



File No.: 3807

February 22, 2021

**NOTICE TO CEASE AND DESIST AND TO COMPLY
&
NOTICE OF HEARING**

Via U.S. and Certified Mail
(Return Receipt Requested)

Norberto Martinez
Victor Martinez
28566 Conejo View Dr
Agoura Hills, Ca 91301-3368

Norberto Martinez
8033 Gonzaga Avenue
Westchester, CA 90045

RE: ANNANDALE TOWNHOUSE ASSOCIATION, INC.
- Failure to Comply with the Governing Documents
- Call to Hearing Notice

Dear Norberto and Victor Martinez:

As you may know, this office serves as legal counsel to Annandale Townhouse Association, Inc. ("Association"). The matter described herein has been turned over to our firm for resolution. Please direct any and all responses, to my attention, at our Woodland Hills address.

During the Association's open Board meeting of February 16, 2021, which was held via GoTo Meeting Video Conference, I am advised that Victor Martinez was observed engaging in disruptive, disrespectful and obnoxious conduct. Such conduct, such as interrupting other speakers during the meeting repeatedly, was not only wholly inappropriate, but prevented the Board from conducting Association business in an efficient manner. Accordingly, the meeting host was compelled to virtually "mute" Victor on multiple occasions, in order to allow the meeting to proceed as scheduled, and to address pertinent agenda items for the evening.

In response, I am informed that Victor then approached the physical location of the meeting (the Association clubhouse), where several members of the Board were hosting the video conference from their laptops. The Board has advised me that Victor violently and threateningly attempted to gain entry to the clubhouse, such that he ultimately broke the building's door handle. I am further advised that the Sheriff was called to the scene

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and that this was not the first attempt by Victor to gain access to the clubhouse during a private Board meeting.

This conduct may expose Victor to risk of legal action for harassment, pursuant to California *Code of Civil Procedure* Section 527.6:

“Harassment’ is...a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose.” (Emphasis added.)

In addition to being disruptive, inappropriate, and threatening, this conduct also constitutes a violation of the Association’s Amended and Restated Declaration of Covenants, Conditions and Restrictions (“CC&Rs”). Article VIII, Section 8.4 of the CC&Rs states:

“No illegal, noxious or offensive activities shall be carried on or conducted upon any Condominium or Common Area nor shall anything be done within the Property which is or would become an unreasonable annoyance or nuisance to other residents.” (Emphasis added.)

Section 8.16 of the CC&Rs further provides, in pertinent part:

“Nothing shall be done or kept within any Unit, Exclusive Use Common Area, or the Common Area which will increase the rate of insurance on any policy maintained by the Association without the prior written consent of the Association and no Owner shall permit anything to be done or kept within his or her Unit, Exclusive Use Common Area, or the Common Area which would cause any Improvements to be uninsurable against loss by fire or casualty or result in the cancellation of insurance on any Unit or any part of the Common Area.” (Emphasis added.)

With respect to the broken door handle, also note that Section 8.3 of the CC&Rs states that owners are responsible for any damage to Association Common Areas and Common Area components.

To be clear, the purpose of Board meetings is for the Board to conduct Association business; thus, the Board cannot tolerate these interruptions. Additionally, this threatening conduct is unacceptable, and at a minimum constitutes a nuisance in violation of the CC&Rs. **Demand is hereby made that you immediately and permanently cease and desist from engaging in the above-described behavior.**

The Board will hold a disciplinary hearing in relation to the aforementioned conduct, to consider the imposition of monetary penalties against Norberto Martinez and/or a reimbursement assessment against Norberto Martinez for the broken Common Area door handle and/or suspension of membership privileges. Recall that owners are responsible for the negligence or willful misconduct of their tenants, guests, invitees, etc. (See CC&Rs, §§ 6.10A(1); 8.3.) The hearing is scheduled as follows:

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Date: March 10, 2021

Time: 6:00 p.m.

Location: GoTo Meet Video Conference
Phone Number: (224) 501-3412
Access Code: 220-254-877

You are both invited to attend the hearing to address the Board and present any information you may have regarding this matter and your failure to abide by the governing documents. Although your attendance is strongly encouraged, it is not mandatory. Should you choose not to attend, the hearing will be held in your absence and the Board may impose said monetary charge and/or discipline.

If you are unable to attend the hearing, you have the opportunity to be heard by submitting a written response to the Board, which must be sent to the undersigned and received at least two (2) business days before the hearing. You are requested to advise management, in writing, at least five (5) days prior to the date of the above listed hearing, whether you plan to attend the hearing and whether you will be represented by legal counsel at the same time, so that the Association can plan accordingly.

I also understand that Victor has objected to, or at least questioned, the Board's decision to include a City Council representative at the February 16th meeting. Note that the Board has the power and duty to exercise its discretion with respect to membership meetings and agenda items. Having relevant speakers at Association meetings is within the Board's purview, as it sees fit, to address pertinent membership concerns, provide insight or expertise into Association or City issues, etc. The Board has acted in the best interests of the Association, in its discretion, and exercised reasonable business judgment with respect to the February 16th meeting and other decisions to include experts, legal counsel, etc., at membership meetings.

Your failure to comply with the demand set forth herein will also compel the Association to pursue its available legal remedies, including, but not limited to, seeking a court order ordering Victor to comply (i.e., a restraining order) and compensate the Association for its attorneys' fees and costs incurred in gaining your compliance. Note that Section 15.6A of the CC&Rs provides that, in the event of a breach or violation of the governing documents by an owner or the owner's tenants, the Board may utilize every available remedy in law or in equity to enforce the obligations therein.

The Association, through its Board of Directors, has a duty to operate and manage the community's affairs. Further, the Board has an obligation to maintain the safety of its residents and to preserve property values within the community, and it takes this duty seriously. This duty includes enforcing the governing documents. The Board has enforced the governing documents in a fair, reasonable and non-arbitrary manner in order to protect the value and desirability of the Association's properties, and the safety of all residents within the Association. You are not being singled out or discriminated against. Instead, you have been notified of persistent violations of the Association's CC&Rs.

~~Norberto Martinez~~

Victor Martinez

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Thank you for your prompt attention to this matter.

Very truly yours,

BEAUMONT TASHJIAN

A handwritten signature in blue ink, appearing to read "A.J. Jahanian". The signature is stylized with a large, sweeping loop at the beginning and a long, horizontal stroke extending to the right.

AJ:sk

cc: Board of Directors (via email only)

A.J. JAHANIAN, ESQ.