

IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MARYLAND

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

Plaintiffs,

* Case No. C-02-CV-19-003640

v.

MAURICE B. TOSE', *et ux.*

Defendants.

* * * * *

CONSENT ORDER

Upon consent and agreement of Plaintiff-Counter Defendant Property Owners Association of Arundel on the Bay, Inc. (“Association”) and Counter-Defendants John Davis and Laverne Davis, in their capacities as Trustees of the John C. and Laverne C. Davis Family Trust (“Davis Trust”), and Melanie Moses and John R. Moses, Jr., in their capacities as Trustees of the John and April Moses Irrevocable Trust (“Moses Trust”) (collectively with the Davis Trust, “the Property Owners”), it is, by the Circuit Court for Anne Arundel County, hereby:

1. **ORDERED**, that the Association and the Property Owners agree and stipulate as follows:

a. The Property Owners each own real properties shown on the plat entitled “Arundel on the Bay,” which plat is recorded among the Land Records of Anne Arundel County Maryland in Plat Book S.H. 37, folio 509 (“AOTB Plat”).

b. The Davis Trust owns the real properties known as (a) 3406 Chesapeake Walk, Annapolis, Maryland 21403, and identified as Lot B, Block 3, as shown on the AOTB Plat, and (b) 3408 Chesapeake Walk, Annapolis, Maryland 21403, and identified as Lot A, Block 3, as shown on the AOTB Plat.

c. The Moses Trust owns the real property known as 3440 Chesapeake Walk, Annapolis, Maryland 21403, and identified as Lots D, E, F, and G, Block 6, as shown on the AOTB Plat.

d. The Association and the Property Owners' predecessors previously litigated the issues of ownership/title and access/use of those portions of the streets that abut their respective properties ("Previously Disputed Streets") in the case captioned *Sherry Bellamy, et al. v. Property Owners Association of Arundel on the Bay*, Case No. C-06-115184, in the Circuit Court for Anne Arundel County, Maryland ("Bellamy Case"), which included, but was not limited to, a claim or claims by the Association to title in the Previously Disputed Streets based on or arising from a deed dated September 11, 1951 from the Trustees of the Town of Arundel on the Bay to the Association, which is recorded among the Land Records of Anne Arundel County Maryland in Liber 825, folio 32 ("1951 Deed").

e. By a Settlement Agreement dated September 19, 2007, the Association and the Property Owners' predecessors fully and finally settled all claims, known and unknown, in the Bellamy Case with regard to access rights to the Previously Disputed Streets by way of the Confirmatory Deed of Easement and Agreement later recorded among the Land Records of Anne Arundel County in Book 22403, page 29 ("the Easement Agreement") (the rights, privileges, and duties of which run with the land and are binding on and inure to the benefit of the heirs, successors, and assigns thereto), leaving the issue of whether the Association or the Property Owners' predecessors held fee simple title to the Previously Disputed Streets to be decided by the Court on cross motions for summary judgment.

f. By Amended Memorandum Opinion and Order dated January 8, 2008 and Corrected Amended Order dated February 6, 2008 in the Bellamy Case, which Order is final and constitutes a final judgment, the Court found summary judgment in favor of the Property Owners' predecessors and declared that fee simple title to the Previously Disputed Streets was vested in the Property Owners' predecessors in accordance with Maryland Code, Real Property § 2-114, subject to the Easement Agreement, and that the Association did not own fee simple title to the Previously Disputed Streets ("Prior Judgment").

g. The Property Owners' predecessors subsequently conveyed their respective properties to the Davis Trust and Moses Trust respectively, by virtue of deeds duly recorded in the Land Records of Anne Arundel County.

h. The Association agrees, represents, and warrants that nothing in the present, above-captioned litigation (*Property Owners Association of Arundel on the Bay, Inc., et al. v. Tose', et ux.*, Case No. C-02-CV-19-003640) asserts, or is intended to assert, a claim or otherwise present a challenge under any theory or in any form with respect to the Easement Agreement or the Prior Judgment in the Bellamy Case, including but not limited to the rights, privileges, and duties of the Property Owners under the Easement Agreement or the Property Owners' fee simple title to the Previously Disputed Streets.

i. The Association agrees, represents, and warrants that no finding (factual, legal, or otherwise) in the present, above-captioned litigation (*Property Owners Association of Arundel on the Bay, Inc., et al. v. Tose', et ux.*, Case No. C-02-CV-19-003640), including any and all appeals, may be used by the Association as a basis, or in any manner whatsoever, for any future claim or challenge to the validity, enforceability, or any other aspect of the Easement Agreement, the Prior Judgment, or the Property Owners'

fee simple title to the Previously Disputed Streets as were all agreed upon or determined in the Bellamy Case.


j. Subject to the foregoing stipulations, the Property Owners agree, represent and warrant that they shall be bound by the judgment entered in this case as it pertains to claims by the parties concerning the portions of the roads abutting the properties of Defendants Maurice Tose' and Teresa Layden on Magnolia Avenue and Saratoga Avenue in the community of Arundel on the Bay.

k. The Association and the Property Owners agree and stipulate that the Association's agreements, representations, and warranties set forth in this Consent Order pertain only to the Previously Disputed Streets and are not intended as a waiver or admission by the Association regarding other streets or properties not subject to the Easement Agreement or the Prior Judgment.

2. **ORDERED**, that, accordingly, the Property Owners be and hereby are **DISMISSED** as parties to the above captioned action.

CONSENTED and AGREED:

PROPERTY OWNERS ASSOCIATION OF ARUNDEL ON THE BAY:

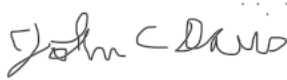
By: 
Name: DAVID J. DELIA
Title: President, POA-AOTB


(Date)

JOHN C. AND LAVERNE C. DAVIS FAMILY TRUST:

By: 
Laverne Davis, Trustee

03/07/2022
(Date)


By: 
John Davis, Trustee

03/07/2022
(Date)

JOHN AND APRIL MOSES IRREVOCABLE TRUST:

By: 
Melanie Moses, Trustee

03/07/2022
(Date)

By: 
John R. Moses, Jr., Trustee

03/07/2022
(Date)

SO ORDERED, BY CONSENT:

Date

Judge of the Circuit Court for
Anne Arundel County, Maryland