



Andy Mowery &lt;pohoaandy@gmail.com&gt;

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## Fact Checking in Advance of Article(s)

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**Andy Mowery** <pohoaandy@gmail.com>

Sat, Sep 16, 2023 at 10:48 AM

To: Poudre Overlook at FtC &lt;atftcpoudreoverlook@gmail.com&gt;

Cc: Lora B 4POHOA &lt;lb4pohoa@gmail.com&gt;, Clay Jones &lt;joneswv66@gmail.com&gt;, "Walker G. Flanary" &lt;wgflanary@gmail.com&gt;, hd40aide@gmail.com, Brianna.Titone.House@state.co.us, naquetta@ricks4co.com, shindi@denverpost.com, brittanyfreeman@rmpbs.org

To the Board and Individual Directors:

I am following up for acknowledgement of receipt and a response. Please let me know when you will be sending answers to these questions.

Sincerely,

Andy

On Tue, Sep 12, 2023 at 5:03 PM Andy Mowery &lt;pohoaandy@gmail.com&gt; wrote:

To the Board and individual Directors:

Prior to writing one or more articles, I am checking facts. Please confirm receipt of this email, and if you are refusing to answer a question, please just write back "no comment" or something similar.

1. Is it true that you are making decisions and taking actions outside of meetings without following the required protocols for AWAM (Actions Without A Meeting)?

2. Please name all Directors who have had access to Quickbooks in the 2023 Calendar year. I am aware that I was not granted access. Is it true that John Tunna asked for access and was denied access?

a. What reason would there be to prevent John Tunna from logging into the Quickbooks Online, or reviewing any part of the Association financial records?

b. Has Walker Flanary ever logged into Quickbooks Online for POHOA?

c. Has Clay Jones ever logged into Quickbooks Online for POHOA?

d. Has Lora Ballweber ever logged into Quickbooks Online for POHOA?

e. Does anyone working for Jen Hutchinson have access to the POHOA Quickbooks Online account?

f. Is it true that you will not provide reports from Quickbooks with digital reports (PDF format) in response to document requests? If yes, why?

g. Is it true that you will not respond to document requests for financial records without requiring homeowners to submit a request form with a wet-ink signature and sending the request via USPS Certified Mail?

h. Does POHOA have a record of how much has been spent in 2023 on USPS Certified Mail services?

i. What is the percentage of USPS Certified Mail letters that have been returned undeliverable, or the tracking is inconclusive?

- j. Does the requirement to have a wet-ink signature and send requests via USPS Certified Mail arise from a "board policy", or an actual written policy?
3. Does POHOA continue to use cash accounting vs. accrual in Quickbooks Online?
4. When POHOA receives a bill, is it immediately entered into Quickbooks?
5. Will the entering of a bill put the bill amount into the monthly or YTD totals that are produced in the monthly reports? Or, does the bill need to be paid in order for the expense to show in either of the totals?
6. Did the POHOA board intentionally avoid using an AWAM prior to sending out any or all notices of violations in 2023?
7. Are all records of communications regarding actions of the board prior to AWAMs recorded at the email address - [atftcpoudreoverlook@gmail.com](mailto:atftcpoudreoverlook@gmail.com)? If no, where are these records stored? Are PDFs created and stored in a cloud account like Google Drive? Are the records printed on paper and stored at some physical location? If yes, what location serves as the physical location for such records of the HOA?
8. Did John Tunna send a resignation letter? If yes, why has it not been posted on the Frontsteps website?
9. Did the POHOA Board review the resignation of Andrew Mowery (myself) on 1/25/23 and vote on any actions?
- a. Did the Board recognize that the Bylaws require automatic and instant acceptance of a resignation, even in the middle of a meeting? Was any vote taken on the matter?
  - b. Did the Board recognize the error at the meeting that would result from disallowing acceptance of the resignation as a matter of following the Bylaws? Was any vote taken on the matter?
  - c. Did the Board recognize that since there was not a valid removal action because the resignation was immediate and preceded a removal vote, that the removal action is null, void, ineffective? Was any vote taken on the matter?
  - d. If the Board recognized that Mr. Mowery resigned and was not actually removed, did the Board consider prior to sending out an announcement to the community that at some later date it would need to inform the same community that the action was ineffective, and Mr. Mowery is not, in fact barred from participation as a Director (for any amount of time)?
  - e. If the Board, on the contrary, believes that the removal action was effective, the resignation was not for some reason timely submitted per the bylaws, and as a result he is now barred, why has there been no official communication from the POHOA Board informing him of this decision or determination? Has the Board voted on this matter?
  - f. If Mr. Mowery offers himself up as a candidate for the upcoming election with at least 2 open seats, will the POHOA Board announce his candidacy in the same manner as any other candidates who give advance notice of their candidacy?
10. Do the amounts posted in the latest August 2023 financial report for legal expenses include all (100%, as in every single one) invoices received thus far in the legal action regarding the "dog incident"?
- a. If invoices are not being recorded in a manner that makes that appear on financial reports, will you inform homeowners of the true cost of actions taken thus far prior to the Annual Homeowner's Meeting?
  - b. If invoices are not being recorded in this visible manner, can you confirm or deny whether the \$5k budget has been exceeded at this time?
  - c. Has the homeowner hired an attorney to defend or contest the proposed dog-removal action by the

Association?

- d. Does the POHOA Board intend to go to trial over this removal?
- e. Has Moeller Graf provided an estimate of the cost of going to trial? A range is OK.
- f. Has Moeller Graf estimated the likelihood of attorneys fees being reimbursed by the Courts if it goes to trial?
- g. Has POHOA offered a settlement that has been rejected by the homeowners?
- h. Has either party offered to enter into mediation? If yes, as the other party accepted?

11. When has the POHOA Board scheduled the Annual Meeting?

12. When do candidates need to contact the Board about their candidacy being sent out with the announcement for the Annual Meeting?

13. Does the POHOA Board believe it may create unwritten "Board Policies" that do not require following the Policy for creating Policies when creating or amending?

- a. Does the Board assert that such policies are binding upon the members?
- b. What legal theory allows for "board policies" to be created, used, and enforced if they are created outside the strict boundaries of the governing documents? Is there case law you are citing? Has an attorney directed the Board to have and follow unwritten "board policies"?
- c. How do reconcile the requirement of CCIOA 209.4 that all rules and policies be made known within 90 days of a fiscal year, if they are unwritten and opaque to the members?

Thank you in advance for answering these questions. Again, please just write no comment or something similar if you are refusing to answer a question. But, if you choose, I'd love to know why you refuse to answer any of these questions.

I've spoken with several homeowners who have inquired on these topics, and I would like to write about your practices. If you would prefer to write a guest editorial, I would be willing to publish it.

Sincerely,

Andy