

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

Plaintiffs/Counter-Defendants

v.

MAURICE B. TOSE', *et ux.*

Defendants/Counter-Plaintiffs

* IN THE
* CIRCUIT COURT
* FOR
* ANNE ARUNDEL COUNTY
* Case No. C-02-CV-19-003640

* * * * *

DEFENDANTS' EXPERT WITNESS DESIGNATION

The Defendants/Counter-Plaintiffs, Maurice B. Tose' and Teresa Layden (hereinafter "Tose"), by and through their attorneys, Barbara J. Palmer and Hyatt & Weber, P.A., file this Designation of Expert Witnesses pursuant to Maryland Rules 2-504(b)(1)(B) and 2-402(g)(1) and state:

1. John J. Dowling, Esquire
115 Cathedral Street
P.O. Box 226
Annapolis, Maryland 21404

Mr. Dowling is an attorney licensed to practice in Maryland, as well as a Maryland registered land surveyor. Mr. Dowling is an expert in the fields of title abstracting and title examination. His resume, addressing his qualifications in title abstracting and surveying, is attached as Exhibit 1.

Mr. Dowling has prepared a survey and a site exhibit for the Tose'-Layden properties. He has also examined the title history of the Tose'-Layden properties as well as the history of the ownership of the roads and the paper roads in the community of Arundel on the Bay. Mr. Dowling holds the opinion that the Defendants/Counter-Plaintiffs are the owners of the area of the Disputed Street as defined in the Plaintiffs' Complaint, by virtue of the operation of Maryland Real Property Art. § 2-114. As a result of his expertise in Maryland Real Property law, he will be available to

testify to the application of the rule expressed *Koch v. Strathmeyer*, 357 Md. 193 (1999), that the implied easement over roads bordering property conveyed is that the easement only exists until it reaches some other street or public way, thus limiting the use of the Disputed Street in this case to a limited few adjacent property owners.

Mr. Dowling will be prepared to testify concerning the results of his survey and will be available to address issues related to the boundary location survey that has been prepared for the Tose' property. Mr. Dowling will also rely upon his education, background and experience to address the significance of the historic use of the paper roads shown on the survey as it relates to the rights of the parties under Maryland law.

He will be available to address issues of the location of the easement, as necessary. He will consider the opinions expressed by any expert presented by the Defendant and support or rebut those opinions, as appropriate. The Defendants/Counter-Plaintiffs reserve the right to expand Mr. Dowling's designation and address related areas within his expertise, if necessary, during the course of this litigation.

2. Shepard Tullier
LandVisions, Inc.
614 Tayman Drive
Annapolis, Maryland 21403

Mr. Tullier is an expert in the fields of land planning and land use, with an emphasis in development as it relates to the historic issues and the legislative process. He has qualified as a land use, planning and subdivision expert before administrative bodies and Anne Arundel County and Howard County Circuit Courts. His resume is attached as Exhibit 2.

Mr. Tullier is familiar with historic development practices in water-privileged communities such as Arundel on the Bay. He holds the expert opinion that the development of the community of Arundel on the Bay was historically planned and developed so as to assure that the property

owners of the community had valuable access to the water for all to enjoy. The amenities offered by the water access is not reserved just for the waterfront property owners; but also for the owners of internal lots. Arundel on the Bay was historically designed with beach and riparian access to the residents, along with access roads to the homes and the community areas.

However, Mr. Tullier also holds the opinion that all of the paper roads do not provide riparian rights or other recreational benefits to all lot owners or the public at large. The rights to use is in keeping with the plats of record and the intentions of the grantor in the event of any ambiguity, and are limited as a result of historic changes in the condition of the platted property. Mr. Tullier holds the opinion that the paper roads at the water at issue in this action are not available to the community at large for general recreational/riparian use. Mr. Tullier will rely upon his education, background and experience to address the significance of the historic use of the paper roads shown on the plat as it relates to the rights of the parties.

Mr. Tullier will consider the opinions expressed by any expert presented by the Plaintiffs/Counter-Defendants and support or rebut those opinions, as appropriate. The Defendants/Counter-Plaintiffs reserve the right to expand Mr. Tullier's designation and address related areas within his expertise, if necessary, during the course of this litigation.

Respectfully submitted,

/s/

Barbara J. Palmer CPF # 8501010468
Hyatt & Weber, P.A.
200 Westgate Circle, Suite 500
Annapolis, Maryland 21401
(410) 266-0626
bpalmer@hwlaw.com
Attorney for the Defendants/Counter-Plaintiffs

Certificate of Service

I HEREBY CERTIFY that on this 13th day of April, 2020, a copy of the foregoing Counter-Complaint was filed in accordance with the MDEC system and a copy will be electronically served upon:

Wayne T. Kosmerl
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Attorneys for the Plaintiffs and Counter-Defendants

/s/
Barbara J. Palmer

Curriculum Vitae of John J. Dowling

Education

B.A., University of Maryland
J.D., University of Baltimore

Experience

Admitted to practice, Maryland Court of Appeals
Maryland Registered Land Surveyor, Property Line License No. 169
Over forty nine years experience in surveying
Over forty two years experience as a Title Abstractor

Member

Anne Arundel County Bar Association
Maryland State Bar Association
Maryland Society of Surveyors
American Society of Civil Engineers
National Society of Professional Surveyors

Qualified As An Expert Witness Before:

Circuit Court, Allegany County
Circuit Court, Anne Arundel County
Circuit Court, Baltimore City
Circuit Court, Baltimore County
Circuit Court, Calvert County
Circuit Court, Carroll County
Circuit Court, Dorchester County
Circuit Court, Garrett County
Circuit Court, Howard County
Circuit Court, Montgomery County
Circuit Court, Prince George's County
Circuit Court, Queen Anne's County
District Court, Anne Arundel County
DNR, Administrative Law Judge
Board of Appeals, Anne Arundel County
Zoning Hearing Officer, Anne Arundel County
Port Wardens, City of Annapolis

LandVisions, Inc.

SHEPARD TULLIER

BACKGROUND SUMMARY

Over 35 years of experience in planning, zoning and land use issues with a strong emphasis on the zoning, development and the legislative process, comprehensive planning and growth management procedures.

LAND USE

Provided expert testimony * in Court on land use, planning/subdivision issues and before the administrative bodies and Board of Appeals on rezonings, special exceptions and Critical Area matters, variances, school waivers, land use and need studies, etc. Drafted legislation and amendments for Council adoption. Performed feasibility studies for rezonings and property analysis/development potential reports. Prepared land use, parking and sewer cost analysis report for due diligence studies.

* Anne Arundel and Howard County Circuit Courts, Anne Arundel County Administrative Hearings and Board of Appeals, Calvert County Board of Appeals and Planning Commission, Howard County Board of Appeals, Prince Georges County Zoning Hearing Examiner and Planning Commission, Annapolis City Council, City of Annapolis Board of Appeals and Planning Commission, Baltimore County Zoning Hearings, City of Hagerstown Zoning Board of Appeals, City of Westminster Planning Commission, City of Leonardtown Board of Appeals.

DEVELOPMENT FACILITATION

Assisted in resolution of subdivision and Critical Areas questions. Represented clients on a wide range of matters involving Code analysis, water and sewer and septic issues, and other zoning and administrative processes.

ALCOHOL BEVERAGE LICENSE APPLICATIONS

As an expert witness testified before the Anne Arundel County Liquor Board and the City of Annapolis Alcohol Beverage Control Board re: need for license, impacts on adjacent licenses, etc.

614 Tayman Drive, Annapolis, MD 21403 (410) 991-8716

PROFESSIONAL EXPERIENCE

LandVisions, Inc. President 7/93 to present

Anne Arundel County Office of Planning and Zoning

Comprehensive Planning Administrator	12/90 to 6/93
Administrative Planner	3/88 to 11/90
Zoning Analyst	9/86 to 2/88
Comprehensive Planner	7/83 to 9/86
Legislative Planner	2/81 to 6/83
Environmental Planner	11/77 to 1/81

EDUCATION

University of Maryland
B.A. Political Science, 1971

MEMBERSHIP

American Planning Association (APA)
Maryland Chapter, APA

ELECTED OFFICE

Annapolis City Council 1993-1997