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16 *Landowners Association, Inc.*

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

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

20 Plaintiffs,

21 v.

22 GLASTONBURY LANDOWNERS
23 ASSOCIATION, INC. & CURRENT BOARD
24 OF DIRECTORS,

25 Defendants.

Cause No.: DV-11-114

26 **DEFENDANTS' RESPONSE TO**
27 **PLAINTIFFS' AMENDED REQUEST FOR**
28 **DEFENDANT ADMISSIONS**

TO: Plaintiffs Daniel and Valery O'Connell:

Defendants respond to Plaintiffs' "Amended Request for Defendant Admissions" as follows:

DEFENDANTS OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

Defendants object to Plaintiffs' statement: "Plaintiffs' as GLA Director and members of the GLA Association...." Neither Plaintiff Daniel K. O'Connell nor Plaintiff Valery A. O'Connell are "GLA Directors."

Defendants object to Plaintiffs' inclusion of instructions for discovery and definitions to the extent they conflict or impose duties greater than the Montana Rules of Civil Procedure.

1 Defendants object to Plaintiffs' definition of "aggregate" as this is the definition they wish to
2 impose which is not supported by the plain meaning of the word or the GLA Covenants. The definition
3 of "aggregate" as used in the Covenants is an issue in this case, and Defendants disagree with Plaintiffs'
4 interpretation of the term.

5 Defendants object to Plaintiffs' definition of "Defendant" as it is clearly contrary to Montana
6 law and includes persons not a party to this lawsuit.

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8 **DEFENDANTS' ANSWERS TO PLAINTIFFS' AMENDED REQUESTS FOR ADMISSION**

9 **Request 1.** Admit that, except for budget report(s), project review(s), and agenda(s), the only way for
10 GLA members to get other GLA documents is to make a written request to the GLA Board.

11 **ANSWER:** Deny. The Articles, By-laws, Master Plan, Covenants and Standards are posted on
12 the GLA website along with policies, newsletters, board and committee member lists, forms and
13 documents relating to litigation even though nothing in the GLA governing documents requires this—
14 however, it is done as a service to members. A binder of meeting minutes is available for members for
15 inspection at board meetings. Members are also given personal account statements upon verbal request.
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17 **Request 2.** Admit that since October 2012, O'Connell Members made written requests as members for
18 requested GLA documents pursuant to the 2012 settlement agreement..[sic]
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20 **ANSWER:** Deny. The O'Connells have made several written requests that either ignored the
21 terms of the Settlement Agreement which requires requests to be made according to the Montana Non-
22 Profit Corporation Act and the GLA By-Laws.
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1 **Request 3.** Admit that the GLA Board since October 2012 withheld or denied such requested
2 documents to its members-O'Connells that were requested & allowed under 2012 settlement agreement.

3 **ANSWER:** Deny. The GLA Board has not withheld or denied requested documents to the
4 O'Connells that they were entitled to receive. They have been told by legal counsel that in accordance
5 with Montana law, they are to pay the reasonable costs of labor and materials incurred by the GLA in
6 fulfilling document requests, and they refuse to do so. They currently owe \$60 for a document request
7 filled in the summer of 2012. Since this time, the GLA Board has provided documents to the
8 O'Connells even when the O'Connells failed to follow the procedure set forth in the settlement
9 agreement and in Montana law.
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11 **Request 4.** Admit that the GLA Board denied to its members-O'Connells any of the settlement
12 agreement documents* quoted & cited below as requested (**per §35-2-906 MCA**) via email by the
13 O'Connells **starting** June 28th, 2014:
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15 *"[sic] GLA member complaint/suggestion letters to the Board" for the last 36 months[sic]

16 *"[sic] GLA communications with members" (per §35-2-906 MCA called "resolutions adopted by its
17 board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of
18 members.")
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20 *"[sic] GLA member account balances" (per §35-2-906 MCA called "accounting records" and
21 "financial statements.")
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23 *"[sic] GLA payment plans with members" (per §35-2-906 MC[sic] called "accounting records" and
24 "financial statements;" or else called "resolutions adopted by its board of directors relating to the
25 characteristics, qualifications, rights, limitations, and obligations of members.")
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1 *"[sic] GLA Board Committee minutes" & Board "closed secession[sic]" meeting minutes"[sic] or
2 "confidential Board meetings" for the last 36 months (per §35-2-906 MCA called "minutes of
3 meetings.")

4 **ANSWER:** Deny. The Settlement Agreement does not include the documents in request #4.
5 Further, Montana law and the GLA governing documents do not require disclosure all of the documents
6 in request #4. The O'Connells misinterpret Montana law and erroneously label certain types of records
7 as something they are not. When the O'Connells submitted a proper request that complied with the
8 Montana Non-Profit Corporation Act and GLA governing documents, the GLA made available for
9 inspection and copying its financial information and other documents on June 28, 2014 and July 8,
10 2014. The O'Connells had two separate days to inspect and copy documents in addition to documents
11 received by mail or email.
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14 **Request 5.** Admit that for year(s): 2010, or 2011, or 2012, or 2013, the GLA Board prior to making
15 any new Rules or Regulations, or taking any action to enforce any of the Covenants, Bylaws, Rules or
16 Regulations failed to give its members due process/notice requirements pursuant to GLA Bylaw XI(C).

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18 **ANSWER:** Deny. To the best of its knowledge and ability, the GLA has followed the By-laws
19 regarding due process notice.

20 **Request 6.** Admit that the GLA Board from January 2009 through September 2011 failed to give
21 O'Connell & members receipts & expenditure statements per Bylaw VIII.F &H:[sic]

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23 **ANSWER:** Deny. The receipts and expenditure statements for 2011, 2012, and 2013 were
24 mailed to members. For 2009 and 2010 the receipts and expenditure statements were available to
25 members upon request. Daniel O'Connell was a board member from November 2009 through August
26 2011, and the receipts and expenditures statement was available to him as a board member as well.
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1 **Request 7.** Admit that from 2010 through 2013, GLA yearly collected less than \$18,000 total member
2 assessments from members owning HIGH South Glastonbury lots or residences accessible by Hercules
3 Road, Polaris Road, or Sagittarius Roads (High South Glastonbury roads).

4 **ANSWER:** The GLA cannot truthfully admit or deny this request for admission because it lacks
5 knowledge or information of assessments collected based on ownership in High South Glastonbury.

6 This type of information is not maintained or calculated by the GLA. Further, the GLA cannot
7 determine which parcels Plaintiffs are including in the term High South Glastonbury. The GLA has
8 made reasonable inquiry into its financial records maintained according to generally acceptable
9 accounting practices and those records are insufficient to enable the GLA to admit or deny this request.

10 **Request 8.** Admit that the[sic] in the calendar year 2010, GLA Board spent more than \$12,000 member
11 assessments for grading (labor and costs), road repair (labor & costs), snowplowing (labor & cost),
12 weed spraying (labor and costs) to maintain Hercules Road & Polaris Road & Sagittarius Roads (High
13 South Glastonbury roads).

14 **ANSWER:** The GLA cannot truthfully admit or deny this request in regards to grading,
15 snowplowing, and weed spraying because it lacks knowledge or information of expenditures for these
16 based on particular roads in the community. This type of information is not maintained or calculated by
17 the GLA. Specific road repairs such as culvert replacements are individually tracked, but repairs for
18 these in 2010 came nowhere near \$12,000. The GLA has made reasonable inquiry into its financial
19 records maintained according to generally acceptable accounting practices and those records are
20 insufficient to enable the GLA to admit or deny this request.
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1 **Request 9.** Admit that the[sic] in calendar year 2011 GLA Board spent more than \$12,000 in member
2 assessments for grading (labor and costs), road repair (labor & costs), snowplowing (labor & cost),
3 weed spraying (labor and costs) to maintain Hercules Road & Polaris Road & Sagittarius Roads (High
4 South Glastonbury roads).

5 **ANSWER:** The GLA cannot truthfully admit or deny this request in regards to grading,
6 snowplowing, and weed spraying because it lacks knowledge or information of expenditures for these
7 based on particular roads in the community. This type of information is not maintained or calculated by
8 the GLA. Specific road repairs such as culvert replacements are individually tracked, but repairs for
9 these in 2011 came nowhere near \$12,000. The GLA has made reasonable inquiry into its financial
10 records maintained according to generally acceptable accounting practices and those records are
11 insufficient to enable the GLA to admit or deny this request.
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14 **Request 10.** Admit that the[sic] in calendar year 2012, GLA Board spent more than \$12,000 member
15 assessments for grading (labor and costs), road repair (labor & costs), snowplowing (labor & cost),
16 weed spraying (labor and costs) to maintain Hercules Road & Polaris Road & Sagittarius Roads (High
17 South Glastonbury roads).

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19 **ANSWER:** The GLA cannot truthfully admit or deny this request in regards to grading,
20 snowplowing, and weed spraying because it lacks knowledge or information of expenditures for these
21 based on particular roads in the community. This type of information is not maintained or calculated by
22 the GLA. Specific road repairs such as culvert replacements are individually tracked, but repairs for
23 these in 2012 came nowhere near \$12,000. The GLA has made reasonable inquiry into its financial
24 records maintained according to generally acceptable accounting practices and those records are
25 insufficient to enable the GLA to admit or deny this request.
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2 **Request 11.** Admit that the[sic] in calendar year 2013, GLA Board spent more than \$12,000 member
3 assessments for grading (labor and costs), road repair (labor & costs), snowplowing (labor & cost),
4 weed spraying (labor and costs) to maintain Hercules Road & Polaris Road & Sagittarius Roads (High
5 South Glastonbury roads).

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7 **ANSWER:** The GLA cannot truthfully admit or deny this request in regards to grading,
8 snowplowing, and weed spraying because it lacks knowledge or information of expenditures for these
9 based on particular roads in the community. This type of information is not maintained or calculated by
10 the GLA. Specific road repairs such as culvert replacements are individually tracked, but repairs for
11 these in 2013 came nowhere near \$12,000. The GLA has made reasonable inquiry into its financial
12 records maintained according to generally acceptable accounting practices and those records are
13 insufficient to enable the GLA to admit or deny this request.

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15 **Request 12.** Admit that the GLA Board from 2010 through 2013 did NOT utilize the GLA website to
16 post member payments, notices, newsletters; which actions cost money to print, mail, & labor costs (to
17 send out these member payments, notices, newsletters).

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19 **ANSWER:** Deny. The GLA website is not required by Montana law or the GLA governing
20 documents. However, the GLA created a website in the year 2002 as a service to members. Through
21 volunteers and some paid contractors the website has evolved and has provided information and
22 documents since its creation. The GLA does not send out member payments. Member statements and
23 notices are mailed pursuant to the GLA governing documents and Montana law. Newsletters are
24 available both by the website and mailed because not all members have internet access.
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1 **Request 13.** Admit that regarding request 12 above, GLA Board spent approx. or more than two
2 thousand dollars (to print, postage costs, labor costs) to send GLA members all notices, payment
3 invoices, newsletters via US Postal service[sic] U.S. Mail.

4 **ANSWER:** Admit. Between 2010 and 2013 the GLA spent over \$2,000 on postage fulfilling the
5 requirements of the GLA Bylaws and Montana law which govern what information needs to be mailed
6 to members.

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8 **Request 14.** Admit that in the last few years, GLA Directors Rich Spallone, Paul Rantallo[sic] Alyssa
9 Allen, & Gerald Dubiel performed services for the GLA nonprofit organization and (c)[sic] received
10 compensation in excess of expenses incurred to perform such services.

11 **ANSWER:** Deny. The GLA paid the invoices submitted for services rendered in capacities
12 other than as Directors.

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14 **Request 15.** Admit that the GLA Board paid GLA assessments to Director Rich Spallone for such
15 Director doing specific duties for the GLA from 2009, and/or 2010, and/or 2011, and/or 2012, and/or
16 2013.

17 **ANSWER:** Deny. Rich Spallone was not paid for Director duties. Rich Spallone was paid for
18 snow removal as an independent contractor which is a service rendered in a capacity other than as a
19 Director.
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21 **Request 16.** Admit that the GLA Board paid GLA assessments to Director Rich Spallone at a profit (in
22 excess of expenses incurred to perform such services) for such Director doing specific duties for the
23 GLA from 2009, and/or 2010, and/or 2011, and/or 2012 and/or 2013.

24 **ANSWER:** Deny. Rich Spallone was not paid for Director duties. Rich Spallone or R&B
25 Builders was paid reasonable compensation for snow removal as an independent contractor which is a
26 service rendered in a capacity other than as a Director. The GLA cannot truthfully admit or deny this
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1 request in regards to profit because the GLA is not privy to Mr. Spallone's or R&B Builders's operating
2 expenses, labor, and tax information which would be necessary to calculate profit, if any. The GLA paid
3 Rich Spallone's or R&B Builders's reasonable invoices for services rendered. The GLA has made
4 reasonable inquiry into its financial records maintained according to generally acceptable accounting
5 practices and those records are insufficient to enable the GLA to admit or deny this request in regards to
6 Mr. Spallone's or R&B Builders's profit.
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8 **Request 17.** Admit that the GLA Board paid GLA assessments to Director Paul Rantallo[sic] for such
9 Director doing specific duties for the GLA from 2009, and/or 2010, and/or 2011, and/or 2012, and/or
10 2013.

11 **ANSWER:** Deny. Paul Ranttalo was not paid for Director duties. Paul Ranttalo was paid for
12 road repair and other work as an independent contractor which is a service rendered in a capacity other
13 than as a Director.
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15 **Request 18.** Admit that the GLA Board paid GLA assessments to Director Paul Rantallo[sic], a profit
16 (in excess of expenses incurred to perform such services) for such Director doing specific duties for the
17 GLA from 2009, and/or 2010, and/or 2011, and/or 2012, and/or 2013.

18 **ANSWER:** Deny. Paul Ranttalo was not paid for Director duties. Mr. Ranttalo was paid
19 reasonable compensation for repair work and other work as an independent contractor which is a service
20 rendered in a capacity other than as a Director. The GLA cannot truthfully admit or deny this request in
21 regards to profit because the GLA is not privy to Mr. Ranttalo's operating expenses, labor, and tax
22 information which would be necessary to calculate profit, if any. The GLA paid Mr. Ranttalo's
23 reasonable invoices for services rendered. The GLA has made reasonable inquiry into its financial
24 records maintained according to generally acceptable accounting practices and those records are
25 insufficient to enable the GLA to admit or deny this request in regards to Mr. Ranttalo's profit.
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1 **Request 19.** Admit that the GLA Board paid GLA assessments to Director Alyssa Allen for such
2 Director doing specific duties for the GLA from 2009, and/or 2010, and/or 2011, and/or 2012, and/or
3 2013.

4 **ANSWER:** Deny. Ms. Allen was not paid for Director duties. Ms. Allen or Angelis Design was
5 paid for administrating and managing GLA affairs as an independent contractor which is a service
6 rendered in a capacity other than as a Director.
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8 **Request 20.** Admit that the GLA Board paid GLA assessments to Director Alyssa Allen a profit (in
9 excess of expenses incurred to perform such services) for such Director doing specific duties for the
10 GLA from 2009, and/or 2010, and/or 2011, and/or 2012, and/or 2013.

11 **ANSWER:** Deny. Ms. Allen was not paid for Director duties. Ms. Allen or Angelis Design was
12 paid reasonable compensation for administrating and managing GLA affairs as an independent
13 contractor which is a service rendered in a capacity other than as a Director. The GLA cannot truthfully
14 admit or deny this request in regards to profit because the GLA is not privy to Ms. Allen's or Angelis
15 Design's operating expenses, labor, and tax information which would be necessary to calculate profit, if
16 any. The GLA paid Ms. Allen's or Angelis Design's reasonable invoices for services rendered. The
17 GLA has made reasonable inquiry into its financial records maintained according to generally
18 acceptable accounting practices and those records are insufficient to enable the GLA to admit or deny
19 this request in regards to Ms. Allen's or Angelis Design's profit.
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1 **Request 21.** Admit that the GLA Board paid GLA assessments to Director Gerald Dubiel for such
2 Director doing specific duties for the GLA from 2009, and/or 2010, and/or 2011, and/or 2012, and/or
3 2013.

4 **ANSWER:** Deny. Mr. Dubiel was not paid for Director duties. Mr. Dubiel was paid for his
5 work as an independent contractor in 2012 and then an employee of the GLA in 2013 for snow removal.
6 Deny that he was paid in other year in any other capacity.

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8 **Request 22.** Admit that the GLA Board paid GLA assessments to Director Gerald Dubiel, a profit (in
9 excess of expenses incurred to perform such services) for such Director doing specific duties for the
10 GLA from 2009, and/or 2010, and/or 2011, and/or 2012, and/or 2013.

11 **ANSWER:** Deny. Mr. Dubiel was not paid for Director duties. Mr. Dubiel was paid reasonable
12 compensation for his work as an independent contractor in 2012 and then an employee of the GLA in
13 2013 for snow removal. Deny that he was paid in other year in any other capacity. Deny this request in
14 regards to profit when Mr. Dubiel was paid as an employee paid with wages because he would not have
15 profit in the sense Plaintiffs are using the term. The GLA cannot truthfully admit or deny this request in
16 regards to profit when Mr. Dubiel was paid as an independent contractor because the GLA is not privy
17 to Mr. Dubiel's operating expenses, labor, and tax information which would be necessary to calculate
18 profit, if any. The GLA paid Mr. Dubiel reasonable compensation for services rendered. The GLA has
19 made reasonable inquiry into its financial records maintained according to generally acceptable
20 accounting practices and those records are insufficient to enable the GLA to admit or deny this request
21 in regards to Mr. Dubiel's profit.
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1 **Request 23.** Admit that from 2009, and/or 2010, and/or 2011, and/or 2012, and/or 2013, the GLA
2 Board failed to get written bids from other competitors for duties paid for by GLA assessments for
3 duties done by one or more GLA Directors (Alyssa Allen, Gerald Dubiel, Rich Spallone, Paul
4 Rantallo[sic]).

5 **ANSWER:** Deny. Deny in regards to the work done by Alyssa Allen or Angelis design because
6 other bids were solicited and another contractor worked for a time performing similar work. Deny in
7 regards to the work done by Gerald Dubiel because he was not a contractor but an employee in 2013
8 and other people were free to apply for the job. Deny in regards to the work done by Mr. Dubiel when
9 he was an independent contractor because other contractors were solicited for snow removal and other
10 contractors have performed snow removal for the GLA. Deny in regards to the work done by Rich
11 Spallone or R&B Builders because other contractors were solicited for snow removal and other
12 contractors have performed snow removal for the GLA. Deny in regards to the work done by Paul
13 Ranttalo because other contractors were solicited for repair work and other contractors have performed
14 repair work for the GLA. Over the years, the board has regularly informed the membership about
15 various job needs at meetings, through the newsletter and announcements. Work was awarded based on
16 best price and the ability to do the work. Often there was only one interested party. Further, the GLA
17 alleges the By-laws do not require written bids or even verbal bids. Due to timeliness of circumstances,
18 some work is performed by whoever can be found in a timely fashion and has the equipment and/or
19 expertise to perform the work.
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1 **Request 24.** Admit that the GLA Board does not allow anyone but GLA Board members to attend its
2 so called "closed session" meetings without GLA Board's permission rarely given to its members.

3 **ANSWER:** Admit that pursuant to Bylaw Article VI.F, the GLA Board deals with confidential
4 matters in closed sessions. For example, confidential matters include discussions of ongoing litigation,
5 discussions of employment matters, and other issues deemed confidential at the discretion of the Board.
6
7 Persons other than the Board members attend these sessions for specific purposes when needed or
8 requested.

9 **Request 25.** Admit that the GLA Board deny[sic] its members-the O'Connells to see or copy GLA
10 Board meeting minutes from "closed session" (or private) Board meetings after O'Connells made
11 discovery request(s) and member request(s) for such minutes.
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13 **ANSWER:** Deny as stated. There are some closed session meeting minutes which have
14 confidential information which have not been redacted that are not available to members. However,
15 some closed sessions dealing with confidential matters held pursuant to By-law Article VI.F are
16 included in Board meeting minutes which are available to members because the descriptions of what
17 was discussed are described generally so as not to violate confidentiality.
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19 **Request 26.** Admit that within the notebook where the GLA says it keeps Board meeting minutes for
20 its members to see them, such minutes from "closed session" meetings are absent from this notebook.

21 **ANSWER:** Deny. Closed sessions dealing with confidential matters held pursuant to Bylaw
22 Article VI.F are included in Board meeting minutes which are available to members. However,
23 descriptions of what was discussed are described generally so as not to violate confidentiality. If the
24 minutes contain protected, confidential matters then they are redacted.
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1 **Request 27.** Admit that in year(s) 2010, and/or 2011, and/or 2012, and/or 2013, the GLA Board did not
2 take GLA committee minutes reflecting all committee members attending and the actions taken.

3 **ANSWER:** Deny. The committees take their own meeting minutes, not the GLA Board.
4 Committees then give a report at the monthly Board meeting regarding committee meeting attendance
5 and any actions taken which are then incorporated into the monthly Board meeting minutes.
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7 **Request 28.** Admit that GLA Defendants delayed O'Connells having such documents for nine months
8 for written document request emailed and dated October 7, 2012 and October 11, 2012 to GLA Board
9 and Alannah Griffith.

10 **ANSWER:** Deny. The O'Connells consistently made defective requests that were not in good
11 faith, not for a proper purpose, failed to describe with reasonable particularity the records they wished to
12 inspect, and failed to connect the records with a proper purpose. Further, the O'Connells refused to pay
13 the reasonable costs of labor and material for requests of documents. The O'Connells were not entitled
14 to the requested documents to under Montana law and the GLA governing documents. When the
15 O'Connells finally submitted a proper request and agreed to inspect and provide their own means
16 copying, the requested records were made available on June 28, 2014 and July 8, 2014.
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18 **Request 29.** Admit that GLA Defendants had actual knowledge of O'Connells document requests
19 emailed to GLA Board and Brown Law Firm and dated: December 27, 2012, and/or June 8th, 2014,
20 and/or June 11th, 2014, and/or July 7th, 2014, and/or July 12th, 2014, and/or July 29th, 2014, and/or
21 September 26, 2014 document requests.
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23 **ANSWER:** Deny. The emails were defective requests that were not in good faith, not for a
24 proper purpose, failed to describe with reasonable particularity the records they wished to inspect, and
25 failed to connect the records with a proper purpose. Further, the O'Connells refused to pay the
26 reasonable costs of labor and material for requests of documents. The O'Connells were not entitled to
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1 the requested documents to under Montana law and the GLA governing documents. When the
2 O'Connells finally submitted a proper request and agreed to inspect and provide their own means
3 copying, the requested records were made available on June 28, 2014 and July 8, 2014.

4 **Request 30.** Admit that, for all seven O'Connell GLA document requests in Request #29 above, were
5 basically requests for the same or similar documents that were denied to O'Connells.

6 ANSWER: Deny. The O'Connells consistently made defective requests that were not in good
7 faith, not for a proper purpose, failed to describe with reasonable particularity the records they wished to
8 inspect, and failed to connect the records with a proper purpose. Further, the O'Connells refused to pay
9 the reasonable costs of labor and material for requests of documents. The O'Connells were not entitled
10 to the requested documents to under Montana law and the GLA governing documents. The defective
11 requests were not for the same or similar documents. When the O'Connells finally submitted a proper
12 request and agreed to inspect and provide their own means copying, the requested records were made
13 available on June 28, 2014 and July 8, 2014.

14 **Request 31.** Admit that for the period beginning in November 2010 and ending in August 2014 there
15 was no other GLA Director performing services for the GLA Defendants as a manager, managerial
16 services, being treated as an independent contractor other than Alyssa Allen.

17 ANSWER: Admit to the extent this request is asking if Ms. Allen or Angelis Design was paid
18 for administrating and managing GLA affairs as an independent contractor which is a service rendered
19 in a capacity other than as a Director starting in October 2010 through July 2013. Admit Ms. Allen was
20 the only Director being paid for this type of work which was outside her capacity as a Director. Deny
21 the remaining allegations in this request.

22 **Request 32.** Admit that for the period beginning in November 2010 and ending in August 2014
23 Director Alyssa Allen was paid with GLA assessments \$15.00 per hour that included profit to Alyssa
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1 Allen in return for her performing services for the GLA as a manager, and/or managerial services,
2 and/or as an independent contractor for the GLA.

3 **ANSWER:** Admit to the extent this request is asking if Ms. Allen or Angelis Design was paid
4 for administrating and managing GLA affairs as an independent contractor which is a service rendered
5 in a capacity other than as a Director. Deny this request in regards to what profit to Alyssa Allen
6 resulted from her work as an independent contractor. The premise of this request betrays a fundamental
7 lack of understanding of how “profit” is figured. The GLA pays for services rendered, usually at or
8 below market prices, and invoices from contractors do not contain information sufficient to calculate
9 profit, if any.
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11 **Request 33.** Admit that for the period beginning in 2010 and ending 2013, Director Rich Spallone was
12 paid with GLA assessments hourly wages that included profit to Rich Spallone to perform road
13 maintenance services for the GLA, being treated as an independent contractor for the GLA.
14

15 **ANSWER:** Admit to the extent this request is asking if Mr. Spallone was paid for snow removal
16 as an independent contractor which is a service rendered in a capacity other than as a Director. Deny
17 this request in regards to what profit to Mr. Spallone resulted from his work as an independent
18 contractor. The premise of this request betrays a fundamental lack of understanding of how “profit” is
19 figured. The GLA pays for services rendered, usually at or below market prices, and invoices from
20 contractors do not contain information sufficient to calculate profit, if any. Further, Mr. Spallone was
21 not paid hourly wages because he was an independent contractor, not an employee.
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1 **Request 34.** Admit that all GLA Directors from 2012-2013 all had actual knowledge of the 2012
2 Settlement Agreement with O'Connells; ; [sic] which "Settlement Agreement" says, "GLA...will
3 provide a current GLA membership list to the O'Connells upon request [sic] twice a years[sic]" & "The
4 GLA will provide O'Connells with all documents to which they are entitled pursuant to the Montana
5 Non-Profit Corporation Act and GLA Bylaws[sic] upon request."

6
7 **ANSWER:** Deny that the language from the Settlement Agreement is as Plaintiffs quote it.

8 Admit the GLA Directors were/are aware of the Settlement Agreement. Deny to the extent Plaintiffs are
9 alleging the Board has violated the Settlement Agreement.

10 **Request 35.** Admit that the GLA Board from 2009-2011 refused to disclose to members how many
11 votes each GLA Board candidate received (comparing January 2011 GLA newsletter that only gave the
12 names of Board candidates reelected to the Board & January 2012 GLA newsletter that gave "Specific
13 Voting Results" (# of votes each GLA Board candidate received)).

14
15 **ANSWER:** Deny. From 2009-2011 the GLA Board did not publish vote tallies in the newsletter
16 in order to protect the dignity of the losing candidates but tallies were available upon request. Therefore
17 the GLA did not "refuse" to disclose them. Since 2011 tallies have been published in the newsletter.

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19 **Request 36.** Admit that the GLA Board of Directors, only after 2011, disclose to members how many
20 votes each GLA Board candidate received (see "Specific voting results" in the attached Jan. 2012 GLA
21 newsletter).

22
23 **ANSWER:** Deny. Prior to 2012 the GLA Board did not publish vote tallies in the newsletter in
24 order to protect the dignity of the losing candidates but tallies were available upon request. Therefore
25 the GLA did not "refuse" to disclose them. Since 2011 tallies have been published in the newsletter.
26 Further, in some years prior to 2012, the tallies were published or announced.

1 **Request 37.** Admit that the complaint claim for relief to remove GLA Board members was basically
2 granted and now mute, because 10 out of 12 GLA Board of Directors, since September 2011, have
3 either quit the Board or were voted out of office (excluding Paul Rantallo[sic] & Gerald Dubiel).

4 **ANSWER:** Deny. The Court has not granted the O'Connells anything they have requested in
5 this case either in their original complaint or the amended complaint. If Plaintiffs feel their claims are
6 now moot, then they have a legal obligation to dismiss their claims. The Directors have changed due to
7 elections, routine resignations, and completion of terms—not as a result of Plaintiffs' claims. None of
8 the original 12 directors who were on the board at the time of this original complaint has been “voted
9 out of office” except for Daniel O'Connell who was removed by the members at a Special Meeting for
10 that purpose on August 17, 2011.

11
12
13 (changed) **Request 38.** Admit that O'Connells won claims in complaint 193, and 220/164 cases
14 showing these case claims had merit.

15 **ANSWER:** Deny. Case No. DV-2011-193 was settled between the GLA and Plaintiffs with no
16 admission of liability by any party (see the Stipulated Settlement Agreement). Plaintiffs did not “win”
17 that case—it was settled out of court. All of Plaintiffs claims in Case No. DV-2012-164 and Case No.
18 DV-2012-220 were dismissed with prejudice by the District Court. The Montana Supreme Court
19 affirmed the dismissal on appeal for both cases. Plaintiffs “won” no claims in those cases.

20
21 (changed) **Request 39.** Admit for this complaint that Defendant Directors appear to have conceded on
22 at least 2 complaint claims showing these claims have merit: 1) Bolen & Allen Oct. 2013 depositions
23 Discovery Request #7 admit the GLA began to publish GLA election tallies in the GLA newsletter;” &
24 2) Bolen & Allen Oct. 2013 depositions also admit that they never furnished members with “Receipts
25 and Expenditures” until after this lawsuit claim was filed June 2011.
26
27
28

1 **ANSWER:** The GLA cannot truthfully admit or deny this request because we have no record of
2 the depositions of Richard Bolen and Alyssa Allen being taken in October of 2013. The GLA has made
3 reasonable inquiry into its records and cannot find these depositions so it has insufficient information to
4 admit or deny this request. However, to the extent this requests asks the GLA to admit any of Plaintiffs'
5 claims, the GLA denies it.

6
7 **Request 40.** Admit that the original June 2012 GLA / Minnick Management contract was amended
8 which removed the statement that said, "Minnick Management" [agent] had "exclusive control over all
9 GLA...parcels...;"[sic] which O'Connell complaint had claimed this original contract statement was
10 against state law.

11 **ANSWER:** Deny. Plaintiffs misquote the June 2012 Minnick Management Contract. It never
12 gave Minnick exclusive control over GLA parcels. Plaintiffs' claims otherwise were dismissed with
13 prejudice. The contract has not been amended on the basis of Plaintiffs' claims.

14
15 **Request 41.** Admit that at the October 2014 GA Board meeting, the GLA Board voted to "split" the
16 GLA "road fund budget" in half giving South Glastonbury and North Glastonbury approx. the same
17 amount of \$14,356 for grading called "road fund budget."

18 **ANSWER:** Deny. The GLA voted to divide the Road Saving Fund.

19
20 **Request 42.** Admit that at the October 2014 GLA Board meeting, the GLA Board announced that they
21 collect about \$8,000 more in GLA assessments from North Glastonbury members compared to South
22 Glastonbury assessments collected.

23 **ANSWER:** Deny. There was a comment made by one Board member regarding the difference
24 in amounts collected between North and South Glastonbury due to the greater number parcels with
25 dwellings in North Glastonbury, but the actual difference has not been calculated or announced at a
26 Board meeting.
27
28

1 **Request 43.** Admit that this (request #41) vote to “split” of the GLA “road fund budget” in half giving
2 South Glastonbury and North Glastonbury approx. the same amount of \$14,356 for grading called “road
3 fund budget” is NOT aggregate spending of the individual AND collective assessments (per Covenant
4 8.01(h)), because the GLA admitted Oct. 2014 they collect about \$8,000 more in GLA assessments
5 from North Glastonbury members compared to South Glastonbury member assessments collected.
6

7 **ANSWER:** Deny. The O’Connell’s fundamental misunderstanding of the meaning of aggregate
8 spending is covered in the Brief in Support of Motion for Summary Judgment. Aggregate spending as
9 required by the GLA governing documents means the Association is not obligated to spend more on
10 road maintenance than the total assessments it collects. Therefore the GLA is spending aggregate
11 amount of assessments as required.
12

13 **Request 44.** Admit that from 2010 through 2014, the GLA took action by written consent without a
14 meeting via requesting email votes cast by 2/3rds GLA Board members.

15 **ANSWER:** GLA Board admits that it does follow Bylaw Article VI.J Action by Written
16 Consent.
17

18 **Request 45.** Admit to what the vote and actions(s) were about (from 2010 through 2014 when the GLA
19 took action by written consent without a meeting via requesting email votes cast by 2/3rds GLA Board
20 members).

21 **ANSWER:** The GLA cannot admit or deny this request for admission because it is not phrased
22 as a statement that can be admitted or denied. This request does not identify what votes and actions
23 Plaintiffs want the GLA to admit or deny were done without a meeting via requesting email votes cast
24 by 2/3rds of the GLA Board members.
25
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1 (changed) **Request 46.** Admit that the GLA Board from 2013-2014 refused to give O'Connells
2 requested financial records of delinquent members payment plans with the GLA & how much such
3 delinquent member paid and owe in past due assessments.

4 **ANSWER:** Deny as stated. The GLA Board has provided past due assessment reports as well as
5 lists of landowners with liens on their property due to unpaid assessments. Further, the list of eligible
6 voters provided to Plaintiffs indicates whether a member is eligible to vote based on payment of
7 assessments. Admit the GLA did not give Plaintiffs personal and confidential information relating to
8 member's financial records.
9

10 (changed) **Request 47.** Admit that the GLA Board breached its duty and loyalty to the Association and
11 members pursuant to GLA Article VIII of Incorporation (below) for claims above that mention:

12 GLA violation of a settlement agreement with O'Connells,

13 GLA denial of its members due process/notice,

14 GLA non-aggregate spending & refusal to utilize the website to post member payments,

15 notices, newsletters.
16

17 **ANSWER:** Deny that the GLA Board has breached its duty and loyalty pursuant to the Articles
18 of Incorporation for claims that mention GLA violation of a settlement agreement with O'Connells,
19 GLA denial of its members due process/notice, GLA non-aggregate spending & refusal to utilize the
20 website to post member payments, notices, newsletters. The GLA has always complied with the terms
21 of the Settlement Agreement. The GLA provides members due process/notice as required. The GLA has
22 not conducted non-aggregate spending as Plaintiffs claim but spends assessments in accordance with
23 GLA governing documents. The GLA utilizes its website to post notices and newsletters, but does not
24 post member payments on its website. In all its conduct, the GLA has not breached its duty and loyalty.
25
26
27
28

1 **Request 48.** Admit that since 2011, the GLA Board at GLA annual elections (when ballots are
2 counted) told O'Connell(s) that they could not see GLA Board election ballots and/or GLA election
3 proxies, and/or GLA election vote tally taken.

4 **ANSWER:** GLA admits that it maintains ballots and proxies as confidential because it conducts
5 secret ballot elections and disseminating ballots and proxies would violate the voters' right to privacy.
6

7 **Request 49.** Admit that since 2011, the GLA Board told O'Connell members that GLA annual election
8 ballots for Board candidates are not to be seen by O'Connell members because these are "confidential"
9 election ballots.

10 **ANSWER:** GLA admits that it maintains ballots and proxies as confidential because it conducts
11 secret ballot elections and disseminating ballots and proxies would violate the voters' right to privacy.
12 They are kept confidential from all members, including the O'Connells.
13

14 **Request 50.** Admit that since 2011, the GLA Board denied O'Connell members discovery request to
15 have any GLA annual Board election ballots or other voting records submitted by GLA members.

16 **ANSWER:** Deny. To the best of its knowledge, the GLA has not received a discovery request
17 asking for election ballots and other voting records. If Plaintiffs ask for these items, the GLA objects to
18 producing them. Whenever Plaintiffs have requested election ballots and other voting records other than
19 as discovery requests, the GLA has declined to produce them as disseminating ballots and voting
20 records (other than tallies which don't violate secret ballot principles) would violate the voters' right to
21 privacy. Such documents are kept confidential from all members.
22

23 DATED this 17th day of November, 2014.
24

25 BROWN LAW FIRM P.C.

26 By: 
27

28 Michael P. Heringer
Seth M. Cunningham
Attorneys for Glastonbury
Landowners Association, Inc.

1 I attest that the foregoing answers are true and correct to the best of my knowledge.
2

3 Glastonbury Landowners Association, Inc.


4 By: _____
5 President, Glastonbury Landowners
6 Association, Inc.
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1
2 **CERTIFICATE OF SERVICE**

3 I hereby certify that a true and correct copy of the foregoing was duly served by U.S. mail,
4 postage prepaid, and addressed as follows this 7th day of November, 2014:
5

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

9 Daniel and Valery O'Connell
10 PO Box 774
11 Cayucos, CA 93430
Plaintiffs pro se

12
13 By: 
14 Michael P. Heringer
15 Seth M. Cunningham
16
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