Maryland Circuit Court for Anne Arundel County

CHRISTOPHER DAVID MCKEON, 1120 Soho Court, Crofton MD 21114 Plaintiff, v. Charing Cross Townhouse Condominium, Inc., Joseph R. DeSantis, Carol Frankhouser, Kathleen Marek, Michael J. Helpa, COMANCO, INC., Ruth Angell, Defendants. c/o Comanco, 2139 Defense Hwy, Crofton MD 21114	)	Case No. C-08-132379

FIRST AMENDMENT OF COMPLAINT FOR INJUNCTIVE AND OTHER ANCILLARY RELIEF

Plaintiff Christopher David McKeon, member and vice president of the Board of Directors ("the Board") of Charing Cross Townhouse Condominium Association, Inc ("the Association"), located in Crofton, Maryland, county of Anne Arundel, for his complaint alleges:

I. SUMMARY OF COMPLAINT AND ACTION

a. This Complaint alleges that Defendants, individually, jointly or severally, as enumerated herein, violate the governing laws (defined *infra,* at h) in thirteen (13) areas: 1) scope and powers of directors' and officers' authority, 2) elections, 3) terms of office, 4) open meetings requirements, 5) calling meetings of a governing body, 6) email, phone, private conversation or other means of voting outside of open meetings, 7) removing directors, 8) record-keeping, 9) a petition

to audit records, 10) covenant enforcement, 11) Unauthorized expenditures of Association monies; 12) rules and regulations, and 13) fiduciary duty. Plaintiff seeks relief by asking this Court to compel Defendants to obey the governing laws, to prohibit further violations and provide other necessary relief.

b. The Complaint also alleges Defendants, individually, jointly or severally, as enumerated herein, violate various Md. criminal or civil laws, by committing acts of fraud, civil conspiracy, aiding and abetting, theft, embezzlement, fraudulent misrepresentation and defamation.

c. This First Amendment to the Complaint "re-marries" the essential facts in the Ex Parte Motion (defined *infra,* at e) with the original complaint, sets forth additional facts consonant with the factual pattern of the original complaint, a clearer enumeration of the relief Plaintiff seeks, lists additional counts, and otherwise updates the Complaint.

d. Plaintiff brings this action under, but not limited to, the Association's Declaration Article IX, By Laws Article III Section 2, Article XVIII Section 5, § 11-109(d)(4), § 11-113(c) of the Maryland Condominium Act ("the Act") and maintains he has standing to sue as a director and as a Member of the Association injured by Defendants, to secure permanent injunctive and other ancillary relief as set forth below, other redress and equitable relief against Defendants for acts or practices that violate, inter alia, requirements for open meetings, record-keeping and elections established in § 11-109(c)(6), §11-116(a), (b) of the Act, Maryland Corporation Law (hereinafter "MCL") §2-111, § 4-404(b)(1)(ii), § 2-405.1, § 2-406, §2-407(c)(1), § 2-408(a), (b), (c), § 2-501(a), §5-206, and By Laws Article

IV Sections 1, 2, 4, 7, 8, Article V Sections 3, 5, 6, 7, 10, 13, 14, and Article VI Sections 4, 7.

e. Plaintiff incorporates by reference as though fully set forth herein all exhibits previously filed in the above-captioned action with 1) Plaintiff's Motion For An Emergency Ex Parte Temporary Restraining Order And Order To Show Cause Why A Preliminary Injunction Should Not Issue ("Ex Parte Motion") filed with this Court June 17, 2008; and 2) Plaintiff's Affidavit and Motion to Substitute Service of Process, Affirm Sufficiency of Evaded Service of Process and Request for Expedited Summary Relief ("Motion to Substitute") filed with this Court July 11, 2008.

f. All exhibits referenced herein as "attached" are attached to this First Amendment of Complaint for Injunctive and Other Ancillary Relief ("Complaint").

g. Unless otherwise noted, exhibits referenced below without the term "attached" are attached to the Ex Parte Motion.

h. The Charter, Declaration, Condominium Plat, By Laws, other rules and regulations of the Association (hereinafter "By Laws"); the Act and the General Maryland Corporation Law (hereinafter "MCL") may hereinafter be collectively referred to as "governing laws."

i. Table of Contents:

II. JURISDICTION AND VENUE

2. Plaintiff is a resident of the State of Maryland, county of Anne Arundel, town of Crofton.

3. The Association is a Maryland condominium non-stock corporation, chartered in 1979 in and under the laws of the State of Maryland and the county of Anne Arundel.

4. Comanco, Inc. is a corporation doing business in and under the jurisdiction of the laws of the State of Maryland and the county of Anne Arundel.

5. Defendants' actions, which are the proximate cause of the instant complaint, all occurred within and under the jurisdiction of the laws of the State of Maryland and the county of Anne Arundel.

6. This Court has subject matter jurisdiction over Plaintiff's claims pursuant to Maryland Code, Courts and Judicial Proceedings ("Code") § 4-402(a).

7. This Court has personal jurisdiction over Plaintiff's claims pursuant but not limited to Code § 6-101, § 6-102 and § 6-103 of .

8. Venue in the Maryland Circuit Court in Anne Arundel County is proper pursuant but not limited to § 6-201, § 6-202 and § 6-203 of Maryland Code, Courts and Judicial Proceedings.

III. THE PARTIES

PLAINTIFF

9. Plaintiff is a member homeowner in the Association and resides at 1120 Soho Court, Crofton, MD 21114. He was elected director of the Association to a statutory 3-yr term pursuant to the 2007 annual meeting of the members and vice president of the Association pursuant to a unanimous vote of the Board taken and recorded in the minutes of the regular meeting of the Board September 25, 2007. Plaintiff was allegedly removed as director at a 9/4/08 special meeting of the Members for filing the instant action.

DEFENDANTS

10. Defendant Association is a Maryland condominium incorporated in the State of Maryland in 1979 pursuant to its Declaration (*supra,* at3), doing business through its

property manager Comanco, Inc. The Association transacts or has transacted business in this Court's jurisdiction. There are 122 homeowner Members of the Association.

11. Defendant Comanco, Inc. is a Maryland corporation doing business though post office box 3637, Crofton, MD 21114 and whose place of business relevant to the instant action is physically located at 2139 Defense Highway, Crofton, MD 21114. It is contracted by the Association to provide property management and other related, ancillary services through December 31, 2008 (see Managing Agent Agreement, Exhibit D, Ex Parte Motion, hereinafter "Contract"). Comanco, Inc. transacts or has transacted business in this Court's jurisdiction.

DEFENDANT DIRECTORS AND MEMBERS OF THE BOARD

12. Upon information and belief Joseph R. DeSantis is neither a member homeowner nor renter in the Association, but resides with his member homeowner parents Michael A. and Rita DeSantis at 1001 Shire Court, Crofton, MD 21114; he is employed by Fried Frank law firm, 1001 Pennsylvania Avenue NW, Washington, DC 20004, 202-639-7000; he has and currently acts as a director since 2000 for eight (8) consecutive years; his election history does not conform to the requirements of the By Laws; he participated on the 2006 ballot and was elected president of the Association pursuant to a unanimous vote of the Board taken and recorded in the meeting minutes of the regular meeting of the Board September 25, 2007. Individually or in concert with others, he directs, controls, formulates or participates in the acts and practices set forth herein.

13. Upon information and belief Carol Frankhouser is a member homeowner in the Association and resides at 1005 Shire Court, Crofton, MD 21114; she is employed by

Freedom Restoration, LLC at 2544 Brickhead Road, Gambrills, MD 21054, 410-451-2750; she was elected 10/26/06 by the Board to fill a vacancy; her election history does not conform to the requirements of the By Laws; she was elected secretary of the Association pursuant to a unanimous vote of the Board taken and recorded in the meeting minutes of the regular meeting of the Board September 25, 2007. Individually or in concert with others, she directs, controls, formulates or participates in the acts and practices set forth herein.

14. Upon information and belief Kathleen Marek is a member homeowner in the Association and resides at 1008 Broderick Court, Crofton, MD 21114; she is employed by Whitworth & Trunnell, P.A., at 2101 Defense Hwy, Crofton, MD 21114, 301-261-0035; she was elected director of the Association on the 2007 ballot and treasurer of the Association pursuant to a unanimous vote of the Board taken and recorded in the meeting minutes of the regular meeting of the Board September 25, 2007. No records of the Association document if Defendant Comanco provided her bond as required by Article V Section 15 of the By Laws. Individually or in concert with others, she directs, controls, formulates or participates in the acts and practices set forth herein.

15. Upon information and belief Michael J. Helpa is a member homeowner in the Association and resides at 1007 Broderick Court, Crofton, MD 21114; his place of employment, if any, is unknown; he was elected director of the Association on the 2007 ballot and seated as a director as recorded in the meeting minutes of the regular meeting of the Board September 25, 2007. Individually or in concert with others, he directs, controls, formulates or participates in the acts and practices set forth herein.

16. Joseph R. DeSantis, Carol Frankhouser, Kathleen Marek and Michael Helpa are hereinafter collectively referred to as "Defendant Board members."

DEFENDANT EMPLOYEES OF DEFENDANT COMANCO

17. Upon information and belief James Faust is one of the owners of Defendant Comanco, presided at the Association's organizational meeting of the members July 7, 1982, is knowledgeable of Association business and periodically as needs dictate attends meetings of the Board. Plaintiff is unaware of any other involvement by James Faust in the acts and practices set forth herein other than his employee supervisory role.

18. Upon information and belief Ruth Angell is an employee of Defendant Comanco, works at Comanco's Crofton office, and is assigned by Comanco as its agent for Defendant Association since on or about 2005. Individually or in concert with others, she directs, controls, formulates or participates in the acts and practices set forth herein.

19. Comanco, Inc. and Ruth Angell are hereinafter collectively referred to as "Defendant Comanco."

IV. STATEMENT OF FACTS

APPLICABILITY OF STATUTE, RULE OF CONSTRUCTION, MISC

20. The Declaration, Condominium Plat, By Laws and other rules of the Association are subordinate to the Act pursuant to §11-124(e) of the Act and By Laws Article XVIII Section 2.

21. By Laws Article III Section 2 and § 11-109(d) establishes that Title 5 Subtitle 2 of the Corporations Article, Annotated Code of Maryland pertaining to non-stock corporations, not inconsistent with the Act shall govern the Association. MCL § 5-201 establishes that the provisions of General Maryland Corporation Law shall govern Title 5

Subtitle 2 except as therein noted in § 5-201(a) and (b). (See Plaintiff's email "Re: FW: Special meeting" to Defendants, Exhibit A, attached)

22. An audit of the Association's Board and annual meeting minutes, election records and certain covenant enforcement records undertaken by Plaintiff March 3 – June 4, 2008 and included as supporting documentation in Plaintiff's May 23, 2008 complaint to the Consumer Protection Division of the Maryland Office of Attorney General ("the Audit") provides the facts and information that supports Plaintiff's instant complaint. Plaintiff incorporates by reference the Audit as if fully set forth herein. (Audit, Exhibit E)

23. Plaintiff transferred his handwritten notes taken during the Audit to typed documentation ("Notes") that provides the notational support to the Audit. Plaintiff incorporates by reference the Notes as if fully set forth herein (Notes, Exhibit E)

24. By Laws Article V Section 4 states the term of any management agreement "shall not exceed one year." The Contract's term is 2 years, January 1, 2007 – December 31, 2008. (Exhibit A of the Ex Parte Motion)

BOARD OF DIRECTORS AND DUTIES OF PRESIDENT

25. By Laws Article V Sections 1 and 3 vest all the powers and duties of the Association in a board of directors, which shall so govern the Association.

26. The By Laws Article V Sections 10, 11 and 13 specify the Board may meet, conduct and transact Association business at regular or special meetings of the Board with quorum. Except as provided in § 11-109.1 of the Act and MCL §2-408(c), § 11-109 of the Act specifies that all meetings of a governing body shall be open to the members of the Association ("the Members") and that voting shall be by majority.

27. By Laws Article V Section 10 states: “Regular meetings of the board…may be held at such time and place as shall be determined by a majority of the Directors.”

28. By Laws Article V Section 11 permits the president to call a special meeting but requires the Board establish its time and place pursuant to Article V Section 10.

29. By Laws Article IV Section 1 states: “Meeting of the Members…shall be held at the principal office or plce of business of the Corporation or as such other suitable place convenient to the membership as may be designated by the Board of Directors.”

30. The By Laws do not grant any powers and duties of the Association to any one or more individuals acting outside the collective will of the Board, except by resolution of the Board at a duly called meeting of the Board, consistent with the By Laws and pursuant to MCL § 2-408 and § 2-414(a).

31. By Laws Article V Section 3 limits the powers and duties of the Board to actions that are “consistent with law and the provisions of these By-Laws and the Declaration.”

32. The By Laws specify the duties of the president as the following: 1) To call a special meeting of the Members on the Board’s resolution or by a petition of the Members (Article IV Section 3); 2) To call a special meeting of the Board (Article V Section 11); 3) to preside at all meetings of the members and the Board, to appoint committees, be the chief executive officer and to “have all of the general powers and duties which are usually vested in the office of president of a corporation” (Article VI Section 4); 4) To act as the Board determines, consistent with the By Laws (MCL § 2-414(a)(2)).

33. The "general powers and duties usually vested in the office of president of the corporation" cannot and must not empower or authorize the Board president to violate, circumvent, ignore or act unencumbered by the By Laws or relevant Maryland laws, or act on voted resolutions or non-voted tacit authorizations of the Board that, in acting upon or in consequence of them—or in enlisting, encouraging or causing others to so act—causes the Board president and hence the Board to be in violation of the governing laws.

34. MCL § 2-414 establishes that an officer "has the authority and shall perform the duties in the management of the assets and affairs of the corporation as: (1) Provided in the bylaws; and (2) Determined from time to time by resolution of the board of directors not inconsistent with the bylaws." In the instances enumerated herein and others, Defendant DeSantis routinely exceeds his enumerated powers and acts without "the resolution of the Board…not inconsistent with the By Laws."

35. The following facts exemplify the routine, historical pattern of governing laws violations by Defendant DeSantis, encouraged and abetted by other Defendant Board Members' alleged tacit authorization by silence. Defendant DeSantis:

a. 9/27/2007: Authorized Defendant Comanco to hire a recording secretary without Board approval for the expenditure for a closed meeting 10/4/2007 that does not meet the requirements of § 11-109.1 of the Act. In so doing, Defendants ignored their own policy conveyed to Plaintiff by Defendant Comanco 11/6/2007 that a majority of the Board must agree to incur costs. (Email: "Charing Cross - RE: contact info," Exhibit F)

b. 11/5/2007: Incurred attorney expenses without notification to or approval by the Board by instructing Defendant Comanco by telephone to forward Plaintiff's emails to the Association attorney Michael S. Neall (586 Bellerive Dr # 1B, Annapolis, MD 21409, 410-974-8033; hereinafter, "the Attorney"), and by initiating a telephone conversation with the Attorney which led to an 11/6/07 written legal opinion to Plaintiff without the Board's knowledge or approval. This fact is evidenced by Defendant Marek's 11/23/2007 email: "Got your email and I'm confused and totally 'out of the loop' regarding your letter to Ruth/Comanco.....what letter did you receive?? Don't have a clue what is going on, but I'm sure we will address all issues at the Board Meeting on Tuesday." (Unit Activity Report 11/15/07, Exhibit C)

c. 11/6/2007: At the same time Defendant Comanco informed Plaintiff that contact with the Attorney was impermissible without Board approval, Comanco was aware the Association attorney was mailing an 11/6/07 legal opinion per Defendant DeSantis' 11/5/07 request without Board knowledge or approval. (Unit Activity Report 11/15/07, Exhibit C)

d. 11/12/2007: Caused Defendant Comanco to write and mail a letter not authorized by and without the knowledge of the Board to Plaintiff providing the Board's official position regarding his balcony, signed by Defendant Comanco on behalf of the Board. (Exhibit G)

e. 11/26/07: Incurred Attorney expenses without knowledge of or vote by the Board and caused the Attorney to attend a 12/10/07 Board meeting. (Unit Activity Report, 1/18/08, p. 8)

f. 1/25/2008: Incurred attorney expenses without Board approval by holding a telephone conversation with the Attorney, and informed Defendant Comanco (but not the Board) via telephone, noting, “I spoke with Mike Neall and he knows what the agenda is.” (Unit Activity Report 2/21/08, Exhibit C)

g. 2/8/2008: Made a unilateral “executive decision” outside of a duly called meeting of the Board to approve a new roof with a change in shingle color at 1029 Shire Court. Wind had blown up part of the roof ridge vent, which a contractor then properly covered against the elements. This was insured damage, but the homeowner wanted a new roof. Upon information and belief this homeowner is a friend and work colleague of Defendant Frankhouser. The record shows he spoke only with Defendant Frankhouser and could not contact Defendant Helpa as a rationale for his decision. Plaintiff complained to the Board and dissented in two 2/13/08 emails this act violated the governing laws (to which Defendants were unresponsive) and that Defendant DeSantis’ act created a credible impression that he suspended the rules to approve the homeowners’ shingle color request as a favor to Defendant Frankhouser and to ensure no insurance claim was pursued against the Association by the homeowner for wind damage. (Unit Activity Report 2/21/08 pp 24-29, Exhibit C)

h. 2/15/2008: Telephoned Defendant Angell to inform her that he is calling a contractor to fix his roof at Association expense because “It is wind damage and is covered under the insurance.” On the same day, Defendant Comanco telephoned Defendant DeSantis and asks, “Do you want to get

Board approval first?" There is no recorded response from Defendant DeSantis, who so notified the Board 2/15/08 via email of his action because "Ruth is out today." Plaintiff demanded via email that Defendant Comanco act as though any homeowner had just taken such action; Defendants were unresponsive. Defendant Comanco subsequently notified Defendant DeSantis "Do you realize that Chris is continuing to cc Mike Neall on all his emails?" (Unit Activity Report 2/21/08 pp 30-31, 35-36, Exhibit C) After Plaintiff's 2/18/08 email complaint to Defendants, Defendant DeSantis notified Defendant Comanco (but not the Board) that he was suspending repairs to his roof until it could be voted on at the next regular meeting of the Board; however, Plaintiff visually verified the repairs were in fact made that same week of February 18, 2008. Defendant DeSantis failed and refused to inform the Board of the repair allegedly costing $250 until the 2/26/08 regular meeting of the Board and only after Plaintiff demanded debate. The Board took no vote authorizing his roof repair at Association expense, Defendant Comanco did no site inspection to establish it was a covered casualty, nor did Defendants DeSantis or Comanco ever disclose who paid for it. (Minutes 2/26/08 p 4, Exhibit B)

i. 3/26/2008: Incurred attorney expense without the knowledge of or approval by the Board by requesting a legal opinion from and consulting with the Attorney regarding correcting the staggered term of office. This request resulted in a 5/9/2008 letter by the Attorney evidently based upon false and misleading information that violates By Laws Article V Section 5. (Unit

Activity Report, 4/15/08 p 1; 5/20/08 pp 1-2, 6-7, Exhibit C, 5/9/08 letter, Exhibit G) Defendants were unresponsive to Plaintiff's response. (Email "Notice of complaint to the office of attorney general," "Attorney conflict of interest," Exhibit F)

j. 4/23/2008: Defendant DeSantis unilaterally committed the Association to a $100 contract to remove a tree, and in so doing unilaterally cancelled a more comprehensive proposal from landscaper JAMS for the same tree scheduled to come before the Board 5/27/08. Defendant DeSantis did not inform the Board until its 5/27/08 regular meeting, over one month after his action. This *fait accompli* foreclosed any chance for Plaintiff, members of the Board or the Members to debate or exercise any other option. (Unit Activity Report 5/20/08 p 5, Exhibit C)

k. Upon information and belief Defendant Angell verbally told one or more homeowners during her follow-up Spring walk-through the last week of May or the first week of June 2008 that a general meeting of the members or of the Board was being called. Defendant Comanco responded to Plaintiff's request for information on this news via email June 5, 2008 that the June 24, 2008 regular meeting of the Board was cancelled because of "scheduling conflicts" and a June 19, 2008 regular meeting of the Board was called—all without Plaintiff's knowledge or a vote by the Board as required in By Laws Article V Section 10. Defendants were unresponsive to Plaintiff's follow-up June 5, 2008 email requesting to know who cancelled and called the meetings, how and why it was done, to disclose the schedule conflicts involved and why

Plaintiff's potential schedule conflicts were not requested or considered. (Email "115-RE: general meeting of the members?" Exhibit F) Upon information and belief Defendant DeSantis took these actions.

l. Defendants DeSantis and/or Angell initiated a series of phone calls 3/26/08 – 5/22/08 instructing the Attorney to prepare a written legal opinion regarding correcting the Association's terms of office, without the knowledge or approval of the Board until 5/22/08 when the Management Report containing the Attorney's 5/9/08 written legal advice on correcting terms of office (supra, at 19.i) was mailed to Board members. (Unit Activity Report 4/15/08 pp 1, 7-8 and 5/20/08 pp 1-2, 5-7, Exhibits C) The Attorney's legal opinion included mandating Plaintiff accept a reduced term of office in violation of By Laws Article V Section 5.

m. 6/27/2008: Defendant Comanco mailed notice to Members that Defendant DeSantis called a special meeting of the Board for July 7, 2008 to be held on a street corner to handle pending architectural requests. The time or place was not authorized by the Board in compliance with By Laws Article V Section 11 nor met the minimum 10-day notice required by § 11-109(c)(4) of the Act. (Notice 6/27/08, Exhibit A, attached) Defendant Comanco refused delivery of Plaintiff's complaints via certified mail June 30 and July 2, 2008 (Exhibit G, Motion to Substitute); Defendants were unresponsive to Plaintiff's emails July 1 and 2, 2008. Defendant DeSantis requested a legal opinion from the Attorney—which he provided July 1, 2008 via email—without Board knowledge or approval for the expense. (Exhibit A, Ibid)

n. 7/6/08: One or more Defendants wrote and caused a flyer dated July 3, 2008 witnessed by Plaintiff's spouse Cynthia Cuevas to be distributed by a male adult and child the afternoon of July 6, 2008 to homes in the condominium that disclosed the existence of the above-captioned Complaint, cancelled the above-referenced July 7 special meeting and the July 22 regular meeting of the Board, the scheduled July 17, 2008 annual meeting of the Members, and confirmed the August 26, 2008 regular meeting of the Board—all without notice to or a vote by the Board as required in By Laws Article V Sections 10, 11 and § 11-109(c)(6) of the Act. (Exhibit D, Response to Motion to Dismiss) Defendants were unresponsive to Plaintiff's questions via email July 8, 2008. (Email, "July 6 flyer," Exhibit A, attached)

o. The July 3 flyer (above) notified Members that "All other [architectural] applications that had been received prior to June 30, 2008 have been withdrawn." One such request from 1108 Soho Court requesting to connect drainage from the backyard into condominium common drains was submitted through Defendant Comanco June 12, 2008. However, rather than withdrawn, this request was in fact approved by one or more Defendants outside of an open meeting. Plaintiff viewed the completed work behind 1108 Soho Court July 18, 2008, and spoke to homeowner Joan Wolle the same day, who first said the work was approved, then that she was told the work "didn't need approval;" she refused to disclose to Plaintiff who said or did these acts that require a Board vote pursuant to By Laws Article XI Section 1. Defendants were unresponsive to Plaintiff's questions and formal request for

full disclosure via email July 21, 2008. (Email, "1108 Soho Court," Exhibit A, attached)

p. In spite of the above-captioned Complaint, on July 14, 2008 Defendant Comanco emailed "Bill" to clean a vaguely defined area of graffiti "Per Joe," [DeSantis] without notice to or approval by the Board for the expense. A follow-up email from Defendant DeSantis instructed Defendant Angell to call Anne Arundel County to have them pay for the graffiti removal. The same day Defendant Helpa responded, "Who is 'Bill' and don't we need a proposal and a vote when we are spending association funds? Joe, this is not a crisis situation, so why are we dealing with it via e-mail? Let's stop wasting money. We need to investigate these little annoyances and perhaps come [sic] with alternative solutions before ordering work done at a cost to the community." (Two emails, "115-Charing Cross Graffitti," Exhibit A, attached)

q. Individually or with other Defendants outside of an open meeting cancelled, called or set the time and place of various meetings of the Board and Members, or provided insufficient notice to Members, between June and September 2008 (*infra*, at "Open Meetings") as required in By Laws Article IV Section 1, Article V Sections 10, 11, and § 11-109(c)(4), (c)(6) of the Act.

r. Spent other unauthorized monies as enumerated in Unauthorized Expenditures of Association Monies. (*infra,* at 133)

ELECTIONS

36. The By Laws Article IV Sections 1, 2, 4-9 and Article V Sections 5-7, in consonance with the relevant portions of MCL Title 2 Subtitles 4 and 5 and §11-109 of the Act, set forth the rules for the annual meeting, election and term of office, vacancies and director removal.

37. Defendants Association and Comanco routinely and almost without exception since at least 1984 and specifically 2000-2007 set terms of office according to vote counts (highest 3 years, next 2 years, last 1 year) in violation of By Laws Article V Section 5.

38. The 9/24/2001 regular meeting of the Board acknowledged its historical failure to follow election rules (since at least 1984—Audit at 10-11, 16), resolved to obey them and re-established the statutory term and stagger such that only 1-2 seats would be on the ballot each year as mandated by Article IV Section 2. The Audit indicates Defendant DeSantis, a member of the Board since 2000, was present and participated in this 9/24/2001 meeting at which the rules and term of office governing the election of directors were clarified and re-established by act of the Board, and he accepted a 2-yr term of office presumably in furtherance of the Board's aims. (Audit at 16)

39. Defendants are routinely unresponsive to Plaintiff's complaints regarding alleged violations of the governing laws, failures to follow established and routine procedures, and electoral dysfunctions. Plaintiff informed Defendants of violations, dysfunction and confusion regarding elections, stagger and term of office, number of directors, identity of directors and the 2008 election via email or certified mail (occasionally including the Attorney) 1/15/2008, 1/24/2008, 6/5/2008 and at the regular meeting of the Board 1/25/2008, 2/26/2008, 4/22/2008, 5/27/2008. (Emails, Exhibit F)

Defendants failed and refused to respond to Plaintiff except at the 2/26/2008 regular meeting of the Board where no action was taken except to anecdotally claim the Association had previously established a 5-seat board, stating Defendants had no need to document that fact and that Plaintiff could review the records himself. On or about February 28, 2008 Plaintiff verbally requested and 3/3/2008 requested in writing to Defendant Angell for access to the Association's records 1979 to present. Not until June 2, 2008 did Defendant Comanco provide all the requested records. (Minutes 2/26/08, Exhibit B; Unit Activity Report 3/20/08, 4/20/08, 5/20/08, Exhibit C)

40. The Audit shows Defendant Comanco permitted Defendant Marek to vote one more proxy than allowed in By Laws Article IV Section 7 in the 2007 election.

41. The Audit shows that Defendant DeSantis voted the 1001 Shire Court homeowners' 2006 and 2007 proxies, and Defendant Frankhouser's 2006 proxy, in violation of By Laws Article IV Section 7, which stipulates that only a "member or the Declarant or Management Agent" may vote another member's proxy. Defendant DeSantis is not a member of the Association (*supra,* at 12). (Audit at 90-92; Notes, p. 18)

42. The Audit shows the 2000-2007 boards (which included Defendants DeSantis from 2000, Frankhouser from 10/26/2006 and Helpa and Marek from 9/25/07) failed to comply with the above-enumerated governing laws as well as the resolution of the 9/24/2001 board to re-establish fidelity with the election rules in the By Laws, as summarized below (see chart at end of Audit for additional clarity):

a. 2001: *supra*, at 38.

b. 2002: One director elected to an unknown term (Audit at 18).

c. 2003: The 7/8/2003 annual meeting was adjourned to 7/22/2003 for lack of quorum; the 7/22/2003 reconvened annual meeting was also and inexplicably adjourned for lack of quorum even though votes in person and by proxy were available, in violation of MCL § 2-501(a), § 11-109(c)(8) of the Act and Article IV Sections 1, 2, 8 which require an annual meeting to elect directors and permit any number of Members present at a reconvened meeting to constitute a quorum suitable for transacting any business. Defendant DeSantis' 2003 2-yr term was expired; no record indicates Defendants informed the 2003 Board of the 9/24/01 Board's findings and corrective actions, or that his term was expired. (Audit at 19-22)

d. 2004: No annual meeting held or unclear from records. All directors appear to be informally held over. No record indicates Defendants DeSantis or Comanco informed this Board and Defendant Comanco of the 9/24/01 Board's findings and corrective actions or expired terms. (Audit at 21-22)

e. 2005: All five seats on the Board placed on the ballot in contravention to By Laws Article Article IV Section 2, Article V Section 5 and the 9/24/2001 Board's resolution to comply with same. Those elected were assigned terms of office based on vote counts in violation of By Laws Article V Section 5: Defendant DeSantis, Don Walton, Linda Williams, Laura Goldblatt, Mike Evans. Defendant DeSantis received 18 votes. The names on the 2006 ballot indicate the 2005 Board set a 1-yr term for all directors, as below. No records indicate Defendants DeSantis or Comanco informed this Board of the 9/24/01 Board's findings and corrective actions. (Audit at 23)

f. 2006: The extant call for nominations shows Linda Williams and Laura Goldblatt with continuing terms and not to be nominated, although the ballot called for all five directors to be elected, including Linda Williams. (see Notes at 18) Defendant DeSantis, Don Walton and Linda Williams had been elected in 2005 to what were properly 3-yr terms, though not Laura Goldblatt or Mike Evans. Elected in 2006: Defendant DeSantis, Don Walton, Linda Williams, Charlene Julien, Tom Knighten. However, even allowing for the fact the Board was handing out terms of office in 2005 based on vote count as a means to stagger terms, five out of five members of the Board received 1-yr terms. These terms are evidenced by the fact that Defendant DeSantis, Don Walton and Linda Williams (elected in 2005) were placed on the 2006 ballot; Laura Goldblatt and Mike Evans were not, did not continue as directors or resign in the records, and two new directors were elected. No records indicate that Defendants DeSantis or Comanco informed this Board of the 9/24/01 Board's findings and corrective actions, of which they were well aware, having participated. Using the vote count scheme the Board handed out the following 2006 terms: Defendant DeSantis, Don Walton and Linda Williams with 8 votes each got 3 years each as the highest vote counts; Charlene Julien with 6 votes got 1 year (though under the vote count scheme it should have been 2 years); Tom Knighton with 4 votes got a presumed 1 year term as the lowest vote count. (Audit at 24-41 and chart)

g. 2007: The annual election was set for 7/24/07. The 5/17/07 call for nominations shows Defendants DeSantis and Frankhouser, and Charlene

Julien with continuing terms and not to be nominated. (Notes p 20) Defendant Comanco noticed homeowners 6/12/07 that "There will now be five (5) Directors elected for a three-(3) year term." On 6/13/07 the Unit Activity Report shows a new annual election set for 7/31/07. (Audit at 44-48) A third call for nominations 6/27/07 shows only Defendant DeSantis with a continuing term and not to be nominated. (Notes at 20) The Association attorney in his 5/9/2008 letter to the Association alleges Don Walton resigned prior to this election though there is no record of it and the Attorney provided no evidence. (Audit at 43) Linda Williams did resign effective 10/26/2006 and Defendant Frankhouser was then appointed to the vacancy. (Audit at 39) Charlene Julien was placed on the ballot even though she should have qualified for a 2-year term under the vote count scheme (Audit at 49) and Tom Knighten had already been removed at a non-noticed closed 4/3/2007 special meeting of the Board. (*infra,* at 72) Defendants Helpa, Marek and Plaintiff were elected and given 3-yr, 2-yr and 1-yr terms, respectively, under the vote count scheme. (Audit at 52-53) Defendant Frankhouser, serving in the Linda Williams' vacancy, was elected to an unspecified term and Defendants cannot document when her term expires, although the 10/17/07 Board/Committee Roster claims 7/1/2007. The facts warrant the presumption her election must be to the remainder of Linda Williams' term, expiring 8/1/2008 (Audit at 54)

h. 2008: At the 3/25/2008 regular meeting of the Board (at which Plaintiff was absent) Defendant Board members voted to call the annual meeting for July 17, 2008 although Article IV Section 2 mandates July 1; the

Board never established a time and place pursuant to Article IV Section 1. Defendants have not scheduled the 2008 election pursuant to MCL § 2-501(a), evidenced by the fact they did not call for nominations in compliance with §11-109(c)(13) of the Act that would permit an election by July 17 (or even July 1), 2008. Defendants failed and refused to respond to Plaintiff's written requests to schedule the 2008 election. However, Defendants have yet to document whose term lawfully expires and when, how many seats are currently on the Board (due to Tom Knighten and Charlene Julien's removal or exclusion from the Board, the election of four additional members in 2007 and Defendant DeSantis' seat), as well as the correct term stagger. In fact, upon information and belief and in Plaintiff's hearing Defendants informed the Association attorney at the 2/26/2008 regular meeting of the Board that Defendants DeSantis and Frankhouser's terms were continuing through 2009, that the 1-yr term based on vote count awarded to Plaintiff at the 9/25/2007 regular meeting of the Board would be hereinafter two years and hence there was no need for a 2008 election (although it is required in By Laws Article IV Section 2 and MCL § 2-501). The By Laws and Maryland laws notwithstanding, and without the faintest credible and documented idea as to the current electoral status and composition of the Board, Defendants do not at this time appear to believe an annual election is warranted, required or even desired. Based on Defendants' anecdotal claims at the 2/26/08 regular meeting of the Board, the Association attorney stated Plaintiff's elections dispute need not be resolved until sometime "next year," and in his unapproved 5/9/2008

letter to the Board, stated that no election is required in 2008, in frank violation of the By Laws Article IV Sections 2 and 9, MCL § 2-404(b)(1) and 2(ii), § 2-501(b), and the 9/24/2001 Board's resolution which mandates an annual election with at least 1 seat on the ballot. Defendants knew or should have known their anecdotal claims to the Attorney were false, misleading, and could be construed as conspiracy, collusion, constructive fraud and fraud in the inducement in furtherance of maintaining their positions on the Board. (Audit at 60-69)

i. Additionally, the Attorney and Defendants failed and refused to respond to Plaintiff's 5/23/2008 certified letter and 5/27/08 email of same, "What records, if any, were provided to you in response to your 4/16/08 request to Joe DeSantis for 'factual background information' so that you did not 'make any incorrect assumptions of fact when reaching [your] conclusion'?" (Email "Notice of Complaint to the office of attorney general," Exhibit F) The Attorney's silence prevented Plaintiff from verifying their claims and resolving these issues.

43. Defendants individually and collectively failed and refused to respond to a single communication by Plaintiff regarding the 2008 election since first raised except Defendant DeSantis' two statements that the issue was tabled until the February and then the later-cancelled June 19 and 24 meetings (see 1/22/08 minutes, 5/27/08 regular meeting of the Board [no minutes available]; various notices cancelling meetings) and discussion based on false or anecdotal information at the 2/26/2008 regular meeting of the Board.

44. Plaintiff attempted at the 5/27/2008 regular meeting of the Board a motion to table the agenda until the election issues were resolved. Defendant DeSantis refused the motion, refused to permit a vote, and instead declared the election issues tabled until the June 24, 2008 regular meeting of the Board (cancelled, rescheduled to June 19, 2008, then also cancelled). Plaintiff attempted a motion to reject the agenda; Defendant DeSantis said the agenda does not require a vote and refused to permit the motion. Plaintiff dissented and requested the above facts go into the minutes.

45. On 6/2/08 Plaintiff requested Defendants stop delaying a resolution to the elections issue so the Association could lawfully hold elections. He also requested a special meeting of the Board in advance of the 6/24/08 regular meeting for such purpose, which was ignored. On 6/5/08 Plaintiff informed Defendants they should not conduct Association business while the election and Board membership issues remain unresolved. On 6/12/08 Plaintiff requested the Attorney provide a second recommendation to resolve the election complaint in keeping with the governing laws. Defendants were unresponsive to all. (Emails "2008 Elections," "7 Board member seats," Exhibit F)

46. Defendants are in full knowledge of the statutory 3-yr term for directors and the rules regarding proxy voting as evidenced by these rules' inclusion in the 6/19/2007 Reschedule Date for Annual Meeting Notice. (Exhibit G)

47. The record indicates Defendants are electing individuals to the Board, not filling seats. For example, at the 9/23/08 regular (improperly noticed) Board meeting, Defendants ratified in full the recommendations of the Attorney's 5/9/08 letter (which itself recommends actions that violate the governing laws; Exhibit G), as follows (see Cuevas Affidavit, Exhibit E, attached):

a. Defendants declared Plaintiff's 2007 general election was not for a 3-year term pursuant to Article V Section 5, but for only the remaining 2 years of Don Walton's term (of which there is no record he resigned) because Plaintiff garnered the least votes in that election. This was not a condition of the 2007 election, was an opinion solicited from the Attorney by Defendant DeSantis without Board knowledge or authorization when he realized based on Plaintiff's information he could not limit Plaintiff to a 1-yr term based on vote count, never disclosed to Members and only adopted 9/23/08—13 months after Plaintiff's election. These acts violate Article V Section V and other herein-enumerated governing laws; (*supra,* at 35.i and 35.l)

b. Although Defendant Frankhouser was appointed by the Board 10/26/06 to fill the remainder of Linda Williams' term (of which there is a record of her resignation), and her subsequent 2007 election is that most likely to be for the remainder of Linda Williams' term pursuant to By Laws Article V Section 6, Defendants set her term at 3 years to expire in 2010;

c. Although James R. Morrow was elected by Members 9/4/08, he was elected to fill a vacancy created by the Members' removal of Plaintiff as a director at the 9/4/08 special meeting of the Members called solely for that purpose. It was not an annual election; therefore his term is for the remainder of Plaintiff's term, which expires in 2010;

d. Although Defendant DeSantis was properly elected to a 3-year term in 2005, he placed himself on the 2006 ballot and was re-elected by

Members who were not informed he was already elected to a continuing 3-yr term, nor the 9/24/01 Board's resolution to enforce the election rules. Using his illegitimate 2006 term extension, Defendants ratified his term at 3 years to expire in 2009;

e. Defendants, using the Attorney's 5/9/08 letter, announced there was therefore no need, nor would there be, a 2008 annual meeting or election, in frank violation of Article IV Section 2, Article V Section 5, MCL § 2-501.

f. While the Attorney's letter provided for a stagger in which every third year there would be no election in violation of the above-enumerated governing law, and in spite of their simply ratifying the Attorney's 5/9/08 letter, Defendants established a different term stagger of 1-seat, 3-seats, 1-seat, which contradicts the now-ratified 5/9/08 letter and also violates By Laws Article V Section 5.

g. Former director Charlene Julien of 1156 Jeffrey Drive asked Defendants why she only got a 1-yr term and when did Defendants decide to start following the By Laws. Defendant Angell answered, "Tonight." (Cuevas Affidavit, Exhibit E, attached) This statement by Defendant Angell constitutes an admission of fact that Defendants have not followed the governing laws' election rules.

h. Not only do Defendants' above-enumerated actions violate the governing laws, they spent Association money without any vote or authorization by the Board for the 5/9/08 letter from the Attorney, based on false and

misleading information provided by Defendants, to permit them to violate the governing laws under cloak of law.

48. Based on the above facts—including Defendants' refusal to answer his complaints or requests for information or justifications—it is inconceivable Defendants' violations result from the ignorance of amateurs. Plaintiff has openly called upon Defendants DeSantis and Frankhouser to resign in the best interests of the Association (Audit, p. 13). The above facts suggest said Defendants are making every effort to avoid—and to hold over in lieu of—elections, substantive discussion in an open meeting of the facts and violations derived from the Association's records, the restoration to the Board of improperly removed Directors, and to instead craft in secret planning sessions and email voting (that exclude Plaintiff [thus removing him as a director without due process] and Members) the means by which to continue business as usual and unencumbered by the governing laws.

OPEN MEETINGS

49. Section 11-109(c)(6) of the Act requires that, except as provided in §11-109.1 of the Act, "a meeting of a governing body shall be open and held at a time and location as provided in the notice or bylaws."

50. Article V Section 13, in consonance with MCL § 4-408(a) and (b)(1) sets forth the Board's quorum as a majority of directors, and that a vote by a majority of directors at a duly called meeting with quorum shall constitute an act of the Board.

51. Article V Section 14, in consonance with § 4-408(c), permits action by the Board outside of a duly called regular or special meeting of the Board if such action is

taken with the unanimous, written consent of the Board and certain other statutory requirements are met.

52. By Laws Article V Section 10 requires no less than 6-days' notice to directors of a regular Board meeting; while § 11-109(c)(4) of the Act mandates no less than 10 days' notice to Members.

53. The facts in the Audit and as enumerated below demonstrate that Defendants routinely violate the rules and laws (including, but not limited to those enumerated above) governing open meetings and voting through the use of email, telephone, personal meetings, private committees, "planning sessions," and other means not yet discovered.

54. The Members were not notified of the following special meetings of the Board: 7/12/2001, 4/3/2007, 10/4/2007, 12/10/2007, 1/17/2008 and possibly a meeting at former director Don Walton's home between last September-December, 2000 (Notes, p. 12).

55. Members were mailed 8-days' notice of the 7/7/08 special Board meeting. (Email, "Special Meeting" including Attorney response, 7/1/08, Exhibit A, attached)

56. There are no minutes or records for the following special meetings of the Board in violation of MCL §2-111: 7/12/2001, referenced in the 8/29/2001 minutes (Notes p 12); 4/3/2007, referenced in the 5/1/2007 minutes. (Audit at 33, 34) Plaintiff and Members remain uninformed as to what deliberations or actions occurred therein.

57. The records do not show Members were notified of the following regular meetings of the Board: 1/24/2006 apparently rescheduled to 1/31/2006; 4/24/2007 rescheduled to 5/1/2007; 5/22/2007 rescheduled to 6/6/2007.

58. Members were mailed 4-days' notice of the 9/23/08 regular Board meeting.

59. At the following regular meetings of the Board Defendants took official actions without quorum: 2/27/2001, 1/24/2006, 6/27/2006 (Notes p 12, 16-17)

60. The following meetings occurring on Defendant Comanco's premises were closed without meeting the requirements of §11-109.1 of the Act: 9/25/2007, 10/4/2007.

61. Defendant Comanco told the Board in a 5/16/2008 email, "Please also be advised that Boards are permitted to hold planning sessions with Board members only to discuss these matters prior to the meeting to save time and the Associations money. These types of meetings are generally held at a neutral location such as a school, church, police station or a members home. It is recommended that very lengthy discussions take place prior to the Board meetings. The Board should have a list of specific instructions and requests. All voting will take place during the Board meetings only." § 11-109(c)(6) of the Act states that "a meeting of a governing body shall be open and held at a time and location as provided in the notice or bylaws." Such a planning session is certainly a meeting of a governing body and would irreparably deprive Members full deliberative information and input on subsequent actions by the Board on topics that come before it. (Unit Activity Report 5/20/08, Exhibit C) Given Defendants' documented history of excluding Plaintiff from deliberations and voting outside of open meetings, Discovery and testimony will show Defendant Comanco provided this information to assist Defendant Board Members to meet as a 4-member board without Plaintiff. Indeed, the record shows they did exactly that off and on from early October 2007, then full-time 5/28/08 - 9/4/08.

62. Upon information and belief Defendants and previous boards routinely failed and refused to notify Members of any meetings of the Architectural, Grounds, Landscaping, Parking, Traffic or other committees pursuant to § 11-109 of the Act.

63. A 5/24/2008 written report to the Board by Defendant Helpa shows he formed a Traffic Safety committee, selected himself as Board representative, solicited four homeowners to serve on the committee, scheduled a committee meeting with Anne Arundel County for 3pm June 9, 2008 without Board or Board president authorization, and had Anne Arundel County or another organization place traffic speed monitors on Charing Cross Drive on or about the first week of July, 2008 towards obtaining speed bumps. Notwithstanding the Board president silently acquiescing to the formation of this committee, the Board failed and refused to notify Members of the committee or its meeting(s). Further, Defendant Helpa, unilaterally and without knowledge or authorization by the Board, changed the terms and scope of work of a contract to repave Broderick and one of the Jeffrey courts that had been approved by vote in open meeting 4/22/2008. ("Report on Coordination with County Representatives," Exhibit G)

64. Defendants changed the venue for the 9/23/08 regular Board meeting without a vote by the Board. They noticed the Members 9/19/08 via mail, providing only 3 days' notice in violation of By Laws Article V Section 10 and § 11-109(c)(4) and § 11-109(c)(6) of the Act. Defendant DeSantis or Defendant Marek spent $75 Association money to pay for the room at Ann Seton Parish Hall, 1800 Seton Drive, Crofton, MD 21114 without any vote by the Board; they then ratified the expense at the 9/23/08 meeting while using the room already paid for with the improperly spent monies.

65. Defendant DeSantis appears in the records beginning August 2000 and appears to chair the Architectural Committee alone. The record shows he adjudicates architectural/landscaping requests in private or in consultation with the homeowner, without notice to the Members or an open meeting, and may or may not report his completed adjudications at regular or special meetings of the Board, often without debate or ratification. The Audit indicates Defendant DeSantis approved or permitted numerous architectural/landscaping changes without notice to the Board, without following the statutory approvals process, or that violated the architectural/landscaping rules (*infra,* at Covenant Enforcement, from 106). Plaintiff has not come across any instance of the Board challenging Defendant DeSantis' formal or informal, reported or unreported adjudications. ("Approved by DeSantis," Notes, Exhibit E)

EMAIL VOTING BY THE BOARD

66. Email, telephone and conversational voting are collectively defined herein as voting outside of a duly constituted meeting by email, telephone, in personal conversation with other Board members in the street, in a living room, or any other such venue (hereinafter, "email voting"). Voting via email is the most common such practice, but Defendants vote by telephone and while meeting together in conversation, as well. Email voting is strictly informal; no motion is made or seconded and voting is usually by majority.

67. Defendants know or should know email voting by majority violates By Laws Article V Sections 13 and 14, MCL §2-408(c) and §11-109(c)(6), § 11-109.1 of the Act as well as the Board's own policy resolution 2/26/08 based on the Attorney's verbal

advice wherein it undertook to vote by majority via email only for bonafide emergencies where danger to life or property is imminent and conclusive, and other conditions are met (Minutes, 2/26/08, Exhibit B).

68. There are innumerable instances in the record of Defendants voting by majority via email, which includes, but is not limited to, the following:

a. 10/22/07 – 10/23/07: Defendants DeSantis, Marek and Frankhouser deliberated and voted on a tree-planting request by 1004 Shreve Court. Defendant Helpa requested to deliberate and vote at an open meeting. (Unit Activity Report, 11/15/07, p. 8, Exhibit C)

b. 10/20/07 – 12/10/07 - Defendants deliberated, vote trolled and voted or attempted to vote by majority via email regarding Plaintiff's balcony at 1120 Soho Court (Unit Activity Report, 11/15/07, 1/18/08, pp. 12-18, pp. 3-4 and 8-11, respectively)

c. The Board voted at its 2/26/08 regular meeting to implement the Attorney's advice that "in the event of an emergency at the next Board meeting the prior decisions taken with majority Board approval will be disclosed and ratified." (Minutes 2/26/08, Exhibit B) But this ratification process is not followed, nor are votes confined to actual emergencies.

d. Defendants DeSantis, Frankhouser and Marek voted between 2/29-3/5/2008 to authorize non-emergency insured repairs to 1011 Broderick Court's soffit. Plaintiff complained via 3/3/08 email, but Defendants effectively removed him as a director by excluding him from further communications on this subject and Defendants' subsequent email vote

until he read them in the March 25, 2008 Management Report. Defendant DeSantis telephoned Defendant Comanco 3/5/08 "The majority agrees to fix the wind damage at 1011 Broderick Court. Please move forward with the work." Defendant Comanco informed contractor Richard Harrison 3/5/08 "Your proposal was accepted. Please move forward with the repairs to 1011 Broderick Court at your earliest convenience." (Unit Activity Report 3/20/08, pp 4-7, Exhibit C) Defendants know or should know these actions violate By Laws Article V Section 14, MCL §2-408(c), §11-109(c)(6) of the Act because they do not meet the requirements of §11-109.1 of the Act and this Board's own 2/26/2008 policy (*supra,* at 67).

e. On 6/12/08 Defendant Comanco misrepresented the work requested for drainage repairs by 1108 Soho Court and solicited an email vote by the Board for approval. Defendant DeSantis voted "yes" without first informing the Board by distributing the request form, although Defendant Comanco had provided it to him. Defendant Marek voted yes after requesting and receiving the form. Defendant Helpa demurred and Defendant Comanco attempted to force the vote by saying, "Please keep in mind that if this not addressed and she requests to file a claim through the master policy [for water damage from rain backup], the Association may be responsible for the repairs to her unit." (Email "115-Charing Cross," Exhibit F) Although never approved or denied, the homeowner completed this work with Defendants' verbal or written permission.

f. The 3/25/2008 minutes of the regular meeting of the Board state, "Kathy has drafted a letter and the Board will get together and review the letter." (Minutes 3/25/08, Exhibit B)

g. As enumerated elsewhere herein, Defendants excluded Plaintiff from nearly all Association communications after the 5/28/08 regular board meeting and voted via email amongst themselves outside of duly called meetings to cancel the 9/24/08, 7/22/08 and 8/26/08 regular board meetings, called a 6/19/08 board meeting, cancelled the 7/17/08 annual meeting, called a 7/7/08 special board meeting, set the venue and approved expenses for a 9/4/08 special meeting of the Members, produced flyers to the community, approved or denied architectural requests and conducted other as yet undisclosed routine and non-routine Association business.

h. Even after Plaintiff sued Defendants for meeting and voting by email, on July 7, 2008 Defendant DeSantis emailed the Board (though not Defendant Comanco) regarding a vague architectural request from 1013 Shire Court to "finish off their back fence and paint the front door with the color depicted" in the attached form, and voted "yes" to approve it. Defendant Marek questioned the fence, but voted "yes" on the door color. (Email, "1013 Shire Court Arch Request," Exhibit A, attached) See also July 14, 2008 graffitti cleanup. (*supra,* at 34.o)

i. Defendant Comanco claimed August 4, 2008 to receive a petition for a "special meeting" to remove Plaintiff as a director, but failed and refused

to provide the petition to directors; Defendant Board Members did not ask to see it (although all their spouses signed it). As though the Association's chief executive or a director herself, Defendant Angell effectively motioned and called for the Board to vote the venue, a $150 expenditure and mailed notice via email "due to time constraints." This act violates, inter alia, MCL § 2-502(b)(3), which requires petitioners to pay same. Defendants DeSantis and Marek voted yes via email. (Email, "115-Charing Cross Petition Notification," Exhibit A, attached)

j. Again, Defendant Marek requested the board to vote 8/27/08 on sending a letter to Nester Flores (AA County Traffic Engineering, 2662 Riva Rd., Annapolis, MD 21401) requesting no parking signs for Jeffrey Drive in a bid to exclude boat, RV or large vehicle parking. Defendants DeSantis, Marek, Frankhouser and Helpa voted yes. Plaintiff stated this issue must be handled in an open, noticed meeting. Defendant Helpa responded, "There is no deliberation needed on this request to support the restricted parking proposal along Jeffrey Drive." (Email, "FW: from Kenwood HOA," Exhibit A, attached)

69. In spite of the Complaint, Defendants recklessly continue to violate the governing laws, conduct Association business in secret via email voting, and using a policy of exclusion, remove any director at any time by whim whenever it suits their purpose. Absent relief by this Court such harmful acts have and will continue.

VACANCIES AND DIRECTOR REMOVAL

70. Article V Section 6 permits the Board to fill a vacant seat that results from any cause except removal of a director by the Members. The Board shall fill a vacancy under this rule until the next annual meeting of the members and the person elected to the vacant seat shall serve out the unexpired portion of the vacated term.

71. Article V Section 7, in consonance with MCL §2-406(a), permits the Members at a regular or special meeting of the Members duly called for such purpose to remove a director with or without cause and to there and then elect a successor to fill the vacancy thus created.

72. The Audit shows Tom Knighten, elected 2006, was removed from the Board by majority vote of the directors in violation of Article V Section 7 and MCL § 2-406 at a special meeting of the Board 4/3/2007 that was convened without notification to Members at the Nautilus Diner (1709 Transportation Drive, Crofton, MD 21114). Upon information and belief Defendants DeSantis and Frankhouser, and (2007 Board President) Don Walton voted to remove Tom Knighten. Upon information and belief director Charlene Julien was present, but Defendant Comanco and a recording secretary were not present. There are no records or minutes of this meeting; it was reported in the minutes of the 5/1/2007 regular meeting of the Board as follows, "At this time it was stated a special meeting was held and it was voted on and passed that Tom Knighton is no longer on the Board." (Audit at 32-38)

73. The Audit shows that Defendants DeSantis and Comanco in 2003 failed and refused to inform Members that Defendant DeSantis' term as director was expired and his seat should be on the 2003 ballot (Audit at 19-20). In 2004 they failed and refused to inform Members that Defendant DeSantis' term as director remained expired and his seat

should be on the 2004 ballot. (Audit at 21-22) In 2006 they failed and refused to inform Members Defendant DeSantis', Don Walton's and Linda Williams' terms were properly 3 years and should not be on the 2006 ballot. In 2007 they failed and refused to inform Members that Charlene Julien's term was 3 years and should not be on the 2007 ballot. In 2008 they failed and refused to inform Members that Defendant DeSantis' and Frankhouser's 2005 terms expired and their seats should be on the 2008 ballot. The facts indicate Defendants DeSantis, Comanco (in full knowledge of the 9/24/01 Board's election findings and corrective actions), Frankhouser and other Defendant Board Members failed and refused to hold elections and establish terms of office complying with the governing laws, specifically By Laws Article V Section 5.

74. The Audit indicates that in 2006 Defendants DeSantis and Comanco established a false vacancy by failing and refusing to disclose to Laura Goldblatt (elected 2005) that her term was three years. (Audit at 24-28)

75. The Audit indicates that in 2007 Defendants DeSantis, Frankhouser and Comanco violated the rules and laws governing the removal of a director 4/3/2007 (Audit at 31-38) and by failing and refusing to disclose to Charlene Julien that her term was three years, (Audit at 49-50), thereby establishing two false vacancies.

76. Defendants have conspired and colluded to remove Plaintiff as a director without due process and in violation of the governing laws by denying him from time to time and most recently from 5/28/08 – 9/4/08 communications and other pertinent documents and knowledge regarding Association business, while themselves acting as a 4-member Board via email voting as though Plaintiff was not a director.

77. Defendants effectively removed Plaintiff as a director from time to time between 9/25/07 – 5/27/08 by excluding him from pertinent communications, documents and information on (but not limited to): 10/20/07-11/15/07, 11/26/07, 11/28/07, 12/3/07, 12/4/07, 12/11/07, 12/17/07, 1/22/08, 1/31/08, 2/1/08, 2/5/08, 2/6/08, 2/8/08, 2/15/08, 2/18/08, 2/19/08, 2/25/08, 2/26/08, 3/4/08, 3/5/08, 3/10/08, 2/26/08, 2/27/08, 2/28/08, 3/26/08, 4/3/08, 4/4/08, 4/7/08, 4/15/08, 4/16/08, 4/23/08, 4/30/08, 5/5/08, 5/9/08, 5/12/08, 5/13/08,5/16/08) while at the same time they conducted Association business via email, telephone, personal conversation or other means. (Unit Activity Reports Sept. 2007 – May 2008, Exhibit C) Defendants effectively removed Plaintiff as a director 5/28/08 – 9/4/08 by denying him communications, documents and information in spite of repeated requests for same while they conducted Association business by email, telephone, personal conversation or by other means, such as, inter alia, canceling and calling meetings of the Board, approving or denying architectural requests, organizing and acting on a petition to call a special meeting of the members to remove Plaintiff as a director. These facts will be documented through Discovery.

78. Defendant Angell notified the Board 8/4/08 of a petition calling a special meeting to remove Plaintiff as a director while having never notified the Board of Plaintiff's 5/28/08 petition to audit. She notified Plaintiff of the petition via email three times on 8/4/08 and then telephoned him at 11:17am on 8/5/08 from 410-721-7195 (according to Verizon an unlisted number) to say "Have you checked your email? There's an important email you should see." (Email, "115-Charing Cross Petition Notification," Exhibit A, attached)

79. Upon information and belief, Defendants DeSantis and Marek (and possibly other Defendant Board Members) actively campaigned for Plaintiff's removal by canvassing the condominium with the above-mentioned petition for special meeting. In obtaining signatures, they cited Plaintiff's lawsuit, its alleged cost to homeowners, his causing significant increases in legal fees, and other reasons hitherto undisclosed.

80. Additionally, Defendants DeSantis, Marek and Helpa violated numerous governing laws in consequence of preparing and holding the 9/4/08 meeting. (see email, "Special Meeting Sept 4, 2008," Exhibit A, attached) They violated By Laws Article IV Section 1 and Article V Sections 13, 14 by approving the venue and $150 expense via majority email vote. Defendant Comanco violated MCL § 2-502(b)(3) by notifying the Members without requesting or receiving payment from petitioners for the notice. Defendants violated § 11-109(c)(13) of the Act by attempting to influence the outcome of said meeting by using language in the notice that implies Plaintiff's removal is a foregone conclusion, and listing the option to remove Plaintiff from the Board as the first option on the proxy vote when, if indeed such a proxy ballot is lawful in this instance, it should have been alphabetically arranged. Defendants failed to inform Members in the notice that a director proposed for removal is entitled to be heard at the meeting to remove him. Defendants violated By Laws Article V Section 7 by permitting a directed-proxy vote to remove him prior to his opportunity to be heard at said meeting. The proxy Defendants provided to Members granted the proxy only the right to cast a directed vote; it did not grant the proxy the right to render the Member, via the proxy, present for purposes of meeting quorum at said meeting, or any other powers.

81. Said meeting convened with 34 Members present excluding proxies, which does not meet quorum (Article IV Section 5 requires 43 Members representing 35% of Members). Defendants discussed the instant action, openly denied the facts of the Complaint and stated it was without any merit, showed the Complaint and Ex Parte Motion to Members by holding them aloft for view, discussed their motions to dismiss then pending with this Court and a certainty they would be granted, insurance coverage and Plaintiff's previous balcony dispute—in short, Defendants took the uninterrupted opportunity to defend themselves against the instant action and accused Plaintiff of being an "impediment" to the Board, while denying to Plaintiff the uninterrupted opportunity to be heard regarding the reasons for removing him—in violation of Article IV Section 3 and § 11-109(c)(7)(ii). In fact, while Plaintiff was attempting to speak about directors acting outside of open meetings, Defendant Helpa yelled three times with raised voice and jabbing his left arm and index finger at Plaintiff saying, "You pushed the wrong button there, buddy!" Again, Defendant Helpa walked behind Plaintiff—such that Plaintiff had to turn around to see him—angrily jabbing his arm and pointed index finger at Plaintiff, saying the same thing. Plaintiff felt physically threatened and intimidated with the effect being created of a meeting-cum-lynch mob.

82. Defendant DeSantis stated, "We only reserved this room for 1 hour." But he did not call the meeting to order until approximately 7.30pm, and then used another 30-40 minutes discussing the lawsuit and other matters before telling Plaintiff, "You have 5 minutes to be heard, so start." Amid further interruptions, Defendant DeSantis then said, "You have 2 minutes," at which time Plaintiff told Members, "Since I can't be heard, I'll just leave it to you to ask any questions of me you want." Defendant DeSantis then called

for a vote using written ballots. The meeting ended at approximately 8.30pm, providing Plaintiff no meaningful opportunity to be heard.

83. At said 9/4/08 meeting the Members voted to remove Plaintiff as a director without a functional opportunity to be heard and using 37 proxy votes, making any opportunity for Plaintiff to be heard at said meeting useless. Plaintiff could not talk or defend himself without constant interruption by Defendant Board Members or Members asking loaded questions, such as, "Is this lawsuit in revenge over your balcony?"

84. At said 9/4/08 meeting, Defendant DeSantis nominated and the Members elected without a vote count James R. Morrow of 1006 Broderick Court to fill the vacancy created by Plaintiff's removal as a director. Plaintiff's 3-year term expires in 2010 after 2 more years; yet Defendants set his term for 3 years to expire in 2011. But this was not an election; rather, a vote by Members to fill a vacant seat. This contradicts Defendants' own claims that Plaintiff was filling Don Walton's vacant seat (although they deny that Defendant Frankhouser was filling Linda Williams' seat).

85. Defendant DeSantis has served on the Board for eight (8) consecutive years, was present when the 9/24/01 Board found lapses and violations in the elections and established corrective actions. Yet, since at least 2003 Defendant DeSantis has studiously failed his fiduciary duties by failing and refusing to employ said findings and corrective actions, to inform subsequent boards ignorant of the 9/24/01 findings and corrective actions, and to provide "institutional knowledge" towards lawfully compliant elections, terms, procedures for dealing with vacancies and removal of directors, condominium maintenance and covenants enforcement. The record demonstrates that Defendants have

full possession of the facts and governing laws at dispute here, yet have failed and refused to acknowledge or act in compliance with them.

RECORD-KEEPING

86. Article XIV Section 2, in consonance with MCL §2-111 and §11-116, sets forth the record-keeping requirements by which the Association shall maintain a record of the acts of the Board, of the Members and of all other Association business.

87. Article XIV Section 3, in consonance with § 11-116(b) of the Act, requires the Association to cause an audit of its books and records upon receipt of a petition signed by at least 5% of the Members.

88. The Audit and additional facts enumerated below demonstrate that Defendants routinely have and are violating the laws regarding record-keeping by not creating, losing or manipulating records such that Plaintiff and Members cannot be reasonably or confidently informed of the Association's actions.

89. Plaintiff informed Defendants of record-keeping discrepancies and requested review or inquiry 10/23/07, 11/5/07, 1/28/08, 6/5/08. Although Defendant Marek on at least two occasions appeared to agree the Association and Comanco should account for missing records, Defendants failed and refused to account for missing records and other record-keeping discrepancies. (see emails, "cc of letter to Comanco RE Association business and Notification on 1120 Soho Court" in Exhibit F, "Architectural Control Board Record Keeping Discrepancies" in Exhibit A, attached)

90. Since 1982, the record shows the Board typically and customarily holds regular meetings monthly except December, with some exceptions. The Audit indicates

there are no extant records for the following meetings of the Board, or the record is unclear if the meeting occurred at all: 11/1982; All 1983 except 8/15/83, 9/19/83; All 1984 except 5/16/84; 3/18/1985, 7/1985, 8/1985; 6/1986; 1/26/1988, 5/1988, 6/22/1988 (notes unclear), 8/23/1988; 2/27/1990, 4/24/1990, 6/26/1990, 8/1990; 2/19/1991, 10/22/1991; 6/1992; 1/26/1993, 7/1993; 6/1995, 7/1995; 6/1996; All 1997; All 1998; 10/1999, 11/1999; 1/2000, 3/2000, 7/11/2000 (annual meeting); 10/2000; 7/2001, 10/2001; 6/25/2002, 8/2002 (probably met 7/30/2002, Notes p 13), 11/27/2002; 2/4/2003, 3/2003, 5/27/2003, 8/26/2003, 12/10/2003; 1/2004 (possibly met 2/3/2004, Notes p 14), 7/14/2004 (more thorough Discovery required); 1/2005 (more thorough Discovery required), 6/2005; 9/25/2007.

91. Defendants Association and Comanco have failed and refused to maintain "correct and complete" records pursuant to MCL § 2-111 so as to consistently provide the Association knowledge certain as to architectural changes per unit, elections and the term expiration dates of directors. Defendant Comanco's records do not match with adjudications in the minutes (*infra* at 106-129), and the contradicting term of office information between the 9/27/07 and 10/17/07 Board/ Committee Rosters and that asserted by Defendants. (Audit at 53-54, 64)

92. Defendant Comanco manipulated, inter alia, a 1/24/2008 email from Plaintiff to the Association attorney and Defendants to remove the subject header "Charing Cross Board of Directors ordered to cease and desist until legal membership of Board is determined," and replaced it with "RE: Legal Membership of Board." This act violates MCL § 2-111 and §11-116 of the Act. (Unit Activity Report 2/21/08 p 3, Exhibit C)

93. Defendant Comanco excluded from the Unit Activity Report the 5/1/08 – 5/27/08 email thread between Plaintiff and Defendant Angell regarding the 2007 annual meeting minutes and election records which Defendant Comanco claimed were lost. At the same time the Attorney was preparing unauthorized legal advice for Defendant DeSantis regarding the same issue. The facts infer Defendant Angell was delaying Plaintiff reviewing the facts until after Defendants had taken action in accordance with the Attorney's 5/9/08 letter at the 5/27/08 regular Board meeting. (Unit Activity Report 5/20/08, Exhibit C)

94. Furthermore, Plaintiff instructed Defendant Angell 5/15/08 that if the records could not be found, she must notify the Board, which she did not. Upon this instruction Defendant Comanco instead provided the regular meeting minutes to Plaintiff for review, but withheld the annual meeting minutes and elections records until Plaintiff again requested them (but then did not permit Plaintiff's review until after the 5/27/08 Board meeting). Given that Defendant DeSantis was then engaged in soliciting legal advice from the Attorney without Board knowledge, these facts infer Defendant Angell colluded with Defendant DeSantis to effect a specific outcome at the 5/27/08 Board meeting. (Email, "2007 Annual minutes," Exhibit F)

95. Defendants' failure and refusal to act on Plaintiff's information that records were missing or had discrepancies, or to cause even a cursory informal audit to inform them as to its veracity, is wanton and reckless behavior.

96. On May 28, 2008 Plaintiff submitted in person to Defendant Comanco a petition signed by 9 homeowners representing 7% of the Members demanding an audit of

all Association non-financial records to commence no later than 30 days from the date presented. (Receipt and copy of petition, Exhibit G)

97. In a June 5, 2008 email addressed to Defendant Angell and copied to Defendants and the Attorney, Plaintiff requested information as to when the audit petition would be disseminated to the Board. All Defendants and the Attorney remain unresponsive. (Email "Informing the Board about the audit petition," Exhibit A, attached)

98. Plaintiff has received no communication from Defendants that the audit petition was disseminated to the Board or Members, or that Defendant Comanco was acting on the petition.

99. Upon information and belief Defendant Angell talked to one or more petition signatories during her follow-up Spring walk-through the last week of May or the first week of June, 2008, saying the cost to the Association of the petition would be in the thousands and that if they understood this cost they never would have signed or would remove their signatures. In fact, it is Defendant Comanco who cannot account for the Association's records contractually in its keeping. Defendants were unresponsive to Plaintiff's 6/5/08 complaint of same, nor did Defendant Angell deny speaking to petitioners. (Email "Pulling signatures from audit petition," Exhibit F)

100. Defendant Carol Frankhouser's Motion to Dismiss Complaint filed with this Court 9/11/08 stated at letter I, p. 9 that, "it appears that petitioners removed their names from the audit petition, which apparently resulted in less than 5 percent of the units requesting an audit." Defendant Frankhouser's motion is the first evidence provided by Defendants acknowledging they are in receipt of and have seen the 5/27/08 petition to audit—nearly four months after receiving it 5/28/08 via Comanco. They have never

notified Plaintiff or Members that signatures were removed, or by what method, or by whom. Was it Comanco? Defendant Board Members? Petitioners? If petitioners, was it spontaneous on their part, or solicited by Defendants? Can petitioners remove their signatures voluntarily or by solicitation after a petition is lawfully submitted? That information, so far, remains undisclosed. Moreover, Defendant Frankhouser is the secretary of the Association, and is charged with receiving any petitions submitted by members of the Association. (By Laws Article VI Section 6) Therefore, she should be able to speak directly and definitively as to what happened with this petition. But her statement that "*it appears* [emphasis added] that petitioners removed their names from the audit petition, which *apparently* [emphasis added] resulted in less than 5 percent of the units requesting an audit," indicates that Defendant Frankhouser no sense of care, duty or loyalty to the Association.

101. Defendant Angell reported a petition to call a special meeting to remove Plaintiff as a director. On 8/4/08 she solicited an email vote to make it happen—presumably the same day received. (*supra,* at 68.i, 77)

102. On June 6, 2008 one or more Defendants, without notice to or a vote by the Board, caused a general notice to be sent to all Members informing them the duly called regular meeting of the Board June 24, 2008 was cancelled and calling a regular meeting of the Board June 19, 2008, a violation of By Laws Article V Section 10. The notice included information on rear yards, 1150 Jeffrey Drive, grills on decks and parking/fire lanes, but no information on the 5/28/08 audit petition already in Defendant Comanco's hands for nine (9) days, or on the substantive elections and Board membership issues

then on the agenda. As of this filing, Defendant Comanco has failed and refused to notify the Board and Members of the audit petition.

103. Defendant Comanco has never formally or publicly disclosed the petition to audit to directors, the Attorney or Members. The only attorney advising Defendant Board Members on all day-to-day Association matters—including governing documents and other matters in the instant Complaint—is Michael S. Neall. Yet, he has a conflict of interest with Defendant Comanco (see email, "Attorney conflict of interest," Exhibit F) and is unresponsive to Plaintiff's requests for information or advice regarding record-keeping discrepancies and the audit petition. (Id., and email, "Your recommendations for Charing Cross audit and electoral integrity," Exhibit F)

104. The audit or some similar accounting of the Association's records is clearly in the Association's best interests and is its right. Yet Defendants' loud silence supports the inference they are colluding and conspiring to ensure Defendant Comanco is not held accountable for record-keeping discrepancies, or required to comply with the governing laws, that no audit is ever conducted and that Members remain unaware Defendant Comanco's failure to maintain records compliant with law and the Contract. These facts support the inference Defendant Board Members are acting in the capacity of employees or agents, and in the best interests, of Defendant Comanco and not the Association.

105. On May 27, 2008 Plaintiff informed Defendants that all communications regarding the 2007 minutes being lost and a letter from 1005 Broderick Court regarding viewing Association insurance documents were missing from the Unit Activity Reports. Plaintiff expressed concern that Association information was being lost and requested to

know Comanco's policy for including information in the activity reports. Defendants were unresponsive. (Email, "Unit Activity Report Discrepancies," Exhibit A, attached)

COVENANT ENFORCEMENT

106. The Act, Declaration Article IX, By Laws Article V Section 3, Article VIII and Article XVIII Section 5 empower and require the Association to govern and enforce in all respects the maintenance of and changes to the condominium property in its entirety (hereinafter, "Covenants").

107. By Laws Article XI Section 1 and § 11-109(d)(20), 11-111, 11-113 and 11-115 of the Act empower the Association to govern and enforce in all respects any architectural or landscaping change to unit exteriors and, among other things, mandates no change to a unit exterior without prior approval of the Board in writing, except for regular maintenance and repair. By Laws Article VIII Section 1 mandates the Association, "for the benefit of the Condominium units and the owners thereof, shall enforce the provisions hereof." Enforcing the governing laws is not optional, but a duty.

108. By Laws Article XI Sections 2-6 prescribe the rules and regulations by which the Association must govern the architectural/landscaping change request process. § 11-111 of the Act governs how said rules and regulations are to be established. It is a duty.

109. Declaration Article VII Section 1 mandates unit owners "shall be subject to, and comply with," the governing laws as enumerated hereinabove; and By Laws Article VIII Section 7 and § 11-108.1 of the Act imposes upon unit owners a duty to maintain their units.

110. Declaration Article IX Section 1, By Laws Article XVIII Section 5, Addendum A to the 1988 Rules of Charing Cross (defined *infra,* at 113) and § 11-113 of the Act mandate the enforcement mechanisms the Association or Board shall use to ensure their duty to enforce the governing laws.

111. Defendant Comanco is charged with managing the Association's covenant enforcement mechanism pursuant to the Association's By Laws Article IV, Article V Section 5, Article VIII Section 2, the above-enumerated portions of the Act and other relevant governing laws, and the terms of the Contract, Sections 2B, 6, 7, 8, 10, 11, 12D.

112. By Laws Article XI Section 1 provides that the Board shall adjudicate any architectural/landscaping request according to four (4) tests: 1) safety; 2) effect on condominium maintenance; 3) effect on cost of condominium insurance; 4) and "harmony of design, color and location in relation to surrounding structures and topography…"

113. The Association's 1988 board implemented the written Charing Cross Townhouse Association Parking, Architectural and Maintenance Rules, Spring 1988 ("Rules," Exhibit A).

114. The introduction page to the Rules state: "The rules in the booklet, in combination with the By-laws, represent the guidelines which the Board is following in managing and maintaining the condominium. As the Board becomes aware of infractions of the rules and by-laws, appropriate action will be undertaken to obtain compliance…the members of the Charing Cross Board hope that the rules booklet will help residents in the maintenance of their properties and be an easy reference concerning which changes are allowed and which are prohibited." (ibid.)

115. The records demonstrate Defendants arbitrarily, whimsically, capriciously and captiously enforce the governing laws and Covenants.

116. The records demonstrate Defendants arbitrarily, whimsically, capriciously and captiously adjudicate architectural/landscaping change requests using an amalgam of written and unwritten rules, regulations, beliefs and derived intents not in keeping with the requirements of § 11-111 of the Act. These contradict and cross-cancel such that neither Plaintiff as a director nor Members can clearly understand what changes to a unit are permitted or prohibited and must rely on Defendants' unsubstantiated, unverified or non-governing-laws-compliant interpretation. (i.e., Minutes 1/17/08, Exhibit B; Email "Charing Cross – RE: Urgent – Charing Cross – 1011 Broderick Court," Exhibit F)

117. Defendants allege that in addition to the written guidelines of the Rules, unwritten guidelines—not established pursuant to § 11-111 of the Act nor provided to homeowners in any form prior to the actual adjudication of a homeowner's request—allow or disallow change of the same type or category on a case-by-case basis, permit any architectural change to be divined by a particular board's version of "builder's intent," "like-for-like," "not unique" and "uniform with all other units." (1/17/08 Minutes, Exhibit B; 1/18/08 Unit Activity Report, p. 21)

118. Plaintiff's visual inspection of the condominium of April/May 2008 (hereinafter "Inspection," Exhibit B, attached) demonstrates significant discrepancies among exterior unit changes to which the above-mentioned amalgam of written and unwritten rules have been applied, between extant records and existing exterior unit changes, as well as the excessive and improper use of "grandfathering." (*infra,* at 119) The Inspection indicates Defendants routinely fail and refuse to consistently and

unarbitrarily enforce Covenants and to create, maintain or manage the Association's enforcement mechanism and records in compliance with the requirements set forth in the governing laws and the Contract.

119. The record indicates Defendants define "conforming" changes to a unit's exterior as those conforming to the Rules and/or their unwritten rules and "non-conforming" changes as those that do not. They define "approved" changes as those the Board votes conform to the Rules, and "unapproved" changes the Board votes do not. They define "grandfathering" as a conforming or non-conforming change approved or tolerated by the Board after the work has already been completed without prior Board approval. (see Inspection; Notes, Exhibit E of Ex Parte Motion)

120. The records demonstrate Defendants, in violation of By Laws Article XI, routinely and arbitrarily "grandfather" unapproved changes (i.e., 1163 Jeffrey, 2/25/92; 1114 Moderno, 10/1999; Mr. Harris, 8/24/99; 1110 Soho, 1114 Moderno, 6 unspecified units' patio doors, 4/26/05; 1005 Shire without quorum or vote, 1/24/06; 1011 Shire, 1/31/06; 1005 Shire unauthorized grandfathering letter from Defendant Comanco, 2/28/06; 1016 Shreve, 6/26/07; see Notes); approve requests via email, telephone or in person without notifying the Board or disclosing or even viewing the required documentation (*supra,* at 66-69); arbitrarily outright ignore unapproved or non-conforming changes such that Plaintiff and Members are irreparably denied their right to be informed of requested changes, or participating in or being aware of debate prior to approval or denial (*infra,* at 126), or to expect the Covenants to be fairly enforced.

121. The records demonstrate the Association's standard operating procedure for handling many if not most unapproved or non-conforming changes is to "grandfather"

them with an unenforced stipulation to remove the change at sale or upon life-cycle replacement of the change. (see Notes) Occasionally, they attempt to arbitrarily or capriciously enforce compliance (1101, 1110, 1113, 1114, 1120 Soho, 1114 Moderno, 1134, 1136 Jeffrey; see Inspection, Ibid). Neither Members nor directors are informed of the presence of substantial undocumented, unapproved or non-conforming changes throughout the community—caused most recently and in large part by Defendants Comanco and (at least since 2000) DeSantis and other Defendants—that effectively waives enforcement of many it not all covenants. (Notes at 23-24)

122. The records demonstrate that promulgating unwritten rules carried only in the mind of this or that director has permitted Defendant DeSantis to use his 8-year presence on the Board to disguise his or his friends' personal preferences as precedent grounded in legitimate governing laws. These are then schooled into every new, unsuspecting director as though statute, without the Board ever creating such a rule or complying with § 11-111 of the Act. In this way he arbitrarily declares to new board members (for example) that because no written rule prohibits exterior security cameras, the Association cannot stop homeowners installing them (Minutes, 4/23/02), while at the same time, still without any prohibitive written rule, the Association can stop homeowners removing some but not all window screens (Minutes, 1/22/02) installing front doors that differ from the 6-panel type (Minutes, 1/17/08), installing patio/deck doors without grids (see Inspection), erecting post supports to aging balconies, and so on.

123. Defendants allege an unwritten policy that all exterior patio/balcony doors have grids. This policy is not written in the Rules (only that a change to exterior door

style have prior approval). (Rules, B-13, Exhibit A) This unwritten rule might have legal effect were it published and unarbitrarily applied, which it is not.

a. The 6/24/03 Board (and Defendant Board Members—see Minutes, 1/17/08) agreed with Defendant DeSantis that replacement exterior doors must be the same as the original door. (Notes, at 14) The original front were metal/wood 6-panel solid doors and the rear glass sliders had grids (mullions).

b. But the Inspection reveals that 25% of all exterior patio/balcony doors differ from the original builder style of sliding glass door ("sliders") with grids and that 22% of all patio and balcony doors do not have Board approval. (Inspection, para. 25)

c. Like sliders without grids or front doors of a different style, French doors are neither allowed nor disallowed in Rules B-13. The 5/22/2007 Board agreed with Defendant DeSantis' unsubstantiated proclamation that French doors are a conforming change with or without grids. (Notes, at 19) The Board approved five and ignored twelve, four of which have no grids (Inspection, paras. 30-32, 34).

d. There is no record indicating the Board has ever violated a homeowner for installing French doors without prior approval—grids or not.

e. Any homeowners violated for installing sliders without grids had their doors "grandfathered" (that is, approved after-the-fact) even when an at-fault contractor was willing to reinstall doors with grids for free. This occurred a mere month after a Board notice that homeowners were liable to remove

unapproved improvements. (Inspection, para. 37-39) Defendants' policy, therefore, is to arbitrarily violate Members.

124. Again, for example: Defendants allege exterior front doors must be the same as builder original (Inspection, at 17), and denied front doors for 1102 Moderno 1/24/2006 as "not in the parameters which are required" (though none are written or published) and 1011 Broderick Court 1/17/08 following the principle that, "if a door of such a different style was approved…this exception could lead to a great deal of variations and ruin the 'harmony' of the community. Joe DeSantis agreed." (Inspection, at 19) Defendants failed and refused to ever substantiate their claim that such verbal rules were ever approved as a rule pursuant to § 11-111 of the Act, making them nothing more than the peremptory pronouncements by Defendants. Indeed, how does this policy square with Defendants' policy that *no written rule* means security cameras cannot be prohibited? (*supra,* at 122)

125. Defendants have never distinguished between front and rear exterior doors in their verbal rule-making; certainly Rules B-13 does not. But by refusing any front door style other than the original builder's (while at the same time ignoring the panoply of unapproved rear door styles) at the 1/24/06 and 1/17/08 meetings (for example), the Board arbitrarily rewrote the written parameters of Rules B-13 on the spot to prohibit any change in front door style, without procedurally amending said rule or providing due process to Members and in violation of By Laws Article V Section 3(d), Article XI Section 6 and § 11-111 of the Act. Plaintiff dissented in writing to this act by Defendants. (Unit Activity Report 2/21/08, pp. 5-16, Exhibit C)

126. When comparing front doors to rear doors, the facts demonstrate Defendants' arbitrary, whimsical, capricious and captious enforcement of the Association's architectural/landscaping rules.

a. Defendants allege all exterior door changes must be like-for-like, not unique, uniform and not lead to variations that would "ruin the 'harmony' of the community." (Ibid.) Front and rear doors are both exterior doors and the written rules as well as Defendants' unwritten rules treat them the same.

b. Defendants approved or permit French doors with or without grids.

c. Defendants permit 25% of rear patio/balcony doors to vary from original builder installation, and 22% to have no grids, causing variations.

d. Defendants denied front doors for 1102 Moderno and 1011 Broderick specifically in order to prevent variation and to enforce like-for-like and non-uniqueness in exterior door styles.

e. The above facts show the written Rules set a single standard governing exterior doors, Defendants appear to set a single unwritten standard, yet routinely approve, deny or permit front or back doors using separate, arbitrary and capricious rules that are not codified pursuant to § 11-111 of the Act.

127. Such arbitrary, whimsical, capricious and captious enforcement extends to all facets of architectural/landscaping issues such as (but not limited to): skylights, deck and patio furniture, fences, front yard furniture, window screens, concrete, balconies, decks and roofs. (see Inspection)

128. The 1/31/2006 Board, which included Defendant DeSantis, bemoaned "having issues enforcing the rules and regulations because homeowners are replacing items

without Board approval and the replacement does not conform," and agreed to enforce compliance with the approvals rules. (Inspection, at 56) Yet, at the very same meeting, they arbitrarily "grandfathered" the allegedly non-conforming back door without grids at 1011 Shire Court. Defendants do not consistently operate or enforce the Rules in compliance with § 11-111 and § 11-113 of the Act. This, inter alia, proximately results in an arbitrary and capricious system where some homeowners are given prior approval, some get post approval, some no approval, and many are never held to account at all. But homeowners like 1011 Broderick Court, who request prior approval, suffer denials without source citation at peremptory meetings based on flimsy and undocumented rules, regulations, standards and principles where homeowners can only impotently complain to deaf ears. Still others, like 1108 Soho Court (*supra,* at 35.o) have their requests privately approved or a blind eye turned by one or more Defendants and the work completed before all directors and Members are even informed (if at all) of the request.

129. Upon information and belief and in Plaintiff's hearing at the 2/26/08 regular meeting of the Board, Defendants and the Attorney alleged that architectural rules and regulations do not fall under the requirements of § 11-111 of the Act and they need not have codified rules at all so long as they do not appear arbitrary and capricious—"Mr. Neall stated it is not necessary to have a list, the architectural guidelines assist the committee but the committee reviews each application and look at the merit….He said the Board is not required to have guidelines at all." (Ibid., p. 3)

130. At the same 2/26/08 Board meeting, Defendants voted to use the Board as the Architectural Committee, "…to have all architectural matter taken care of at the Board of Directors meetings with notice given to the applicants." (Ibid.) However, neither policy is

followed as Defendant DeSantis or other Defendants continue unabatedly to approve or deny requests without notification to applicants (or even all directors) via majority email voting (such as 1108 Soho Court's June, 2008 drainage request). These acts violate By Laws Article XI.

131. On or about 10/20/07, Defendant DeSantis—without any vote by the Board—initiated an investigation into Plaintiff's balcony without notifying Plaintiff of a violation pursuant to By Laws Article V Sections 3(a), (d), Charing Cross Rules Addendum A, and § 11-113 of the Act. The previous homeowner of Plaintiff's unit apparently extended the balcony 3 feet in summer, 2003. The 4/22/03 minutes indicate Defendant DeSantis reported to the Board that the then-1120 Soho homeowner requested permission for a new deck. The 6/24/03 minutes indicate the Board failed to act within the 60-day requirement and his request was then approved by forbearance pursuant to Article XI Section 3. Plaintiff submitted a request to erect post supports, inter alia, on 10/23/06; Defendants failed to act on it and it was approved by forbearance. (Application, Exhibit C, attached) Defendant Comanco failed and refused to create and/or maintain proper records of this matter pursuant to the governing laws. Defendants pursued their investigation secretly until Plaintiff read their communications in the 11/15/07 Unit Activity Report (pp. 12-16, Exhibit C). On 10/29/07 Defendant DeSantis vote trolled via email among Defendants Marek and Frankhouser to assemble a majority email vote to authorize him to take official action against Plaintiff. Defendants' intent was to cause Plaintiff to remove the extension. Defendants acknowledged they provided Plaintiff a Condominium Resale Certificate indicating no violations, but refused to recognize its legal validity. Defendants refused to permit Plaintiff to erect post supports to bring the

balcony up to code, while at the same time engaging the Attorney at a non-noticed, closed 1/17/08 special meeting of the Board to threaten litigation against Plaintiff to compel an engineer's inspection. The purpose of an inspection was to establish the balcony did not meet code and thereby provide force to compel Plaintiff to remove the extension. In January, 2008 Plaintiff erected post supports so as to meet county code.

132. Plaintiff erected post supports in February, 2008 and thereafter requested twice from the Board a letter of compliance, to no avail. (Email, "Charing Cross request for architectural change at 1000 Broderick, Exhibit A, attached; Letter dated 5/13/08 to Michael Neall; Exhibit C, attached) In a 5/9/08 letter from the Attorney, the Board stated the post-supported balcony was non-conforming, could not be rebuilt if damaged/destroyed by a casualty, and denied Plaintiff condominium insurance on the balcony, to which he has a right (excluding betterments). (Attorney letter, 5/9/08, Exhibit G) The Board never voted in a lawful, open meeting to pursue this issue, or to engage the Attorney. Defendants recklessly, arbitrarily, maliciously and captiously pursued Plaintiff for an alleged violation, ignored or abused every governing law that must guide their acts, and caused harm and damage to Plaintiff. Absent relief by this Court, Plaintiff's balcony issue—and the larger issues involving Defendants' failure and refusal to govern the community pursuant to its governing laws—cannot and will not be resolved with real or substantial justice.

UNAUTHORIZED EXPENDITURES OF ASSOCATION MONIES

133. Plaintiff incorporates by reference all above paragraphs as though fully set forth herein.

134. By Laws Article V Sections 1 and 3 vest in the Board "all the powers and duties necessary for the administration of the affairs of the Council of Unit Owners." In all cases, said power shall be exercised "consistent with law and the provisions of these By-laws and the Declaration." (Ibid.)

135. By Laws Article V Section 13 (as well as MCL § 2-408(a)) establishes that an act of the Board shall only be a lawful act when done at a meeting of the Board, duly constituted and meeting in quorum pursuant to § 11-109(c)(6) of the Act. Article V Section 14 (and MCL § 2-408(c)) permits action outside of a meeting only when certain conditions are met and fulfilled.

136. The facts of the record sufficiently indicate Defendant DeSantis and/or other Defendants have and continue—even after the filing of the instant action—to expend Association monies without any lawfully voted authorization by the Board. (*supra,* at 35.b, e, f, h, i., m, p; 64; 68.g; 80; *infra,* at 158.m, 158.n; 167.g) Based on the known facts, it is reasonable to infer that Discovery will show further financial improprieties by Defendants as additional facts are revealed.

137. The Association's 2008 budget shows $596 for fiduciary insurance (which pays to handle litigation arising from dishonest acts of employees, officers and directors); yet Defendants claimed at the 9/4/08 and 9/23/08 meetings to have no such insurance. (*infra,* at 158.m) The instant action clearly alleges dishonest acts by the Association's officers and directors. (see Fiduciary Duty, below)

138. At the 9/23/08 regular Board meeting, Defendant Helpa stated, "'For 3 months we did nothing,' referencing the Board's activities over the summer when all meetings were cancelled." (Cuevas Affidavit, at 4.t; Ibid.) Yet, Defendants continued to

spend Association money without any voted authorization by the Board via unilateral action by Defendants DeSantis or Angell, or majority email voting. Yet, Defendants had ample opportunity to lawfully authorize such expenditures, but instead chose to—again, without any voted authorization by the Board—to cancel the 6/19/08, 6/24/08, 7/22/08 and 8/26/08 regular Board meetings, the 7/7/08 special Board meeting, and the 7/17/08 annual meeting of the Members primarily to avoid Plaintiff (evidenced by the fact that once Defendants removed Plaintiff as director, regular meetings resumed from 9/23/08). Even though the 6/19/08 and 7/7/08 meetings may later have been vacated by this Court as unlawfully called, Defendants still had sufficient opportunity to lawfully authorize their financial activities at previously scheduled, lawful meetings over the summer, 2008.

139. At the said 9/23/08 meeting, Defendant Marek stated that (as a result of their unauthorized expenditures over the summer) the Association "is now $3600 in the red." Some of the assembled homeowners requested a financial projection through the end of 2008; Defendant Marek failed and refused to provide it either then, or later. She then stated a special assessment would be levied. (Cuevas Affidavit, para. 4.i; Ibid.)

140. At the 9/23/08 regular Board meeting, Defendant DeSantis stated the Association is currently paying for 3 attorneys. "Kathy Marek, seated next to Joe, said 'No, two…Who's the third?' Joe nodded in [Defendant] Ruth [Angell's] direction and answered 'Callahan.' Joe explained to Kathy that we're paying for Comanco's lawyers because the bylaws require it. Apparently, President DeSantis had not informed Treasure[r] Marek that money was being spent by the Association to defend Comanco and/or Ruth before this exchange." (Cuevas Affidavit, para. 4.w; Exhibit E, attached) Defendant DeSantis failed and refused to specify which by laws require such payment.

141. Clause 16.B of the Contract species that: "Except as shall arise in any manner from any fraud, misrepresentation, negligence or other tortuous conduct on the part of the Manager, its employees and/or agents, and except for any criminal fine or award for punitive damages, the Association shall indemnify, defend and save the Manager and its employees and/or agents harmless from any and all costs, expenses, damages, claims or liabilities whatsoever including court costs and attorney's fees…" Yet the instant action clearly arises from allegations of the exceptions stated therein. Therefore, it is more likely clause 16.A applies, which states, "The Manager shall indemnify, defend and save the Board of Directors and the Association from any and all costs, expenses, damages, claims or liabilities whatsoever (including court costs and attorney's fees) in any manner arising from or with respect to, ay criminal act, fraud, misrepresentation, negligence, or other tortuous conduct, or the proximate results thereof, by the Manager of any of its employees or agents during the course of the Manager'sperformance under this agreement or in any manner arising from actions by the Manager, its employees, or agents outside of those contemplated within the scope of this agreement."

142. Additionally, at said 9/23/08 meeting, "The board voted to retain Owen Curley for the lawsuit; they admitted they paid him $5,000 in June, 2008…There was no mention of how much money has been spent on attorney Callahan." (Cuevas Affidavit, para. 4.x; Ibid.) Plaintiff estimates Defendants paid, or committed to pay Callahan $5,000—a standard initial retainer fee. No Board vote authorized this expenditure. Ratification now is pro forma because the money is unrecoverable.

143. At said 9/23/08 meeting Defendant Angell stated she had already expended Association money to replace a broken window at 1114 Moderno Court, although the

Board never authorized such expenditure. When Defendant Helpa attempted discussion to decide the matter, Defendant Angell stated, "'It's already done, I had my majority.'" (Cuevas Affidavit, para. 4gg; Ibid.)

144. In Plaintiff's hearing at the 9/4/08 special meeting of the Members, Defendant DeSantis acknowledged spending $150 for the meeting room fee, without any voted authorization by the Board. (*supra,* at 68.i, 80)

145. Defendant DeSantis and/or other Defendants spent $75 for the 9/23/08 meeting room without any vote by the Board. (Cuevas Affidavit, para. 4.aa; Ibid.)

146. In considering the known small sums for meetings or various projects, legal fees related to Defendants' irrational, unlawful efforts to remove Plaintiff's balcony, Defendant DeSantis' inexhaustible need for legal guidance to comprehend the governing laws and legal costs caused by the instant action, the sum of unauthorized monies secretly spent by Defendants could exceed an estimated $20,000 between late Spring, 2008 and 9/23/08. Plaintiff has to wonder what Discovery will reveal in the broader context.

147. As enumerated hereinelsewhere, all unauthorized expenditures enumerated herein October, 2007 – September 4, 2008 occurred while Plaintiff was a director and vice president of the Association, yet without his knowledge or vote.

148. Plaintiff as a director of the Association has a duty to authorize any and all expenditures by the Association in compliance with the governing laws. The above-enumerated acts violate the provisions of the governing laws that define lawful acts of the Board by which monies may be committed or actually spent, and thereby proximately injure and harm Plaintiff. Said acts also constitute unauthorized control over property and unauthorized control by deception over property properly belonging to the Association,

and to which Plaintiff as a director has a claim in determining as one of 5 directors how Association monies shall be spent.

149. The above-enumerated acts violate Md. Code Criminal Law § 7-104, constitute embezzlement (fraudulent misappropriation by fiduciaries) in violation of Md. Code Criminal Law § 7-113, and constitute fraudulent misrepresentation by a corporate officer or agent in violation of Md. Code Criminal Law § 8-402.

150. Moreover—and considering Defendant Comanco's long-term refusal to disclose the Association's detailed financial documents even to its treasurers—Plaintiff has reasonable cause for concern that the above-enumerated acts are only the proverbial tip of the iceberg. For example, Defendant Frankhouser, a director and officer of the Association, holds a position of trust, confidence and responsibility. Yet, her previous criminal and civil history indicates a pattern of theft, theft-scheme, fraud, embezzlement, concealment and destruction of evidence from similar positions of trust, confidence and responsibility. Defendant Frankhouser was arrested by the Anne Arundel County Sheriff 4/1/04 and charged with theft $500-plus, theft-scheme $500-plus, and embezzlement from her employer, who had placed her in a position of trust, confidence and responsibility as office manager, responsible for bank deposits. When her scheme became known, she attempted to shred documents and alter computer records. She pled guilty, paid restitution and other costs, 24 hours community service and 60 days suspended in county jail. The Application for Statement of Charges states she was named a suspect in a similar incident with a previous employer in May/June 2001; her employment was terminated without charges filed. (AACo. Dist. Ct. #02K04001422; see Statement of Charges and Application for Statement of Charges, Exhibit F, attached) Additionally,

Defendant Frankhouser is employed by Freedom Restoration of 2544 Brickhead Road, Gambrills, Md., 21054 as administrator of human resources, a position of trust, confidence and responsibility. In a lawsuit filed against her and other employees, she is alleged to have received at least $3,000 in unauthorized monies as part of a scheme to cover up fraud, waste, theft, identify theft, mismanagement and other tortuous conduct on the part of one of her employers and other employees, including her neighbor Christy Romberger of 1029 Shire Court, Crofton, Md. 21114 for whom Defendant Frankhouser and Defendant DeSantis conspired and colluded to suspend and alter the governing laws regarding architectural changes. (*supra,* at 35.g; see relevant pages of Amended Complaint, Martin vs. Freedom Restoration, para. 3-4, 10, 19-b, AACo. Circ. Ct. #02C08131676, Exhibit F, attached) Upon information and belief, none of this information was disclosed to the Board or the Members.

151. For the above reasons, among others, Plaintiff is requesting preliminary and interlocutory relief from this Court that includes a receiver to safeguard the affairs and property of the Association.

FIDUCIARY DUTY

152. Plaintiff incorporates by reference all above paragraphs as though fully set forth hereinunder.

153. MCL § 2-405.1 establishes the standard of care required of a director. Scrupulous adherence to fiduciary duties is normally expected, and efforts to avoid a fiduciary duty should be scrutinized carefully. If directors properly exercise their business judgment, they will not be liable unless their acts constitute gross negligence, waste of

corporate assets or culpable negligence. It is reasonably established the courts generally will not interfere with the actions of directors unless it appears that they are the result of fraud, dishonesty or incompetence, and such is the case here.

154. Defendant Board Members—one with eight consecutive years on the Board—owe a fiduciary duty to the Association, Members and Plaintiff, yet routinely fail these duties in nearly every respect.

155. Defendant Board Members breach their duty to act in good faith and with the care that an ordinarily prudent person in a like position would use under similar circumstances, as follows:

a. Good faith: Regarding MCL §2-405.1(b)(2) Defendant Board Members cross the line into bad faith because they have or should have knowledge of the facts and matters enumerated herein regarding duties of officers, elections, open meetings and voting outside of meetings, terms of office and director vacancies and removals, record-keeping, covenants enforcement, Defendant Comanco's contractual duties, and their own statutory fiduciary duties, yet fail and refuse to avail themselves of the necessary knowledge or to act in compliance with the governing laws.

The record shows Plaintiff (though not a lawyer) routinely provided Defendant Board Members written and verbal information that credibly cast doubt on Defendants' acts or reliance upon information and advice, which meets the test whether a director "has any knowledge concerning the matter in question which would cause such reliance to be unwarranted." On 1/9/08 he informed Defendant DeSantis "in spite of all the information I have provided

to this board, to unilaterally strip me of my voting and other rights as a board member, as well as my legal rights as a homeowner, are crossing, or have already crossed, the line between good faith and bad faith, as defined in the law. You can no longer claim ignorance of the law or the by laws in these matters; yet, you continue to act in wanton and flagrant violation of Md law and our by laws in spite of my best efforts to inform and protect the Association." (Unit Activity Report, 1/18/08, p. 17-19, Exhibit C)

Indeed, and in spite of this, Defendant Board Members continue to flaunt their "business as usual" attitude by continuing uninterrupted the acts complained of herein (such as majority votes via email to conduct Association business outside of open meetings, skipping elections, ignoring by laws) even after Plaintiff filed the above-captioned complaint. They publicly declared at the 9/4/08 meeting the Complaint is without merit and easily dismissed.

b. Prudent person: Regarding MCL § 2-405.1(b)(1) Defendant Board Members are not acting with the care of an ordinarily prudent person when they routinely deny and dismiss Plaintiff's researched, documented and credible complaints that cast doubt upon sources of information they blindly accept as reliable. In nearly every case Plaintiff has proved such information false or incompetent, yet Defendants refuse to verify, then act as though never informed…business as usual. At the 2/26/08 and 5/27/08 regular meetings of the Board and the 9/4/08 special meeting of the Members Plaintiff's concerns and complaints were steamrolled or explained away by Defendant Board Members and the Attorney with little or no substantiation (Email, "Re: 1120

Soho Court – Balcony," Exhibit F) and with the admonition to Plaintiff that only the Attorney is credible. Defendant Board Members know or should know their reliance on conflicting, undocumented or successfully challenged information or sources establishes reasonable doubt, is thus unwarranted within the meaning of the statute, and that they should conduct sufficient due diligence of the issues at stake. In other words, they implicitly trust discredited sources without verification; not prudent.

c. Between 5/28/08 – 9/4/08 Defendants routinely met, deliberated and voted on Association business via email, phone, personal conversation or by other means outside of noticed, open meetings, in frank violation of § 2-109(c)(6) of the Act, and in spite of the Attorney's 11/6/07 opinion letter stating that the Act "requires that (except for certain enumerated reasons) all meetings of the Board must be open to the unit owners." (Attorney letter, 11/6/07, Exhibit G) The Act does not provide for the complete closure of all meetings on account of a lawsuit. Nor is this routine behavior—sure to get the Association into trouble—the act of a prudent person.

156. Defendant Board Members breach their duty of loyalty:

a. No fair or due process: Defendant Board Members routinely ignore established, routine or statutory procedures incumbent upon them in order to reap a benefit to themselves, their "agenda," their friends, or simply because of gross negligence, gross incompetence or laziness while placing the Association at risk of irreparable harm. This includes pursuing violations against homeowners without proof or documentation or in spite of such to the

contrary, ignoring the dispute resolution requirements of § 11-113 of the Act, improperly obtaining Association money for private home repairs, ignoring rules and statute to effect a desired outcome, unlawfully removing directors, failing and refusing to follow the governing laws, the lack of due diligence of the information Plaintiff provided them prior to and underlying the instant Complaint, and refusing to comply with the open meeting and record-keeping requirements of the Act and MCL.

b. The facts as well as Defendant Board Members' absolute silence regarding, inter alia, record-keeping failures and the 5/27/08 petition to audit, betrays a stronger loyalty to Defendant Comanco and its best interests than to the Association, regardless of any harm done.

157. **Defendant Board Members breach their duty of care:**

a. Subjective aspect of duty of care: Upon information and belief, Defendant Board Members are amateur volunteers rather than professionals in corporate governance. Hence, they rely to a degree—as well they should—on Defendant Comanco and the Attorney. However, the buck does stop with the directors, and they must, as a duty, school themselves in the knowledge required to act with probity, propriety, reasonable competence and a willingness to correct unlawful behaviors when revealed as would a normally prudent person in similar circumstances. But the facts instead show Defendant Board Members engage in lying, deception, manipulation of information, denying knowledge or that their reliance upon those who have thus advised

them is unwarranted, the curtailment or denial of directors' and Members' rights under the governing laws and an abject refusal to set corrections.

b. Objective aspect of duty of care: In spite of a lack of experience or qualifications, a director is expected to act openly with honesty, diligence, common sense, informed judgments and reasonable actions. The facts herein persuasively establish Defendant Board Members act dishonestly, lazily, ignore common sense, refuse to adequately inform their judgments and take unreasonable and irrational actions that, if innocent, are inexplicable outside of gross negligence and incompetence—in short, bad faith.

c. **Business Judgement Rule ("BJR")**: With regard to the matters of the above-captioned Complaint, Defendant Board Members fail at almost every step to follow appropriate or required procedures, to analyze the key features of their actions, and to pay attention and try to make good decisions that are not completely irrational. The following indicates that the BJR does not apply in this case:

i. Deliberative actions: Defendant Board Members refuse to be deliberative in their actions when they rely on email voting by majority, ignoring or ostracizing opposing points of view, unlawfully calling hasty meetings only to be compelled to cancel them (i.e., 6/19/08, 7/7/08), severing communication with or simply removing without due process "recalcitrant" directors, and refusing to keep directors (and Members) fully informed.

ii. Board preparation: Defendant DeSantis fails and refuses to make the agenda, information necessary to fully consider a decision, or any other plans or knowledge known to directors prior to calling any meeting to order; or he discloses it in advance only to select directors. Often he trolls for votes via email, telephone or in private conversation so as to avoid fully informing all directors and foreclose open discussion at meetings so as to thereby present a *fait accompli*. This results in Plaintiff's surprise, peremptory or pro forma discussion and votes at meetings (10/22/07, 12/17/07, 1/24/08, 2/26/08, 4/22/08, 6/19/08, 7/7/08, 8/26/08) and a lack of preparedness by directors not favored by Defendant DeSantis.

iii. Director involvement: Defendant Board Members fail and refuse to probe to obtain sufficient information. Plaintiff's researched and documented information and complaints are for the most part dismissed out of hand without their merits being fully established or disproved, met with stony silence or never responded to. They have never called upon Plaintiff to justify or defend his position such that they could consider themselves well enough informed that their decisions could be considered deliberative.

iv. Reliance upon officers or experts: As above, Plaintiff has given Defendant Board Members sufficient reason to question the credibility of information provided by the Attorney and Defendant Comanco, upon whom they chiefly rely (i.e., efforts to dismiss

election complaints at the 2/26/08 meeting with anecdotal information passed as fact and sending Plaintiff to get lost in the records, failed efforts to enact the Attorney's legal opinions premised on faulty or false information, failed efforts to unlawfully meet 6/19/08, 7/7/08, 7/19/08). By continuing to rely upon them in spite of the evidence, they have held or attempted to hold unlawful meetings, to unlawfully prosecute non-existent violations, to abandon non-arbitrary enforcements of the Association's rules and regulations.

v. Establishment of a record: Defendant Board Members have failed and refused on many occasions to inquire into the basis for and completeness of the Attorney's and Defendant Comanco's advice and information, either on their own or in response to Plaintiff's many requests. Additionally, the Audit and Inspection shows Defendant Board Members routinely establish poorly detailed, incorrect and incomplete minutes that fail to properly record the acts and decisions of the Board (especially architectural and landscaping issues) which can show that the procedural and substantive points of an issue were addressed.

vi. Substantive features of decisions: Defendant Board Members routinely fail and refuse to consider the reasonableness or legality of their actions, the long-term effect of such upon and the future risks incurred by, the Association and its Members.

158. Defendant Board Members breach their duty of disclosure and to inform:

a. Defendants fully understand their fiduciary duty to inform as evidenced by Defendant DeSantis' 9/27/07 email to Comanco and the Board: "Since we have new Board members, I should have stated at the last Board meeting, that all emails should be sent to Ruth and all Board members so we can all be kept informed." (Unit Activity Report 10/22/07, p. 4, Exhibit C) But the facts show he frequently withholds information and communications, effectively suspending or removing a director without due process.

b. Defendant DeSantis failed and refused to inform boards subsequent to the 9/24/01 Board (or Defendant Comanco) of its electoral findings and corrective actions such that the Association could perform lawful elections, of his term expirations in 2003, 2004 and 2008, and the correct statutory term of 3 years for each director.

c. Defendant DeSantis routinely keeps meeting agendas and other plans undisclosed until a meeting is called to order (preventing any person from preparing in advance), refusing to permit the Board to accept, modify or reject it by vote. He withholds information until a meeting commences wherein he may disclose irreversible interim acts or take action while refusing to allow reasonable advance due diligence or debate. (Email "Special Meeting for January 17, 2008 at 7:00 pm," Exhibit A, attached; 1/17/08 [withheld from Plaintiff until the 1/22/08 meeting], 1/22/08 Minutes, Exhibit B)

d. Defendant DeSantis on numerous and routine occasions failed and refused to inform the Board of his actions in soliciting legal opinions from and

holding private consultations with the Association attorney; instructing Defendant Comanco to take official actions, write and send letters, or expend monies allegedly on behalf of or authorized by the Board but in fact without the Board's knowledge or vote; nor does he disclose or inform said information when requested (see Plaintiff's emails in the Unit Activity Reports, Exhibit C)

e. Defendant DeSantis failed and refused to inform the Board every time he refused to respond to a request—written or verbal—for information pertinent to the Association's affairs.

f. Defendants DeSantis, Frankhouser, Angell and Comanco failed and refused to inform Members prior to acting to spend approximately $16,000 to build a fence behind Defendant DeSantis' and Frankhouser's residences in 2007, or an aggregate of approximately $60,000 over about 12 months between 2007 and 4/22/08 to repave Shire, Broderick and one of the Jeffrey courts.

g. Upon information and belief and in Plaintiff's hearing at the 12/10/07 special meeting of the Board and its 4/22/08 regular meeting the Attorney informed the Board the By Laws require unanimous, written consent of the Board prior to the Board taking any action outside of a duly called meeting, and that communications must include all directors, yet the facts herein show Defendants routinely meet and vote outside of duly called meetings and withhold that information from Plaintiff and Members.

h. Defendants singly or as a group routinely withhold information from the entire Board, fail to inform all directors of pertinent information in a timely manner, act unilaterally and commit the Association without the knowledge or approval of the Board, and vote by majority via email even though they were repeatedly informed by Plaintiff and the Attorney it is impermissible except (and with specific requirements) in a dire emergency. Plaintiff asserts these actions have the effect of committing the Association to actions favored by a select minority of directors or Defendant Comanco who know they cannot succeed at a regular meeting of the Board, does not want to wait or go to the trouble of arguing their case and excludes pertinent information from all directors and Members. Such acts are high-handed, captious and whimsical in manner, deny opposing directors or Members due process and a forum to discuss, thereby creating a secret venue for irrevocably committing the Association to actions other directors or Members are powerless to amend or reverse.

i. Defendants are unresponsive to Plaintiff's 2/26/08 email complaint that (in part) "Notifying the other board members via the monthly unit activity report after the fact of any private communications and unilateral decisions via email or phone, when the full board should be in the immediate loop regarding any and all communications regarding association business, does not convert the private communications…to public communications such that the full board of directors could reasonably consider itself informed of the board president's activities allegedly on its behalf. Further, the portion of the

[Comanco] contract you quoted does not authorize the board president to take actions on behalf of the board, to spend association money, to communicate with the association attorney on his own, to direct Comanco to take any action, or to do any other thing on his own volition without prior board approval other than to liaise with Comanco…Hence, as in routine past instances, the board president has kept the full board in the dark as to his intentions for the 2/26/08 meeting, planning to share them only when the meeting has commenced, and that constitutes the board president acting privately, outside of board control, and without authorization. And if, as you [Defendant Angell] say, the attorney's agenda includes 'all of the concerns' I have brought to the board's attention, how is it that you, the attorney and the board president have known that information, but, until your letter today, the rest of the board has not? In fact, the agenda should be circulated among all board members as it progresses through drafts, until it is formally adopted by vote at the board meeting." (Unit Activity Report 3/20/08, Exhibit C)

j. By Laws Article XII Section 1 requires the Association "shall obtain and maintain, to the extent reasonably available…" a " 'Legal Expense Indemnity Endorsement', or its equivalent, affording protection for the officers and directors of the Corporation for expenses and fees incurred by any of them in defending any suit or settling any claim, judgment or cause of action to which any such officer or director shall have been a party by reason of his or her services as such." (Id., Section 1(d)) There is no such item in the Association's budget, nor included in its master insurance policy (as below).

k. By Laws Article XII Section 1(e) and (f) similarly requires the Association to carry fiduciary insurance related to bonding and for "dishonest acts on the part of officers and directors of the Corporation." Defendants' 9/4/08 and 9/23/08 statements (*infra)* demonstrate the Association carries no such insurance.

l. The instant action alleges dishonest acts of Defendant Board Members.

m. Yet, at the 9/4/08 special meeting of the Members to remove Plaintiff as a director, Defendants misinformed or outright lied to Members regarding insurance coverage for legal expenses in the instant action. Defendant DeSantis told Members the Association insurance agent Eric Olson (882 Annapolis Road, Gambrills, MD 21054, 410-551-8932) informed them the master insurance policy's Directors & Officers insurance is not applicable because there is no monetary claim. Thus, he claimed Plaintiff's dispute with Defendants and the instant action has forced upon the Association approximately $2,780 in 2007 and $6,929.79 through August, 2008 in legal expenses, which he then compared to the meager $33.75 spent by the Association in 2006 prior to Plaintiff becoming a director. But he intentionally mislead Members by failing and refusing to state that the legal expenses he cited included costs for liens against units, his own plethora of unauthorized emails and phone calls to the Attorney regarding Plaintiff's balcony, elections, terms of office, legal makeup of the Board and other routine matters that need not involve the Attorney at all except that Defendants are unable or unwilling to comprehend and comply with the governing laws without legal counsel

whispering each move in their ear or providing them grist to craft strategies to skirt compliance. He also failed and refused to inform Members about the fiduciary insurance policy for which the Association pays $596 annually pursuant to Article XII Section 1(f). (2008 annual budget, Exhibit D, attached) Plaintiff spoke with Eric Olson 9/5/08 at his office who said he does not provide fiduciary insurance or legal expense coverage to the Association, meaning its line item in the budget must be a separate policy. If the budget is accurate, the Association is covered for the costs of this litigation. If not, Defendants are lying to Members on the budget, have misappropriated monies in trust, and have failed their duty to provide the required insurance and coverage. Hence, pursuant to By Laws Article VII Section 1, Defendant Board Members are personally and individually liable for the costs of this litigation because it arose from their "own individual willful misconduct or bad faith."

n. At the same 9/4/08 meeting, Defendants inflamed the crowd by claiming Plaintiff caused Association legal expenses to rise from $33.75 in 2006 (before his election to the Board) to approximately $2,780 in 2007 (after his election) and $6929.79 through August, 2008 by sending unauthorized emails to the Attorney. But they did not disclose to Members that Defendant DeSantis himself incurred the vast bulk of these expenses with his own unauthorized Attorney communications 1) to obtain legal interpretations of the governing laws, 2) to remove Plaintiff's deck, 3) to provide Plaintiff's emails for the Attorney's review, 4) to thwart Plaintiff's efforts to enforce the governing laws, 5) or the normal and routine costs incurred by other

Members' actions—nor the fact that Plaintiff's communications with the Attorney was the final relief left to him to rein in Defendants' behavior prior to filing the Complaint. (see Attorney's 11/6/07, 11/12/07, 5/9/08 letters, Exhibit G)

o. Defendants failed and refused to disclose to and inform Members at the 9/4/08 special meeting of the Members they had already paid $5,000 to attorney Curley in June, 2008 (*supra)*; and paid or committed to pay undisclosed sums to attorney Callahan. Defendants disclosed the payment to Curley and the alleged obligation to pay Callahan at the 9/23/08 Board meeting only after removing Plaintiff as a director.

ACTS BY COMANCO

159. Plaintiff incorporates by reference all above paragraphs as though fully referenced hereinunder. The facts hereinbelow are not exhaustive and do not necessarily include relevant facts hereinabove enumerated.

160. A thorough and careful reading of the Association's documents at least back to Defendant Angell's assignment to the Association supports the inference that an enabling relationship—where proper boundaries between property manager and Board liaison seem to have dissolved—exists between Defendants Angell and DeSantis where Angell sometimes appears to act in an executive capacity by withholding information from directors either on direction from Defendant DeSantis or others, or on her own initiative, or to actively subvert the Association's governing laws. This imprimatur lends significant authority and credibility to Defendant DeSantis and permits him to act

unilaterally without Board approval. The facts support the inference this relationship is used to provide protection and cover to each other, and to assist and enforce a conspiratorial or collusive style and method of Association governance unencumbered by governing laws. (i.e., 2/26/08 Defendant Comanco character defense of Defendant DeSantis, Unit Activity Report 3/20/08 p 2, Exhibit C; Email, "115-Charing Cross Petition Notification," Ibid., and the routine withholding of information from Plaintiff, other directors and Members by Defendant Comanco with Board approval)

161. Defendant Comanco has been the Association's property manager since 1979 and knows or should know the governing laws and facts regarding the Association's electoral requirements and its history. Yet the record demonstrates that Defendant Comanco is studiously ignorant of the Association's electoral requirements and history (3/25/08 Minutes, Exhibit B) and that since at least 2005 Defendant Comanco has worked with Defendant DeSantis in such a way as to corrupt, delegitimize, make unlawful the makeup of the Board itself and thereby open to challenge many actions of the Board.

162. There is no record to indicate Defendants Association or Comanco have ever identified or corrected Defendant Angell's actions enumerated, but not limited to those, below.

163. There is no anecdotal or documented record that shows Defendant Comanco ever informed the boards subsequent to 9/24/2001 of that Boards' electoral findings and corrective actions, such that the Association's future elections could be held in compliance with the governing laws and that Board's intent.

164. The facts show Defendants DeSantis and Comanco routinely collude and conspire to act as the Board without the Board's knowledge or voted consent.

165. The facts show Defendant Comanco implements policies upon Members or takes action on behalf of the Association without the Board establishing such policy or directing it to take such action (i.e., see Notes, 4/21/01, 5/22/01, 4/22/03, 4/26/05, 2/28/06)

166. The facts show Defendant Comanco refuses to make available pertinent information belonging to the Association whether requested by directors or Members. (i.e., Notes, 3/27/07 – chart of accounts; Minutes, 5/27/08 – insurance policy; June-August, 2008 – monthly mgt. reports) Upon information and belief Defendant Comanco routinely and repeatedly denied Association financial data—specifically detailed income/expense statements—to previous Association treasurers Tom Knighten (1114 Moderno Court) and William Stevens (1154 Jeffrey Drive).

167. The facts demonstrate Defendant Angell routinely initiates, solicits or pressures email votes from the Board on a variety of issues not meeting the requirements of § 11-109.1 for a closed meeting, or in other ways appears to act as the Association's chief executive or a director herself, as (but not limited to) below:

a. 3/29/2006: Defendant Comanco mailed a letter approving 1009 Broderick Court's architectural change request, entered the approval into its database 3/31/2006, yet the Board did not approve this request until the 5/23/2006 meeting, nearly two (2) months later. (4/25/06 meeting, Notes p 17, Exhibit E)

b. 10/05/2007: Defendant Comanco informed the Board via email that an email vote was approved by majority vote, in violation of By Laws Article V Section 14 and Maryland Corporation Law § 2-408(c), and informed the

vendor JAMS it was authorized to conduct work. (Unit Activity Report 10/22/07, Exhibit C)

c. 11/28/07: Defendant Comanco informed the Attorney "the Board voted to meet on December 10th at 7:00 p.m. here at Comanco, Inc." No such vote ever occurred. This was in response to Defendant DeSantis' unauthorized 11/26/07 telephone call to Defendant Angell that "The December meeting will be held on the 10th tentatively. I will let you know." (Unit Activity Report, 1/18/08, p. 8)

d. 11/28/07: Defendant Comanco informed the Attorney of the 12/10/07 regular Board meeting which he was expected to attend. This was in response to Defendant DeSantis unauthorized 11/26/07 telephone call to Defendant Angell to "Call the Association's attorney and ask that he attend tomorrow's meeting," (Unit Activity Report, 1/18/08, p. 8)

e. 1/17/2008: The Unit Activity Report 2/21/08 suggests Defendant Comanco entered approvals and generated an "approved as modified" letter for a 1011 Broderick Court architectural change request prior to the non-noticed 7pm 1/17/2008 special meeting of the Board wherein the request was actually debated with the homeowner and then "approved as modified."

f. 1/22/2008: Upon information and belief and in Plaintiff's presence, Defendant Comanco refused several times to permit Defendant DeSantis or the Board to discuss Plaintiff's complaints regarding number of directors permitted on the Board and terms of office, even though it was on the meeting's agenda. She prompted Defendant DeSantis numerous times to recall

their previous discussions on the matter (once using her elbow to his arm for emphasis), that Defendant DeSantis could adjourn the meeting at any time without a vote by the Board if he wanted, and that he must table the issue until at a meeting with the Attorney present. He did so without a vote despite objections, thus preventing directors from discussing and pursuing these agenda items. The record shows the minutes of the meeting were sanitized and manipulated to remove all references to the debate as though it had never taken place. (Minutes 1/24/2008, Exhibit B) The record shows the 2/26/2008 minutes were manipulated to show a unanimous vote for the 1/17/2008 and 1/22/2008 minutes when in fact Plaintiff abstained on both.

g. 2/5/2008: Defendant DeSantis instructed Defendant Comanco via telephone to fax the November, December 2007 and January 2008 minutes of the Board to the Attorney, incurring expense without Board knowledge or approval. Defendant Comanco executed the instruction but failed and refused to notify the Board. (Unit Activity Report 2/21/08, Exhibit C)

h. 2/15/08: Defendant Comanco telephoned Defendant DeSantis, "Do you realize that Chris is continuing to cc [the Attorney] Mike Neall on all his emails?" Defendant DeSantis' telephone response: "I know but want to wait to address this issue at the next meeting. I know you are concerned about the costs that are being incurred by his emails." (Unit Activity Report 2/21/08, Exhibit C) In fact, he never addressed it.

i. 2/26/2008: Defendant Angell informed the Board in response to Plaintiff's 2/26/08 email that, "There never have been, nor will there ever[y]

be private communications, hence the management report." This statement is false. Without the knowledge of or approval by the Board (which included Plaintiff), Defendant Comanco oversaw the cancellation of the June 24, July 7, July 17, July 22 and August 26, 2008 meetings, the calling of the June 19 and July 7, 2008 meetings and the May 28, June 19 and July 6, 2008 notices to members. If this information is in the management report, Defendant Comanco has studiously refused to provide it to directors for 4 months.

j. In fact, Defendant Angell herself appears to cancel board meetings on her own initiative. The 8/26/08 regular board meeting was confirmed to Members in the July 6 flyer. Plaintiff requested the management package 8/25/08. Defendant Angell then informed the Board: "Dear Board, Please be advised that the regularly scheduled meeting to be held on Tuesday August 26th, has been canceled." (email "115-August meeting," Exhibit A, attached) She then replied to Plaintiff's request: "As previously stated, the meeting has been canceled therefore, no management package has been prepared." In further response, she said: "Comanco, Inc. is not authorized to cancel meetings. Under the direction of the Board of Directors, the meeting has been canceled." (email, "115-RE: mgt. packages for aug 26, 2008 meeting," Exhibit A, attached) Yet, the Board took no such action.

k. Defendant Comanco failed and refused to provide Plaintiff the June-August, 2008 management reports in spite of his email and certified mail requests (6/18/08, 7/1/08, 7/8/08, 7/16/08, 7/21/08). Defendants were

unresponsive to Plaintiff's requests for information as to how the above meetings were cancelled and called. (Unit Activity Report 3/20/08, Exhibit C)

l. 10/20/07 – Present: Defendant Comanco failed and refused to invoke the Dispute Settlement Mechanism pursuant to § 11-113 of the Act, Addendum A to the 1988 Rules of Charing Cross and Plaintiff's request

m. 3/25/2008: Defendant Comanco advised "the Board can approve the architectural request with the stipulation that when the [1120 Soho Court] homeowner sells the house the balcony needs to be put back to its original state." The statement is astonishing in its degree of gross negligence and incompetence considering Defendant Comanco's negligent complicity in the balcony issue through its failure to notice the prior homeowner's change, provide a condominium resale certificate with true information, and maintain records in compliance with law and its contract such that the change's conformance could be adequately verified. Moreover, the balcony was approved by forbearance as of 6/22/03 and cannot be returned to its original state because Anne Arundel County building code does not permit the original structure, a fact repeatedly made known in writing to—and ignored by—Defendants and the Attorney.

n. 4/2/2008 - 4/3/2008: DeSantis, Marek and Frankhouser voted "yes," Helpa voted "no" via email to a proposal solicited by Defendant Comanco to provide Walden Community Pool with Association members' mailing addresses. 4/2/08 Plaintiff provided a different motion and requested a second; the Board ignored it. On 4/3/2008 Defendants reversed themselves and voted

no to the original proposal. With full knowledge that majority vote via email violates the governing laws, Defendant Comanco informed Walden Community Pool that "the majority of the Board has declined the request for mailing labels at this time," (Unit Activity Report 4/15/08, Exhibit C) falsely conveying to Walden that the Board's majority vote by email was a lawful act of the Board made in an open meeting in full knowledge it was not.

o. Upon information and belief Defendant Angell refused to show the Association's insurance policy to Dane O'Brien of 1005 Broderick Court, Crofton MD 21114, citing "company policy." (Letter, 4/8/08, Exhibit C, attached) This act and policy violate § 11-116(c)(1) of the Act. The May, 2008 minutes of the regular Board meeting reflect Defendant Angell will procure a copy of the policy and draft a letter, but to Plaintiff's knowledge this has not occurred. (Minutes, 4/22/08, p. 3, Exhibit B)

p. 5/1/2008: Defendant Comanco motioned and asked for a vote via email: "After reviewing [a letter from the Attorney regarding 1114 Soho Court requesting to proceed with a lawsuit], please send approval of your decision via e-mail at your earliest convenience. This is a matter that should be addressed prior to the next meeting." Plaintiff and Defendant Helpa refused to vote via email, and Defendant Comanco conceded 5/5/08 that, "It is not necessary to make a decision before the meeting regarding [the homeowner]. (Email "115-Michael Neall," Exhibit F) Members' rights to due process and full access to the Board's deliberations are irreparably harmed or put at risk by Defendants' routine recourse to email voting in lieu of open meetings.

q. 5/4/2008: The Association's Collection Policy at #5 (Exhibit D, attached) which appears to conform with By Laws Article IX Section 6, provides that unpaid assessments shall be accelerated by act of the Board. Yet, despite assuring the Board "proper procedure is being followed," (Ibid.) one or more Defendants or the Attorney accelerated the assessment on 1114 Soho Court without a vote by the Board and notified the homeowner. (4/21/08 letter from Attorney, Exhibit C, attached) Defendants are unresponsive to this information and have still never voted to accelerate said assessment even while they pursue its collection via the Attorney.

r. 5/5/2008: Defendants were unresponsive to Plaintiff's email requesting clarification of a roof "emergency" at 1004 Shreve Court prior to voting by email, wherein he noted that it did not appear to constitute an emergency that warranted suspension of the normal open-meeting approval process. Defendants then suspended Plaintiff as a director by excluding him from all further communications on this matter and voted secretly by majority 5/508 – 5/9/08 to approve the homeowner's shingle color. On 5/9/08 Defendant Comanco notified 1004 Shreve via telephone "The Board has given approval for your roof replacement," in violation of By Laws Article V Sections 13 and 14 and MCL § 2-408. Defendants argued to Plaintiff at the Board's 5/27/08 regular meeting that they are authorized to vote by majority via email pursuant to the Attorney's 2/26/08 approval for "emergency" action. Notwithstanding the fact this email vote does not meet the requirements of § 11-109.1, or that the Attorney's legal advice does not supersede the governing

laws, Defendant Comanco failed and refused even to follow the Attorney's cited legal guidance (from the 2/26/2008 regular meeting of the Board that any Board approval outside of an open meeting must be a bonafide emergency, be considered an "imperfect approval" and that such be communicated to the homeowner so they can proceed "at their own risk."). Plaintiff was not included in this email vote nor informed of it until he was provided the 5/27/08 Management Report. (2/26/08 minutes, Exhibit B; Unit Activity Report 5/20/2008, Exhibit C)

s. 5/28/08: Defendants Angell and Comanco failed and refused to notify the Board or Members of Plaintiff's 5/28/08 petition to audit the Association's records. Upon information and belief, she used various means—including scare tactics that the cost to the Association would be prohibitive—to cause petitioners to remove their signatures after the petition's submission to Defendant Comanco. (*infra,* at 99-100) This action compelled Plaintiff to submit a second petition to audit to Defendant Board Members at the 9/23/08 Board meeting. It contains the signatures of 11 Members representing 9% of the Association—4% more than required by § 11-116(b) of the Act and By Laws Article XIV Section 3.

t. 6/13/2008: After Defendant Helpa refused to vote via email 6/12/08 on 1108 Soho Court's architectural/landscaping request to abate flooding into the unit, Defendant Angell appears to pressure him into voting his approval: "Please keep in mind that if this not addressed and she requests to file a claim through the master policy, the Association may be responsible for the repairs

to her unit." (Email, "115-Charing Cross," Exhibit A, attached) Upon information and belief Defendant Comanco has previously told the 1108 Soho homeowner the Master Policy will not cover such flooding issues. Defendants thereafter excluded Plaintiff from further communications on this matter, effectively removing him as a director without due process. While Defendants claimed in their July 3 flyer this request was withdrawn, in fact they approved this request in secret, evidenced by Plaintiff's witness of the completed work and the homeowner's statement to him on or about 7/18/08 that the Board permitted the work and that "they said it didn't need to be approved."

u. 8/4/2008: Although completely "disappearing" Plaintiff's 5/27/08 petition to audit as though it never existed, Defendant Angell notified the Board of a petition calling for a special meeting to remove Plaintiff as a director presumably the same day received. As though the Association's chief executive or a director herself and in violation of MCL § 2-502(b)(3) she made a motion and called for a vote by the Board to approve a venue and a $150 expenditure via email in order to quickly facilitate the meeting "[d]ue to time restraints to send notice and proxies to all homeowners." (Email "115-Charing Cross Petition Notification," Exhibit A, attached) However, Defendants are or should be well aware the By Laws Article IV Section 3 and MCL § 2-502(e)(2) only empowers Members to petition the Association president to call a special meeting for a specified purpose and not to also dictate its time or venue, matters solely determined by vote of the Board in lawful session. MCL § 2-502(b)(3) requires the Association not prepare or

send notification until petitioners pay notification costs (and presumably those for a venue), which Defendant Comanco's notification ignored.

v. Plaintiff circulated a flyer titled "Fair Play" 9/2/08 (Exhibit C, attached) in which he noted it appeared that Comanco was following a policy of removing names from petitions after submission, and directed members to call Defendant Angell if they wanted to review the facts of the lawsuit or to remove their signatures from the petition calling for a special meeting of the Members prior to the 9/4/08 special meeting. Darlene Klinkhammer of 1112 Soho Court, complained 9/3/08 to Plaintiff that Comanco was taking no calls for Defendant Angell, and that she was out of the office until the following week. Yet, she was present at the 9/4/08 special meeting at which Plaintiff was removed as a director, seated herself at the same table as the Board to advocate Plaintiff's removal, and noted (in her words) when Defendant DeSantis asked her to speak, "Everything I wanted to say has already been said."

V. CHARGES

Count I – Ultra Vires Acts

168. Plaintiff incorporates by reference paragraphs 1-167 above as though fully set forth herein.

169. The facts show that in numerous and routine instances, Defendant DeSantis represents through his actions, expressly or by implication, that he is duly authorized to act as he unilaterally deems appropriate and that said acts are lawful acts of the Board

without its knowledge or voted authorization. Said acts include but are not limited to: the expenditure or commitment of Association monies, the securing of contracts, the transmission of written or verbal communications to homeowners, contractors or other persons or entities in the Board's name, the calling of regular meetings of the Board, the solicitation of undisclosed legal advice, sometimes for use in pre-planned strategies at Board meetings towards personal ends, the non-disclosure of Board agendas to directors and Members until moments before or upon calling a meeting to order.

170. In truth and fact, law and the By Laws specify that a majority vote by the Board at a duly called meeting constitute lawful acts of the Board, enumerate the specific duties of the Board president, and non-specifically vest the president with the authority of chief executive officer. These specified and unspecified powers are and must be limited by Article V Section 3 as well as MCL § 2-414 which limits an officer's authority to those specifically enumerated in the By Laws and non-specifically to those determined by resolution of the Board not inconsistent with the By Laws that, among other requirements, necessitate the Board lawfully meet and vote to specify the authority granted the officer.

171. Therefore, the representations set forth in paragraph 169 are false, irreparably harm and injure Plaintiff and Members by excluding them from the deliberative and decision-making process properly belonging to the Board or Members, and constitute acts and practices in violation of By Laws Article V Sections 3, 10 and 13, and MCL § 2-408(a), § 2-414(a), § 11-109(d) of the Act and other laws this Court deems relevant.

Count II – Breach of Fiduciary Duty

172. Plaintiff incorporates by reference paragraphs 1-171 above as though fully set forth hereinunder.

173. The facts show that Defendants represent through their actions, expressly or by implication, that their tacit authorization through silent acquiescence of Defendant DeSantis' individual and unilateral actions enumerated in Count I of the instant action, in open or closed meetings and without debate, vote or disclosure, constitute lawful authorization to Defendant DeSantis to perform said acts. Further, that acts of a single director, officer or a portion of all directors taken in violation of the governing laws, are lawful, proper and enforceable acts of the Association. Further, that Defendants' actions enumerated hereinabove were not and are not wanton, reckless, irrational, disloyal, without care, or wasteful of corporate resources.

174. In truth and fact, law and the By Laws establish that the Board's acts shall be consistent with law and the By Laws. Hence, authorization to act individually or outside a meeting of the Board requires a vote in an open meeting; and such acts not pre-authorized must be discussed and ratified in an open meeting where the ability to amend or reverse is preserved, else the Board's powers are usurped. Most or all of Defendant DeSantis' acts involve violations of law and the By Laws, the withholding of material facts and information from directors, one result of which is to remove debate or a check on said acts, or positively conferring such authority in an open meeting, the arbitrary suspension of established and routine policies, procedures and requirements and in other ways undermining or outright waiving the Plaintiff's and the Association's ability to obey and enforce the governing laws and keep safe from risk and harm Plaintiff, the Association and its Members. Moreover, Defendants' actions were and are wanton, reckless,

irrational, disloyal, without care and wasteful of corporate resources and as such breach Defendants' fiduciary duty.

175. Therefore, the representations set forth in paragraph 173 are false, irreparably harm and injure Plaintiff and Members by permitting the powers and duties of the Board conferred by the Association to be usurped without due process, and constitute acts and practices in violation of By Laws Article V Section 3, MCL § 2-405.1, § 2-408, § 2-414(a) and § 11-109(c)(6), § 11-109(d) of the Act and other laws this Court deems relevant.

Count III – Elections and Terms of Office

176. Plaintiff incorporates by reference paragraphs 1-175 above as though fully set forth hereinunder.

177. Discovery will show that in numerous and routine instances Defendants represent through their actions, expressly or by implication, the following acts as consistent with law and the By Laws: establishing an electoral ballot with too many, too little or no seats up for election; awarding terms of office based on vote counts or other arbitrary or undisclosed criteria not consistent with the statutory term; failing to hold annual elections; holding annual elections on dates other than July 1; improperly adjourning reconvened annual meetings without voting; permitting the improper voting of proxies; informing and enforcing upon directors shorter terms than the statutory term; electing directors to limited-term seats (such as that produced by resignation) without notice to Members and not limiting said term to the unexpired portion of the vacated seat's term (such as Carol Frankhouser), while attempting precisely the opposite at other

times (such as assigning Don Walton's unexpired term to Plaintiff 9 months after the 2007 election).

178. In truth and fact, the governing laws mandate annual elections; the By Laws establish a process and procedure by which terms of office are staggered such that only 1-2 seats per year are on the ballot but in no case are zero or all seats on the ballot; establish a statutory 3-year term for each director; that the annual election shall occur on July 1.

179. Therefore, the representations set forth in paragraph 177are false, irreparably harm and injure Plaintiff and Members by denying same their electoral and other rights conferred under the Declaration and By Laws, and constitute acts and practices in violation of By Laws Article IV Sections 1, 2, 4-9, Article V Section 5-7, MCL Title 2 Subtitles 4 and 5 and § 11-109(c)(7)(iv), § 11-109(c)(8) of the Act and other laws this Court deems relevant.

Count IV – Vacancies and Removal of Directors

180. Plaintiff incorporates by reference paragraphs 1-179 above as though fully set forth hereinunder.

181. The facts show that in numerous and routine instances Defendants represent through their actions, expressly or by implication, their authority to create vacancies on the Board by misinforming directors of their statutory term of office; by enforcing arbitrary methods to award terms of office based on vote counts or other means; by removing Tom Knighten by majority vote of the Board in a non-noticed meeting 4/3/2007; by removing Plaintiff at an unlawful special meeting of the members 9/4/2008.

182. In truth and fact, the By Laws govern the creation or handling of vacancies on the Board, the statutory term of office that is not amenable to change by the Board, the

prescribed methods for removing a director from office, and the methods by which any meetings of the council of unit owners shall be called.

183. Therefore, the representations set forth in paragraph 181 are false, irreparably harm and injure Plaintiff and Members by denying directors and Members their rights and expectations under the governing laws, and constitute acts and practices in violation of By Laws Article IV Sections 1, 6, 7, Article V Sections 5-7, 13, 14, MCL § 2-406(a)(1) and (2), § 2-502(c)(3), § 2-507(c)(2), § 11-109(c)(6) and (13), and other laws this Court deems relevant.

Count V – Open Meetings

184. Plaintiff incorporates by reference paragraphs 1-183 above as though fully set forth hereinunder.

185. The facts show that in numerous and routine instances Defendants represent through their actions, expressly or by implication, their authority to hold regular or special meetings of the Board, committee meetings and private meetings of the Board without notification to the Members, and that By Laws Article V Section 11, which permits 3 days notice of special meetings to directors only, supersedes and governs the 10-day notice to Members required by § 11-109 of the Act.

186. In truth and fact, the Act governs the By Laws in cases of conflict between them and all meetings of a governing body must be open to Members and require 10 days' notice.

187. Therefore, the representations set forth in paragraph 185are false, irreparably harm and injure Plaintiff and Members by failing and refusing to inform and excluding them from the business of the Association, and constitute acts and practices in violation

of § 11-124(e), § 11-109(c)(4) and (6) of the Act and other laws this Court deems relevant.

Count VI – Calling Unauthorized Meetings

188. Plaintiff incorporates by reference paragraphs 1-187 above as though fully set forth hereinunder.

189. The facts show that Defendants represent through their actions, expressly or by implication, that they hold lawful authority to individually or severally determine a regular meeting of the Board without disclosing the act to all directors, and without a majority vote by the Board at a duly called meeting, by canceling the scheduled June 24, July 17, 22 and August 26, 2008 regular meetings of the Board or Members and calling the June 19 and July 7, 2008 meetings of the Board without a lawful vote by the Board.

190. In truth and fact, the By Laws establish that an act of the Board shall be made at an open meeting, that notification shall include all directors, and that a regular meeting of the Board shall be determined by majority vote at a duly called meeting of the Board.

191. Therefore, the representations set forth in paragraph 188 are false, irreparably harm and injure Plaintiff and Members by failing and refusing to inform, excluding them from the deliberations of the Board, committees and other governing bodies, and constitute acts and practices in violation of By Laws Article V Section 10, Article 5 Section 3, and MCL § 2-408(a), § 2-408(b)(1), § 2-408(c) and § 11-109(c)(6) of the Act and other laws this Court deems relevant.

Count VII – Voting by Email, Telephone and Private Conversation

192. Plaintiff incorporates by reference paragraphs1-191 above as though fully set forth hereinunder.

193. The facts show that in numerous and routine instances Defendants represent through their actions, expressly or by implication, the authority to transact any Association business via email, telephone or private conversation by majority vote; or that Defendants may vote by majority via email, telephone or private conversation when, in their judgement, an emergency exists; that voting by majority via email, telephone or private conversation is not a prohibited act and practice because it does not constitute a closed meeting or a meeting that requires lawful notification to the Members; that ratifying said majority email, telephone or private conversation votes at a subsequent open meeting of the Board is unnecessary or in any case taken care of by its alleged inclusion in the Unit Activity Report which constitutes a portion of the directors' management reports and the official archived records of the Association; and that it is permissible to vote by majority via email or telephone on actions that cannot at the next open meeting be debated towards reversal, making the act a *fait accompli.*

194. In truth and fact, law and the By Laws only permit action outside of a duly called meeting of a governing body when such action is unanimous, in writing, and certain other statutory requirements are met; and establish that voting by email, telephone or private conversation is in practical effect a closed meeting without lawful notification to the Members.

195. Therefore, the representations set forth in paragraph 193 are false, irreparably harm and injure Plaintiff and Members by excluding them from meetings, deliberations and acts of the Board, committees or other governing bodies, and constitute acts and practices in violation of By Laws Article V Section 14, MCL § 2-408(c), § 11-109(c)(6) of the Act and other laws this Court deems relevant.

Count VIII – Director Terms of Office

196. Plaintiff incorporates by reference paragraphs 1-195 above as though fully set forth hereinunder.

197. The facts show in numerous and routine instances Defendants represent through their actions, expressly or by implication, that it is lawful and consistent with the By Laws to award terms of office based on vote counts or other arbitrary and undisclosed criteria, to place directors on a ballot for re-election by falsely or fraudulently informing said directors their term was expired, by removing at least one director by majority vote of the Board and doing so in a special meeting of the Board without lawful notification to Members or recorded minutes.

198. In truth and fact, the By Laws set forth a statutory and staggered 3-year term for all seats; that directors may be removed only by Members at a meeting of the Members duly called for such purpose and with an opportunity to be heard, and mandate the Board to act in a manner consistent with law and the By Laws.

199. Therefore, the representations set forth in paragraph 197are false, irreparably harm and injure Plaintiff and Members by denying them the full-term service of those they elected, denying directors their statutory term and in other ways seizing from Plaintiff and Members their just rights under the rules and laws governing elections and terms of office, and constitute acts and practices in violation of By Laws Article V Sections 3 and 7, MCL § 2-406(a)(1), § 2-406(a)(2), § 11-109(d) of the Act and other laws this Court deems relevant.

Count IX – Record-keeping

200. Plaintiff incorporates by reference paragraphs 1-199 above as though fully set forth hereinunder.

201. The facts show in numerous and routine instances Defendants represent through their actions, expressly or by implication, that the Association's records are in order with some minor filing or other discrepancies; that there is no duty to create, keep or maintain records of meetings of a governing body or its committees; that Defendants failure to create, keep and maintain books and records is not an impediment to legal enforcements against Members for which documented proof would be required; to shift the record-keeping burden to Members to fully maintain all books and records pertinent to their unit to show upon demand to the Association.

202. In truth and fact, law and the By Laws mandate the Association—and by extension its property agent—to create, keep and maintain appropriate books and records; and entitles a Member accused of a violation the right to present evidence and cross-examine witnesses which in the normal course of events would include the Association's documentation and proof of violation.

203. Therefore, the representations set forth in paragraph 201 are false, irreparably harm and injure Plaintiff and Members by an inability to provide the records of the Association for review, to document and justify Board actions, to evidence proof of unit owner violations, and so on, and constitute acts and practices in violation of By Laws Article XIV Section 2, MCL § 2-111, § 11-113(b)(2)(iii), § 11-113(b)(3) of the Act and other laws this Court deems relevant.

Count X – Petition to Audit

204. Plaintiff incorporates as reference paragraph 1-203 above as though fully set forth hereinunder.

205. The facts show Defendants represent through their actions, expressly or by implication, that they have no duty to disclose a petition to audit the books and records of the Association to the full Board or Members, or to act upon same if they choose not to, or if they can cause or compel the petition's signatories to remove or repeal their signatures through intimidation or other means and thereby allegedly invalidate the petition subsequent to its lawful presentation to the Association.

206. In truth and fact, Plaintiff submitted two petitions to Defendants signed by 7% and 11%, respectively, of the Members. The law and By Laws compel the Association to audit its books and records upon petition by at least 5% of the Members and do not provide for the removal by petitioners of their signatures subsequent to the petition's lawful presentation to the Association. Moreover, with said petition in Defendant Comanco's hands for 4 months as of this filing, Defendants have a duty to inform and to act in a timely manner on a petition with a 30-day start date.

207. Therefore, the representations set forth in paragraph 205 are false, irreparably harm and injure Plaintiff and Members by obfuscating and obstructing their right to audit the Association's records, and constitute acts and practices in violation of By Laws Article XIV Section 3, § 11-116(b) of the Act and other laws this Court deems relevant.

Count XI – Rules and Regulations and Covenant Enforcement

208. Plaintiff incorporates by reference paragraphs 1-207 above as though fully set forth hereinunder.

209. The facts show in numerous and routine instances Defendants represent through their actions, expressly or by implication, that the rules and regulations governing the Association's architectural and landscaping changes may be written or unwritten; may contradict one another on a case-by-case basis; that any conforming or non-conforming or non-approved change may be "grandfathered" within the scope of meaning that the Association agrees to take no action on the violation so as to avoid enforcement, yet nevertheless does not waive its right to enforce the same violation at a later date with another homeowner; that no rules or regulations regulating architectural or landscaping changes need be in writing or codified in any way so long as the Association does not appear arbitrary, capricious, whimsical or captious; that rules and regulations may be enacted by the Board without notification or input to the Members; that change requests may be adjudicated in private by one or several Board members outside of an open meeting of the Board or committee and simply reported as adjudicated or ratified in an open meeting of the Board.

210. In truth and fact, law and the By Laws establish that rules and regulations shall be enacted only after notification to Members and certain statutory procedures are successfully and appropriately fulfilled; that rules and regulations may not be unwritten or present as arbitrary, capricious, whimsical or captious; that declining to act on a violation by one homeowner by "grandfathering" the unapproved or non-conforming change so as to avoid enforcement waives the Association's right to pursue the same violation against other homeowners; that rules and regulations shall be proposed, debated and enacted in open meetings of the Board or committee; that adjudication of change requests shall be enacted after open and noticed debate such that the Board's power to

reverse an individual director's or committee's initial adjudication prior to a homeowner starting or completing the work (making a reversal impractical or legally impermissible) shall be preserved.

211. Therefore, the representations set forth in paragraph 209are false, irreparably harm and injure Plaintiff and Members by creating an arbitrary, capricious, whimsical and captious system for adjudicating and enforcing architectural and landscaping covenants, and constitute acts and practices in violation of By Laws Article V Section 3, § 11-109(c)(6), 11-109(d), § 11-111 of the Act and other laws this Court deems relevant.

Count XII – Actions in Bad Faith

212. Plaintiff incorporates by reference paragraphs 1-211 above as though fully set forth hereinunder.

213. The facts show in numerous and routine instances Defendants represent through their actions, expressly or by implication, that they have no duty of care, of loyalty or to disclose and inform outside their actions which are the proximate cause of the instant Complaint. Further, that their actions, continuing unchanged after being informed such actions violated the governing laws, were still actions taken in good faith.

214. In truth and fact, Defendants' fiduciary duties are set forth in law and establish requirements of good faith, outside of which the facts show their actions fall. Defendants were only able to take said actions because, as directors and officers, they occupied positions of trust within the Association. These actions caused intentional damage to Plaintiff as a director, officer and Member including, but not limited to, harassment, threat, expense, fraud, waste of corporate resources, arbitrary suspension of rights as a director, intimidation, unlawful removal as director.

215. Therefore, the representations set forth in paragraph 213 are false, irreparably harm and injure Plaintiff and Members by permitting actions by directors that are expected to be constrained by adherence to fiduciary duty, and constitute acts and practices in bad faith pursuant to MCL § 2-405.1 of the Act and other laws this Court deems relevant.

Count XIII – Breach of Fiduciary Duty - General

216. Plaintiff incorporates by reference paragraphs 1-215 as though fully set forth hereinunder.

217. As directors Defendants have a fiduciary duty to Plaintiff, Members and the Association. As officers, Defendants DeSantis, Frankhouser and Marek have a fiduciary duty to Plaintiff, Members and the Association. Such fiduciary duties include, but are not limited to, a duty to act with care, skill and diligence for the benefit for the Association and in full compliance with its governing laws; a duty of loyalty, and a duty of fair-dealing.

218. Defendants breached their duty to Plaintiff as a director and Member, as well as to Members and the Association as enumerated in the Statement of Facts, above. These acts were done wantonly, recklessly, intentionally and maliciously and injured Plaintiff as a director and Member for the purpose of monetary or non-monetary gain by Defendants, and/or due to gross negligence and gross incompetence.

219. Defendants' breach of their fiduciary duty is a direct and proximate cause of harm to Plaintiff as a director and Member.

Count XIV – Fraud in the Concealment and/or Omission

220. Plaintiff incorporates by reference paragraphs 1-219 as though fully set forth hereinunder.

221. Defendants had a duty to disclose material facts to Plaintiff, a vice president, director and Member of the Association.

222. Defendants intentionally concealed from Plaintiff and failed and refused to disclose to Plaintiff material facts regarding their waste, misuse and diversion of Association monies over which Plaintiff, as one of 5 directors, had a duty to maintain control in compliance with his fiduciary responsibilities set forth in the governing laws.

223. Further, Defendants intentionally concealed from Plaintiff their unlawful activities to pursue biased or fraudulent legal opinions or acts for exclusive use against Plaintiff regarding his balcony, his complaints about election irregularities, directors' terms, Board membership and other issues related to their compliance with the governing laws with the intent to harm Plaintiff regarding his balcony, and to frustrate Plaintiff's efforts to ensure the Association's compliance with the governing laws. The purpose of these acts were to ensure Defendants need not correct or change their practices.

224. Further, Defendant DeSantis used his position as Association president and his personal relationship with Defendant Angell to cause the Association to pay to repair his roof without any lawful adjustment by Defendant Comanco acting as the Association's insurance trustee pursuant to the Contract and relevant laws, without any vote by the Board, acted to intentionally conceal the actual payment by falsely stating he stopped said repairs when in fact the repairs were completed, and then caused the matter to be dismissed at the Board meeting wherein Plaintiff attempted to enforce the governing laws.

225. Defendants defamed Plaintiff at the 9/4/08 special meeting by intentionally lying to and concealing material facts from Members when, inter alia, they told Members Plaintiff was directly responsible for frivolously driving up the Association's legal costs in order to give Members a casus belli to remove Plaintiff as a director. Upon information and belief Defendant DeSantis and one or more other Defendants defamed Plaintiff during summer, 2008 by intentionally lying and concealing material facts from Members in a retaliatory effort to remove Plaintiff as a director for, in essence, whistleblowing.

226. Defendants knew Plaintiff would not allow them to take such actions, or that he would vigorously defend himself, had they fully disclosed the material facts to Plaintiff; and had Defendant DeSantis not used his position as presiding officer of the Board and Defendants Angell and Comanco their position as agent of the Association to obfuscate, frustrate and block Plaintiff's efforts to cause Defendants to fully disclose the material facts involved.

227. Plaintiff reasonably relied upon the belief that Defendants would not take such actions as enumerated in the Statement of Facts above and was justified in his reliance.

228. Said acts were done without legal justification or excuse and were done recklessly, intentionally and maliciously with the intent to injure Plaintiff as a director and Member.

229. Plaintiff has suffered damage as a direct result of the concealment and/or non-disclosure of said information by Defendants.

Count XV – Constructive Fraud

230. Plaintiff incorporates by reference paragraphs 1-229 as though fully set forth hereinunder.

231. Defendants are officers and/or directors of the Association. Defendants individually, severally and jointly failed and refused to give attention to and/or permitted the fraudulent and/or illegal acts of other Defendants enumerated in Statement of Facts, above.

232. Defendants owed a fiduciary duty to Plaintiff as well as the Association. For example, Defendants owed a duty to properly understand, comprehend and comply with the governing laws, and to intervene or speak up when they possessed knowledge the governing laws were being violated, but did not and have not.

233. Plaintiff placed trust and confidence in Defendants who together had total control and influence over all aspects of the Association's business and activities, including the Association's bank accounts.

234. Defendants breached their fiduciary duty to Plaintiff, Members and Association intentionally, with malice and/or with reckless disregard for Plaintiff's, Members' and Association's rights by failing and refusing to lawfully manage the Association's business compliant with the governing laws, to place no obstacle or impediment before Plaintiff in his effort to fulfill his own fiduciary duty, and by failing and refusing to prevent or expose and correct Defendants' fraudulent or illegal acts.

235. In their breach of fiduciary duty to Plaintiff, Defendants acted willfully and contrary to the best interests of Plaintiff as a director and Member.

236. Because of the breach of Defendants' fiduciary duty, and the constructive fraud perpetrated thereby, Plaintiff has suffered damages.

Count XVI – Civil Conspiracy

237. Plaintiff incorporates by reference paragraphs 1-236 as though fully set forth hereinunder.

238. Without Plaintiff's knowledge or voting participation, and outside of lawfully constituted open meetings at which some or all of the acts enumerated in the Statement of Facts above occurred, Defendants—in whole or in part—entered into one or more agreements with each other whereby they agreed to misuse and waste the Association's assets for personal gain and/or to act wrongfully, oppressively, fraudulently and illegally as to their governance of the Association, and in regard to Plaintiff as a director and personally as a homeowner, as well as to Members and Association.

239. Additionally, and inter alia, Defendants DeSantis, Marek, Helpa and Frankhouser conspired and colluded to avoid and refuse mailed service of process upon themselves as officers of the Association and to keep secret the Association's failure and refusal to maintain a resident agent. These acts ensured the Association and its officers were more difficult or impossible to lawfully serve.

240. As a result of Defendants' one or more conspiracies to misuse and waste the Association's assets for personal gain and to act wrongfully, oppressively, fraudulently and illegally in regard to Plaintiff as a director and Member, as well as to Members and Association, Plaintiff has suffered damage.

241. Said acts were done without legal justification or excuse and were done recklessly, intentionally and maliciously with the intent to injure Plaintiff, as well as Members and Association.

Count XVII – Aiding and Abetting

242. Plaintiff incorporates by reference paragraphs 1-241 as though fully set forth hereinunder.

243. Defendant DeSantis as president and director of the Association, and Defendants Angell and Comanco by virtue of the Contract empowering them to act in the Association's name and as insurance trustee, owed a fiduciary duty to Plaintiff, Members and Association.

244. Defendants DeSantis, Angell and Comanco breached their fiduciary duty to Plaintiff, Members and Association by wasting the Association's assets for their own personal gain, acting wrongfully, oppressively, fraudulently and illegally in regard to Plaintiff as a director and Member, as well as to Members and Association, and allowing other Defendants to do the same.

245. Defendant Board Members, Defendants Comanco and Angell's documented silence in the face of Plaintiff's statements of facts between October, 2007 – October 2008 indicate and demonstrate said Defendants possessed actual knowledge of the tortuous and wrongful conduct enumerated in the above Statement of Facts of Defendant DeSantis and each other.

246. Defendants aided, abetted and encouraged Defendants DeSantis', Angell's and Comanco's and each other's wrongful and tortuous conduct and knowingly provided substantial assistance, aid and encouragement in the commission of such conduct by directly assisting, participating in, and concealing such conduct from Plaintiff, Members and Association, then refusing to correct their conduct when exposed.

247. As a result of Defendants' tortuous aiding and abetting of Defendants DeSantis, Angell and Comanco's, and each other's tortuous and/or unlawful acts, Plaintiff, Members and Association have suffered damage.

248. Said acts were done without legal justification or excuse and were done recklessly, intentionally and maliciously with the intent to injure Plaintiff as a director and personally as a homeowner.

Count XVIII – Theft by Unauthorized Control Over Property and by Deception

249. Plaintiff incorporates by reference paragraphs 1-248 as though fully set forth hereinunder.

250. During the time period in which the enumerated acts occurred, Plaintiff was a director and vice president of the Association, and owed a fiduciary duty to directors, Members and Association to comply—and ensure compliance with—the governing laws.

251. Defendants are directors, officers or agents of the Association and owe a fiduciary duty to Plaintiff, Members and Association. Defendants are obligated to comply with the governing laws.

252. The monies involved in the instant matter properly belong to and are the property of the Association.

253. The facts enumerated in Statement of Facts, above, demonstrate Defendants spent or committed to be spent monies properly belonging to the Association in violation of the governing laws, without the knowledge or consent of Plaintiff, and outside of an open meeting in which Plaintiff (and Members) could gain such knowledge and participate in such a deliberation and vote.

254. Defendants therefore took control over the Association's monies, which was the Association's property, without the Association's knowledge or consent (i.e., as properly given by its board of directors in an open meeting and pursuant to the governing laws).

255. Additionally, in taking control over the Association's monies, as above, Defendants willfully, recklessly, intentionally and maliciously deceived Plaintiff as a director and Member (as well as Members and Association) as to their actions.

256. In directing the Association's monies be handed over to third parties (or to one or more of themselves) without the Association's knowledge or consent as it is properly obtained through the lawful acts of its board of directors, Defendants committed a theft of the Association's property.

257. Such acts constitute a violation of Md. Code Criminal Law § 7-104.

258. As a result of Defendants' theft by taking unauthorized control of the Association's money, and taking such unauthorized control in deceit by failing and refusing to inform or disclose to Plaintiff, Members and Association the material facts and their actions, Plaintiff, as a director and Member (as well as Members and Association), has suffered damage.

259. Such acts were done without legal justification or excuse and were done recklessly, intentionally and maliciously with the intent to injure Plaintiff.

Count XIX – Embezzlement – Fraudulent Misappropriation by Fiduciaries

260. Plaintiff incorporates by reference paragraphs 1-259 as though fully set forth hereinunder.

261. Defendants, as officers, directors or agents of the Association, owed a fiduciary duty to Plaintiff, Members and the Association.

262. Defendants spent or committed to be spent Association monies in excess of $5,000 without lawful authorization as enumerated in Statement of Facts, above.

263. Plaintiff, as vice president and director of the Association, owed a fiduciary duty to other directors, Members and Association, among which was to be aware of the Board's actions, the Association's income and expenses, and to assert his 1/5 fiduciary control over the disposition of Association monies.

264. As fiduciaries, Defendants are prohibited by Md. Code Criminal Law § 7-113 from spending, committing to be spent, to secrete, or to in any other way use or appropriate a thing of value—such as money—that a fiduciary holds in a fiduciary capacity in a manner that violates the requirements of the fiduciary's trust responsibility.

265. Moreover, Defendants' taking control of the Association's money was often for a personal purpose. For example (but not limited to), such monies were used to pay the Attorney or others to assist them in furthering personal political or other goals within the community at large, defeating Plaintiff's efforts to compel their compliance with the governing laws, to remove Plaintiff as a director, to correct a perceived violation outside of the lawful dispute resolution mechanisms, to ignore evidence that contradicted their position, to prevent Plaintiff from bringing his balcony into compliance with Anne Arundel County building and safety codes, and to extend their own terms of office and avoid elections in violation of the governing laws.

266. Defendants' acts as enumerated above in fact violate Md. Code Criminal Law § 7-113 in that their spending or committing to be spent Association monies violated the

governing laws that empower Defendants to exercise control over Association monies. Therefore, Defendants violated the requirements of their fiduciary trust responsibility.

267. As a result of Defendants' embezzlement by fraudulently misappropriating as fiduciaries the Association's money, Plaintiff as a director and Member (as well as Members and Association) has suffered damage.

268. Such acts were done without legal justification or excuse and were done recklessly, intentionally and maliciously with the intent to injure Plaintiff, as well as Members and Association.

Count XX – Fraudulent Misrepresentation by Corporate Officer or Agent

269. Plaintiff incorporates by reference paragraphs 1-268 as though fully set forth hereinunder.

270. Defendants, as officers, directors or agents of the Association, owed a fiduciary duty to Plaintiff, Members and the Association.

271. Md. Code Criminal Law § 8-402 states, "(a) *Prohibited.*- With intent to defraud, an officer or agent of a corporation may not sign, or in any manner assent to, a statement to or a publication for the public or the shareholders that contains false representations of the corporation's assets, liabilities, or affairs, to: (1) enhance or depress the market value of the corporation's shares or obligations; or (2) commit fraud in another manner."

272. Defendants spent or committed to be spent Association monies without lawful authorization as enumerated in Statement of Facts, above.

273. Defendants made statements to Members that contained false representations of the Association's assets, liabilities or affairs with the intent to defraud Plaintiff and

Members and to "commit fraud in another manner." Such acts violate Md. Code Criminal Law § 8-402

274. For example (but not limited to), Defendants failed and refused to disclose material facts to Plaintiff and Members regarding their spending or commitment to spend Association monies and thereby falsely represented the Association's financial picture.

275. Further, Defendants stated to Members at the 9/4/08 special meeting that Plaintiff was solely responsible for driving up the legal costs borne by the Association because of his frivolous complaints, his frivolous lawsuit, and his general impedance to the Board in fulfilling its duties such that they required frequent consultations with the Attorney to counteract Plaintiff's harassments. Defendants also stated all the facts underlying Plaintiff's lawsuit are false. Defendants knew this information was and is false, and that the documentation in both Plaintiff's and Defendant's possession contradicted their statements by demonstrating Defendants themselves spent or committed to be spent said monies without authorization for purposes not in accordance with their fiduciary responsibilities.

276. Further, upon information and belief Defendant DeSantis spent much of the Summer, 2008 going door-to-door in the community gaining petition and proxy signatures, and in so doing he told Members that Plaintiff was driving up the Association's legal costs, impeding the Board from its business, was frivolously suing Defendants and damaging the Association and that the lawsuit would be dismissed, and assuring Members they could vote to remove Plaintiff as a director by proxy vote without giving Plaintiff an opportunity to be heard pursuant to By Laws Article V Section 7. Defendant DeSantis knew or should have known these statements to be false, misleading

and/or fraudulent and were made with the intent to deceive Members into signing his petition and unlawfully voting by proxy to remove Plaintiff as a director.

277. Further, Defendants fraudulently told Members at the 9/4/08 and 9/23/08 meetings, and at other times, that Plaintiff was lying about email voting, the holding of non-noticed meetings of the Board, and other violations, in order to fraudulently achieve their personal aims and agendas that include, but are not limited to, keeping their Board positions, removing Plaintiff from the Board, concealing their acts of secretly spending Association monies, and pursuing homeowners for alleged violations for which they have no documentary proof or support, and no legal avenues for prosecution.

278. Defendants made the above statements knowing they were false or misleading with the intent to deceive and defraud Plaintiff and Members.

279. As a result of Defendants' fraudulent misrepresentations, Plaintiff, as a director and Member (as well as Members and Association), has suffered damage.

280. Such acts were done without legal justification or excuse and were done recklessly, intentionally and maliciously with the intent to injure Plaintiff, as well as Members and Association.

Count XXI – Defamation by Libel and Slander

281. Plaintiff incorporates by reference paragraphs 1-280 as though fully set forth hereinunder.

282. Defendants fraudulently told Members at the 9/4/08 and 9/23/08 meetings, and at other times, that Plaintiff was lying about email voting, the holding of non-noticed meetings of the Board, that Plaintiff was solely responsible for driving up the legal costs of the Association from $33.75 in 2006 to $2780 in 2007 to $6929.79 through August,

2008 because of his frivolous complaints, harassment of Defendants, unauthorized communications with the Attorney and the instant action, among other things.

283. Defendants made the defamatory statements against Plaintiff verbally at meetings of the Board and Members (most recently 9/4/08), and in writing in their petition to call a special meeting of the Board and in emails and other communications amongst themselves and with the Attorney, and door-to-door to at least 45 community homeowners.

284. Defendants made the statements enumerated in the above Statement of Facts knowing they were false or misleading and with the intent to deceive and defraud Plaintiff and Members. Defendants also made said statements in retaliation against Plaintiff (for erecting post supports to bring his balcony up to code and for attempting to compel Defendants to comply with the governing laws) so as to hurt and injure Plaintiff and cause the homeowners of the community to turn against Plaintiff and remove him from elected office, and thereby compel the abandonment of his efforts to ensure good and lawful governance of the community. These acts were done for the purpose of harming Plaintiff so as to ensure a return to "business as usual."

285. As a result of Defendants' fraudulent misrepresentations, Plaintiff has suffered damage to his reputation and standing in the community.

286. Such acts were done without legal justification or excuse and were done recklessly, intentionally and maliciously with the intent to injure Plaintiff.

VI. INJURY TO PLAINTIFF AND MEMBERS

287. The facts show that Plaintiff (as well as Members in the same or similar way) has and continues to suffer irreparable injury, and will continue to be injured by

Defendants' routine, willful and obstinately ongoing violations of the governing laws as set forth above. Absent injunctive relief by this Court, and based on Defendants' established history of violating the rules and laws as set forth above and their lack of independence inferred thereby, Defendants are likely to further continue their actions, to obfuscate and obstruct Plaintiff's efforts to establish Defendants' compliance with the Association's governing laws, to corrupt and delegitimize the actions of the Board and continue to commit the Association to obligations to which the Members were denied knowledge or input, the Board as a collective body did not agree and which cannot be reasonably or legally undone, to harm the Board's ability to function as an effective governing institution of the Association, to place the Association and its Members at risk of harm, and to thereby continue to irreparably injure Plaintiff (as well as Members).

VII. THIS COURT'S POWER TO GRANT RELIEF

288. Maryland law empowers this Court to grant injunctive and other ancillary relief to prevent and remedy violations of any provision of law enforced by the Court.

VIII. WHY THIS COURT SHOULD GRANT RELIEF

289. This Court should grant relief to Plaintiff for the following reasons:

a. Absent relief by this Court, it is not feasible or expected that Defendants, who have a clear interest in opposing full disclosure and obfuscating the facts Plaintiff has documented and disseminated to them, will act to fairly and forthrightly inform Members of and correct the issues enumerated herein. Defendants will carry on business as usual, just as the facts show they have continued to do after the filing of the Complaint

b. Absent relief by this Court, Defendants will continue to fail and refuse to verify or respond to Plaintiff's notifications when their actions violate the governing laws and to provide an explanation for their actions thereof; to obstruct Plaintiff's efforts to participate, and thereby prevent him fulfilling the legal duties required of him as a director on the Board; and to seek and establish compliance with the governing laws by the Association, just as the facts show they continue to do after the filing of the Complaint;

c. Absent relief by this Court, Defendants will continue to attempt to manipulate and obfuscate the governing laws outside the knowledge of Plaintiff and Members so as to establish or determine elections, legal membership of the Board and terms of office that meet their private ends, just as the facts show they have continued to do after the filing of the Complaint;

d. Absent relief by this Court, Defendants will continue to fail or refuse to comply with the open meeting requirements of the Act as it pertains to actual meetings of the Board, meetings between members of the Board, committee meetings, or meetings or actions conducted via telephone, email or by other means; and to act in violation of and unencumbered by the governing laws enumerated above, just as the facts show they have continued to do after the filing of the Complaint;

e. Absent relief by this Court, Defendants will continue to follow their demonstrated propensity to hold closed meetings, to change meetings without notifying all directors, to act on Defendant Comanco's written

encouragement and advice that the Board can meet without notice to the Members—or, indeed, without notice to all members of the Board—all of which suggests Defendants are even now holding undisclosed, closed meetings for various purposes, just as the facts show they have continued to do after the filing of the Complaint;

f. Absent relief by this Court, Plaintiff will continue to be uninformed and excluded from communications and activities of the Board and thereby effectively removed as a director without due process, thus irreparably harmed and obstructed from lawfully fulfilling his fiduciary duty to the Association and its Members as an elected director, just as the facts show they have continued to do after the filing of the Complaint;

g. Absent relief by this Court to permanently enjoin Defendants DeSantis, Frankhouser, Marek, Helpa, Angell and Comanco from violating the governing laws, it is reasonable to infer they will—when the dust of this complaint settles—continue to violate the governing laws as enumerated above and particularly with respect to closed meetings, electoral irregularities, directors' terms, Board membership and removing directors from office, unauthorized expenditures of monies, just as the facts show they have continued to do after the filing of this Complaint.

h. Absent relief by this Court, neither Plaintiff as a Member of the Association, nor any other Member except only Defendants will have knowledge of or be informed regarding election irregularities and terms of office, a petition to audit the Association's records, loss of records, alleged

failures of the property manager and directors to fulfill their contractual or fiduciary duties; alleged violations of the governing laws by Defendants, or any other such significant business of the Association upon which Members are entitled to give input or exclusively act. Because Defendants have in truth not fully informed Members even of this Complaint, Plaintiff and Members will have suffered and will continue to suffer irreparable harm if the watershed issues enumerated herein go by undisclosed, as Defendants have continued to keep them even after the filing of the Complaint.

IX. PRAYER FOR RELIEF

Plaintiff incorporates by reference paragraphs 1-289 as though fully set forth hereinunder.

WHEREFORE, Plaintiff requests that this Court, as authorized by Maryland laws and pursuant to its own equitable powers:

(1) Rule declaratively that one or more Defendants acted in bad faith with regard to the facts enumerated in the instant Complaint;

(2) Order that a Receiver shall be preliminarily and interlocutorily appointed by this Court to manage and/or oversee the financial and general affairs of the Association, to take into protective custody the Association's records and other property, and execute the 2008 annual meeting and election until a lawful Board of Directors has been constituted;

(3) Order Defendants to hereafter comply in all respects with the governing laws of the Association and to permanently enjoin Defendants from acting in violation of the governing laws;

(4) Enjoin Defendants from meeting on any Association business until either this Court, the Members or Board, meeting in lawfully-called open meetings, fully and in compliance with the governing laws, resolve the election and Board membership controversies;

(5) Order Defendant Association to establish Roberts Rules of Order or similar as the method governing all meetings of the Association within 10 days following the fulfillment of Relief #4, above;

(6) Order that the duties, responsibilities and acts of Association officers shall fully conform and comply with the governing laws, and that no actions by any officer not expressly set forth in writing in the governing documents shall be taken without explicit prior approval by the Board in a lawful vote at a lawful meeting, and that the position of Board president shall act and operate openly, with full disclosure to all directors and Members and timely such that no interim action so taken shall be impossible or impractical to be reversed or otherwise amended or undone by lawful vote of the Board in a lawful meeting at, or within a reasonable time period following, such disclosure;

(7) Rule declaratively that Defendants DeSantis' term expired in 2008 and that he shall take no further action as a director or officer of the Association;

(8) Rule Declaratively that Defendant Frankhouser's term expired in 2008 and that she shall take no further action as a director of the Association;

(9) Order vacated the 9/4/08 special meeting of the Members and all its acts; including the election therein of Jim Morrow to the Board;

(10) Order Plaintiff be reinstated to his seat to serve his full 3-yr term, minus time already served;

(11) Order Tom Knighten reinstated to his seat to serve his full 3-yr term, minus time already served; if he does not want it, Order said seat onto the next annual ballot;

(12) Order Charlene Julien reinstated to her seat to serve her full 3-yr term, minus time already served; if she does not want it, Order said seat onto the next annual ballot;

(13) Order the properly-constituted Board (pursuant to Relief #4 above) to effect the proper and lawful election stagger and terms of office pursuant to the governing laws.

(14) Permanently enjoin Defendants from meeting, conducting or transacting any Association business outside of a duly constituted meeting pursuant to the governing laws until the Members are lawfully notified of the meeting and its proposed agenda;

(15) Order Defendants to provide lawful notification, to include a complete agenda, to Members prior to any meeting of a governing body of the Association;

(16) Permanently enjoin Defendants from discussing, meeting, conducting or transacting any Association business by majority vote via email, telephone, private conversation or via any other means outside of a duly constituted meeting, except where expressly permitted by law, and to permanently enjoin Defendants to so comply with said law, and permanently enjoin Defendant Comanco from initiating or soliciting same;

(17) Permanently enjoin Defendants from calling, canceling or conducting meetings of a governing body that are not so called, cancelled or conducted pursuant to all requirements of the governing laws, and without notice to all directors at the same

time and in such manner that each and every director shall be able to participate in and determine the outcome of any debate or vote on calling, canceling or conducting said meeting.

(18) Clarify § 11-109 of the Act as it pertains to meetings of a governing body of the Association, including regular and special meetings of Members and of the Board;

(19) Order Defendants to execute the terms of the 5/27/08 and/or the 9/23/08 petitions to audit with costs thereof to be apportioned by the parties separate from this action within at least 10 and no more than 30 days of the Order; also, to immediately disclose to and notify Members of the existence of the petitions, the audit, any accounting or inventory of Association records, and any draft, interim or final reports generated thereof, to provide the final audit report to Members, and to hold the full and complete report of the audit at the Association's principal place of business or wherever the Association publicly maintains its records, for future inspection;

(20) Order Defendants to establish no managing agent contract the term of which exceeds one year, and which contains the language, duties and requirements required by the governing laws, and which explicitly forbids any act of the Association to be authorized or effected by majority vote via email as herein defined, and which explicitly forbids Defendant Comanco to solicit or participate in any manner in same;

(21) Order Defendants to establish, to this Court's satisfaction, a coherent, practical and lawful method of record-keeping—specifically as regards architectural and landscaping records—that ensures the Association's records shall be lawfully created, maintained and archived;

(22) Order Defendants to provide for review within no more than 10 days from such request by any Member, director or officer of the Association any document or information so requested, including any and all summary or detailed financial documents or information and insurance policies.

(23) Enjoin Defendants from pursuing any violation against a Member in a manner not compliant with the governing laws, and for which the Association does not have demonstrable documentation and/or proof including, but not limited to, sufficient records to indicate that it is reasonable for Defendants to rely upon them or the lack thereof to allege, pursue or enforce a violation, or to allege, pursue or enforce a violation against a Member in spite of the existence of documents or other demonstrable facts that would necessarily or legally render such a pursuit moot;

(24) Permanently enjoin Defendants from violating any governing laws controlling the taking, keeping, archiving and accuracy of the minutes of any governing body of the Association;

(25) Order Defendants to fully disclose all acts and information pertinent to the Association to all directors and/or Members at least on a regular monthly basis in writing, such that no act taken nor omission of information shall cause such act or information to be irreversible or not actionable within a reasonable time period following its full disclosure to all directors and/or Members;

(26) Order Defendant Association to provide written evidence within ten days of the Order that Plaintiff's deck, upper/lower rear doors, front "flower steps" are lawfully approved and in compliance and conformity with the Association's governing laws, may be repaired or replaced as-is should they be damaged or destroyed by a casualty, and shall

be properly insured by the condominium Master Insurance Policy in accordance with the governing laws and its usual terms as they apply to all units within the condominium;

(27) Order that Defendant Association shall not pay Defendants Angell's and Comanco's attorney fees and other costs associated with the instant matter unless and until this Court establishes the terms of the Contract regarding such payment are met; and that any monies already paid to them by Defendant Association in this regard shall be refunded within 10 days of the Order;

(28) Award Plaintiff such temporary, preliminary and permanent injunctive and ancillary relief as may be necessary to avert the likelihood of Defendants ignoring this Court's orders so as to preserve the possibility of effective final relief;

(29) Order Defendant Comanco to distribute this complaint and this Court's Order to all Members of the Association and to include this Court's Order with the documentation provided to all new homeowners hereafter;

(30) Grant Plaintiff Summary Judgment on all counts as to the merits; otherwise, in the alternative, grant Plaintiff Summary Judgment on each count as to its merits, as this Court deems warranted;

(31) Award Plaintiff the costs of bringing this action pursuant to By Laws Article XVIII Section 5 and § 11-113(c) of the Act, including attorney and other fees, as well as such additional injunctive, equitable or any other relief as the Court may determine to be just and proper.

Respectfully Submitted,

_____

Christopher David McKeon, *Pro se*
Member, Charing Cross Townhouse

Condominium Association, Inc.
1120 Soho Court
Crofton, MD 21114
410-271-7907

I DO SOLEMNLY SWEAR AND AFFIRM, under penalty of perjury, that the foregoing Complaint for Injunctive and Other Ancillary Relief is true and correct to the best of my knowledge, information and belief.

_____

Christopher David McKeon
1120 Soho Court
Crofton, MD 21114
410-271-7907

CERTIFICATE OF SERVICE

I, Christopher McKeon, Plaintiff, *Pro Se,* do hereby certify that a copy of the foregoing Motion has been served by First Class U.S. Mail, postage paid, this _____ day of_____ _____, 200___, upon the following:

Comanco, Inc., and
Ruth Angell
c/o Thomas R. Callahan
Callahan & Callahan, P.C.
2133 Defense Hwy
Crofton, MD 21114

Charing Cross Townhouse Association, Inc. and Carol Frankhouser
c/o Owen J. Curley
Niles, Barton & Wilmer, LLP
111 S. Calvert Street, Suite 1400
Baltimore, MD 21202

This Amended Complaint will be served upon the following parties via AA County Sheriff:

Joseph R. DeSantis
1001 Shire Court
Crofton, MD 21114

Kathleen Marek
1008 Broderick Court
Crofton, MD 21114

Michael J. Helpa
1007 Broderick Court
Crofton, MD 21114

Respectfully Submitted,

_____

Christopher McKeon
Plaintiff, *Pro Se*
410-271-7907