

**IN THE COURT OF COMMON PLEAS
PROBATE DIVISION
CUYAHOGA COUNTY, OHIO**

ARTHUR P. DUECK, et al.)	CASE NO. 2012 ADV 179424
)	
Plaintiffs,)	JUDGE ANTHONY J. RUSSO
)	
v)	DEFENDANT JEFF MANSELL'S
)	FIRST SET OF COMBINED
The Clifton Club Company, et al.,)	DISCOVERY REQUESTS
)	UPON PETER KUHN, CLIFTON
Defendants.)	PARK TRUSTEE
)	
)	

To Peter Kuhn, Clifton Park Trustee,

PLEASE TAKE NOTICE that you are hereby required to answer separately, fully, in writing, and under oath the following requests for interrogatories and production of documents; to respond to the requests for production as hereinafter set forth; and to serve your answers and responses thereto on the undersigned party propounding the same. For each said interrogatory and production of documents, please state the name and otherwise "identify" each person supplying the information contained in the answer to the said interrogatory. Said combined discovery is pursuant to Ohio Rules of Civil Procedure 26, 33 and 34 and must be responded to within 28 days of service of these combined discovery requests.

These requests for interrogatories and documents are deemed continuing as to the discovery by the interrogated party or their counsel of any additional information responsive to or in clarification of the request for interrogatories or document requests.

GENERAL DEFINITIONS AND INSTRUCTIONS

1. "Trust" "means the Deed of Trust dated 3/25/1912 and recorded in the Cuyahoga County Records, Cleveland, Ohio on 3.27/1912.
2. "Beach" means real property at Clifton Beach owned and held in Trust as referred to in Definition 1 above.
3. "Residential sub lot owners" mean all owners of sub lots having one family residence and their household members in the Clifton Park Allotment.
4. "Sublot" means a sublot in the Clifton Park Allotment.
5. "Clifton Club" means The Clifton Club Company, Incorporated, and owner of four sub lots, incorporated in 1902 in the Clifton Park Allotment per deed dated 7/1/1912.
6. "Clifton Park Allotment" means real property as the same is recorded in Cuyahoga County Map Records, Volume 29, Page 11, in Cleveland, Ohio.
7. "Trustee" or "Trustees" means those persons (past and present) holding title to and maintaining the "Beach" according to the Clifton Park Trust herein.
8. "Club Members" means persons who are dues paying members of the Clifton Club Company, Incorporated, and shareholders of same, none of whom are sub lot owners of land in the Clifton Park Allotment.
9. The term "communicate" or "communication" means every manner or means of disclosure, transfer or exchange of information, whether oral or written, formal or informal, at any time or any place, and under any circumstances whatsoever, whereby information of any nature was transmitted or acquired,

including by document or whether face-to-face, by telephone, mail, personal delivery, or otherwise.

10. The term “document”, means any original written, typewritten, printed or recorded material, as well as all tapes, discs, electronic copies, non-duplicate copies and transcripts thereof, now or at any time in your possession, custody, or control. Without limiting the generality of the foregoing definition, but for the purposes of illustration only, “document” includes notes, correspondence, memoranda, business records, diaries, calendars, e-mails, address and telephone records, audio and video tape recordings, financial statements and records.
11. Without limitation of the term “control” as used in the preceding sentence, a document is deemed to be in your control if you have the right to secure the document or a copy thereof from another person or public or private entity having actual possession thereof.
12. If the document is responsive to a request for identification or production and is in your control, but is not in your possession or custody, “identify” the person with possession or custody. If any document was, but is not longer, in your possession or subject to your control, state what disposition was made of it; by who; and the date or dates or approximate date or dates on which such disposition was made, and why.
13. The term “all documents” means every document as above defined known to you and every such document which can be located or discovered by diligent efforts, inclusive of both original and photocopies of same.
14. The term “person” means any natural person (whether presently living or deceased, corporation, partnership, proprietorship, association, organization, business entity, or group of natural persons).

15. The term “indentify” means:

- a. as to a document: the type of document (i.e., letter, memo, report, etc.); the identity of the author or other originator; the date authored or originated; the identity of each person to whom the original or copy was addressed or delivered; the identity of such person known or reasonably believed by you to have present possession or custody or control thereof; and a brief description of the subject matter thereof, all with sufficient particularity to permit a request for its production.
- b. as to person: name; business and residence address; telephone number; occupation; job title and dates so employed; and, if not an individual, the type of entity and address of its principal place of business;
- c. as to communication or contact: the date of the communication; the type of communication (telephone conversation, meeting, etc.); the place where the communication took place; the identity of the person who made the communication; the identity of each person who received the communication and of each person present when it was made; and the subject matter discussed;
- d. as to a meeting: the date; the place; each person invited to attend; each person who attended; and the subject matter discussed;
- e. as to litigation: identification of the Court and/or agency involved; the title and docket number of the case; and the date of filing the said suit; identification of the parties and their attorneys; the nature of said proceedings, including the nature of the relief sought and of any alleged violations of law statute, or regulations therein; a statement of the present posture of the case, whether settled, set for trial, judgment, etc.; and if settled give full detail as to date entered, place, amount and date. The term “litigation”: includes judicial, agency or administrative litigation and/or resolution of complaints.

16. The word “or” means and/or and shall be construed either conjunctively or disjunctively to bring within the scope of these interrogatories and document requests any information which might otherwise be construed to be outside their scope. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders. The past tense includes the present tense where the clear meaning is not distorted by change of tense.
17. The term “defenses of the Trustee’s,” for the purposes of these discovery requests, and without limitation, means defenses asserted by the Trustees in the Answer of the Clifton Park Trustees.
18. If you do not answer any interrogatory because of a claim of privilege, set forth the privilege claimed; the facts upon which you rely; and identify all documents for which such privilege is claimed.
19. If a requested production or interrogatory cannot be answered in full, indicate and answer those portions of the request or interrogatory that can be answered.
20. You may not give lack of information or knowledge as a reason for failure to produce or answer unless you state that you have made reasonable inquiry and that the information known or readily obtainable by you is insufficient to enable you to comply.
21. The relevant time period herein is from approximately 1900 to the present unless otherwise noted.
22. The term “access” means approaching, entering, exiting, making use of, the ability or right to approach, enter, exit and make use of, availability to.

23. The term “procedure” means a series of steps taken to accomplish an end, a set of established forms or methods for conducting affairs of an organized body such as a business, club or government.

24. The term “agreement” means the act of agreeing or of coming to a mutual arrangement, an arrangement that is accepted by all parties to a transaction.

25. The term “family” means parents, grandparents, great grandparents, all aunts and uncles, cousins, nieces and nephews, children and great grandchildren.

26. The term “Head Trustee” means usually one of a body of persons, appointed to administer the affairs of the Trust, also known as the Chairman or President of the group. This person is appointed the leader of this body.

INTERROGATORIES

Interrogatory No. 1: How long have you been a Clifton Park Sublot Owner?

Interrogatory No. 2: How long have you been a Clifton Park Trustee?

Interrogatory No. 3: In what years were you the Head Trustee?

Interrogatory No. 4: Identify the years you or your family have been Club members.

Interrogatory No.5: Identify any financial interest you or any of your family had or have in the Club or its property.

Interrogatory No. 6: Do you have in your possession past records of the Trust not centrally stored with the Trust historical documents?

Interrogatory No. 7: During your tenure as a Trustee, outline what investing, record keeping or tax reporting changes concerning the monies collected by the Trustee's you implemented?

Interrogatory No. 8: On the Trustees Spring 2013 financial report, the Trustees listed over \$80,000 as "reserves". Outline and explain how the Trust provisions give the Trustees authority to collect assessment monies for future unspecified purposes?

Interrogatory No. 9: Identify the source of the monies in that reserve including the percentage derived from lot owners versus others?

Interrogatory No. 10: Describe how and where the reserve assessment monies are being held and by whom they are being managed including what fees.

Interrogatory No. 11: Do the Trustees refund to residents who sell their homes and leave Clifton Park, that portion of the unspent reserve that was collected from said resident?

Interrogatory No. 12: During your tenure as a Trustee, identify all public and confidential agreements both written and oral made between the Trustees and the Clifton Club.

Interrogatory No. 13: Identify any and all loans made to the Trust in the past 30 years stating the amount, the source of the institution, the date, the purpose and the present balance of each.

Interrogatory No. 14: Did the Trustees seek permission for Resident sub lot owners of Clifton Park prior to entering into any of the loans identified in Interrogatory No. 13?

Interrogatory No. 15: What security was pledged to repay the loans identified in Interrogatory No. 13 aside from the Trustee's power to assess the lot owners to repay those loans?

Interrogatory No. 16: If the answer to Interrogatory No. 14 is no, explain, based on the Trust provisions, what permits the Trustees to encumber the Trust and secondarily the lot owners to borrow money?

Interrogatory No. 17: Did the Trustees seek any permission from the Clifton Club members for these loans?

Interrogatory No. 18: Identify any legal opinions regarding the Trustees' right to encumber the Trust property for loans.

Interrogatory No. 19: Identify all independent financial audits the Trustees conducted during your tenure as Trustee.

Interrogatory No. 20: Identify all Trust property that the Trustees divested or tried to divest in the last 20 years.

Interrogatory No. 21: Did the Trustees obtain the specific permission of the Club's members for those divestments or intended divestments?

Interrogatory No. 22: Were you invited to a meeting of Clifton Park lot owners, hosted by Ms. Connie Mansell at her house on July 18, 2011, to discuss their concerns regarding the Beach overcrowding?

Interrogatory No. 23: Did you attend the meeting referenced in Interrogatory No. 22?

Interrogatory No. 24: If you did not attend the meeting referenced in Interrogatory No. 22, identify what efforts you made to contact Ms. Mansell to learn what the concerned lot owners thought about the Beach overcrowding problem.

Interrogatory No. 25: During 2011, did you repeatedly state that you believed that there was no real overcrowding problem?

Interrogatory No. 26: Did all 5 Trustees attend a meeting with Jack Rupert and Arthur Dueck in May of 2012 at Blackbird bakery?

Interrogatory No. 27: At that meeting referenced in Interrogatory No 26, did Mary Anne Crampton and Woody hall in essence state that the Trustees position was that the Club's members were all beneficiaries of the Trust?

Interrogatory No. 28: At that meeting referenced in Interrogatory No 26, were Jack Rupert and Arthur Dueck told that the Trustees would not respond to any more letter, e-mails or other communication requests from those residents questioning the Club's members' beach use rights?

Interrogatory No. 29: At that meeting referenced in Interrogatory No 26, were Jack Rupert and Arthur Dueck told that if they were not satisfied with the stated position of the Trustees, they should take the issue to the court?

Interrogatory No. 30: At that meeting referenced in Interrogatory No 26, did any other Trustees in any way disagree with the position outlined by Mary Anne Crampton and Woody Hall?

Interrogatory No. 31: Were you aware that referenced in Interrogatory No 26, there was both a Lakewood news reporter and another former Trustee sitting at tables close by?

Interrogatory No. 32: Identify all instances in which the Club communicated that it held that the Trustees do not have the authority to limit the number of Club members given access to the Beach.

Interrogatory No. 33: Provide the reasoning and on what authority the Trust's records, both past and present are in any way privileged communication not available for review by Trust beneficiaries.

Interrogatory No. 34: In 2011, was it your opinion that the Trustees had the authority to limit the number of Club members allowed to use the beach?

Interrogatory No. 34: In 2011, was it your opinion that the Trustees had the authority to set the fee for the Club's members' use of the beach?

DOCUMENT REQUEST INSTRUCTIONS

Defendant hereby requests that you produce and permit him/her to inspect, view, transcribe and/or view all documents, notes, writings, recordings, photographs, slides, reports, reports and memoranda concerning or relating to this matter listed in the following Request for Production of Documents. The production should be made to Jeff Mansell, 18158 West Clifton Road, Lakewood Ohio 44107, on or before 28 days from the date of receipt of this discovery request.

REQUEST FOR PRODUCTION OF DOCUMENTS

1. Produce all documents identified in the answer to Interrogatory No. 5.
2. Produce all documents identified in the answer to Interrogatory No. 6.
3. Produce all documents identified in the answer to Interrogatory No. 12.
4. Produce all documents identified in the answer to Interrogatory No. 13.
5. Produce all documents identified in the answer to Interrogatory No. 18.
6. Produce all documents identified in the answer to Interrogatory No. 19.
7. Produce all documents identified in the answer to Interrogatory No. 20.
8. Produce all documents identified in the answer to Interrogatory No. 32.

9. Produce all documents relied upon in the answer to Interrogatory No. 33.
10. Produce copies of all of your communication with lot owners, current and/or former Trustees, club directors or club members regarding the Clubs members' right to Beach access.
11. Produce copies of all of your communication with lot owners, current and/ or former Trustees, Club directors or club members regarding the Beach crowding.
12. Produce copies of all communication with lot owners, current and /or former Trustees, Club directors or Club members regarding or referencing the Plaintiffs.
13. Produce copies of all Trust records which you have or have access to, which are not stored with the historical Trust records.
14. Produce all communication between the Trustees and the Club regarding the Club's recent claim in its answer to the Plaintiffs in the captioned case that the Trustees had not authority to limit the number of Club members given access to the Beach.

Respectfully submitted,

Jeff Mansell
18127 West Clifton Road

Lakewood, Ohio 44107
(216) 767-5053

CERTIFICATE OF SERVICE

A copy of the attached Defendant's Request for Production of Documents upon Peter Kuhn, Clifton Park Trustee, was served on the following by ordinary U.S. mail this _____ day of _____, 2013:

Peter Kuhn
Clifton Park Trustee
1132 Forest Road
Lakewood, Ohio 44107

Harold Reader, Esq.
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1660 West 2nd Street, Suite 1100
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Jeffrey Mansell