

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

**PROPERTY OWNERS ASSOCIATION OF ARUNDEL ON THE BAY, INC.’S ANSWER
TO MAURICE B. TOSE’S FIRST SET OF INTERROGATORIES**

Plaintiff, Property Owners Association of Arundel on the Bay, Inc. (“Plaintiff” or “Association”), by and through its attorneys, Wayne T. Kosmerl, N. Tucker Meneely and Council, Baradel, Kosmerl & Nolan, P.A. and in accordance with Maryland Rule 2-421, hereby provides Plaintiff’s answers to Defendant’s, Maurice Tose (“Defendant”), Interrogatories, and states as follows.

INTRODUCTION

A. The information supplied in these Answers is not based solely on the knowledge of the executing party but includes knowledge of agents, representatives and attorneys, unless privileged.

B. The word usage and sentence structure are that of the attorney and does not purport to be the exact language of the executing party.

C. The Interrogatories have been interpreted and answered in accordance with plain English usage, and to the extent not specifically challenged by objection, the definitions and instructions included with the Interrogatories.

D. The executing party expressly reserves the right to file supplemental responses if and when additional information becomes available or known.

GENERAL OBJECTIONS

1. Plaintiff objects to each Interrogatory to the extent it is vague, ambiguous or overly broad.

2. Plaintiff objects to each Interrogatory to the extent that it seeks information that is protected from disclosure by the attorney-client privilege, work product doctrine, the self-evaluation privilege, the applicable rules, regulations and statutes of the State of Maryland and/or the United States, or that is otherwise immune from discovery. Inadvertent disclosure of any such information shall not constitute a waiver of any applicable privilege or immunity.

3. Plaintiff objects to each Interrogatory to the extent that it sets forth unsupported legal conclusions or assumes facts not in evidence.

4. Plaintiff generally objects to Defendant's Interrogatories to the extent that the information sought is already in the possession, custody, or control of the Defendant.

5. Plaintiff generally objects to Defendant's Interrogatories to the extent that it seeks information that is a matter of public record, cumulative or duplicative, or is equally obtainable from third parties or from some other source more convenient, less burdensome, or less expensive.

6. Plaintiff generally objects to Defendant's Interrogatories to the extent that they seek information not relevant to the subject matter of this action, nor are reasonably calculated to lead to the discovery of admissible evidence.

7. Plaintiff generally objects to Defendant's Interrogatories to the extent that they seek information that is confidential in nature or contain sensitive financial, commercial, proprietary, consumer, trade, or personal information.

8. Plaintiff generally objects to Defendant's Interrogatories to the extent that they, in the context of this particular case, purport to impose obligations beyond those contained in the Maryland Rules of Civil Procedure.

9. Plaintiff generally objects to Defendant's Interrogatories to the extent that they seek full disclosure of Plaintiff's bases for specific claims or defenses prior to the completion of its investigation and discovery.

10. Any statement by Plaintiff that it will produce information shall not be construed as a representation that there is information responsive to a particular Interrogatory, but rather, that Plaintiff will produce responsive information to the extent that it exists.

11. Plaintiff makes no admission of any nature, and no admission may be implied by or inferred from these objections and answers.

12. Plaintiff states that his investigation and the discovery process in this case are ongoing and that additional material information responsive to Defendant's Interrogatories will be provided to the Defendant promptly if it becomes available or by deposition testimony.

ANSWERS

Interrogatory 1. Identify the person(s) answering these interrogatories. Include in your answer the information set forth in Definition (b) (1) and (2) above.

Answer:

*David J. Delia, president, POA-AOTB
1375 Walnut Avenue
Annapolis, MD 21403-4741
H: 410-268-8622
C: 443-534-7229
ddelia@comcast.net*

Interrogatory 2. Identify each **person** with whom you consulted, sought advice from, or discussed the preparation of your answers to these interrogatories and identify any **document** which you reviewed in preparing your answers to these interrogatories.

Answer: Plaintiff objects to this Interrogatory to the extent that it seeks information or documents that (i) were prepared for or in anticipation of litigation; (ii) constitute attorney's work product; (iii) contain material subject to the attorney/client privilege; or (iv) are protected by any other applicable privilege. Without waiving these objections, Susan Cook and counsel were consulted. Plaintiff identifies the documents produced in conjunction with Plaintiff's Response to Request for Production of Documents.

Interrogatory 3. Describe by mailing address, and by lot and block, all property owned by the Association, or in which the Association has a property interest in Arundel on the Bay. For each property listed, identify any co-owner(s), state how it is titled, the date of

acquisition, the date on which the Association acquired its interest, and identify the holder of any current lien, deed of trust, or mortgage on the property.

Answer: The Association is the record owner of certain real property in Arundel on the Bay known as Block 13, Lots C-I, and Block 32, Lots I, K, L, and M, as shown on the Record Plat.

Block 32, Lots I, K, L, and M were acquired on or about July 22, 1957, from Gordon & Elizabeth Stueart, by deed recorded in the Land Records for Anne Arundel County at Liber GTC 1136, folio 471.

Block 13, Lots C-I which is informally called the Beach Lots. These lots were conveyed from the Commissioners of the Town to 4 individuals in 1949. Three of those individuals conveyed their interests to the Association in 1963. The Association acquired an equitable interest in the fourth by virtue of an agreement with M. F. Klawans.

The Association also owns approximately half of the platted interior streets and all of the street ends throughout the community, with the exception of certain street ends which are owned by other property owners pursuant to court order or agreement.

The Association has no mortgages on any of its property.

Interrogatory 4. For each property identified in the preceding Interrogatory No.3, describe how the property is used and include in your answer the following information:

(a) If the property is used for residential purposes identify all persons who reside there, state that individual's age and relationship to AOTB; state whether the property is a primary personal residence and, if not, how often and under what circumstances the property is used.

(b) If the property is used for leasing or rental purposes, identify

the current tenant(s) of the property and describe how often and under what circumstances the tenant uses the property.

(c) If the property is used community purposes, describe how and by whom the property is used.

Answer: Lots I & K are used as a playground; Lot M is used for an underground water tank for fire emergencies.

Block 13, Lots C-I have always been used for community recreation purposes, as was the intent from the beginning.

Interrogatory 5. Identify with specificity the area that is referred to as the Disputed Street in Paragraph 7 of the Complaint. Include in your Answer a survey or a metes and bounds description.

Answer: Pursuant to Rule 2-421(c), Plaintiff directs Defendant to the survey provided in Plaintiff's document production.

Interrogatory 6. Identify each person, other than a person intended to be called as an expert witness at trial, having discoverable information that tends to support a position that you have taken or intend to take in this action, including any claim for damages, and state the subject matter of the information possessed by that person. (Standard General Interrogatory No. 1.)

Answer: All current and former Association officers and board members and all current and former residents and property owners in Arundel on the Bay have discoverable information regarding the Association's historic and/or current use and maintenance of the platted streets in Arundel-On-The-Bay. All current and former residents and/or property owners of Arundel-On-The-Bay who participated in any Association, Board and/or general meetings including those involving budgeting, road repair and/or use of the platted streets, and/or who have used any of

the platted streets, have personal knowledge regarding the Association's policies and practices regarding use, maintenance and control of the streets in Arundel-On-The-Bay. All property owner's mortgagees and/or trustees under their deeds of trust would have discoverable information pertaining to their property interests in the applicable property to which the mortgage or deed of trust would apply within Arundel on the Bay. In addition, the witnesses and parties in the *Coble/Atterbeary*, *Durant* and *McManus* litigations, as well as Plaintiff's counsel and her clients and experts from the *Bellamy* litigation and Ray settlement would also possess such information. Current and former County officials involved in administering the Association's Erosion Control District and Special Community Benefit Taxing District including Carolyn Kirby, Billie Penley and Jessica Leyes have knowledge regarding the Association's control and maintenance of community roads and amenities. Current and/or historical Anne Arundel County officials would have knowledge regarding the installation and/or maintenance of sewer lines and/or other public utilities, and installation and maintenance of County roads, in the platted streets in Arundel-On-The-Bay. Current and/or former County officials have knowledge regarding the Town and Association's conveyance of certain streets and/or easement rights to Anne Arundel County as described in deeds recorded in the land records of Anne Arundel County. Current and former State officials have knowledge of the Association's erosion control projects and permitting and construction of the Association's community pier and boat launch ramp, as well as community members Susan Cook and Frank Florentine. Dr. Lofton, Barbara Nash, Ed Lee Johnson, Maudella Brown, Dr. Ivy, and/or their families and/or successors in interest, and Plaintiffs' counsel's clients in both the *Bellamy* litigation and *Ray* settlement have knowledge regarding the Association's policies and practices regarding the use and control of community owned streets.

In addition to Plaintiffs, Milton Harrod, Toni Ray, Arend and Lorraine Thomas, III, Richard Grigsby's family members, Aris T. Allen, Jr., Roxanne Veal, Isam Samaan, Yvonne Leacock, Susan Cook, Frank Florentine, Mark and Maureen Donahue, Sandra Barrett, Helen Henson, Philip and Velma Colbert, Michael Postelwaite, James Strum, Alan Hinman, and Victor Wilkerson and all current and former officers and members of the Board of Directors of the Association would have knowledge regarding the history of the use, maintenance and repair of community owned roads and/or roads in which community members have access.

Among the many community members who have accessed Site Area (or whatever you are calling it), the following members have been particularly active:

Bill Keyes – 3459 Rockway

Lori Strum – 3515 Newport

Kathleen McLean – 3510 Rockway

Susan Cook – 3403 Saratoga

Frank Florentine – 3403 Saratoga

Tim Hamiton – 1330 Walnut

Mike Lord – 3557 Narragansett

David Zeman – 1332 Walnut

Marc Apter – 1292 Magnolia

Pam Duncan – 1362 Myrtle

All officers and board members of the Association

Most of the aforementioned individuals' contact information is contained in the Arundel on the Bay Community Directory or is otherwise not known at this time. All individuals and entities in Plaintiffs' chain of title may also have knowledge regarding their titles and/or use of

the disputed streets. Brad Robinson of Total Lawn (totallawn2@gmail.com) and Jose Rivas (crivias26@yahoo.com), Carroll Brothers Contracting (tom@carrollbrocontracting.com), Jeff Grabill (Jeff@secondnaturemd.com), Samco Paving (1074 Md-3, Crofton, MD 2114 (410) 721-9210), and Randy Tritt (rtritt66@live.com) have knowledge regarding maintenance, care, and/or improvement of Association-owned and controlled roads, streets and/or street ends. Baltimore Gas and Electric and/or Anne Arundel County officials have knowledge regarding the installation of utility lines and/or street lights on platted streets in Arundel-On-The-Bay. In addition, see the documents produced in response to Plaintiff's Request for Production of Documents. Additional names will be provided as further knowledge of specific names is discovered.

Interrogatory 7. Identify each person you expect to call as an expert witness at trial, state the subject matter on which the expert is expected to testify, state the substance of the findings and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion, and with respect to an expert whose findings and opinions were acquired in anticipation of litigation or for trial, summarize the qualifications of the expert, state the terms of the publications written by the expert and any written report made by the expert concerning the expert's findings and opinions. (Standard General Interrogatory No. 2.)

Answer: Please see Plaintiff's Expert Designation.

Interrogatory 8. If you intend to rely upon any documents, electronically stored information, or tangible things to support a position you have taken or intend to take in this action, including any claim for damages, provide a brief description, by category and location, of all such documents, electronically stored information, and tangible things, and identify all persons having possession, custody or control of them. (Standard General Interrogatory No. 3.)

Answer: Plaintiff objects to this Interrogatory to the extent that it seeks information or

documents that (i) were prepared for or in anticipation of litigation; (ii) constitute attorney's work product; (iii) contain material subject to the attorney/client privilege; or (iv) are protected by any other applicable privilege. Without waiving these objections, counsel for Plaintiff has not yet made a final determination as to what documents, electronically stored information or tangible things Plaintiff will rely upon in this action. At this time, Plaintiff identifies documents being produced in conjunction with Plaintiff's Responses to Request for Production of Documents and any supplemental production of documents thereafter. Plaintiff reserves the right to rely upon any documents produced or identified by any part to this action. Plaintiff further reserves the right to supplement this answer as discovery and this case progresses.

Interrogatory 9. Identify all of the officers, directors, committee chairs or others in leadership roles for the Association over the past five years, the capacity in which each individual has served, the dates of service, and describe the duties of each while serving in that capacity.

Answer:

Current Year is FY2021 (July 1, 2020 - June 30, 2021)

President: David Delia (2nd yr)

Vice President: Derrick Cogburn

Treasurer: Gail Adams

Secretary: Susan Cook

Board of Directors: Mike Adams, Tim Hamilton, Brigit Haragan, Mike Lord, Kathy McLean, Deborah Morrison, Lori Strum

FY 2020 (July 1, 2019 - June 30, 2020):

President: David Delia (1st yr)

Vice President: Donna Watts-Lamont (partial, moved); Richard Peyton appointed

Treasurer: Gail Adams (appointed to 2nd year of Roxanne Veal's term)

Secretary: Susan Cook

Board of Directors: Mike Adams, Brigid Haragan, Alan Hinman, Mike Lord, Kathleen McLean, Deborah Morrison, Lori Strum

FY 2019 (July 1, 2018 - June 30, 2019):

President: Dawn Davis (2nd yr)

Vice President: Donna Watts-Lamont

Treasurer: Tim Wighton resigned (moved) Roxanne Veal resumed office

Bookkeeper Gail Adams
Secretary: Susan Cook
Board of Directors: Mike Adams, Brigid Haragan, Alan Hinman, Mike Lord, Kathleen McLean, Richard Peyton, Lori Strum

FY 2018 (July 1, 2017 – June 30, 2018):

President: Ed Conaway (elected; then determined ineligible); Dawn Davis appointed)
Vice President: Donna Watts-Lamont
Treasurer: Roxanne Veal
Secretary: Vacant; Susan Cook appointed Nov 2018.
Board of Directors: Aris T. Allen, Jr., David Delia, Pamela Bennett, Alan Hinman, Richard Peyton, Neil Rubin, Lori Strum

Interrogatory 10. If you dispute the claims by Tose' and Layden they own fee simple title to the Site Area that abut the Tose' -Layden Property, identify each person you contend does own fee simple title to the Site Area and state all facts and identify all documents upon which you rely to support your contention.

Answer: Plaintiff objects to this Interrogatory to the extent that it seeks information or documents that (i) were prepared for or in anticipation of litigation; (ii) constitute attorney's work product; (iii) contain material subject to the attorney/client privilege; or (iv) are protected by any other applicable privilege. Plaintiff further objects to the extent that this Interrogatory calls for a legal conclusion or otherwise seeks Plaintiff's counsel's legal theory of this case. Without waiving these objections, Plaintiff identifies the Association. Plaintiff identifies the following facts, which Plaintiff reserves the right to supplement:

The original developer of Arundel on the Bay sought to develop a "sea side" resort which would provide summer cottages overlooking the Chesapeake Bay to enjoy boating, bathing, crabbing and fishing. (AOTB Document Production ("AOTB") 202, 206, 207). In 1890, pursuant to a deed recorded at Liber SH., No. 37, folio 509, Richard M. Chase conveyed the land presently known as Arundel-on-the-Bay to the Chesapeake and Columbia Investment Company ("Chase

Deed”). (AOTB 1). In connection with that deed, the Chesapeake and Columbia Investment Company (“Original Developer”) filed a plat depicting Chesapeake and Magnolia Avenues as platted streets (“1890 Plat”). (AOTB 5). Eight years later, the General Assembly established Arundel-on-the-Bay as an incorporated Town. Md. Laws 1898, Ch. 349. (AOTB 6). The boundaries of the Town of Arundel-on-the-Bay were established by reference to the Chase Deed and included all of the land depicted in the 1890 Plat. Md. Laws 1898, Ch. 349, §2.

Pursuant to Section Seventeen (17) of the aforementioned Act, the General Assembly empowered the Town Commissioners of Arundel-on-the-Bay (the “Commissioners”) to “establish the limit and width of the streets of said town and to improve the same, . . . and [to] open new streets, lanes and alleys.” Further, the Commissioners had “the power to provide for the payment of damages and expenses of opening, widening, and laying out, grading, improving and keeping in good condition the streets, lanes, alleys and sidewalks in said town.” Pursuant to Section 32 of the aforementioned Act, the General Assembly granted control over all the streets to the Town.

A revised plat of Arundel-on-the-Bay, also showing the Disputed Streets, was filed by Arundel-on-the-Bay’s then owners, Meredith Lumber Co., on August 15, 1927 (“Record Plat”). (AOTB 19). The Original Developer and its successors conveyed various lots to third parties based upon the plats filed on record from time to time. In 1949, the General Assembly repealed the charter for the Town of Arundel-on-the-Bay, effective June 1, 1949. Md. Laws 1949, Ch. 191. (AOTB 20).

The Town Trustees received title to the above referenced streets in a deed from the Town Commissioners dated May 28, 1949, and recorded June 2, 1949 (“1949 Deed”). Title to the Disputed Streets was conveyed to the Town Trustees in trust for the benefit of all property owners

in Arundel-on-the-Bay. Importantly, the 1949 Deed from the Town Commissioners to the Town Trustees conveyed the streets in trust, but with “the power and authority vested in them to convey all or any part of said real property to any properly organized corporation which may be organized by the aforesaid property owners, and as directed by the aforesaid property owners...” In addition, the 1949 Deed from the Town Commissioners to the Town Trustees included the power to levy assessments or accept contributions for the maintenance of the platted streets so conveyed. (AOTB 22). In 1950, the Maryland Legislature enacted emergency legislation, empowering the County Commissioners of Anne Arundel County to take title and control over the community streets.

The Association is a corporate entity formed under the laws of Maryland in 1949 and is the present record owner of certain streets in Arundel-on-the-Bay by special warranty deed dated September 11, 1951 (“1951 Deed”) granted by the Town Trustees after the dissolution of the Town of Arundel-on-the-Bay and recorded in the Land Records for Anne Arundel County at Liber 825, folio 32. (AOTB 25). The deeded streets include the Disputed Streets. The validity of the 1951 Deed remained unchallenged for over fifty (50) years. Preceding this conveyance, the town trustees conveyed several of the platted interior streets to the County by virtue of its authority afforded by the 1950 emergency legislation. For several years following that conveyance, the Association deeded certain other interior streets to the County, as well.

The Association is also the record owner of certain real property in Arundel-on-the-Bay known as Block 13, Lots C-I, and Block 32, Lots I, K, L, and M, as shown on the Record Plat. (AOTB 28).

The Association, at various times based upon the needs of the community, has maintained and improved portions of the Disputed Streets at issue, as well as other platted streets in Arundel-

on-the-Bay. The Association has conveyed title to certain streets shown on the Record Plat, as well as sewer and other utility easements, to Anne Arundel County from time to time as dictated by the needs of the community.

Since its inception in 1951, the Association has exercised dominion and control over the Disputed Streets in Arundel-on-the-Bay by filing suit when platted streets were blocked or encroached upon by residents. The Association has exercised dominion and control over the streets by regulating parking on the streets, establishing fire drafting sites, constructing a boat launching ramp and community pier on several waterfront street ends. The Association has also controlled waterfront development for residences abutting platted streets to ensure that any piers erected did not interfere with the Association's rights in the platted streets.

The Association has consistently maintained its claim of ownership to certain streets (including the Disputed Streets) and regulated the use of same for the benefit of all property owners. Among other things, the Association addressed erosion problems on platted streets, established street lights, regulated the construction of private piers on platted streets, constructed a community boat launching ramp and pier on street ends, regulated the use of platted streets including activities such as fishing on Chesapeake Avenue.

The property owners in Arundel-on-the-Bay, including the Association, currently use, and historically have used, the Disputed Streets for vehicular and/or pedestrian access and/or passive recreational uses such as walking, fishing, crabbing, watching fireworks, or observing maritime and marine life on and about the Chesapeake Bay.

Interrogatory 11. If you contend that members of the Association have used any portion of the Site Area, other than the area of the macadam roadway shown as Exhibit D to the Counter-Complaint, within the past twenty (20) years, describe with specificity, who, when,

under what circumstances, and for what purpose the named individuals have used it.

Answer: Plaintiff objects to this Interrogatory which is overly broad and unduly burdensome in the time frame as specified. Without waiving these objections, over the past 20 years numerous members of the community (which by definition includes the Officers and Board Members) have on a yearly, monthly, weekly or even daily basis walked, bicycled or driven along the site Area as well as along the other paper roads (now trails) and around street ends.

Each year the Officers and Board Members conduct a walk through the community to note if there are any obstructions to community property and then take action if necessary to remedy those violations of community property rights. Maurice Tose' participated in just such a walk on May 8, 2004, with Frank Florentine, noting some encroachments during the tour.

Otherwise, the platted street ends throughout the community are available to community access for normal waterfront activities including, but not limited to, ingress and egress, swimming, boating, fishing, boat watching and other reasonable activities.

Among the many community members who have accessed Site Area (or whatever you are calling it), the following members have been particularly active:

Bill Keyes – 3459 Rockway

Lori Strum – 3515 Newport

Kathleen McLean – 3510 Rockway

Susan Cook – 3403 Saratoga

Frank Florentine – 3403 Saratoga

Tim Hamiton – 1330 Walnut

Mike Lord – 3557 Narragansett

David Zeman – 1332 Walnut

Marc Apter – 1292 Magnolia

Pam Duncan – 1362 Myrtle

David Delia

All officers and board members of the Association

Additional names will be provided as further knowledge of specific names is discovered.

Interrogatory 12. If you contend that members of the Arundel on the Bay community have used any of the Site Area for riparian activities including but not limited to swimming, boating, sunbathing, boat launching and fishing, identify each person whom you contend participated in such activities, the date or approximate time said activities occurred and specifically what activity you contend said persons were doing.

Answer: Plaintiff objects to this Interrogatory which is overly broad and unduly burdensome in the time frame as specified. Without waiving these objections, for over the past 20 years, members of the community and officers and board members of the Association have, on a yearly, and frequently monthly, and occasionally weekly basis, walked and driven along the Site Area and every other street end and paper street in the community. Association President David Delia has participated in these walks since moving to the neighborhood in 2003. These walks are frequently advertised to members of the community. Otherwise, platted street ends throughout the community are available to community members to access for normal waterfront activities, including, but not limited to, ingress and egress, swimming, boating, fishing, boat watching, and other reasonable activities. Plaintiff is unaware of any instance of any community member accessing the Disputed Streets or Site Area and using same for an unreasonable purpose or activity.

Interrogatory 13. If you contend that some or all residents of Arundel on the Bay are

entitled to use the Site Area for any activities or any purpose, set forth in detail all activities or for what purposes you contend that the residents are entitled to undertake, and provide all of the support for your contention. Identify in your Answer any and all documentation you contend supports your position.

Answer: Plaintiff objects to this Interrogatory to the extent that it seeks information or documents that (i) were prepared for or in anticipation of litigation; (ii) constitute attorney's work product; (iii) contain material subject to the attorney/client privilege; or (iv) are protected by any other applicable privilege. Plaintiff further objects to the extent that this Interrogatory calls for a legal conclusion or otherwise seeks Plaintiff's counsel's legal theory of this case. Without waiving these objections, community members may access the Site Area for normal and reasonable waterfront activities. Plaintiff is unaware of any instance of any community member accessing the Disputed Streets or Site Area and using same for an unreasonable purpose or activity which is not otherwise consistent with the original scope of the access or the current topography and layout of the land.

Interrogatory 14. Describe in detail what rights you assert that the Association obtained in the Disputed Street or the Site Area as a result of the Chase Deed, referred to in Paragraph 8 of your Complaint. If you contend that the Association obtained riparian rights as a part of that deed, state the basis of this assertion.

Answer: Plaintiff objects to this Interrogatory to the extent that it seeks information or documents that (i) were prepared for or in anticipation of litigation; (ii) constitute attorney's work product; (iii) contain material subject to the attorney/client privilege; or (iv) are protected by any other applicable privilege. Plaintiff further objects and refuses to respond to this Interrogatory as it plainly requests a legal conclusion and otherwise seeks counsel's legal theory

of this case, which is not discoverable.

Interrogatory 15. What significance, if any, is the fact that “the Association is the record owner of certain real property in Arundel on the Bay known as Block 13, Lots C-1, and Block 32, Lots I, K, L and M” to the claim brought by the Association against Tose’ and Layden in this action.

Answer: Plaintiff objects to this Interrogatory to the extent that it seeks information or documents that (i) were prepared for or in anticipation of litigation; (ii) constitute attorney’s work product; (iii) contain material subject to the attorney/client privilege; or (iv) are protected by any other applicable privilege. Plaintiff further objects and refuses to respond to this Interrogatory as it plainly requests a legal conclusion and otherwise seeks counsel’s legal theory of this case, which is not discoverable.

Interrogatory 16. Set forth in detail all support for you statement contained in Paragraph 14 in the Complaint that “[t]he Association, at various times based upon the needs of the community, has maintained and improved the portions of the Disputed Streets...” Include in your Answer any and all maintenance or other work that has been performed by any individual or contractor on the Disputed Street, the name of the individual or contractor, the date said maintenance or other work was performed and any and all contact that the Association had with Tose’ and/or Layden prior to performing the maintenance or other work.

Answer: The Disputed Street, along with every other street end and paper street in the community has been maintained and/or snow-plowed, and weather-treated as required. Pursuant to Rule 2-421(c), Plaintiff will also produce records relating to maintenance and improvements to the Disputed Streets.

Interrogatory 17. Set forth all acts of dominion or control that the Association has

undertaken as it relates to the Disputed Street as defined in your Complaint or the Site Area as defined herein.

Answer: Plaintiff objects to this Interrogatory to the extent that it seeks information or documents that (i) were prepared for or in anticipation of litigation; (ii) constitute attorney's work product; (iii) contain material subject to the attorney/client privilege; or (iv) are protected by any other applicable privilege. Plaintiff further objects to the extent that this Interrogatory calls for a legal conclusion or otherwise seeks Plaintiff's counsel's legal theory of this case. Without waiving these objections, since its inception, the Association has advertised to the community its ownership of platted street ends throughout the community. The Association has further issued rules and regulations regarding the street ends and other roads and streets throughout the community. Without any known objection from Defendants or their predecessors in title, these rules have provided that "[o]nly property owners, residents and identified guests shall have access and use of community property and recreational areas," which areas "are defined as the beach, boat ramp, pier, playgrounds, and unimproved roads commonly referred to as paper roads or walks." Since its inception, the Association has further consistently made clear to residents that any maintenance done to community owned streets was done with permission and not an indication of a lot owner's ownership—or the Association's abandonment—of community owned property (the "Beautification Policy").

The Association fully maintains its street ends, to include placing warning markers to prevent people from driving into the water, ensuring there is appropriate signage, and cutting the grass on many of them. In some cases, adjacent property owners prefer to mow the grass on street ends, which is permitted under the Association's Beautification Policy. In August – September, when Defendants did not maintain the grass causing it to obstruct the view and limit access, the

Association hired a contractor to cut it down. Pursuant to Rule 2-421(c), the Association will produce records relating to this Interrogatory.

Interrogatory 18. If you contend that the Disputed Street or the Site Area is an established fire drafting site, set forth all support for this contention and identify all documentation that supports your claim.

Answer: Plaintiff does not make that contention. The Association has formally designated and constructed at least five nearby sites since 2009 in coordination with AA County authorities; however, viability as a FDS is the absolute purview of the AACoFD as the undisputed subject matter expert in this field.

Interrogatory 19. Identify all improvements the Association has installed in the Site Area or the Disputed Street in the past 20 years. Include in your response the individual(s) who performed said work and the cost associated with each improvement.

Answer: Pursuant to Rule 2-421(c), the Association will produce any records it has relating to improvements the Association has installed. The Association notes that, in or about 2005, Defendant performed work on or about the Site Area or Disputed Street for which he sought the Association's permission and for which he executed a memorandum of understanding confirming that such work did not constitute ownership of the community's property.

Interrogatory 20. Set forth any and all support for the statement contained in the Complaint in Paragraph 18 that this paper road is available for passive recreational uses such as fishing, watching fireworks or observing maritime and marine life.

Answer: The paper road is located near water, which inherently would make it available to observe maritime and marine life, enjoy scenic views of Fishing Creek, and to be used for fishing.

Interrogatory 21. Identify each and every individual whom you contend has been told to leave the Disputed Street, as indicated in Paragraph 19 of the Complaint.

Answer: Lori Strum was told to leave the street end by Defendant's son on Sept 5, 2019. She was there to show Plaintiff's lawn cutting contractor where to cut. In the summer of 2019 there were a number of acts of Defendant over the street in front of his houses and the Magnolia Ave west street end, including the placement of the bollards in the roadway and the growing of a approx. 8 x 10 foot patch of very tall grass (estimate 8-10 foot) near the center of the street end to discourage property owners' access.

Kathleen McLean indicated that Defendant's son told her to leave the property (referring to the grassed street end); this was about Sept 24, 2019.

Lori Strum, in and around September 2019, was in the Site Area when she observed Defendant Tose carry a rifle back and forth between 1290 and 1299 Magnolia, in what she believed was a threatening motion.

Interrogatory 22. If the Association has ever taken any action to address erosion problems or install erosion control devices on property not owned or controlled by the Association, set forth in detail the property or properties that have been benefitted by actions of the Association.

Answer: The Association has generally taken action to address erosion problems or install erosion control devices on community property. In instances where property owners, like Defendant, have wished to take similar measures regarding community property near their homes, the Association has permitted such actions so long the property owner stipulates that such action does not constitute the Association's abandonment of its property rights.

Arundel on the Bay has also created a Special Community Benefit Tax District ("SCBD")

and a Shore Erosion Control District (“SECD”), which, as the Court is surely aware, are authorized under the Maryland Code and require a petition of a majority of the lot owners in the community to be established. Once established, the SCBD and the SECD each assess a yearly tax on each lot owner within the district. The funds are then used for a particular purpose. Established in 1979, Arundel on the Bay’s SCBD was created “for non-shore erosion prevention and protection,” “for construction, maintenance and repair of non-county owned roads, paths, streets and/or signs and street lights,” “for the establishment and maintenance of special police protection,” and “for snow removal,” among other things. Records relating to this subject matter will be produced.

Interrogatory 23. If it is the contention of the Association in this Complaint that the members of the Association—but not the public in general—is entitled to use the Disputed Street as described in Paragraph 7 of the Complaint, as well as the Site Area as defined herein, set forth your basis for this assertion and explain how the Association contends that the uses is supposed to be or is monitored, contained or controlled by the Association.

Answer: Plaintiff objects to this Interrogatory to the extent that it seeks information or documents that (i) were prepared for or in anticipation of litigation; (ii) constitute attorney’s work product; (iii) contain material subject to the attorney/client privilege; or (iv) are protected by any other applicable privilege. Plaintiff further objects to the extent that this Interrogatory calls for a legal conclusion or otherwise seeks Plaintiff’s counsel’s legal theory of this case. Without waiving these objections, the Association has rules and regulations regarding the use of community property and streets within the community. Street ends, in particular, frequently contain signs regarding any restrictions as to their use or scope. The Association ensures that the Disputed Street remains accessible to community members, and that it is maintained if necessary. The Association also has a part time off duty County police officer that patrols the community.

The Disputed Street is otherwise “monitored, contained or controlled” just as much as any other platted street in the community is.

Interrogatory 24. If you have knowledge of any photograph, plat, plan, video, motion picture, drawing, model, or any other image made of the property at issue as described in the Complaint as the Disputed Street attached hereto, describe the medium on which the image is recorded, identify each person who participated in that process, state the date when the image was made, and identify the person who has present custody of the image.

Answer: Pursuant to Rule 2-421(c), Plaintiff will produce any such photograph, plat, plan, video, motion picture, drawing, model, or any other image made of the property at issue that it has in its possession, if any. If Plaintiff identifies any such materials that are not in Plaintiff’s possession, this answer will be supplemented.

Interrogatory 25. State all facts and identify all documents that support any claim or defense you have made or intend to make in this action not otherwise set forth in your answers to these interrogatories, and identify all persons with knowledge of those claims or defenses.

Answer: Plaintiff objects to this Interrogatory to the extent that it seeks information or documents that (i) were prepared for or in anticipation of litigation; (ii) constitute attorney’s work product; (iii) contain material subject to the attorney/client privilege; or (iv) are protected by any other applicable privilege. Without waiving these objections, Plaintiff refers to the answers provided herein and the documents produced in conjunction with Plaintiff’s Response to Request for Production of Documents.

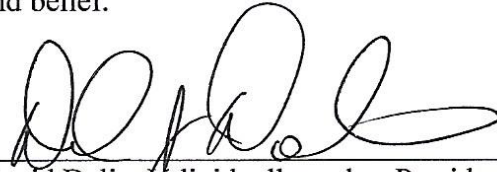
Interrogatory 26. Set forth in detail the amount of money that has been spent by the Association on maintaining the Disputed Street or the Site Area over the past 20 years.

Answer: Plaintiff expends money on gravel maintenance and grass cuttings for the

Disputed Street and Site Area on a yearly basis. Pursuant to Rule 2-421(c), the Association will produce any records it has relating to expenditures for maintaining the Disputed Street or the Site Area over the past 20 years.

VERIFICATION

I, David Delia, am President of the Property Owners Association of Arundel on the Bay, Inc. and am duly authorized to execute this Verification under oath. I hereby swear and affirm under the penalties of perjury that the matters and facts contained herein are true and correct to the best of my personal knowledge, information and belief.

A handwritten signature in black ink, appearing to read 'David Delia', written over a horizontal line.

David Delia, Individually and as President of
Property Owners Association of Arundel on the
Bay, Inc.