

DATE: December 17, 2024

TO: State of Minnesota HOA Legislative Committee:

FROM: The Fairway Meadows Manor Home HOA Board

RE: Supporting Documentation for our Testimony

Dear Committee Members,

Thank you for the opportunity to share what we believe is a major impediment for HOA Boards of Directors when working to manage the financial health of their association. To do this, we have no choice but to rely on those who understand the laws and operating procedures to serve as trusted and reliable partners. We do not currently have one in our existing property management company.

Therefore, we respectfully and fervently request your consideration of the following, when proposing recommended legislation for HOAs and the property management companies who are retained by contract, to guide and support them.

**THE PROBLEM:**

*Repeated coercion to approve projects to our HOA Board of Directors to the direct benefit of Gassen Property Management subsidiaries at the risk of negligence and possible legal action to the Board Members by omission.*

**THE OPPORTUNITIES:**

1. In an effort to maintain legal parity, create a universal contract for property management companies that are fair to HOAs as well as to themselves. Currently contracts favor property management and often place blame for their mistakes on the Boards
2. We support the establishment of an ombudsman. In an effort for parties to take responsibility, be accountable and fair, we would like a way to settle disputes between HOAs and property management companies, as well as between homeowners and boards. This function could serve as a resource for non-biased financial and legal support.

### **Opportunities-continued**

3. Currently, we now work to secure our own construction proposals. We would like legislation to prohibit property management companies from self-serving recommendations, and unfairly filtering business to their own subsidiaries for financial benefit and to the detriment of HOAs. At minimum, ensure property management companies are transparent about potential conflicts of interest.

### **THE COMMUNITY OVERVIEW:**

#### **Fairway Meadows -Woodbury, MN**

- Construction of Fairway Meadows began in 2004.
- The Master Board contains one representative from each of three entities
- Fairway Meadows Patio Homes, Fairway Meadows Single Family Homes and Fairway Meadows Manor Homes
- Each subsidiary has their own HOA and Board
- Master Board, such as Architectural changes and the selection of a Property Management Entity

#### **The Fairway Meadows Manor Homes(FMMH)**

- 157 townhomes within 44 buildings
- Services include grounds and exterior maintenance, snow removal, capital improvements
- Owners include first-time homeowners, retirees, families with children, and investors
- Home Values are mid-to-upper \$300,000s.
- Rental cap is 25%
- Average rental price is \$2000+

#### **Property Management Company:**

- Gassen Property Management
- Contract in effect January 2019
- Subsidiaries/Affiliates: Gassen Construction and Maintenance and Gassen Project Management.

## **GASSEN MANAGEMENT COMPANY'S ACTS WITH CONFLICT OF INTEREST**

The following are details and timing of projects we were led to believe were necessary. Some of which we have realized were not necessary but directly to the benefit of Gassen's subsidiaries. Some were actually mis-managed and have put our HOA in the position of financial distress and potential liability.

### ***Roof Replacement Recommendations***

- *May of 2020* Gassen's assigned property manager urged the BOD to file a claim for damage from a storm we knew nothing about
- *5/26/2020* Gassen filed a claim on our behalf with Auto Owners Insurance
- *9/3/2020* Auto Owners Insurance found soft metal damage only and denied claim
- *10/12/2020* Gassen recommended reopening the claim and sent Gavnat & Associates, a policy-holder advocate, to inspect the roofs
- Based on the inspection Gavnat and Gassen advised the BOD to proceed with the claim since "the insurance company always denies a claim at first"
- Following mediation claim was approved
- Gassen and Gavnat recommended the BOD explain to the Homeowners that we were going to have to replace the roof within the next 5-10 years anyway so they were "getting a new roof now" and that it would only cost the HOA owners their HO6 deductible toward the assessment of \$2500 per unit (or the full \$2500 if no HO-6) and insurance would cover the rest.
- Gassen advocated for Fairway Meadows Manor Homes Board of Directors to secure a project manager (on a two year contract) and recommended that the Board approve a complete roofing project. Gassen secured the project for their own subsidiary, Gassen Construction.
- March, 2021, the Fairway Meadows Manor Homes Board of Directors approved the installation of new roofs. The roofs and gutters project earned Gassen Construction \$1,052,730 and Gassen Project Management \$94,745.70, at 9% of the total construction contract cost.
- *9/9/2021* \$40,662.10 paid out to Gassen and \$4,434.48 to Fairview Meadows
- Gassen reported we received \$45,096 for a total of \$1108.62 per building
- The BOD President was assured the claim would be *paid by the insurance company* directly to Gassen Construction, but in fact, it was only recently discovered it came out of our reserves.
- March 2022, the BOD renewed the project management contract for another two years

### ***Roof Replacement Recommendations-continued***

On May 19, 2022, just one year after replacing our roofs, Gassen Management and Gavnat and Associates called an *emergency* zoom meeting with the Fairway Meadows Manor Homes Board of Directors.

They presented the Board with a 19-page document with photos of roofs and siding with small red circles, but no explanation, and suggested that the damage to roofs, siding, and garage doors as a “total loss” as the result of a recent storm. Gassen and Gavnet representatives urged us to file another insurance claim.

In an effort to determine whether the damage truly existed the BOD obtained three independent opinions from roof, siding, and construction experts. All agreed that while we might have some cosmetic roof and siding damage, there was ***no indication of catastrophic damage***. One expert, in fact, noted that the document that Gassen and Gavnat presented to us did not indicate or depict structural integrity as impacted in any way.

### ***Decks***

In the Spring of 2023, our “sister” association, Fairway Meadows Patio Homes reported a deck failure with non-serious injury to the Master Board. As a result, Gassen insisted on the inspection of all decks by Gassen Project Management (for a 10% fee). Again, with the rationale that the board could be held liable, and to be on the “safe side” they determined and reported that all decks needed additional reinforcement, in spite of their being up-to-code. Because deck maintenance and repair is the responsibility of the homeowner, they provided a list of the three contractors, including Gassen Construction. The other two companies told owners they didn’t do that type of work. Because of our contract with Gassen Project Management, they managed the project through inspections and completion.

### **Project Management Failure**

**Background:** To promote routine maintenance within the community, the BOD negotiates a preferred pricing structure for homeowners who elect in to having their dryer vents cleaned. This company was provided and recommended by our property manager as a preferred vendor to Gassen. A total of 25-35 homes per year participate in the cleaning service each year.

## **Project Management Failure-continued**

On February 2, 2023, a homeowner submitted a work order requesting a refund for their cleaning as the company was unable to perform the cleaning due to the dryer vent being shingled over. Note, the “preferred” contractor was not the one to report the discrepancy. Gassen was called to fix the maintenance issue from their insulation and reported back the vent was installed and the problem was rectified. The homeowner’s work order was marked complete by our property manager at Gassen. After believing the issue was resolved and still noticing their dryer was not performing properly, they proceeded to buy a new machine in July 2024. On October 2, 2024, the homeowner hired an independent dryer vent company, Koford Brothers Dryer Vent Cleaning, and found after placing a camera in the vent that the roof was still shingled over. This caused such a significant backup that the technician informed the homeowner that they were fortunate to not have had a fire but more importantly that having an electric dryer may have saved their life.

### **Timeline:**

- October 2, 2024: Homeowner submitted work order to Gassen management as well as emailed property manager and BOD President. The BOD President alerted GCM construction leadership and demanded immediate action to resolve the issue.
- October 2, 2024: BOD voted to approve an emergency inspection of building roofs throughout the association due to units having both gas and electric dryer hook ups based on model type to rule out carbon monoxide poisoning as well as fire hazards. Total cost to association: \$10,205.00
- October 3, 2024: GCM Construction installed the dryer vent and reported the issue resolved to Gassen Management and BOD.
- October 21, 2024: Koford Brothers Dryer Vent Cleaning performed cleanings and inspections to all units. Results found:
  - Note:** The dryer vent of the Homeowner with initial complaints was not installed to code by GCM Construction on 10/3/24 and had metal sheeting covering the vent preventing the functionality of the vent.*
- **10** additional vents were missing or disconnected causing the vents to not function totaling in 11/157 units having venting issues following GCM Construction’s roof installation
- November 14, 2024: BOD voted to approve RCL Engineering Firm conduct a building integrity test after seeking legal advice as to how to proceed with the known damages. Total cost up to \$6,000.

Gassen's current property management contract ends this December 31. Our Board *voted unanimously to discontinue* our management contract with Gassen Management, but because we are a subsidiary of a master board, the Patio Home and Single Family Home HOAs voted to renew. We have no choice but to continue to try to work with them, having to do the majority of the property management on our own.

## **REQUESTS FOR THE COMMITTEE'S CONSIDERATION**

1. In an effort to maintain legal parity, create a universal contract for property management companies that are fair to both HOAs and property management. Currently contracts favor property management and often place blame for their mistakes on the HOA Boards.
2. We support the establishment of an ombudsman. In an effort for parties to take responsibility, be accountable and fair, we would like a way to settle disputes between HOAs and property management companies, as well as between homeowners and boards. This function could serve as a resource for non-biased financial and legal support.
3. Currently, we now work to secure our own construction proposals. We would like legislation to prohibit property management companies from engaging in self-dealing recommendations that unfairly filter business to their subsidiaries for their own financial benefit and to the detriment of HOAs. At minimum, ensure property management companies are transparent about potential conflicts of interest.

Respectfully,

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