

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

TANIE A. GUIRAND
13418 Rippling Brook Dr.
Silver Spring, MD 20906

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And

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Pierre R. Guirand
13418 Rippling Brook Dr.
Silver Spring, MD 20906

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Case No. 383580

v.

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BEL-PRE RECREATIONAL ASSOCIATION, INC
Serve On: Resident Agent James P. Lee*
12401 Sussex Lane
Bowie, MD 20715-3148

* * * * *

RECEIVED
OCT 29 2013
Clerk of the Circuit Court
Montgomery County, Md.

COMPLAINT
DECLARATORY AND INJUNCTIVE RELIEF

Comes now the Plaintiffs, Pierre and Tannie Guirand (Plaintiffs), by and through undersigned counsel, and files this Complaint against the Defendant Bel-Pre Recreational Association (Defendant) and as ground states as follows:

1. This Court has subject matter jurisdiction pursuant to Maryland Code, Courts and Judicial Proceedings, Title 6, Subtitle 1, Section 6-102.
2. This Court has personal jurisdiction over the Defendant pursuant to Maryland Code, Courts and Judicial Proceedings, Title 1, Subtitle 5, Section 1-501.
3. Venue is proper pursuant to Maryland Code, Courts and Judicial Proceedings, Title 6, Subtitle 1, Section 6-102.
4. Plaintiffs are husband and wife residing together at 13418 Rippling Brook Dr., Silver Spring, MD 20906.
5. Defendant is a Maryland Corporation with its principal offices located in

Montgomery County, Maryland.

6. Plaintiffs are the owners of real property located at 3200 Bustleton Lane, Silver Spring, MD, 20906 (the Property).

7. The Property is located on a corner lot, and the Property is subject to the Declaration of Covenants (Declaration) recorded among the land records of Montgomery County, Maryland at Liber 4017, Folio 835. Among other tasks, Defendant is responsible for maintaining and enforcing the restrictive easements contained within the Declaration.

8. At all times relevant hereto, the Plaintiffs obtained from Montgomery County and the State of Maryland all required permits and licensing to operate a Level III Group Home for persons suffering from Alzheimer's disease on the Property.

9. The Plaintiffs currently use the Property as a Level III Group Home for persons suffering from Alzheimer's disease (Such persons are collectively referred to herein as the "Residents"). The Residents frequently enjoy going out into the backyard of the Property and enjoy the sun, fresh air, and a view of the birds, squirrels and the garden.

10. As a Level III Group Home, the Plaintiffs are required by the COMAR and other regulations to enclose the back yard with a fence in order to prevent the Residence from leaving the yard and entering the road or otherwise coming to harm.

11. As a result, Plaintiff contracted to have a six foot wooden fence built along the side and rear property lines of the Property.

12. At all times relevant hereto, Defendant knew that the Property was intended by the Plaintiffs to be used as a Group Home.

13. At all time relevant hereto, Defendant knew that the residents of the Group Home were handicapped persons.

14. Plaintiff are unable to operate the Group Home on the Property without the fence, and the Defendants knew that Plaintiff's would be unable to operate the Group Home on the Property without the fence

15. On or about September 26, 2013, Defendant delivered to Plaintiff a letter demanding that Plaintiff remove the fence for the reason that the fence was in violation of the restrictive easement on the Property. (See attached letter as Defendant's Exhibit 1).

16. There currently exist numerous corner lot properties comparable to Plaintiff's Property which are subject to the same Declaration and which have comparable fences to that of the Plaintiffs. Upon information and belief, none of these properties received a letter from the Defendant alleging a Declaration violation concerning the fence on the respective property of each.

17. The Defendants have selectively targeted the Plaintiffs for enforcement of restrictive covenants in retaliation for the Plaintiffs operation of a Group Home, and are deliberately and maliciously interfering with the Plaintiff's use and enjoyment of the Property.

18. Defendant's threats to enforce a restrictive covenant is prohibited by the Fair Housing Act, 42 U.S.C. § 3601 et. seq.(the "Act"). The Act is intended to prohibit the application of special requirements such as restrictive covenants that have the effect of limiting the ability of handicapped persons to live in the residence of their choice in the community.

COUNT I
INJUNCTIVE RELIEF

19. The enforcement of the Restrictive Covenant to remove the fence on the Property will cause the Plaintiffs irreparable harm for which there is no adequate remedy at law.

20. The balance of harms favors the Plaintiffs in that the benefit to Plaintiff in obtaining injunctive relief outweigh the potential harm Defendant will incur if the Court grants the injunctive relief.

21. The injunction will impose minimal monetary harm on the Defendant and should, therefore, require a minimum bond.

22. There exists a strong likelihood that Plaintiff will succeed on the merits of the claim.

23. Unless Defendant is restrained by this Court from enforcing this covenant, Plaintiff will suffer immediate, substantial and irreparable injury.

24. The public interest is best served by the granting of injunctive relief.

WHEREFORE, Plaintiffs request that this Court declare that the Defendant's efforts to enforce the restrictive covenant in this matter are prohibited by the Fair Housing Act, 42 U.S.C. § 3601 et. seq, and grant Injunctive Relief in the form of an order prohibiting Defendant from enforcing the restrictive covenant concerning the fence on Plaintiff's Property, plus such other and further relief as the nature of their cause may require.

COUNT II DECLARATORY JUDGEMENT

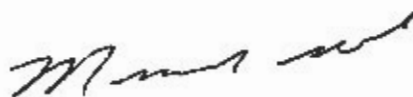
25. Plaintiff re-alleges all matters and facts set forth in paragraphs 1 – 24 as if fully set forth herein.

26. Between Plaintiffs and the Defendant there exists an actual controversy of a justiciable issue within the jurisdiction of this Court involving the rights and liabilities of the parties under a deed, which controversy may be determined by a judgment of this Court.

27. Antagonistic claims are present between the Parties and a declaratory judgment by this Court will terminate this controversy.

WHEREFORE, the Plaintiff demands a judgment declaring that the Defendant's efforts to enforce the restrictive covenant in this matter are prohibited by the Fair Housing Act, 42 U.S.C. § 3601 et. seq. plus such other and further relief as the nature of Plaintiff's cause may require.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael S. Woll", written in a cursive style.

Michael S. Woll
Attorney for Plaintiffs
4405 East-West Highway
Suite 201
Bethesda MD, 20814
301-652-6962

I solemnly affirm under the penalties of perjury that the contents of the foregoing Complaint are true to the best of my knowledge, information and belief.

A handwritten signature in black ink, appearing to be 'Pierre Guirand', written over a horizontal line.

Pierre Guirand

A handwritten signature in black ink, appearing to be 'Tanie A. Guirand', written over a horizontal line.

Tanie A. Guirand