

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT IN
AND FOR SUMTER COUNTY, FLORIDA**

Case No. : 2019-CA-500

JESSICA LAUBE and ROBERT HUNTER,

Petitioners,

vs.

VILLAGE CENTER COMMUNITY DEVELOPMENT DISTRICT; ET AL.,

Respondents.

**ORDER ON RESPONDENTS' MOTION TO DISMISS AMENDED PETITION FOR DECLARATORY
JUDGMENT AND INJUNCTIVE RELIEF WITH PREJUDICE, MOTION TO STRIKE**

AND

**ORDER ON RESPONDENT'S MOTION TO DISMISS AMENDED PETITION
FOR DECLARATORY RELIEF AND INJUNCTIVE RELIEF**

THIS COURT having considered Respondents', Village Center Community Development District, Sumter Landing Community Development District (SLDD) and Village Community Development District 10 (hereinafter "Districts")'s Motion to Dismiss Amended Petition for Declaratory Judgment and Injunctive Relief with Prejudice, Motion to Strike and Memorandum of Law in Support, filed on May 8, 2020; Respondent Sumter County Board of County Commissioners' Motion to Dismiss Amended Petition for Declaratory Relief and Injunctive Relief and Memorandum of Law in Support Thereof, filed on May 11, 2020; Petitioners' Motions in Opposition to Motion to Dismiss, filed on May 27, 2020; and having reviewed the record in this case, finds as follows:

A. Petitioners' Amended Petition for Declaratory Judgment and Injunctive Relief, filed on April 29, 2020, requests a declaration of the parties responsible for ensuring Tract A is used in a manner compliant with all applicable law, including prohibiting public access to Tract A and a permanent injunction prohibiting Respondents from allowing public access to Tract A.

Petitioners attached multiple exhibits associated with the development of a portion of The Villages, including Exhibit A consisting of 296 pages and Composite Exhibit E consisting of 1111 pages.

B. Respondents assert Petitioners failed to assert a cause of action; failed to exhaust administrative remedies; Petitioners' claims are time barred; and the Exhibits are overly burdensome. Respondent Districts note that Petitioners have not demanded a jury trial in the Amended Petition as they did in the original Petition, and they request any demand for jury trial be stricken.

C. Florida law is well-settled that the trial court's standard of review regarding a motion to dismiss is as follows:

The purpose of a motion to dismiss is to request the trial court to determine whether the complaint properly states a cause of action upon which relief can be granted and, if it does not, to enter an order of dismissal. The trial court must confine its review to the four corners of the complaint, draw all inferences in favor of the pleader, and accept as true all well-pleaded allegations. It is not for the court to speculate whether the allegations are true or whether the pleader has the ability to prove them. The question for the trial court to decide is simply whether, assuming all the allegations in the complaint to be true, the plaintiff would be entitled to the relief requested.

Huet v. Mike Shad Ford, Inc., 915 So.2d 723, 725 (Fla. 5th DCA 2005)

Thus, this Court must confine its gaze to the four corners of the Complaint, "accept as true" the Plaintiff's allegations, and determine whether the Plaintiff has properly alleged a valid cause of action against the Defendant.

D. The party seeking a declaratory judgment must have such a present interest in the subject matter that he or she will be directly affected by the declaration sought. Branca v. City of Miramar, 634 So. 2d 604 (Fla. 1994). The elements of an action seeking a declaratory judgment require the plaintiff to show there is [1] a bona fide adverse interest between the parties concerning a power, privilege, immunity or right of the plaintiff; [2] the

plaintiff's doubt about the existence or non-existence of his rights or privileges; and [3] that he is entitled to have the doubt removed. See Grove Isle Ass'n, Inc. v. Grove Isle Associates, LLLP, 137 So. 3d 1081 (Fla. 3d DCA 2014).

E. A pleading or complaint seeking injunctive relief must allege every necessary fact clearly, definitely, and unequivocally. See Polk County v. Mitchell, 931 So.2d 922 (Fla. 2d DCA 2006). The essential elements for injunctive relief are (1) an equitable ground, such as the necessity of restraining irreparable injury; (2) a clear legal or equitable right in favor of the party seeking the injunction; (3) an inadequate remedy at law; and (4) considerations of public interest. See Fla. R. Civ. P. 1.610; Charlotte County v. Grant Medical Transp., Inc., 68 So.3d 920 (Fla. 2d DCA 2011).

F. Petitioners' Amended Petition for Declaratory Judgment and Injunctive Relief is vague, conclusory, and unduly burdensome. Petitioners failed to specifically allege the adverse interests between Petitioners and Respondents, including specific citation to a document or the portion of a document providing Petitioners a right to a prohibition of public access to Tract A. Petitioners failed to specifically allege the actions or non-actions of each Respondent entitling Petitioners to equitable relief. Petitioners' attachment of roughly 1400 pages of documents is unduly burdensome. In addition, Petitioners failed to allege exhaustion of administrative remedies, if applicable.

Based upon the foregoing, it is hereby

ORDERED and ADJUDGED as follows:

1. Respondents, Village Center Community Development District, Sumter Landing Community Development District (SLDD) and Village Community Development District 10 (The Districts)'s Motion to Dismiss Amended Petition for Declaratory Judgment and Injunctive Relief with Prejudice is hereby GRANTED in PART.

2. Respondent Sumter County Board of County Commissioners' Motion to Dismiss Amended Petition for Declaratory Relief and Injunctive Relief is hereby GRANTED.

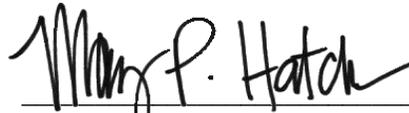
3. Petitioners' Amended Petition for Declaratory Judgment and Injunctive Relief is hereby DISMISSED without PREJUDICE.

4. Respondents Village Center Community Development District, Sumter Landing Community Development District (SLDD) and Village Community Development District 10 (The Districts)'s Motion to Strike is DENIED as MOOT.

5. Petitioners have twenty (20) days from the date of this order to serve and file a Second Amended Complaint that sufficiently asserts a cause of action and comports with Florida substantive law and the Florida Rules of Civil Procedure.

6. In the event the Second Amended Complaint is not filed within the time allowed or the Second Amended Petition fails to assert a cause of action, the Second Amended Complaint may be DISMISSED with PREJUDICE.

DONE AND ORDERED in Chambers, at Bushnell, Sumter County, Florida, on this 22nd day of June 2020.



Mary P. Hatcher
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to the following
by E-Service through the Florida Courts E-Portal on this 22nd day of June 2020.



Susan Shaw
Judicial Assistant

Jerry L. Sessions, II, Esquire
The Sessions Law Firm
Counsel for Petitioners

S. David Cooper, Esquire
Cooper Law, P.A.
Counsel for Petitioners

Jennifer C. Rev, Esquire
The Hogan Law Firm
Counsel for Respondent Sumter County Board of County Commissioners

Stephanie J. Brionez, Esquire
Brionez + Brionez, P.A.
Counsel for Respondents Sumter Landing Community Development District; Village
Community Development District 10; Village Center Community Development District