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IN THE FIFTH JUDICIAL DISTRICT COURT
WASHINGTON COUNTY, STATE OF UTAH

EVELYN OBERG, an individual,

Plaintiff,

v.

DIXIE SPRINGS ARCHITECTURAL
CONTROL COMMITTEE, an entity
organized under the laws of the state of
Utah,

Defendant.

COMPLAINT

Case No.

Judge:

The plaintiff, Evelyn Oberg (“Mrs. Oberg”), by and through her counsel of record, Takos Law Group, Ltd., complains against defendant, Dixie Springs Architectural Control Committee (“ACC”), and alleges the following:

PARTIES, JURISDICTION, & VENUE

1. Plaintiff, Evelyn Oberg, is a resident and lot owner in the Dixie Springs community in Hurricane, Utah.

2. Defendant, the Dixie Springs Architectural Control Committee is a community association organized and operating in the Dixie Springs community in Hurricane, Utah.

3. This Court has original jurisdiction over this matter pursuant to Utah Code Ann. § 78A-5-102.

4. This Court has personal jurisdiction over Defendant, and Washington County is the proper venue for this action, based on facts described below in which the parties' actions were all performed in Washington County, Utah.

FACTUAL BACKGROUND

5. Dixie springs is a residential community of approximately 1,390 homes located immediately to the north of Sand Hollow Reservoir in Hurricane, Utah.

6. Dixie Springs is governed, in part, by Covenants Conditions and Restrictions of Dixie Springs A Residential Subdivision ("CC&Rs").

7. The CC&Rs can be amended by, among other things, an instrument signed by not less than sixty percent of the lot owners.

8. In or around September of 2022, several of the Dixie Springs lot owners, including Ms. Oberg, expressed a desire to amend the CC&Rs to abolish the ACC and reestablish Dixie Springs as an association-free community.

9. Pursuant to these desires, Ms. Oberg and her neighbors began working to amend the CC&Rs.

10. Mrs. Oberg has met all requirements listed in the CC&Rs for amending effectuating a proper amendment.

11. Specifically, pursuant to the CC&Rs Mrs. Oberg obtained the requisite signatures necessary to amend the CC&Rs.

12. Further, Mrs. Oberg provided written notice of the proposed amendment to all first mortgage lien holders as required by the CC&Rs.

13. On or about November 1, 2022, Mrs. Oberg recorded the Fifth Amendment to the Covenants Conditions and Restrictions of Dixie Springs A Residential Subdivision in the Washington County Recorder's Office as Document Number 20220048624 (the "Fifth Amendment").

14. Mrs. Oberg appropriately recorded the Fifth Amendment and met any and all requirements of the Washington County Recorder's Office.

15. The Fifth Amendment meets all legal requirements necessary for amending the CC&Rs.

16. The Fifth Amendment abolishes the ACC and reestablishes Dixie Springs as an association-free community.

17. A legally protectible interest resides with Mrs. Oberg as a lot owner in the Dixie Springs subdivision.

18. During the signature gathering process and for several years prior, the ACC opposed the Fifth Amendment and its purpose.

19. Even though the Fifth Amendment was lawfully passed under the requirements of the CC&Rs and was properly recorded with Washington County, the ACC refuses to acknowledge the Fifth Amendment and continues to operate as if nothing has changed.

20. Plaintiff, unable to convince the ACC's board members that the organization can no longer operate in the Dixie Springs community, has filed this action seeking declaratory relief.

21. The parties' interests in this matter are adverse.

22. A justiciable controversy exists between Plaintiff and Defendant and this issue is ripe for judicial determination.

23. Accordingly, Plaintiff seeks a declaration that the Fifth Amendment is legally proper and binding, and that the Dixie Springs CC&Rs have been validly amended pursuant to the Fifth Amendment.

FIRST CAUSE OF ACTION

(Declaratory Relief)

24. Mrs. Oberg incorporates herein by reference all other allegations of this Complaint.

25. The Fifth Amendment meets all legal requirements necessary for amending the CC&Rs.

26. The Fifth Amendment abolishes the ACC and reestablishes Dixie Springs as an association-free community.

27. A legally protectible interest resides with Mrs. Oberg as a lot owner in the Dixie Springs subdivision.

28. During the signature gathering process and for several years prior, the ACC opposed the Fifth Amendment and its purpose.

29. Even though the Fifth Amendment was legally passed under the requirements of the CC&Rs and properly recorded with Washington County, the ACC continues to operate as if nothing has changed.

30. Plaintiff, unable to convince the ACC's board members that the organization can no longer operate in the Dixie Springs community, has filed this action seeking declaratory relief.

31. Accordingly, the parties' interests in this matter are adverse.

32. A justiciable controversy exists between Plaintiff and Defendant and this issue is ripe for judicial determination.

33. Accordingly, Plaintiff seeks a declaration that the Fifth Amendment is legally proper and binding, and that the Dixie Springs CC&Rs have been validly amended pursuant to the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing, Mrs. Oberg respectfully requests judgment in her favor as follows:

1. For declaratory relief as set forth herein;
2. For attorneys' fees and costs of suit; and
3. For such other and further relief as the Court may deem just and proper.

DATED this 27th day of January, 2023.

TAKOS LAW GROUP, LTD.

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