

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>DEFENDANTS' ANSWER TO</u></b>
	)	<b><u>PLAINTIFF'S FIRST AMENDED</u></b>
CITY OF LAKEWOOD, OHIO, et al.,	)	<b><u>COMPLAINT</u></b>
	)	
Defendants.	)	<b>(Jury Demand Endorsed Hereon)</b>

Now come Defendants City of Lakewood, Thomas J. George, Charles E. Barrett, Edward E. Fitzgerald, Lawrence Mroz., Timothy J. Malley, and Edward Favre, by and through counsel Mazanec, Raskin, Ryder & Keller Co., L.P.A., and for their Answer to the Plaintiff's First Amended Complaint state as follows:

**FIRST DEFENSE**

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

2. In response to Paragraph 2 of Plaintiff's First Amended Complaint, Defendants admit that the City of Lakewood is a recipient of Community Development Block Grants and other federal funding. The City's legal obligations with respect to its receipt of federal funding are delineated under federal law and, as appropriate, under the grants themselves. Defendants deny for want of information all the allegations contained in the remainder of Paragraph 2 of Plaintiff's First Amended Complaint.

3. In reply to the allegations contained in Paragraph 3 of Plaintiff's First Amended Complaint, Defendants admit the nature of this action but deny all liability.

4. In reply to the allegations contained in Paragraph 4 of Plaintiff's First Amended Complaint, Defendants admit that jurisdiction is proper in this action.

5. Defendants note that Plaintiff's First Amended Complaint does not include Paragraphs numbered 5, 6, 7, 8 or 9.

6. In response to Paragraph 10 of Plaintiff's First Amended Complaint, Defendants deny or deny for want of information all the allegations contained therein.

7. Defendants note that Plaintiff's First Amended Complaint does not include Paragraph numbered 11.

8. In response to the allegations contained in Paragraph 12 of Plaintiff's First Amended Complaint, Defendants admit that Defendant City of Lakewood is a municipal corporation organized under the laws of the State of Ohio, and has been a recipient of federal funds including a Community Development Block Grant. Further answering Paragraph 12 of Plaintiff's First Amended Complaint, Defendants deny or deny for want of information all other allegations contained in the remainder of Paragraph 12 of Plaintiff's First Amended Complaint.

9. In response to the allegations contained in Paragraphs 13, 14, 15, 16, 17, and 18 of Plaintiff's First Amended Complaint, Defendants admit that Defendants George, Barrett, Fitzgerald, Mroz, Malley, and Favre were at certain times officials or employees of Defendant Lakewood in positions alleged in the respective paragraphs. Further answering, Defendants deny or deny for want of information all other allegations contained said paragraphs 13, 14, 15, 16, 17, and 18 of Plaintiff's First Amended Complaint.

10. In response to Paragraph 19 of Plaintiff's First Amended Complaint, Defendants reaver and reallege all of their previous answers in paragraphs 1 through 9 as if fully rewritten herein.

11. In response to the allegations contained in Paragraph 20 of Plaintiff's First Amended Complaint, Defendants admit that the Defendant City of Lakewood is a suburb of the City of Cleveland Ohio, but deny or deny for want of information all the allegations contained in the remainder of Paragraph 20 of Plaintiff's First Amended Complaint.

12. In response to Paragraphs 21, 22, 23, 24, 25, and 26 of Plaintiff's First Amended Complaint, Defendants deny or deny for want of information all the allegations contained in said paragraph of Plaintiff's First Amended Complaint.

13. In response to Paragraph 27 of Plaintiff's First Amended 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 paragraph 27 of Plaintiff's First Amended Complaint.

14. In response to Paragraphs 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, and 43 of Plaintiff's First Amended Complaint, Defendants deny or deny for want of information all the allegations contained in said paragraphs of Plaintiff's First Amended Complaint.

15. In response to Paragraph 44 of Plaintiff's First Amended Complaint, Defendants admit that certain officials of Defendant City of Lakewood held the genuine belief that YRP use was institutional rather than residential and not appropriate in the zoning district for which it was proposed and used. Further answering Defendants deny or deny for want of information all other allegations contained in paragraph 44 of Plaintiff's First Amended Complaint.

16. In response to Paragraphs 45, 46, 47, 48, 49, 50, 51, and 52 of Plaintiff's First Amended Complaint, Defendants deny or deny for want of information all the allegations contained in said paragraphs of Plaintiff's First Amended Complaint.

17. In response to Paragraphs 53, 54, and 55 of Plaintiff's First Amended 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 of Plaintiff's First Amended Complaint.

18. In response to Paragraph 56, of Plaintiff's First Amended Complaint, Defendants deny or deny for want of information all the allegations contained in said paragraph of Plaintiff's First Amended Complaint.

19. In response to Paragraph 57 of Plaintiff's First Amended Complaint, Defendants admit that Defendant George wrote a letter to Jan Roller, President of Lutheran Metropolitan Ministries on or about February 28, 2004. The letter is not attached to Plaintiff's First Amended Complaint, and Plaintiff does not accurately represent the entire letter. Therefore, Defendants deny the remaining allegations contained in Paragraph 57 of Plaintiff's First Amended Complaint.

20. In response to Paragraphs 58 and 59 of Plaintiff's First Amended Complaint, Defendants deny or deny for want of information all the allegations contained therein.

21. In response to Paragraph 60 of Plaintiff's First Amended Complaint, Defendants admit the allegations contained therein.

22. In response to Paragraph 61 of Plaintiff's First Amended 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.

23. In response to Paragraphs 62 and 63 of Plaintiff's First Amended Complaint, Defendants deny or deny for want of information all the allegations contained in said paragraphs.

24. In response to Paragraphs 64 and 65 of Plaintiff's First Amended Complaint, Defendants admit the allegations contained therein.

25. In response to Paragraphs 66, 67, 68, and 69 of Plaintiff's First Amended Complaint, Defendants deny or deny for want of information all the allegations contained in said paragraphs.

26. In response to Paragraph 70 of Plaintiff's First Amended Complaint, Defendants admit that some or all of the apartment buildings operated by Plaintiff were formerly used to house students at the diesel mechanics school, but deny or deny for want of information all other allegations contained in said paragraph.

27. In response to Paragraphs 71, 72, 73, 74, 75, and 76 of Plaintiff's First Amended Complaint, Defendants deny or deny for want of information all the allegations contained in said paragraphs.

28. In response to Paragraph 77, 78, and 79 of Plaintiff's First Amended Complaint, Defendants admit that on or about April 28, 2007, Defendant Thomas George wrote a letter to Lutheran Metropolitan Ministries. However, the letter is not attached to Plaintiff's First Amended Complaint, and Plaintiff does not accurately represent the entire letter. Therefore, Defendants deny or deny for want of information the remaining allegations contained in paragraphs 77, 78, and 79 of Plaintiff's First Amended Complaint.

29. In response to Paragraphs 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, and 99, Defendants deny or deny for want of information all the allegations contained in said paragraphs.

30. In response to Paragraph 100 of Plaintiff's First Amended Complaint, Defendants admit the allegations contained therein.

31. In response to Paragraphs 101, 102, 103, 104, 105, 106, 107, 108, 109, and 110, Defendants deny or deny for want of information all the allegations contained therein.

32. In response to Paragraph 111 of Plaintiff's First Amended Complaint, Defendants reaver and reallege all of their previous answers in paragraphs 1 through 31 as if fully rewritten herein.

33. In response to Paragraphs 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, and 124, of Plaintiff's First Amended Complaint, Defendants deny or deny for want of information all the allegations contained therein.

34. In response to Paragraph 125 of Plaintiff's First Amended Complaint, Defendants reaver and reallege all of their previous answers in paragraphs 1 through 33 as if fully rewritten herein.

35. In response to Paragraphs 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, and 136, Defendants deny or deny for want of information all the allegations contained therein.

### **SECOND DEFENSE**

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

### **THIRD DEFENSE**

37. Statute of Limitations.

**FOURTH DEFENSE**

38. Any and all actions or failures to act alleged against Defendants were motivated by legitimate nondiscriminatory reasons.

**FIFTH DEFENSE**

39. Qualified good faith immunity.

**SIXTH DEFENSE**

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

**WHEREFORE**, having fully answered, Defendants pray that Plaintiff's First Amended 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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**JURY DEMAND**

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

*s/Robert F. Cathcart*

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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, Timothy J. Malley, and Edward Favre

**CERTIFICATE OF SERVICE**

I hereby certify that on Monday, March 30, 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/Robert F. Cathcart*

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