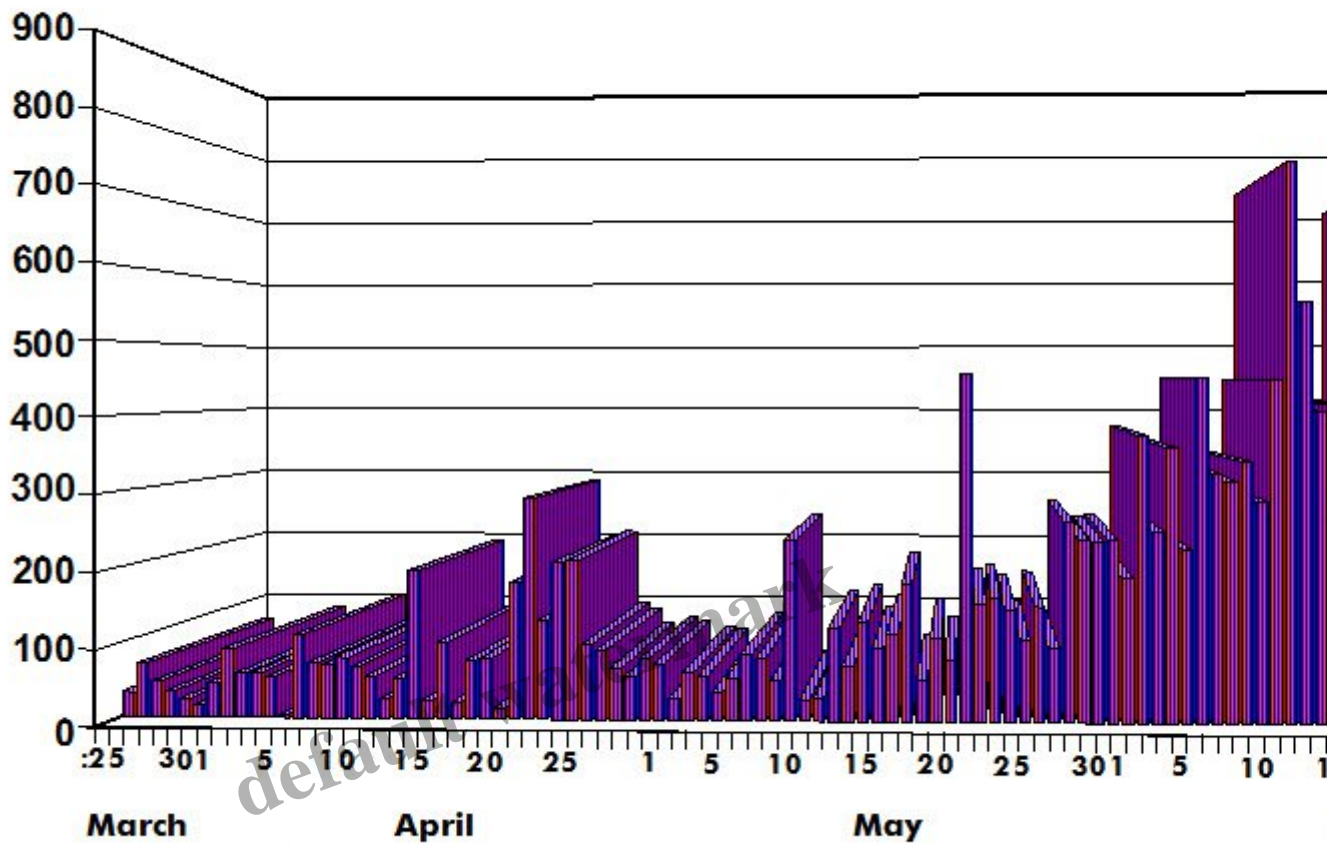
The state reported the second-highest number of new coronavirus cases today – 806 – pushing the total to 26,052. Hospital cases rose by 36 to a new total of 394, a record.

Despite the increases. Gov. Asa Hutchinson said public schools will open, albeit 10 to 14 days later than scheduled.

The good news: Garland and Saline counties continue to be relatively free of virus cases.

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Number of new cases of Covid-19 in Arkan



Source: Arkansas Dept. of Health

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By Former Board Director, [Frank Leeming](#), 7-8-2020

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7-8-20 Discussion Session Video (click play to start at the beginning of the information request discussion)

[embedyt] <https://www.youtube.com/watch?v=C-y4ropAPeA>[/embedyt]

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[\[Click here to read a synopsis by Karen Daigle Lundberg on Judge Hertzfeld's ruling regarding the release of POA information.\]](#)

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lynn