



APV elections go on despite lawsuit

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While a lawsuit brought against the homeowner's association of Poinciana by some of its residents is working through the Polk County courts, the association held elections Tuesday to elect members to the individual boards in each sub-neighborhood.

The Association of Poinciana Villages is run by a master board, made up of a nominee from the board members of each of the nine villages.



To the dismay of residents who cast ballots on Tuesday, investors and employees of AV Homes (formerly Avatar, Poinciana's original developer) were elected to open spots thanks to blocks of votes cast by AV or First

Service Residential, the company that handles debt collections and other HOA services on behalf of APV.

AV Homes claims to own hundreds of parcels and cast blocks of votes, as many as 1,148 in Village 3, although they were disputed Tuesday as the votes were counted.

As shown on a video posted to YouTube, APV officials originally voided a ballot with the large vote block because it had votes for four names, and only three seats were available. But APV attorney Tom Slaten said the votes would have come from separate ballots and would be allowed.

“I recognized it as a block ballot,” Slaten said later in the week. “The state mandates we do everything we can to to protect people’s right to vote. The subtotal for each candidate equaled the number of block votes, and I’m told it didn’t change the outcome of the election anyway.”

When asked what entity cast the voting block, Slaten said the ballots are secret, like in any other election.

AV Homes employees Anthony Iorio and Sonnie Prevatt, and Fairhomes investor Felix Gratopp, were each elected to four of the village boards. Keith Laytham, who represents the Friends of Poinciana Villages (FPOV), said it was more of APV’s “business as usual.”

“All the open seats were filled by APV or AV Homes, or their investors,” he said. “The bottom line is that as long as Avatar can elect like that, they will have control of this association forever and the homeowners will never have it.

That is the basis for a lawsuit that’s been filed and amended in Polk County. As counselor Jennifer Englert said this week, she and the homeowners who have filed hope to see the APV’s structure completely done away with in accordance with the association’s own 1985 set of bylaws.

According to the Marketable Record Title Act, recorded covenants and restrictions governing their communities may be considered “stale” after a certain period of time. Englert asserts that since APV has not renewed its own deed and title assertions since forming in 1985, it is null and void and cannot service accounts, or even hold elections like the one Tuesday.

“These covenants are not in perpetuity. When they failed to renew them, all of this became invalid,” she said. “For the few lots they own, Avatar needs to be out. By having Avatar out, the people would have some sort of their own governance. Everything they’re doing is invalid. Millions of dollars are missing.”

Tenth Circuit Court Judge Larry Helms is hearing the case. Slaten and APV council stated FOPV could not file suit as a group, and it took three versions of the complaint to reach Helms’ desk. The APV, AV Homes and Village One have all filed separate motions to dismiss the case.

“They’re fighting this at every turn,” Englert said. “Obviously all those people have a lot of money. Everybody is fighting over Poinciana. If this was just a few hundred homes it would have been turned over by now, but there’s a lot of money and power here.”

Slaten said, among the APV claims, that the homeowners who filed suit have are not parties to the 1985 paperwork since they didn’t live in Poinciana then, and that most of this fight is AV Homes’, not the HOA’s.

He also said the plaintiffs have not identified what documents are being referenced in the MRTA claim.

“MRTA does not cause all documents to expire. Some are subject to exceptions,” he said. “I know they claim we are dragging this thing out, but we’re asking to understand what documents are being referenced. They haven’t done that yet.”