



THE OWNERS' VOICE

EMAIL: org@mcc-owners.org

September/October 2021 Issue 1

Alert: An investigation into the source of the emails from so-called “Nancy Smith,” Ourmccisinbigtrouble@aol.com, Bestmccclifestyle@gmail.com, lsadoramay12@gmail.com, and more, link back to Elena Mondragon. The P.O Box address on the bottom of many of the emails is her **business P.O.** Box at the U.S. Post Office on Glencoe Ave. She is not affiliated with The Owners’ Group.

MCC LITIGATION UPDATE

As stated in our last Owners’ Voice Newsletter, we are bringing you updates on the many lawsuits which affect all of us. The inability to refinance or obtain a reasonable loan is specifically tied to MCC’s unusually high number of lawsuits, and is a detriment to every homeowner. Obviously, the high cost of litigation could be better spent to help fund MCC’s long deferred maintenance and reduce our potential assessments.

In the past, homeowners received periodic litigation updates from one of our law firms. Since we no longer receive them, The Owners’ Voice will provide factual information available through public records. This issue will focus on the latest rulings on two of MCC’s oldest and most costly lawsuits.

1. Mondragon vs. Kelliher, et al. Case # 18SMCV00467 (The Derivative Case AKA Farag, et al. vs. Peter Bergman, et al.)

December 2018: Mark Farag, Elena Mondragon and 5 additional homeowners (Plaintiffs) filed a lawsuit against then-board members Neil Kelliher, Peter Bergmann, and Louise Pesce, claiming “(1) Breach of Fiduciary Duty; (2) Breach of Contract; and (3) Accounting”. California Corp. Code 5047.5(a) **requires** volunteer Board members of non-profit corporations to be indemnified; meaning all of their litigation costs must be paid by the Association. From the beginning, the defendants attorneys believed the lawsuit was baseless.

October 2019: The suit was amended when 6 of the plaintiffs withdrew. Mondragon continued the law suit as the sole plaintiff. Her amendment was filed as “Elena Mondragon on behalf of COA.” She also added 5 more defendants, directors Donna Bryce and Lahdan Ramati, homeowner Mahvas h Rahmati (Lahdan Rahmati’s mother), MCC’s former management company, Seabreeze, and Essex. Due to contractual and other legal obligations, Seabreeze and Essex are indemnified by the Association. Mahvash Rahmati is not indemnified, so Lahdan Rahmati, an attorney, represented her.

February 2, 2021: The Court struck down the charges against Kelliher, Bergmann, Pesce, Bryce, Lahdan and Mahvash Rahmati.

September 9, 2021: the Court ruled that per Civil Code of Procedure, “a prevailing defendant on a special motion to strike is entitled to recover his or her attorney’s fees and costs.” This provision is for the purpose of reimbursing prevailing defendants for expenses they had to incur to extricate themselves from a baseless lawsuit.

Mondragon was ordered to pay Defendants’ legal fees of **\$55,609.74**, plus **\$9,000** for Lahdan Rahmati, Mahvash Rahmati’s separate lawyer. Observers report that Ms. Mondragon’s angry outburst in court after the judge’s decision resulted in her being escorted from the courtroom. [See Litigation, Page 2]

Next Owners’
Zoom Meeting

Thursday
October 14th
@ 7 p.m.

You will receive a
Zoom Invitation

ARTICLES

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MCC LITIGATION UPDATE CONTINUED

These costs are only the attorney's fees after the dismissal of the charges against 6 of the 8 defendants. The cost of this frivolous lawsuit to us, the homeowners, is much higher. For one, this does not include the insurance deductible of \$75,000 (at the time) that had to be paid.

Mondragon has appealed the judge's decision which will cost COA even more money for court costs. According to lacourt.org, 148 separate case documents have been filed in this almost 3 year old case. *Every action has and continues to cost us in legal fees.*

Footnotes:

- 1) Mondragon's long-time attorney has withdrawn from the case claiming she did not pay his bills and "there was a breakdown in communication between counsel and Plaintiff, which has rendered it unreasonably difficult to carry out the representation effectively." She has hired another attorney to appeal the award for payment of the 6 defendant's attorney's fees.
- 2) On October 26, 2018, the Association filed a cross complaint to Mondragon's Derivative lawsuit. The trial is set for July 5, 2022.
- 3) In a different suit filed by Mondragon in February 2018 against 7 other prior board members, two MCC employees, and a homeowner, charges were similarly dismissed and she was ordered to pay their legal fees. The Association successfully levied her bank account to obtain the funds.
- 4) Over the last few years her many groundless lawsuits and other actions have cost the Association hundreds of thousands of dollars.

2. Marina City Club Condominium...vs Cynergy Group Intl. LLC Case # SC129264 (Also known as Penthouse 29 Lawsuit)

On May 11, 2018, the Association filed a lawsuit against Cynergy Group and Mark Farag as owners of Penthouse 29. The lawsuit was soon amended to include Global Network Investments, LLC as the new owner. The Association asserts that Penthouse 29 has a large planter on it's balcony that caused water leakage and damage to a neighbor's condo and Farag will not allow the Association access in order to repair the planter. The causes of Action are Breach of Governing Documents: Injunctive Relief; Breach of Governing Documents: Monetary Relief; and Private Nuisance.

Currently on lacourt.org, there are 113 pages of separate case documents on this case, including Oppositions, Answers, Motions, Notices, Declarations, Orders, Discovery, Trial dates, Postponements, Settlements (that fell through), Subpoenas, Case Management, Various Hearings, and Attorney Substitutions.

On January 7, 2020, Farag's attorney (also Mondragon's former attorney) asked the court to relieve him of the case claiming problems with bill payment and difficulty working with his client.

On August 5, 2021, Farag's next attorney also asked the Court to be relieved of the case for the same reasons. The latest court action sets a hearing scheduled for 12/16/2021. Farag has hired yet another new attorney.

After more than 3 years, the case still goes on, costing us more money.



MCC Owners' Voice

To make Marina City Club the best it can be!

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Our new logo is

From the MCC Owners' Group
(Not affiliated with the MCC Board)



designed to differentiate The Owners' Group communications from incendiary and misleading emails sent by Astrosurfers who are damaging MCC

FACT VS FICTION



This photo was recently sent to homeowners by “bestmccclifestyle@gmail.com” with the caption: **“THE DESTRUCTION OF MCC RESTAURANT”**. Of course, this is **NOT** the MCC restaurant. But it is a perfect example of misinformation in emails that are Completely Out of Context, Grossly Distorted, or Fabricated Lies. They are designed to cause anger and fear in our community and written by a few people who hide their real names, yet preach **“transparency”**.

These emails are so ridiculous they would be funny if they didn’t cause so much disruption for our community and a Board working to better MCC. Board members and other volunteers must constantly endure false attacks, threats, and even lawsuits.

Here are a few of the emails. The fiction is in red with “quotes” copied directly from the source.

Several of the emails claim that certain Board members, and other volunteers are in cahoots with Essex to “Screw” homeowners, and some of these homeowner/moles are getting money and “helping people to rent places with no money.” These wild charges all fall into the **Fabricated Lies** category.

Per “bestmccclifestyle@gmail.com: “Today, Sandra encumbered COA for a \$10 million loan for the building “manicure... “Her words, ”It would be only \$75,000 a month”. This is an attack on Board President, Sandra Clark, and **Completely Out of Context!** She did not “encumber” COA for a \$10 million dollar loan or say it would *only* be \$75,000 a month. At a recent open Board meeting she talked about what certain deferred maintenance *could* cost. This email criticizing her clearly shows the writer does not understand State HOA law or MCC’s governing documents. The Board’s fiduciary duty is to explore all possibilities for the betterment of MCC. In addition to Board approval, a loan of that magnitude would require a **full homeowner membership vote** or a court order for emergency situations.

Several emails claim Board members are “ignorant” and “have no knowledge” of condo law, MCC bylaws or finances. It is clear by the convoluted logic, incoherent presentation, and **Fabricated Lies** in these emails that the person writing them fails to comprehend MCC’s complex legal and financial matters. After many years we are FINALLY getting detailed financial reports explained at Board meetings!!

Per Bestmccclifestyle@gmail.com: “One MCC owner Expert computer consultant. We found the installation of secret computers all over MCC, could be the spying of our MCC computer business and phones.?” We were told this member lives in an owned ESSEX unit and gets paid by HOA funds, and possible a free office at Lobby, his words “I am not working for free.” This is getting too weird. It is a good example an innocent thing being **Grossly Distorted!** The person accused of being paid by Essex to spy is an owner who volunteers, *FREE*, his time and computer expertise to assist with certain MCC IT projects. He owns his condo and also pays full rent for one of the office spaces in the Center Tower. It is unfortunate that his efforts to help the Association save money have resulted in personal attacks against him.

Per Bestmccclifestyle@gmail.com: “The stairwells to our roofs....are now locked down, and locks have been installed for the first time in 30 years.” Another sliver of truth taken **Completely Out of Context!** The stairwell to our roof is **not** locked. A door alarm (and camera) was installed because it is required by MCC’s insurance company. The alarm will be activated when someone opens the **unlocked** (per safety code) door, setting the alarm off. The keypad is for Property Services to go to the door and enter a code to stop the alarm from sounding. The person who wrote the email doesn’t bother to even try to get to the truth by simply calling our General Manager.

[See **Fiction**, Page 4].

FACT VS FICTION

Per Bestmclifestyle@gmail.com: “A FREE FOR ALL ON THE ASSOCIATION’S DIME...Kiddy Land is being used as a patio banquet facilities for outsiders. Monterey Room is being used as a banquet hall....Why are non members allowed to use Kiddyland....who has authorized these parties.... They are bypassing our restaurant, the Committees, the Association....Why does the board has to spend more of our money to subsidize these outside parties.” **Grossly distorted!** A quick call to the management office would have answered any questions. For years, owners have always been able to rent the Monterey Room, which is rented through the management office for meetings and social events. This has nothing to do with the Restaurant, our COA Board or anyone/thing else. An MCC owner (thus a member) rented the Monterey Room for an event. That group found an emergency exit that opens to Kiddy Land and moved their event outside to the play area without advising management. This was a violation and the owner was immediately cited and called to a hearing where the Board has the discretion to assess a fine. The fine can be taken from the event security deposit.

“Nancy Smith” writes: “What Champlain experienced before the collapse looks like exactly what our buildings are experiencing.” **Grossly Distorted!** The most damaging were the emails from “Nancy Smith” that frightened and panicked many MCC residents by inaccurately linking Florida’s condo collapse tragedy to maintenance issues here. That misrepresentation was called into a KCBS TV news correspondent who reported it in front of MCC’s towers. The story spread to news reports all over the country. LA County quickly responded, inspected and found that while repairs need to be done, there was nothing requiring emergency action. County Supervisor Janice Hahn appeared on a local news station and stated that “only typical maintenance issues were found”. The LA Times noted that “rumors were flying” and one unnamed resident was quoted as saying, “I am not scared. It was just two idiots trying to get on TV.” By that time the damage was done including complaints about difficulty refinancing and units falling out of escrow.

“Looting our MCC Restaurant Treasury...” Continuous Looting of COA Treasury” ...”Is somebody getting a “sweet deal” to force C.O.A. into this loan.” **Fabricated Lies!** The Board is constantly being accused of “Looting” — i.e. taking advantage of a situation to steal, thieves, criminals, getting paid off to betray condo owners, embezzling COA or Restaurant funds. These charges are unsubstantiated and defamation.

These are just a few of the emails that up until recently were being sent to residents almost daily. Many recipients are rejecting the false, vicious attacks and wild accusations against owners trying to serve their community to make MCC a better place for everyone.

WHAT’S NEW FOR THE COMMUNITY?

The website, <https://mcc-owners.com> is seeing a bit more activity. The website has a goal of building a sense of community at the MCC. Anyone with an interest in the MCC is welcome to participate. Thank you to Kyle Lerner who has been very helpful in getting new things incorporated.

If you need information about a meeting or event, you should find it on the Meetings/Events link.

We encourage people to visit the Neighbors page (under Community) and send in their information so it is easier for people to learn a bit more about each other.

The library in the cafe dining area is being splendidly maintained by Valerie Sayles and Jacqueline Klein. Fred Krogh has posted a review of a book he read on a recent vacation, with the goal of encouraging others to do the same. This can be found under the Library link under Community.

There is a new link on the website called Activities, under Community, where one can post things you might be interested in starting as an activity.

We would like to call to the attention of Board Members the COA Issues link as from time to time people post things that the board may want to be aware of.

As always from the home page you can click on Latest Posts or Recent Comments (just under the picture of the towers) to set the latest items. **We’d love you to contribute!**