

Statement on Litigation with Section IV

Southwyck Community Association (SCA) is pleased to announce that, on November 4, 2021, the judge of the 239th District Court of Brazoria County determined that there was no evidence to support any of Sec. IV's claims of wrongdoing against SCA as outlined in the most recent and second lawsuit filed in September of 2019.

As background, Southwyck Section IV Homeowners' Association, Inc. (Sec. IV) and SCA litigated their respective rights and obligations under the Southwyck governing documents in a case decided in the 412th District Court of Brazoria County on November 20, 2015. The Houston Court of Appeals ruled that the trial court's decision was correct on October 19, 2017.

Then, on September 5, 2019, Sec. IV filed a second lawsuit against SCA claiming accounting irregularities in the collection and processing of assessments by the master association going back to the year 2014. In the lawsuit, Sec. IV claimed the master association was wrongly collecting assessments, wrongly calculating its share of the assessments and tendering the wrong residual amount to the village association. Sec. IV also claimed that SCA violated the Declaration and failed to accurately maintain and produce financial records related to its obligations under the Declaration and various state statutes including the Texas Trust Code, the Texas Business Organization Code, and the Texas Property Code. In the lawsuit, Sec. IV also asked the court to strip SCA of its exclusive authority under the Declaration to levy, collect, and disburse assessments in the Southwyck development.

After this case was filed and in response to requests from Sec. IV's attorneys, SCA produced its financial records related to collecting assessments including: i) audit reports verifying that all money collected by SCA was accounted for; and ii) monthly cash balance sheets and income/expense statements from the years 2014-2021 that were already published on SCA's website. After giving Sec. IV the opportunity for two years to build its case and after thousands of dollars in legal defense costs, SCA's attorneys eventually filed a no-evidence motion for summary judgment against Sec. IV.

The no-evidence motion for summary judgment required Sec. IV to file sufficient evidence with the court to prove that SCA committed the wrongful acts as stated in its lawsuit or its lawsuit would be dismissed. Even after having two years to do so, Sec. IV was unable to submit any credible evidence to prove to the court that SCA or its board committed any wrongdoing. Since the court found there was no evidence that SCA or its board committed any of the wrongful acts claimed in the lawsuit, the court dismissed Sec. IV's entire lawsuit against SCA.

SCA is pleased with the court's decision and pleased to close the door on this two-year distraction and waste of financial resources. Sec. IV will have the right to appeal the judge's decision dismissing its lawsuit. However, SCA's attorneys believe that the judge made the right decision, and in their opinion, an appeal would be unsuccessful and just be a further waste of Sec. IV homeowners' money.