

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 MAURICE B. TOSE' AND TERESA LAYDEN'S  
RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS**

TO: Property Owners Association of Arundel on the Bay, Inc., Plaintiff/Counter-Defendant

FROM: Maurice B. Tose' and Teresa Layden, Defendants/Counter-Plaintiffs

The Defendants/Counter-Plaintiffs, Maurice B. Tose' and Teresa Layden (“Defendants” or “Tose”), by counsel, Barbara J. Palmer and Hyatt & Weber, P.A., in response to Request for Production of Documents propounded by the Plaintiff/Counter-Defendant, Property Owners Association of Arundel on the Bay (the “Association”), state the following:

**GENERAL OBJECTIONS**

The following General Objections, including those set forth below in a subsection titled “Objections to Definitions and Instructions,” are part of the response to each and every Request and are set forth here to avoid the duplication of restating each General Objection in each specific response. The General Objections may be specifically referred to in responses to certain Requests for the purpose of clarity. However, the failure to specifically incorporate a General Objection into a response should not be construed as a waiver of any of the General Objections.

A. Defendants object to each Request to the extent that it seeks to impose obligations on Plaintiff that are inconsistent with or greater than the obligations imposed by the Maryland Rules, any other applicable law, or any court order that governs discovery in this case.

B. Defendants object to each Request to the extent that it seeks information that is not discoverable under applicable law.

C. Defendants object to each Request to the extent that it is over broad, unduly burdensome, or vexatious.

D. Defendants object to each Request to the extent that it is vague and ambiguous or it does not describe the information sought with sufficient particularity.

E. Defendants object to each Request to the extent that it seeks information that is neither relevant to the issues raised in this lawsuit nor reasonably calculated to lead to the discovery of admissible evidence. Nothing herein shall be construed as an admission by Defendants with respect to the admissibility or relevance of any fact or document, or as an admission of the truth or accuracy of any characterization, description, or definition contained in Defendants' Requests.

F. Defendants object to each Request to the extent that it is cumulative.

G. Defendants object to each Request to the extent that Defendants have not provided sufficient information regarding the specific factual and/or legal bases of Defendants' claims to allow Defendants to respond to the Request.

H. Defendants object to each Request to the extent that it seeks information that is subject to the attorney-client, work product, or other privilege, immunity or protection under any and all applicable law.

I. Defendants object to each Request to the extent that it is not limited in geography, time, or scope, or, if there is such a limitation, the limitation is not reasonable.

J. Defendants object to each Request to the extent that it seeks information that is not within Defendants' possession, custody, or control and to the extent that it requires Defendants to respond on behalf of persons or entities not under Defendants' control.

K. Defendants object to each Request to the extent that it seeks information that contains trade secrets, proprietary or other confidential information, or is subject to confidentiality agreements, protective orders, or statutorily mandated confidentiality provisions.

L. Defendants object to each Request to the extent that it seeks information contained in electronic documents, including email, and the effort to restore or otherwise retrieve such electronic documents imposes an undue burden on Defendants in terms of time and expense, among other things, that are inconsistent with or greater than the obligations imposed by the Maryland Rules, any other applicable law, or any court order that governs discovery in this case. To the extent that Defendants are obligated to restore or otherwise retrieve such electronic documents, Defendants reserve the right to recover costs associated with such effort from Plaintiffs.

M. In addition to the objections listed above, Defendants reserve the right to make further objections and assertions of privilege as applicable.

#### **STATEMENT ABOUT RESPONSES**

a. The information supplied in these responses is not based solely upon the knowledge of the responding party, but includes the knowledge of the party's agents, representatives and attorneys, unless privileged.

b. The word usage and the sentence structure is that of the attorneys who in fact prepared these responses and said language does not purport to be the exact language of the responding party.

c. To the extent that documents are deemed to be in Defendants' possession, custody, or control by virtue of Defendants' attorneys obtaining documents from third parties, such documents should be deemed produced by Defendants and are incorporated herein by reference, even if such documents not specifically identified as being produced in any response herein.

d. Defendants reserve the right to supplement these Responses (with documentation) as discovery is ongoing.

### **RESPONSE**

REQUEST NO. 1: All documents supporting, pertaining, or relating to the averments set forth in your Counter-Complaint and any amendment thereto.

RESPONSE NO. 1: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 2: Any documents representing, reflecting, transcribing, pertaining to or relating to, any communication between yourself and any parties to this action and/or any current or former board member, community member and/or officer of Plaintiff Property Owners Association of Arundel-on-the-Bay, Inc. (the "Association") or any third party regarding the subject matter of the Complaint or Counter-Complaint filed in the above-captioned matter.

RESPONSE NO. 2: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 3: All correspondence to or from any person who is expected to testify as an expert witness on your behalf during any trial of this matter.

RESPONSE NO. 3: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 4: All documents you will or may use as exhibits during any trial or hearing of this action.

RESPONSE NO. 4: Any and all such documents responsive to this Request that are presently within the Defendants' possession or control are being produced.

REQUEST NO. 5: All correspondence to or from any person, excluding your counsel, regarding the averments set forth in your Counter-Complaint.

RESPONSE NO. 5: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 6: Any and all appointment books, notebooks, journals, diaries, calendars, day-timers, e-mails or other such documents that contain, evidence, describe, or refer to any facts at issue in this lawsuit.

RESPONSE NO. 6: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 7: All photographs, diagrams, surveys, plats, notes or other graphic representations of or related to Your Property, the Disputed Street, and/or the Site Area.

RESPONSE NO. 7: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 8: All notes that you have taken at or in preparation for any meeting, whether opened or closed, of the membership and/or board of directors and/or the officers of

the Association that in any way relate to the subject matter of this litigation and/or the allegations set forth in your Counter-Complaint.

RESPONSE NO. 8: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 9: All documents that describe, evidence, pertain to or relate to any prior dispute regarding ownership or use rights to the streets at issue in this litigation, including without limitation, pleadings, court orders, court memoranda, correspondence, agreements, notes, affidavits, depositions, and reports.

RESPONSE NO. 9: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 10: Any documents representing, reflecting, transcribing, pertaining to or relating to, any communication between and among any and/or all Plaintiffs in this matter, or other representatives of Plaintiff, regarding the allegations set forth in the Complaint or the Counter-Complaint.

RESPONSE NO. 10: Defendants object to this Request to the extent that it seeks

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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 11: All treatises, rules, regulations, guidelines, statutes, policies or procedures and any other authoritative materials reviewed in connection with the above-captioned litigation and/or issues raised in the above-captioned litigation by any expert who will testify at trial.

RESPONSE NO. 11: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 12: All invoices, bills, or other billing materials for each expert you expect to testify at trial, and for each consulting expert whose opinions or observations a testifying expert will review or has reviewed in connection with the above-captioned litigation and/or issues raised in the above-captioned litigation.

RESPONSE NO. 12: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents



responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 13: All prior court testimony of any expert you expect to testify at trial, and of any consulting expert whose opinions or observations a testifying expert will review or has reviewed, including, without limitation, transcripts of depositions or of in-court appearances, that in any way relate to the subject matter of this litigation.

RESPONSE NO. 13: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 14: All documents referred to in preparation of your answers to interrogatories.

RESPONSE NO. 14: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 15: All statements, memorandum or other written or electronic document given by you to any persons concerning the subject matter of this action.

RESPONSE NO. 15: Defendants object to this Request to the extent that it seeks

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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 16: All documents relating to any work performed upon the bulkhead or revetments on or near Your Property, including, but not limited to, any correspondence, agreements, permits, and invoices relating to any such work.

RESPONSE NO. 16: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 17: All documents relating to any maintenance, improvements or other work done on either the Disputed Road or the Site Area over the last 20 years.

RESPONSE NO. 17: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 18: All statements, memoranda, or other written or electronic document between you and any lot owners of Arundel on the Bay that relate to or concern the subject matter of this action.

RESPONSE NO. 18: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 19: All documents relating to the ownership, use, maintenance or occupation of the Disputed Street as described in the Counter-Complaint.

RESPONSE NO. 19: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 20: All documents relating to the ownership, use, maintenance or occupation of the Site Area as described in the Counter-Complaint.

RESPONSE NO. 20: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents

responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 21: All statements, memoranda, or other written or electronic document between you and the Property Owners Association of Arundel on the Bay, Inc., its officers or members, that relate to or concern the subject matter of this action.

RESPONSE NO. 21: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 22: All documents relating to your claims of ownership, use, maintenance or occupation of the Site Area and the Disputed Streets.

RESPONSE NO. 22: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 23: All documents identified in your Answers to Interrogatories.

RESPONSE NO. 23: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 24: All documents relating to your claims regarding Plaintiffs' right to use of the Site Area or the Disputed Street.

RESPONSE NO. 24: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 25: All documents supporting your contention, if any, that the Site Area or Disputed Street, has been used by any person in a manner that is inconsistent with or beyond the scope of their use as described in your Counter-Complaint.

RESPONSE NO. 25: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

REQUEST NO. 26: All documents relating to the construction of the driveways at 1290 and 1299 Magnolia Avenue, including but not limited to any permits, documents sent to or received from governmental authorities, plans, contracts and/or invoices.

RESPONSE NO. 26: Defendants object to this Request to the extent that it seeks 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, any such non-privileged documents responsive to this Request that are within the Defendants' possession or control are being produced.

/s/

Barbara J. Palmer (CPF# 8501010468)  
HYATT & WEBER, PA  
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Annapolis, MD 21401  
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*Attorney for Defendants*

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

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MAURICE B.TOSE', *et ux.*

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\* IN THE  
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\* MARYLAND  
\* Case No. C-02-CV-19-003640

\* \* \* \* \*

**NOTICE OF SERVICE OF DISCOVERY MATERIALS**

I HEREBY CERTIFY that the following discovery materials were served on the Plaintiffs as indicated below and that I will retain the original of these documents in my possession, without alteration, until the case is concluded, including the time for noting any appeal, and any appeal has been decided.

Date of Service: March 16, 2021

Method of Service: MDEC and email

Materials Served: Defendants, Maurice Tose' and Teresa Layden Responses to Request for Production of Documents bate stamp DEF0001-DEF1412 to Plaintiffs, Property Owners Association of Arundel on the Bay, Inc. *et al*

Service Upon: Wayne T. Kosmerl, Esq.  
N. Tucker Meneely, Esq.  
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/s/

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*Attorney for the Defendant*

**Certificate of Service**

I HEREBY CERTIFY that on this 16<sup>th</sup> day of March 2021, a copy of the foregoing Notice of Service was filed and served in accordance with the MDEC system and a copy will be electronically served upon:

Wayne T. Kosmerl, Esq.  
N. Tucker Meneely, Esq.  
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Attorneys for Plaintiffs and Counter-Defendants

/s/

Barbara J. Palmer