

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

IN RE: PETITION FOR ARBITRATION

PETE MONGELLI and GINA MONGELLI,

Petitioners,

v.

Case No. 2009-02-7278

**SHARON RAGOONAN and JASMINE LAKES I
CONDOMINIUM ASSOCIATION,**

Respondents.

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FINAL ORDER OF DISMISSAL

On May 21, 2009, Pete Mongelli and Gina Mongelli (the petitioners) filed a petition for mandatory non-binding arbitration naming Sharon Ragoonan and Jasmine Lakes I Condominium Association as the respondents. The petition alleges that Ms. Ragoonan owns the unit above the petitioners' unit and that she has failed to maintain her unit's air conditioning unit as required by the governing documents. The petition also alleges that Ms. Ragoonan's failure to maintain her air conditioning unit has result in water pouring in the petitioners' unit causing damage. As to the association, the petition alleges that the it has failed to enforce its governing documents by failing to require respondent Ragoonan to repair her air conditioning unit.

Allegations that the association has failed to enforce the condominium documents and disputes between or among unit owners are not eligible for arbitration. Fla. Admin. Code R. 61B-45.013(2) & (6), *see also Raymond v. Solamar Condominium Assoc.*, Arb. Case Number 2004-00-1763, Final Order of Dismissal (January 20, 2004)(arbitrator lacked jurisdiction over dispute between unit owners seeking enforcement of the condominium documents); *Gordon v. Cypress Creek Villas of Coral*

Springs II Condo. Assn., Inc., Arb. Case No. 99-1094, Final Order Dismissing Petition for Arbitration (June 4, 1999)(no jurisdiction over claim that association failed to enforce noise restrictions against owner of unit directly above petitioners' unit because dispute was in essence between two neighboring unit owners and involved the failure of the association to enforce its documents); *Harpster, et al. v. Venetian Condo., Inc.*, Arb. Case No. 98-4271, Final Order Dismissing Petition for Lack of Jurisdiction (July 6, 1998)(no jurisdiction where unit owners complained that the unit owners above them had installed marble floors without proper soundproofing because dispute was in essence between the unit owners); *Jaques v. Lakeshore 9 Condo. Assn., Inc.*, Arb. Case No. 97-0203, Final Order Dismissing Petition for Arbitration (June 18, 1997)(no jurisdiction over claim that upstairs unit owners had installed tile in their unit and that the association failed to enforce restriction against tile because the dispute was between unit owners and involved the association's failure to enforce condominium documents). The petitioners' dispute involves the association's failure to enforce the condominium documents and is a dispute between unit owners. Therefore, the arbitrator lacks jurisdiction to consider the petition.

Based upon the foregoing, it is ORDERED:

Arbitration case number 2009-02-7278 is dismissed due to lack of jurisdiction

DONE AND ORDERED this 29th day of May, 2009, at Tallahassee, Leon County, Florida.

James W. Earl, Arbitrator
Department of Business and
Professional Regulation
Arbitration Section
1940 North Monroe Street
Tallahassee, Florida 32399-1029

Certificate of Service

I hereby certify that a true and correct copy of the foregoing final order of dismissal has been sent by U.S. Mail to the following persons on this 29th day of May, 2009:

K. Joy Mattingly, Esq.
Becker & Poliakoff, P.A.
P.O. Box 9057
Fort Lauderdale, FL 33310-9057

James W. Earl, Arbitrator