

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND



-----X
:
RICHARD HENRY, :
:
Plaintiff, :
:
v. :
:
TANIE GUIRAND, et al, :
:
Defendant. :
-----X

Civil No. 364472

HEARING

Rockville, Maryland

September 27, 2012

DEPOSITION SERVICES, INC.
12321 Middlebrook Road, Suite 210
Germantown, MD 20874
(301) 881-3344

A handwritten signature or initials, possibly "E-1-12", next to a small rectangular stamp.

JUDGE'S RULING

1
2 All right. The Association has filed a motion to
3 dismiss, motion for summary judgment on the grounds that the
4 claims being made by the plaintiffs are barred by the doctrine
5 of res judicata, and also that the claims that are being
6 brought against the Association, the allegations brought
7 against the Association in the complaint fail to state a claim
8 upon which relief can be granted.

9 There's no dispute, at least for purposes of this
10 hearing, that the growing fence on the defendant Guirand's lot
11 is a violation of the covenants, and there's also no dispute
12 that, at least for purposes of this hearing, that the
13 plaintiffs have the right to pursue legal remedies in
14 connection with violation of that covenant.

15 In evaluating the pleadings and the documents and the
16 exhibits that have been submitted, I'm satisfied that the
17 doctrine of res judicata applies to Counts 2, 3, and 4. I'm
18 also satisfied that even if the doctrine of res judicata was
19 not to apply to Counts 2, 3, and 4, that there is, are
20 insufficient allegations being made that would support claims
21 of bad faith and breach of fiduciary duty against the defendant
22 Association. And, in addition, the doctrine relating to the
23 business judgment rule of the Association would apply to
24 preclude the claims that are being asserted.

25 So I'm going to grant the motion to dismiss and the

1 summary judgment that's been sought by the Association, and
2 dismiss Counts 2, 3, and 4. All right.

3 MR. WOLL: Thank you, Your Honor.

4 MS. ROSEN: Thank you, Your Honor.

5 MR. HITCHENS: Thank you, Your Honor.

6 THE COURT: Court's in recess.

7 THE BAILIFF: All rise.

8 THE CLERK: Court stands in recess.

9 (The proceedings were concluded.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

K-27

√ Digitally signed by Katherine Spear

DIGITALLY SIGNED CERTIFICATE

DEPOSITION SERVICES, INC. hereby certifies that the foregoing pages represent an accurate transcript of the duplicated electronic sound recording of the proceedings in the Circuit Court for Montgomery County in the matter of:

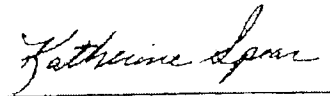
Civil No. 364472

Richard Henry

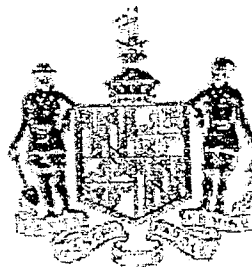
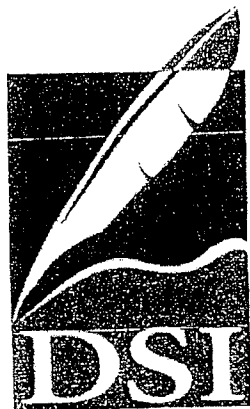
v.

TANIE GUIRAND, et al

By:



Katherine Spear
Transcriber



15-29