

SUPREME COURT STATE OF NEW YORK
COUNTY OF JEFFERSON

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THOUSAND ISLANDS LAND TRUST, INC.

Index No.: EF2024-00001583
Hon. James McClusky, J.S.C.

Plaintiff,

v.

VERIFIED ANSWER

RON CLAPP and CARLETON VILLA, LLC,

Defendants.

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Defendants RON CLAPP and CARLETON VILLA, LLC, (the “**Defendants**”), by and through their attorneys, Harris Beach, PLLC, respond to the following allegations in the Verified Complaint of THOUSAND ISLANDS LAND TRUST, INC. (the “**Plaintiff**”) dated April 10, 2024 (Dkt [2](#)), provide as follows:

1. **DENY ANY KNOWLEDGE OR INFORMATION SUFFICIENT TO FORM A BELIEF** as to the allegations set forth in paragraphs “1”, “9”, “10”, “12”, “13”, “14”, “15”, “16”, “26”, “27”, “39”, “40”, “41”, “46”, “50”, “51”, “52”, “54”, “55”, “56”, “57”, “58”, “59”, “61”, “62”, and “63” of the Complaint.

2. **ADMIT** the truth of the allegations contained in paragraphs “2”, “3”, “4”, “7”, “8”, “28”, “29”, “36”, and “37”.

3. **DENY** the allegations set forth in paragraphs “30”, “31”, “32”, “33”, “34”, “35”, “42”, “44”, “45”, “47”, “48”, and “49”.

4. **ADMIT** that this Court has jurisdiction over the Parties as set forth in paragraph “5,” however, Defendants **DENY** the remaining allegations set forth within this paragraph.

5. **ADMIT** that venue in the County of Jefferson is proper as set forth in paragraph “6,” however, Defendants **DENY** the remaining allegations set forth within this paragraph.

6. **ADMIT** that the property designated with Tax Map No. 39.27-1-16 is subject to a conservation easement created by a deed entitled “Deed of Conservation Easement in Gross Carleton Island Shoreline Buffer Zone” (“**Conservation Easement**”) described in paragraph “11”, however Defendants **DENY** the remaining allegations therein and refer to the Conservation Easement with regard to its applicable terms.

7. No response is required insofar as the allegations contained in paragraph “17” are a conclusion of law. To the extent that a response is required, Defendants **DENY** paragraph “17” and otherwise refer to the Environmental Conservation Law with regard to its applicable complete terms.

8. No response is required insofar as the allegations contained in paragraphs “18”, “19”, “20”, “21”, “22”, and “23” are conclusory statements. To the extent that a response is required, Defendants **DENY** any allegations therein and refer to the Conservation Easement with regard to its applicable terms.

9. **ADMIT** that the Declaration of Restrictions of Carleton Island (“**Declaration**”) was recorded on September 11, 1986, in the Jefferson County Clerk’s Office at Book No. 1038 Deeds at Page 211, however Defendants **DENY ANY KNOWLEDGE OR INFORMATION SUFFICIENT TO FORM A BELIEF** as to the remaining allegations set forth in paragraph “24”.

10. **DENY ANY KNOWLEDGE OR INFORMATION SUFFICIENT TO FORM A BELIEF** as to the purpose of providing uniform restrictive covenants mentioned in paragraph “25”. As to the remainder of the paragraph, Defendants **DENY** the remaining allegations therein and refer to the Declaration with regard to its applicable terms.

11. **ADMIT** that representatives of TILT visited the Fort Haldimand Preserve on April 9, 2024, however Defendants **DENY ANY KNOWLEDGE OR INFORMATION SUFFICIENT TO FORM A BELIEF** as to the remaining allegations set forth in paragraph “38”.

12. With regard to the allegations contained in paragraphs “43”, “53”, and “60”, wherein prior allegations in the Complaint are incorporated therein, the Defendants repeat their prior responses to said allegations and incorporate the responses herein.

13. **DENY** any other allegation in the Complaint to which a response has not otherwise been provided herein.

AFFIRMATIVE DEFENSES

First Affirmative Defense

1. Plaintiff’s causes of action are barred, in whole or in part, by the applicable statutes of limitation.

Second Affirmative Defense

2. Plaintiff’s causes of action are barred because Plaintiffs lack standing to bring their causes of action.

Third Affirmative Defense

3. Plaintiff’s causes of action are barred because Plaintiffs lack legal capacity to sue.

Fourth Affirmative Defense

4. Plaintiff’s causes of action are barred by the doctrines of ratification, consent, acquiescence, waiver, estoppel or laches.

Fifth Affirmative Defense

5. Plaintiff lacks standing to maintain this proceeding since they have not sustained a particularized injury or other injury as required under law.

Sixth Affirmative Defense

6. Plaintiff has not suffered, and are not threatened with, any irreparable harm, nor have they established an entitlement to the relief requested in the Verified Complaint.

Seventh Affirmative Defense

7. The Verified Complaint should be dismissed, in whole or in part, because it is not ripe for adjudication.

Eighth Affirmative Defense

8. Plaintiff failed to mitigate its alleged damages.

Ninth Affirmative Defense

9. The causes of action in the Verified Complaint should be dismissed, in part, based on the doctrine of mootness because Defendants are no longer engaged in the alleged activities that Plaintiff alleges violates the Conservation Easement or Declaration.

Tenth Affirmative Defense

10. Plaintiff's Complaint fails to particularize the specific allegations against each Defendant separately, as required under CPLR 3013.

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WHEREFORE, Defendants respectfully pray for a judgment dismissing this action against it, with prejudice, in its entirety, together with such other and further relief as the Honorable Court deems just, proper and equitable.

Dated: May 17, 2024
Syracuse, New York

HARRIS BEACH PLLC

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Thousand Islands Land Trust, Inc.

VERIFICATION BY ATTORNEY AFFIRMATION

I, Julian B. Modesti, state and affirm under penalty of perjury:

I am an attorney duly admitted to practice in New York State, and a Member of Harris Beach PLLC, attorneys for the Defendants, Mr. Ron Clapp, and Carleton Villa, LLC (collectively, “Defendants”). I have read the foregoing Answer and know the contents thereof, upon information and belief, and I believe the contents to be true. The basis of my knowledge is information provided by Defendants and the records referenced in the Verified Complaint.

I provide this Verification by Attorney Affirmation because Harris Beach PLLC does not maintain an office in any state where Ron Clapp resides.

Dated: May 17, 2024
Syracuse, New York

HARRIS BEACH PLLC

By: *Julian B. Modesti*

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