

IN THE COURT OF COMMON PLEAS OF FAIRFIELD COUNTY, OHIO

FILED

Ted Stacy, et al.,
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Plaintiffs,
:
:
-vs-
:
Will Snell, et al.,
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:
Defendants.
:

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DEBORAH SKALLEY
CLERK OF COURTS
FAIRFIELD CO. OHIO

Case No. 06 CV 1263
Judge Berens

ANSWER OF DEFENDANTS WILMONT D. SNELL, aka WILL SNELL, CAROL COMANITA, LISA ROSS, DONALD ROEDER, JULIET SQUIER, TERESA HARTLEY, MARK BRIGGS, JIM MURPHY, LORA STEVENSON, GREGORY FOWN AND MIKE RYAN

Now come defendants Will Snell, Carol Comanita, Lisa Ross, Donald Roeder, Juliet Squier, Teresa Hartley, Mark Briggs, Jim Murphy, Lora Stevenson, Gregory Fown and Mike Ryan, and for their Answer to plaintiffs' Complaint, state as follows:

FIRST DEFENSE:

1. Defendants deny for lack of knowledge the allegations contained within paragraph 1 of plaintiffs' Complaint.
2. Defendants admit paragraph 2 of plaintiffs' Complaint.
3. Defendants admit the exhibits appear to be authentic records from the Fairfield County Recorder's office and that the deed was recorded as alleged. Defendants lack knowledge at this time that these are the only amendments and further note that plaintiffs has listed as Exhibit A, but in the exhibits, it is listed as Exhibit 1. To the extent that plaintiffs meant to say Exhibit 1, not Exhibit A, defendants acknowledge the deeds appear to be accurate.
4. Defendants deny for lack of knowledge the allegations contained within paragraph 4 of plaintiffs' Complaint.

5. Defendants admit paragraph 5 of plaintiffs' Complaint.

6. Defendants admit the exhibits appear to be accurate from the Fairfield County Recorder's office showing a deed which has been recorded. Defendants lack knowledge as to whether or not there is more than one amendment and further present that plaintiffs have listed the exhibit as Exhibit B and there is only an Exhibit 2. Defendants assume that plaintiffs meant to say Exhibit 2, and not Exhibit B.

7. Defendants deny for lack of knowledge the allegations contained within paragraph 7 of plaintiffs' Complaint.

8. Defendants admit the allegations contained in paragraph 8 of plaintiffs' Complaint.

9. Defendants admit that the documents contained within Exhibit 3, not C, appear to be accurate copies of deeds recorded in Fairfield County. As to whether or not there are amendments, if any, defendants lack knowledge. Once again, plaintiffs have listed Exhibit C and in the version received by defendants there is only an Exhibit 3, they can only assume this is a typographical error.

10. Defendants deny for lack of knowledge the allegations contained within paragraph 10 of plaintiffs' Complaint.

11. Defendants admit the allegations contained in paragraph 11 of plaintiffs' Complaint.

12. Defendants admit that all lot owners in Chevington Woods South are bound by the modifications and restrictions recorded on March 20, 1973 and that the quote provided by plaintiffs' counsel is a portion of that agreement. Further, the document that is attached as Exhibit D is actually Exhibit 4, and appears to be a fair and accurate copy of the Code of Regulations, Constitution and Bylaws.

13. Defendants admit that all members of Chevington Woods North lot owners are bound by the modification restrictions recorded on March 20, 1973 and that the quotation provided is a part of that modification.

14. Defendants admit the allegations contained in paragraph 14 of plaintiffs' Complaint.

15. Defendants admit the allegations contained in paragraph 15 of plaintiffs' Complaint.

16. Defendants admit that an application for reinstatement of the Articles of Incorporation was filed in November 2002, but denies the remainder of paragraph 16.

17. Defendants admit that all lot owners of Chevington Woods North, Section No. 2, are bound by the deed recorded on December 12, 1972 and that the provisions cited by the plaintiffs are part of that deed.

18. Defendants deny the allegations contained in paragraph 18 of plaintiffs' Complaint.

19. Defendants admit the allegations contained in paragraph 19 of plaintiffs' Complaint.

20. Paragraph 20 of plaintiffs' Complaint does not require a response and defendants will rely upon their previous answers to paragraphs 1 through 19.

21. Defendants deny the allegations contained in paragraph 21 of plaintiffs' Complaint.

22. Paragraph 22 of plaintiffs' Complaint does not require a response and defendants will rely upon their previous answers to paragraphs 1 through 21.

23. Defendants admit that the quote cited by plaintiffs is an accurate copy of a portion of the bylaws but is not a complete and accurate copy of all the bylaws.

24. Defendants admit that there are 15 areas among the three subdivisions, but denies the remainder of paragraph 24 of plaintiffs' Complaint.

25. Defendants deny any violations of the bylaws and all of paragraph 25 of plaintiffs' Complaint.

26. Defendants deny violating the bylaws and the remainder of paragraph 26 of plaintiffs' Complaint.

27. Defendants deny the allegations contained in paragraph 27 of plaintiffs' Complaint.

28. Defendants deny the allegations contained in paragraph 28 of plaintiffs' Complaint.

29. Defendants admit the allegations contained in paragraph 29 of plaintiffs' Complaint.

30. Defendants deny the allegations contained in paragraph 30 of plaintiffs' Complaint.

31. Defendants deny the allegations contained in paragraph 31 of plaintiffs' Complaint and that there was a violation of the bylaws.

32. Defendants deny the allegations contained in paragraph 32 of plaintiffs' Complaint.

33. Defendants deny the allegations contained in paragraph 33 of plaintiffs' Complaint.

34. Defendants deny the allegations contained in paragraph 34 of plaintiffs' Complaint.

35. Defendants deny the allegations contained in paragraph 35 of plaintiffs' Complaint.

36. Defendants deny the allegations contained in paragraph 36 of plaintiffs' Complaint.

37. Defendants deny the allegations contained in paragraph 37 of plaintiffs' Complaint and present that the Court has already determined that a preliminary injunction is not appropriate at this time. Defendants further present that a permanent injunction is not appropriate at this time either. Defendants further present that the basis for the injunction under paragraph 37 of A, B, C, D, E and F are not valid and therefore are denied as the basis for a preliminary or permanent injunction.

38. No response to paragraph 38 of plaintiffs' Complaint is required and defendants present the defenses raised in paragraphs 1 through 37 should sustain.

39. Defendants deny for lack of knowledge the allegations contained in paragraph 39 of plaintiffs' Complaint as there is no basis as to the grantee allegations contained in paragraph 39.

40. Defendants admit that there was a provision for an architectural control committee for approval of homes that existed as a result of the deeds. Defendants further admit that the provision provided is a part of that deed but does not agree that this provides the only basis for any enforcement of covenants.

41. Defendants deny for lack of knowledge the allegations contained in paragraph 41 of plaintiffs' Complaint as plaintiffs point to no specific area in the deed or amendments.

42. Defendants deny the allegations contained in paragraph 42 of the plaintiffs' Complaint.

43. Defendants deny the allegations contained in paragraph 43 of plaintiffs' Complaint and specifically deny that waiver has occurred with respect to enforcement of covenants.

44. Defendants deny the allegations contained in paragraph 44 of plaintiffs' Complaint.

45. Defendants deny the allegations contained in paragraph 45 of plaintiffs' Complaint.

46. Defendants deny the allegations contained in paragraph 46 of plaintiffs' Complaint.

47. Defendants deny the allegations contained in paragraph 47 of plaintiffs' Complaint.

48. Defendants deny the allegations contained in paragraph 48 of plaintiffs' Complaint.

49. Defendants deny the allegations contained in paragraph 49 of plaintiffs' Complaint.

50. Defendants deny the allegations contained in paragraph 50 of plaintiffs' Complaint and provide that a preliminary injunction has already been denied and that a permanent injunction should also be denied. Defendants present that the basis for a preliminary permanent injunction under paragraph 50 of A and B are not a valid basis and such injunction should not be granted.

51. No response is required for paragraph 51 and defendants rely upon paragraphs one through 50 in response to paragraph 51.

52. Defendants deny for lack of knowledge the allegations contained in paragraph 52 of plaintiffs' Complaint. Defendants further assert there is a distinction between being a member and being a member in good standing.

53. Defendants deny for lack of knowledge and clarity of the allegations contained in paragraph 53 of plaintiffs' Complaint.

54. Defendants deny for lack of knowledge and deny specific portions of paragraph 54, including that most plaintiffs have attended meetings, plaintiffs have reviewed financial information and plaintiffs have engaged in speaking with a number of the members who are not plaintiffs and that plaintiffs have tried to become trustees. Defendants further deny that plaintiffs fairly and accurately represent the members of the Chevington Woods Civic Association as there are 390 lot owners and only 26 plaintiffs.

55. Defendants admit plaintiff Gina Stacy stated at a meeting on October 16, 2006 that if the defendant trustees did not resign she would sue them personally, but deny that the remaining plaintiffs have requested that they relinquish their positions and that further, defendants deny that they have failed to adequately respond to their request for plaintiffs.

56. Defendants deny paragraph 56 of plaintiffs' Complaint and state that there have been no inequitable actions and violations by the trustees.

57. Defendants deny paragraph 57 of plaintiffs' Complaint and present that plaintiffs have absolutely no basis for such groundless accusations.

58. Defendants deny the allegations contained in paragraph 58 of plaintiffs' Complaint.

59. Defendants deny the allegations contained in paragraph 59 of plaintiffs' Complaint.

60. Defendants deny the allegations contained in paragraph 60 of plaintiffs' Complaint.

61. Defendants deny the allegations contained in paragraph 61 of plaintiffs' Complaint.

62. Defendants deny the allegations contained in paragraph 62 of plaintiffs' Complaint.

63. Defendants deny that any monies have been expended in violation of fiduciary dues and therefore, no accounting is required.

64. Defendants deny any and all other allegations in plaintiffs' complaint not previously admitted as true.

SECOND DEFENSE:

65. Defendant presents that this Court lacks jurisdiction over the subject matter of this case.

THIRD DEFENSE:

66. Defendants present that plaintiffs have failed to state a claim upon which relief can be granted.

FOURTH DEFENSE:

67. Defendants present that the plaintiffs' claims fail due to waiver under the rights set forth in the bylaws. Defendants present that plaintiffs' claim that no equitable relief is available and that if they need a relief under Civ. R. 65 and O.R.C. §2727.01 is untrue and that the deeds themselves provide any relief or basis for their actions.

FIFTH DEFENSE:

68. Defendants present that pursuant to O.R.C. §2721.11 defendants request costs associated with the declaratory action proceeding brought by plaintiffs for all expenses incurred to date by defendants.

SIXTH DEFENSE:

69. Defendants further present that any and all equitable relief for costs associated with defending all causes of action presented by plaintiffs as they are baseless be awarded to defendants.

SEVENTH DEFENSE:

70. Defendants reserve the right to assert additional affirmative defenses as discovery in this matter progresses.

EIGHTH DEFENSE:

71. Defendants present plaintiffs' complaint must fail under the doctrine of laches.

NINTH DEFENSE

72. Defendants present plaintiffs' complaint must fail under the doctrine of estoppel.

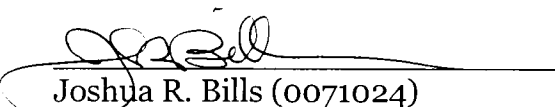
TENTH DEFENSE

73. Defendants present plaintiffs' complaint must fail under the doctrine of unclean hands.

WHEREFORE, defendants pray that plaintiffs' Complaint and all requests for relief be denied and that any and all costs associated with the defense of this action be awarded to defendants. Further defendants request that the injunctions whether permanent or temporary, continue to be denied plaintiffs. Defendants respectfully

request this Court deny all other causes of action asserted by plaintiffs and award costs to defendants.

Respectfully submitted,



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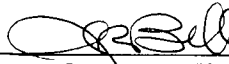


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Attorneys for Defendants

JURY DEMAND

Defendants hereby demand a trial by jury in this matter.


Joshua R. Bills

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served upon the following by ordinary, U.S. mail, postage prepaid, this 10th day of January, 2007.

Melissa R. Lipchak, Esq.
50 W. Broad Street, Suite 2200
Columbus, OH 43215
Attorney for Plaintiffs


Joshua R. Bills