



Three Poinciana Legal Actions

Lawsuit

Poinciana Homeowners vs APV, Avatar and Village 1

Case # 2015-CA-004499

Status: Ongoing

DBPR Complaint

Martin Negron vs APV

Case # 2017-01-1731

Status: Assigned to Arbitrator

Lawsuit

Poinciana CDDs vs State of Florida et. al.

Case # 2016-CA-004023

Status: Trial Date June 14,2017

Why are we doing this?



Poinciana including Solivita Residents have spent 46 years living in a community controlled by a developer who's primary interest is promoting the developer's corporate interests.

The developer has used the laws of Florida to manipulate and maintain control well past the time when control should have been turned over to the homeowners/citizens.

Enough is Enough!

These lawsuits will benefit every homeowner and renter who lives in Poinciana



Martin Negron vs APV



Florida Department of Professional Regulation under law arbitrates all HOA Election Disputes

Feb 2017 APV Election Disputes

Dispute over number of director positions on ballot

Dispute over number of votes allowed to Avatar

F.S. 720 Election Laws vs APV Documents

Relief Requested

Nullification of election result

Avatar should be treated like all other homeowners

Poinciana CDDs vs State of Florida et. al.



Avatar wants to sell Solivita Club Amenities

Solivita CDDs want to purchase

Argument is over price

Court Date set for June 14

Poinciana Homeowners vs APV, Avatar and Village 1

Filed October 2016



Count 1 Breach of Contract by APV

Count 2 Breach of Fiduciary Duty by APV

Count 3 Breach of 3rd Party Contract by APV

Count 4 Breach of Contract by Avatar

Count 5 Breach of 3rd Party Contract by Avatar

Count 6 Breach of Contract by Village 1

Count 7 Breach of Fiduciary Duty by Village 1

Count 8 Request for Injunction against APV and Village 1

Poinciana Homeowners vs APV, Avatar and Village 1



General Allegations

Avatar Refusal to turn over control per 1985 agreement

Wrongful removal of V4 from APV

Defendants failure to notice meetings

Defendants elections breach of by-laws

Breach of Financial and Fiduciary Duties

Injunctive Relief Claim (MRTA)

Poinciana Homeowners vs APV, Avatar and Village 1

Current Status



~~Count 1 Breach of Contract by APV~~

Count 2 Breach of Fiduciary Duty by APV

Count 3 Breach of 3rd Party Contract by APV

~~Count 4 Breach of Contract by Avatar~~

Count 5 Breach of 3rd Party Contract by Avatar

~~Count 6 Breach of Contract by Village 1~~

Count 7 Breach of Fiduciary Duty by Village 1

Count 8 Request for Injunction against APV and Village 1

(MRTA)

Counts 1,4 and 6 have been voluntarily withdrawn

Counts 3,5,7 and 8 require response to court

Poinciana Homeowners vs APV, Avatar and Village 1

March 23,2017 Court Ruling



Count 3

Plaintiffs failed to sufficiently allege damages

Count 5

Plaintiffs failed to sufficiently allege damages

Count 7

Only Peter Jolly lives in Village 1

Need to specify proper documents

Need to clarify election dispute issue

Count 8

More specific allegations

More documentation required

What is MRTA?



Covenants, Conditions and Restrictions (CC&Rs) are the Deed Restrictions that provide HOAs right to enforce codes and collect assessments.

Poinciana's CC&Rs were filed and recorded in 1971

Poinciana CC&Rs became the authority for the 9 villages and master APV

Florida Statute 712 requires CC&Rs to be renewed according to legally defined process or they expire after 30 years (2002 in the case of Poinciana)

Lawsuit claims this was never done

What happens if court rules CC&Rs were never renewed?



Court will issue Injunction against Poinciana HOA

HOA can no longer enforce restrictions

HOA can no longer collect assessments

Polk and Osceola Counties will immediately take over Poinciana services as unincorporated communities

Additional services will become optional based on will of voters

Optional Special Taxing Districts

One or more Poinciana HOAs may be renewed under Cambell Amendment (F.S. 720.401)

Part 1 Homeowners Must Approve

Part 2 Florida Department of
Community Affairs
must approve

Summary



Lawsuits are ongoing. Nothing has been decided

If Plaintiff wins DBPR arbitration APV Elections will Become more fair to Poinciana Homeowners and less Under control of Avatar.

If Plaintiffs win lawsuit then there will be penalties to APV and if CC&Rs are declared no longer valid then APV Will go away and be reconstructed as either new taxing Districts Administered by counties or as new HOA under control Of homeowners and not the developer.

Questions?