



HSVillagers – Please be Prepared

Description

HSVillagers Please be Prepared by Karen Daigle Lundberg

Today is June 22nd, and the CCI v. HSVPOA case has been heard. As is very predictable in trials and hearings, the Judge took the case under advisement and stated that he will be making a decision shortly. So here, all of the Villagers are sitting with bated breath waiting on his decision. Sadly, but for no other reasons that the authoritarians running our administration have gone so far, that the majority of property owners (**Yes, the MAJORITY**) are hoping and wishing and praying for **Judge Herzfeld** to rule in CCI's favor. We need this win as much as CCI does to ensure that property owners have complete transparency.



CCI vs HSVPOA

I was not at the hearing, but I have spoken to many people who were at the hearing, and I continue to hear the same stories, in that Judge Herzfeld spoke to the [HSVPOA attorneys](#) in a manner that has left everyone believing that he will rule for [CCI](#). Of course, no one but Judge Herzfeld at this time knows how he will rule. However, one thing I have learned during this more than year-long battle with our CEO and old BOD members is that you have to try to stay a step ahead of them at all times.

Preparation is the Key

That is the purpose of me writing this at this time. Preparation is the key. If, indeed, Judge Herzfeld rules in favor of CCI, I believe we all know that the POA will not willingly open their books. They will appeal. If they lose that appeal, they will appeal again. I take you back to the days of the two-tier lawsuit, and how many times it was appealed, and most importantly, how long it took to run through all of the appeals. If Judge Herzfeld rules in favor of CCI, then this is exactly what HSVPOA will do. They will run through all of their appeals processes.

Appeals Process is Expensive

However, what some of you may not know is just how expensive the appeals process is. I do not know if [Gene Garner](#) will share this information, but he possibly may share it, if asked, since he was responsible for all of the attorneys' fees at the end of the day. What I can tell you, though, is when a case moves from the regular Circuit Court into the Appeals Court, another attorney will take over from

there, and he will file the Appeal. Appeal attorneys are specialized in appeal litigation because it is much more difficult than trial work. Consequently, appeal attorneys' charge a great deal more per hour, and use up many, many more hours than just a regular attorney.

Demand Open Records

Fellow Villagers, the problem here is that whatever is in the "books" that the administration is so determined to not let us see, that they are willing to spend an exorbitant amount of property owner funds to keep those books secret. I don't know about all of you, but that has caused a serious question in my mind from the beginning. People are concerned that the administration is illegally convening the governance committee, which is so true, but in the case of the CCI v HSVPOA case, HSVPOA is willfully and intentionally breaking Arkansas State law by not producing these records, and they know it!! Their excuse is that the statutes are not clear. Well, if there is anything unclear, it is most definitely our Bylaws. Our Bylaws are so convoluted, they need to be completely rewritten. They have been added to and deleted so many times that they contradict each other in different sections on different pages, and they are such a convoluted mess that no one can interpret them. On the other hand, the Arkansas statutes are very clear in this case, and if Judge Herzfeld does, in fact, rule for CCI, we need to pull out all of the stops to keep HSVPOA from filing an appeal. We **DO NOT** need to pay hundreds of thousands of dollars in attorneys' fees (and that is what it will be), nor let the HSVPOA stall another two years from opening their books. It is the law that they open those records to CCI and to us, and we need to be prepared to demand that and to demand that they not file an appeal.



HSVPOA Please be Prepared for Wasted Money on Attorneys

Stop the Attorneys' Fees Now

Ask yourself this question: **WHAT ARE THEY SO INTENT ON HIDING???**

Remember the November vote. Together we can stop this!! Let's be prepared to do it. We have three good Board members on our side now. Let us all support them and rally together to stop attorneys' fees NOW!!

Written by [Karen Daigle Lundberg](#), June 22, 2019

Editors Note:

Taken from the Hot Springs Village POA Policy Guide:

ARTICLE 18

INSURANCE CLAIMS AND LITIGATION POLICY

SECTION 2: LITIGATION

2. Enforcement of Declaration and Governance Policies – Any legal action required to pursue the enforcement of the protective covenants, Bylaws, and policies of the POA must receive the prior approval of the Board of Directors. Enforcement of Operational Policies shall be administered by the CEO.

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