

MICHAEL K. JEANES, CLERK  
BY DEP

*K. Norton*

K. NORTON, FILED

2017 DEC 14 PM 3:00

William M. Brown  
6751 E. Amber Sun Drive  
Scottsdale, AZ 85266  
(480) 595-9131

Plaintiff on his own behalf

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

William M. Brown, an individual,

Plaintiff,

Plaintiff's Motion to Continue  
and Request for Expedited  
Consideration

Case No. CV2017-055475  
(Assigned to the Hon. John R.  
Hannah, Jr.)

vs.

Terravita Country Club, Inc., an Arizona  
non-profit corporation; Sterling J. Laaveg,  
President TCC, Inc., and his spouse; Paul  
David Tolk, Vice-President TCC, Inc., and  
his spouse; William H. Greig, Secretary  
TCC, Inc., and his spouse; Michael T.  
Ellington, Treasurer TCC, Inc., and his  
spouse; John Does I-X and Jane Does I-X  
and their spouses; Carpenter, Hazlewood,  
Delgado & Bolen, LLP; Joshua M. Bolen  
024053 and Anjali J. Patel 028138,

Defendants.

Plaintiff submits the following Statement of Facts In Support of its Response (opposition) to Defendants' Motion to Dismiss Board of Director Defendants Laaveg, Tolk, Greig and Ellington and Defendants' Motion to Dismiss Defendants Bolen, Patel and Carpenter, Hazlewood, Delgado & Bolen, LLP as these defendants are properly named parties in this lawsuit as memorialized in Plaintiff's pleadings filed to date in this matter, incorporated by this reference.

## Introduction

### Director Defendants

Defendant, Terravita Country Club, Inc. ("TCC"), is an Arizona non-profit planned community corporation incorporated on May 28, 1998 to operate as a private social recreational club for the social and recreational benefit of its owner-members who, pursuant to owners' mandatory social membership compelled by deed and Club Terravita Social Membership Agreement filed of record and appurtenant to the land, are mandatory members of the corporation and, as such, Title 33, Chapter 16, Article 1, Arizona's Planned Community Statues, applies to the parties in this matter.

As a service-oriented, cooperative business (501(c)(7) corporation), TCC engages in a variety of mandated service functions, to include maintenance, repair and replacement of its physical plant, grounds, streets and parking facilities. TCC is responsible for levying and collecting assessments, enforcement of the corporation's governing documents, promulgating rules, regulations and policies and enforcing same.

TCC's service functions are performed for and by the corporation's membership under the direct guidance of the corporation's board of directors, TCC's governing body responsible for carrying out the duties of the corporation as required by statute, common law and TCC's governing documents, who are singularly vested with the power to make management decisions and, as such, have ultimate responsibility for those decisions.

Defendants Laaveg, Tolk, Greig and Ellington constitute a quorum (4 of 7) of the corporation's board of directors who are charged with the management of the affairs of the corporation and are authorized to make all decisions and take all actions not specifically reserved to the County Club Members pursuant to the corporation's Amended and Restated Bylaws.

Board members are fiduciaries and owe the duties of a fiduciary to the corporation's members. (*Divizio v. Kewin Enters, Inc.*, 666 P.2d 1085, 1088 (Ariz. Ct.App. 1983)).

The Arizona Court of Appeals implicitly recognized the fiduciary nature of the duty owed by directors in *Divizio* (*Divizio v. Kewin Enters, Inc.*, 666 P.2d 1085, 1088 (Ariz. Ct.App. 1983)).

The *Young* decision (*Young v. Lucas Constr. Co.*, 454 S.W.2d 638 (Mo. Ct. App. 1970)) upon which the *Divizio* court relied, involved an action by subdivision lot owners against the developer with respect to a fund to maintain common areas (*Young*, 454 S.W.2d at 639). The *Young* court held that where the developer was entitled to collect assessments from the lot owners for maintaining the common areas, "the lot owners necessarily were required to repose confidence and trust in [the developer] and that in carrying out its functions...[the developer] was required to exercise fairness and good faith (*Id.* at 642) [TCC's Director Defendants collect assessments (\$3,146,400 annually) from the corporation's members and are entrusted by the members to spend the assessments appropriately.] The *Young* court held that "[t]hese are the hallmarks of a fiduciary relationship (*Id.*). By adopting the holding of *Young*, the Court of Appeals recognized that where one is entrusted with the money of another, those individuals stand in a fiduciary relationship (*Divizio*, 666 Ps2d at 1088)." The *Divizio* holding is in accord with the *Standard Chartered PLC* holding that a fiduciary "is a person who holds property or things of value for another" in a representative capacity (*Standard Chartered PLC v. Price Waterhouse*, 945 P.2d 317,334 (Ariz. Ct. App. 1996))."

Board members owe a duty to deal fairly with the association's members. (The Restatement of the Law (3d) of Property-Servitudes 2000-2017, §6.14 Duties of Directors and Officers of an Association)

Director Defendants Laaveg, Tolk, Greig and Ellington are properly named defendants in this matter. These directors are singularly vested by statute, common law and the corporation's governing documents with the power to make management decisions and, as such, have ultimate responsibility for those decisions which includes the misplaced decisions not to comply with the records disclosure statute and not to comply with the decision and orders of the OAH and ADRE, acts of contempt.

Lawyer Defendants

At the Court's October 18, 2017 Return Hearing Re: Plaintiff's Application for Order to Show Cause, Defendant Joshua M. Bolen made appearances on behalf Defendants Terravita Country Club, Inc., Board of Director Defendants Laaveg, Tolk, Greig and Ellington, Defendant Carpenter, Hazlewood, Delgado & Bolen, LLP, Defendant Anjali J. Patel and himself, Joshua M. Bolen.

The Rules of the Supreme Court of Arizona, Rule 42, Arizona Rules of Professional Conduct, ERs 1.7, 1.8, 1.10 and 1.13 proscribe Bolen's representation of the director defendants, Bolen's law firm, Patel and himself while representing the corporate defendant, TCC, Inc., pursuant to Zemp, Kapsal, Carpenter & Hazlewood, P.L.L.C.'s September 21, 2001 General Representation agreement.

The Director Defendants and their predecessors (2005 to date) regularly proclaim in the corporation's newsletter, President and General Manager's electronic and written messages and in open board meetings that they are faithfully discharging their fiduciary duties to the corporation and to its members, representations generally clothed in "upon the advice and counsel of our lawyers (Bolen, Patel and others)."

Recent cases, gaining precedential strength, hold lawyers liable if they assist a client with fiduciary duties to others in breaching those

duties. Derivative fiduciary duty is not new in Arizona (*Fichett v. Superior Court of Pima County*, 558 P.2d 988, 990-91 (Ariz. Ct. App. 1976) nor does the concept add much to aiding and abetting found in the common law (Restatement (Second) of Torts § 876(b)).

In *Reynolds v. Schrock*, 197 Or. App. 564, 2005 WL 357633 (Or. Ct. App. 2005), the unrepresented party in a joint venture sued the lawyer's client and the lawyer claiming they were jointly liable for damages. The joint venturer for breach of a fiduciary duty and the lawyer for substantially aiding, encouraging and acting in concert with his client in that breach.

#### Lawyer Defendants, Principal or Agent

At the May 24, 2016 Return Hearing Case Dismissed (CV2016-091991 TCC, Inc. vs. Anita Bell [on her own behalf, prevailing party]), upon defendant Anita Bell's oral motion for reimbursement of costs, Judge Robert H. Oberbillig inquired of Bolen, "will your client agree to pay Ms. Bell's (prevailing party) filing fee (sic)," whereupon Bolen replied, "No."

There was not a member, officer or director, of TCC's board of directors within +/- 30 miles of Judge Oberbillig's courtroom.

On July 28, 2016 Judge Randall H. Warner entered judgment "...in favor of Defendant Anita Bell and against Plaintiff Terravita Country Club, Inc. for taxable costs in the amount of \$237.00.

TCC's failure to pay the judgment subsequently gave rise to TCC's lawsuit, CV2017-013317 pending transfer to this division, against Ms. Bell.

Bolen's "No" ostensibly on behalf of a client not present and subsequent lawsuit are evidence of the defendants' breach of fiduciary to the corporation and its members and the lawyer's aiding and abetting that breach.

#### Statement of Facts

On October 13, 2017, Defendants filed its Motion to Dismiss Board of Director Defendants Laaveg, Tolk, Greig and Ellington and on October 16, 2017 Defendants filed its Motion to Dismiss Defendants Bolen, Patel and Carpenter, Hazlewood, Delgado & Bolen, LLP.

On November 13, 2017 Plaintiff filed its Response to Defendants' Motion to Dismiss Board of Director Defendants Laaveg, Tolk, Greig and Ellington and its Response to Defendants' Motion to Dismiss Defendants Bolen, Patel and Carpenter, Hazlewood, Delgado & Bolen, LLP.

On November 29, 2017 at the Court's Status Conference, William M. Brown (Appellee) announced that a compromise offer to resolve the pending contested matters (CV2017-055475; CV2017-013317; LC2017-000307-001 DT and 18F-H1817004-REL) between the parties would be made before COB that day with a drop dead date of Friday, December 8, 2017, two weeks in advance of Brown/Bell's COE and permanent return to Texas prior to year's end.

Judge Starr ordered, "IT IS ORDERED that Appellant shall file a notice regarding the status of the parties' negotiations by December 6, 2017. At that time, if the parties have not resolved the matter, the Court will rule on the Motion for Stay." (Petitioner/Appellee's books and records request pursuant to § 33-1805)

On November 29, 2017 at 1428 hours, Plaintiff's compromise offer was sent to the appellant corporation, its board of directors (Director Defendants) and the corporation's counsel, CHD&B, LLP (lawyer Defendants). Exhibit A

On December 6, 2017 at 1537 hours, Plaintiff received via electronic mail the "appellant's" declination, Exhibit B, and Notice Regarding Status of Negotiations (sic), Exhibit C, received December 8, 2017.

On December 7, 2017, Ms. Anita R. Bell sent to the corporation's Secretary/Custodian of the Record (Director Defendant), board of directors (Director Defendants), General Manager and Director of Administration a records request pursuant to § 33-1805 for the statutorily required notice and agenda of the board's executive session meeting from on or about November 29, 2017 to December 6, 2017 identifying the relevant open meeting exception to the statute, § 33-1804 Open meetings; exceptions. Exhibit D

On December 13, 2017 at 0951 hours, the General Manager replied via electronic mail, "In response to your records request, there was no notice or agenda of an executive session meeting of the board of directors between November 29, 2017 and December 6, 2017." Exhibit E

On December 13, 2017 at 1137 hours, Ms. Anita R. Bell, in response to the General Manager's "...no notice or agenda...", inquired, 'Did the board meet in executive session on or about November 29, 2017 to and including December 6, 2017.' Exhibit F

To date, the corporation (General Manager) remains non-responsive to Ms. Bell's inquiry.

Conclusion

Defendants' habit and practice respecting its members' lawful records requests is to be either non-responsive or to respond incompletely and inaccurately, to deny the existence of the requested record or "blame" the requester for not making their request two, three or more times all the while feigning ignorance respecting unambiguous, detailed and specific records requests...decisions, conduct and actions aided and abetted by the corporation's retained counsel.

The Plaintiff and the corporation's mandatory members would like to know, as likely should this Court and the other courts/tribunals in which contested matters between these parties are pending, how, and by whom, was the December 6, 2017 declination "decision" made.

Defendants' habit and practice is to subrogate its covenant of good faith and fair dealing with its self-serving financial self-interests, derivative fiduciary liability, to the financial disadvantage of the corporation's other 1,379 members unaware of the Defendants' conduct and actions in this and far too many other matters. Exhibit G (*See Plaintiff's Response to Defendant's Motion to Dismiss Defendants Bolen, Patel and Carpenter, Hazlewood, Delgado & Bolen, LLP, 11/13/2017, pp. 4-7 [CV2017-055475]*)

Plaintiff's (Appellee) good faith efforts to resolve the contested matters between the parties (11/29/2017 compromise offer to resolve the pending [4] matters) and to consult with the corporation's counsel is/has been for naught as was Appellant's "response" to yet another Appellee/Petitioner's recent (10/06/2017) compromise offer in the matter


(CV2017-013317) before Judge Stephens (*See* 12/06/2017 Notice and Request for Expedited Consideration, LC2017-000307-001 DT, Exhibit C).

This Court is re-urged to deny Defendants' motion to dismiss Director Defendants and lawyer Defendants and finding the Defendants in contempt of the OAH's Decision and the ADRE's Final Orders, declare Defendants' contempt warrants sanctions against the Defendant, its corporate officers and the corporation's counsel for their willful failure to comply with Arizona law and their notorious defiance of OAH and ADRE's decision and orders evidencing the Defendants' disrespect for the administration of justice and the dignity of the law in the amount of \$10,000 per defendant and/or an amount determined by the Court sufficient to deter any further defiance of the State's administrative tribunals and courts; defiance intended to frustrate the administration of justice, to harass Plaintiff, to cause unnecessary litigation and unnecessary delay; to needlessly increase the costs to the members, including the Plaintiff, in furtherance of a just outcome (Defendant's 2015 total revenues, \$3,748,429 [2015 Form 990 beginning May 1, 2015 and ending April 30, 2016]).

Further, grant Plaintiff his taxable costs in bringing this matter and grant further relief as the Court deems appropriate.

Respectfully submitted this 14th day of December 2017.

William M. Brown  
6751 East Amber Sun Drive  
Scottsdale, Arizona 85266-7029



William M. Brown  
Plaintiff, Pro Se

Certificate of Service

Original filed this 14th day of December 2017 with:

Clerk, Superior Court  
Maricopa County Superior Court  
18380 N. 40th Street  
Phoenix, Arizona 85032

Copy delivered this 14th day of December 2017 to:

Hon. John R. Hannah, Jr.  
Maricopa County Superior Court  
18380 N. 40th Street, Courtroom 108  
Phoenix, Arizona 85032-1484

Copy mailed this 14th day of December 2017 to:

Carpenter, Hazlewood, Delgado & Bolen, LLP  
1400 E. Southern Avenue, Suite 400  
Tempe, Arizona 85282

Courtesy copy by electronic mail, [collinsr005@superiorcourt.maricopa.gov](mailto:collinsr005@superiorcourt.maricopa.gov),  
this 14th day of December 2017 to:

Hon. Sherry K. Stephens  
c/o Randy Collins  
Maricopa County Superior Court  
175 W. Madison Street  
Phoenix, Arizona 85003-2243

Courtesy copy by electronic mail, [riordank@superiorcourt.maricopa.gov](mailto:riordank@superiorcourt.maricopa.gov),  
this 14th day of December 2017 to:

Hon. Patricia A. Starr

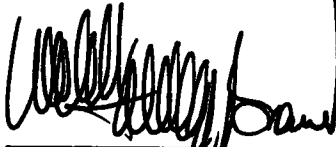
c/o Ms. Kim Riordan  
Maricopa County Superior Court  
125 West Washington, Suite 309  
Phoenix, Arizona 85003

Courtesy copy by facsimile, (602) 542-9827, this 14th day of December  
2017 to:

The Honorable Suzanne S. Marwil  
Office of Administrative Hearings  
1400 West Washington, Suite 101  
Phoenix, Arizona 85007

Courtesy copy by electronic mail this 14th day of December 2017 to:

Arizona Attorney General  
Lynette Evans Lynette.Evans@azag.gov

A handwritten signature in black ink, appearing to read "William M. Brown". The signature is written in a cursive style and is positioned above a horizontal line.

William M. Brown

Exhibit A

**william brown**

---

**From:** "william brown" <wmbs-pp@msn.com>  
**To:** <josh@carpenterhazlewood.com>  
**Cc:** <sterlinglaaveg@gmail.com>; <tolkpc@gmail.com>; <bill.tcc@cox.net>;  
<dukeofgolf@icloud.com>; <howbarte@cox.net>; <cwils99@aol.com>; <vlsau5008@gmail.com>  
**Sent:** Wednesday, November 29, 2017 2:28 PM  
**Attach:** TCC Compromise Offer Pend Matters 11-29-17.pdf  
**Subject:** Compromise Offer Pending Contested Matters: CV2017-055475; CV2017-013317; LC2017-000307-001DT and 18F-H1817004-REL

Compromise Offer:

Pending Contested Matters:

- 1) CV2017-055475: WMB vs. TCC, Inc., et al.
- 2) CV2017-013317: TCC, Inc. vs. ARB
- 3) LC2017-000307-001 DT: TCC, Inc. vs. WMB
- 4) 18F-H1817004-REL: WMB vs. TCC, Inc.

Via Electronic Mail

November 29, 2017

Terravita Country Club, Inc.  
c/o Joshua M. Bolen  
34034 N. 69th Way  
Scottsdale, Arizona 85266

Re: Pending Contested Matters [Redacted In-Part]  
CV2017-055475  
CV2017-013317  
LC2017-000307-001 DT  
18F-H1817004-REL

Board of Directors:

Terravita Country Club, Inc. ("TCC") filed a complaint for declaratory relief (CV2017-013317) on September 21, 2017 against Anita Bell, et al. The complaint was served on October 3, 2017.

On October 6, 2017, I made a compromise offer to resolve TCC, Inc.'s lawsuit against me.

On October 18, 2017, the corporation's counsel at Judge Hannah's Return Hearing Re: Plaintiff's Application for Order to Show Cause (Contempt) advised William M. Brown that the board of directors had no interest in resolving the matter pursuant to the proposed compromise.

As TCC is aware our home is under contract and scheduled to close on or before year's end (Christine Mehl, 11/28/2017 to FNTA, Escrow No. 65007637-065-AS), as such, the corporation may find resolution of the referenced matters in the best interests of the parties, the members and the corporation's insurer(s), Liberty Insurance Underwriters, Inc. and/or RSUI Indemnity Company.

Recall, in CV2016-054557, *Anita R. Bell and William M. Brown vs. Terravita Country Club, Inc.*, the corporation and its lawyers affirmed, "...the Country Club Board also appreciates that engaging in litigation on this matter would not be beneficial to its members...the Country Club will not file a responsive pleading in this lawsuit."

TCC's record of litigating certain contested matters supports the reality that litigation is notoriously time consuming, inefficient, very costly to the corporation and its members, unpredictable and fraught with emotion for some litigants, as such, and in furtherance of amicably resolving the still pending matters without further litigation, Terravita Country Club, Inc. agrees to the following:

- 1) TCC shall prepare a Settlement and Release Agreement agreeable to the parties;
- 2) In full and final settlement of the referenced litigation, TCC agrees to pay the sum of \_\_\_\_\_ in certified bank funds within ten (10) days from the date of this letter;


3) Following signing the Settlement and Release Agreement and receipt by Anita R. Bell and William M. Brown of the \_\_\_\_\_, TCC shall file a Stipulation to Dismiss each of the referenced matters with their respective courts and/or tribunal;

4) The parties to bear their fees and costs.

Recall that this board's predecessor boards (2014-2016) elected to settle the *Bianco* pickle ball litigation in March of 2016 rather than protracting its questionable defense and incurring significant additional fees and costs of litigation to the corporation and its members.

This board is entreated to resolve the referenced matters on the terms and conditions recited above, a resolution beneficial to the parties, the members and the corporation's insurer(s), Liberty Insurance Underwriters, Inc. and/or RSUI Indemnity Company.

This compromise offer is valid until December 8, 2017.



Anita R. Bell  
6751 East Amber Sun Drive  
Scottsdale, Arizona 85266-7029

Cc: Sterling J. Laaveg, sterlinglaaveg@gmail.com  
Paul David Tolk, tolkpc@gmail.com  
William H. Greig, bill.tcc@cox.net  
Michael T. Ellington, dukeofgolf@icloud.com  
Howard I. Bartelstone, howbarte@cox.net  
Catherine M. Wilson, cwils99@aol.com  
Douglas M. Saucier, vlsau5008@gmail.com

B:/ARB/Terravita/TCC, Inc./Litigation-Contested Matters/Compromise Offer/MAA/File

**Exhibit B**

**william brown**

---

**From:** "Josh Bolen" <josh.bolen@carpenterhazlewood.com>  
**To:** "william brown" <wmbs-pp@msn.com>  
**Cc:** "Theresa Laubenthal" <Theresa.Laubenthal@carpenterhazlewood.com>; "Allison Preston" <Allison.Preston@carpenterhazlewood.com>  
**Sent:** Wednesday, December 06, 2017 3:37 PM  
**Subject:** RE: Compromise Offer Pending Contested Matters: CV2017-055475; CV2017-013317; LC2017-000307-001DT and 18F-H1817004-REL

Dear Mr. Brown,

TCC cannot agree to terms of your settlement offer as presented. If you would like to make a proposal that does not involve monetary compensation and guarantees no future litigation from you, my client would be willing to review such an offer.

Sincerely,



**CARPENTER HAZLEWOOD**

**Josh Bolen, Esq.**

Direct Line: 480-427-2862

[josh.bolen@carpenterhazlewood.com](mailto:josh.bolen@carpenterhazlewood.com)

**CARPENTER, HAZLEWOOD, DELGADO & BOLEN, LLP**

Phoenix, 480-427-2800, 1400 East Southern Ave, Suite 400, Tempe, Arizona 85282

Tucson, 520-744-9480, 333 North Wilmot Rd, Suite 180, Tucson, Arizona 85711

Prescott, 928-443-0775, 1550 Plaza West Dr, Prescott, Arizona 86303

[www.carpenterhazlewood.com](http://www.carpenterhazlewood.com)

12/6/2017



The information in this e-mail is ATTORNEY-CLIENT PRIVILEGED AND CONFIDENTIAL and is intended solely for the use by the individual or entity named above. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it.

This firm is a debt collector. Any information obtained will be used for that purpose.

---

**From:** william brown [mailto:wmbbs-pp@msn.com]

**Sent:** Wednesday, November 29, 2017 2:29 PM

**To:** Josh Bolen

**Cc:** sterlinglaaveg@gmail.com; tolkpc@gmail.com; bill.tcc@cox.net; dukeofgolf@icloud.com; howbarte@cox.net; cwils99@aol.com; vlsau5008@gmail.com

**Subject:** Compromise Offer Pending Contested Matters: CV2017-055475; CV2017-013317; LC2017-000307-001DT and 18F-H1817004-REL

Compromise Offer:

Pending Contested Matters:

- 1) CV2017-055475: WMB vs. TCC, Inc., et al.
- 2) CV2017-013317: TCC, Inc. vs. ARB
- 3) LC2017-000307-001 DT: TCC, Inc. vs. WMB
- 4) 18F-H1817004-REL: WMB vs. TCC, Inc.

Exhibit C

1 **Carpenter, Hazlewood, Delgado & Bolen, LLP**  
Attorneys at Law  
2 1400 E. Southern Avenue, Suite 400  
Tempe, Arizona 85282  
3 t 480.427.2800 | f 480.427.2801  
Josh Bolen 024626  
4 Anjali Patel 028138  
Allison Preston 029346  
5 TERRAVCC.0151

6 Attorneys for Appellant

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

8 **IN AND FOR THE STATE OF ARIZONA**

9  
10 **WILLIAM M. BROWN,**

11 **Appellee,**

12 **v.**

13 **TERRAVITA COUNTRY CLUB, INC.,**

14 **Appellant.**

**Case No. LC2017-000307-001**

**Department of Real Estates No.:**  
**HO 17-17/032**

**Docket No. 17F-H1717032-REL**

**NOTICE REGARDING STATUS OF**  
**NEGOTIATIONS**

**(Assigned to the Honorable Patricia**  
**Starr)**

15  
16  
17  
18 Appellant, Terravita County Club, Inc., by and through undersigned counsel, and  
19 pursuant to this Court's November 29, 2017 Minute Entry Order, hereby provides this  
20 notice to the Court that the parties have not resolved this matter. Therefore, Appellant  
21 respectfully requests that the Court proceed with ruling on the Motion for Stay.  
22  
23  
24  
25  
26  
27  
28

///

1                   RESPECTFULLY SUBMITTED this 6th day of December, 2017.

2   Carpenter, Hazlewood, Delgado & Bolen, LLP

3  
4                   By: 

5   Joshua M. Bolen, Esq.  
6   Anjali Patel, Esq.  
7   Allison Preston, Esq.  
8   1400 E. Southern Ave., Suite 400  
9   Tempe, Arizona 85282  
10    Attorneys for Respondent

11                   **ORIGINAL** of the foregoing filed  
12                   This 6th day of December, 2017 with:

13                   The Clerk of the Maricopa County Superior Court

14                   **CONFORMED COPY** of the foregoing hand-delivered  
15                   this 6th day of December, 2017 to:

16                   The Honorable Patricia Ann Starr  
17                   Old Courthouse, Courtroom 309  
18                   125 W. Washington Street  
19                   Phoenix, AZ 85003

20                   **COPY** of the foregoing mailed  
21                   this 6th day of December, 2017 to:

22                   Arizona Department of Real Estate  
23                   State of Arizona  
24                   2910 N. 44<sup>th</sup> Street, Suite 100  
25                   Phoenix, AZ 85018

26                   The Office of Administrative Hearings  
27                   1400 W. Washington, Suite 101  
28                   Phoenix, Arizona 85007

29                   William M. Brown  
30                   6751 East Amber Sun Drive  
31                   Scottsdale, Arizona 85266  
32                   Petitioner

1 Attorney General's Office  
2 15 S 15<sup>th</sup> Avenue  
3 Phoenix, Arizona 85007

4 By: Theresa Lambert

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## Exhibit D

Via Electronic Mail

December 7, 2017

William H. Greig, Custodian of the Record  
Terravita Country Club, Inc.  
34034 N. 69<sup>th</sup> Way  
Scottsdale, Arizona 85266

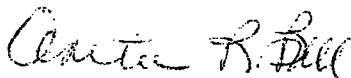
Re: Records Request

Custodian of the Record:

Pursuant to the Planned Community Statutes please provide the following association record(s):

Notice and agenda of an executive session meeting of the board of directors containing information reasonably necessary to inform the members of the matter(s) to be discussed or decided from on or about November 29, 2017 to December 6, 2017 identifying the relevant open meeting exception of the statute, Open meetings; exceptions.

If my request is denied in whole or part, you are requested to justify all deletions by reference to specific exemption of the statutes. You are expected to release all segregable portions of otherwise exempt materials. I, of course, reserve the right to appeal your decision to withhold any requested information.



Anita R. Bell  
ARB/dl

B:/WMB/Terravita/TCC, Inc./LP/File

**Exhibit E**

**william brown**

---

**From:** "Tom Forbes" <tomf@terravita.com>  
**To:** "william brown" <wmbs-pp@msn.com>  
**Cc:** "Bill Greig" <bill.tcc@cox.net>  
**Sent:** Wednesday, December 13, 2017 9:51 AM  
**Subject:** RE: Records Request

Ms. Bell,

In response to your records request, there was no notice or agenda of an executive session meeting of the board of directors between November 29, 2017 and December 6, 2017.

**TOM FORBES**

General Manager

Terravita Country Club

34034 North 69<sup>th</sup> Way | Scottsdale, AZ 85266

Direct 480-437-9285 | Mobile 480-299-9311

[www.terravita.com](http://www.terravita.com)

[tomf@terravita.com](mailto:tomf@terravita.com)



**From:** william brown [mailto:wmbs-pp@msn.com]  
**Sent:** Thursday, December 7, 2017 12:41 PM  
**To:** bill.tcc@cox.net  
**Subject:** Records Request

Records Request

12/13/2017

Exhibit F

**william brown**

---

**From:** "william brown" <wmbs-pp@msn.com>  
**To:** <tomf@terravita.com>  
**Cc:** <bill.tcc@cox.net>  
**Sent:** Wednesday, December 13, 2017 11:37 AM  
**Subject:** Re: Records Request

Did the board meet in executive session on or about November 29, 2017 to and including December 6, 2017?

s/Anita R. Bell

----- Original Message -----

**From:** Tom Forbes  
**To:** 'william brown'  
**Cc:** 'Bill Greig'  
**Sent:** Wednesday, December 13, 2017 9:51 AM  
**Subject:** RE: Records Request

Ms. Bell,

In response to your records request, there was no notice or agenda of an executive session meeting of the board of directors between November 29, 2017 and December 6, 2017.

**TOM FORBES**

General Manager

Terravita Country Club

34034 North 69<sup>th</sup> Way | Scottsdale, AZ 85266

Direct 480-437-9285 | Mobile 480-299-9311

[www.terravita.com](http://www.terravita.com)

[tomf@terravita.com](mailto:tomf@terravita.com)



---

**From:** william brown [mailto:wmbps-pp@msn.com]  
**Sent:** Thursday, December 7, 2017 12:41 PM  
**To:** bill.tcc@cox.net  
**Subject:** Records Request

Records Request

**Exhibit G**

Terravita Litigation: Seventy-two (72) lawsuits thru September 21, 2017  
Maricopa County Civil Court Information

<http://www.superiorcourt.maricopa.gov/docket/CivilCourtCases/caseSearch.asp>

Since incorporation, October 8, 1993, Terravita Community Association, Inc. has been a litigant in the following lawsuits beginning with TCA v. Wussow on January 9, 1997 thru September 21, 2017.

TCA, Inc.: Ekmark & Ekmark, L.L.C. (CHD&B, PLC)

CV1997-000435 TCA v. Adolph H. Wussow  
CV1998-002987 TCA v. Margaret Rowland  
CV2006-051448 WMB v. TCA Civil-books and records  
CV2007-007364 TCA v. Rosemarie Burke  
CV2008-013449 Jean Piserchia, Robert Ball, John Abbett, Stephanie Wolfe, Jo Ann Sharp v. TCA/TGC  
CV2009-090674 WMB v. Louise A. Harkinson, TCA, CCMC Civil – defamation, dismiss WMB  
CV2009-010695 TCA v. Helene Joy Karlin  
CV2009-010962 TCA v. Stephanie Barcello Leon  
CV2009-010963 TCA v. Tamara M. Davis  
CV2010-052446 TCA v. AB/WMB; Superior Court; iron pyrite, 1 of 800+ similarly situated HO's sued  
CV2013-050300 TCA v. Helene Joy Karlin  
CV2013-051832 TCA v. Mary Ann Lowther  
CV2013-053163 TCA v. Yolanda C. Pena  
CV2014-053595 Bianco v. TCC/TCA  
CC2006-184083 Brian W. Blacklock v. TCA, CCMC  
TJ2010-001810 TCA v. Judith A. Moore  
TJ2010-015745 TCA v. Tamra M. Davis  
LC2007-000588 TCA v. WMB; DFBS/OAH/Superior Court; not action; no atty fees  
LC2012-000699 WMB v. TCA; DFBS/OAH/Superior Court/Court of Appeals  
1 CA-CV 14 -4555 WMB v. TCA, Court of Appeals Decision 7/30/2015

TCC, Inc. (BMCC, Inc.) and TGC, Inc. (BMGC, Inc.) were created out of a class action settlement with the Del Webb Corporation on May 28, 1998 and have since been litigants in the following lawsuits:

TCC, Inc. (BMCC, Inc.): Carpenter, Hazlewood, Delgado & Bolen (Wood), PLC

CV2001-021928 Christopher Meleshkov v. TCC  
CV2002-002925 Maureen Hess v. TCC  
CV2002-004639 TCC v. Helene Joy Karlin  
CV2003-018588 TCC v. Deborah G. Aksamit  
CV2003-021851 Margaret Thayer v. TCC  
CV2004-002882 TCC v. Shirley E. Omalley  
CV2004-004867 TCC v. NLP Systems Limited  
CV2004-008824 TCC v. Helene Joy Karlin, City of Scottsdale  
CV2006-015717 TCC v. NLP Systems Limited  
CV2009-036870 TCC v. Helene Joy Karlin

CV2011-080089 TCC v. Helene Joy Karlin  
 CV2011-093260 TCC v. Joseph D. Meloni  
 CV2012-007949 QED, Inc. v. TCC  
 CV2012-018573 TCC v. Gary C. Wright, Pamela Hazen  
 CV2013-011608 TCC v. Helene Joy Karlin  
 CV2013-053198 Helene Rand v. TCC  
 CV2014-053595 Bianco v. TCC/TCA  
 CV2016-091991 TCC, Inc. v. Anita Bell  
 CV2016-054557 ARB/WMB v. TCC, Inc.  
 CV2017-055475 WMB v. TCC, Inc.  
 CV2017-013317 TCC, Inc. v. Anita Bell (filed 09/21/2017)  
 CC2009-049122 Capital One Bank v. TCC  
 CC2013-051050 ABell v. TCC; Small Claims Court/Superior Court/Court of Appeals; pending  
 TJ2007-007317 Arrow Financial Services, LLC v. TCC  
 TX2002-000128 BMCC v. Maricopa County  
 TX2002-000431 BMCC v. Maricopa County  
 TX2003-000149 BMCC v. Maricopa County  
 TX2004-000889 BMCC v. Maricopa County, Arizona State Department of Revenue  
 TX2007-000315 TCC v. MC, MC Attorney, MC Assessor, MC Board of Supervisors, ADOR  
 TX2007-000446 BMCC v. Maricopa County  
 TX2011-000847 BMCC v. Maricopa County  
 LC2017-000307 TCC, Inc. v. WMB  
 DFBS 10/08/2015 ABell v. TCC  
 17F-H1716005-REL WMB v. TCC, Inc.  
 17F-H1717032-REL WMB v. TCC, Inc.  
 18F-H1717041-REL WMB v. TCC, Inc.  
 18F-H1817004-REL WMB v. TCC, Inc.

TGC (BMGC): Moyes Storey/WJSims III

CV2003-021851 Margaret Thayer v. TGC, Aaron Michaelson, Joan Burnett, Larry Ray, Andy Orzel  
 CV2004-007779 Charles Mason v. TGC  
 CV2004-007845 Alegis Group LP v. BMGC  
 CV2008-013449 Jean Piserchia, Robert Ball, John Abbett, Stephanie Wolfe, Jo Ann Sharp v. TGC, TCA  
 CC2007-165446 James Farmer v. TGC

(PP) - Prevailing Party (PS) - Pro Se \$35k (Retention)

TCA & TCC's Retention (D&O deductible) has ranged from \$35,000 to \$75,000 in these matters (2011-2017)

- CV2006-051448 WMB (PP/CLDeSz) v. TCA (books & records...TCA's atty fees, UNK)  
CV2009-099674 WMB (PS) v. TCA/LHarkinson (defamation/withdrawn... TCA's atty fees, UNK)  
CV2010-052446 TCA v. AB/WMB (PP/SWC) (stucco/iron pyrite, TCA sued 1 (AB/WMB) of 800+ similarly situated homeowners... TCA's atty fees, UNK)  
07F-H067035-BFS WMB (PP/PS) v. TCA (proxies/voting delegates... TCA's atty fees, UNK)  
LC2007-000588 TCA v. WMB/DFBLS (PP/PS) (proxies/voting delegates... TCA's atty fees, UNK)  
12F-H1212014-BFS WMB (PS) v. TCA (books & records...TCA, \$21,265+)  
LC2012-000699 WMB (PS) v. TCA/DFBLS (books & records...TCA, \$36,079.65+)  
1 CA-CV 14-4555 WMB (PP/PS) v. TCA (Court of Appeals, books & records/Atty Fees...TCA's atty fees, \$64,855.90+); TCA's atty fees, \$122,200++; LIU (D&O) reimbursed TCA +/- \$8,800; members, +/- \$113,400)  
11F-H1112007-BFS WMB (PP/PS) v. TCC (books & records...TCC, \$13,600++)  
CC2013-051050 AB/WMB (PP/PS) v. TCC (Small Claims Court, \$261.33 country club account dispute; WMB, +/- \$5,000 supersedeas bond; TCC, \$28,500++ small claims; LCA/Court of Appeals TCC's atty fees UNK)  
DFBLS 10/08/15 AB (PS) v. TCC (withdrawn... TCC's atty fees UNK)  
CV2016-091991 TCC v. AB (PP/PS) (AB \$237 Judgment/Lien TCC's 2 parcels...TCC's atty fees UNK) \$35k  
CV2016-054557 AB/WMB (PP/PS) v. TCC (declaratory judgment...TCC's atty fees UNK) \$35k  
CV2017-055475 WMB (PS) v. TCC (pending, filed 09/05/2017, contempt) \$35k  
17F-H1716005-REL WMB (PP/PS) v. TCC (CV2017-055475 contempt... TCC's atty fees UNK) \$35K  
17F-H1717032-REL WMB (PP/PS) v. TCC (08/23 TCC appeal... TCC's atty fees UNK) \$35k  
17F-H1717032-REL WMB (PP/PS) v. TCC (08/23 TCC appeal... TCC's atty fees UNK) \$35k  
LC2017-000307 TCC v. WMB (pending, TCC appeals 17F-H1717032...TCC's atty fees, unlimited)  
18F-H1717041-REL WMB (PS) v. TCC (pending, hearing on merits, 09/22) \$35k  
18F-H1817003-REL WMB (PS) v. TCC (pending, filed 08/28, violation § 33-1803(E)) \$35k

19 Contested Matters (71 TCA/TCC/TGC Matters thru September 5, 2017 [See attached]):

Administrative Tribunals; Small Claim Court; Justice Court; LCA (Lower Court of Appeals); Superior Court and the Arizona Court of Appeals

WMB/AB Prevailing Party	11 (85% - 11/13 decided matters; 79% [TCA-TCC] - 56/71)
Case/Petition Withdrawn	2
Pending Case/Petitions	4
TCA/TCC Prevailing Party	2

All TCC's members have a legal right (§ 33-1805) to TCC's books and records...records of account re TCC's legal costs...think, attorneys' fees UNK.