

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

HIDDEN VILLAGE, LLC,	)	CASE NO.: 1:08-CV-02811
	)	
Plaintiff,	)	JUDGE JAMES GWIN
	)	
vs.	)	<b><u>ANSWER OF DEFENDANTS</u></b>
	)	
CITY OF LAKEWOOD, OHIO, et al.,	)	<b><u>(Jury Demand Endorsed Hereon)</u></b>
	)	
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 for their Answer to the Plaintiff's Complaint state as follows:

**FIRST DEFENSE**

1. In reply to the allegations contained in Paragraphs 1 and 2 of Plaintiff's Complaint, Defendants admit the nature of this action but deny all liability.

2. Defendants deny or deny for want of information all allegations contained in Paragraph 3 of Plaintiff's Complaint.

3. In reply to the allegations contained in Paragraph 4 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 4.

4. In reply to the allegations contained in Paragraphs 5, 6, 7, 8 and 9 of Plaintiff's Complaint, Defendants admit that Defendants George, Barrett, Fitzgerald, Mroz and Malley were at certain times officials or employees of Defendant Lakewood in the positions alleged in

said Paragraphs 5, 6, 7, 8 and 9. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraphs 5, 6, 7, 8 and 9.

5. In reply to the allegations contained in Paragraph 10 of Plaintiff's Complaint, these Defendants reaver and reallege all of their previous answers as if fully rewritten herein.

6. In reply to the allegations contained in Paragraph 11 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 11.

7. Defendants deny or deny for want of information all allegations contained in Paragraphs 12, 13, 14, 15, 16 and 17 of Plaintiff's Complaint.

8. In reply to the allegations contained in Paragraph 18 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 18.

9. Defendants deny or deny for want of information all allegations contained in Paragraphs, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 of Plaintiff's Complaint.

10. In reply to the allegations contained in Paragraph 35 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 35.

11. Defendants deny or deny for want of information all allegations contained in Paragraphs 36, 37, 38, 39, 40, 41, 42, 43 and 44 of Plaintiff's Complaint.

12. In reply to the allegations contained in Paragraphs 45 and 46 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 45 and 46.

13. Defendants deny or deny for want of information all allegations contained in Paragraph 47 of Plaintiff's Complaint.

14. Defendants deny for want of information the allegations contained in Paragraph 48 of Plaintiff's Complaint in that the alleged letter referenced therein is not attached to said Complaint.

15. Defendants deny or deny for want of information the allegations contained in Paragraphs 49 and 50 of Plaintiff's Complaint.

16. Defendants admit the allegations contained Paragraph 51 of Plaintiff's Complaint.

17. In reply to the allegations contained in Paragraph 52 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 52.

18. Defendants deny or deny for want of information the allegations contained in Paragraphs 53 and 54 of Plaintiff's Complaint.

19. Defendants admit the allegations contained in Paragraphs 55 and 56 of Plaintiff's Complaint.

20. Defendants deny or deny for want of information the allegations contained in Paragraphs 57, 58, 59 and 60 of Plaintiff's Complaint.

21. In reply to the allegations contained in Paragraph 61 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 61.

22. Defendants deny or deny for want of information all allegations contained in Paragraphs 62, 63, 64, 65, 66 and 67 of Plaintiff's Complaint.

23. Defendants deny or deny for want of information the allegations contained in Paragraphs 68, 69 and 70 of Plaintiff's Complaint in that the letter alleged therein is not attached to Plaintiff's Complaint.

24. Defendants deny or deny for want of information all allegations contained in Paragraphs 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89 and 90 of Plaintiff's Complaint.

25. Defendants admit the allegations contained in Paragraph 91 of Plaintiff's Complaint.

26. Defendants deny or deny for want of information all allegations contained in Paragraphs 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113 and 114 of Plaintiff's Complaint.

27. In reply to the allegations contained in Paragraph 115 of Plaintiff's Complaint, these Defendants reaver and reallege all of their previous answers as if fully rewritten herein.

28. Defendants deny or deny for want of information all allegations contained in Paragraphs 116, 117, 118, 119, 120 and 121 of Plaintiff's Complaint.

29. In reply to the allegations contained in Paragraph 122 of Plaintiff's Complaint, these Defendants reaver and reallege all of their previous answers as if fully rewritten herein.

30. Defendants deny or deny for want of information all allegations contained in Paragraphs 123, 124, 125 and 126 of Plaintiff's Complaint.

31. Defendants deny or deny for information any and all allegations contained in Plaintiff's Complaint that are not specifically admitted herein.

**SECOND DEFENSE**

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

**THIRD DEFENSE**

33. Statute of limitations.

**FOURTH DEFENSE**

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

**FIFTH DEFENSE**

35. Qualified good faith immunity.

**SIXTH DEFENSE**

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

**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/James A. Climer*

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**JURY DEMAND**

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

*s/James A. Climer*

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JAMES A. CLIMER (0001532)

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, January 12, 2009, a copy of the foregoing 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/James A. Climer*

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JAMES A. CLIMER (0001532)

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*