

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, FLORIDA
CIVIL DIVISION

KEVIN LeBLANC and DARLENE
LeBLANC,

Plaintiffs,

Case No. 51-2013-CA-001811

v.

PASCO TRAILS ASSOCIATION, INC.,
et al,

Defendants.

ANSWER AND AFFIRMATIVE DEFENSES

Defendant, PASCO TRAILS ASSOCIATION, INC. (the "ASSOCIATION"), through undersigned counsel, hereby responds to Plaintiffs' Complaint, in like-numbered paragraphs, and states as follows:

Parties and Jurisdiction

1. Acknowledged that Plaintiffs so allege.
2. Admitted.
3. Admitted.
4. Without knowledge, therefore denied.
5. Denied.
6. Denied.
7. Denied.

General Allegations

8. Admitted.
9. Admitted.
10. Without knowledge, therefore denied.

11. The documents recorded at the referenced OR Book and Page numbers speak for themselves.
12. Admitted.
13. Admitted.
14. Admitted.
15. Admitted.
16. Admitted that the DEO approved the ASSOCIATION'S application for revitalization, as reflected in Exhibit A.
17. Denied.
18. Admitted that the ASSOCIATION continues to exercise its rights under its governing documents and the homeowner's statute; otherwise denied.
19. Exhibit B speaks for itself.
20. Exhibit C speaks for itself.

COUNT I – Slander of Title

21. The ASSOCIATION realleges and incorporates paragraphs one through 20 as if fully set forth herein.
22. Denied.
23. Admitted that a claim of lien was recorded.
24. Admitted that the restrictions were recorded; otherwise denied.
25. Denied.
26. Denied.

COUNT II – Fraud

27. The ASSOCIATION realleges and incorporates paragraphs one through 20 as if fully set forth herein.

28. Denied.

29. Denied.

30. Denied.

31. Denied.

32. Denied.

COUNT III – Declaratory Judgment

33. The ASSOCIATION realleges and incorporates paragraphs one through 20 as if fully set forth herein.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

38. Denied.

39. Denied.

COUNT IV – Injunctive Relief

40. The ASSOCIATION realleges and incorporates paragraphs one through 20 as if fully set forth herein.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

- 45. Denied.
- 46. Denied.
- 47. Denied.

AFFIRMATIVE DEFENSES

- 1. Plaintiffs failed to state a cause of action against the ASSOCIATION in that they have failed to allege any legal duty the ASSOCIATION owed to them and breach of that duty.
- 2. Plaintiffs failed to state a cause of action against the ASSOCIATION for Slander of Title in that the ASSOCIATION justifiably relied on the DEO'S approval of the revitalization application in recording the subject lien.
- 3. Plaintiffs failed to state a cause of action against the ASSOCIATION for Fraud in that the ASSOCIATION justifiably relied on the DEO'S approval of the revitalization application in recording the subject lien.
- 4. Plaintiffs failed to state a cause of action against the ASSOCIATION for Declaratory Judgment in that the ASSOCIATION justifiably relied on the DEO'S approval of the revitalization application.
- 5. Plaintiffs failed to state a cause of action against the ASSOCIATION for Injunctive Relief in that the ASSOCIATION justifiably relied on the DEO'S approval of the revitalization application.
- 6. Plaintiffs lack standing to maintain this action in that they were provided an opportunity participate in the vote regarding the revitalization application and therefore, fully exercised their rights in the process as homeowners.

7. Plaintiffs have failed to join an indispensable party to this action, namely, the Florida Department of Equal Opportunity.
8. Plaintiffs' claims are barred by the doctrine of unclean hands.
9. The ASSOCIATION is entitled to a set-off against any damages recovered by Plaintiffs in this action for the value of all services provided to Plaintiff's as members of the ASSOCIATION.
10. Plaintiffs' claims are barred by the applicable statute of limitations.
11. Plaintiffs had full and timely knowledge of any alleged rights relative to the revitalization process and failed to act on those rights. They, therefore, have waived any right to now seek enforcement of those rights.
12. Plaintiffs are estopped from maintaining any claims against the ASSOCIATION in that they now are pursuing a position directly conflicting with a course of conduct and position they maintained throughout the revitalization process.
13. This court lacks subject matter jurisdiction over Plaintiffs' claims.

DEMAND FOR JURY TRIAL

Defendant demands a trial by jury on all issues so triable.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing has been filed with the Pasco County Clerk of Court via the Florida E-Portal, and copies furnished via E-Mail this 6th day of December, 2013 to:

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