



108 N. 11th Ave.,

Unit #1

December 2, 2016

Glastonbury Board of Directors

Sent via email:

Dear Board:

Yesterday you sent me a list of questions that arose at your last meetings. At that meeting, you had to address an issue with your annual meeting, particularly the election of the board. I have cut and pasted your questions. I have answered them below.

1. Alan Shaw is the Director of the Business Office for Church Universal and Triumphant, Inc. The GLA does not have a written statement that he is the designated representative to cast these ballots. There is an historical practice of Alan S. casting ballots for CUT for a number of years. Are these votes for CUT disqualified? Should there be a new election and throw out the results of the Nov 12 vote and the Nov 26 recount? **No.** Alan is the agent for the corporation. Unlike a person who is casting a proxy for another person, which that designation is required to be in writing, a person casting a vote on behalf of their corporation is not casting a proxy vote. They are the designated person *within* the corporation who is casting the vote. Therefore, there is no need for a written designation. I am sure that you have a few properties within your subdivision owned by trusts, corporations and LLCs. None of these need a written designation unless someone **OUTSIDE** the entity is casting the vote.
2. Regarding Candidate Ed D., the GLA does not have a notarized or a signed statement from TP Inc. that he is their designated representative, only a typed statement from TP Inc. President Clare P., that Ed is representing TP Inc. and the son of Clare Parker. Ed has served on the GLA board for 2 years and was just reelected on Nov 12. Does this lack of a notarized statement disqualify Ed from serving as a newly reelected board member? Should the next candidate with the most votes take Ed's place on the board? Once again, the non-profit act does not require any type or written statement from a corporation. The applicable law is agency law. Basically, a person is allowed to hold themselves out in the public as an "agent" of the entity (corporation, LLC, etc.) The public (i.e. you) are allowed to rely on those representations. Imagine a world where everyone who is authorized by a corporation had to run around with written, notarized authorization to act on behalf of the corporation. Nothing would ever get done. Therefore, agency law developed. If a person is acting with the apparent authority of the corporation then that is all you need until the corporation tells you otherwise.

3. What kind of documentation should a representative of a corporation or trust submit to qualify him/her to be a Board member? Nothing. You have the right to rely on the verbal representation of the person who says they are the agent unless you have good cause to doubt their representation. In the case of Alan, he is obviously the representative.
4. Rudy (treasurer) paid 65 cents of his own money on Nov 12 to cover a shortfall of 65 cents from the \$55.00 check mailed in by Kathleen R., to cover properties SG 51-B, C, & D. Rudy also paid 20 cents of his own money to cover a check from Herb Dawson on properties NG 35-A and NG 38-A. Is this a benevolent donation or fraudulent behavior? Does this action disqualify the landowner's votes? That would depend on his intent. Helping a neighbor out with a few dimes is not in and of itself a fraudulent act. It would seem that the checks were made out in good faith and some just forget the cents (happens to me all of the time. My clients forget the cents and just pay the dollar amount.) Fraud is a crime of intent. In order to commit fraud, you must intend fraud. Therefore, without knowing more, I can't weigh in.
5. Is the recounting of ballots on Nov 26 a recount or a new election? I am not sure what you are getting at, but it would just be a recount. You had a legitimate challenge to the vote and were asked to recount. Thus, you did so. Since the ballot in question was retrieved from the group of ballots and counted for its correct number of votes and no new ballots were added, is this a true recount? Yes. The results of the recount show that one proxy ballot was not counted on Nov 12. Do we go with the numbers of the recount on Nov 26 and use these numbers as the final count? Yes. That is the point of recount.
6. Candidate George M withdrew himself via email on Nov 16. This was after the annual election on Nov 12 and before the recount on Nov 26. Does this fact alter the results of the recount? That is an interesting question, but no, it does not. The fact that he pulled out after, does not effect the vote. The vote is what it was on that date. A recount simply recounts the votes. Let me try an extreme example. Let's say Hillary Clinton dies tomorrow. Let's say there is a recount in the swing states and it turns out she won. Does the fact that she is dead mean Donald Trump gets all of her votes? No, Hillary's vice president would take office for her. George can step down. However, his votes still count for his candidacy. Does this automatically disqualify George and allow the candidate with the next highest votes to take his place? Or is a board vote required to acknowledge George's withdrawal as a candidate and taking the next person with the highest vote to serve on the board? Does the Board have the right to chose the candid? You would default to your bylaws, just as in the above example we default to the Constitution. Thus, the Board would select the replacement. Now, it does not say how you select the replacement. You could choose to send it back to the members for a second vote. That might be the most politic thing to do, but it is up to the Board. Argument can be made that all who voted for George would be disenfranchised. Would this be a reason to hold an entire new election for South Glastonbury? You want your members to have a say and feel comfortable with the outcome. If they are asking for another vote to fill his space, in these circumstances it might be appropriate. The worry is that you do not set a precedent for election everytime there is a vacancy. If you

choose to hold another election, make sure that your minutes reflect the unusual circumstances on this case, and that because of those, you are doing a new vote in this case, and this case alone.

7. Question of Bylaws, Article 6 Section D. Election and Term of Office. *“Directors shall be elected for terms of two years to fill any open positions. The members of the Board shall hold office until their respective successors have been elected by the Members and duly qualify.”* The historical GLA practice has been to allow existing BOD members to fulfill their duties until their successor has been seated on the board at the next monthly board meeting. Example, Rudy, our treasurer, is still the acting treasurer even though he was not a candidate for reelection. If there needs to be a new election because of the concerns raised, will Rudy continue for a longer period of time as Treasurer until his successor is seated? I need a little more information before I can answer this. A lot of Boards hold a meeting immediately following the election to elect officers. How does your selection of officers happen?

I look forward to meeting with you on Monday. I hope this helps with our conversation at the meeting.

Sincerely,

Alanah Griffith