

08-1126-CD
Frontier Equity vs TLPOA Inc.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FRONTIER EQUITY PROPERTIES, LLC. :

No. 2008-1126-CD

Plaintiff

Type of Case: Civil

v.

TREASURE LAKE PROPERTY
OWNERS ASSOCIATION, INC.

Type of Pleading: WRIT OF
SUMMONS

Defendant

Filed on Behalf of: Plaintiff

Counsel of Record for this Party:
ALAN F. KIRK, ESQUIRE
Supreme Ct. I.D. # 36893
BABST, CALLAND, CLEMENTS
AND ZOMNIR, PC.
328 Innovation Blvd. Suite 200
State College, PA 16803
Phone: (814) 867.8055
Fax: (814) 867.8051
E-mail: akirk@bccz.com

PRAECIPE FOR ENTRY OF A WRIT OF SUMMONS

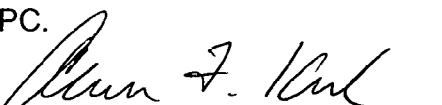
TO: THE PROTHONOTARY OF CLEARFIELD COUNTY:

Kindly issue a Writ of Summons in Civil Action against the above named
Defendant, TREASURE LAKE PROPERTY OWNERS ASSOCIATION, INC.

Date: 6/19/08

BABST, CALLAND, CLEMENTS AND
ZOMNIR, PC.

By


Alan F. Kirk, Esquire
Attorney for Plaintiff

pd \$95.00
FILED 1CC & Writ to
m/11:45 am 8th fl
JUN 20 2008
cm (JM) 1CC & Writ to
Atty
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FRONTIER EQUITY PROPERTIES, LLC.:

No. 2008-1126-CD

Plaintiff

Type of Case: Civil

v.

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SUMMONS

TREASURE LAKE PROPERTY
OWNERS ASSOCIATION, INC.

Defendant

Filed on Behalf of: Plaintiff

Counsel of Record for this Party:
ALAN F. KIRK, ESQUIRE
Supreme Ct. I.D. # 36893
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328 Innovation Blvd. Suite 200
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Phone: (814) 867.8055
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E-mail: akirk@bccz.com

WRIT OF SUMMONS

TO: **Treasure Lake Property Owners Association, Inc.**
13 Treasure Lake
DuBois, PA 15801

You are hereby notified that the Plaintiff, **FRONTIER EQUITY
PROPERTIES, LLC.**, have commenced an action against you.

Willie L. Shan

cm
, Prothonotary

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISON

FRONTIER EQUITY PROPERTIES, LLC, :

Plaintiff : NO. 2008-1126-CD

:

v. :

:

TREASURE LAKE PROPERTY
OWNERS ASSOCIATION, INC.,

Defendant :

:

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this pleading and notice are served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claim set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice of any money claimed in the pleading or for any other claims or relief requested by our client. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Daniel J. Nelson, Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

BABST, CALLAND, CLEMENTS &
ZOMNIR, PC

By: Alan F. Kirk

Alan F. Kirk, Esquire
Attorney ID No. 36893
Attorney for Plaintiff
330 Innovation Boulevard, Suite 302
State College, PA 16803
(814) 867-8055

FILED *acc*
JUL 17 2008 *Ang Kirk*
(6K)

William A. Shaw
Prothonotary/Clerk of Courts

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISON

FRONTIER EQUITY PROPERTIES, LLC, :

Plaintiff : NO. 2008-1126-CD

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⋮

v. :

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⋮

TREASURE LAKE PROPERTY
OWNERS ASSOCIATION, INC.,
Defendant :

COMPLAINT

NOW COMES, Frontier Equity Properties, LLC, by and through its attorneys, Babst, Calland, Clements & Zomnir, P.C., and files the following Complaint:

1. The Plaintiff is Frontier Equity Properties, LLC, an Arizona corporation, with a principal place of business located at 8260 East Raintree Drive, Scottsdale, Arizona 85260, ("Frontier").
2. The Defendant is Treasure Lake Property Owners Association, Inc., a Pennsylvania non-profit corporation, with a principal place of business of 13 Treasure Lake, DuBois, Pennsylvania 15801, ("TLPOA").
3. That the parties entered into a Lot Agreement on or about December 9, 2005. A true and correct copy of the said Agreement is attached as Exhibit "A" and is incorporated herein by reference.
4. That in consideration of the waiver by TLPOA of delinquent assessments on the lots, as well as partial consideration of the waiver of transfer fees, Frontier paid to TLPOA \$100,000.00 pursuant to paragraph 3(a) of the Lot Agreement attached as Exhibit "A."

5. That under the terms of the Agreement, Frontier agreed to acquire certain vacant lots of TLPOA which were in default of such items as association, assessments and real estate taxes, and to sell them to third parties.

6. That during the first year of the Lot Agreement, Frontier was only able to secure approximately 105 such lots.

7. That Frontier has satisfied all of the other conditions and covenants of the Lot Agreement and has performed all things required under the Lot Agreement.

8. That the parties agreed that under paragraph 4 of the Lot Agreement, if Frontier could not secure 250 lots within one (1) year of December 9, 2005, that the deposit made by Frontier of \$100,000.00 would be refunded, without interest, and that the Lot Agreement would be rendered null and void.

9. That based on the foregoing and despite repeated demand to do so, TLPOA has failed and continues to fail to return the said deposit of \$100,000.00.

10. That the failure of TLPOA to return the deposit as required and requested constitutes a breach of the agreement between the parties.

11. That due to the breach of the Agreement by TLPOA, Frontier has been deprived of the use of the said funds since December, 2006, and regardless of the terms of the said Agreement, is entitled to interest from that date at the legal rate for the said \$100,000.00.

12. That due to the breach of the Agreement by TLPOA, Frontier has also been required to expend fees to obtain counsel to pursue this claim, for which TLPOA is responsible.

WHEREFORE, Frontier requests this Honorable Court to enter judgment in favor of it and against TLPOA in the amount of \$100,000.00, together with applicable interest, attorney's fees, costs of suit and any other relief deemed appropriate.

BABST, CALLAND, CLEMENTS &
ZOMNIR, PC

By: Alan F. Kirk
Alan F. Kirk, Esquire
Attorney ID No. 36893
Attorney for Plaintiff
330 Innovation Boulevard, Suite 302
State College, PA 16803
(814) 867-8055

VERIFICATION

I, MARK J. PODOLSKY, Principal of Frontier Equity Properties, LLC, verify that the statements contained in the foregoing pleading are true and correct to the best of my knowledge, information and belief. I understand that false statements therein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to unsworn falsification to authorities.

FRONTIER EQUITY PROPERTIES, LLC

By 
Mark J. Podolsky

Date: 7/10/2008

LOT AGREEMENT

THIS AGREEMENT, made and entered into this 4th day of December, 2005, by and between the **TREASURE LAKE PROPERTY OWNERS ASSOCIATION, INC.**, a Pennsylvania nonprofit corporation, with its principal place of business located at 13 Treasure Lake, DuBois, PA, party of the first part, hereinafter referred to as "TLPOA"

- A N D -

FRONTIER EQUITY PROPERTIES, LLC, or its assigns, an Arizona corporation, with its principal place of business located at 8260 E. Raintree. Dr., Scottsdale, Arizona 85260, party of the second part, hereinafter referred to as "Frontier."

WITNESSETH:

WHEREAS, the TLPOA is the designated property owner association for the Treasure Lake Subdivision, Sandy Township, Clearfield County, Pennsylvania; and

WHEREAS, Frontier is in the business of land management, investment and development of various commodities to investors and other third parties, some of which may be marketed via the Internet (including real estate lots); and

WHEREAS, the Treasure Lake Subdivision currently has an incidence of a number of vacant lots that for various reasons are in default with regard to delinquent payment of past and current-year real estate taxes as well as TLPOA assessments, and are otherwise available for a lien sale; and

WHEREAS, Frontier is willing to secure all such vacant lots through tax sale and/or lien foreclosure, from and otherwise through the Clearfield County Tax Claim



Bureau ("Tax Claim Bureau"); and

WHEREAS, Frontier intends to ultimately sell this supply of vacant lots to investors and other third parties, as hereinbefore set forth; and

WHEREAS, the TLPOA delinquent assessments constitute liens as against these vacant lots as provided by law, which has an impact on resales by Frontier; and

WHEREAS, the parties hereto continue to recognize the difficulty that the TLPOA continues to face with regard to collection of these delinquent assessments; and

WHEREAS, the TLPOA, for the consideration and the terms and conditions hereinafter contained, is otherwise willing to compromise its delinquent assessments on these vacant lots.

NOW THEREFORE, for and in consideration of the sums hereinafter to be paid, the terms and conditions hereinafter to be kept and performed, and otherwise with the intent of being legally bound hereby, the parties hereto do hereby agree as follows:

1. TREASURE LAKE LOTS/RIGHTS & LIABILITIES. The parties hereto acknowledge and understand that all single-family residential lots within the Treasure Lake Subdivision including the vacant lots described herein and the owners thereof are subject to various documentation including the Declaration of Restrictions dated May 28, 1968 ("Restrictions"), the Bylaws, as amended of the TLPOA and the various Rules and Regulations of the TLPOA, all as set forth within that documentation and otherwise as provided by applicable law, including the Pennsylvania Uniform Planned Community Act (the "Act"). In connection therewith, the parties understand, subject to the agreements herein, that the TLPOA has and will continue to impose annual assessments on all eligible lots within the Treasure Lake Subdivision including the vacant lots; and

has and will continue to impose transfer fees for the transfers of such lots. Furthermore, the parties hereto acknowledge and understand that the owners of lots within Treasure Lake are entitled to various rights including the right to vote with regard to TLPOA elections.

2. FRONTIER SECURING THE LOTS. Frontier agrees to secure, up to two thousand (2,000) vacant lots within the Treasure Lake Subdivision from the Tax Claim Bureau; and will then, as set forth herein, coordinate with the TLPOA relative to delinquent and continuing TLPOA assessments, transfer fees and voting.

3. TLPOA PAYMENTS.

(a) Initial payment. Frontier agrees to deposit and otherwise pay the sum of One Hundred Thousand (\$100,000) Dollars to the TLPOA upon complete execution hereof. This amount represents consideration to be paid to the TLPOA for waiving and eliminating any and all delinquent assessments owned on up to 2,000 vacant lots secured by Frontier as well as partial consideration relative to the waiver of transfer fees for any transfers of lots to Frontier through the Tax Claim Bureau.

(b) Resale payments. As Frontier conveys vacant lots to third party owners subsequent to securing the same from the Tax Claim Bureau or otherwise, Frontier agrees to collect a full year's annual assessment at the time of such sale and remit the same to the TLPOA with the appropriate TLPOA transfer fee, with such payments to be accumulated and made on a monthly basis through the term of this Agreement.

(c) Guaranteed payments. Frontier guarantees to the TLPOA that it

will remit monthly payments for assessments and transfer fees as set forth above totaling a minimum of One Hundred Seventy-Five Thousand (\$175,000) Dollars per year (representing a minimum of 224 lot transfers). In the event that the monthly payments of assessments and transfer fees do not equal or exceed One Hundred Seventy-Five Thousand (\$175,000) Dollars (the "Guarantee"), Frontier will otherwise pay to the TLPOA the difference between such monthly remittances and the Guarantee on a yearly basis throughout the term hereof. The first year guarantee payment shall be due one year from the receipt by Frontier of the first bulk transfer of vacant lots from the Tax Claim Bureau ("Acceptance Date") provided Frontier is able to secure a sufficient number of lots to support such resales. The second year's Guarantee payment shall be due two years from the Acceptance Date; while the third and final Guarantee payment shall be due three years from the Acceptance Date.

In the event Frontier continues to own portions of the lots secured pursuant to Paragraph 2 hereof, Frontier will owe no additional guaranteed sums to the TLPOA as hereinbefore set forth; but will remit resale payments pursuant to Paragraph 3(b) above as such lots, are sold.

4. MINIMUM LOT GUARANTEES. If after one (1) year from the date hereof Frontier is unable to secure an initial supply of a minimum of 250 lots in its attempt to purchase up to 2,000 vacant lots as set forth in Paragraph 2 hereof, then the initial deposit of \$100,000 shall be refunded without interest and this agreement shall become null and void. The Guarantee payments shall not be due at the end of any year unless Frontier is able to secure a minimum of 224 lot throughout that year.

5. **TLPOA ANNUAL ASSESSMENT.** The parties hereto acknowledge and understand that the TLPOA imposes an annual assessment on all lots including the vacant lots described herein pursuant to the provisions of the Restrictions. Upon payment of the initial deposit and continuing payments as hereinbefore set forth, the TLPOA will exempt Frontier from the payment of continuing annual assessments pursuant to the Restrictions while the same are held by Frontier for resale purposes as hereinbefore set forth.. In the event Frontier is unable to sell certain vacant lots, then Frontier shall transfer or retain said lots to the TLPOA as hereinafter set forth.

The parties hereto understand that subsequent to any such sale of the vacant lot by Frontier, the ultimate third party owner will continue to be charged with annual assessments every year thereafter.

6. **TLPOA TRANSFER FEE** The parties hereto acknowledge and understand that the TLPOA also currently imposes a transfer fee on all lot transfers within the Treasure Lake Subdivision pursuant to the provisions of the Act and particularly Section 5302(12) thereof. In consideration of the payments to be made by Frontier pursuant to Paragraph 3 hereof, the TLPOA agrees to refrain from imposing a transfer fee on Frontier for any lots transferred to Frontier as contemplated by this Agreement. However, the parties hereto continue to recognize that any transfers by Frontier to ultimate third-party owners will be subject to the obligation on either Frontier or the applicable third party owner to pay to the TLPOA the then appropriate transfer fee.

7. **FRONTIER INVESTMENT OR RESALE.** Frontier represents that it will seek to resell Treasure Lake lots through various investors and via the Internet. Frontier shall be responsible for all advertisements and all promotions as well as related

costs concerning said sales to investors and individuals via the Internet. TLPOA agrees, in good faith, to assist Frontier in finding investors or purchasers of lots by providing available marketing material i.e. Treasure Chest Newsletters and flyers and otherwise provide information regarding lots. In connection therewith, Frontier agrees to provide the TLPOA with copies of all advertisements and promotions; and will consider any reasonable objections or suggestions that the TLPOA may make to modify or improve those advertisements and promotions. Frontier reserves the right to control pricing and terms of lots it owns without objections.

However, Frontier shall remain fully liable and responsible relative to said advertisements and promotions relative to lots it owns and sells either to investors or via the Internet.

8. FRONTIER MARKETING. Frontier will market Treasure Lake lots utilizing its currently-established programs; and hopes to sell approximately 20 lots or more each month.

Frontier will market lots individually; but may market combinations of up to ten (10) lots to achieve more attractive building parcels; provided it is specifically understood both by Frontier as well as by subsequent third-party owners, that each original lot sold to a third party continues to be responsible for annual TLPOA assessments, taxes and transfer fees.

Frontier further agrees that it will not make any bulk sales of more than ten (10) lots to any one (1) person or entity at any time, without getting first the consent of the TLPOA, which consent shall not be unreasonably withheld.

9. VOTING. Frontier acknowledges that pursuant to the Treasure Lake By-

Laws and Restrictions, any lot owner within Treasure Lake is entitled to receive one (1) vote for the annual TLPOA elections normally held in July of each year. Frontier hereby voluntarily, knowingly, and intelligently, relinquishes and otherwise waives its voting rights with respect to any vacant lots it secures as contemplated by this Agreement, and particularly while it continues to be exempt from the payment of TLPOA assessments. It is understood by the parties, however, that upon a transfer of the lot by Frontier to a third party, said third party will be entitled, as any lot owner, to vote as provided by applicable TLPOA documentation.

10. INDEMNIFICATION. Frontier agrees to protect, defend, indemnify and hold the TLPOA harmless of and from all claims, suits, actions, costs and expenses arising from Frontier's sale of Treasure Lake lots to third-party owners. To the extent reasonably requested by the TLPOA, Frontier shall supply insurance bonding relative to this indemnification and hold harmless paragraph.

11. EXCLUSIVITY. The TLPOA agrees to refrain from entering into any arrangement ~~or provide advertising space~~ with any other person or entity other than Frontier which contemplates a resale program substantially similar to that described herein. ~~Frontier agrees to purchase available advertising space in the newsletter at the prevailing rate throughout the term of this Agreement.~~ However, this agreement to refrain shall extend only for that time while Frontier secures at least the minimum of 250 lots from the Tax Claim Bureau as provided in Paragraph 4 hereof.

As assurance that the TLPOA will not violate the terms and conditions of this paragraph, the TLPOA agrees to return the \$100,000 advanced payment made by Frontier pursuant to Paragraph 3(a) hereof in the event the TLPOA conclusively violates

this prohibition; and the parties hereto specifically agree that such return shall constitute full and fair compensation to Frontier for its damages and losses in connection with said violation.

Additionally, Frontier agrees, during the term hereof, that it will not secure or sell similar lots in other private communities similar to that of Treasure Lake within the Commonwealth of Pennsylvania.

12. COORDINATION WITH LOCAL BUSINESSES. Frontier hereby agrees to coordinate with, and work with, local realtors, builders, and other businesses with respect to Treasure Lake lots owned by Frontier.

13. TERM/TERMINATION. The term of this Agreement shall extend for a period of four (4) years from the date of complete execution hereof. Thereafter, this Agreement shall extend automatically for additional one (1) year periods provided Frontier continues to resell a minimum of 100 vacant lots and otherwise complies with all terms of this Agreement.

Otherwise, either party hereto may terminate this Agreement upon sixty (60) days' notice to the other party of a breach of any term hereof, after having given the other party sixty (60) days within which to cure any such default. Additionally, and without intending to be limit the foregoing, the TLPOA shall have the immediate right to terminate this Agreement in the event Frontier fails to pay and otherwise remit funds as provided in Paragraph 3 hereof.

14. REMAINING LOTS. The parties hereby agree that, at the end of the term hereof and otherwise as extended, should there be extra lots which cannot be sold by Frontier pursuant to the terms hereof; then these lots shall;

(a) be transferred to the TLPOA with the further understanding that the parties shall equally split applicable transfer taxes and the TLPOA will pay all recording fees; or

(b) be retained by Frontier free of the terms and conditions of this Agreement including, without limitation, the exemption from payment of the annual assessment pursuant to Paragraph 5 hereof. The parties agree that assessments will not begin to accrue until one (1) year after termination of this agreement.

Additionally, the TLPOA agrees to accept transfers of all lots secured by Frontier which are not suitable for single-family residences (as determined by various TLPOA documents including the Restrictions and Rules and Regulations); or otherwise contain Uniform Construction Code issues or problems making construction of a single-family residence impossible.

Notwithstanding anything previously contained herein to the contrary, the TLPOA agrees to accept the aforesaid lots, provided the same are free and clear of all liens and encumbrances other than the agreement to split transfer taxes and the payment of recording fees as aforesaid.

16. ASSIGNMENT. The parties hereto agree that this Agreement is not assignable by either party without the written consent of the other party.

17. ENTIRE AGREEMENT. This Agreement constitutes the entire contract between the parties hereto and there are no other understandings, promises, representations or warranties, oral or written, relating to the subject matter of this Agreement. Furthermore, this Agreement fully supercedes and replaces any prior

Agreement relative to Treasure Lake lots as between the parties hereto including without limitation that Agreement dated February 28, 2005. No amendment, change or addition to this Agreement shall be binding upon either of the parties hereto unless reduced to writing and signed by all parties.

18. SEVERABILITY. If any particular term, covenant or provision of this Agreement shall be determined to be invalid and unenforceable, the same shall not affect the remaining provisions of this Agreement which shall nevertheless remain in full force and effect.

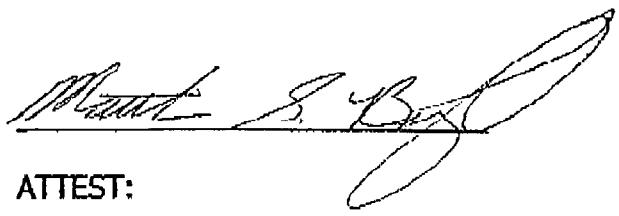
19. CONSTRUCTION. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted.

20. APPLICABLE LAW. This Agreement shall be construed under and in accordance with the laws of the Commonwealth of Pennsylvania.

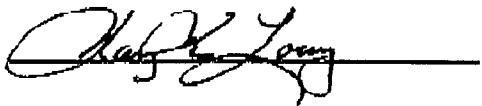
21. BINDING NATURE. This Agreement shall extend to and bind the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by properly authorized corporate officials as of the day and year first above written all intending to be legally bound hereby.

ATTEST:

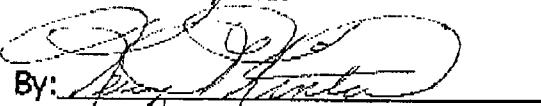


ATTEST:



TREASURE LAKE PROPERTY OWNERS
ASSOCIATION, INC.

By:


FRONTIER EQUITY PROPERTIES, LLC.

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISON

FRONTIER EQUITY PROPERTIES, LLC, :

Plaintiff : NO. 2008-1126-CD

:

:

TREASURE LAKE PROPERTY
OWNERS ASSOCIATION, INC.,
Defendant

:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Complaint was served on the following by depositing the same within the custody of the United States Postal Service, first-class mail, postage prepared, addressed to:

Michael P. Yeager
P.O. Box 752
110 North Second Street
Clearfield, PA 16830

BABST, CALLAND, CLEMENTS &
ZOMNIR, PC

By:

Alan F. Kirk
Alan F. Kirk, Esquire
Attorney ID No. 36893
Attorney for Plaintiff
330 Innovation Boulevard, Suite 302
State College, PA 16803
(814) 867-8055

Date:

FILED

JUL 17 2008

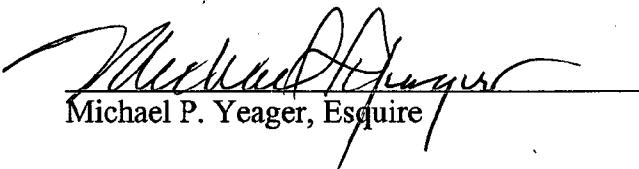
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FRONTIER EQUITY PROPERTIES, : NO. 2008-1126-CD
LLC. :
Plaintiff :
v. :
TREASURE LAKE PROPERTY :
OWNERS ASSOCIATION, INC. :
Defendant :
Counsel of Record For This Party:
BABST, CALLAND, CLEMENTS,
AND ZOMNIR, PC.
Alan F. Kirk, Esquire
328 Innovation Boulevard, Suite 200
State College, PA 16803
Phone: (814) 867.8055
Fax: (814) 867.8051
Email: akirk@bccz.com

ACCEPTANCE OF SERVICE

AND NOW, this 24th day of June, 2008, I, ***MICHAEL P. YEAGER, ESQUIRE***,
counsel for the Defendant, ***TREASURE LAKE PROPERTY OWNERS
ASSOCIATION, INC.***, in the above referenced matter do hereby accept service of the
Writ of Summons.


Michael P. Yeager, Esquire

FILED
M 11:05am 06
JUL 23 2008 2cc Atty.

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FRONTIER EQUITY PROPERTIES, LLC : No. 2008-1126-CD
Plaintiff :
VS. : Type of Case: Equity
TREASURE LAKE PROPERTY OWNERS :
ASSOCIATION, INC., : Type of Pleading: Answer,
Defendant : New Matter and Counterclaim
: File on behalf of Defendant
: Counsel of Record for this Party:
: Michael P. Yeager, Esq.
: Supreme Court No.: 15587
: P.O. Box 752
: 110 North Second Street
: Clearfield, PA 16830
: (814) 765-9611

Dated: August 7, 2008

FILED *acc*
013:26801 Atty Yeager
AUG 07 2008
(6P)
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FRONTIER EQUITY PROPERTIES, LLC, :
Plaintiff :
vs. : No. 2008-1126-CD
TREASURE LAKE PROPERTY OWNERS :
ASSOCIATION, INC., :
Defendant :
:

NOTICE TO PLEAD

TO THE PLAINTIFF:

You are hereby notified to file a written response to the enclosed New Matter and Counterclaim within twenty (20) days from service hereof or a judgment may be entered against you.



Michael P. Yeager, Esquire
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FRONTIER EQUITY PROPERTIES, LLC,	:	
Plaintiff	:	
vs.	:	No. 2008-1126-CD
TREASURE LAKE PROPERTY OWNERS	:	
ASSOCIATION, INC.,	:	
Defendant	:	

ANSWER, NEW MATTER AND COUNTERCLAIM

COMES NOW, the Defendant, Treasure Lake Property Owners Association, Inc. ("TLPOA"), by and through its attorney, MICHAEL P. YEAGER, ESQUIRE and files this Answer, New Matter and Counterclaim:

1. Admitted.
2. Admitted.
3. Admitted.
4. The averments contained in Paragraph 4 of Frontier's Complaint plead a conclusion of law to which no response is required. To the extent that a response is required, the TLPOA believes that the Lot Agreement attached to Frontier's Complaint as Exhibit A and particularly Paragraph 3(a) thereof speaks for itself.
5. The averments contained in Paragraph 5 of Frontier's Complaint plead a conclusion of law to which no response is required. To the extent that a response is required, the TLPOA believes that the Lot Agreement attached to Frontier's Complaint as Exhibit A speaks for itself. Additionally, Frontier never purchased lots from the

TLPOA directly; and only purchased lots from the Clearfield County Tax Claim Bureau and various third parties. Furthermore, not all lots secured by Frontier were "in default" as described by Frontier in Paragraph 5 of its Complaint.

6. Defendant is without sufficient knowledge to form a belief as to the truth or falsity of the averments contained in Paragraph 6 of Frontier's Complaint with the same being denied and strict proof thereof being demanded at the trial of this case.

Otherwise, Clearfield County records as to lot transfers from various parties to Frontier can speak for themselves both as to whether Frontier was able to secure sufficient lots as contemplated by the Agreement as currently argued by Frontier and otherwise.

Additionally, the TLPOA incorporates the averments contained in its New Matter and Counterclaim attached hereto.

7. The averments contained in Paragraph 7 of Frontier's Complaint plead a conclusion of law to which no response is required. To the extent any response is required, the TLPOA incorporates its previous and subsequent responses to Frontier's Complaint as well as its New Matter and Counterclaim attached hereto.

8. The averments contained in Paragraph 8 of Frontier's Complaint plead a conclusion of law to which no response is required. To the extent that a response is required, TLPOA believes that the Lot Agreement attached to Frontier's Complaint as Exhibit A speaks for itself. Additionally, the TLPOA incorporates the averments contained in its New Matter and Counterclaim attached hereto.

9. Admitted. By way of additional answer, the TLPOA incorporates the averments contained in its New Matter and Counterclaim attached hereto.

10. The averments contained in Paragraph 10 of Frontier's Complaint plead a

conclusion of law to which no response is required. To the extent that a response is required, the TLPOA incorporates the averments contained in its New Matter and Counterclaim attached hereto.

11. Although the TLPOA admits that it has not returned the said \$100,000 deposit, it believes and therefore avers that Frontier did not request a return of that deposit until long after December of 2006 and otherwise not until sometime in the spring of 2008. Furthermore, Frontier (and the TLPOA) acted as though the Agreement was in full force and effect both prior to the December 9, 2005 date on the Agreement as well as subsequent to December of 2006 as noted in the New Matter and Counterclaim attached hereto. The TLPOA otherwise incorporates that New Matter and Counterclaim. Otherwise, the averments contained in Paragraph 11 of Frontier's Complaint plead a conclusion of law to which no response is required.

12. The TLPOA is without sufficient knowledge or information to form a belief as to the truth or falsity of the averments contained in Paragraph 12 of Frontier's Complaint with the same being denied and strict proof thereof is demanded the trial of this case. Otherwise, the averments contained in Paragraph 12 of Frontier's Complaint plead a conclusion of law to which no response is required. To the extent that a response is required, the TLPOA incorporates the averments contained in its New Matter and Counterclaim attached hereto.

WHEREFORE, the TLPOA requests that this Honorable Court enter judgment in its favor and as against Frontier together with attorney's fees, costs of suit and any other appropriate relief.

NEW MATTER

13. The TLPOA incorporates Paragraphs 1 through 12 of Frontier's Complaint as though the same were more fully set forth at length herein.

14. The Lot Agreement of December 9, 2005 ("Agreement") indicates that the parties (and specifically including Frontier) acknowledged and understood that the TLPOA imposes annual assessments (pursuant to various Treasure Lake enabling documents and applicable Pennsylvania statutes and case law) on eligible lots within the Treasure Lake Subdivision including vacant lots as well as transfer fees for the transfers of such lots.

15. Clearfield County records reflect that Frontier secured Treasure Lake lots from both the Clearfield County Tax Claim Bureau as well as various third parties both prior to the Agreement date of December 9, 2005 and subsequent to the December 9, 2006 date that Frontier now claims that the Lot Agreement should have been rendered null and void; and, at all of those times of purchase, acted as though such lots were otherwise covered by the Agreement by not remitting to the TLPOA all delinquent assessments, yearly assessments and transfer fees relative to such lots.

16. In view of the actions of Frontier relative to the failure to remit all delinquent assessments, yearly assessments and transfer fees, and by its various other actions, the TLPOA also acted as though the Agreement was in full force and effect both prior to the Agreement date of December 9, 2005 and subsequent to December of 2006.

17. Paragraph 3(a) of the Agreement, in defining the reasoning behind the deposit of the \$100,000 that is the subject of Frontier's Complaint indicates that the

same represents:

"...consideration to be paid to the TLPOA for waiving and eliminating any and all delinquent assessments owned on up to 2,000 vacant lots secured by Frontier as well as partial consideration relative to the waiver of transfer fees for any transfers of lots to Frontier through the Tax Claim Bureau".

18. Should Frontier be successful with regard to any claim as to a return of the \$100,000 payment as set forth in its Complaint, and the Agreement be otherwise declared null and void, then the TLPOA makes claim to any delinquent assessments, yearly assessments and transfer fees on any and all lots secured by Frontier and not otherwise accounted for and paid to the TLPOA, individually or otherwise, with any Frontier payments pursuant to Paragraph 3(b) of the Agreement as hereinafter described.

19. Paragraph 3(b) of the Agreement indicates that the parties understood that Frontier would convey vacant lots to various third parties after having secured the same "...from the Tax Claim Bureau or otherwise..."

20. Frontier made payments pursuant to Paragraph 3(b) of the Agreement as set forth in "Exhibit A", attached hereto, made part hereof and incorporated herein; most of which were made after the December 9, 2006 date, in spite of the fact that Frontier now claims that the Agreement should be rendered null and void.

21. Paragraph 3(c) of the Agreement provides for annual "Guarantee" payments of \$175,000 from Frontier to the TLPOA (relative to assessments and transfer fees on lots sold by Frontier), to be offset by remittances by Frontier to the TLPOA on a yearly basis for the assessments and transfer fees described previously herein and in Paragraph 3(b).

22. Paragraph 3(c) of the Agreement also provides that "the first year Guarantee payment shall be due one year from the receipt by Frontier of the first bulk transfer of vacant lots from the Tax Claim Bureau ("Acceptance Date")...".

23. Clearfield County records will reflect that Frontier received the "first bulk transfer of vacant lots" from the Tax Claim Bureau by virtue of a Deed dated November 28, 2005 and recorded on that same date as Clearfield County Instrument Number 200520621.

24. The aforesaid "first bulk transfer", even though it predated the Agreement, has always been treated by the parties hereto as having been subject to the Agreement. No delinquent assessments, yearly assessments or transfer fees were remitted to the TLPOA for any of the lots secured by Frontier in this transfer.

25. Paragraph 4 of the Agreement indicates that "the Guarantee payments shall not be due at the end of any year unless Frontier is able to secure a minimum of 224 lot[s] throughout that year".

26. From November 28, 2005 (the Acceptance Date) as set forth in Paragraph 3(c) of the Agreement until November 28, 2006, Frontier acquired approximately 273 lots both from "the Tax Claim Bureau and otherwise" so as to result in the implementation of the Guarantee provided in Paragraph 3(c) of the Agreement.

27. The TLPOA believes and therefore avers that Frontier's payments pursuant to Paragraph 3(b) (and to be used to offset the Guarantee under Paragraph 3(c) of the Agreement) between November 28, 2005 and November 28, 2006 total \$16,863.00, as depicted on Exhibit A.

28. Accordingly, Frontier is entitled to a credit as against the \$175,000.00

Guarantee in that amount resulting in the sum of \$150,137.00 owed by Frontier to the TLPOA pursuant to Paragraph 3(c) of the Agreement. The TLPOA further incorporates the claims in its Counterclaim as hereinafter set forth.

29. Both Frontier and the TLPOA acted as though the Agreement was in full force and effect prior to its December 9, 2005 date as evidenced by Frontier's failure to remit and the TLPOA's failure to collect delinquent assessments, yearly assessments and transfer fees on various lots Frontier secured prior to the Agreement.

30. Both Frontier and the TLPOA continued to act as though the Agreement was in full force and effect subsequent to December of 2006, as evidenced by its failure to make arrangements relative to delinquent assessments, yearly assessments and transfer fees on various lots Frontier continued to purchase after that time frame, by relying upon the waiver mentioned in Paragraph 4 of Frontier's Complaint and Paragraph 3(a) of the Agreement.

31. Frontier further continued to act as though the Agreement was in full force and effect subsequent to December of 2006 by virtue of its continued payments pursuant to Paragraphs 3(b) and (c) of the Agreement relative to assessments and transfer fees for lots sold to third parties as depicted on Exhibit A.

32. If the Court determines that the Agreement is declared to be null and void as of any specified date, the TLPOA believes and therefore avers that Frontier would otherwise have been and continue to be responsible for delinquent assessments, yearly assessments and transfer fees on lots it secured both from the Clearfield County Tax Claim Bureau as well as otherwise from third parties.

33. If the Agreement is declared to be null and void on any specified date, the

TLPOA believes and therefore avers that Frontier maintains continuing responsibility for TLPOA yearly assessments in connection with all of the lots secured and owned by Frontier.

34. If the Agreement is declared to be null and void on any specified date, the TLPOA believes and therefore avers that Frontier continues to maintain responsibility relative to said assessments until such time as it otherwise transfers said lots to various third parties or to the TLPOA pursuant to the Agreement.

35. Paragraph 14 of the Agreement describes how any lots unsold at the end of the term of the Agreement are addressed.

36. Paragraph 14(a) of the Agreement indicates that the same can be transferred to the TLPOA provided any appropriate transfer taxes are equally split and that the TLPOA is to pay all recording fees. Otherwise, any lots retained by Frontier are "...retained by Frontier free of the terms and conditions of this Agreement including, without limitation, the exemption from payment of the annual assessment pursuant to Paragraph 5 hereof.

37. In Paragraph 14(a) of the Agreement the parties also agree that assessments will not begin to accrue until one year after termination of this Agreement.

38. The Agreement's purpose with regard to Frontier's purchase of lots from the Clearfield County Tax Claim Bureau was frustrated by the inability of the Clearfield County Tax Claim Bureau to process lots for sale to Frontier quickly enough as contemplated by the Agreement.

WHEREFORE, the TLPOA requests that this Honorable Court enter judgment in its favor and as against Frontier in the amounts described in the TLPOA New Matter as

well as its Counterclaim as hereinafter set forth together with applicable interest, attorney's fees, costs of suit and other relief deemed appropriate.

COUNTERCLAIM

39. TLPOA incorporates Paragraphs 1 through 38 of its Answer and New Matter as previously set forth as though the same were more fully set forth at length herein.

40. As previously set forth herein, the TLPOA is entitled to the sum of \$150,137.00 relative to the Guarantee described in Paragraphs 3(b), 3(c) and 4 of the Agreement.

41. To date, the TLPOA believes and therefore avers that Frontier owes to the TLPOA a sum in at least the amount of \$355,347.96 relative to delinquent assessments on lots secured by Frontier that would no longer be waived in the event the Agreement is somehow declared to be null and void as of December 9, 2006 or otherwise ineffective as to certain purchased lots.

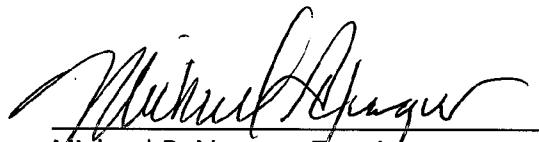
42. To date, the TLPOA believes and therefore avers that Frontier owes to the TLPOA a sum at least in the amount of \$243,900.00 relative to yearly and continuing assessments on lots owned by Frontier for the assessment years prorated from December 9, 2007 to date pursuant to Paragraph 14(b) of the Agreement.

43. The TLPOA also believes and therefore avers that Frontier will owe continuing sums relative to yearly assessments and continuing assessments on lots owned by Frontier subsequent to the date of filing hereof and potential resolution of this matter.

WHEREFORE, the TLPOA requests that this Honorable Court enter judgment in

its favor and as against Frontier in the amount determined in accordance with its New Matter and Counterclaim for past, current and future delinquent assessments, yearly assessments and transfer fees as requested previously herein; and otherwise in an amount of at least \$749,384.96 relative to delinquent assessments, unpaid assessments and transfer fees, together with applicable interest, attorney's fees, costs of suit and any other relief deemed appropriate.

Respectfully submitted,



Michael P. Yeager
Michael P. Yeager, Esquire
Attorney for Defendant

FRONTIER PROPERTIES

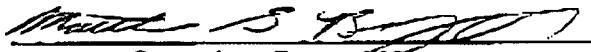
		PAID LOT ASSESS.	PAID TRANS. FEE
JAN. 4, 06	\$ 2302.28	5	5
FEB. 1, 06	9871.48	15	15
FEB. 9, 06	4689.24	6	6
FEB. 7, 07	2948.00	11	11
MARCH 7, 07	3950.62	11	11
APRIL 12, 07	3159.00	8	8
JUNE 19, 07	5655.00	8	6
AUG. 2, 07	1160.00	2	
AUG. 3, 07	5510.00	9	5
SEPT. 19, 07	870.00	1	1
SEPT. 25, 07	870.00	1	1
OCT. 23, 07	4060.00	5	4
NOV. 27, 07	580.00	1	
JAN. 15, 08	<u>580.00</u>	<u>1</u>	
TOTALS	\$ 46,205.92	84	73



VERIFICATION

I, MATTHEW S. BEGLEY, General Manager of TREASURE LAKE PROPERTY OWNERS ASSOCIATION, INC., being duly authorized to make this Verification, have read the foregoing Answer, New Matter and Counterclaim. The statements therein are true and correct to the best of my personal knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S.A., Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.


Matthew S. Begley, General Manager
Treasure Lake Property Owners
Association, Inc.

Date: August 7 2008

CERTIFICATE OF SERVICE

On August 7, 2008 I delivered a copy of the Answer, New Matter and Counterclaim in the above-captioned matter to Alan F. Kirk, Esquire, BABST, CALLAND, CLEMENTS & ZOMNIR, 330 Innovation Blvd., Third Floor, State College, PA 16830. Said forwarding was by first class mail.



Michael P. Yeager, Attorney for Defendant
Treasure Lake Property Owners Association,
Inc.

In The Court of Common Pleas of Clearfield County, Pennsylvania

Service # 1 of 1 Services

Sheriff Docket # **104306**

FRONTIER EQUITY PROPERTIES, LLC

Case # 08-1126-CD

vs.

TREASURE LAKE PROPERTY OWNERS ASSOCIATION, INC.

TYPE OF SERVICE WRIT OF SUMMONS & PRAECLPSE

SHERIFF RETURNS

NOW October 06, 2008 RETURNED THE WITHIN WRIT OF SUMMONS & PRAECIPE "NOT SERVED, TIME EXPIRED" AS TO TREASURE LAKE PROPERTY OWNERS ASSOCIATION, INC., DEFENDANT. HOLD PER ATTY OFFICE

SERVED BY: /

Return Costs

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	BCCZ	2554	10.00
SHERIFF HAWKINS	BCCZ	2554	14.42

5
FILED
010-57131
OCT 06 2008

William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before me This

So Answers.

Day of 2008

Ches A. Hawkins
by Monterey Harbor
Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FRONTIER EQUITY PROPERTIES, LLC. :

No. 2008-1126-CD

Plaintiff

Type of Case: Civil

v.

Type of Pleading: WRIT OF
SUMMONS

TREASURE LAKE PROPERTY
OWNERS ASSOCIATION, INC.

Defendant

Filed on Behalf of: Plaintiff

Counsel of Record for this Party:
ALAN F. KIRK, ESQUIRE
Supreme Ct. I.D. # 36893
BABST, CALLAND, CLEMENTS
AND ZOMNIR, PC.
328 Innovation Blvd. Suite 200
State College, PA 16803
Phone: (814) 867.8055
Fax: (814) 867.8051
E-mail: akirk@bccz.com

WRIT OF SUMMONS

TO: **Treasure Lake Property Owners Association, Inc.**
13 Treasure Lake
DuBois, PA 15801

You are hereby notified that the Plaintiff, **FRONTIER EQUITY PROPERTIES, LLC.**, have commenced an action against you.

Willie L. Khan cm
, Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FRONTIER EQUITY PROPERTIES, LLC. : No. 2008-1126-CD

Plaintiff : Type of Case: Civil

v. : Type of Pleading: WRIT OF
SUMMONS

TREASURE LAKE PROPERTY
OWNERS ASSOCIATION, INC. : Filed on Behalf of: Plaintiff

Defendant : Counsel of Record for this Party:
ALAN F. KIRK, ESQUIRE
Supreme Ct. I.D. # 36893
BABST, CALLAND, CLEMENTS
AND ZOMNIR, PC.
328 Innovation Blvd. Suite 200
State College, PA 16803
Phone: (814) 867.8055
Fax: (814) 867.8051
E-mail: akirk@bccz.com

PRAECIPE FOR ENTRY OF A WRIT OF SUMMONS

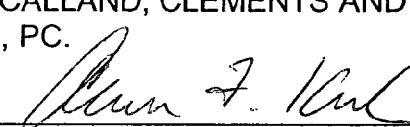
TO: THE PROTHONOTARY OF CLEARFIELD COUNTY:

Kindly issue a Writ of Summons in Civil Action against the above named
Defendant, TREASURE LAKE PROPERTY OWNERS ASSOCIATION, INC.

Date: 6/19/08

BABST, CALLAND, CLEMENTS AND
ZOMNIR, PC.

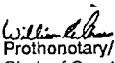
By


Alan F. Kirk, Esquire
Attorney for Plaintiff

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JUN 20 2008

Attest:


Prothonotary/
Clerk of Courts

CH

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FRONTIER EQUITY PROPERTIES	*	NO. 2008-1126-CD
Plaintiff	*	
	*	
vs.	*	
TREASURE LAKE PROPERTY OWNERS	*	
ASSOCIATION, INC.	*	
Defendant	*	

ORDER

NOW, this 15th day of May, 2013, it is the ORDER of this Court that a **status conference** be and is hereby scheduled for the **27th day of June, 2013 at 1:30 p.m.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

If this case has been concluded, the moving party is directed to file the appropriate Praecipe with the Prothonotary of Clearfield County to finalize that status of the case.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED
5/10/2013
MAY 16 2013
William A. Shaw
Prothonotary/Clerk of Courts
ICC Atty
A. Kirk
ICC docket
64

DATE: 5-16-13

 You are responsible for serving all appropriate parties.

P The Prothonotary's office has provided service to the following parties:

 Plaintiff(s) P Plaintiff(s) Attorney Other

P Defendant(s) Defendant(s) Attorney

 Special Instructions:

FILED

MAY 16 2013

William A. Shaw
Prothonotary/Clerk of Courts

deft
13 Treasure Lake
DuBois 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CA

FRONTIER EQUITY PROPERTIES
Plaintiff

2008-1126-CD

v.

TREASURE LAKE PROPERTY OWNERS
ASSOCIATION
Defendant

PRAECIPE

To the Prothonotary:

Please mark the above matter withdrawn and discontinued.

For the Plaintiff:

Alan F. Kirk

Alan F. Kirk, Esq
341 Science Park Road, Ste 204
State College, PA 16803
814.325.9410

FILED *11:07 am* NOV. 4 JUN 17 2013
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FRONTIER EQUITY PROPERTIES

Plaintiff

2008-1126-CD

v.

TREASURE LAKE PROPERTY OWNERS
ASSOCIATION

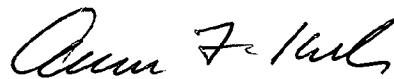
Defendant

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Praeclipe was sent first class mail, postage paid this 19 day of June, 2013, to the following:

Michael P Yeager, Esq
110 North Second Street
P.O. Box 752
Clearfield, PA 16830

For the Plaintiff:



Alan F. Kirk, Esq
341 Science Park Road, Ste 204
State College, PA 16803
814.325.9410

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FRONTIER EQUITY PROPERTIES
Plaintiff

* NO. 2008-1126-CD

vs.
TREASURE LAKE PROPERTY OWNERS ASSOCIATION
Defendant

*
*
*
*
*

ORDER

NOW, this 20th day of June, 2013, the Court notes that a Praeclipe to Withdraw and Discontinue in the above-captioned case was filed on June 17, 2013 by Alan F. Kirk, Esquire. Therefore, it is the ORDER of this Court that the **status conference** in the above-captioned case scheduled for the 27th day of June, 2013 is **canceled**.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED 100 AM Kirk
01 3:36pm JUN 20 2013 1cc deft
S

William A. Shaw
Prothonotary/Clerk of Courts

61