

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

IN RE: PETITION FOR ARBITRATION

**1661 RIVERSIDE CONDOMINIUM
ASSOCIATION, INC.,**

Petitioner,

v.

Case No. 2011-05-6816

**WAN-TSING KWANG, UNKNOWN
TENANT #1, and UNKNOWN TENANT #2,**

Respondents.

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FINAL ORDER DISMISSING PETITION WITHOUT PREJUDICE

On December 2, 2011, Petitioner was directed to show cause, on or before December 19, 2011, why the petition for arbitration should not be dismissed. Based upon the petition and its exhibits, it did not appear that Petitioner provided proper pre-arbitration notice to Respondents. As of the date of this Order, Petitioner has not filed any response to the Order to Show Cause. Therefore, Petitioner has not demonstrated that it provided any pre-arbitration notice to Respondents other than its letters of July 7, 2011; September 15, 2011; and October 3, 2011.

In the Order to Show Cause, the arbitrator ruled that Petitioner's letters of July 7, 2011; September 15, 2011; and October 3, 2011 did not comply with the requirements of Section 718.1255(4)(b), Florida Statutes. This section discusses the requirements of pre-arbitration notice and provides as follows:

(b) The petition must recite, and have attached thereto, supporting proof that the petitioner gave the respondents:

1. Advance written notice of the specific nature of the dispute;

2. A demand for relief, and a reasonable opportunity to comply or to provide relief; and

3. Notice of the intent to file an arbitration petition or other legal action in the absence of a resolution of the dispute.

Failure to include the allegations or proof of compliance with these prerequisites requires dismissal of the petition. [emphasis supplied]

The Order to Show Cause found that the letters of July 7, 2011; September 15, 2011; and October 3, 2011 were defective as they incorporated into the pre-arbitration notice a demand for the payment of attorney's fees as an element of compliance. The pre-arbitration notice statute does not authorize Petitioner to incorporate into its pre-arbitration notice a demand for the payment of attorney's fees as an element of compliance.

Based on the foregoing, it is ORDERED:

This case is dismissed without prejudice, and case number 2011-05-6816 is closed.

DONE AND ORDERED this 4th day of January, 2012, at Tallahassee, Leon County, Florida.

David R. Slaton, Arbitrator
Department of Business and
Professional Regulation
Arbitration Section
1940 North Monroe Street
Tallahassee, Florida 32399-1029
Telephone (850) 414-6867
Facsimile (850) 487-0870

Certificate of Service

I hereby certify that a true and correct copy of the foregoing final order has been sent by U.S. Mail to the following person on this 4th day of January, 2012:

Michael J. McCabe, Esquire
McCabe Law Group, P.A.
1400 Prudential Drive, Suite 5
Jacksonville, FL 32207
Attorney for Petitioner

David R. Slaton, Arbitrator