

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR SARASOTA COUNTY, FLORIDA

JOHN BARNER, ET AL.,

Plaintiffs,

CASE NO. 2010 CA 5791 NC

vs.

THE LANDINGS MANAGEMENT
ASSOCIATION, INC., a Florida
corporation,

Defendant.

FILED FOR RECORD
2010 AUG -6 PM 4:38
CLERK OF THE CIRCUIT COURT
SARASOTA COUNTY, FL

ANSWER AND DEFENSES TO COUNTERCLAIM

Plaintiffs, JOHN BARNER, ANN BARNER, DAVID BEWLEY, DONNA BEWLEY, BOB BROWN, LOIS BROWN, GEORGE COLLIARD, ELLEN COLLIARD, DONALD FEATHERMAN, SUSAN FEATHERMAN, HOWARD FELTMAN, ADRIENNE FELTMAN, BOB GREENFIELD, LOUISE GREENFIELD, DAVID JACARUSO, MARIE GRAZIOSI, JACK KAHGAN, RUTH KAHGAN, JAMES McLELLAN, PHYLLIS McLELLAN, JAMES STEWART, JOAN STEWART, NANETTE TURNER, ROY GOODWILL and NANCY GOODWILL (collectively, "Plaintiffs"), by and through their undersigned attorneys, answer Defendant's Counterclaim as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.



7. Admitted.
8. Admitted.
9. Admitted.
10. Without knowledge as to whether or not C&M was “an entity closely related to LDC with common ownership and control”; otherwise, admitted.
11. Admitted.
12. Admitted.
13. Admitted.
14. Admitted.
15. Denied.
16. Admitted.
17. Without knowledge.
18. Denied.
19. Admitted that Plaintiffs have and continue to request that Defendant maintain Tract F in a manner consistent with the restrictions on Tract F as specified in paragraph 29 of the Declaration; otherwise, denied.
20. Denied that Plaintiffs have joined in the “Amended and Restated Declaration of Maintenance, Covenants and Restrictions on the Commons for the Landings”; otherwise, without knowledge.
21. Admitted that Plaintiffs assert that paragraph 29 of the original Declaration placed permanent restrictions on the use of Tract F; otherwise, denied.
22. Denied.
23. Denied.

24. Denied.

FIRST DEFENSE

If and to the extent that the Amended and Restated Declaration of Maintenance, Covenants and Restrictions on the Commons for the Landings purports to change, alter or modify the Restrictions on the use of Tract F as set forth in the original Declaration, said document is void and is a legal nullity.


SECOND DEFENSE

The Court should not grant the relief requested by Defendant for all of the reasons set forth in Plaintiffs' Complaint for Declaratory Judgment in this action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile and by U.S. Mail this 5th day of August, 2010, to: David D. Davis, Esq., Hankin Persson, et al., 1820 Ringling Blvd., Sarasota, Florida 34236.

ICARD, MERRILL, CULLIS, TIMM,
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