

## Testimony for MN House Working Group for CIC/ HOA December 6, 2024

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Winterwood Garden Homes (WWGH) – 60 single level unit garden home community,  
handicapped accessible

11 buildings, 3 - 8-unit buildings

Burnsville, MN

MN Board member 12 years, last 5 years as board president

Texas HOA board member 6 years

HOA homeowner – 19 years

Member Homeowner Leadership Network

The other side of the coin – board members tried every effort to inform homeowners, prevent excess fines, and foreclosure.

Examples of “no good deed goes unpunished”:

☐ **Well-intentioned outreach:** Offering advance notice of repair work to a homeowner led to accusations of disturbance.

I visited 15216 on a weekend midafternoon to follow up on multiple unanswered letters, emails and voicemails sent to the homeowner of record, Jxxx. A woman answered the door and informed me she was the mother-in-law. I introduced myself as the association president and explained that we had been trying to contact the homeowners regarding upcoming brick repair work. The contractor needed access to the front of the home, and there were delicate items blocking the area that could be damaged or moved during the repair process. To avoid any inconvenience or potential charges, we wanted to provide advance notice. Unfortunately, the woman became upset and asked me to leave.

The following Monday I received a call from the daughter complaining I upset her mother by knocking at her door.

☐ **Enforcing community standards:** Attempts to address property neglect and unpaid dues resulted in harassment claims and financial burden on the community.

Homeowner had not lived in the unit she owned for 13 years. She did not take care of external appearance of property. Mold grew in window sills and front door frame rotted. Adjacent neighbors complained and there was a mouse infestation in both adjacent units in the attic. Letters and emails were sent requesting the exterior be cleaned, that she provides access to our pest control company and the front door frame and sidelight be replaced. All communication was ignored. Certified letters were sent and were never picked up. The fines started at \$25 after months of attempting to contact the homeowner. Fines were escalated at an additional \$25 per

month for each month thereafter. I attempted to track down a phone number and found her work location on Linked In. She was employed by Fairview Southdale Hospital. I called and left a voicemail message for the homeowner to call the management office. No response. After the management company was not contacted from the voicemail message I left, I called reached her in person at work and explained we had been trying to reach her so she would not have to pay escalating fines. She called the management company later that day and complained I was harassing her.

Soon after she stopped paying her monthly dues and we filed a lien and eventually foreclosed on the property. The entire process took over three years. During that time the 59 other homeowners were picking up the monthly assessments, a special assessment, paying all the attorney fees, costs of certified mailings and at least a portion of the monthly board meeting discussing this unit. Volunteers cleaned up the exterior of the property, No one on the board wanted to foreclose, but was forced into it when a good 10% of our operating budget was tied to this homeowner's lack of response to reasonable requests for payment. The board was advised not to call her at work after my single phone call resulted in her reporting me for harassment. The property was fully paid off with no mortgage. It sold at sheriff's sale for about 47K. All the personal contents and furniture which were never claimed was placed in a dumpster. An investor flipped the property and sold it for about \$250,000. The association was paid the past due fees and attorney costs, but not all expenditures were reimbursed. The adjacent neighbors were not reimbursed for the hundreds of dollars in pest control expenditures. The volunteer board was not reimbursed for the hours spent tracking this homeowner down, time spent in meetings, hours of management time and board time dedicated to the foreclosure process.

### **Board Challenges Faced:**

- **Unauthorized Spending:** A rogue board member incurred significant costs without proper authorization, depleting reserves.
- **Insurance Claim:** A major insurance claim further strained financial resources.
- **Lack of Homeowner Engagement:** Low attendance at listening sessions and limited participation in board meetings hindered communication and decision-making.
- **Former Management company** – Gassen Management, property manager LaTasha Persley. Operating funds were to be paid for another association's electric bill and used to reimburse two other associations' billing errors from our operating funds account.
- **Current management company** – Property manager paid vendor after directed by board president not to pay until inspection of paint project was complete.
- **Current property manager** – approved architectural application without board approval.
- **Current property manager** –stated reserve contributions were adequate in 2025 budget after their own update to our 2024 reserve study showed the association will not have adequate reserve funds in 2035 (with assumptions of an 8% increase to reserve contributions each year and a 3% inflation rate). See attached reserve study and email from property manager.
- **Management company's failures to timely enforcement of governing documents/ rules and regulations** -constantly referring to legal counsel

resulting in excessive attorney fees burdened on homeowners who are compliant.

### **Steps Taken to Improve Transparency and Accountability:**

- **Increased Transparency:** Regular newsletters, meeting minutes, and advanced agenda sharing.
- **Enhanced Communication:** Listening sessions and homeowner forums.
- **Strengthened Governance:** Board code of conduct, ethics pledge, and training for board members.
- **Improved Oversight:** Vigilant monitoring of management company activities and payment made to vendors.

**Overall, the association has taken proactive measures to address past issues and foster a more transparent and accountable governance structure.**

**Details:** In 2021, the board heard from the management company that the board homeowners were disgruntled and we were going to have a special assessment because there was crumbling brick on many of the units which required repair, but the board had no money in reserves because the management company had allowed an unauthorized board member to sign a contract for \$110,000 on interior insulation in the ceiling of 60 units in 2019 without obtaining competitive bids or holding a meeting to inform homeowners of this addition to the property which was not part of the original build. A meeting and homeowner approval was required by our governing documents. I was secretary of the board at that time and the I was out of town for a few weeks dealing with a death in my immediate family. The president of the association was also out of town for an extended period. This rogue board member took advantage of poor oversight by our property management company and the absence of two board members.

In 2019, we paid a \$25,000 deductible for an insurance claim to replace all roof, some fascia siding and 10 garage doors due to hail damage. This severely depleted our remaining reserve funds.

The board held listening sessions at six different times morning, afternoon, evening weekend and week day to answer any concerns. It was held outdoors on the property because of COVID restrictions. We limited the attendance in any one session to maintain social distance. Only six of 60 homeowners attended. Three of the sessions were cancelled because no one attended.

Board meetings are scheduled a year in advance and agenda items are sent to homeowners in advance through email. Meeting minutes are recorded for all committee and board meetings and are distributed to homeowners through email or US mail if there is not an email on record. Each board meeting has a homeowner forum and advance registration is requested by the Wednesday prior to the meeting. Each homeowner is requested to limit their remarks to three minutes, but if there is only one homeowner speaking the board allows fifteen minutes for the

homeowner forum. By contract, the property manager allows for a 90-minute meeting before charging the association for additional time spent at the meeting. During my twelve years on the board, we have had a total of ten homeowners come to speak to the board in the homeowner forum.

After our experience with the rogue board member signing illegal contracts and our previous management company (Gassen Management) did nothing to stop the behavior, The board has instituted a board code of conduct policy and board ethics pledge which all candidates receive when they indicate they would like to run for a board position. The ethics pledge and board code of conduct is published in the association newsletter.

During my terms as secretary and president, a monthly newsletter was published and distributed. We included a section named "Good Question "and would answer common questions or dispel circulating rumors that came into the property manager or would review why certain rules were in place. Our association has been fortunate to have board leaders who have sought out CAI (Community Association Institute) training, quarterly training offered by SSJ Law firm and monthly educational sessions provided by the Homeowner Leadership Network.

### **Mismanged operating funds**

Our newly elected treasurer in 2021 questioned why we were paying Dakota Electric twice a month. The treasurer was a regional manager for a large banking institution in the Twin Cities. We were told by the property manager the bills were for the street lights on our two separate private streets which do not interconnect. We accepted that explanation from our property manager.

When we changed management companies, our new management company, Network Management, identified that we had been paying for another association's electric bill. Network Management contacted Gassen Management after confirming with Dakota Electric and requested they reimburse WWGH association the amount of over three thousand dollars. I have included many supporting documents. Gassen Management refused to reimburse the WWGH association.

Over the next two years, myself, and a newly elected treasurer (David Johnson) attempted to recover the funds from Gassen Management. Our journey appealed to our present management company, Dakota Electric, the Better Business Bureau, the MN Attorney General's office, AARP senior legal advocacy group, the Public Utility Commission (see attached where the PUC/Dakota Electric investigation indicated Gassen was responsible to reimburse the association). To obtain legal help, I unknowingly reached out to an attorney who had been a guest speaker at an educational session I had attended. I detailed the path of our pursuit of reimbursement. As soon as I mentioned the management company's name, he stopped me and indicated he represented Gassen Management and would have to terminate the conversation because of a conflict of interest. I understood. It was one more dead end.

Within a day or two I received a communication from Gassen we would be receiving a check. The check was not the total amount I felt we were owed. They wanted proof of every dime (see attached Excel spreadsheet). During this process of documenting every mistaken payment I uncovered checks written to two other associations written from our operating account reimbursing them for electric billing errors (also detailed on the attached spreadsheet).

Hours and hours were spent in the pursuit of reimbursement for mismanaged funds. This is where an independent ombudsmen would have been helpful.

### **City of Burnsville**

Refuses to locate and shutoff water at curb stop at our 60 residences except in case of emergency. The first time we encountered this issue was in 2023 when two homeowners had water leaks in the pipe leading into their interior water meter. City of Burnsville had provided this service for \$75 per visit. They stated that since the curb stop was in an HOA property the association was responsible to turn the water off at the curb stop. Management was unable to find a plumber who would perform this service. Management notified the board president. I called the Burnsville Public works department and explained that no plumbers we contacted (over ten would perform this service). The public works department gave us names of additional local plumbers; the local plumbers told us they did not have the tools to locate and shut off the water at the curb stop. After a month of plumbers pointing fingers to the city public works and the public works department referring us back to yet another plumber. The city water department gave us the name of three large companies that perform contract work for the city of Burnsville. These companies could locate and shutoff the water at the curb stop. Two of the companies refused to provide the service, stated they were commercial construction companies and laughed at my request. The third charged the association \$750 to come out locate the curb stop and shut off the water and \$750 to come back out after the plumber completed the repair and turned the water back on. I point out that members of our association pay the same property tax rate and utility rate as all single-family homeowners in the city of Burnsville. I appealed to the city council and mayor (See attached documentation). The city refused to explain why they were denying HOA homeowners that same service as other Burnsville homeowners and referred asked us to have our attorney contact the city attorney for further discussion. I will mention that at least two members on the city council including the mayor reside in an HOA and was unaware that this was the practice of the city at the time I brought it to their attention during open forum prior to a city council meeting.