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9
10 MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY

11 DANIEL and VALERY O'CONNELL (for and
on behalf of GLA landowners),

12 Plaintiffs,

13 v.

14 GLASTONBURY LANDOWNERS
15 ASSOCIATION, INC. & CURRENT BOARD
OF DIRECTORS,

16 Defendants.
17

Cause No.: DV-2011-114

**DEFENDANTS' RESPONSE TO
PLAINTIFFS' MOTION RESPONSE &
PARTIAL DISCOVERY REQUEST FOR
DOCUMENTS & "ADMISSIONS" ONLY**

18 TO: Plaintiffs Daniel and Valery O'Connell

19 On June 10, 2013 you filed a Motion for Partial Discovery Request with the Court. You filed
20 this Motion without first sending any discovery to the Glastonbury Landowners Association, Inc.
21 (GLA). The GLA filed a response objecting to your Motion because you had not served the discovery
22 on the GLA, you filed it with the Court in violation of Uniform District Court rules, and the discovery
23 requests were confusing in that the GLA could not determine if your requests were interrogatories,
24 depositions by written questions, a request for inspection, or requests for admission. In your response
25 dated June 28, 2013, you revised your discovery and asserted that they were requests for "admissions"
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1 and for "GLA documents." After reviewing your revised discovery, GLA now submits its answers to
2 the best of its knowledge, information, and belief formed after reasonable inquiry.

3 **GENERAL OBJECTION:** GLA objects to Plaintiffs' instructions because they seek to impose
4 obligations greater than or contrary to the Montana Rules of Civil Procedure. Specifically, Plaintiffs
5 assert these answers should be in a notarized document. However, Mont. R. Civ. P. 26(g)(1) requires
6 only that discovery responses and objections "be signed by at least one attorney of record in the
7 attorney's own name—or by the party personally, if unrepresented—and must state the signer's
8 address." There is no requirement for notarizing responses to requests for admission or production.
9

10 **REQUEST NO. 1:** A signed statement from the GLA Board affirming signed proxy forms were
11 received and certified by the GLA Board or GLA Secretary for 2011, & 2012, & 2013 annual elections
12 to the Board; including as proof a copy of all such certified proxy documents signed by GLA members
13 **that could be** used for voting entitlements or quorum for 2011, & 2012, & 2013 annual elections to the
14 Board.
15

16 **RESPONSE:** For purposes of this request, GLA assumes Plaintiffs mean the 2010, 2011, and 2012
17 annual elections which were held in November of those years. No election has been held in 2013.
18

19 GLA admits it received signed proxy forms for 2010, 2011, and 2012 annual elections. GLA
20 denies that it certified such proxies as that is not a requirement of the By-laws nor is it clear what
21 Plaintiffs mean by "certified proxy documents."
22

23 In response to the request for "all such certified proxy documents," GLA responds again that it
24 does not have a certification process for proxy documents. However, all proxy documents received in
25 2010, 2011, and 2012 have been produced and bates stamped 000001-20.

26 **REQUEST NO. 2:** A signed statement from the GLA Board affirming yea or nay they approved each
27 and every GLA committee member for 2011, & 2012, & 2013; as proof include documents of such
28

1 minutes and any other documents that shows approved names of all committee members, include
2 minutes of election committee members approved; & include all duties/ authorities given to all
3 approved committee members & include the committee type-either advisory or Committee of
4 Directors.*

5 (*Example: The undersigned GLA Board hereby declare the following: the Election committee
6 is a Committee of Directors. Current members to this GLA Election committee include Jane
7 Doe and Robert Doe with Directors or Chairman-Sheridan Stenburg and Alyssa Allen. The
8 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.)

9
10 **RESPONSE:**

11 GLA admits that it approved every committee member for 2011, 2012, and 2013.

12 In response to the request for “documents of such minutes and any other documents that shows
13 approved names of all committee members,” see the produced documents attached and bates stamped as
14 000021-141.

15 **REQUEST NO. 3:** A signed statement from the GLA Board affirming wether [sic] or not GLA gave
16 O’Connells any copies of approved GLA minutes since August 2012 given to Plaintiffs: as proof
17 include a copy of all existing GLA meeting minutes, (public & private meetings including email votes),
18 & all GLA Committee meeting minutes, dates & attendees, names of persons taking committee
19 minutes.
20

21
22 **RESPONSE:**

23 GLA denies that it gave Plaintiffs any “approved GLA minutes since August 2012” as Plaintiffs
24 have refused to pay reasonable “costs of labor and material” as required by Mont. Code Ann. § 35-2-
25 908.

26 As to Plaintiffs’ request for proof that such minutes were given to them, no such minutes were
27 given and so there are no responsive documents.
28

1 **REQUEST NO. 4:** A signed statement from the GLA Board affirming wether [sic] or not the GLA
2 Board gave to all GLA members a copy of GLA receipts and expenditure statements for years 2010,
3 and/or for 2011, and/or for 2012; include such receipt and expenditure documents copied for each year
4 2010-2012 as proof; include documents of all GLA account receipts and detailed expenditures of all
5 GLA monies spent by the GLA, and/or by the GLA Treasurer, and/or by Minnick Management (include
6 all GLA canceled checks, bank statements, credit card transaction statements for all such accounts that
7 use GLA monies since Aug. 2011, including any GLA audits documents completed since 2010,
8 otherwise state no audits were done.)

9
10 **RESPONSE:**

11
12 GLA denies that it gave all GLA members a copy of GLA receipts and expenditures for the
13 fiscal year 2010. GLA admits that it gave all GLA members a copy of GLA receipts and expenditures
14 for the fiscal years 2011 and 2012 by mail.

15 In response to the request for documents contained in this request, see the produced documents
16 attached and bates stamped as 000142-194 and 000195-358. Account numbers have been redacted from
17 bank statements and canceled checks.

18
19 **REQUEST NO. 5:** A signed statement from the GLA Board affirming wether [sic] or not the GLA
20 Board gave to all GLA members a copy of GLA "check details" from 2010, and/or 2011, and/or 2012.
21 Since August 2011 up to May 2013, provide proof of such "check details" document as were **given to**
22 **the GLA Board.**

23
24 **RESPONSE:**

25 GLA denies that it gave all GLA members a copy of the GLA "check details" from 2010, 2011
26 and 2012. Check details are provided pursuant to the By-laws and Montana law if requested.
27
28

1 As to Plaintiffs' request for "check details," see the produced documents bates stamped 000359-
2 432.

3 **REQUEST NO. 6:** A signed statement from the GLA Board affirming wether [sic] or not GLA due
4 process notices were given to GLA members regarding: approval of the Erickson project review and/or
5 "finding of facts," and/or new guest house assessment, and/or Minnick contract, and/or regarding two
6 counterclaims filed against O'Connells; include all documents of due process notices given to GLA
7 members in the last 3 years (per GLA Bylaw XI. part C., of Exhibit C).

8
9 **RESPONSE:**

10 GLA admits that due process notices were given to GLA members regarding approval of the
11 Erickson project, guest house assessments, the Minnick contract, and the two counterclaims against
12 Plaintiffs.
13

14 GLA objects to the production of documents in this request regarding the Erickson project, guest
15 house assessments, and the Minnick contract as they are *res judicata* as Judge Gilbert has already
16 decided them, and they are on appeal to the Montana Supreme Court. Plaintiffs should have asked for
17 discovery regarding these matters before they were decided. As such, discovery regarding these issues
18 is not relevant to any claim or defense and not likely to lead to discoverable information.
19

20 As to Plaintiffs' request for "all documents of due process notices given to GLA members in the
21 last 3 years," such notices are given by means of the GLA newsletter, and Plaintiffs have already
22 received these newsletters.
23

24 **REQUEST NO. 7:** A signed statement from the GLA Board affirming or not all election ballots,
25 proxies, certification, and vote tallies given to GLA members since 2010.

26 **RESPONSE:** GLA assumes Plaintiffs are asking GLA to state whether or not any election ballots,
27 proxies, certification, and vote tallies were given to GLA members since 2010. Therefore:
28

1 GLA admits vote tallies have been given to GLA members since 2011 via the newsletter. Prior
2 to that vote tallies were not published (but were available upon request) in order to protect the dignity of
3 the losing candidates.

4 GLA denies that its members were given ballots and proxies because disseminating ballots and
5 proxies would violate the voters' privacy.

6
7 GLA cannot truthfully admit or deny whether "certification" was given to GLA members
8 because it does not understand what Plaintiffs mean by "certification."

9 **REQUEST NO. 8:** A signed statement from the GLA Board affirming whether [sic] or not any GLA
10 employees, contractors & GLA Directors received any GLA monies for any reason from Jan. 2010 to
11 May 2013; as proof [sic] include all check details of payments made for such purpose and all contracts
12 agreements between the GLA and GLA agents, employees, contractors & GLA Directors from Jan.
13 2010-2013; including their specific job duties, authorities, and amount of payment for every GLA
14 agents, employees, contractor & GLA Director paid with GLA monies; include any written bids from
15 such GLA agents, employees, contractors & GLA Directors.

16
17
18 **RESPONSE:**

19 GLA admits GLA employees and contractors received GLA monies from January 2010 to May
20 2013. GLA denies that GLA Directors received GLA monies from January 2010 to May 2013 for
21 attending meetings or serving as Directors. GLA admits some GLA Directors received GLA monies
22 from January 2010 to May 2013 for rendering services to the GLA in capacities other than as Directors.

23
24 In response to the request for documents in this request, see the produced documents and bates
25 stamped 000359-432 and 000433-465.

26 **REQUEST NO. 9:** A signed statement from the GLA Board affirming whether [sic] or not the GLA
27 required floor plans from the Ericksons for the project [sic] review; as proof provide document copies
28

1 since 2011 of all current **and** revoked agreements and variances signed that involve the Ericksons; and a
2 copy of Ericksons **floor plans** for the Erickson project review including floor plans for two buildings
3 currently being built by the Ericksons;

4 **RESPONSE:**

5 GLA objects to the production of documents in this request regarding the Erickson project as it
6 is *res judicata* as Judge Gilbert has already decided it, and it is on appeal to the Montana Supreme
7 Court. Plaintiffs should have asked for discovery regarding this matter before it was decided. As such,
8 discovery regarding this issue is not relevant to any claim or defense and not likely to lead to
9 discoverable information.
10

11 **REQUEST NO. 10:** A signed statement from the GLA Board affirming wether or not the GLA
12 contacted all landowners that own the common use property adjacent to Erickson lots 90 & 91 in High
13 South Glastonbury;
14

15 **RESPONSE:**

16 GLA admits that the landowner of the common use property adjacent to the Erickson lot 91
17 (there is no common use land adjacent to Erisksons' lot 90), which is the Glastonbury Landowners
18 Association, Inc., was contacted.
19

20 **REQUEST NO. 11:** A signed statement from the GLA Board affirming wether or not all GLA
21 members are the joint owners of the common use property adjacent to Erickson's parcel 90 & 91 in
22 High South GLA.
23

24 **RESPONSE:** GLA denies the GLA members are joint owners of the common use property adjacent to
25 the Erickson lot 91 (there is no common use land adjacent to Erisksons' lot 90) because the common
26 use land is owned by the Glastonbury Landowners Association, Inc.
27
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1 **REQUEST NO. 12:** A signed statement from the GLA Board affirming whether or not any Roberts
2 Rules of Order were used at GLA Board meeting after September 2012 and whether or not the GLA
3 President voted prior to August 2012 in any GLA Board vote.

4 **RESPONSE:**

5 GLA admits that it used Roberts Rules of Order at meetings after September 2012.

6
7 GLA admits the GLA President voted prior to August 2012 in GLA Board votes.

8 **REQUEST NO. 13:** A signed statement from the GLA Board affirming whether or not after the August
9 2012 settlement conference the GLA refused to give O'Connells written requested documents listed in
10 the attached email.

11 **RESPONSE:** GLA denies that it refused to Plaintiffs requested documents after the August 2012
12 because the documents were available to Plaintiffs upon payment of reasonable "costs of labor and
13 material" as required by Mont. Code Ann. § 35-2-908.

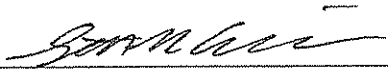
14
15 **REQUEST NO. 14:** Provide documents copies of the current GLA membership list including name,
16 address, **email address**, parcel #, including number of votes AND proxy votes each member has.

17 **RESPONSE:** See the produced documents bates stamped 000466-478. Each membership interest is
18 entitled to one vote per issue. Holders of the membership interest either vote or designate a proxy
19 pursuant to Article V, paragraph G of the By-Laws. Members of the GLA board do not vote proxies.

20
21 Object to the production of member email addresses as this information is confidential and
22 producing it would violate the members' right to privacy. Further, email addresses are not relevant to
23 any claim or defense nor would their production lead to discoverable information. Finally, Plaintiffs are
24 capable of obtaining this information by contacting the GLA members directly.
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DATED this 26th day of July, 2013.

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BY 

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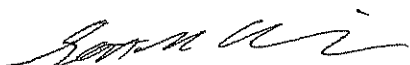
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was duly served by U.S. mail, postage prepaid, and addressed as follows this 26th day of July, 2013:

Daniel and Valery O'Connell
PO Box 77
Emigrant, MT 59027
Plaintiffs pro se

Daniel and Valery O'Connell
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Cayucos, CA 93430
Plaintiffs pro se

By: 
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