

STATE OF INDIANA)
)SS:
COUNTY OF KOSCIUSKO)

KOKOMO GRACE UNITED)
METHODIST CHURCH, INC.)
Plaintiff,)
)
)
EPWORTH FOREST ADMINISTRATION)
COMMITTEE, INC.,)
Defendant.)

IN THE KOSCIUSKO CIRCUIT COURT
CAUSE NO. 43C01-1710-PL-000105

**DEFENDANT’S ANSWER TO PLAINTIFF’S COMPLAINT FOR
DECLARATORY JUDGMENT AND FOR DAMAGES**

COMES NOW the Defendant, Epworth Forest Administration Committee, Inc., by counsel, Matthew Shipman of Bloom Gates Shipman & Whiteleather, LLP, and for their answer to Plaintiff’s Complaint would state as follows:

1. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of Plaintiff’s Complaint.
2. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of Plaintiff’s Complaint.
3. Defendant admits that there is an Exhibit 1 attached to Plaintiff’s Complaint.
4. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of Plaintiff’s Complaint.
5. Defendant admits that there has been a group pier located on property in the vicinity of 8521 East Wade Lane, North Webster, Indiana but denies the remaining allegations.
6. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of Plaintiff’s Complaint.

7. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of Plaintiff's Complaint.

8. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of Plaintiff's Complaint.

9. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of Plaintiff's Complaint.

10. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of Plaintiff's Complaint.

11. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of Plaintiff's Complaint.

12. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of Plaintiff's Complaint.

13. Defendant denies the allegations contained in paragraph 13 of Plaintiff's complaint.

14. Defendant denies the allegations contained in paragraph 14 of Plaintiff's complaint as the terms property rights and lake frontage are not defined.

15. Defendant admits that the e-mail attached as Exhibit 4 was sent by Epworth Forest Administration Committee, Inc. ("EFAC") Board Member Susie Montovani to the other 4 Board Members of the Epworth Forest Administration Committee, Inc., but denies the remaining allegations contained in paragraph 15 of Plaintiff's complaint.

16. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of Plaintiff's Complaint

17. Exhibit 6 speaks for itself. With respect to the remaining implication of paragraph 17, Defendant denies the same.

18. Exhibit 6 speaks for itself. Defendant denies the remaining allegations contained in paragraph 18 of Plaintiff's complaint.

19. Defendant denies the allegations contained in paragraph 19 of Plaintiff's complaint.

20. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of Plaintiff's Complaint.

21. Defendant denies the allegations contained in paragraph 21 of Plaintiff's complaint.

22. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of Plaintiff's Complaint.

23. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of Plaintiff's Complaint.

24. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of Plaintiff's Complaint.

25. Defendant admits that they have applied to the Indiana Department of Natural Resources for a group pier permit in a new location but denies the remaining allegation in paragraph 25.

26. Defendant admits that the group pier consists of a pier with twenty-four (24) slips but denies the remaining allegation in paragraph 26 of Plaintiff's complaint.

27. Counsel's August 4, 2017 letter speaks for itself. With respect to the remaining allegations of paragraph 27, Defendant denies the same.

28. The undersigned counsel's September 27, 2017 e-mail speaks for itself. With respect to the remaining allegations of paragraph 28, Defendant denies the same.

29. This Court's Orders of August 2, 1994, January 21, 2014, and April 15, 2014, speak for themselves.

30. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 30 of Plaintiff's Complaint.

31. The April 15, 2014 Order speaks for itself. With respect to the remaining allegations of paragraph 31, Defendant denies the same.

32. Defendant denies the allegations contained in paragraph 32 of Plaintiff's complaint.

33. The August 2, 1994 Order speaks for itself. With respect to the remaining allegations of paragraph 33, Defendant denies the same.

34. Defendant denies the allegations contained in paragraph 34 of Plaintiff's complaint.

35. The April 15, 2014 Order speaks for itself. With respect to the remaining allegations of paragraph 35, Defendant denies the same.

36. The April 15, 2014 Order speaks for itself. With respect to the remaining allegations of paragraph 36, Defendant denies the same.

37. The April 15, 2014 Order speaks for itself. With respect to the remaining allegations of paragraph 37, Defendant denies the same.

38. The April 15, 2014 Order speaks for itself. With respect to the remaining allegations of paragraph 38, Defendant denies the same.

39. Defendant denies the allegations contained in paragraph 39 of Plaintiff's complaint.

40. The bylaws adopted by the Epworth Forest Administration Committee, Inc. speak for themselves. The language "to operate under the presumption that one off-shore pier will exist per onshore lot," clearly does not apply to the group pier, and therefore Defendant denies the same.

41. Defendant denies the allegations contained in paragraph 41 of Plaintiff's complaint.

42. The bylaws of the Epworth Forest Administration Committee, Inc. speak for themselves. With respect to the remaining allegations of paragraph 42, Defendant denies the same.

43. Defendant denies the allegations contained in paragraph 43 of Plaintiff's complaint.

44. The April 15, 2014 Order speaks for itself.

45. The April 15, 2014 Order speaks for itself. With respect to the remaining allegations of paragraph 45, Defendant denies the same.

46. The January 21, 2014 Order speaks for itself.

47. Defendant denies the allegations contained in paragraph 47 of Plaintiff's complaint.

48. Defendant denies the allegations contained in paragraph 48 of Plaintiff's complaint.

49. Defendant denies the allegations contained in paragraph 49 of Plaintiff's complaint.

50. Defendant denies the allegations contained in paragraph 50 of Plaintiff's complaint.

51. Defendant denies the allegations contained in paragraph 51 of Plaintiff's complaint.

AFFIRMATIVE DEFENSES

Defendant, Epworth Forest Administration Committee, Inc., by counsel, and for their further answer and defense to Plaintiff's Complaint, allege and state the following affirmative defenses:

1. **Failure to State a Cause of Action.** Plaintiff may have failed to allege facts sufficient to support a claim against Defendant under Indiana law.
2. **Failure to State a Claim.** Plaintiff's Complaint may not contain a discernible claim against Defendant.
3. **Laches.** Plaintiff has failed to timely assert any claim against Defendant.
4. **Res Judicata.** This Court has previously issued an Order which Order bars this action.
5. **Attorney Fees.** Pursuant to this Court's Order of April 15, 2014, EFAC has the right to recover its reasonable attorney fees if it prevails in an action related to a pier assignment.
6. Plaintiff request for declaratory judgment may be procedurally invalid.
7. The Community Pier is specifically listed as pier space 64 on Exhibit E to the Court's January 21, 2014, Order and as such has been declared permanent by this Court's January 21, 2014, Order.

8. According to the prior judgments of this Court, onshore owners' pier assignments will continue from year-to-year and be presumed permanent. The Plaintiff's pier assignment was on the community pier on January 21, 2014 and as such is permanent.

9. The location of the community pier has not changed for a period of years and was in its current location when this Court entered its January 21, 2014 Order.

10. Defendant may be without a location for a community pier in Epworth Forest if the Court determines that the current location of the community pier is inappropriate. That would effectively displace all of the offshore pier owners who currently have a pier assignment on the community pier.

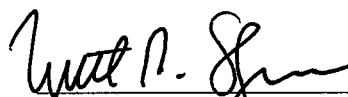
12. There has been no substantial change in relevant circumstances since the community pier location was made and approved by this Court's Order of January 21, 2014.

13. Defendant reserves the right to amend or assert additional defenses, should such defenses become apparent throughout the course of discovery.

WHEREFORE, Defendant pray for judgment of the Court that Plaintiff take nothing by way of its Complaint, and for all other right and proper relief in the premises.

Respectfully submitted,

BLOOM GATES SHIPMAN & WHITELEATHER, LLP



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CERTIFICATE OF SERVICE

I certify that on November 21, 2017, I electronically filed the foregoing document using the Indiana E-Filing System (IEFS). I also certify that on November 21, 2017, the foregoing document was served upon the following persons(s) via IEFS:

Richard K. Helm
ROCKHILL PINNICK LLP
rhelm@rockhillpinnick.com

/s/ Matthew R. Shipman

Matthew R. Shipman