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 Association, Inc.

7 **MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY**

8 DANIEL K. O'CONNELL and VALERY A.
 9 O'CONNELL,

Cause No.: DV-2011-114
 Judge David Cybulski

10 Plaintiffs,

**AFFIDAVIT OF ALYSSA ALLEN
 SUPPLEMENTAL TO DEFENDANT'S
 MOTION FOR SUMMARY JUDGMENT**

11 v.

12 GLASTONBURY LANDOWNERS
 13 ASSOCIATION, INC. Board of Directors,

14 Defendants.

15 STATE OF MONTANA)
 16 :SS
 17 County of Park)

18 Alyssa Allen, being first duly sworn on her oath deposes and states:

19 1. I am the former President and Vice-President of the Glastonbury Landowners Association,
 20 Inc. (GLA). I have owned property in South Glastonbury for 13 years. I have served on the board of
 21 directors of the GLA for 10 years. I currently hold the GLA officer position of Secretary.

22 2. As a former member of the GLA Board of Directors and now the GLA Secretary, I am
 23 familiar with the GLA's governing documents and other documents related to its business dealings.

24 Attached to this affidavit are true and correct copies of the following documents:

25 Exhibit E: GLA Articles of Incorporation of Glastonbury Landowners Association, Inc.;

26 Exhibit D: Restated Declaration of Covenants for the Community of Glastonbury;
 27
 28

1 Exhibit C: Bylaws of Glastonbury Landowners Association, Inc.

2 Exhibit F: Amendment to the Bylaws approved by the members November 2014.

3 Also attached as Exhibit A is a true and correct copy of a Stipulated Settlement Agreement entered into
4 by the GLA and Daniel O'Connell and Valery O'Connell in case No. DV-2011-193.

5 3. The GLA has provided the Plaintiffs with a membership list two times a year pursuant to the
6 Settlement Agreement without charge. Additionally, the prohibition on recording meetings which was
7 enacted because Plaintiffs' recording was disruptive and chilling was rescinded by the Settlement
8 Agreement. Plaintiffs have not been denied the ability to record a meeting since the Settlement
9 Agreement.
10

11 4. Plaintiffs have made numerous demands to inspect GLA records and for copies of GLA
12 records over the years. Initially, the requested copies were provided, but Plaintiffs refused to pay the
13 reasonable costs of labor and materials incurred in gathering the information. Future requests were
14 denied based on Plaintiffs' refusal to pay with the exception of membership lists allowed by the
15 Settlement Agreement. Denying these requests was done based on advice of counsel. Further, Plaintiffs
16 would make general "catch-all" demands for whole categories of records without stating a proper
17 purpose or describing with reasonable particularity the purpose and the records the member desires to
18 inspect.
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21 5. Ultimately, Plaintiffs offered to bring their own copier and paper to make their own copies
22 thereby avoiding the costs of labor and material to the GLA. The GLA arranged for over eight hours of
23 inspection and had thousands pages of documents available. After these inspections, the records were in
24 extreme disarray with no indication of what had been copied or taken by Plaintiffs making inspections
25 in the future unworkable.
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1 6. Roughly half of the GLA's board members are elected each year as the 12 board members are
2 split evenly between alternating two year terms. Board members are elected in November. The next
3 regular board meeting occurs in December leaving a small gap between election and assumption of
4 board duties for new board members. Board members are not qualified to assume their duties until
5 officers are chosen, orientation and training is given, and committee chairs and members are assigned.
6 This occurs at the first board meeting after the election. For purposes of continuity, it became apparent
7 there was a need to have outgoing board members maintain their board duties until the first meeting
8 after the election. New board members do not begin their two year term until the first board meeting
9 after the election. Officers are required to do this under the Bylaws. Relieving out-going board members
10 of their duties at the election would leave a gap in governance—which is particularly important during
11 snow removal season—and newly elected board members would be unqualified to immediately assume
12 board duties right after the election. This would harm the GLA's ability to serve its members.
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15 7. Traditionally, the GLA has not shared member phone numbers, account balances, private
16 correspondence, and other information not considered part of membership records. The GLA did solicit
17 member feedback for purposes of drafting a confidentiality policy, but it has not adopted one yet. The
18 majority of member feedback has supported maintaining member privacy unless information is required
19 to be disclosed by law. The GLA amended its Bylaws to allow members to elect to receive notice of
20 member meetings via email rather than postal mail as the Montana Non-Profit Corporation Act was
21 changed to allow email notice. Currently no members receive notice of member meetings via email.
22
23 When Bylaw amendments are proposed, notice is always given pursuant to the Bylaws.
24

25 8. The GLA takes regular minutes at its board meetings. The GLA board does have closed
26 session meetings where it discusses topics such as the ongoing litigation with Plaintiffs and employee
27 matters. Sometimes detailed minutes are generated in closed sessions, and these are not disseminated to
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1 members so as not to violate privileges or privacy protected by law. If these minutes were completely
2 redacted, they could be disclosed.

3 9. Sometimes the open meeting minutes reflect the closed session topics without details. These
4 are disseminated because simply listing the topics covered does not violate the privileges or privacy
5 protections. The board does mark regular open meeting minutes as confidential with the intent of
6 protecting them from distribution outside of the GLA membership. They are not marked in order to
7 deny them to members as Plaintiffs claim, but to keep them from the general public. Members who
8 request these minutes are provided them.
9

10 10. Committee chairs and/or members take notes regarding their meetings which are either
11 turned in to the board Secretary or simply read at the monthly board meeting by the committee
12 chairperson so these notes are committee minutes incorporated into the regular monthly board meeting
13 minutes. When the board holds a meeting, the various committees report to the board and make
14 recommendations which are then voted on. Some committees have authority to take action, and they
15 report on any actions taken. In this manner, committee meeting minutes are incorporated into the board
16 meeting minutes. This practice was approved by counsel and has been done for a couple of years
17 without complaint until now. In this manner, committee actions, attendance, and recommendations are
18 preserved in minute form.
19
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21 11. Sometimes the GLA board takes action outside of a regular meeting. This can be done by
22 phone meeting for which minutes are kept or by email. All actions taken by email are ratified at the next
23 regular board meeting. Upon advice of counsel, the subsequent ratification, which is reflected in the
24 minutes, obviates the need to keep records of emails.
25

26 12. The GLA can and does pay board members who are contractors or employees rendering
27 services to the GLA in other capacities such as snow removal, construction, road maintenance, and
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1 administrative work. Occasionally, the GLA reimburses board members who expend their personal
 2 funds for GLA equipment or supplies. For example, for convenience I have purchased office supplies
 3 used by the GLA with my personal funds and was reimbursed by the GLA.

4 13. There is no requirement for written or verbal bids before paying for work done. However,
 5 over the years, the board has regularly informed the membership about various job needs at meetings,
 6 through the newsletter and announcements. Sometimes, when time allowed, bids were solicited. Work
 7 was awarded based on best price and the ability to do the work. Often there was only one interested
 8 party. Due to timeliness of circumstances, some work is performed by whoever can be found in a timely
 9 fashion and has the equipment and/or expertise to perform the work. In our small community,
 10 sometimes the best person for the job also happens to be a past or present board member.

11 14. The GLA holds its elections by secret ballot. Absentee ballots reference member names and
 12 parcel numbers thus allowing them to be viewed would violate voter confidentiality. Ballots filled out at
 13 meetings do not contain this information but viewing only those ballots would not provide the actual
 14 tallies. Further, the GLA protects ballots because it does not want them to be tampered with. The
 15 Plaintiffs can factually prove the actual number of votes by means other than by viewing the actual
 16 ballots because the ballots are counted and results are announced at the annual meeting and via
 17 newsletter.

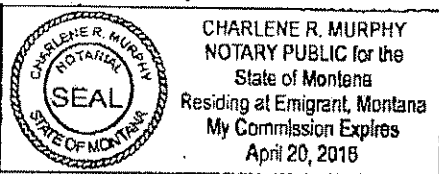
18 Further, affiant sayeth naught.

19 DATED this 5th day of May, 2015.

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 24 *Alyssa Allen*
 25 Alyssa Allen

26 SUBSCRIBED AND SWORN to me by Alyssa Allen on this 5 day of May, 2015.

27 *State of Montana* *Charlene R. Murphy*
 28 *County of Park* *Notary of Montana*



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