

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

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

Petitioner,

v.

CASE NO. 2021012642

TRAILS ASSOCIATION, INC.

Respondent.

\_\_\_\_\_ /

**CONSENT ORDER**

Petitioner, the State of Florida, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes (Division), and Trails Association, Inc. (Respondent), stipulate and agree to the terms and issuance of this Consent Order, pursuant to sections 120.57 and 718.501, Florida Statutes, as follows:

**PRELIMINARY STATEMENT**

1. The Division is the state "agency," as the term is defined by section 120.52(1), Florida Statutes, statutorily responsible for the enforcement of the Florida Condominium Act, chapter 718, Florida Statutes, and the administrative rules promulgated thereunder.
2. The Division has investigated Respondent for certain alleged violations of chapter 718, Florida Statutes, in Division investigative case number 2021012642.
3. Respondent desires to resolve this investigation without formal administrative or judicial proceedings that might otherwise be available.

4. Respondent and the Division agree that the statutory citations referenced in this Consent Order are intended to reference the correct statutory citations for the years in which the violations occurred as well as the Division's proper enforcement authority, and that any errors in such statutory citations are not substantive or prejudicial to either party.

**STATEMENT OF FACTS**

5. The Division is the state agency charged with enforcing chapter 718, Florida Statutes, the Condominium Act, and the Division's administrative rules.

6. Spanish Trails Village, a Condominium, is a "residential condominium," as the term is defined in section 718.103(23), Florida Statutes, containing Three Hundred and Twenty-Seven (327) residential units located in Pasco County, Florida.

7. Respondent is the condominium "association" as the term is defined in section 718.103(2), Florida Statutes that operates Spanish Trails Village.

8. Respondent sent the proposed 2021 annual budget to all unit owners in or around December 2020.

9. Respondent posted the notice for the 2021 annual budget meeting on or about January 28, 2021.

10. Respondent held the 2021 annual budget meeting on or about February 4, 2021. Respondent approved the 2021 annual budget at the February 4, 2021 board meeting.

11. Respondent did not execute an affidavit of mailing evidencing compliance with the notice requirements.

12. Respondent agrees that there is competent substantial evidence to support the foregoing Statement of Facts.

## **CONCLUSIONS OF LAW**

13. The Division has jurisdiction over these proceedings pursuant to chapters 120 and 718, Florida Statutes, and is authorized to enter into this Consent Order, assess civil penalties, and consider evidence of mitigation of violations, pursuant to sections 120.57 and 718.501(1)(d), Florida Statutes.

14. Florida Statutes 718.112(2)(e)1, states in part: "Any meeting at which a proposed annual budget of an association will be considered by the board or unit owners shall be open to all unit owners. At least 14 days prior to such a meeting, the board shall hand deliver to each unit owner, mail to each unit owner at the address last furnished to the association by the unit owner, or electronically transmit to the location furnished by the unit owner for that purpose a notice of such meeting and a copy of the proposed annual budget. An officer or manager of the association, or other person providing notice of such meeting, shall execute an affidavit evidencing compliance with such notice requirement, and such affidavit shall be filed among the official records of the association."

15. Respondent failed to properly notice the 2021 budget meeting and execute an affidavit of mailing as evidence of compliance.

16. Respondent agrees that there is competent substantial evidence to support the foregoing Conclusions of Law.

## **AGREEMENT**

### **Civil Penalty and other relief:**

a) Respondent shall remit to the Division a civil penalty in the amount of Five Thousand Dollars (\$5,000.00) by certified check, cashier's check, or money order made payable to **DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION** as a condition precedent to the Division's execution of this Consent Order.

b) Respondent, including all current board members, agrees to complete a Division presented budget and reserve education course and provide proof of completion to the Division within forty-five (45) days of the filing date on page one of the executed consent order.

c) Respondent agrees to post a copy of this Consent Order, as signed by both parties, in a conspicuous place on the condominium property or where notice for meetings is normally posted for thirty (30) continuous days. Respondent shall, within forty-five (45) days from the filing date on page one of this executed Consent Order, provide the Division with evidence of compliance with this requirement by means of an affidavit signed by the responsible party attesting to the posting of the Consent Order on the condominium property.

d) Respondent agrees to maintain its copy of this Consent Order as part of the association's official records, in accordance with section 718.111(12), Florida Statutes, and rule 61B-23.002(7)(b), Florida Administrative Code.

e) Respondent agrees that all items it has agreed to remit, provide, submit or in any way furnish to the Division shall be sent by email to the following email address:

[CTMHCO@myfloridalicense.com](mailto:CTMHCO@myfloridalicense.com); or by certified mail, return-receipt requested to the following address:

**Bureau of Compliance  
Division of Florida Condominiums, Timeshares, and Mobile Homes  
Department of Business and Professional Regulation  
2601 Blair Stone Road  
Tallahassee, Florida 32399-1030**

(f) Respondent agrees that its duties pursuant to this Consent Order shall not be discharged until all items that Respondent has agreed to remit, provide, submit or in any way furnish to the Division have actually been received by the Division at the address above.

**17. Attorney's fees and prevailing party.** The Division and Respondent agree that Respondent, through the rendition of this Consent Order, is not a "prevailing small business party" as that term is defined by section 57.111(3), Florida Statutes, and it is mutually agreed that Respondent shall bear its own costs and attorney's fees that are in any way associated with this action.

**18. Duress.** Respondent acknowledges and agrees that it has entered into this Consent Order without duress and for the uses and purposes stated in this Consent Order.

**19. Effectiveness.** This Consent Order is effective on the last date executed below and upon its issuance it shall be a final administrative order. This Consent Order is fully enforceable by the Division under the provisions of sections 120.69 and 718.501, Florida Statutes.

**20. Failure to Comply.** As acknowledged and agreed between the Division and Respondent, this Consent Order is directly enforceable by petition to the Circuit Court of Leon County, Florida, as provided by section 120.69, Florida Statutes. For any violation by Respondent of the provisions of this Consent Order, Respondent understands that the Division shall bring such action as is necessary to seek compliance with chapter 718, its administrative rules, and the provisions of this Consent Order. This Consent Order does not constitute a waiver of the rights of Respondent to a contested hearing on any subsequent alleged violation of this Order.

**21. Future actions.** Nothing in this Order shall be construed to waive or restrict the Division's right to initiate any action against Respondent pursuant to chapters 120 and 718, Florida Statutes, including, but not limited to, administrative or civil action or referral for criminal prosecution if facts or information not presently known or available to the Division come to its attention subsequent to the execution of this Consent Order. The Division expressly reserves all rights to pursue such remedies should a cause of action exist. This Order shall be binding upon the parties their successors, and assigns.

**22. Releases.** Respondent, for itself and any legal representatives, administrators, successors, and assigns, hereby, without reservation, voluntarily releases, waives, absolves, and forever discharges, to the full extent permitted by law, the Division and its employees, agents, successors, appointed officials, assigns, representatives, any and all other officials and employees of the State of Florida, and legal representatives, all in their official and individual capacities, and including former members of any of the foregoing groups, from any and all claims, demands, actions, judgments, causes of action, or suits at law or in equity, of any kind and nature, whether these claims are known to Respondent at this time or unknown, suspected or not suspected, or by reason of any damage, injury, or loss, including but not limited to, actual damages, compensatory damages, punitive damages, attorneys' fees, interest, costs, other special damages, general damages, and/or other equitable relief arising out of this administrative proceeding. The Division accepts this release and waiver by Respondent without in any way acknowledging or admitting that any such cause of action does or may exist.

**23. Time.** Time is of the essence in this Consent Order.

**24. Waivers.** Respondent knowingly and voluntarily waives:

(a) Any right to an administrative hearing provided by chapters 120 and 718, Florida Statutes;

(b) Any right to the issuance of a recommended order by an administrative law judge from the Division of Administrative Hearings or from the Division; and

(c) any and all rights to object to or challenge in any judicial proceeding, including but not limited to, an appeal pursuant to section 120.68, Florida Statutes, any aspect, provision or requirement concerning the content, issuance, procedure or timeliness of this Consent Order.

**25. Entire Agreement.** This Consent Order embodies the whole agreement of the parties. There are no promises, terms, conditions, or agreements other than those contained herein and this document shall supersede all previous communications, representations, and or agreements whether written or verbal, between the parties hereto.

**WHEREFORE**, Respondent, Trails Association, Inc., by its duly authorized representative, William Hamilton pursuant to the following certified resolution agrees to the terms, conditions and issuance of this Consent Order on this 24 day of MAY, 2021.

William Hamilton  
Signature

William Hamilton  
Print Name

President  
Title

**CORPORATIONS MUST COMPLETE THE FOLLOWING PARAGRAPH TO THIS ORDER.**

NOW, THEREFORE, BE IT RESOLVED, THAT ON May 24, 2021, a meeting of the Board of Directors was held pursuant to legal notice and that the Officer's signature appearing on this Consent Order, executed in Case No. 2021012642, on behalf of this Corporate Respondent, is duly authorized, empowered and directed to execute the Consent Order on behalf of the Corporation and is further empowered to execute any other documents necessary to fulfill the intent of the Consent Order.

IN WITNESS WHEREOF, I have hereunto set my HAND AND SEAL of this Corporation this 24 day of May, 2021.

Kim Sloan  
CORPORATE SECRETARY'S SIGNATURE

**CORPORATE SEAL**

\_\_\_\_\_  
REPRESENTATIVE/ATTORNEY

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Address, Telephone)

William Hamilton  
CONTACT PERSON

7217 El Torro St

Zephyrhills FL 33541

989.701.4825  
(Address, Telephone)



DONE AND ORDERED in Tallahassee, Leon County, Florida this 10 day of JUNE, 2021.



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CJ Aulet, Director  
Division of Florida Condominiums,  
Timeshares, and Mobile Homes  
Department of Business and  
Professional Regulation  
2601 Blair Stone Road  
Tallahassee, Florida 32399-1030

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of this Consent Order has been furnished by U. S. Mail to:

Trails Association, Inc.  
C/O Board of Directors  
7111 Gall Boulevard  
Zephyrhills, Florida 33541

this 16<sup>th</sup> day of June, 2021.

Brandon M. Nichols

AGENCY CLERK'S OFFICE

Copies furnished to:  
Jahmadd McQueen  
Financial Examiner/Analyst II  
Bureau of Compliance  
2601 Blair Stone Road  
Tallahassee, FL 32399-1031