

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

IN RE: PETITION FOR ARBITRATION

Filed with
Arbitration Section

**OMEGA VILLAS CONDOMINIUM ASSOCIATION,
INC.**

SEP 17 2025

Petitioner,

Div. of FL Condos, Timeshares & Mobile
Homes
Dept. of Business & Professional Regulation

v.

Case No. 2025-06-1476

SHAWN MARTIN

Respondent

**ORDER GRANTING RESPONDENT'S MOTION TO DISMISS, IN PART, AND ORDER
DENYING RESPONDENT'S MOTION TO DISMISS, IN PART**

ON SEPTEMBER 5, 2025, Respondent filed a Motion to Dismiss Petitioner's Petition, (Pending Motion). On September 8, 2025, the undersigned entered an Order Permitting Response by Petitioner. On September 12, 2025, Petitioner filed its Response to Motion to Dismiss. The undersigned has reviewed the submissions made by both parties and finds the following:

- (1) The Pending Motion casts generalized statements about Petitioner's Petition; such as ; (1) " [the Petition] is *prima facie* legally defective", (2) [there is a] "lack of standing", (3) [this is a] "flagrantly abusive illegal action." After, review of these specific assessments by Respondent the undersigned does not find there is merit in these particular statements that would support the relief of dismissal of Petitioner's Petition.

(2) The standard for review of the allegations of a Petition in the face of a Motion to Dismiss is Petitioner's allegations are taken as true *Agras v. Brickellhouse Condominium Association, Inc.*, Arb. Case No. 2017-06-0801, Order Denying Motion to Dismiss the Petition and Requiring an Amended Petition. From such a perspective the undersigned finds Petitioner's Petition states a viable cause of action for its attempt to carry out inspections of the interior of Respondent's Unit by retained vendors associated with a statutorily required 40-year inspection. Petitioner alleges Respondent has violated Article XIV(C)(4) of the Declaration of Condominium, as well as Section 718.111(5), Florida Statutes through the denial of access to carry-out needed inspections of the unit's interior and windows. To the extent that Petitioner's Petition states a claim alleging a denial of access to Respondent's condominium unit the Pending Motion is **DENIED**.

(3) Petitioner's demand for relief in the Petition also raises issues regarding the following in pertinent part:

WHEREFORE, Petitioner requests that the arbitrator enter a final Order against the Respondent to ...and pay for any amounts due for that work as required by the Florida Statutes and Declaration

An examination of Petitioner's Exhibit "C" (the pre-arbitration notification) reveals that Petitioner was addressing exclusively the issue of Petitioner's allegations that Respondent has denied access to conduct inspections of the condominium unit and windows. The pre-arbitration notification has not addressed a request for Respondent to, "... pay for any amounts due for that work ...". Since a request for payment was not

part of Petitioner's pre-arbitration notification, to the extent the Petition is attempting to state a claim for payment by Respondent for work that may be identified in a future inspection of condominium unit #48 as part of Petitioner's 40-year certification Respondent's Motion to Dismiss is **GRANTED**. Plaintiff's claims in the pending Petition are limited to the subject matter raised in Petitioner's pre-arbitration notification. (See Petitioner's Exhibit "C" and *Dolphin Cove Association, Inc. v. Boyles, Arb. 2018-00-9293*, Order Dismissing Allegations and Requiring an Amended Petition (April 23, 2018)).

ACCORDINGLY, it is, **ORDERED**:

- (1) Respondent's Motion to Dismiss is **DENIED** to the extent the Petition states allegations related to Petitioner's request for access to Respondent's condominium unit for the purpose of conducting inspections related to the Petitioner's 40-year certification which is required by Florida Statutes.
- (2) Respondent's Motion to Dismiss is **GRANTED**, in part, to the extent that the Petition attempts to state a claim for matters that are beyond the subject matter raised in Petitioner's pre-arbitration notification.
- (3) Respondent shall file an Answer to Petitioner's Petition, as modified by this Order of Dismissal, on or before **5:00 p.m. on October 3, 2025**.

DONE AND ORDERED this 17th day of September 2025, at Tallahassee, Leon County, Florida.



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