

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES**

IN RE: PETITION FOR ARBITRATION

**CONNIE COATE and
BUDDY COATE,¹**

Petitioners,

v.

Case No. 2011-05-6826

**EMERALD TOWERS WEST OWNERS
ASSOCIATION, INC.,**

Respondent.

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FINAL ORDER OF DISMISSAL

Petitioner filed a Petition for Mandatory Non-Binding Arbitration on November 28, 2011, naming Emerald Towers West Owners Association, Inc. (Association) as Respondent. Petitioners alleged that the Association had: 1) improperly conducted the annual meeting and election of the 2012 Board of Directors and 2) failed to enforce the Association's regulations that assigned responsibility for the maintenance, repair and replacement of windows and glass doors to unit owners, except in the case of damage where insurance proceeds are available.

On December 2, 2011, an Order to Amend the Petition was entered which required Petitioner to remove from the petition the allegations relating to the Association's alleged failure to enforce the Association's regulations relating to

¹ The style of the case has been modified to conform with the facts of ownership of the unit, as alleged by Petitioner in the petition and exhibits.

maintenance, repair and replacement of windows and glass doors. On December 13, 2011, Petitioner Bonnie Coate filed an Amended Petition of Statement of Facts which indicated the election dispute had been settled.

The petition must be dismissed. Petitioners' remaining dispute alleges the Association is failing to enforce the Association's regulation relating to the responsibility of unit owners to repair, maintain and replace windows and glass doors to their units is not within the jurisdiction of the arbitrator. As stated in the arbitrator's December 2, 2011 order, allegations that an association has failed to enforce the condominium documents are not eligible for arbitration. Rule 61B-45.013(6), Florida Administrative Code; see also *Tomlinson v. The Meridian (Miami Beach) Condo. Ass'n*, Arb. Case No. 2008-02-8245, Final Order Dismissing Petition for Lack of Jurisdiction (July 31, 2008) (no jurisdiction over dispute alleging Association failed to insulate Petitioner's unit from sound emanating from condominium gym adjacent to unit and from pool pumps on roof above unit); *Barrera v. Alren House East Condo. Ass'n, Inc.*, Arb. Case Number 2008-03-4515, Final Order of Dismissal (July 7, 2008) (Association's failure to enforce pet restriction in governing documents not eligible for arbitration); *Wanda Diapola Stephen Rinko General Partnership v. Beach Terrace Ass'n, Inc.*, Arb. Case Number 06-02-4134, Final Order Dismissing Petition for Lack of Jurisdiction (April 11, 2006) (Association's action allowing unit owners to alter common elements in violation of restriction in condominium documents not subject to arbitration); *Raymond v. Solamar Condo. Ass'n, Inc.*, Arb. Case Number 2004-00-1763, Final Order of Dismissal (January 20, 2004) (arbitrator lacked jurisdiction over dispute between unit owners seeking enforcement of the condominium documents).

Based upon the foregoing, **IT IS ORDERED:**

1. The election dispute is determined as **MOOT** because it has been settled.
2. The dispute alleging the failure of the Association to enforce the requirements of the governing documents is **DISMISSED** for lack of jurisdiction.
3. Petitioners may seek relief relating to the enforcement of the condominium documents in a court of competent jurisdiction in the county where the property is located.

DONE AND ENTERED this 16th day of December, 2011, at Tallahassee, Leon County, Florida.

Tonya S. Chavis, Arbitrator
Department of Business and
Professional Regulation
Division of Condominiums, Timeshares, and
Mobile Homes
Arbitration Section
1940 North Monroe Street
Tallahassee, Florida 32399-1029
Telephone: (850) 414-6867
FAX: (850) 487-0870

Certificate of Service

I certify that a true and correct copy of the foregoing final order has been sent by U.S. Mail to the following persons on this 16th day of December, 2011:

Connie Coate
401 Marina Oaks
Mandeville, LA 70471

Buddy Coate
401 Marina Oaks
Mandeville, LA 70471

Tonya S. Chavis, Arbitrator

