

MAY 28 2013

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PARK COUNTY CLERK
OF DISTRICT COURT
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MONTANA SIXTH JUDICIAL DISTRICT COURT PARK COUNTY
BY WENDY TUREK

Daniel K. O'Connell & Valery A. O'Connell)
& on behalf of themselves as members of)
Glastonbury Landowners Association.)

Plaintiff(s),)

v.)

Glastonbury Landowners Association, Inc.)
Board of Directors)

Defendant(s))
_____)

DEPUTY
Cause No. DV-12-220
**REMINDER OF SUMMARY JUDGMENT
MOTION**

Plaintiffs & GLA members-Daniel and Valery O'Connell, pursuant to M.R.Civ. P., Rule 56, do hereby submit this reminder to the court of the pending summary judgement motion filed January 21, 2013. Rule 56(c)(3) says, "The judgment sought should be rendered if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law."

All party pleadings and affidavits have now been filed or closed, wherefore all parties agree that the issues are ripe for summary judgment pursuant to Rule 56, M.R.Civ.P., since no material facts are at issue and Plaintiffs are entitled to judgment as a matter of law regarding the guest house assessment claim #1, and current Board election practices claim #2. (Claim #1- Defendants admitted to distributing board election ballots (attached to the TRO complaint) which solicits its members to cast "up to 3 votes" for "each membership interest" or parcel instead of

the one vote allowed. Nor are # of votes based on vacant seats as Defendants contend, because the GLA bylaws allow up to 8 vacant seats on the Board. Claim #2-GLA Board Defendants exceeded their limited authority by charging its members new assessments for guest houses for the first time ever; which assessment is contrary to GLA Covenants 11.03(b), 3.12, and Masterplan 6.0.

(Note: Since this court failed to timely respond to the joinder motion, that joinder motion expired for case DV-12-164. Thus claim #3 and #4 from case DV-12-164 (regarding GLA/ Minnick contract) does not apply to this case nor motion for judgment. Also, a new joinder was filed to join DV-11-114 to DV-12-164 for good cause shown.)

The GLA bylaws and covenants are prima facia evidence for granting Plaintiffs summary judgment claims. The court need only decide the GLA governing documents (within complaint "Exhibit CD") are absent any specific language or lack authority, thus do not allow the GLA Board Defendants to charge its members fee assessments for new and existing guest houses for the first time ever, and do not allow the GLA Board Defendants to solicit its members to "cast up to 3 votes per membership interest" at any time especially at Board elections as Defendants' pleading to this motion admitted.

DATED this 24th day of May, 2013.

Signed Daniel K. O'Connell
Daniel O'Connell

Signed: Valery O'Connell
Valery O'Connell

Certificate of Service

We, Daniel & Valery O'Connell, swear that a true and correct copy of forgoing document(s) were sent to the following parties via first class mail on this same day to:

by hand:
Sixth Judicial District Clerk of Court
414 E. Callender St.
Livingston, Mt. 59047

The GLA attorney of record:
Brown Law Firm, P.C.
315 N. 24th St. (PO Drawer 849)
Billings, MT. 59103-0849

By Daniel K. O'Connell
Daniel O'Connell

By: Valery O'Connell
Valery O'Connell