

Alanah Griffith
Pape & Griffith, PLLC
1184 N. 15th, Ste. 4
Bozeman, MT 59715
(406) 522-0014
Fax (406) 585-2633

alanah@papegriffithlaw.com

Attorney for Defendants Individually Named Board Members on a Limited Scope

MONTANA SIXTH JUDICIAL DISTRICT, PARK COUNTY

DANIEL K. O'CONNELL (a director of the Glastonbury))	
Landowner's Assoc. Inc., VALERY A. O'CONNELL))	
(for and on behalf of the landowners & the many members))	
of the Glastonbury Landowners Association,))	Cause No. DV-11-114
)	
Plaintiff,))	
)	
vs.))	
)	
RICHARD BOLEN, LAURA BOISE, JANET))	
NACLERIO, SHERIDAN STENBERG, ALYSSA))	
ALLEN, GERALD DUBIEL, RICH SPALLONE, &))	
WILLIAM SMITH (all Directors of the Glastonbury))	
Landowners Association,) & THE GLASTONBURY))	
LANDOWNERS BOARD OF DIRECTORS))	
)	
Defendants.))	

Proposed COUNTERCLAIM

1. The nine named Defendants are members of the Glastonbury Landowners Association, Inc.'s Board of Directors (collectively referred to as the Board).
2. Glastonbury Landowners Association, Inc. (Glastonbury) is a Montana non-profit association doing business in Park County.
3. Plaintiffs David and Valery O'Connell (the O'Connells) reside within Glastonbury, which is in Park County.

4. The O'Connells have brought four separate Petitions against the Board/Glastonbury within the last year and a half.
5. The first was this Petition, which upon amendment seems to contain many different allegations, but seems to have five main separate claims (of course, Glastonbury/Board denies the validity of all of these claims.)
6. The first is that the Erickson variance process used by Glastonbury, does not comport with the covenants (because of the wandering language used by the O'Connells, each of the claims mentioned by Glastonbury in this counterclaim may involve a few other matters, for example, the contracts drafted by Glastonbury with regards to the variance, or the way the rules of ethics relate to the Board's practices but for the sake of this counterclaim, Glastonbury has attempted to generally label each claim.)
7. The second is that the Board is not spending Glastonbury's funds in a manner consistent with the Covenants.
8. The third is that the way votes are counted by Glastonbury does not comport with the covenants.
9. The fourth is that board members are being paid for work they do for Glastonbury.
10. The fifth is that the Board continues to violate the settlement agreement entered between the parties in DV-11-193.
11. The O'Connells then brought a second Petition against Glastonbury, Cause No. DV-12-193.
12. This Petition contained two main claims.
13. The first claim was that member records were not provided as copies.
14. The second was the Board should not be allowed to cast proxy votes.

15. The parties settled that matter.
16. Glastonbury was hopeful that by showing that they wanted to work with the O'Connells they would stop future litigation.
17. This did not happen.
18. Not only did the O'Connells file more litigation, they also are litigating the settlement agreement.
19. The O'Connells then brought a third Petition against Glastonbury, Cause No. DV-12-164.
20. This Petition contains two claims.
21. The first is a claim that the covenants do not allow Glastonbury to hire a management company.
22. The second is again, that the variance used in the Erickson matter does not comport with the covenants.
23. The O'Connells then brought a fourth Petition against Glastonbury, Cause No. DV-12-789C (filed in Gallatin County, moved to Park County as Park County is the proper venue), now DV-12-220.
24. This Petition contains two claims.
25. The first is a claim that the way Glastonbury assesses Guest Houses does not comport with the Covenants.
26. The second claim is again, that the way Glastonbury counts votes does not comport with the covenants.
27. All of these claims are without merit, frivolous and vexatious, which violates Montana law.

28. The fact that the O'Connells filed the voting and variance claims in two separate Petitions is on its face vexatious.
29. Based on the O'Connells statements to Glastonbury, the O'Connells plan to continue to bring other Petitions against Glastonbury which those Petitions will also be without merit, frivolous and vexatious.
30. Glastonbury and the Board deserves to have protection from further meritless, frivolous and/or vexatious litigation.
31. Based on the O'Connell's past history, Court should grant that protection.

Prayer for Relief.

1. That the Court enter an order enjoining the O'Connells from filing any civil litigation against Glastonbury or the members of the Board without prior approval of the Court.
2. For Defendants costs and attorneys fees.
3. For such further and other relief as the Court deems equitable and just.

Respectfully submitted this 9 day of April, 2013.

By 
Alanah Griffith, Attorney of Limited Scope for
Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 9th day of April, 2013, a true and correct copy of the foregoing, was mailed, postage prepaid and by email, to the following counsel of record:

Daniel and Valery O'Connell
P.O. Box 77
Emigrant, MT 59027

Daniel O'Connell: dko@mac.com
Val O'Connell: valoc@mac.com

Michael P. Heringer
Seth M. Cunningham
The Brown Law Firm
P.O. Drawer 849
Billings, MT 59103-0894

Hon. David Cybulski
573 Shippe Canyon Rd.
Plentywood, MT 59254


Katie Hirtz

This proposed Counterclaim is accepted by the Court. It is enter as of the date below,
into the record. The Petitioners have 14 days to answer the Counterclaim.

Entered this _____ day of _____, 2013.

Hon. David Cybulski

Cc: Valery and Daniel O'Connell
Michal Heringer and Seth Cunningham
Alanah Griffith
Original to Park County