

MUSEUM TOWER OWNERS ASSOCIATION

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October 31, 2006

Susan L. Daly, Esq.
HECHT, SOLBERG, ROBINSON,
GOLDBERG & BAGLEY
600 West Broadway, Eighth Floor
San Diego, CA 92101

Re: Pinnacle LLC

Dear Ms. Daly,

The homeowners elected board members find your of October 27, 2006 noteworthy in several respects:

1. You suggest that the developer (Pinnacle LLC) did us a favor to allow the homeowners to control their own board. We remember last fall that the developer initially made every effort to control the board for two years despite owning only a few units that remained unsold. The developer initially sought to set the annual cutoff date for voting eligibility at a time before most escrows had closed on homeowner units to restrict homeowner voting rights. This kind of machiavellian maneuvering is reminiscent of the Soviet Union, not America. Your suggestion that Mr. Meola and Mr. Bortolussi were "elected" for two year terms should have more accurately characterized the process as one by which the developer imposed them on us against the homeowners preference for their own representations.
2. Your suggestion that developer participation on the board allows for a "smooth" transition is belied by the actual facts: The homeowner elected board members have spent 10 months trying without success to reach agreement with the developer on the action items needed to properly complete the building. Thus far, we have absolutely nothing of significance to show for our efforts. The developer has dragged its feet and stonewalled us at every turn. We should be finished by now, but instead, have been forced to file an SB 800 legal action to force the developer to take us seriously.
3. We find your comments about the role of Master Association and the complexity of our multi-use project particularly ironic. This is the same Master Association that your client has controlled for the last year and never held a meeting to address any of our serious problems with security, trash and parking. (See my letter of October 25, 2006 demanding the resignation of Mr. DeCotiis for dereliction of his duty as the sole member of the Master Association Board.) In fact, it is your client's complete

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failure to understand or address the “interrelationship” of the Tower Association and the Master Association that is the source of many of our problems.

4. Your letter fails to even respond to the serious breach of fiduciary duty of developer member’s Meola and Bortolussi that prompted our demand for their resignations. Is it that you just forgot to explain how their conduct is defensible or is it that you know it was outrageous and simply chose not to respond? We have no doubt that it is the latter.
5. We do not appreciate your patronizing and threatening comments concerning the conduct of board meetings considering that it is your clients (Meola and Bortolussi) who went behind our backs and pursued claims against our insurance company for the benefit of their development company without disclosing that to us and then lied about their intent when caught. Their actions have caused immediate and measurable economic losses for the Association in the form of increased insurance premiums and deductibles.

Please be advised that all meetings of the Board have been duly noticed. Your letter is inaccurate in regards to the discussion of the Open Meeting Act. Since our board is comprised of 5 members, a majority of the Board constitutes 3 members. The Open Meeting Act only applies where a **majority** of the board meets to discuss any issue of business. Contrary to your letter, if two members want to meet to discuss any issue, such a meeting is not subject to the Open Meeting Act and will not be duly noticed.

As elected homeowner members, we cannot and will not continue to sit through board meetings which discuss litigation against the developer with your client developer representatives present, and at this point this is the only substantive issue that requires regular board meetings. Apparently, your client would prefer dysfunctional board meetings by refusing to resign, other than admit the obvious: that the developer representatives have failed to represent the homeowner’s association and its interests faithfully and appropriately and also have an obvious conflict of interest now that legal action has been initiated against their company.

The recall of Pinnacle LLC directors will now begin in earnest.

Very truly yours,

James A. Roberts