

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.

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KAREN E. BISHOP
CLERK OF THE CIRCUIT COURT
SARASOTA COUNTY, FLA

PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS

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 and pursuant to Rule 1.350, Florida Rules of Civil Procedure, request Defendant, THE LANDINGS MANAGEMENT ASSOCIATION, INC. to produce for inspection and/or copying within thirty (30) days from the date of service of this document, the following:

I. INSTRUCTIONS

If any document herein requested was formerly in the possession, custody or control of the aforesaid defendant and has been transferred, lost or destroyed, defendant shall submit in lieu of each document a written statement which:

- a) Describes in detail the nature of the document and its contents;



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Offices in Sarasota, Manatee and Charlotte Counties

b) Identifies the person who prepared or offered the document, and if applicable, the person to whom the document was sent;

c) Specifies the date on which the document was prepared;

d) Specifies, if possible, the date on which the document was lost or destroyed, the conditions or reasons for such destruction and the persons requesting and performing the destruction;

e) If the document otherwise required to be produced by this request is withheld, defendant shall identify the document by stating its date, author, recipients and all reasons for withholding the document.

II. DEFINITIONS

a) "Plaintiff" - means the Plaintiff and the employee, agent or attorney of Plaintiff, and any other person acting for, or on behalf of the Plaintiff, or under Plaintiff's authority or control;

b) "Defendant" - means the Defendant and any employee, agent or attorney of Defendant, and any other person acting for, or on behalf of Defendant, or under Defendant's authority or control;

c) The term "document" shall mean the original and any copy, regardless of its origin and location of all writings of any kind whatsoever including, but not limited to, all written, typed, recorded or graphic matter or other means of preserving thought or expression, and all tangible things from which information can be processed or transcribed, all abstracts, advertisements, appraisals, blueprints, plans, specifications, diagrams, schematics, sepias, papers, books, correspondence, e-mails, computer files, memoranda, outlines, handwritten notes or comments however produced or reproduced, messages, letters, telegrams, teletypes, telefax, cables, bulletins, notices, announcements, notes of meetings or other communications, interoffice and intraoffice telephone calls, diaries, lists, chronological data, minute books, articles of incorporation, bylaws, resolutions, reports, studies, results of investigations, analyses, evaluations, summaries, opinions, tabulations, pamphlets, printed matter, instructions, manuals, brochures, punch cards, ledgers, invoices, shipping papers, vouchers, internal accounting records, work sheets, accountants' work papers, balance sheets, notice of wire transfers of funds, budgets, tax returns, agendas, receipts, returns, computer printouts, data processing input and output, raw and refined data, data sheets, prospectuses, financial statements, financial calculations, financial projections, schedules, records of telephone or other conversations, affidavits, contracts, agreements or proposed agreements, proposals, journals, statistical records, desk calendars, appointment books, logbooks, cancelled checks, bank deposit or withdrawal slips, bank credit or debit memoranda, passbooks, bank statements, transcripts, statistics, surveys, magazine or newspaper articles, press releases, publications, releases, speeches, (and any and all drafts, alterations, and modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation, photographs, charts, graphs, slides, microfiche, microfilm, videotape, records, voice records or motion pictures) and electronic, photographic, mechanical or electric records or representations of any kind (including without limitation, tapes, cassettes, disks, films and records).

d) The term "documents" - means every document or group of documents or communications as above-defined known to you, and every such document or communication which can be located or discovered by reasonably diligent efforts.

e) "Communication" shall be constructed in its broadest sense and shall mean directly or indirectly describing, setting forth, discussing, mentioning, commenting upon, supporting, contradicting, or referring to the subject or topic in question, either in whole or in part, whether by correspondence, telephone meeting or any occasion of joint or mutual presence as well as the transfer of any documents from one person to another.

f) "Relating to" and "Relate to" shall be construed in their broadest sense and shall mean directly or indirectly describing, setting forth, discussing, mentioning, commenting upon, supporting, contradicting, or referring to the subject or topic in question, either in whole or in part.

g) "Date" shall mean the exact date, month and year, if ascertainable; if not ascertainable, your best approximation of such date.

h) The term "you" and "your" means the party to whom these requests are addressed, including its divisions, departments, subsidiaries, affiliates, predecessors, present or former officers, directors, owners or agents and all other persons acting or purporting to act on its behalf as well as each partnership in which it is a partner.

I) "Person" - means any natural person, individual, proprietorship, partnership, corporation, association, organization, joint venture, firm, other business enterprise, governmental body, group of natural persons or other entity.

j) As used herein, the singular and masculine form of nouns and pronouns shall embrace, and be read as applied as, the plural or feminine or neuter, as circumstances may make appropriate.

k) When producing the documents, please keep all documents segregated by the file in which the documents are contained and indicate the name of the file in which the documents are contained and the name of the documents being produced.

l) Each Request calls for not only documents in your possession or control, but also for documents, information, and knowledge that is available to you upon reasonable inquiry or request directed to any entity or individual that is an agent, representative, employee or affiliate of yours.

m) Where any Request cannot be complied with in full, the request shall be deemed to require you to provide the reasons for such inability to comply.

n) Where a document that is responsive to a specific Request herein has been withheld on the basis of a claim of attorney-client privilege, attorney work product or statutory authority, identify each such document by setting forth its date, its author, all recipients of the document or other persons who have had access to it, its general subject matter, and the grounds upon which the document has been withheld.

III. DOCUMENTS REQUESTED

1. All documents which reflect that C&M was "an entity closely related to LDC with common ownership and control" as alleged in paragraph 10 of your Counterclaim.

2. All documents which reflect that Tract F "decidedly became a part of the commons or common areas" as alleged in paragraph 15 of your Counterclaim.
3. All documents which support the allegation in paragraph 17 of your Counterclaim that the Defendant's charter does not contemplate or allow its ownership of property other than the commons or common areas as defined by the Declaration as amended.
4. All documents reflecting that Defendant as "consistently treated Tract F as a common area" since its acquisition as alleged in paragraph 18 of your Counterclaim.
5. All documents which reflect that "plaintiffs have consistently acknowledged that Tract F is a common area" as alleged in paragraph 19 of your Counterclaim in this action.
6. All documents which describe, reflect or relate to the approval of the "Amended and Restated Declaration of Maintenance, Covenants and Restrictions on the Commons for The Landings".
7. All documents which support the allegation in paragraph 22 of your Counterclaim that Plaintiffs have taken the position that Tract F is not a common area only since the publication and dissemination of the "proposed Master Plan for The Eagles Nest Area".
8. All documents which support the allegations in paragraph 23 of your Counterclaim that defendant "consistently justifiably and detrimentally relied upon its understanding and belief that Tract F became a common area".
9. All documents which reflect that "plaintiffs demanded and knowingly accepted said improvements" as alleged in paragraph 24 of your Counterclaim.
10. To the extent not otherwise produced in response to the foregoing, all documents which defendant intends to introduce at the trial of this action or which defendant believes are relevant and material to the disputed issues 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,
FUREN & GINSBURG, P.A.
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