

69637-8

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No. 69637-8-I

COURT OF APPEALS, DIVISION I
STATE OF WASHINGTON

CINDY ALEXANDER, et al.,

Appellants,

v.

GARY SANFORD, et al.,

Respondents.

ELECTED BOARD MEMBER RESPONDENTS'
JOINDER IN THE RELIEF REQUESTED IN THE
BRIEF OF RESPONDENTS SANFORD,
BURCKHARD, SANSBURN, AND LOZIER HOMES
CORPORATION

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COURT OF APPEALS
STATE OF WASHINGTON
DIVISION I

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I. INTRODUCTION

The “Elected Board Member Respondents” or “these respondents” hereby join in the relief requested in the brief filed this same day by respondents Sanford, Burckhard, Sansburn, and Lozier Homes Corporation (the “Developer Respondents”).¹ Except to identify additional facts in the record pertinent to the Elected Board Member Respondents, these respondents will not submit separate briefing.

Plaintiffs’ complaint alleges claims against (1) Huckleberry Circle Condominium Owners Association board members appointed by the declarant, Huckleberry Circle, LLC, (Sanford, Burckhard, and Sansburn), and (2) Lozier Homes Corporation, which plaintiffs allege to be vicariously liable for the actions of Sanford, Burckhard, and Sansburn. Plaintiffs’ complaint also alleges claims against other board members who were elected by the unit owners and were not appointed by the declarant—namely respondents Richard Peter, Shana Holley, Brett Backues,

¹ The Elected Board Member Respondents did not seek an award of attorney fees below and therefore do not seek cross review or relief with regard to that issue.

Joseph Cusimano, Patricia Hovda-Pedersen, and Alexander Philip.² This joinder is submitted on behalf of these “Elected Board Member Respondents” and their spouses.

II. ADDITIONAL FACTS

The record on appeal reflects that the Elected Board Member Respondents resigned from the board as follows (alphabetically):

Brett Backues: Resigned on an unspecified date before September 2008. CP 358 (stipulation).

Joseph Cusimano: Resigned June 27, 2006. CP 20 (complaint ¶ 2.79).

Shana Holley: Resigned on an unspecified date before September 2008. CP 358 (stipulation).

² The complaint also names the spouses of these board members, including specifically the spouses of board members Richard Peter, Brett Backues, Joseph Cusimano, and Alexander Philip. Although the spouse of board member Shana Holley, Richard Holley, is named, the Holleys were divorced at all relevant times; a default was taken against Richard Holley, who is not represented and is not a party to this appeal. The complaint names Patricia Hovda and spouse, whose actual names are Patricia Hovda-Pedersen and William Pedersen.

Board member Jason Farnsworth, named in the complaint, was not served and is not a party to this appeal.

Patricia Hovda-Pedersen: Resigned on an unspecified date before September 2008. CP 358 (stipulation).

Richard Peter: Resigned on an unspecified date before September 2008. CP 356 (stipulation).

Alexander Philip: Resigned on an unspecified date before September 2008. CP 375 (stipulation).

With one exception, the only claim asserted against the Elected Board Member Respondents is a claim for Breach of Board Member Duty of Care.³ CP 23. As elected board members, these respondents were required to exercise only “ordinary and reasonable care” in the performance of their duties. RCW 64.34.308(1).

III. JOINDER

The Elected Board Member Respondents hereby join in the relief requested on appeal by the Developer Respondents (except on cross review). The Elected Board Member Respondents do not provide additional briefing on the issues in response to the appeal.

³ The complaint also asserts a claim for Fraud by Omission and Misrepresentation against Richard Peter. CP 26.

DATED this 4th day of June, 2013.

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⁴ Attorneys Sale and Carstens are also associated counsel of record for respondents Sansburn, Sanford, Burckhard, and Lozier Homes Corporation.

CERTIFICATE OF SERVICE

The undersigned certifies that on this 4th day of June, 2013, I caused to be served the foregoing document to:

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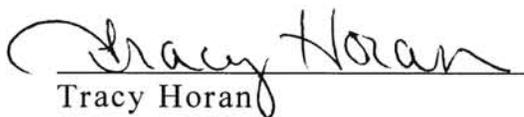
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I declare under penalty of perjury under the laws of the state of Washington this 4th day of June, at Seattle, Washington.


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