



Molly Q. Ruhl
Clerk of the Circuit Court for Montgomery County, Maryland
50 Maryland Avenue
Rockville, Maryland 20850-2397
July 27, 2006

RE: Notice of New Case Number for
PATRICK MATTHEWS BOGART, ET AL vs CARDEROCK SPRINGS CITIZENS ASSOC
Reference Case#: N/A
Case Type: DECLARATORY JUDGMENT

Dear Sir/Madam:

Please be advised that the above referenced case was received on July 26, 2006, in the office of the Clerk for Montgomery County. This matter has been assigned case number 273518-V. Please include this case number on all future papers to be filed in this case.

Sincerely,

Handwritten signature of Molly Q. Ruhl in cursive script.

Clerk of the Circuit Court
for Montgomery County,
Maryland

CARDEROCK SPRINGS CITIZENS ASSOCIATION
INC
CARDEROCK SPRINGS
SWIMMING CLUB, INC
8200 HAMILTON SPRING CT
BETHESDA MD 20034

Circuit Court for _____

City or County _____

CIVIL-NON-DOMESTIC CASE INFORMATION REPORT

Directions:

Plaintiff: This Information Report must be completed and attached to the complaint filed with the Clerk of Court unless your case is exempted from the requirement by the Chief Judge of the Court of Appeals pursuant to Rule 2-111(a). A copy must be included for each defendant to be served.

Defendant: You must file an Information Report as required by Rule 2-323(h).

THIS INFORMATION REPORT CANNOT BE ACCEPTED AS AN ANSWER OR RESPONSE

FORM FILED BY: PLAINTIFF DEFENDANT CASE NUMBER: 273518V
(Clerk to insert)

CASE NAME: _____ v _____
JURY DEMAND: Yes No Anticipated length of trial: _____ hours or _____ days
RELATED CASE PENDING? Yes No If yes, Case #(s), if known: _____

Special Requirements? Interpreter/communication impairment Which language _____
(Attach Form 1-332 if Accommodation or Interpreter Needed) Which dialect _____
 ADA accommodation: _____

NATURE OF ACTION
(CHECK ONE BOX)

DAMAGES/RELIEF

TORTS <input type="checkbox"/> Motor Tort <input type="checkbox"/> Premises Liability <input type="checkbox"/> Assault & Battery <input type="checkbox"/> Product Liability <input type="checkbox"/> Professional Malpractice <input type="checkbox"/> Wrongful Death <input type="checkbox"/> Business & Commercial <input type="checkbox"/> Libel & Slander <input type="checkbox"/> False Arrest/Imprisonment <input type="checkbox"/> Nuisance <input type="checkbox"/> Toxic Torts <input type="checkbox"/> Fraud <input type="checkbox"/> Malicious Prosecution <input type="checkbox"/> Lead Paint <input type="checkbox"/> Asbestos <input type="checkbox"/> Other	LABOR <input type="checkbox"/> Workers' Comp. <input type="checkbox"/> Wrongful Discharge <input type="checkbox"/> EEO <input type="checkbox"/> Other	A. TORTS Actual Damages <input type="checkbox"/> Under \$7,500 <input type="checkbox"/> Medical Bills <input type="checkbox"/> \$7,500 - \$50,000 \$ _____ <input type="checkbox"/> \$50,000 - \$100,000 <input type="checkbox"/> Property Damages <input type="checkbox"/> Over \$100,000 \$ _____ <input type="checkbox"/> Wage Loss \$ _____		
	CONTRACTS <input type="checkbox"/> Insurance <input type="checkbox"/> Confessed Judgment <input type="checkbox"/> Other	B. CONTRACTS <input type="checkbox"/> Under \$10,000 <input type="checkbox"/> \$10,000 - \$20,000 <input type="checkbox"/> Over \$20,000	C. NONMONETARY <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Injunction <input type="checkbox"/> Other _____	
	REAL PROPERTY <input type="checkbox"/> Judicial Sale <input type="checkbox"/> Condemnation <input type="checkbox"/> Landlord Tenant <input type="checkbox"/> Other			
OTHER <input type="checkbox"/> Civil Rights <input type="checkbox"/> Environmental <input type="checkbox"/> ADA <input type="checkbox"/> Other				

ALTERNATIVE DISPUTE RESOLUTION INFORMATION

Is this case appropriate for referral to an ADR process under Md. Rule 17-101? (Check all that apply)

A. Mediation Yes No C. Settlement Conference Yes No
B. Arbitration Yes No D. Neutral Evaluation Yes No

TRACK REQUEST

With the exception of Baltimore County and Baltimore City, please fill in the estimated LENGTH OF TRIAL. THIS CASE WILL THEN BE TRACKED ACCORDINGLY.

1/2 day of trial or less 3 days of trial time
 1 day of trial time More than 3 days of trial time
 2 days of trial time

PLEASE SEE PAGE TWO OF THIS FORM FOR INSTRUCTIONS PERTAINING TO THE BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM AND ADDITIONAL INSTRUCTIONS IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE COUNTY, BALTIMORE CITY, OR PRINCE GEORGE'S COUNTY.

Date _____ Signature _____

BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM

For all jurisdictions, if Business and Technology track designation under Md. Rule 16-205 is requested, attach a duplicate copy of complaint and check one of the tracks below.

Expedited
Trial within 7 months of
Defendant's response

Standard
Trial - 18 months of
Defendant's response

EMERGENCY RELIEF REQUESTED _____

Signature _____

Date _____

IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE COUNTY, BALTIMORE CITY, OR PRINCE GEORGE'S COUNTY PLEASE FILL OUT THE APPROPRIATE BOX BELOW.

CIRCUIT COURT FOR BALTIMORE CITY (check only one)

- Expedited Trial 60 to 120 days from notice. Non-jury matters.
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- Standard-Complex Trial 18 months from Defendant's response. Includes complex cases requiring prolonged discovery with actual damages in excess of \$50,000.
- Lead Paint Fill in: Birthdate of youngest plaintiff _____
- Asbestos Events and deadlines set by individual judge.
- Protracted Cases Complex cases designated by the Administrative Judge.

CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY

To assist the Court in determining the appropriate Track for this case, check one of the boxes below. This information is not an admission and may not be used for any purpose other than Track Assignment.

- Liability is conceded.
- Liability is not conceded, but is not seriously in dispute.
- Liability is seriously in dispute.

CIRCUIT COURT FOR BALTIMORE COUNTY

- Expedited (Trial Date-90 days) Attachment Before Judgment, Declaratory Judgment (Simple), Administrative Appeals, District Court Appeals and Jury Trial Prayers, Guardianship, Injunction, Mandamus.
- Standard (Trial Date-240 days) Condemnation, Confessed Judgments (Vacated), Contract, Employment Related Cases, Fraud and Misrepresentation, Intentional Tort, Motor Tort, Other Personal Injury, Workers' Compensation Cases.
- Extended Standard (Trial Date-345 days) Asbestos, Lender Liability, Professional Malpractice, Serious Motor Tort or Personal Injury Cases (medical expenses and wage loss of \$100,000, expert and out-of-state witnesses (parties), and trial of five or more days), State Insolvency.
- Complex (Trial Date-450 days) Class Actions, Designated Toxic Tort, Major Construction Contracts, Major Product Liabilities, Other Complex Cases.

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

PATRICK MATTHEWS BOGART, ET AL
Plaintiff

v.

CARDEROCK SPRINGS CITIZENS ASSOCIATION INC
Defendant

:
:
:
: Civil No. 273518-V
:
:

NOTICE OF SCHEDULING HEARING AND ORDER OF COURT - TRACK 3

At the time and place noted below, all counsel and unrepresented parties shall appear before the Court at a Scheduling Hearing to discuss the possibilities of settlement and to establish a schedule for the completion of all proceedings, including either mediation or case evaluation. Counsel shall discuss with their clients prior to the Hearing whether the clients are agreeable to mediation. This is the only notice that parties and counsel will receive concerning the date of the Scheduling Hearing. Failure to appear at the Scheduling Hearing may result in a dismissal and/or default judgment.

Upon advice that the date noted below is inconvenient for any party or counsel, the Assignment Office may postpone the Scheduling Hearing once, with the consent of all parties, to either of the two succeeding Fridays; parties shall file a joint line to the Assignment Office stating the agreed date. All postponed Hearings will be held at 11:30 a.m. No other postponements of the Hearing will be granted except upon motion for good cause shown.

Defendant's Civil Information Form must be filed with the initial pleading and a copy mailed to Plaintiff.

MOTIONS FILED IN A TRACK 3 ACTION SHALL NOT EXCEED 15 PAGES INCLUDING ANY MEMORANDUM OF LAW AND OPPOSITION/REPLY MOTIONS SHALL NOT EXCEED 10 PAGES WITHOUT LEAVE OF COURT

Attorneys to bring calendar to Scheduling Hearing.

Ann S. Harrington

Ann S. Harrington,
County Administrative Judge

DATE: 07/27/2006

Scheduling Hearing: October 27, 2006, at 9:00 AM
Consult monitors in the Lobby for Courtroom Assignment

CARDEROCK SPRINGS CITIZENS ASSOCIATION
INC
CARDEROCK SPRINGS
SWIMMING CLUB, INC
8200 HAMILTON SPRING CT
BETHESDA MD 20034

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

PATRICK MATTHEWS BOGART :
and BENJAMIN KURTZ :
8209 Stone Trail Way :
Bethesda, MD 20817 :

Plaintiffs, :

v. :

Case No. V273518

Filed on 7/26/06

CARDEROCK SPRINGS CITIZENS :
ASSOCIATION, INC. :

SERVE: RESIDENT AGENT :
Carderock Springs :
Swimming Club, Inc. :
8200 Hamilton Spring Court :
Bethesda, MD 20034 :

Defendant. :

COMPLAINT

COMES NOW, the Plaintiffs, Patrick Matthews Bogart and Benjamin Kurtz, by and through counsel, VanGrack, Axelson, Williamowsky, Bender & Fishman, P.C. and Samuel D. Williamowsky, and files suit against the Defendant, Carderock Springs Citizens Association, Inc., and in support thereof, states as follows:

Jurisdiction and Venue

1. Plaintiffs, Patrick Matthews Bogart and Benjamin Kurtz, are over the age of eighteen (18) years and are residents of Montgomery County, Maryland.
2. Defendant, Carderock Springs Citizens Association, Inc., is a Maryland corporation that does business in and has its principal place of business in Montgomery County Maryland.

VANGRACK, AXELSON
WILLIAMOWSKY,
BENDER &
FISHMAN, P.C.
ATTORNEYS AT LAW
401 N. WASHINGTON ST.
SUITE 550
ROCKVILLE, MD 20850
(301) 738-7600

2300 M STREET, N.W.
SUITE 800
WASHINGTON, D.C.
20037

7799 LEESBURG PIKE
SUITE 900 N
FALLS CHURCH, VA 22043

3. That the cause of action which forms the basis of this lawsuit occurred in Montgomery County, Maryland.

4. That this Court has jurisdiction in this matter in accordance with Md. Courts & Jud. Proc. Code Ann. §1-501 and §6-103.

5. That venue is proper under Md. Courts & Jud. Proc. Code Ann. §6-201.

Facts

6. That Plaintiffs, who are homeowners within the subdivision of Carderock Springs and are members of the Defendant Association, had the intention of putting additions on their home.

7. That, as a homeowners, Plaintiffs are required to submit their planned property improvements to the Architectural Review Committee before beginning construction.

8. That the Architectural Review Committee is comprised of three members, who are chosen by the Board of Directors, and shall review, approve or disapprove all proposed building plans and other land uses within the terms of the covenants.

9. That the Plaintiffs presented their proposal to the Architectural Review Committee for the addition to their home, but the plans were not approved.

10. That the Plaintiffs provided revisions to their proposal for an addition to their home, but the plans were still denied.

11. That Douglas Soelin of Soelin Architects is a member of the Board and the Architectural Review Committee and has a conflict of interest since he has done and is doing work on design of community homes.

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12. That Malcolm Stevenson is a member of the Board and the Architectural Review Committee and has a conflict of interest since he has done work to his own home in the community in the past without approval.

COUNT 1
(Declaratory Judgment - Selective Enforcement of Restrictive Covenant)

13. That paragraphs 1 through 12 are incorporated herein by reference as though repeated in full.

14. That this is an action for declaratory judgment pursuant to the Md. Courts & Jud. Proc. Code Ann. §3-401 through §3-415, for the purpose of determining a question of actual controversy between the parties and terminating uncertainty and controversy giving rise to this proceeding, as hereinafter more fully appears.

15. That Plaintiffs maintain Defendant has acted in bad faith by selectively enforcing certain planned improvements, yet allowing others in the community to make that same improvement.

16. That Defendant's inconsistent enforcement of the covenant amounts to a general abandonment of the restrictions that prohibit the Plaintiffs from making home improvements.

17. That Defendant maintains they have the right to enforce their covenants.

18. That there exists an actual controversy of a justiciable issue between the Plaintiffs and Defendant within the jurisdiction of this Court, involving the rights and liabilities of the parties.

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19. That antagonistic claims are present between the parties which indicate imminent and inevitable litigation.

20. That a declaratory judgment by this Court will terminate this controversy.

WHEREFORE, Plaintiffs request the following relief:

A. That a judgment by this Court declaring the restrictions of this covenant to be invalid and unenforceable.

B. Grant Plaintiffs costs, attorney's fees and such other and further relief as the Court deems just and proper.

COUNT 2
(Breach of Contract)

21. That paragraphs 1 through 20 are incorporated herein by reference as though repeated in full.

22. That Plaintiffs entered into an agreement with Defendant, by which the Plaintiffs bought a home in the Defendant's community and agreed to abide by the conditions, covenants, restrictions and easements affecting the property.

23. That the Defendant breached his obligation to the Plaintiffs by enforcing a covenant against the Plaintiffs in which the Defendant had selectively enforced in the past.

24. That as a result of the breach, Plaintiffs have incurred a loss in property value from being unable to make additions to their home.

WHEREFORE, Plaintiffs request judgment against Defendant in the amount of \$500,000.00 plus interest and costs.

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COUNT 3
(Constructive Taking)

25. That paragraphs 1 through 24 are incorporated herein by reference as though repeated in full.

26. That the Defendant is depriving the Plaintiffs of all reasonable use of their property.

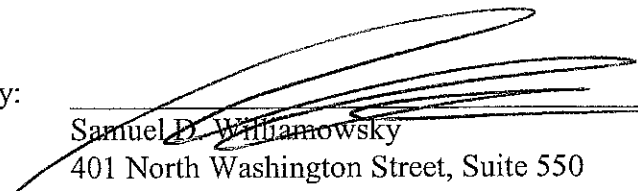
27. That interference is so substantial it creates a considerable decrease in value of the Plaintiffs' property.

WHEREFORE, Plaintiffs request judgment against Defendant in the amount of \$500,000.00 plus interest and costs.

Respectfully submitted,

**VANGRACK, AXELSON, WILLIAMOWSKY,
BENDER & FISHMAN, P.C.**

By: _____


Samuel D. Williamowsky
401 North Washington Street, Suite 550
Rockville, Maryland 20850
(301) 738-7680
Attorney for Plaintiffs

VANGRACK, AXELSON
WILLIAMOWSKY,
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CASE NAME: Patrick Matthews Bogart and Benjamin Kurtz v Carderock Springs Citizens Association, Inc. (Clock to insert)

JURY DEMAND: Yes No Anticipated length of trial: _____ hours or 2 days
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Date 7/20/06 Signature _____

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Defendant's response

Standard
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EMERGENCY RELIEF REQUESTED _____
Signature Date

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PATRICK MATTHEWS BOGART
and BENJAMIN KURTZ
8209 Stone Trail Way
Bethesda, MD 20817

Plaintiffs,

v.

Case No.

CARDEROCK SPRINGS CITIZENS
ASSOCIATION, INC.

SERVE: RESIDENT AGENT
Carderock Springs
Swimming Club, Inc.
8200 Hamilton Spring Court
Bethesda, MD 20034

Defendant.

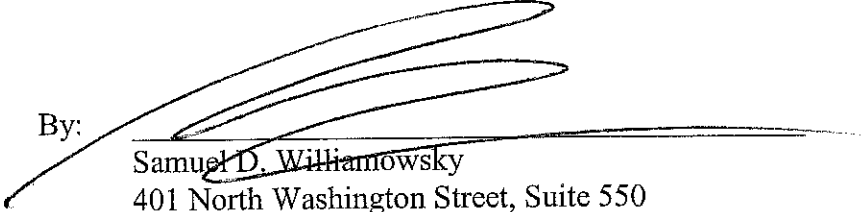
DEMAND FOR JURY TRIAL

Plaintiffs hereby request a jury trial on all issues in this matter.

Respectfully submitted,

VANGRACK, AXELSON, WILLIAMOWSKY,
BENDER & FISHMAN, P.C.

By:


Samuel D. Williamowsky
401 North Washington Street, Suite 550
Rockville, Maryland 20850
(301) 738-7680
Attorney for Plaintiffs

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