

PROPERTY OWNERS ASSOCIATION
OF ARUNDEL ON THE BAY, INC., et al.
Plaintiffs

v.

MAURICE TOSE, et al.
Defendants

* IN THE
* CIRCUIT COURT
* FOR
* ANNE ARUNDEL COUNTY
* Case No.: C-02-CV-19-3640

**PLAINTIFFS' ANSWER TO DEFENDANTS' COUNTER-COMPLAINT TO QUIET
TITLE, FOR DECLARATORY RELIEF AND FOR INJUNCTIVE RELIEF**

Plaintiffs/Counter-Complaint Defendants, Property Owners Association of Arundel on the Bay, Inc. (the "Association"), David Delia ("Delia") and Lori Strum ("Strum" and together with the Association and Delia, the "Plaintiffs"), by and through their attorneys, Wayne T. Kosmerl, N. Tucker Meneely and Council, Baradel, Kosmerl and Nolan, P.A., file this answer to the Counter-Complaint to Quiet Title, for Declaratory Relief and for Injunctive Relief ("Counter-Complaint") filed by Defendants/Counter-Complaint Plaintiffs, Maurice Tose and Teresa Layden (collectively, "Defendants") and state as follows:

Preliminary Matters

1. Defendants' Counter-Complaint fails to state a claim upon which relief may be granted.

Specific Responses

2. Plaintiffs admit the allegation in paragraph 1 of the Counter-Complaint that the Association is a Maryland corporation which maintains its principal place of business and owns real property in Anne Arundel County, Maryland. With respect to allegations concerning land records, those documents speak for themselves, and Plaintiffs deny the allegations to the extent they are inconsistent with or not fully descriptive of the documents referenced. Plaintiffs admit that they have made claims relating to the community's rights to own and use platted roads in the

community.

3. Plaintiffs admit the allegation that Delia is a property owner in the community of Arundel on the Bay and is a Plaintiff in this case but deny the remaining allegations in paragraph 2 of the Counter-Complaint.

4. Plaintiffs admit the allegation that Strum is a property owner in the community of Arundel on the Bay and is a Plaintiff in this case but deny the remaining allegations in paragraph 3 of the Counter-Complaint.

5. Plaintiffs admit the allegations contained in paragraph 4 of the Counter-Complaint.

6. The allegations set forth in paragraph 5 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

7. The allegations set forth in paragraph 6 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

8. Plaintiffs deny the allegations contained in paragraph 7 of the Counter-Complaint.

9. Plaintiffs deny the allegations contained in paragraph 8 of the Counter-Complaint.

10. Plaintiffs deny the allegations contained in paragraph 9 of the Counter-Complaint.

11. Plaintiffs deny the allegations contained in paragraph 10 of the Counter-Complaint.

12. Plaintiffs deny the allegations contained in paragraph 11 of the Counter-Complaint.

13. The allegations set forth in paragraph 12 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

14. The allegations set forth in paragraph 13 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

15. Plaintiffs incorporate by reference as if fully set forth herein their responses to paragraphs 1 through 13 of the Counter-Complaint.

16. The allegations set forth in paragraph 15 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

17. The allegations set forth in paragraph 16 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

18. The allegations set forth in paragraph 17 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

19. The allegations set forth in paragraph 18 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

20. The allegations set forth in paragraph 19 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

21. Plaintiffs incorporate by reference as if fully set forth herein their responses to paragraphs 1 through 19 of the Counter-Complaint.

22. Plaintiffs deny the allegations contained in paragraph 21 of the Counter-Complaint.

23. Plaintiffs deny the allegations contained in paragraph 22 of the Counter-Complaint.

24. Plaintiffs deny the allegations contained in paragraph 23 of the Counter-Complaint.

25. Plaintiffs deny the allegations contained in paragraph 24 of the Counter-Complaint.

26. The allegations set forth in paragraph 25 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

27. The allegations set forth in paragraph 26 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

28. The allegations set forth in paragraph 27 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

29. Plaintiffs incorporate by reference as if fully set forth herein their responses to paragraphs 1 through 27 of the Counter-Complaint.

30. The allegations set forth in paragraph 29 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

31. Plaintiffs deny the allegations contained in paragraph 30 of the Counter-Complaint.

32. Plaintiffs deny the allegations contained in paragraph 31 of the Counter-Complaint.

33. The allegations set forth in paragraph 32 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

34. The allegations set forth in paragraph 33 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

35. The allegations set forth in paragraph 34 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

36. Plaintiffs incorporate by reference as if fully set forth herein their responses to paragraphs 1 through 34 of the Counter-Complaint.

37. The allegations set forth in paragraph 36 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

38. Plaintiffs deny the allegations contained in paragraph 37 of the Counter-Complaint to the extent they are inconsistent with any correspondence issued by Defendants regarding the Disputed Street and/or Site Area.

39. Plaintiffs deny the allegations contained in paragraph 38 of the Counter-Complaint to the extent that it mischaracterizes Plaintiffs' statements regarding use of the Disputed Street.

40. Plaintiffs deny the allegations contained in paragraph 39 of the Counter-Complaint.

41. The allegations set forth in paragraph 40 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

42. The allegations set forth in paragraph 41 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

43. The allegations set forth in paragraph 42 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

44. The allegations set forth in paragraph 43 of the Counter-Complaint consist of legal conclusions to which no response is required; to the extent that a response is required, the allegations are denied.

Affirmative Defenses

Plaintiffs raise the following affirmative defenses: Res Judicata, Judicial and/or Equitable Estoppel, Laches, Statute of Limitations, Statute of Frauds, Waiver, Abandonment, Privilege, and Failure to Join Necessary Parties under Rule 2-211. Plaintiffs reserve the right to plead any and all other defenses to which they may be entitled that are not now known but may be discovered during discovery and/or as this case progresses.

WHEREFORE, Plaintiffs/Counter-Complaint Defendants, Property Owners Association of Arundel on the Bay, Inc., David Delia and Lori Strum, respectfully request that Defendants/Counter-Complaint Plaintiffs' Counter-Complaint be dismissed with prejudice, and that Plaintiffs/Counter-Complaint Defendants be granted such other and further relief as this Honorable Court deems just and proper.

Respectfully submitted,

COUNCIL, BARADEL,
KOSMERL & NOLAN, P.A.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of March, 2020, a copy of the foregoing paper was served on all parties registered to receive electronic service via MDEC, including upon:

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Attorney for Defendants

/s/ N. Tucker Meneely

N. Tucker Meneely