

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT,
IN AND FOR POLK COUNTY, FLORIDA

Case No.: 2015-CA-004499

PETER JOLLY, an individual, VICTOR DESTREMPS,
an individual and ANNETTE BROWN, an individual,

Plaintiffs,

v

ASSOCIATION OF POINCIANA VILLAGES, a
Florida not-for-profit corporation,
AVATAR PROPERTIES, INC., a Florida corporation, and
VILLAGE ONE ASSOCIATION, a Florida
not-for-profit corporation.

Defendants.

PLAINTIFFS' SECOND REQUEST FOR ADMISSIONS

To: Avatar Properties, Inc.

Via: Defendant's counsel of record

Plaintiffs, PETER JOLLY, VICTOR DESTREMPS and ANNETTE BROWN, all individuals, by and through its undersigned counsel requests in accordance with Florida Rule of Civil Procedure 1.370 that Defendant, AVATAR PROPERTIES INC., herein after (Avatar) to admit or deny the following statements.

For purposes of clarification in this request, Defendant, Association of Poinciana Villages, is hereinafter known as (APV) and Defendant; "Avatar" is meant to also mean AV Homes, Inc., and "AV Homes, Inc." is also meant to mean Avatar; and "Avatar Associate(s)" is to mean any director or former director of either the current or former APV Board of Directors or any of the current or former individual Villages Boards of Directors that was elected by a majority of votes

cast on behalf of Avatar/AV Homes, Inc., or any Director/Former Director that is or was directly affiliated with or employed by Avatar/AV Homes, Inc. from January 01, 1991 to present.

1. Plaintiffs are third party beneficiaries to the 1985 Agreement.
2. At this time, all of the individual Village Association Boards of Directors currently have Avatar Associates on their Board of Directors.
3. At this time, the majority of the individual Village Association Boards of Directors have Avatar Associates on their Board of Directors.
4. Since January 01, 1991 the majority of the individual Village Association Boards of Directors have had Avatar Associates on their Boards of Directors.
5. The current APV Board of Directors is composed of a majority of Avatar Associates.
6. Since January 01, 1991, each and every Avatar Associate sitting on any APV or individual Village Association Board of Directors has abstained from voting when any vote was taken by that Board of Directors of APV and any individual Village Associations Board of Directors until all Resident Directors have voted.
7. Each Avatar Associate has voted in accordance with the majority of the Residential Directors of each Board of Directors for each and every election from January 01, 1991 to present.
8. Since January 01, 1991, none of the Avatar Associates sitting on any of the Board of Directors for APV have cast the deciding vote at any APV Board of Directors meetings.
9. Since January 01, 1991 none of the Avatar Associates sitting on any of the Board of Directors for any of the individual Village associations (Village One through Village Nine) have cast a deciding vote during any of those aforementioned Village Board of Directors meetings.

10. Tony Iorio has, at any time, served as a director on all the individual Village Boards at the same time.
11. Tony Iorio has, at any time, served as a director on a majority of the individual Village Boards at the same time.
12. Tony Iorio submitted a properly notarized Designation of Corporate Representative form to APV on or before December 09, 2016 for elections taking place after December 09, 2016.
13. Felix Gratopp submitted a properly notarized Designation of Corporate Representative form to APV on or before December 09, 2016 for elections taking place after December 09, 2016.
14. On November 02, 2011 Avatar owned property in what was then known as Village Four.
15. On November 02, 2011 Avatar owned property in what was then known as Village 10.
16. Between November 01, 2011 and February 15, 2012 Avatar took action, consented to action and/or agreed to action that resulted in the removal of real property owned by Avatar from Village Four.
17. Avatar took no actions in the dissolution or termination of any individual Village Association from June 05, 1985 to the date of this Request.
18. The 1985 Agreement was amended by 2/3 vote of the Resident Directors of the APV after June 05, 1985.
19. All current and former Avatar Associates elected to the APV and/or any individual Village Boards of Directors have never voted inconsistently with manner of the majority of the Residential Director votes since the date of the 1985 Agreement.

20. Avatar voting interests do not count towards obtaining a quorum in any individual Village Board election.
21. Avatar was the only property owner in Village Four with a voting interest in any Village Four elections from January 01, 2015 to December 31, 2015.
22. Avatar was the only property owner in Village Four with a voting interest in any Village Four elections from January 01, 2016 to December 31, 2016.
23. Village Four had a seat on the APV Board of Directors in 2015 and 2016.
24. Avatar provided APV with properly executed and notarized Designation of Corporate Representative forms for every Avatar corporate representative on or before the second Friday in December of the year prior to any election for every election in which Avatar voted from 2007 to present.
25. Admit that some “future buildable lots” are not recorded on the Poinciana Declarations as legally conveyable buildable lots, nor are those “future buildable lots” recorded as single recorded lots on the Osceola or Polk County tax roll.
26. The APV Executive Committee that was appointed on August 18, 2015 consisted of Jose Padilla, Melissa Boross Konderik (Avatar attorney at the time), and Tony Iorio (Vice President of Avatar at the time).
27. All written amendments of the 1985 Agreement were obtained with the consent of $\frac{3}{4}$ of the directors or trustee-directors of each Association.
28. There are meeting minutes evidencing the consent of $\frac{3}{4}$ of the directors or trustee-directors for any amendments to the 1985 Agreement.

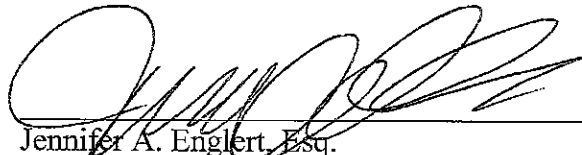
CERTIFICATE OF SERVICE

I hereby certify that on this 12 day of January, 2018, a true and correct copy of the foregoing was furnished via Florida Eportal electronic service and/or Email transmission to the following:

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