

ROSALYNNE R. ATTERBEARY
REVOCABLE TRUST, *et al.*

Plaintiffs/Counter-
Defendants,

v.

PROPERTY OWNERS ASSOCIATION
OF ARUNDEL ON THE BAY, INC., *et al.*

Defendants.

* IN THE
* CIRCUIT COURT
* FOR
* ANNE ARUNDEL COUNTY
*
* Case No: C-02-CV-15-003736

* * * * *

ANSWERS TO INTERROGATORIES

To: Rosalynne R. Atterbeary Revocable Trust, *et al.*, Plaintiffs

From: Martha (Fisher) McDowell, Defendant

Martha (Fisher) McDowell, Defendant, for answers to the Interrogatories propounded by the Plaintiff, Rosalynne R. Atterbeary Revocable Trust, *et al.*, states as follows:

Answers

Interrogatory No. 1: Identify the person(s) answering these interrogatories. Include in your answer the information set forth in Interrogatory Definition (b) (1) and (2).

Answer:

Martha E. (Fisher) McDowell
3446 Newport Avenue
Annapolis, MD 21403
410-263-3731 (home)
Retired

Interrogatory No. 2: Identify each person with whom you consulted, sought advice from, or discussed the preparation of your answers to these interrogatories and identify any document which you reviewed in preparing your answers to these interrogatories.

Answer:

My responses regarding this matter were discussed with my husband Robert S. McDowell. I reviewed the blast e-mails sent to AOTB property owners by the AOTB Property Owners Association and reviewed the documents filed in this case beginning with the second amended complaint filed dated January 13, 2017.

Interrogatory No. 3: Describe by mailing address, and by lot and block, all property you own or in which you have a property interest in Arundel on the Bay. For each property listed, identify any co-owner(s), state how it is titled, the date of acquisition, the date on which you acquired your interest, and identify the holder of any current lien, deed of trust, or mortgage on the property.

Answer:

The property address is 3446 Newport Avenue, Annapolis, Maryland 21403, Lot C, Block 43. It is titled to Martha E. Fisher. There are no liens or mortgages on the property, which I acquired March 21, 1994.

Interrogatory No. 4: For each property identified in the preceding interrogatory, describe how the property is used and include in your answer the following information:

- a) If the property is used for your personal residential purposes identify all persons with whom you reside, state that individual's age and relationship with you; state whether the property is your primary personal residence and, if not, how often and under what circumstances you use the property.
- b) If the property is used for leasing or rental purposes, identify the current tenant(s) of the property and describe how often and under what circumstances the tenant uses the property.
- c) If the property is used for short-term vacation rental or home-sharing purposes, describe how and by whom the property is listed or advertised for rental and describe the number of days the property was rented during the preceding twenty-four (24) month period.

Answer:

The property is my year-round residence. My husband, Robert S. McDowell, also lives there.

Interrogatory No. 5: For each property identified in the previous interrogatory that you have owned for less than twenty (20) years, identify the prior owner of the property and describe any ongoing relationship you may have with the prior owner.

Answer:

Not applicable.

Interrogatory No. 6: Identify each person, other than a person intended to be called as an expert witness at trial, having discoverable information that tends to support a position that you have taken or intend to take in this action, including any claim for damages, and state the subject matter of the information possessed by that person. (Standard General Interrogatory No.1.)

Answer:

Not applicable.

Interrogatory No. 7: Identify each person you expect to call as an. expert witness at trial, state the subject matter on which the expert is expected to testify, state the substance of the findings and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion, and with respect to an expert whose findings and opinions were acquired in anticipation of litigation or for trial, summarize the qualifications of the expert, state the terms of the publications written by the expert and any written report made by the expert concerning the expert's findings and opinions. (Standard General Interrogatory No.2.)

Answer:

Not applicable.

Interrogatory No. 8: If you intend to rely upon any documents, electronically stored information, or tangible things to support a position you have taken or intend to take in this action, including any claim for damages, provide a brief description, by category and location, of all such documents, electronically stored information, and tangible things, and identify all persons having possession, custody or control of them. (Standard General Interrogatory No.3.)

Answer:

I will rely on the blast e-mails sent to AOTB property owners by the AOTB Property Owners Association and the reviewed documents filed in this case beginning with the second amended complaint filed dated January 13, 2017.

Interrogatory No. 9: If you have ever served as an officer, director, committee chair or member, or in any other leadership role for the Association, identify the capacity in which you served, the dates of service, and describe your duties while serving in that capacity.

Answer:

Not applicable.

Interrogatory No. 10: If you have ever communicated, either orally, in writing, or in any other manner, with Rosalynne Atterbeary, Knowlton Atterbeary, Clyde Coble, or Wilma Coble, regarding title to or use of Magnolia Avenue or Chesapeake Walk, state the date, time, location, and manner of the communication, identify any other person who was present during or had knowledge of the communication, and describe in detail the substance of the communication.

Answer:

I have never initiated an oral or written communication Rosalynne Atterbeary, Knowlton Atterbeary, Clyde Coble, or Wilma Coble, regarding title to or use of Magnolia Avenue or Chesapeake Walk. However, the Plaintiffs did send me and e-mail on April 21, 2017 regarding a meeting they proposed to have with AOTB property owners. I also attended a meeting of the AOTB property owners on January 28, 2017 at which members of the Plaintiffs' families spoke (See responses to Interrogatory Nos. 11 and 12).

Interrogatory No. 11: If you have any knowledge of the problems or concerns regarding title to and use of Magnolia Avenue and Chesapeake Walk experienced by Rosalynne Atterbeary, Knowlton Atterbeary, Clyde Coble, and/or Wilma Coble, that motivated them to file this action against the Association on December 1, 2015, describe in detail your understanding of those problems and/or concerns and state how, when, and under what circumstances you acquired that knowledge.

Answer:

At the AOTB membership meeting on January 28, 2017 a woman stood up and identified herself as a Coble. She stated that she lives in the house next to the Atterbeary's and that they (Coble/Atterbeary families) wanted to obtain the property identified in the second amended complaint filed dated January 13, 2017 because people were making excessive noise until well into the early morning hours creating a disturbance for the Atterbeary's and the Cobles. When asked by an AOTB property owner if they had called the police or the contacted AOTB security she stated, "They don't come."

Interrogatory No. 12: If you have any knowledge of the efforts by Atterbeary and Coble, and/or Rosalynne Atterbeary, Knowlton Atterbeary, Clyde Coble, and/or Wilma Coble, to resolve their concerns with the Association prior to filing this action on December 1, 2015, describe in detail your understanding of those efforts and state how, when, and under what circumstances you acquired that knowledge.

Answer:

An e-mail (apparently from Knowlton Atterbeary) received on April 21, 2017 stated the following:

Subject: Invitation to AOTB Resident Defendants
To: [undisclosed recipients]

You are invited to attend a meeting at the Eastport Annapolis

Neck Library on Wednesday, May 10, 2017 at 7:00 p.m. to discuss the disputed property litigation. We look forward to seeing you there. Please see the attached.

Thank you
Atterbeary and Coble Families

The memo attached to the e-mail set out the Plaintiffs' "concerns." I did not attend the meeting referenced in the e-mail. The e-mail and the attached memorandum are being produced with my responses to Plaintiffs' request for production of documents (MFM 001 – MFM 003).

Interrogatory No. 13: If you dispute the claims by Atterbeary and Coble that they own fee simple title to the Disputed Roads, identify each person you contend does own fee simple title to the Disputed Roads and state all facts and identify all documents upon which you rely to support your contention.

Answer:

The owner of the fee simple title to the Disputed Roads is the Property Owners Association of Arundel on the Bay, Inc. et al. as identified in the document "Defendant/Counter-Plaintiff's Opposition to Plaintiffs' Motion to Dismiss, or in the Alternative, Motion for Summary Judgment, and Request for Hearing (Opp).

Interrogatory No. 14: If you dispute the claim that Coble has possessed Parcel 2 and/or Parcel 3, as shown on *Exhibit 1*, for more than (20) years exclusively, openly, notoriously, or under a claim of right in a manner which evidences Coble's claim of ownership by adverse possession, state all facts and identify all documents upon which you rely to support your contention.

Answer:

I dispute this claim based on information contained in the blast e-mails sent to AOTB property owners by the AOTB Property Owners Association and reviewed the documents filed in this case beginning with the second amended complaint filed dated January 13, 2017.

Interrogatory No. 15: If you contend that you use or have used the Disputed Roads within the past twenty (20) years, describe with specificity, where, when, under what circumstances, and for what purpose you use or have used them.

Answer:

I do not recall walking the disputed area of Magnolia Avenue to the Bay.

Interrogatory No. 16: If you contend that any other person(s) does or has used the Disputed Roads within the past twenty (20) years, identify the person(s) and describe with specificity where, when, under what circumstances, and for what purpose the person(s) uses or has used them.

Answer:

I have no personal knowledge of anyone using this area.

Interrogatory No. 17: If you contend that you or any other person have/has used the Disputed Roads within the past twenty (20) years, describe whether that use changed after this lawsuit was filed in on December 1, 2015 and, if so, describe the frequency, nature, purpose, or other changes in use that occurred after December 1, 2015.

Answer:

I am not aware that anything has changed.

Interrogatory No. 18: State all facts and identify all documents that support your denial of the allegations in Paragraphs 9 and 10 of the Complaint that the Disputed Roads are and have been open and undeveloped grass space and have never been used for vehicular purposes.

Answer:

In the document “Defendant/Counter-Plaintiff’s Opposition to Plaintiffs’ Motion to Dismiss, or in the Alternative, Motion for Summary Judgment, and Request for Hearing (Opp), under Factual Background section pages 3-6 clarify my denial of the allegations in Paragraphs 9 and 10 of the Complaint that the Disputed Roads are and have been open and undeveloped grass space and have never been used for vehicular purposes. In addition, I see that obstructions prohibiting vehicular traffic on the road bed from Magnolia to the Bay have been erected and I did not receive notification from anyone that this action has been taken.

Interrogatory No. 19: State all facts and identify all documents that support your claim in Paragraph 1 of your Answer to the Complaint that the Complaint fails to state a claim upon which relief can be granted.

Answer:

The Plaintiffs’ Second Amended Complaint contains concessions as to the Association’s title to the Disputed Streets. See Opp page 9-13.

Interrogatory No. 20: If you contend that you or any person(s) other than Atterbeary and Coble maintains or has maintained the Disputed Roads, identify the person(s) and describe with particularity where, when, and under what circumstances the maintenance has been performed.

Answer:

I have no personal knowledge of this. It is my understanding that the Association has provided maintenance services on the disputed streets. See Opp pages 11-13.

Interrogatory No. 21: Describe your understanding of any rights you contend you have as a property owner in Arundel on the Bay to use the Disputed Roads, and identify all documents upon which you rely to support your understanding.

Answer:

When I moved to my residence in March 1994, there was not a “welcoming packet” and no information about AOTB was given to me by anyone. However, I was informed by my neighbors Louis Thornton at 3448 Newport Avenue and Harold Smith at 3444 Newport Avenue that Chesapeake Walk was accessible to homeowners in addition to the beach, piers, and boat ramps.

Interrogatory No. 22: Describe your understanding of any rights you contend that the general public (other than owners of lots in Arundel on the Bay) has to use the Disputed Roads, and identify all documents upon which you rely to support your understanding.

Answer:

I have no knowledge of this. My understanding is that this is a private community whose amenities are available for use by residents and guests of residents with the resident in attendance.

Interrogatory No. 23: If you contend that the Association has a right to manage or otherwise oversee the maintenance and use of the Disputed Roads, state all facts and identify all documents upon which you rely to support your contention.

Answer:

It is my understanding that the Association has provided maintenance services on the disputed streets. See Opp pages 11-13.

Interrogatory No. 24: If you have knowledge of a prior civil action litigated between the Association and individual lot owners in Arundel on the Bay captioned Sherry Bellamy, et al. v. Property Owners Association of Arundel on the Bay, Inc. (Civil Case No. 02-C-06-115184), describe when, how, and under what circumstances you obtained that knowledge and state whether you have reviewed or otherwise are aware of the Amended Opinion and Order issued in that action on January 8, 2008 declaring that the individual lot owners owned fee simple title to the platted roads that abut their properties and denying the Association’s claims of title to the roads.

Answer:

Prior to receiving the Plaintiffs' Second Amended Complaint, I had no knowledge of a prior civil action.

Interrogatory No. 25: If you have knowledge of any photograph, plat, plan, video, motion picture, drawing, model, or any other image made of the property shown on *Exhibit 1*, attached hereto, describe the medium on which the image is recorded, identify each person who participated in that process, state the date when the image was made, and identify the person who has present custody of the image.

Answer:

I do not have any knowledge of this.

Interrogatory No. 26: State all facts and identify all documents that support any claim or defense you have made or intend to make in this action not otherwise set forth in your answers to these interrogatories, and identify all persons with knowledge of those claims or defenses.

Answer:

I have no additional facts or documents to submit.

I SOLEMNLY AFFIRM under the penalties of perjury that these interrogatory answers are true to the best of my knowledge, information and belief.

Date: May 22, 2017

/s/ Martha (Fisher) McDowell