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June 20, 2025

VIA EMAIL

Aspen Brook Townhomes Homeowners Association, Inc.
c/o Altitude Community Law
Attn: Amanda Ashley
555 Zang Street, Suite 100
Lakewood, CO 80228-1011
Email: aashley@altitude.law

Re: Demand for retraction of misleading statements on 02/03/2025

Dear Aspen Brook Townhomes Homeowners Association, Inc.:

Our firm represents Aspen Brook Townhomes Homeowners Association, Inc. (Aspen Brook) member Daniel Parcher (“Mr. Parcher”). Mr. Parcher, along with 2 other homeowners in Aspen Brook (together, “1-Night Landlords”), have previously rented their premises out on a short-term basis for periods of 1 night at a time.

At a Board meeting on February 3, 2025 to discuss a proposal to restrict the short-term rentals of Aspen Brook properties, the Board adopted a position which was not supported by facts. This included assertions that short-term rentals of 1 night were associated with increased rule violations, and that these rentals had lowered the character of the neighborhood and that the Aspen Brook members who rented out their properties for single nights were motivated by greed.

The preparation for this meeting included a documented agenda for the 02/03/2025 membership meeting which states the findings of the Board for that meeting, available for

public access by the membership of Aspen Brook, and which states: “I think it is safe to say that all newly elected Board members share similar views on this matter, and all perceive a very strong correlation between transient rule violations and one-night rentals. Seeing homes for rent that can be booked today - as late as 11PM - with check-in opportunities as late as 2AM, causes us to believe that no adequate education on our HOA CCR's and Rules is possible and therefore results in transient rule violations.” (Agenda for Aspen Brook HOA board meeting Feb. 3, 2025, ¶ 10, attached and incorporated hereto as **Exhibit 1**). Additionally, the Draft Minutes for the 02/03/2025 Board meeting state: “Mark initiated an open discussion on short-term rentals and transient rule violations,” implying a correlation between the two activities. (Draft Board of Directors Meeting Minutes February 3, 2025 at 5:00 p.m. MDT, ¶ 9, attached and incorporated hereto as **Exhibit 2**).

As there are only 3 homes for rent in Aspen Brook which rent for single nights, there can be little doubt that the three 1-Night Landlords were being referred to by these false and prejudicial remarks.

Subsequent to this meeting, Mr. Parcher requested on March 2, 2025, pursuant to Aspen Brook’s records retention and access policy, a copy of all documented complaints regarding “transient rule violations” which would support the Board’s assertions that a very strong correlation exists between such violations and single-night rentals. Mr. Parcher was informed that such documented complaints do not exist.

The Board’s “perception” of a very strong correlation between transient rule violations and one-night rentals is therefore completely unsupported by any record, and an egregious misrepresentation of facts to the Aspen Brook members. Presenting these statements in writing in the agenda, stating them to members at the meeting, and recording such statement in the meeting minutes, without retraction, has resulted in the completely inaccurate, undocumented and prejudicial impression that the rental activities of the 1-Night Landlords have caused a decrease in the quality of life in Aspen Brook, without any evidence to support such statements.

Mr. Parcher, utilizing the alternative dispute resolution process available to him pursuant to Aspen Book’s policy, met with the Board on April 29, 2025, presented the above-described information to the Board, and made the reasonable request that the Board retract its previous untrue statements. The Board has refused to do so.

Pursuant to its Articles of Incorporation, Aspen Brook Townhomes Homeowners Association, Inc. is a non-profit Colorado Corporation. With respect to the standard of conduct for board members of a Colorado non-profit corporation, Colorado Revised Statutes § 7-128-401(1) (General standards of conduct for directors and officers) states that:

“Each director shall discharge the director’s duties as a director, including the director’s duties as a member of a committee of the board, and each officer with discretionary authority shall discharge the officer’s duties under that authority:

- (a) In good faith;
- (b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances;...

Communicating to the Aspen Brook membership, without any supporting evidence, that there is a “very strong correlation between transient rule violations and one-night rentals” is a flagrant violation of the Board’s duty of good faith, and grossly negligent. The Board was clearly aware that it didn’t possess records of such violations (since such records – by the Board’s own admission – do not exist), and the Board’s statement associating the 1-Night Landlords’ rental activities with such violations by their renters was therefore not made with “the care an ordinarily prudent person in a like position would exercise under similar circumstances.” This is a violation of Colorado law and may open the Board to severe liability.

Additionally, the Colorado Court of Appeals holds that: “A fiduciary has a duty to deal with utmost good faith and solely for the benefit of the beneficiary. *Destefano v. Grabrian*, 763 P.2d 275 (Colo. 1988). A fiduciary’s obligations to the beneficiary include, among other things, a duty of loyalty and a duty to deal impartially with beneficiaries.” *Woodmoor Improvement Ass’n v. Brenner*, 919 P.2d 928, 933. In this case, the Aspen Brook members (including Mr. Parcher) are the beneficiaries, and the Board, by making its unsupported, negligent and prejudicial statements, has violated its duty of loyalty to Mr. Parcher.

We therefore demand that the Board issue a formal written retraction to the membership of its previous statement regarding the correlation between transient rule violations and one-night rentals (and include it in the meeting agenda and minutes of the next Board meeting), and adopt and publish the statement to the membership proposed by Daniel Parcher which states:

“During the February board meeting, the Board incorrectly stated that ‘we see a correlation between one night rentals and transient rule violations.’ The Board is not in possession of any evidence that one-night rentals result in rule violations. We apologize for confusion on this issue.”

If the Board refuses to retract its unsupported and prejudicial statements, we will pursue all available legal remedies.

We look forward to hearing from you as soon as possible, but in any event no later than June 26, 2025.

Best regards,

BAILEY & PETERSON,
A Professional Corporation



Matthew B. Taylor

cc: Daniel Parcher

Encl.

Exhibit 1

Exhibit 2

**Agenda for Aspen Brook HOA board meeting
Feb. 3, 2025
(approximately 2 hours)**

1. Homeowner forum. (15 minutes)
2. Officer election & designation of terms (one term expires on 12/31/2025, two terms expire on 12/31/26, three terms expire on 12/31/27).
ACTION REQUIRED: Appoint officers and designate terms for each newly elected Director. (10 minutes)
3. Board update as appropriate from the incumbent Director.
ACTION RECOMMENDED: Tiffany to update the new Board as she deems appropriate. (See Item 11 below for consideration.) (15 minutes)
4. Conduct of Meetings Policy review & revision. Our Conduct of Meetings Policy stipulates that "1.c.3: Written ballots shall be counted by a neutral third party, **excluding the Association's managing agent or legal counsel...**"
ACTION RECOMMENDED: Revise the Conduct of Meetings policy to clarify that the managing agent and attorney may count ballots. (5 minutes)
5. Review of final 2024 expenses and financial position.
ACTION RECOMMENDED: Present year-end financials. (I volunteer to pull together a summary document of 2024 actual expenses and our year-end financial position.) (10 minutes)
6. Solicitation of interest among owners to volunteer to serve as our ambassador in the Estes Valley Fire Protection District's new Neighborhood Wildlife Ambassador program.
ACTION RECOMMENDED: determine whether this program would be worthwhile and, if so, agree on a plan to communicate the details of this new program to the owners and solicit an owner volunteer to act as our ambassador. (10 minutes)
7. Solicitation of interest among owners to volunteer to serve on the Architectural Review Committee.
ACTION RECOMMENDED: Agree plan to repopulate the ARC. (5 minutes)
8. HOA website. Discussion of what documents should be populated to the HOA website for the benefit of all owners.
ACTION RECOMMENDED: Agree a plan to define and upload the appropriate documents to the HOA website. (15 minutes)
9. Resumption of the HOA newsletter.
ACTION RECOMMENDED: request that Beth Cooper resume publication of the periodic HOA newsletter. (5 minutes)
10. Discussion on "transient rule violations" and a potential covenant amendment. I think it is safe to say that all newly elected Board members share similar views on this matter, and all perceive a very strong correlation between transient rule violations and one-night rentals. Seeing homes for rent that can be booked today - as late as 11PM - with check-in opportunities as late as 2AM, causes us to believe that no adequate education on our HOA CCR's and Rules is possible and therefore results in transient rule violations.
ACTION RECOMMENDED: The Board to consider prioritizing a covenant amendment to prohibit one-night rentals in favor of to-be-determined minimum night rental restrictions. (20 minutes)

Exhibit 1

11. Housekeeping (these questions can perhaps be answered in Agenda item #2 above): (10 minutes)

a) Signage:

i. What signage was acquired in December 2024 (\$1,145.70) & where are these signs?

ii. Did the ARC review & approve the signage? Past practice has been that all Board initiated actions in the HOA are to be reviewed and approved by the ARC (e.g., tree removal, playground project, entry sign project, etc.)

iii. Did the ARC review & approve the lighting that was installed on the entry sign?

b) Reserve Study: What is the status of the previously discussed Reserve Study referenced in the last Board Meeting.

12. Questions for Lisa: (10 minutes)

a) What is the status of the HOA's 2023 tax return?

b) What is our plan for the HOA's 2024 tax return?

c) Are we on track to deliver the 2024 1099's?

d) What is the status of our HOA Corporate Transparency Act compliance?

e) What are the terms & conditions of the Certificate of Deposits funded in December 2024 (rate, duration, auto-roll, etc.)

Aspen Brook Townhomes Homeowners Association, Inc.
Draft Board of Directors Meeting Minutes
February 3, 2025 at 5:00 p.m. MDT

Board Attendees: Tiffany Parcher, Beth Cooper, Mark Werder, Richard Aguirre, Sharla Schultze, Greg Bier and Lisa Rosenhagen (manager).

Public Attendees: Don Verhaeghe, Patrick McDermott, Jim Hines, Andrew Rainbolt, Nathan Welton, Sandra Utz, Laura Richins, Tara Hallahan, Jennifer Shoemaker, Alison Collins, Dave Harrold

Call to Order

The meeting was called to order at 5:04 p.m. by interim Board President Tiffany Parcher.

Open forum of homeowners

Andrew Rainbolt, Tara Hallahan, Tiffany Parcher, and Nathan Welton requested to speak. Each voiced concern about potential limitations on nightly rentals.

New Business

1. Officer Election and Designation of Terms:
President – Mark Werder, term expiring in 2027.
Vice President – Greg Bier, term expiring in 2027.
Secretary – Beth Cooper, term expiring in 2026.
Treasurer – Bill Locklear, non-board member position (allowed by Bylaws).
At-Large – Terri Elliot, term expiring in 2026.
At-Large – Richard Aguirre, term expiring in 2027.
At-Large – Sharla Schultze, term expiring in 2025.
Tiffany Parcher, At-Large, remains on the Board; term expiring in 2025.

The Board thanked Jeremy Bencken and Tom Shoemaker for their prior service to the Board.

Mark Werder indicated that, in a shift from recent board practice, owner questions and feedback are now welcomed throughout the meeting, provided they adhere to the established agenda and time constraints.

2. Update from Tiffany Parcher for new Board members
 - Last year, the Board budgeted for a playground inspection. The inspection should take place on an annual basis.
ACTION NEEDED: Schedule the 2025 inspection.
 - A Google Group was created for HOA documents and working documents for the Board.
 - Tiffany collaborated with Altitude Community Law to submit compliance reports for the Corporate Transparency Act (CTA), following ACL's guidance.
 - Tiffany suggested a Board member training and orientation with Altitude Community Law. She will gather details from the attorney and present them to the Board. Mark requested a proposed agenda for the orientation before scheduling the meeting.
ACTION NEEDED: Schedule meeting and set agenda.

Exhibit 2

3. HOA Website. Discussion of what documents should be populated to the HOA website for the benefit of all owners.

Mark stated that he downloaded HOA documents from CSM during the transition to AMEV and retained additional documents from previous management companies and the Developer. He offered to upload any necessary documents he has, in accordance with the HOA's Document Retention Policy, to the new HOA website.

ACTION NEEDED: Lisa will provide Mark with administrative permission to the new website.
4. Conduct of Meetings Policy Review & Revision. The Conduct of Meetings Policy stipulates that "1.c.3: Written ballots shall be counted by a neutral third party, **excluding the Association's managing agent or legal counsel...**" It is recommended that the Conduct of Meetings policy clarify that the **managing agent and attorney may count ballots**. The Board unanimously approved the revision to this Policy.
5. Review of the final 2024 expenses and financial position.
 - Mark reported on the year-end financial status for 2024. The year closed with an operating account balance of \$107,500, including \$44k in 2025 assessments that were received in 2024. The last 3 years, the year-end operating account balance has been about \$60k, including assessments paid in advance. The reserve account balance has \$43k, which is \$18k more than the original 2018 Reserve Budget anticipated.
 - The previous Board discussed whether they were required to return "Surplus Funds" (CCIOA 38-33.3-314) to the owners or if they could move them to the Reserve Account or keep them in the Operating Account. After researching the matter, the previous Board concluded that the funds did not need to be returned to the owners.
 - *ACTION NEEDED:* This issue will be revisited with ACL during the upcoming Board education session.
6. Solicitation of interest among owners to volunteer to serve as an ambassador in the Estes Valley Fire Protection District's new Neighborhood Wildlife Ambassador program.
 - Mark and Sue Werder recently toured the HOA property with Logan Lasley, a Wildland Risk Reduction Educator from the Estes Valley Fire Protection District, to assess fire mitigation needs in Aspen Brook. Logan will prepare a report on his findings. There is an opportunity to apply for a grant of up to \$10k, which, if received, would be used for fire mitigation efforts in the HOA.
 - *ACTION NEEDED:* Mark has volunteered to submit the grant application on behalf of the community.
 - An Ambassador, if someone volunteers, would be able to attend fire mitigation meetings and learn how to implement mitigation strategies in their community. The application deadline is in February.
 - *ACTION NEEDED:* Seek Ambassador volunteer(s).
7. Architectural Review Committee Volunteers.

Mark proposed sending an email to all owners to gauge interest in joining the committee. Laura Richins expressed interest in serving.

ACTION NEEDED: The Board will appoint three owners to the committee, in accordance with the governing documents.
8. Resumption of the HOA newsletter.

Beth Cooper previously created newsletters for the community, highlighting messages from the Board, community news and events, and other information. She agreed to resume this role, with newsletters typically released on a quarterly basis.

Exhibit 2

9. Discussion on “transient rule violations” and a potential covenant amendment.

Mark initiated an open discussion on short-term rentals and transient rule violations, involving both Board members and Owners. A lengthy discussion led to a suggestion from an Owner to survey the broader ownership for their opinions.

ACTION NEEDED: The Board agreed to create a survey to get input from all owners.

10. Housekeeping on HOA items:

- Reserve Study consideration was tabled until at least the next board meeting.

11. Questions for the Community Manager, Lisa Rosenhagen:

- What is the status of the HOA’s 2023 Tax Return? Answer: The 2023 taxes, for which an extension was filed in 2024, will be filed with the 2024 taxes. The HOA is using James Moore and Associates, PC, a full-service CPA Accounting Firm based in Aurora, CO.
- Are we on track to deliver the 2024 1099s? Answer: AMEV has sent out the required 1099s to our HOA contractors.
- What is the status of our HOA CTA Compliance. Answer: Tiffany is coordinating with ACL to maintain compliance with the CTA registration requirements.
- What are the terms and conditions of the Certificate of Deposits funded in December 2024? Answer: The CDs will automatically renew at 6 months.

Adjournment

The meeting was adjourned at 7:03 p.m.

Respectfully submitted,
Beth Cooper. Secretary

