

IN THE IOWA DISTRICT COURT FOR CLAYTON COUNTY

RIVER BLUFF RESORT, LLC,)
)
)
 Plaintiff,) No. LACV 7074
)
)
 vs.)
) ANSWER AND COUNTERCLAIM
)
 HARLAN DETTMAN, GREGORY)
)
 KOETHER, RONALD KLEINOW, and)
)
 TIMOTHY MASON,)
)
)
 Defendants.)

Come now the Defendants and for their Answer and Counterclaim to the Plaintiff's Petition, state to the Court as follows:

ANSWER

1. Paragraph 1 of Plaintiff's Petition is denied for lack of knowledge.
2. Paragraph 2 of Plaintiff's Petition is admitted.
3. Paragraph 3 of Plaintiff's Petition is denied.
4. Paragraph 4 of Plaintiff's Petition is denied.
5. Paragraph 5 of Plaintiff's Petition is denied.
6. Paragraph 6 of Plaintiff's Petition is denied.
7. Paragraph 7 of Plaintiff's Petition is admitted as a general statement of the Defendants' action against the Board of Supervisors, but the Defendants deny the allegations in Paragraph 7 as a complete and specific statement of the Plaintiffs' action against the Board of Supervisors.
8. Paragraph 8 of Plaintiff's Petition is denied.
9. Paragraph 9 of Plaintiff's Petition is denied.
10. Paragraph 10 of Plaintiff's Petition is denied.

11. Paragraph 11 of Plaintiff's Petition is denied.

12. Paragraph 12 of Plaintiff's Petition is denied.

13. Paragraph 13 of Plaintiff's Petition is denied.

14. Paragraph 14 of Plaintiff's Petition is admitted to the extent that there was an agreement, but Defendants deny the allegations as to the specific terms of the agreement.

15. Paragraph 15 of Plaintiff's Petition is admitted.

16. Paragraph 16 of Plaintiff's Petition is denied.

17. Paragraph 17 of Plaintiff's Petition is denied.

18. Paragraph 18 of Plaintiff's Petition is denied.

19. Paragraph 19 of Plaintiff's Petition is denied.

20. Paragraph 20 of Plaintiff's Petition is denied.

21. Paragraph 21 of Plaintiff's Petition is denied.

22. Paragraph 22 of Plaintiff's Petition is denied.

23. Defendants raise the following affirmative defenses: Failure to state a claim on which any relief can be granted; and the Defendants' right to freedom of speech and to petition the government.

WHEREFORE, Defendants request that the Plaintiff's Petition be dismissed at Plaintiff's cost.

COUNTERCLAIM

1. The Defendants are residents and taxpayers in Clayton County, Iowa.

2. Ever since the Defendants learned of the plans by River Bluff Resort to construct a hotel, water park, golf course, and residential development in rural Clayton County, using tax increment financing provided by Clayton County, they have petitioned the Clayton County Board of Supervisors and other public entities not to provide public money or financial incentives to River Bluff for this project.

3. Initially, River Bluff, in complicity with the Clayton County Board of Supervisors, sought financial support for this project from the Vision Iowa program. After an investigation of the backgrounds of the principals involved and concerns about the financial viability of the project, the Vision Iowa Board, on April 7, 2003, decided the project was too risky and decided not to finance the project.

4. After Vision Iowa withdrew funding for the project, River Bluff and the Board of Supervisors negotiated an attempt to continue the project without Vision Iowa funds. These negotiations were unsuccessful, because of the demands of River Bluff, until James Daughtry, an officer of River Bluff, sent the Board of Supervisors an e-mail threatening to sue Clayton County for \$3,000,000 in costs and lost profits. A week after that threat, the

agreement between Clayton County and River Bluff was signed.

5. The Defendants then exercised their legal rights to challenge the actions of the Board of Supervisors in creating an urban renewal district specifically for River Bluff and providing tax increment financing for the project. This suit was similar to many other actions that have been filed against local governments regarding implementation of the urban renewal law. The Defendants have never filed a legal action against River Bluff. Nor did the Defendants seek an injunction or similar procedure to prevent River Bluff from continuing with the project.

6. During the proceedings in the above-mentioned lawsuit, the Board of Supervisors twice moved for summary judgment and those motions were both denied by the court.

7. After the district court ruled in favor of the Board of Supervisors, the attorney for River Bluff, on October 4, 2004, sent the Defendants' attorney a letter demanding that the Defendants "immediately" dismiss their appeal of the district court ruling, or else River Bluff would sue the Defendants for alleged damages.

8. The Plaintiff's Petition in this action is a malicious prosecution because this action was instigated by the Plaintiff with malice and without probable cause, and will be terminated successfully for the Defendants, proximately causing damages to the Defendants.

9. The Plaintiff's Petition in this action is also an abuse of process because it was instituted by the Plaintiff primarily for the purpose of intimidating the Defendants into giving up their right to appeal the decision of the district court in the lawsuit against the Board of Supervisors, proximately causing damages to the Defendants.

10. The filing of this action by the Plaintiff was intentional and malicious, justifying an award of punitive damages.

WHEREFORE, the Defendants request judgment against the Plaintiff for full, fair and adequate compensation for injuries and damages actually sustained, for punitive damages in an amount sufficient to punish the Plaintiff and to deter others from similar conduct, and for the costs of this action.

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