IN THE CIRCUIT COURT OF THE THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

James Carroll, Plaintiff, v. Archview Condominium Association Board of Directors, Defendant.	)	Case No. 2025MR000306

MOTION TO STRIKE APPEARANCE AND FOR DEFAULT JUDGMENT
(735 ILCS 5/2-1301(d); 765 ILCS 605/18(a)(8)(E), 18.4 (2025); 765 ILCS 605/19(a)(4); 805 ILCS 105/108.05 & 108.15)

NOW COMES, Plaintiff James Carroll, pro se, and respectfully moves this Honorable Court to strike the unauthorized appearance of Defendant's counsel and enter default judgment against Defendant, Archview Condominium Association, Board of Directors, stating as follows:

I. Background

1. Plaintiff filed this action on September 22, 2025, seeking a judicial determination regarding responsibility for pipes located in the basement of the condominium property.

2. Defendant, Archview Condominium Association, Board of Directors, was served through its Board President, Gwinetta Love, on October 1, 2025.

3. On October 24, 2025, counsel Mathis, Marifian, & Richter entered an appearance purporting to represent the Defendant association.

4. Between October 1 and October 24, 2025, no duly noticed board meeting was

held and no recorded vote occurred authorizing the retention of legal counsel.

5. Neither the association's declaration nor its bylaws authorize any single officer or subset of the board to retain legal counsel without a vote by the full board of managers.

6. On October 30, 2025, Plaintiff emailed the property manager of the association and asked whether the board held any meetings in October 2025. The property manager replied in writing, "No," confirming that no board meetings were held during October 2025.

7. Accordingly, the association could not have lawfully authorized the retention of legal counsel, rendering the attorney's appearance ultra vires (beyond the scope of the board's lawful authority).

II. Argument

A. The Illinois Condominium Property Act (2025) Requires Formal Board Action

Under 765 ILCS 605/18.4 (2025), 'The board of managers shall exercise for the association all powers, duties and authority vested in the association by law or the condominium instruments…' Such powers must be exercised collectively at a duly noticed meeting.

Section 18(a)(8)(E) of the Act further requires that:

"Notice of every meeting of the board of managers be posted in entranceways, elevators, or other conspicuous places in the condominium at least 48 hours prior to the meeting of the board of managers…" (765 ILCS 605/18(a)(8)(E) (2025))

Because the property manager confirmed that no meetings occurred in October 2025, no lawful board vote took place to authorize retaining counsel. The appearance therefore violates the Act and the association's governing documents.

B. The Not-for-Profit Corporation Act Requires Quorum and Collective Action

Most condominium associations are incorporated under the Illinois General Not-for-Profit Corporation Act of 1986. Under 805 ILCS 105/108.05, 'the affairs of the corporation shall be managed by or under the direction of its board of directors.'

Section 108.15 provides that 'A majority of the directors then in office shall constitute a quorum; the act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors.'

Because the board did not meet, no quorum was established and no lawful board action occurred authorizing counsel.

C. Palm v. 2800 Lake Shore Drive Confirms Litigation Requires an Open Vote

In Palm v. 2800 Lake Shore Drive Condominium Ass'n, 2014 IL App (1st) 111290, ¶ 86-89, the Illinois Appellate Court held:

"Given that litigation is association business that must be voted on in an open meeting, the court did not err in granting summary judgment to Palm on his assertion that the association could not pursue litigation without any vote by the board and that the board's failure to conduct such a vote to defend the instant litigation violated the declaration and the Condominium Property Act."

Here, the Defendant association took no vote and held no meeting to authorize

counsel's appearance in this litigation. Under Palm, such unauthorized action is invalid and violates the Illinois Condominium Property Act of 2025.

D. Defendant Has Not Lawfully Appeared or Pled

More than 30 days have elapsed since service on October 1, 2025, and no authorized appearance or responsive pleading has been filed. A request for additional time does not cure the lack of board authorization required by law.

III. Relief Requested

WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

1. Strike the unauthorized appearance of Defendant's counsel;

2. Order Defendant to produce, within 14 days, written proof (e.g., meeting minutes or resolution) showing board authorization for counsel's retention in accordance with 765 ILCS 605/18(a)(8)(E) (2025); 765 ILCS 605/19(a)(4);

3. If Defendant fails to produce such proof, enter default judgment for Plaintiff under 735 ILCS 5/2-1301(d);

4. Court costs; and

5. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

James Carroll, Plaintiff Pro Se
1061 Lafayette Court, Unit E
Collinsville, IL 62234
618-631-2683
jamesbcarroll1969@gmail.com
Date: 10-31-25

Attachments:
Exhibit A – Email from Property Manager confirming no October 2025 board meetings.
Exhibit B – Excerpt from Palm v. 2800 Lake Shore Drive Condominium Ass'n, 2014 IL App (1st) 111290, ¶ 86-89.
Exhibit C – Relevant sections of the Illinois Condominium Property Act (2025), 765 ILCS 605/18(a)(8)(E), 18.4, & 19(a)(4).

Gmail

Exhibit A

James Carroll <jamesbcarroll1969@gmail.com>

Archview Board Updates - October 2025

4 messages

Natalie Stinson <communications@pinnaclehoamgmt.mailer.appfolio.us> Mon, Oct 20, 2025 at 8:55 AM
Reply-To: Natalie Stinson
<1114c061569b622f4144e554456bd8d667808a3e3d82e4abf9fb88a1c7d3d70c@pinnaclehoamgmt.mailer.appfolio.us>
To: jamesbcarroll1969@gmail.com

Homeowners,

The Archview Condominium Board Meeting scheduled for Thursday, October 2, 2025, was canceled; however, the board would like to provide homeowners with an update of a brief maintenance report, brief summary of the monthly expense along with a copy of the financial reports for September 2025.

The association adjusted (lowered) the condominium fees January 1, 2022, and have not had an increase since that time (3 years). Since our essential bills have continued to increase along with contractors' cost, materials, and labor, there will be a 5% increase effective January 1, 2026.

The proposed maintenance fees are attached. The proposed projected budget for 2026 will be reviewed in the December 2025 meeting. All homeowners will receive a copy of the proposed projected budget before the November board meeting.

Thank you,

Archview Condominum Owners, Inc.
Board of Managers

Gwinetta Love, President
Sue Powell, Vice President
Connie Kindle, Treasurer
Djuna McKenzie, Secretary
Jim Walters, Member-At-Large

Natalie Stinson, Property Manager

2 attachments

2026 Proposed Maintenance Fees.pdf
59K

Archview Board Updates - October 2025.pdf
172K

James Carroll <jamesbcarroll1969@gmail.com> Thu, Oct 30, 2025 at 1:00 PM
To: Natalie Stinson
<1114c061569b622f4144e554456bd8d667808a3e3d82e4abf9fb88a1c7d3d70c@pinnaclehoamgmt.mailer.appfolio.us>

Has there any meetings held by the board in the month of October 2025?
[Quoted text hidden]

Natalie Stinson <communications@pinnaclehoamgmt.mailer.appfolio.us> Thu, Oct 30, 2025 at 1:04 PM
Reply-To: Natalie Stinson
<312150811dcfd86422bae6f6ce11010ef436ab4ad060729d02cd8585edf546ff@pinnaclehoamgmt.mailer.appfolio.us>
To: jamesbcarroll1969@gmail.com

No

From: James Carroll
Sent: Thursday, October 30, 2025 1:00 PM
To: Natalie Stinson
Subject: Re: Archview Board Updates - October 2025
[Quoted text hidden]

James Carroll <jamesbcarroll1969@gmail.com> Thu, Oct 30, 2025 at 1:04 PM
To: Natalie Stinson
<312150811dcfd86422bae6f6ce11010ef436ab4ad060729d02cd8585edf546ff@pinnaclehoamgmt.mailer.appfolio.us>

Thank you.
[Quoted text hidden]

Exhibit B

obtain approval of one officer for contracts, violates the declaration and the Not for Profit Act. The court's finding that the 6th amendment approval provision violates the declaration and Not for Profit Act is affirmed.

¶ 80 The court issued the following injunctive orders:

> "[II]D. Defendants are enjoined from entering or approving any contract on behalf of the Association without approval by a vote of the Board, at a meeting open to any unit owner, for which prior notice was provided to all unit owners and at which a quorum of the Board is present.
>
> E. Defendants are enjoined from authorizing or permitting management or any entity or person to enter any contract on behalf of the Association, or select contracts for services or materials having a value of more than $10,000 on behalf of the Association, without approval by a vote of the Board, at a meeting open to any unit owner, for which prior notice was provided to all unit owners, and at which a quorum is present."

¶ 81 Defendants argue that the court erred in entering "an injunction requiring that the board must approve every contract entered into by the association," referencing injunction II(D) cited above. We agree with defendants that the board is not required to approve every contract entered into by the association but do not agree that the court erred in entering injunction II(D). As we held above, under the declaration, the board can choose to delegate to a managing agent its power to contract without requiring board approval of the contracts. Under this delegation, the managing agent rather than the board would enter or approve contracts on behalf of the association and injunction II(D), therefore, would not apply. The board can also choose to delegate its power to contract with *full* board approval or it can choose not to delegate its power to contract at all. In such instances, the board itself will enter or approve contracts on behalf of the Association. Injunction II(D) would apply to these situations and correctly provides that the board must enter or approve such contracts by a vote of the *full* board at an open meeting.

¶ 82 We find that defendants' argument simply misconstrues the court's injunctive order II(D). This order merely provides that, when the board acts to enter or approve a contract on behalf of the association, it must do so by vote of the *full* board at an open meeting.

¶ 83 With regard to injunction II(E) above, this injunction merely provides that the delegation of contract authority is an act that must be done by the *full* board in an open meeting. There is no dispute regarding this injunction.

¶ 84 The court's injunctive orders II(D) and II(E) are affirmed.

¶ 85 F. Board Vote on Litigation Matters

¶ 86 Defendant argues that the trial court erred in granting summary judgment to Palm on the question of whether defendants violated the declaration and the Not for Profit Act by failing to vote on the defense of the instant litigation in an open meetings. The court entered a declaratory order to that effect and enjoined defendants "from authorizing or allowing litigation by the Association (including prosecution or defense of any action) without approval by a vote of the Board, at a meeting open to any unit owners, for which prior notice is provided

to all unit owners, and at which a quorum of the Board is present." It ordered that defendants hold a meeting open to all unit owners "within the next 30 days" at which the board must vote on whether to authorize the continued defense of the instant lawsuit.

¶ 87 As held above in section I(B), the board is required to discuss and vote on association business in meetings open to all unit owners. The question of whether to assert or defend a lawsuit and, necessarily, whether to expend association funds and resources on such litigation is clearly a question involving the business of the association. Although section 18(a)(9) of the Condominium Property Act provides an exception allowing the board to discuss litigation matters in closed sessions, it specifically provides that the board must vote on any litigation matter at meeting open to all unit owners.

¶ 88 It is uncontested that the board never voted on litigation matters, at open meetings or otherwise. Grossman testified that the board had never voted on litigation matters because the association had never affirmatively filed suit and, when it "filed on nonpayment, that is from management to the attorney." The board had delegated responsibility for handling unit owner delinquencies to the management company, which pursued collection activities in concert with the association's attorney. The board did not vote on whether to continue to defend against Palm's lawsuit.

¶ 89 Accordingly, given that litigation is association business that must be voted on in open meetings, the court did not err in granting summary judgment to Palm on his assertion that the association could not pursue litigation without any vote by the board and that the board's failure to conduct such a vote to defend the instant litigation violated the declaration and Condominium Property Act. We affirm the court's grant of summary judgment on this question, its declaratory order to the same effect and its injunctive order enjoining defendants from authorizing or allowing litigation by the association without approval by the board in a meeting open to all unit owners and ordering defendants to hold an open meeting at which the board must vote on whether to authorize continued defense of the instant lawsuit.

¶ 90 II. The September 10, 2010, Order, October 25, 2010, Order and April 5, 2011, Order

¶ 91 Defendants raise six issues challenging the court's September 10, 2010, order finding in favor of Palm on assorted claims in his third amended complaint and its October 25, 2010, and April 5, 2011, orders entering declaratory and injunctive relief based on its September 10, 2010, findings.

¶ 92 A. Cause of Action for Negligent Breach of Fiduciary Duty

¶ 93 Defendants first argue that the trial court erred in ruling that defendants' breaches of fiduciary duty were done with "gross negligence" because, as a matter of law, no cause of action exists for negligently breaching a fiduciary duty. Defendants assert that the court could not have found defendants were negligent, let alone grossly negligent, in breaching their fiduciary duties because a breach of fiduciary duty under Illinois law is not a tort and cannot be breached either negligently or with gross negligence. They argue that, therefore, the board and

(8)

(A) that every meeting of the board of managers shall be open to any unit owner, except that the board may close any portion of a noticed meeting or meet separately from a noticed meeting to: (i) discuss litigation when an action against or on behalf of the particular association has been filed and is pending in a court or administrative tribunal, or when the board of managers finds that such an action is probable or imminent, (ii) discuss the appointment, employment, engagement, or dismissal of an employee, independent contractor, agent, or other provider of goods and services, (iii) interview a potential employee, independent contractor, agent, or other provider of goods and services, (iv) discuss violations of rules and regulations of the association, (v) discuss a unit owner's unpaid share of common expenses, or (vi) consult with the association's legal counsel; that any vote on these matters shall take place at a meeting of the board of managers or portion thereof open to any unit owner;

(B) that board members may participate in and act at any meeting of the board of managers in person, by telephonic means, or by use of any acceptable technological means whereby all persons participating in the meeting can communicate with each other; that participation constitutes attendance and presence in person at the meeting;

(C) that any unit owner may record the proceedings at meetings of the board of managers or portions thereof required to be open by this Act by tape, film or other means, and that the board may prescribe reasonable rules and regulations to govern the right to make such recordings;

(D) that notice of every meeting of the board of managers shall be given to every board member at least 48 hours prior thereto, unless the board member waives notice of the meeting pursuant to subsection (a) of Section 18.8; and

(E) that notice of every meeting of the board of managers shall be posted in entranceways, elevators, or other conspicuous places in the condominium at least 48 hours prior to the meeting of the board of managers except where there is no common entranceway for 7 or more units, the board of managers may designate one or more locations in the proximity of these units where the notices of meetings shall be posted; that notice of every meeting of the board of managers shall also be given at least 48 hours prior to the meeting, or such longer notice as this Act may separately require, to: (i) each unit owner who has provided the association with written authorization to conduct business by acceptable technological means, and (ii) to the extent that the condominium instruments of an association require, to each other unit owner, as required by subsection (f) of Section 18.8, by mail or delivery, and that no other notice of a meeting of the board of managers need be given to any unit owner;

(9) that the board shall meet at least 4 times annually;

(11) that no member of the board or officer shall be elected for a term of more than 2 years, but that officers and board members may succeed themselves;

(12) the designation of an officer to mail and receive all notices and execute amendments to condominium instruments as provided for in this Act and in the condominium instruments;

Sec. 19. Records of the association; availability for examination.

(a) The board of managers of every association shall keep and maintain the following records, or true and complete copies of these records, at the association's principal office:

(1) the association's declaration, bylaws, and plats of survey, and all amendments of these;

(2) the rules and regulations of the association, if any;

(3) if the association is incorporated as a corporation, the articles of incorporation of the association and all amendments to the articles of incorporation;

(4) minutes of all meetings of the association and its board of managers for the immediately preceding 7 years;

(5) all current policies of insurance of the association;

(6) all contracts, leases, and other agreements then in effect to which the association is a party or under which the association or the unit owners have obligations or liabilities;

(7) a current listing of the names, addresses, email addresses, telephone numbers, and weighted vote of all members entitled to vote;

(8) ballots and proxies related to ballots for all matters voted on by the members of the association during the immediately preceding 12 months, including but not limited to the election of members of the board of managers;

(9) the books and records for the association's current and 10 immediately preceding fiscal years, including but not limited to itemized and detailed records of all receipts, expenditures, and accounts; and

(10) any reserve study.

(b) Any member of an association shall have the right to inspect, examine, and make copies of the records described in subdivisions (1), (2), (3), (4), (5), (6), (9), and (10) of subsection (a) of this Section, in person or by agent, at any reasonable time or times, at the association's principal office. In order to exercise this right, a member must submit a written request to the association's board of managers or its authorized agent, stating with particularity the records sought to be examined. Failure of an association's board of managers to make available all records so requested within 10 business days of receipt of the member's written request shall be deemed a denial.

Any member who prevails in an enforcement action to compel examination of records described in subdivisions (1), (2), (3), (4), (5), (6), (9) and (10) of subsection (a) of this Section shall be entitled to recover reasonable attorney's fees and costs from the association.

(c) (Blank).

(d) (Blank).

CERTIFICATE OF SERVICE

I, James Carroll, certify under penalty of perjury that on the 31st day of October, 2025, I served a true and correct copy of the attached Motion to Strike Appearance and for Default Judgment upon:

Chad J. Richter, Montana L. Sinn, & Connor L. Welby
Mathis, Marifian, & Richter, LTD.
PO Box 247
101 W. Vandalia St., Suite 100
Edwardsville, IL 62025

By U.S. Mail (First Class, postage prepaid) in accordance with Illinois Supreme Court Rules 11 and 12 governing service of documents.

James Carroll, Plaintiff Pro Se
1061 Lafayette Court, Unit E
Collinsville, IL 62234
618-631-2683
jamesbcarroll1969@gmail.com
Date: 10-31-25