

IN THE SUPERIOR COURT OF FORSYTH COUNTY

STATE OF GEORGIA

HIGH GABLES HOMEOWNERS
ASSOCIATION, INC., et al.,

Plaintiffs,

v.

LARRY C. OLDHAM,

Defendant.

CIVIL ACTION

FILE NO. 05 CV 2005

**PLAINTIFF HIGH GABLES HOMEOWNERS ASSOCIATION, INC.'S RESPONSE
TO DEFENDANT'S FIRST REQUEST FOR ADMISSIONS**

COMES NOW High Gables Homeowners Association, Inc. (“High Gables”), Plaintiff/Defendant-in-Counterclaim in the above-captioned case, and files this Response to Defendant’s First Request for Admissions, showing this Court as follows:

REQUEST FOR ADMISSIONS

1.

Admit that two-thirds (2/3) of the HOA Members did not approve the June 23, 2003 Amendment to the Declaration recorded at Deed Book 2876, page 548, Forsyth County, Georgia records.

RESPONSE:

Denied.

2.

Admit that a quorum was not present at the 2004 annual meeting of Plaintiff.

RESPONSE:

Denied as stated.

3.

Admit that a quorum was not present at the 2005 annual meeting of Plaintiff.

RESPONSE:

Denied as stated.

4.

Admit that in the absence of a quorum being present at a meeting of the HOA Members, it is impossible to elect a Board that is duly authorized to act on behalf of Plaintiff.

RESPONSE:

Denied.

5.

Admit that one of the 2004-2005 or 2005-2006 Officers and Directors is the author of the anonymous letter sent to Defendant in the second week of July which is attached to Defendant's Answer, Counterclaim and Third Party Complaint as Exhibit A.

RESPONSE:

Admitted. High Gables further responds that the letter speaks for itself.

6.

Admit that your October 19, 2005 letter to the HOA Members contains false and misleading statements that are slanted in such a way as to justify Plaintiffs filing of this Action and to make Defendant appear litigious and unreasonable.

RESPONSE:

Denied.

7.

Admit that Defendant told Bobby Lawson, David Marchat and Bob Clark that he had site issues he was dealing with on the Oldham Property and that he would complete his work as soon as he was done with such work.

RESPONSE:

Denied as stated.

8.

Admit that you have never met with Defendant regarding the issues in the Action.

RESPONSE:

High Gables admits its Board members never personally met with Defendant but further responds that its Board members and its representatives spoke with Defendant via telephone on several occasions and wrote letters to Defendant, which were unanswered.

9.

Admit that Defendant has requested a number of meetings with you since December of 2005.

RESPONSE:

Denied as stated.

10.

Admit that all of the work underlying Defendant's Alleged Covenant Violations has been completed, other than the installation of "neighborhood standard" mailbox.

RESPONSE:

Denied as stated.

11.

Admit that you have never provided Defendant with the specifications for the "neighborhood standard" mailbox other than directing him to use a particular company to install his mailbox.

RESPONSE:

Denied as stated.

12.

Admit that there are violations of the Covenants in the Neighborhood that you have elected not to enforce.

RESPONSE:

High Gables objects to this Request on the grounds that the same is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence pursuant to O.C.G.A. § 9-11-26, et seq. Subject to and without waiving the foregoing objection, the Request is denied as stated.

13.

Admit that you selectively enforce the Covenants depending on the identity of the homeowner in violation.

RESPONSE:

Denied.

14.

Admit that you have no basis for recovering attorney's fees from Defendant other than pursuant to O.C.G.A. § 13-6-11.

RESPONSE:

Denied.

15.

Admit that Defendant verbally responded to the correspondence that you attached to your Complaint prior to your filing the Action against him.

RESPONSE:

Denied as stated.

16.

Admit that Defendant verbally informed you that he had every intention of pouring his driveway prior to your filing the Action against him.

RESPONSE:

Denied as stated.

17.

Admit that you were aware that Defendant had ongoing site issues which preventing him from pouring his driveway sooner.

RESPONSE:

Denied as stated.

18.

Admit that a residential concrete driveway can be damaged by driving heavy earth moving equipment and machinery over it.

RESPONSE:

Defendant has made reasonable inquiry and the information known or readily obtainable by Defendant is insufficient to enable it to admit or deny the statement contained in Paragraph

18.

11-26, et seq. Subject to and without waiving the foregoing objection, the Request is denied as stated.

23.

Admit that you consider some violations of the Covenants more serious than others and that you handle them more aggressively.

RESPONSE:

High Gables objects to this Request on the grounds that the same is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence pursuant to O.C.G.A. § 9-11-26, et seq. Subject to and without waiving the foregoing objection, the Request is denied as stated.

24.

Admit that your Officers and Directors have made comments about Defendant that could be damaging to his reputation as an attorney.

RESPONSE:

Denied.

25.

Admit that Defendant's occupation as an attorney has been discussed by your Officers and Directors Board of Directors in conjunction with his alleged violation of the neighborhood covenants.

RESPONSE:

Denied.

26.

Admit that you circulated a petition among the HOA Members prior to your filing the Action against Defendant.

RESPONSE:

Denied.

27.

Admit that you never welcomed Defendant or his family to the Neighborhood in a neighborly and courteous manner.

RESPONSE:

High Gables objects to this Request on the grounds that the same is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence pursuant to O.C.G.A. § 9-11-26, et seq. Subject to and without waiving the foregoing objection, the Request is denied as stated.

28.

Admit that since the filing of this Action, Defendant has poured his driveway and sidewalk to those specifications set forth in the Covenants and has also completed his entrance landscaping.

RESPONSE:

Denied as stated

This 27 day of March, 2006

HAWKINS & PARNELL, LLP



Peter R. York

Georgia Bar No. 781175

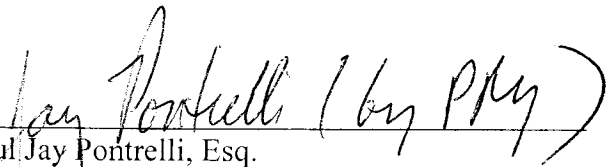
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HOMEOWNERS ASSOCIATION

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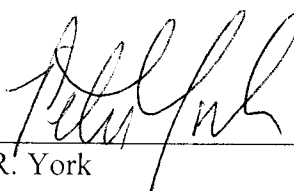
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CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for Defendant in this action with a copy of the foregoing **PLAINTIFF HIGH GABLES HOMEOWNERS ASSOCIATION, INC.'S RESPONSE TO DEFENDANT'S FIRST REQUEST FOR ADMISSIONS** by depositing in the United States Mail a copy of same in an envelope with adequate postage thereon, addressed as follows:

Larry C. Oldham, P.C.
416 Pirkle Ferry Road
Suite K-500
Cumming, GA 30040

This 27 day of March, 2006.



Peter R. York