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MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY

Daniel K. O'Connell & Valery A. O'Connell)	
& on behalf of themselves as members of)	
Glastonbury Landowners Association.)	Cause No. DV-11-114
)	
Plaintiff(s),)	
)	PLAINTIFFS MOTION RESPONSE &
v.)	PARTIAL DISCOVERY REQUEST FOR
)	DOCUMENTS & "ADMISSIONS" ONLY
Glastonbury Landowners Association, Inc.)	
& current GLA Board of Directors)	
)	
Defendant(s))	
_____)	

Plaintiffs & GLA members-Daniel and Valery O'Connell, hereby respond to Defendants motion reply and demand discovery for only "GLA documents" & "admissions" as allowed per **M.R.Civ.P., Rules 26 & 36**. The GLA Defendants motion reply pg. 2 said:

"In order to properly answer Plaintiffs discovery, GLA must be able to understand whether Plaintiffs are asking an interrogatory, requesting admission of a statement, or requesting the production of documents."

As answer, this motion asks ONLY for copies of specific documents and for a yes or no answer to the 1-14 written admission questions (copied below). Therefore with this clarification there in no further hinderance to the GLA to fully answer this partial discovery.

This motion pg.1 cited below factually & clearly states it requested ONLY "GLA documents and written admissions" per rules 26 & 36, nothing else:

"Plaintiffs... pursuant to M.R.Civ.P., Rules 26 & 36 (cited below), do hereby file and submit this partial discovery request to GLA Defendants for the forgoing **GLA documents and their**

written admissions as requested below. Such requests and documents are relevant to Plaintiffs claim(s) and/or counterclaim defense, and/or will lead to the discovery of admissible evidence.”

Contrary to Defendants reply, this motion request was not “ambiguous” nor “routinely filed.” In fact the motion cited rule 26 that allows documents & cited rule 36 pertaining only to allowable “written admissions” therein and nothing else was requested:

M.R.Civ.P., Rule 26 (in part)“(a) Discovery Methods. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission....

M.R.Civ.P., Rule 36, (in part) (a)(1) “Scope. A party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters within the scope of Rule 26(b)(1) relating to: (A) facts, the application of law to fact, or opinions about either; and (B) the genuineness of any described documents ...”

Interrogatories and depositions NOT requested would have required courts permission to file per M.R.Civ.P. Rule 5(d) and U.D.C.R., Rule 4. But there is no doubt that interrogatories and depositions were NOT requested, making rule 5 & 4 non-applicable.

The entirety of Defendants motion reply is now moot since Plaintiffs answered GLAs question above and showing NO interrogatories or depositions were involved in this discovery request, and service of discovery motions were properly made & allowed. Service was proper as Plaintiffs then and now certified that all parties were served these discovery motions via first class mail. Plaintiffs even serviced GLA officer on record Janet Naclerio. The GLAs response to this discovery motion is proof that they received this motion and requires no further service or action by the court, unless Defendants still refuse discovery after this.Plaintiffs yet warn Defendants that any further delay of requested discovery will be grounds to request sanctions against them. Defendants have 30 days from this service to complete discovery.

Plaintiffs submit to GLA Defendants these discovery requests to provide the following DOCUMENTSs & ANSWERS to the following written admissions:

1. A signed statement from the GLA Board affirming signed proxy forms were received and certified by the GLA Board or GLA Secretary for 2011, & 2012, & 2013 annual elections to the Board; including as proof a copy of all such certified proxy documents signed by GLA members **that could be** used for voting entitlements or quorum for 2011, & 2012, & 2013 annual elections to the Board.
2. A signed statement from the GLA Board affirming yea or ney they approved each and every GLA committee member for 2011, & 2012, & 2013; as proof include documents of such minutes and any other documents that shows approved names of all committees members, include minutes of election committee members approved; & include all duties/ authorities given to all approved committee members & include the committee type—either advisory or Committee of Directors.*

(*Example: The undersigned GLA Board hereby declare the following: the Election committee is a Committee of Directors. Current members to this GLA Election committee include Jane Doe and Robert Doe with two Directors or Chairman—Sheridan Stenburg and Alyssa Allen. The current GLA Election committee , names Jane and John Doe were given power and authority to gather and count election ballots for the GLA annual elections for 2011-2012. The Election committee members approved by the Board for 2013 includes Jane and John Doe.)

3. A signed statement from the GLA Board affirming wether or not GLA gave O'Connells any copies of approved GLA minutes since August 2012 given to Plaintiffs: as proof include a copy of all existing GLA meeting minutes, (public & private meetings including email votes), & all GLA Committee meeting minutes, dates, & attendees, names of persons taking committee minutes.

4. A signed statement from the GLA Board affirming whether or not the GLA Board gave to all GLA members a copy of GLA receipts and expenditure statements for years 2010, and/or for 2011, and/or for 2012; include such receipt and expenditure documents copied for each year 2010-2012 as proof; include documents of all GLA account receipts and detailed expenditures of all GLA monies spent by the GLA, and/or by the GLA Treasurer, and/or by Minnick Management (include all GLA canceled checks, bank statements, credit card transaction statements for all such accounts that use GLA monies since Aug. 2011, including any GLA audits documents completed since 2010, otherwise state no audits were done.)
5. A signed statement from the GLA Board affirming whether or not the GLA Board gave to all GLA members a copy of GLA "check details" from 2010, and/or 2011, and/or 2012. Since August 2011 up to May 2013, provide proof of such "check details" document as were given to the GLA Board.
6. A signed statement from the GLA Board affirming whether or not GLA due process notices were given to GLA members regarding: approval of the Erickson project review and/or "finding of facts," and/or new guest house assessment, and/or Minnick contract, and/or regarding two counterclaims filed against O'Connells; include all documents of due process notices given to GLA members in the last 3 years (per GLA Bylaw XI. part C., of Exhibit C).
7. A signed statement from the GLA Board affirming or not all election ballots, proxies, certification, and vote tallies given to GLA members since 2010.
8. A signed statement from the GLA Board affirming whether or not any GLA employees, contractors & GLA Directors received any GLA monies for any reason from Jan. 2010 to May 2013; as proof include all check details of payments made for such purpose and all contracts

agreements between the GLA and GLA agents, employees, contractors & GLA Directors from Jan. 2010-2013; including their specific job duties, authorities, and amount of payment for every GLA agents, employees, contractor & GLA Director paid with GLA monies; include any written bids from such GLA agents, employees, contractors & GLA Directors.

9. A signed statement from the GLA Board affirming wether or not the GLA required floor plans from the Ericksons for the peoject review; as proof provide document copies since 2011 of all current **and** revoked agreements and variances signed that involve the Ericksons; and copy of Ericksons **floor plans** for the Erickson project review including floor plans for two buildings currently being built by the Ericksons;
10. A signed statement from the GLA Board affirming wether or not the GLA contacted all landowners that own the common use property adjacent to Erickson lots 90 & 91 in High South Glastonbury;
11. A signed statement from the GLA Board affirming wether or not all GLA members are the joint owners of the common use property adjacent to Erickson's parcel 90 & 91 in High South GLA.
12. A signed statement from the GLA Board affirming wether or not any Roberts Rules of Order were used at GLA Board meeting after September 2012 and wether or not the GLA President voted prior to August 2012 in any GLA Board vote.
13. A signed statement from the GLA Board affirming wether or not after the August 2012 settlement conference the GLA refused to give O'Connells written requested documents listed in the attached email.

14. Provide document copies of the current GLA membership list including name, address, **email address**, parcel #, including number of votes AND proxy votes each member has.

18 days have passed since this discovery request was first serviced on Janet Naclerio.

This discovery requested within lines 1-14 above should be answered in a notarized document to answer yea or ney to 1-14 above, include all requested documents, and serviced to Plaintiffs no later than 30 days from now which is the date of this service on Janet Naclerio.

Respectfully submitted this **28th** day of June, 2013

Signed  Signed: 
Daniel O'Connell Valery O'Connell

Certificate of Service

A true and correct copy of forgoing document(s) were sent to the following parties via first class mail **and hand delivered to Janet Naclerio** on this same day to:

Hon. Judge David Cybulski
573 Shippe Canyon Rd.
Plentywood, Mt. 59254

GLA attorney Alanah Griffith
1184 N. 15th St. Suite #4
Bozeman, Mt. 59715

GLA Secretary-Janet Naclerio
119 Capricorn Drive
Emigrant, MT. 59027

Brown Law Firm
315 North 24th St. (PO Drawer 849)
Billings, MT. 59103-0849

Signed  Signed: 
Daniel O'Connell Valery O'Connell

Val O'Connell <valoc@mac.com>
To: GLA Board <gla Board>, scunningham@brownfirm.com
Cc: mheringer@brownfirm.com
Final request Re: Written request for GLA minutes/documents

December 27, 2012 2:46 PM

To: GLA Board
From: Dan & Val O'Connell
Date: Dec. 27, 2012

This is one of many requests for GLA documents since July 2012. You, the GLA Board and representatives, have continued to ignore and refuse our three written and 5 verbal requests for GLA documents. Thus you the GLA Board are in violation of the Aug. 2012 settlement agreement and also applicable state statutes such as below §35-2-907 below

Such document copies requested now include:

- * All GLA Board meeting and committee meeting minutes since April 2012.
- * All GLA private meeting minutes and agendas since April 2012
- * All documents approved by the Board since August, including all contractor/employee agreements with the GLA
- * Including the amended Minnick contract (as reviewed and approved by the Board Dec.17, 2012)
- * Copies of all GLA receipts and expenditures for the last 3 years- including so called monthly "GLA check details"

O'Connells agree to pay the going copy rate of 10¢ per page in exchange for such document copies. Such documents are due now, but no later than Jan. 3rd, 2013 to avoid yet another legal action.

Sincerely,
Dan & Val O'Connell
PO Box 77
Emigrant, Mt. 59027
406-577-6339
valoc@mac.com

On Jul 10, 2012, at 1:33 AM, Daniel OConnell <dko@me.com> wrote:

Rick and GLA,

In your July 9th e-mail to us you said;

"Finally, I believe the Board is in the process of assembling the materials you recently requested, even though you still have not described with reasonable particularity the purpose for which you have requested them. Simply stating that you have the right as GLA members to inspect the documents, and that you are simply concerned about the matters addressed therein, does not fulfill the requirements of the statute."

We disagree with your conclusions in your July 9th email. Also, waiting almost two months for any documents is an unexcept-able delay. If you delay again for more five business days without a proper excuse, then there will be another lawsuit per Montana law 35-2-907(2) and 35-2-906(5) and the sections and statutes therein where applicable. NOTE: These statutes allow for 5 business days notice to be given from the time we wish to view and copy.

But to reiterate, tonight at the July 9th GLA Board meeting, we requested to view and copy the minutes that were available in Naclerio's corporate minute book she said she brings to meetings. We were denied this right that your own clients swore was allowed in their May deposition at meetings. If it happens again then were will consider that Naclerio perjured herself.

Richard Bolen said tonight all request are to go to you for approval by you, Rick. Here is our written request notice:

Your clients have 5 business days, which is until the 17th, to allow us to view and copy:

1. the GLA Board meeting minutes from April 23rd, 2012, May 14, 2012, and June 18th, 2012 (minutes approved tonight without almost no change).
2. We also request GLA Board private meeting minutes and agendas held on these same days April 23rd, 2012, May 14, 2012, and June 18th, 2012 (with any legal/confidential information redacted, yet at least a general idea of what was discussed is requested).
3. We also request to view and copy any project review documents and any other documents approved by the Board April 23rd, 2012, May 14, 2012, and June 18th, 2012.

35-2-907 is applicable here and says:

- (3) A member may inspect and copy the records identified in subsection (2) only if:
 - (a) the member's demand is made in good faith and for a proper purpose;
 - (b) the member describes with reasonable particularity the purpose and the records the member desires to inspect; and
 - (c) the records are directly connected with this purpose.
- (4) This section does not affect: