

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

HIDDEN VILLAGE, LLC,)	CASE NO.: 1:10-CV-00887
)	
Plaintiff,)	JUDGE JAMES GWIN
)	
vs.)	<u>AMENDED ANSWER OF DEFENDANTS</u>
)	
CITY OF LAKEWOOD, OHIO, et al.,)	(Jury Trial Endorsed Hereon)
)	
Defendants.)	

Now come Defendants City of Lakewood, Thomas J. George, Charles E. Barrett, Edward E. Fitzgerald, Lawrence Mroz, and Timothy J. Malley, by and through counsel Mazanec, Raskin, Ryder & Keller Co., L.P.A., and within the time period for amending their Answer without leave of Court, submit their Amended Answer to the Plaintiff's Complaint:

FIRST DEFENSE

1. In reply to the allegations contained in Paragraph 1 of Plaintiff's Complaint, Defendants admit the nature of this action but deny all liability.
2. In reply to Paragraph 2 of Plaintiff's Complaint, Defendants admit the allegations contained therein.
3. In reply to the allegations contained in Paragraph 3 of Plaintiff's Complaint, Defendants admit the nature of this action but deny all liability.
4. Defendants deny or deny for want of information all allegations contained in Paragraph 4 of Plaintiff's Complaint.
5. In reply to the allegations contained in Paragraph 5 of Plaintiff's Complaint, Defendants admit that Defendant Lakewood is a municipal corporation organized under the laws

of the State of Ohio, but deny or deny for want of information all other allegations contained in said Paragraph 5.

6. In reply to the allegations contained in Paragraphs 6 and 7 of Plaintiff's Complaint, Defendants admit that Defendants George and Barrett were at certain times officials or employees of Defendant Lakewood in the positions alleged in said Paragraphs 6 and 7. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraphs 6 and 7.

7. In reply to the allegations contained in Paragraph 8 of Plaintiff's Complaint, Defendants deny that Edward E. Fitzgerald is or at any pertinent time was an individual employed by Defendant City of Lakewood as a project administrator/housing inspector or mayor. Further pleading, Defendants deny or deny for want of information all other allegations contained in Paragraph 8 of Plaintiff's Complaint.

8. In reply to the allegations contained in Paragraphs 9 and 10 of Plaintiff's Complaint, Defendants admit that Defendants Mroz and Malley were at certain times officials and employees of Defendant Lakewood in the positions alleged in Paragraphs 9 and 10. Further pleading, Defendants deny or deny for want of information all other allegations contained in said paragraphs 9 and 10.

9. In reply to the allegations contained in Paragraph 11 of Plaintiff's Complaint, these Defendants reaver and reallege all of their previous answers as if fully rewritten herein.

10. In reply to the allegations contained in Paragraph 12 of Plaintiff's Complaint, Defendants admit that Defendant Lakewood is a suburb of the City of Cleveland, Ohio but deny or deny for want of information all other allegations contained in said Paragraph 12.

11. Defendants deny or deny for want of information all allegations contained in Paragraphs 13, 14, 15, 16, 17, and 18 of Plaintiff's Complaint.

12. In reply to the allegations contained in Paragraph 19 of Plaintiff's Complaint, Defendants admit that an apartment complex generally known as Hidden Village Apartments is located at 11849 Clifton Boulevard in Lakewood, Ohio but deny or deny for want of information all other allegations contained in said Paragraph 19.

13. Defendants deny or deny for want of information all allegations contained in Paragraphs, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35 of Plaintiff's Complaint.

14. In reply to the allegations contained in Paragraph 36 of Plaintiff's Complaint, Defendants admit that certain officials of Defendant Lakewood held the genuine belief that YRP's use was institutional rather than residential and not appropriate in the zoning district in which it was proposed and used. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 36.

15. Defendants deny or deny for want of information all allegations contained in Paragraphs 37, 38, 39, 40, 41, 42, 43, 44, and 45 of Plaintiff's Complaint.

16. In reply to the allegations contained in Paragraphs 46 and 47 of Plaintiff's Complaint, Defendants admit that certain notices of zoning violation were issued to Plaintiff and that Plaintiff and YRP filed Notices of Appeal. Further, Defendants deny or deny for want of information all other allegations contained in said Paragraphs 46 and 47.

17. Defendants deny or deny for want of information all allegations contained in Paragraph 48 of Plaintiff's Complaint.

18. Defendants deny for want of information the allegations contained in Paragraph 49 of Plaintiff's Complaint in that the alleged letter referenced therein is not attached to said Complaint.

19. Defendants deny or deny for want of information the allegations contained in Paragraphs 50 and 51 of Plaintiff's Complaint.

20. Defendants admit the allegations contained Paragraph 52 of Plaintiff's Complaint.

21. In reply to the allegations contained in Paragraph 53 of Plaintiff's Complaint, Defendants admit that certain unknown persons distributed flyers concerning the operation of Hidden Village Apartments, but deny or deny for want of information all other allegations contained in said Paragraph 53.

22. Defendants deny or deny for want of information the allegations contained in Paragraphs 54 and 55 of Plaintiff's Complaint.

23. Defendants admit the allegations contained in Paragraphs 56 and 57 of Plaintiff's Complaint.

24. Defendants deny or deny for want of information the allegations contained in Paragraphs 58, 59, 60, and 61 of Plaintiff's Complaint.

25. In reply to the allegations contained in Paragraph 62 of Plaintiff's Complaint, Defendants admit that some or all of the apartment buildings operated by Plaintiff were formerly used to house students at a diesel mechanic's school, but deny or deny for want of information all other allegations contained in said Paragraph 62.

26. Defendants deny or deny for want of information all allegations contained in Paragraphs 63, 64, 65, 66, 67, and 68 of Plaintiff's Complaint.

27. Defendants deny or deny for want of information the allegations contained in Paragraphs 69, 70, and 71 of Plaintiff's Complaint in that the letter alleged therein is not attached to Plaintiff's Complaint.

28. Defendants deny or deny for want of information all allegations contained in Paragraphs 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, and 91 of Plaintiff's Complaint.

29. Defendants admit the allegations contained in Paragraph 92 of Plaintiff's Complaint.

30. Defendants deny or deny for want of information all allegations contained in Paragraphs 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, and 115 of Plaintiff's Complaint.

31. In reply to the allegations contained in Paragraph 116 of Plaintiff's Complaint, these Defendants reaver and reallege all of their previous answers as if fully rewritten herein.

32. Defendants deny or deny for want of information all allegations contained in Paragraphs 117, 118, 119, 120, 121, and 122 of Plaintiff's Complaint.

33. In reply to the allegations contained in Paragraph 123 of Plaintiff's Complaint, these Defendants reaver and reallege all of their previous answers as if fully rewritten herein.

34. Defendants deny or deny for want of information all allegations contained in Paragraphs 124, 125, 126, and 127 of Plaintiff's Complaint.

SECOND DEFENSE

35. Plaintiff's Complaint fails to state a claim upon which relief can be granted in some or all respects.

THIRD DEFENSE

36. Statute of limitations.

FOURTH DEFENSE

37. Any and all actions or failures to act alleged against Defendants were motivated by legitimate non-discriminatory reasons.

FIFTH DEFENSE

38. Qualified good faith immunity.

SIXTH DEFENSE

39. Immunity pursuant to R.C. Chapter 2744 and/or Ohio Common Law.

SEVENTH DEFENSE

40. Insufficiency of service/service of process.

WHEREFORE, having fully answered, Defendants pray that Plaintiff's Complaint be dismissed, and that they go hence without cost or delay.

Respectfully submitted,

MAZANEC, RASKIN, RYDER & KELLER CO., L.P.A.

s/Robert F. Cathcart

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Counsel for Defendants City of Lakewood, Thomas J. George, Charles E. Barrett, Edward E. Fitzgerald, Lawrence Mroz, and Timothy J. Malley

JURY DEMAND

A trial by jury composed of the maximum number of jurors permitted under the law is hereby demanded.

s/Robert F. Cathcart

JAMES A. CLIMER (0001532)
ROBERT F. CATHCART (0071747)
JOHN D. PINZONE (0075279)

Counsel for Defendants City of Lakewood, Thomas J. George, Charles E. Barrett, Edward E. Fitzgerald, Lawrence Mroz, and Timothy J. Malley

CERTIFICATE OF SERVICE

I hereby certify that on Monday, June 7, 2010, a copy of the foregoing Amended Answer of Defendants was filed electronically. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/Robert F. Cathcart

JAMES A. CLIMER (0001532)
ROBERT F. CATHCART (0071747)
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Counsel for Defendants City of Lakewood, Thomas J. George, Charles E. Barrett, Edward E. Fitzgerald, Lawrence Mroz, and Timothy J. Malley