



Poinciana resident files with state over APV election

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A complaint has been filed on behalf of a Poinciana resident to the state's Department of Business and Professional Regulation asking the results of last month's Association of Poinciana Villages board elections be nullified because of the number of votes that developer AV Homes cast for its own members.

The complaint, with resident Martin Negron listed as the petitioner, states that AV Homes,



formerly called Avatar, should not hold a majority of seats on the nine village boards and the nine-person APV Master Board, from which one member of each board is nominated for. By doing so, it is in violation of State Statute 720, which states that a developer must yield those seats to

association representative once 90 percent of its parcels have been sold. The law lays out the process of binding arbitration of election disputes between a member and an association.

Among the items in the complaint, it states AV Homes recorded about 26,000 land parcels with the DBPR in 2013, and currently owns 447 of them — about 1.7 percent of the total — according to land records in both Polk and Osceola counties. Yet the APV allowed the developer to cast 4,250 votes in the Feb. 14 election, and APV counted each of those votes. And so, the complaint reads, “APV improperly conducted the election because APV permitted Avatar to cast more votes than ... entitled to case based on the number of homes that may be constructed on undeveloped portions of land which are not platted as lots for with Avatar is paying assessments for ... This has resulted in Avatar improperly regaining control over the APV by using its illegal block votes to place board members owing allegiance to Avatar in the majority of the individual Village Boards.”

These Avatar-majority boards then choose a loyal board member to the Master Board, the complaint alleges, contrary to the rules of turning over control. It holds the APV responsible for “directly exercising influence and control over the election process” and giving Avatar a “blank check” to add 3,700 parcels, and votes, that aren’t registered with any government entity.

The filing asks the DBPR, which regulates HOA elections, to nullify those elections and state that Avatar may only hold one seat on the Master Board or any village board of directors if elected by membership.

But Orlando attorney Jennifer Englert, also counsel in a lawsuit being heard in Polk County for a similar case against the APV, said the state Legislature has done what it can to protect HOA boards and management companies.

“The goal would be to overturn the election and a new board would have to be seated,” she said. “It stinks (residents) have to jump through so many hoops in several systems so it is more costly and very difficult to navigate.”

APV General Counsel Tom Slaten said the complaint doesn’t acknowledge another section of Statute 720, which says what Negron’s complaint refers

to does not apply to a homeowners' association in existence on the effective date of this act.

“APV was in existence more than 20 years before the State adopted Section 720.307, its transition of association control provisions do not apply to APV,” Slaten said. “The petition’s Relief Requested section goes way beyond what the DBPR can do. While the DBPR can review the 2017 election it cannot require anyone to pay assessments, limit the developer to seats chosen by non-developer members or prohibit the developer from being allocated any APV board positions or individual Village Board directorships.”