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Daniel & Valery O'Connell
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MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY

Daniel K. O'Connell (a Director of the)
Glastonbury Landowners Association)
Incorporated), & Valery A. O'Connell)
& on behalf themselves as members of the)
Glastonbury Landowners Association.)

Cause No.DV-2011-114

Plaintiff(s),)

v.)

PLAINTIFFS' AFFIDAVIT IN SUPPORT
OF INDEMNIFICATION MOTION

Glastonbury Landowners Association, Inc.)
& current GLA Board of Directors)

Defendant(s))

STATE OF MONTANA)

:SS

County of Park)

Plaintiff(s) Daniel and Valery O'Connell, on our oath deposes and states to the best of our

knowledge and belief, the information herein is true, correct, and complete, as follows:

- (a) We are GLA members/landowners residing at 56 Taurus Rd, both over the age of 18, and of sound mind to lawfully file this affidavit.
- (b) The GLA filed two countersuits against the O'Connells (DV-111-114 & DV-12-193). This DV-11-193 case and countersuit were settled out of court with O'Connells receiving all claims for relief. This 114 case was delayed 16 months by a motion to dismiss which was reversed and is again pending.
- (c) Such complaint claims for relief of a judicial or derivative proceeding under state statutes can only be made by another Director like Daniel (absent a member petition),” and also allow his

indemnification” and “the amended complaint relief does connect Daniel’s tenure on the GLA Board to relief sought by amended complaint stating:

¶ 5 “Violations were first evidenced & witnessed (authenticated per M.R.Evid. 901) by Mr. O’Connell while he served as a Board Director from Nov. 2009 until Aug. 2011 (authority for injunction claim; Butler v. Germann (1991)). Complaint claims of Director violations & breach of duty to its governing bylaws and articles of incorporation are supported by GLA governing documents or contracts (Two Crow, 149 Mont. at 23, 494 P.2d at 919.)”

¶ 23 “GLA Directors can be held monetarily responsible for breach of fiduciary duties: per Art. VIII Articles of Incorporation & 35-2-4[2]3 MCA Removal of Directors; ... [under] Judicial Proceeding... This includes breach of duties (per Art. VIII. “For a transaction from which a director derived an improper personal economic benefit.”

¶ 25 Such claims by Director-Daniel that his Director duties were thwarted and denied by the other Directors for Defendants, “Violation of Bylaw Art. VII (I) Minutes of Committees have not been produced. ¶39 of Complaint, & ¶48 TRO Dist.Ct.Dkt. No. 33. “All committees shall keep Minutes reflecting the committee members attending and the actions taken.” Complaint Exhibit J, part A at p.2. c. Fiduciary duty violation Art. of Inc. VIII. for Covenant 8.01h “The Association’s road maintenance responsibility is limited by conditioned upon the Landowners’ individual and collective [payment of the aggregate amount of the annual community assessment...” Exhibit J part A p.2, Complaint at ¶40, & 41 TRO, Dist.Ct.Dkt. No. 33 d. “Up to 42 proxy votes cast by the GLA Board of Directors were used to remove Mr. O’Connell” (Complaint at ¶14-16, & TRO Dist.Ct.Dkt. No. 33. This action is contrary GLA Bylaw Art VI(B) “Such Directors shall in all cases act as a Board and may do all such acts or things as are not...directed to be exercised and done by the Members;” Complaint at ¶17, TRO Dist.Ct.Dkt. No. 33.”

(d) The only means for Daniel to have standing to request a “judicial” or “derivative proceeding” per 35-2-1301.MCA., is as a Director. Contrary to Defendants claim raised for the first time. Daniel’s claims for relief did arise for a proper purpose and reasonable cause, because all GLA Directors including Daniel were and are liable under Articles of Inc. Art. VIII for possible breach of Duty to members or the corporation. Daniel brought the indemnification claim for the legitimate purpose to limit this liability & attain all available recourse under GLA contract (GLA Articles VIII) & several state statutes cited in the motion and Reponse. Therefore it is a fact that GLA Directors (such as Daniel) possible liability is found under Articles VIII as follows:

GLA Articles VIII states, “Members of the Board of Directors of the Corporation shall not be liable to the Corporation or to members of the Corporation for monetary damages for breach of a director’s duties to the Corporation and its members, provided that this provision does not eliminate or limit the liability of a director:

1. For a breach of the director’s duty of loyalty to the Corporation or its members;
2. For acts or omissions not in good faith or that involve intentional misconduct or a

knowing violation of law;

3. For a transaction from which a director derived an improper personal economic benefit; or

4. Pursuant to M.C.A. Sections 35-2418, 35-2435, or 35-2436.”

(g) Such potential liability claimed in the Complaint & Daniel’s possible liability under GLA Article & GLA’s countersuit factually show they possibly do exist; for which he should be indemnified for being a GLA Director at the time of complaint filing.

(h) “Director Daniel had a duty of loyalty to GLA members and corporation under GLA Articles VIII. All complaint claims for relief were not only relief for this possible liability to Daniel and others as Director, and other Director liability that prevented him for properly exercising his Director duties as Director. All such complaint claims were also born out of such duty. At all times Daniel and his suit was the best interests of the corporation and its members amounting to no harm against them. For instance it is in the best interest of the corporation and its members to allow complaint relief (page 5) that requests GLA Defendant Directors “injunction will, b. prevent the Defendants from practicing further harm, or violations of members rights, causing further undue burdens and liability upon the Association.” c. to ‘restrain GLA committee actions conducted in secret with no minutes or notice’ to members per Bylaw VI.(I.) (Exhibit J,O), d. to restrain ‘GLAs’ public & private meetings and/or votes conducted in secret without minutes or notice’ to members per (Bylaw VI.(F) & (G)), (Exhibit O”), e. ‘to restrain GLAs’ misappropriation of funds; illegal compensation of volunteer Directors per Bylaw VI.(K)* and non-aggregate spending’ (per Covenant 8.01h.& more.

FURTHER AFFIANT SAYETH NAUGHT. Dated June 30, 2014.

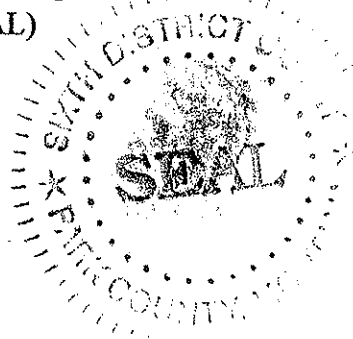
Signed Daniel K. O'Connell Signed: Valery O'Connell
Daniel O'Connell Valery O'Connell

State of Montana)

County of Park ss.)

Signed and sworn to before me on June 30, 2014.

(SEAL)



Sherry Bales Deputy Clerk
6th Judicial District Court

Notary Public for the State of Montana
Residing at _____
My Commission Expires _____

