

Appeal Hearing: October 1, 2015

There was a hearing right before ours involving another driver - a young man who was delivering pizza in SV when pursued by Pacific Security and later issued citations. It is my understanding SVCA has rescinded his citations: if true, it is excellent news. SVCA has not provided any explanation as to how in one case they are dropped and in our case and that of our tenant they are not dropped. A matter of fact SVCA in our case continues even in their appeal denial letter to misrepresent what we appealed during our hearing. SVCA's appeal decision letter to us states three of the citations were sustained (not reversed or rescinded) and they do not retract citation #01992 or address the June 10th, letter assertion part of our appeal. Their letter doesn't address the concerns raised regarding Mr. Waterman's conduct relative to the citations and the appeal process.

Folks are asking for highlights of our first appeal hearing - here goes:

Although this document will be long, I will not be parsing or analyzing the words, for it is an overview and not intended to be a all inclusive. It's not the result of notes, for I did not take any during the hearing. It is from my basic recall and impression, I cannot speak to the impressions or recall of others who were in attendance. I have added some background in parts in order for a reader to be able to put the hearing highlights in context, but it is in no way meant to be all inclusive nor represent the full nature of these issues that began in May when SVCA, through Pacific Security pulled our tenant over in his vehicle.

Owners really need to know what is going on with this HOA, for in our opinion the level of corporate malfeasance and abuse of power is beyond anything we have even seen or heard of - it is simply out of control. We do not really know our tenants, but we are absolutely ashamed to be associated with an HOA that would treat persons the way SVCA does. Hopefully, our renter and his family will be harmed no more by SVCA and they will be able to put the matter behind them. The mere fact that as owners we are discussing non-owners, people who did not sign up for life as an owner within this HOA, much less one that seems to go out of it's way to disenfranchise, is perhaps the most disheartening.

If anyone discusses these issues, even if you think you know who the individual might be, it would be appreciated if you do not use his name. While SVCA has shown little concern for the privacy and peace of this family, I think we should treat them as we would want to be treated ourselves.

We have received numerous letters from SVCA and their counsel, as has our tenant, regarding the four citations issued in May. The descriptions and assertions in the letters as well as from Mr. Waterman have in many instances been contradictory with one another and have not matched up with the incident report, the testimony, and even some of the statements made by SVCA Appeal Committee persons.

Highlights

Players & Appeal Committee Information

The Appeal Committee makeup: Carol Houlton, Leslie McRoberts (Chairperson), Samantha Rorabaugh

The Appeal Committee for our tenant's hearing: Carol Houlton, Carol Bauman (Chairperson), Nick ?

SVCA's attorney asked us to tell him in advance who we were calling as witnesses or coming to the hearing. We requested that Ms. Bauman be available to be questioned given her statements in the tenant's hearing which were statements not based on any evidence or testimony provided. We were then told that Ms. Bauman would not be attending our hearing. The appeal process with SVCA (first round) consists of 3 board members (no owners-at large on the committee). If the appellant does not get the matters reversed the last recourse within the current SVCA system is to then appeal the matters to the full board. The process before the hearings was completely inappropriate as all roads lead to Mr. Waterman even when he is claiming to be a witness to the events, the person directing the process for the Appeals Committee, representing SVCA, running the board and who claims to direct the security team.

During our tenant's first hearing (it was closed) the Appeals Committee was concerned and wanted to confirm that no recording of the hearing took place. I participated telephonically and I was asked at the beginning of the hearing whether I was recording the conversation. During our hearing (our first), (which was made open shortly prior to it's start) the Appeal Committee did not ask if anyone was recording the meeting or say that they were doing so. I do not know what type of record or notes SVCA created from the hearing but there was a person, sitting next to Mr. Smith that appeared to be typing or taking notes.

SVCA's lawyer was present as he was for the tenant's hearing. He did not speak up during the hearing or provide any legal information disputing any of the assertions, testimony or evidence provided. We were not represented by counsel, a matter of fact we have consistently told SVCA that we are not represented by counsel. We still do not understand why from the beginning a member of the board or the BOD would not simply speak with us and the tenant to learn the other side of the events that transpired in the hopes of simply resolving the matter without the need for appeal hearings or the legal expenses they are incurring that of course we are paying for as owners. This was especially important given that SVCA represented by Mr. Waterman was and is inserting itself into our business relationship with a property management company and the tenant, creating for us, financial harm and litigation risk.

I would guess the hearing lasted approximately 30 minutes including the time SVCA allotted itself and it's representatives. Although the committee, their lawyer, Mr. Waterman and Mr. Smith remained in private meeting after the hearing for I would estimate well over an hour. Even though I traveled from Texas and no member of the board had ever spoken with us on these matters, I was given a very limited amount of time. It was not enough time and Ms. McRoberts interjected at times in an effort to get me not to discuss Mr. Waterman's conduct and communications relative to these citations. I was not given enough time to call Mr. Waterman as a witness.

The key players:

Mr. Moffit is the security guard employed by Pacific Security, whose "guards" must meet the minimum qualifications, per the documents I have seen, of having a telephone, a high school

diploma or equivalent, and, most importantly, the ability to read and comprehend directives and instructions as issued by the client management. These private security guards, or “officers”, as SVCA likes to refer to them, are not law enforcement officers.

In my opinion Mr. Moffit, relative to the hearing presented himself very professionally. Mr. Moffit is the individual that pulled over our tenant.

Mr. Smith (owner/employee) is currently titled Safety, Security & Operations Coordinator and the person that signed three of the citations that were issued regarding our tenant, and the stop conducted on May 25, 2015.

Mr. Waterman (owner/employee) is a prior SVCA board member and member of the Finance Committee, and current "SVCA Managing Director" or as he has told us, the person the runs SV and the board. From what we have experienced and observed in the appeals process he has not exaggerated to us, the authority he has been granted by this BOD; it appears to come with a level of influence and credibility that well exceeds anything we have ever seen within an HOA.

*At the time, SVCA's BOD (current board) selected Mr. Waterman as a director to the board he was a new owner in Sudden Valley (less than a year as I understand) - he was not elected by the owners. It is my understanding that while on the Board, Mr. Waterman recommended his services as Interim Managing Director for Sudden Valley's HOA and negotiated his compensation. This appears to have been done in closed session with no recorded minutes - a violation of IRS requirements for a 501(c)4 as well as SOP's of an HOA board. They did not get owner's approval to switch to self-management or to hire an owner to run SV, much less to **not** open the opportunity to any and all owners that may have been interested. Clearly, if owners had known that this highly compensated opportunity was available and that no prior related experience was required, a number of owners would have applied. It is my understanding Mr. Waterman was hired as an independent contractor (without approval of owners & in conflict with SOPs); and the BOD has switched him to employee status. Numerous requests for Mr. Waterman's compensation and/or contract have been denied, even though this and all employee compensation should be disclosed to owners.*

Regardless, as the person overseeing a multi-million dollar HOA, it is reasonable to expect they should demonstrate top notch professionalism and risk mitigation skills - from what we have experienced, Mr. Waterman presents the opposite. We can only speak for ourselves: he has yelled at us, slammed the phone down, threatened us and used various means to try and intimidate us. We have not treated Mr. Waterman in such a manner and as a matter of fact we employed a litany of techniques in an effort to get him to be reasonable and act professionally, it was to no avail. Ultimately, we had to ask SVCA to take measures to ensure that Mr. Waterman not contact us ever again, under any means whatsoever and that the retaliation against us and our tenants would stop. Owners should know all about any person, especially an owner, that is going to be trusted with our HOA, the millions it brings in, and that the ability to fine other owners and visitors.

The current BOD clearly supports that Mr. Waterman, his assigns and employees can fine you and those visiting your property for speech, tone and body language that he or his team do not like, and say they proceed with liens and foreclosure efforts if you do not pay. Perhaps,

they only do this with some (selective enforcement), but we are living it. They have upheld the citations and actions they have taken against our tenant.

Mr. A, is how I will refer to our tenant within this document. To date I have not personally met Mr. A.

Key general points:

We were initially issued three citations (01992,01993,01994) signed by Mr. Smith. Mr. Waterman claimed to have personal knowledge of what transpired and Mr. Smith by his signature on the citations certified he personally witnessed the events that occurred and on which the citations were based. Mr. Moffit affirmed at our hearing, that neither Mr. Smith or Mr. Waterman were present and had no first hand knowledge of what transpired. He explained that only he and Mr. A were witnesses to the interaction that took place during the stop. (the vehicle was pulled over according to Mr. Moffit & SVCA - using lights & siren)

When questioned, Mr. Moffit stated that he DID NOT issue nor did he participate in any discussion or writing of citations other than the one he wrote for speeding (#02930); which was written after the fact. There was no evidence or testimony that Mr. Moffit asked for or even knew of the other citations that were issued and signed by Mr. Smith.

We appealed all four citations and requested that SVCA retract a letter to us dated June 10, 2015. SVCA continues to misrepresent that we only appealed three (02930,01993,01994) citations and in their letter dated October 6th, they are also unresponsive to our appeal of citation #01992 and the other related issues appealed during our hearing.

SVCA did not provide any evidence to support the violations - despite Mr. Waterman's assurances ample evidence existed and would be sent to us. We only received the report (signed by Mr. Moffit and written in third person) and related photos when SVCA's counsel copied us on correspondence to our tenant's lawyer. If not for that we would have literally not received anything other than the citations and correspondence from SVCA.

While I was speaking during the hearing, there was a disruption behind me. Speaking to owners later I was told that Mr. Waterman was verbally and physically confrontational with some owners in the audience. My back was to the disruption, but it is my understanding that when a female owner asked him to stop, Mr. Waterman (Sudden Valley's "Managing Director" and the BOD's representative) told her to "put a cork in it." It took a man physically standing up on behalf of another woman (probably in her 80's) in order to get Mr. Waterman to back down. One owner said, Mr. Waterman even poked the elderly woman. No one on the committee nor SVCA's attorney asked Mr. Waterman to leave the hearing. In fact, a committee member (I believe it was Ms. Houlton) spoke up and told the owners to quiet down or they would have to leave. No one on the committee spoke to the owners to find out what happened nor did they demonstrate an interest nor make any inquiries. Most discouragingly, even though this occurred why I was telling the Appeals Committee of Mr. Waterman's threats, abusive conduct, and intimidating behaviors toward me and my husband, they took no action. Additionally, they expressed no concern or inquiries regarding what I was saying, just as the rest of the Board has not thus far, despite my bringing the concerns to Ms. Bauman's attention and the entire BOD in written form.

While in SV I met with some other owners and learned that others had experienced similar behaviors from Mr. Waterman. Some even described what could be deemed as assaultive but in no case less than intimidating and an abuse of power. I was also told of a number of employees who have issued complaints regarding his conduct.

This amount of **employer negligence** is off-the-charts in terms of creating **liability** for all of us. It is worth noting the committee had Mr. Waterman and Mr. Smith remain with them after the hearing for deliberation, while I was dismissed after a my opportunity to speak. It is my understanding this is standard operating procedure for SVCA's appeal hearings. This runs counter to an impartial and bifurcated process that is generally fundamental to HOA appeal proceedings.

The details:

On Oct. 1, 2015, I appealed the following in person. I traveled to SV from Texas for the hearing due the extreme nature of the treatment we had endured and the problems SVCA was causing us in terms of our rental property relationships with the management company and the tenant. I had not been to SV for many years and frankly dreaded coming there given Mr. Waterman's statements and no support from the BOD. When the hearing opened, SVCA, through the Appeals Committee and Mr. Smith said the hearing pertained to only three citations (01992, 01993, 01994) even though they knew that was not the case. I kindly corrected them and restated what I was appealing.

I had requested a full board hearing (we were willing to waive the first hearing & invited any board member to attend) and that the hearing be open to the owners. I was denied both requests despite cost of travel, etc. from Texas. Additionally, despite numerous requests for the location information I was a not told until the day before the actual location of the hearing. I was told it was a closed hearing, as were owners that asked. That changed right before the meeting when the SVCA administration staff told a few of the owners that asked, that it was being switched to an open meeting. This happened after I told the SVCA attorney that I was calling a Whatcom County Councilman as a witness. I was told I would have only about 15 minutes to present my appeal, even though they knew that I intended to call five witnesses; and, learn the facts, given that SVCA had stonewalled our efforts for information or discussion with someone other than Mr. Waterman. The hearing probably lasted about 30 minutes.

In addition to oral evidence and testimony, I tried to present written evidence, I had stacks of it with me. The chairperson said they did not need it, although I was able to get them to accept a few documents. SVCA provided me with no evidence, case law or support documentation. The hearing was set up for the appellant to prove that what SVCA was claiming was not valid vs. SVCA needing to prove up their case. It is actually SVCA's obligation to prove up with evidence their citations and the appeal committee is supposed to be objective, hearing from both SVCA administration (or whomever issued the citations) and the appellant. Instead SVCA's Appeal Committee and the administration are on the same side (Mr. Waterman & Mr. Smith actually are said to represent the Appeals Committee and BOD) and the appellant on the other. There was no impartial or due process afforded before or during the the actual appeal process. Early on in the process we had asked if SVCA would conduct an investigation since the tenant disputed the violations and due to the extreme behavior Mr. Waterman was claiming had been demonstrated. We were told "no", and to date, no one has

reached out to speak the tenant or myself. During the hearing there were no inquiries or clarifications sought even when the committee was hearing from Mr. Smith that the citations were untrue in terms of their certification.

During this process, when the BOD would not respond to us at all, we were contacted by SVCA's attorney and told that the BOD did not have to speak with us or our tenant and that we needed to communicate through him. We learned this board does speak with other owners. From what I learned during my visit, it appears our treatment is quite arbitrary, some can speak and act as they want and others - such as our tenant as well as ourselves - are held to a different standard. For whatever reason, it appears we are not entitled to any BOD representation or conversation at all.

Mr. Waterman wants us to evict our tenant and is very angry we will not do so without cause, especially under the circumstances thus far. Additionally, he has suggested we sell our property if we don't like the way he runs Sudden Valley. We are owners that have been placed in an untenable position with our tenants and our management company by SVCA with no end in sight, as SVCA has refused to retract these citations and retract the June 10, 2015 written assertions for future extraordinary fines regarding Mr. A's speech. We have a rental company that thinks we should pass the fines onto the renter and SVCA is still threatening to take our tenant to court. We believe there is no justification, authority or evidence for the fines and therefore, it would be improper for us to demand them of our tenants. Just because SVCA thinks that it can do whatever it wants to whomever it wants, we believe in facts, right vs. wrong and the law, as well as treating people respectfully. We wanted SVCA to provide us with evidence, proof of authority and facts to support their claims, as they are asking us as landlords to enforce their citations and rules. Their expectation is that we as owners just do whatever we are told and pay whatever they fine us relative to our tenant or anyone SVCA claims comes to our property. We have learned if we dare to ask questions or refuse to let Mr. Waterman do whatever he wants relative to our tenants and our property then we will be retaliated against. We have been living this retaliation process since May, and I would say thus far it appears Mr. Waterman has been allowed to do whatever he wants (directly and indirectly) to us and our tenants. Clearly, the appeal process validated that the Appeals Committee (this BOD) allows owners, Smith and Waterman, to fine owners for behavior and infractions that are far less than they themselves carry-out. They not only are not fined, nor receive letters threatening liens and foreclosures, they are employed and the owners which the appeal committee uses to represent their committee. Even when they admit to misrepresentation of information, falsifying evidence/citations and behavior that under their system would bury them in fines, they are given a pass.

We have learned that each effort we employed to get SVCA and Mr. Waterman to deescalate or consider perspectives other than Mr. Waterman's has failed. From SVCA's perspective, we have seen no evidence of process to hold Mr. Waterman or Mr. Smith accountable, although there is one to hold other owners, tenants and even the general public accountable.

We learned in the letter dated Oct. 6, 2015 that even when the Appeals Committee hears Mr. Smith admit that he did not tell the truth and falsely certified three of the citations as they did in our hearing, they do not resend the citations, and they actually have Mr. Smith sign the letter as the representative of the Appeals Committee. And, if that is not absurd enough, the letter states we provided no evidence disproving the behavior of our tenant.

Four citations

#02930 (Dated 5-25-25, even though it was created many days later.) This citation was created after I pointed out to Mr. Waterman that there was no speeding ticket with his initial letter, even though the letter claimed it was the reason for stopping the vehicle and why the three other citations were issued. The speeding citation is the only one signed by Mr. Moffit.

Even if Mr. Moffit was a law enforcement officer, without the charge of speeding there was no "proper cause" for the stop. It must be a lawful stop - even for law enforcement. Of the four citations, this is the only one that is not falsely certified by the signing party (Mr. Smith), given that Mr. Moffit was indeed there with Mr. A for the stop and conversation. Mr. Moffit affirmed during our appeal that just he and Mr. A were present.

Speeding citation for speeding 11-15 over posted.

On the citation it states 31 mph in a 20 mph zone. Mr. Moffit said he did not have radar evidence, but he has gotten very good at judging vehicle speed just by "looking". We are to believe Mr. Moffit is so good that he can eye a car at "31 mph". What this means to Sudden Valley homeowners: according to SVCA, they need no more evidence than SVCA personnel or it's assigns saying a car looked like it was speeding to issue a citation on the best guess of speed. SVCA's letter dated May 21st (yes, it was dated prior to the dates on the citations) states that the vehicle was clocked on a radar gun.

Despite our requests and Mr. Waterman's assurances, SVCA never provided the radar evidence and eventually, through Mr. Moffit ,admitted it did not exist. The tenant has stated he might well have been going slightly over 20 mph; but, he did not know his speed for a fact. He would have relied on the claimant to prove it and that they would be able to prove it. Mr. Waterman told me that he and security officers had been giving warnings out to drivers for months and that our tenant would have just received a warning since he was only one mile over the 10 mile grace amount that he had given security officers to use. However, Mr. Waterman stated to me that because our tenant threatened, yelled and would not provide his identification to Mr. Waterman's officer, he was going to "make him pay." Mr. Waterman said the tenant was being given the citations to "teach him a lesson" among other things, and we needed to stay out of it - letting him handle it.

SVCA's correspondence claimed that Mr. A left the scene suggesting he was not entitled to leave or did so to avoid getting a citation that Mr. Moffit went to his vehicle to write. Mr. Waterman told us basically that Mr. A would not stop, had to be forced off the road and that he drove off, with his wheels throwing gravel before he was told he could leave by Mr. Moffit. Yet, Mr. Moffit's report does not support any of the versions of events Mr. Waterman has told us, or SVCA's correspondence on this point. Instead, the report speaks to the interaction concluding before Mr. A drove off.

Of special note: This citation is for a violation of Architectural Control Committee Guidelines (assuming the guidelines were valid). Speeding, as referenced, applies to builders and the sub-contractors. Additionally, the guidelines are administered by the Architectural Control Committee and the ACC Guidelines state compliance is voluntary. These particular guidelines appear to change on a routine basis by this BOD, these appear to have been changed in July

2015, by an owner called Curt Casey. Section 17 violations have been eliminated and I cannot find Mr. A's violations corresponding references in the 2015 ACC Guidelines. Section 17 now states only: *FINES: For information about fines, please contact Sudden Valley Community Association Administration Staff.* Therefore, if they do not exist how do they apply to Mr. A? They were changed after I informed SVCA that the language did not match the citation issued and that SVCA needed to prove they are valid under the governing documents of the HOA. Now, it would appear, we as owners are just suppose to contact Mr. Waterman and his employees to ask about fines, suggestion they can just make them up at will.

- a) Even if Mr. A was speeding, SVCA has no legal right through it's own employees or it's assigns to force a driver off the road, pull them over or detain them for speeding. At least that is what everyone I have spoken with in law enforcement has said thus far. SVCA provided no evidence to the contrary. Mr. Moffit said he has been pulling over drivers without concern for whether they are owners, tenants or the general public. He said he issues persons citations regardless of whether or not they are owners. While this is difficult to believe, it does create a very complex issue - especially as it relates to the liability we are then assuming as an HOA. SVCA has not provided us with any information regarding any violations they have issued, or appeals they have heard on the issue of speeding as well the subjects of the other citations, regarding owners, residents and non-residents. What we do know is that the person that appealed their citations for speeding right before us has had them dropped. SVCA offers no explanation as to why one person's are dropped and another's are not.
- b) By Mr. Moffit's own account, he went in pursuit of Mr. A after the stop, even though Mr. A had pulled over and spoken with him. He claimed to have found the vehicle hours later and went onto our property to photograph the vehicle's license plate. We have been told by law enforcement that private security is limited in terms of pursuing vehicles as they are not law enforcement. SVCA offered no evidence contradicting what we have been told and has been non-responsive to our questions about their traffic stop and detention authorities under the law.
- c) Mr. A has disputed Mr. Moffit's account of the conversation took place during the stop.
- d) Even if Mr. A was speeding and if SVCA had the legal right and authority to ticket and fine him, it is not reasonable that SVCA can hold another person (even an owner) responsible for another individuals' driving. SVCA claims that as owners we are responsible for the driving of anyone that comes to our property even if it is to drop off a package, babysit our children, etc. Mr. Waterman has stated to me that he can take away anyone's right, including ours, to drive into Sudden Valley to get to our property. This is an extreme over-reach and abuse of power. HOA 's may be able to hold an owner responsible for a tenant obeying rules such as how many pets they have, or where they put the outside trash cans; but, I could not find where it would be deemed reasonable or even advisable to act as SVCA is has on this issue. We cannot control a renter's speech, driving or personal interaction skills with other human beings. Nor, can we reasonably make it a condition of their renting our property. When it comes to criminal behavior, or potential criminal behavior, landlords and owners are not, as far as we are aware responsible for their renter or visitors behavior; yet, SVCA claims otherwise is true within SV. Conversely, on SVCA's website they have posted language

stating SVCA, it's staff and assigns are not liable or responsible for basically anything - a complete hold-harmless so to speak.

Of course, it appears, if you are an employee, are a representative of SVCA, or serve on the BOD, none of this citation issues apply to you. As they are the enforcers and arbitrators of driving, speech and behavior to which other owners will be held accountable, fined and potentially foreclosed upon.

I could not find somewhere other than SV where a speeding ticket can result in liens against your property and potential foreclosure. I know the City of Bellingham does not have this type of recourse against those issued traffic violations, much less most criminal offenses. I saw no indication that the Appeals Committee had any concerns regarding civil rights, the law or just common sense human rights. They asked no questions and offered no explanations on these issues raised, even in their letter of denial dated October 6, 2015.

SVCA reaffirmed this fine \$75.00 after our appeal.

#01993 (Dated 5-25-15) Signed by Mr. Norman Smith

ACC 17.14 Obstructing a Sudden Valley Officer or Representative

(This would be based on facts not in evidence as SVCA has refused, or is unable, to prove the ACC language on which they are relying is legally valid and binding on the owners or their tenants. SVCA has failed to provide any proof that the language has been voted & approved by the owners. It is not recorded and I could find no documents that proved it's validity. Their attorney has claimed it need not be; however, I have only found evidence that proves the converse.)

a) Mr. Smith acknowledged at the hearing that he was untruthful on the citation when he certified that he personally observed the violation. In other words, the citation itself is a false statement. For no other reason than it is based on a false statement of the person or entity that wrote it; it should have been thrown out.

If Mr. Moffit thought Mr. A obstructed him, why did he not write or sign the citation? Why was he not involved in a conversation about writing such a citation if it involved him being obstructed? He does not mention Mr. A obstructing him in his report nor did he describe it in his answers during the appeal.

b)SVCA provided no evidence that Mr. A obstructed Mr. Moffit. In fact, Mr. Moffit simply said he did not like Mr. A's tone and that Mr. A had expressed his displeasure about the security services he and his family had received in the past. Mr. A told me and the Appeals Committee at his hearing that Mr. Moffit's report was inaccurate in many ways, but he did acknowledge he spoke to Mr. Moffit regarding some prior frustrations with SV security. Mr. A denies obstructing Mr. Moffit in anyway. In fact, he pulled over for him, even when he did not know who he was or if he had any legal or law enforcement authority to do so.

c) In this instance, in order to obstruct, Mr. Moffit would first have to have conducted a legal and proper stop. We provided evidence that this was not a legal stop and detention. SVCA

provided no evidence that it was and posted a document on their website by Mr. Smith to the contrary of SVCA's position in the issuance of these violations.

I provided evidence of SVCA 's contractual arrangement with the Whatcom County Sheriff's Department to handle traffic matters in Sudden Valley. I also provided a letter from Whatcom County Sherriff's Deputy Chadwick which does not support SVCA's position. The Sheriff's Dept. has told us we are not required to stop for private security within Sudden Valley. I was told we can just keep driving and, if followed we can call the Sheriff's Department. As evidence, I also quoted a legal opinion letter from SVCA prior legal counsel, Phil Sharpe, affirming our position regarding SVCA not having authority over non-owners especially as it relates to fining them.

d) SVCA was asked to prove it has the legal authority to stop, detain and issue traffic citations and fines to tenants as I was only able to find evidence to the contrary. For, absent such how can the tenant obstruct SVCA during the traffic stop? Again, the hearing offered no evidence, case law or expert testimony to explain or justify their assertions.

SVCA reaffirmed this \$100.00 fine after the appeal.

#01994 (Dated 5-25-15) Signed by Mr. Smith

ACC 17.14b Failure/Refusal to furnish information or lying to avoid penalty or responsibility

a) Norman Smith acknowledged at the hearing that he made an untrue statement on the citation when he certified that he personally observed the violation. In other words, the citation itself is a false statement. It should have been thrown out if for no other reason than it is based on a false statement of the person or entity that wrote it.

Please note the irony of this citation. Look what it is for! Mr. Smith, by his own testimony acknowledged he lied on this citation, and yet, has he been fined? Fired? No, despite the absurdity of the matter and his having no credibility on the matter whatsoever, it is not thrown out, SVCA doubles down and upholds it. Again, they even have Mr. Smith issue the denial letter to us on behalf of the Appeals Committee.

b) If one reads Mr. Moffit's report (oddly not written in the first person & he is referred to as Lt.), he states he asked Mr. A if he would mind providing his identification. Mr. Moffit made it sound voluntary, as it was posed as a question. Both Mr. A and Mr. Moffit agree, Mr. A did not provide identification to Mr. Moffit, although Mr. A says, Moffit said it was for some sort of list they were creating. Mr. A has said the entire situation made him very uncomfortable. When I spoke with Pacific Security they said it is voluntary and their guards do not have the authorities of law enforcement regarding driver identification. I was not there but if someone asked me if I would mind, I would take that as a question and then once learning they were not law enforcement and not knowing if they had a legal right to stop or detain me, I do not think I would provide it either. As a woman it would make me very uneasy to be pulled over by a man, not law enforcement wanting to know where I lived - but that's me. The issue is that Mr. Moffit knows it is voluntary and he did not issue this citation. It is SVCA's management that is issuing a fine, regardless of their legal right or authority. Ultimately, not only neglecting their fiduciary responsibilities to the Sudden Valley Community Association,

but their most basic responsibility to the neighbors that have entrusted them with one of their greatest assets - their homes.

I found no evidence they can pull over, required identification and/or fine the general public, non-owners, non-residents. If they cannot, then we are paying to have only ourselves held financially accountable for drivers on roads with SV. This matter is further complicated by SVCA's filing as a 501c (4). On this point, SVCA has refused to respond and of course it complicates the issue in a variety of ways, not the least being, the status of the roads themselves.

c) Mr. A was kind enough to pull over and be detained for a while by Mr. Moffit, but that does not mean Mr. A is under an obligation to provide information to him or that the detainment is lawful. SVCA should have to prove under what authority Mr. A had to stop. If the stop is not legal, if the detention is not legal, then it is moot to discuss whether someone provides information or not; or the fines thereto. However, to the extent SVCA asserts such, they have been unwilling or unable to provide any evidence that the tenant must provide any information or identification as it has been described. I have repeatedly requested they prove that ACC 17.14b is binding governing language of this HOA, approved by a vote of the owners. SVCA has not done so, rather they have claimed a BOD can create this sort of or language, fines and authority without owners voted approval or recording. This is not true. If one looks at the valid governing documents they include ACC language and state that voter approval and recording is required to make a change. Absent, SVCA providing a voter approved and recorded amendment to the document, the documents on which they are relying are not valid governing HOA documents for SVCA. Also, refer to the special note under speeding citation.

SVCA reaffirmed this \$100.00 fine after the appeal.

#01992 (Dated 5/25/15) Signed by Mr. Smith
17.14c/R & R 1.1.5 Worded on the citation as "Aggressive Behavior Toward SVCA Security During a Traffic Stop"

Originally a \$1000.00 fine, since reduced to \$400.00.

This issue is a true mess of SVCA's making. The following is a direct quote from their initial letter to us on May 21st (yes, dated before the actual date of the traffic stop) regarding this citation.

"The following citations are now issued to you as follows:

Citation #01992 - Threatening an SVCA officer or representative - ACC Guideline 17.14c and Rules and Regulations 1.1.5, for the aggressive behavior or assaultive conduct of an invited or uninvited guest toward a Security Officer. Fine assessed as follows: (a) \$1000 for the first offense."

a) The citation says, it is for **"Aggressive Behavior Toward SVCA Security During a Traffic Stop"** and ties it to 17.14c.

Yet, if you look at the document Mr. Waterman/SVCA refers to in his corresponding letter, 17.14c states it is for **“threatening an SVCA officer or representative”**. And, 17.14d is for **“physical aggression towards an SVCA officer or representative (\$5000.00 plus possible criminal prosecution”**. I raised issue at the hearing, as it does not match and it should to match for obvious reasons. SVCA has offered no explanation and, of course, Mr. Moffit’s testimony was that Mr. A demonstrated neither aggressive behavior or threatening behavior. Also, he agreed he was not threatened. It is Mr. Smith and Mr. Waterman who are creating violations notices and fines while falsely representing the certifications thereto.

Mr. Waterman, has told me he was being punitive, trying to get back at Mr. A, which might explain why the citation language does not match up with the citation reference number they quote. (Also, refer to the special note under the speeding citation above.) Additionally, based on the Rules and Regulations he quotes in his May 21st letter, SVCA cannot fine an owner for a tenant’s “extraordinary” fines, a fact SVCA acknowledges in it’s June 10th letter yet, they claim that going forth they can. They provide no language on which they are relying for the ability to fine us going forth and they stipulate that our tenant is “predisposed for aggressive behavior” when they have not even established any in the first place.

b) Mr. Smith acknowledged at the hearing that he did not tell the truth on the citation when he certified that he personally observed the violation. In other words, the citation itself is a false statement. It should have been thrown out if for no other reason than it is based on a false statement of the person or entity that wrote it.

c) This citation assumes, that this language and authority is part of the HOA’s legitimate governing documents. Again, I have found no evidence to support their claim nor have they provided any evidence of it.

d) SVCA provided no evidence that Mr. A demonstrated aggressive or threatening behavior. Mr. A emphatically denied SVCA’s claims regarding his behavior.

e) Once, learning from Mr. Moffit and Mr. A, that Mr. Waterman and Mr. Smith had misrepresented Mr. A’s behavior, I asked Mr. Moffit about Mr. A’s speech. Again, he said Mr. A did not display aggressive, or threatening behavior and did not yell or use profanity. When asked to describe “aggressive” absent aggressive behavior, Mr. Moffit said Mr. A’s tone was a bit aggressive. Mr. Moffit did not issue this citation nor did he speak of any behavior that would lead to such a citation.

I also explained to the committee that SVCA does not have the legal right to ticket and/or fine my tenant or us for “speech”, even if it had been offensive, that the US Constitution and the first amendment still exists in SV and cannot be trumped by the BOD, SVCA or the committee. Further, that even if Mr. Moffit was a law enforcement officer, they still have to have “proper cause” for the stop to be a “legal stop” and speech is still “protected” under the Constitution. SVCA offered no evidence to explain how the HOA rules they are relying upon, even if valid, would trump “protected speech” and The US Constitution. Even if Mr. A. had used terms or words that were offensive, it is “protected speech”. Even law enforcement personnel have restraints in this regard and SV surely does not have more liberty on the issue, than state, county or federal law enforcement. SVCA provided no witnesses or evidence to the contrary.

Mr. Moffit stated to the Appeals Committee that Mr. A did not get out of his car nor move towards Mr. Moffit in an aggressive manner. Mr. A did not even attempt to physically touch, threaten, attack, or assault Mr. Moffit. Mr. Moffit was unable to give me any quotes of berating or aggressive remarks said to him by Mr. A. From the report and testimony one would have to assume if Mr. Moffit had felt berated that day it would have only been his reaction to hearing a person complain about past security services.

Mr. Moffit's testimony did not contradict his written report nor did he even suggest that Mr. A's tone was such that a ticket or citation should be issued. It did, however, contradict the citation and Mr Waterman's claim-that Mr. A threatened Mr. Moffit and was physically aggressive with Mr. Moffit, yelling profanity, acting very aggressively and assaultive.

I asked Mr. Moffit if he called the police or Sheriff's department to report Mr. A's concerning behavior. He said, no, smiled, and stated "there was no need" to notify the Sheriff.

f) SVCA has through it's proceedings, process and administrative actions maligned our tenant's reputation, by allowing Mr. Waterman and others to describe him as aggressive, threatening, **pre-disposed for aggressive behavior**, etc. with no evidence whatsoever. I asked that as a matter of humanity and doing the right thing, they apologize to our tenant and his family. Of course, the appeals committee offered no apologizes for what SVCA has put the Mr. A's family through, they appeared cold and without any curiosity regarding information shared or the testimony provided. A matter of fact, they did not ask a single question of clarification, other than at the end, when Ms. McRoberts asked me if I thought Mr. A was speeding. It was shameful and remains so, that this HOA would be comfortable characterizing people in a negative light, and even once they know the damage they are causing to people, stress, costs, business relationships - they do not care, they double down.

g) I called a Whatcom County Councilman as a character witness for Mr. A. Mr. A had provide me with the name of a character reference not because I asked for one, but due his concerns we would believe SVCA negative comments and accusations. I explained to the appeals committee I have never met Mr. A. but that when I have spoken with him on the phone, despite the horrific treatment he has received from SVCA he has been nothing but professional and calm. I explained that Mr. A's and his family have leased the home for over five years and had never once as far as I know been late on the rent. I never have had a cause to speak with him until SVCA interjected itself into our business relationship. Further that until SVCA inserted itself into our relationship with the rental management company, we had always been told this renter was great. The management person in fact had convinced us to not raise the rent over the years, for she would not want us to loose such wonderful tenants. The Councilman is Mr. A's commercial landlord, he too spoke to no signs that Mr. A had a disconcerting or aggressive personality, and that he has always being an excellent tenant.

I also asked the Councilman since SVCA is in Whatcom County if in the rest of Whatcom County persons did not have their Constitutional rights, such as the first amendment, "protected speech". He said, something to the effect, that you do not loose your rights to free and protected speech once you drive into Sudden Valley. In other words, we and our tenants

still have our Constitutional rights inside the boundaries of this HOA regardless of SVCA claims to the contrary.

The bottom-line, there was no evidence presented by SVCA for threatening or aggressive behavior. There was no evidence of threatening speech, or even foul or disturbing language. But, even if Mr. A's language had contained profanity or if his tone was not to Mr. Moffit's liking, SVCA does not have the right to fine a person for their speech. Much less, tell us as an owner that going forth we can be fined "extraordinary" amounts (\$1000.00 and higher) for the speech or behavior, that they claim our tenant carries out (according to them and their interpretation) that they just don't like. And, if we do not pay the fines, they can place liens on our property and foreclose on it. This is what the June 10th letter is about, since they claim our tenant is "predisposed for aggressive behavior towards SVCA personnel" we want the letter retracted and request it as part o of our appeal at this hearing.

Their lawyer said it is Mr. Moffit that made this assessment of our renter, not a mental health professional. Keep in mind, Mr. Moffit said the tenant did not demonstrate aggressive behavior and he, Mr. Moffit did not write up or participate in creating this citation.

The Appeals Committee had no questions for the Whatcom County Councilman either.

Again, this citation has no standing and should have been reversed.

SVCA did not even address this citation in their October 6th letter; even knowing this was the key citation and issue that was the most important to be dropped.
(\$1000.00 fine reduced to \$400.00 after the tenant's appeal, SVCA does not resend it after our appeal, it stands.)

Other requests I made during the appeal:

I asked that SVCA stop interfering with our business relationships with our tenants and our management company. I reiterated that we do not want them interacting with either party regarding our home and if they need to convey anything pertaining to our property, to contact us directly. They have not responded to this request to date and do not respond in their October 6th letter.

In closing, we have lived through months and months of threatening and abusive communications from SVCA. Mr. Waterman has promised to retaliate against us for a litany of reasons. We have refused to evict our tenants without evidence that would justify it and this sent Mr. Waterman into a rage and subsequent retaliation against us.

Yet, clearly the behavior of others is not only of interest to SVCA it can be a finable offense that can lead to liens and foreclosure, at least that is true regarding us and our tenant. Ms. McRoberts said Mr. Waterman's conduct was not relevant to the hearing, yet, she offered no venue or avenue that she or the Board would find acceptable. It was very relevant as he was the person representing the committee and SVCA on these matters. Additionally, was it not relevant that I could offer first hand testimony to what threatening, aggressive and extortion related behavior is and give specific examples of quotes, threats, etc, as it pertained not only to an owner but to the person the board has running SV?

If even a tone, is worthy of a \$1000.00 fine and unlimited fines going forth as it relates to SVCA's opinions of those speaking with them, how can it not be relevant, much less concerning to the BOD and committee, if it is someone that represents or works for the HOA? A man (Mr. Waterman) that seems completely unhinged at times and whom has threatened us repeatedly was not only in the hearing but he and Norm Smith met with the committee after the hearing for what seemed well over an hour. In other words, the committee deliberated with Mr. Smith and Mr. Waterman. No one on the committee asked to speak with me later to find out about our complaints against Mr. Waterman. No one at the hearing, before or since, including the SVCA board has ever reached out to speak with us regarding Mr. Waterman or these citations.

Mr. Waterman throughout these months described Mr. A in very concerning ways. The descriptives were extreme enough that for sometime we thought they should have called the police. It is our understanding that he is still describing Mr. A in terms that in no way correspond with what Mr. Moffit described in his report or at the Appeals Committee hearing. Mr. Waterman has repeatedly told us that Mr. A was physically aggressive and threatened Mr. Moffit, and used profanity. At the same time he told us that if Mr. A would have come to him and ask for forgiveness he would have removed the fines.

It is striking that this BOD would claim that SVCA's BOD, their employees and assigns, including fellow owners like Mr. Smith and Mr. Waterman can fine us for speech, driving and body related behaviors regarding ourselves and others, with them being the accusers and arbitrators. And then, if one appeals such fines, the recourse is to appeal before the same persons. If that is not offensive enough, they offer no means by which owners can file complaints, take action or have fines levied against any SVCA employee, representative or assign for similar behavior, even when it is an owner. Of course, in a normal world employees that lie, threaten, try and destroy the reputations of their employers or their tenants would be fired. Yet, this BOD is using a law firm and other tactics to frustrate us into just letting them do whatever they want to us and our tenants. Or, best case get us to sell our home. It is all shameful indeed.

Not only does the appeal denial letter mischaracterize our appeal as not being for all four citations, it says the committee heard no evidence disproving the behavior of our tenant and upholds citations 01993,01992,01994. It does not mention the fourth citation we appealed and does not respond to our request that they repeal their assertions of going-forward fines for Mr. A as described in the June 10th letter. It gives us until Oct. 16th to request a final appeal before the full board. Again, no inquiry regarding Mr. Waterman. Owners are not supposed to have the burden to prove a HOA appeal committee wrong. The committee is supposed to have no predetermined opinion, no bias and listen to both sides presentations with equal weight. They are to listen to the HOA's administration's evidence and case, listen to the appellant's evidence and case; then ask questions of each side, and ensure objectivity. An impartial process did not exist for us and I did not hear one in play as I listened telephonically to Mr. A's hearing. I would guess this is why Mr. A decided to not endure a second and public round of mistreatment, before the full board.

Throughout this process, we hoped, beyond hope, that SVCA had evidence that would support the position they were taking against our tenant. For, surely they would not be putting us in this horrendous bind with our management company and tenant without a case that was

very strong and that would hold up in court. Otherwise, they could be setting us up to be sued as an HOA and as landlords. Unfortunately, the absurdity is beyond the outrageous behavior of Mr. Waterman, it is learning that all of this stress, costs and hassle is based on nothing to speak of, beyond, maybe speeding (Mr. Waterman said Mr. A had not been seen or pulled over for speeding before) and Mr. Waterman's vendetta and/or need to prove his power over us and our tenant. We have found SVCA's written communications curt and counter to mitigating risk. They are not been written to in a way that gathers information or even suggests for a moment that the HOA wants to have a positive relationship with owners or tenants. Most people would sue our HOA when faced with this treatment, thus far our tenant has not. However, heaven help us as owners if he does for I do not know how any rational jury would not slap this HOA all over the place and of course we would all pay the tab.

We have an immense amount of documentation on this matter given the shear volume of correspondence from SVCA to us and our tenant as well as the evidence gathered. I have provided the citations and a few of the documents relative to this matter in case it helps owners understand what is going on in SV, but it is in no way representative of all that is been going on since May when this all started.

An HOA board is only as empowered as the owners allow.

