

COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO
PROBATE DIVISION

ARTHUR P. DUECK, et al.) CASE NUMBER: 2012ADV179424
)
) Plaintiffs)
) JUDGE ANTHONY J. RUSSO
v.)
)
THE CLIFTON CLUB COMPANY, et al.) **CLIFTON PARK TRUSTEE PETER**
) **KUHN'S ANSWERS AND OBJECTIONS TO**
) **DEFENDANT JEFF MANSELL'S FIRST**
) **SET OF COMBINED DISCOVERY**
) **REQUESTS**
)

INTERROGATORY NO. 1:

How long have you been a Clifton Park Sublot Owner?

ANSWER:

29 years.

INTERROGATORY NO. 2:

How long have you been a Clifton Park Trustee?

ANSWER:

Since 2001.

INTERROGATORY NO. 3:

In what years were you the Head Trustee?

ANSWER:

I served as President of the Trustees in 2005-2006, to the best of my recollection.

INTERROGATORY NO. 4:

Identify the years you or your family have been Club members.

ANSWER:

Never, although my grandmother may have been a member sometime between 1935 and 1960.

INTERROGATORY NO. 5:

Identify any financial interest you or any of your family had or have in the Club or its property.

ANSWER:

None as to my living family, but I have no knowledge as to my grandmother.

INTERROGATORY NO. 6:

Do you have in your possession past records of the Trust not centrally stored with the Trust historical documents?

ANSWER:

No.

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?

ANSWER:

Objection. This Interrogatory seeks information that is beyond the scope of discovery as set forth in Rule 26(B). Without waiving this objection, we put the accounting on Quickbook, but there was no change to the procedures otherwise.

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?

ANSWER:

Objection. This Interrogatory seeks information that is beyond the scope of discovery as set forth in Rule 26(B). Without waiving this objection, the Trust empowers the Trustees to collect from the lot owners all their necessary expenses. In each year a good faith estimate is made of those expenses, knowing that some costs cannot be accurately forecast. If expenses for the year fall below the estimate, then there is, perforce, a surplus, just as an excess of expenses would create a deficit.

INTERROGATORY NO. 9:

Identify the source of the monies in that reserve including the percentage derived from lot owners versus others?

ANSWER:

Objection. This Interrogatory seeks information that is beyond the scope of discovery as set forth in Rule 26(B). Without waiving this objection, as disclosed in the Financial Report for the year that was distributed with the 2013 assessment, 2012 Revenue came from Clifton Park Residents (43%); The Clifton Club (37%); Beach House Rental (11%); Clifton Lagoons (9%) and interest (>1%). It is likely that 100% of the Beach House rental income was paid by Residents or members of the Clifton Club, so 91% of revenues came from those sources. It would seem appropriate to attribute the surplus in the same way.

INTERROGATORY NO. 10:

Describe how and where the reserve assessment monies are being held and by whom they are being managed including what fees.

ANSWER:

Objection. This Interrogatory seeks information that is beyond the scope of discovery as set forth in Rule 26(B). Without waiving this objection, all funds held by the Trust are held in accounts at First Federal Lakewood. Deposits in that institution are insured by the FDIC. Deposit accounts bear interest and have no fees. Checking accounts have ordinary checking account 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?

ANSWER:

No.

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.

ANSWER:

Objection. This Interrogatory seeks information that is beyond the scope of discovery as set forth in Rule 26(B). Without waiving this objection, none, other than annual agreements with the Club as to the Club's participation in the operating costs of the Trust.

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.

ANSWER:

Objection. This Interrogatory seeks information that is beyond the scope of discovery as set forth in Rule 26(B). Without waiving this objection, I have no knowledge before 2001. All loans have been through First Federal of Lakewood. I do not know the amount, source, date, purpose, or balance of each loan.

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?

ANSWER:

Objection. This Interrogatory seeks information that is beyond the scope of discovery as set forth in Rule 26(B).

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?

ANSWER:

Objection. This Interrogatory seeks information that is beyond the scope of discovery as set forth in Rule 26(B).

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?

ANSWER:

Objection. This Interrogatory seeks information that is beyond the scope of discovery as set forth in Rule 26(B).

INTERROGATORY NO. 17:

Did the Trustees seek any permission from the Clifton Club members for these loans?

ANSWER:

Objection. This Interrogatory seeks information that is beyond the scope of discovery as set forth in Rule 26(B).

INTERROGATORY NO. 18:

Identify any legal opinions regarding the Trustees' right to encumber the Trust property for loans.

ANSWER:

Objection. This Interrogatory seeks information that is beyond the scope of discovery as set forth in Rule 26(B).

INTERROGATORY NO. 19:

Identify all independent financial audits the Trustees conducted during your tenure as Trustee.

ANSWER:

Objection. This Interrogatory seeks information that is beyond the scope of discovery as set forth in Rule 26(B). Without waiving this objection, none to my knowledge.

INTERROGATORY NO. 20:

Identify all Trust property that the Trustees divested or tried to divest in the last 20 years.