

18CV-1887-1

FEB 18, 2019 05:02 PM



Greg G. Allen, Clerk
Forsyth County, Georgia

IN THE SUPERIOR COURT OF FORSYTH COUNTY

STATE OF GEORGIA

VINAY BOSE, MOMMIES PROPERTIES,
LLC, and FH PARTNERS, LLC
Plaintiffs,

vs.

JOHN RICHARDS, CHATTAHOOCHEE RIVER
CLUB HOMEOWNERS ASSOCIATION, INC.,
And JOHN DOE and JANE DOE,
Defendants

Civil Action File No.: 18-CV-1887-1

FORSYTH COUNTY'S MOTION FOR PROTECTIVE ORDER

COMES NOW, by way of special appearance, non-party Forsyth County, Georgia ("the County" or "Forsyth County"), and respectfully moves the Court for a Protective Order in reference to Plaintiff Vinay Bose's Request for Production of Documents to Non-Party – Forsyth County, Georgia ("RPD"), based on the following grounds:¹

I. INTRODUCTION

Plaintiff Vinay Bose ("Bose") sent Forsyth County a Request for Production of Documents, which Forsyth County received on January 31, 2019. (Bose's RPD is attached hereto as Exhibit "A"). Bose filed and served the RPD in his capacity as a *pro se* litigant. The RPD demands the production of documents within thirty (30) days of receipt of the request, which is Saturday, March 2, 2019. In accordance with Superior Court Rule 6.4, the undersigned has attempted to confer

¹ This case may be in default. See Plaintiffs' Motion for Default Judgment, filed January 7, 2019. Forsyth County expresses no opinion on the pending Motion to Open Default, or on the merits of same. This Court is presently scheduled to consider the Motion to Open Default on March 28, 2019. Without expressing an opinion on the merits of default, Forsyth County notes that discovery – including the instant RPD – is likely unnecessary if default is not opened.

with Bose to negotiate a reasonable set of requests. Specifically, on February 13, 2019, the undersigned sent Bose a letter, via email, outlining the County's grounds for objecting to the RPD and requesting a more narrowly tailored Request for Production of Documents.² This letter is attached hereto as Exhibit "B."

As of the date of filing of this Motion, the County has not received a response to its correspondence to Bose. Although the County would still welcome an amicable discussion with respect to the scope of Bose's RPD, the County must assume that Bose opposes the County's request to narrow the RPD. Therefore, and respectfully, for the reasons outlined herein, the County moves for a Protective Order. The County's position is that the RPD (on its face) seeks privileged documents, is unduly burdensome, prohibitively expensive, and many of the requested documents appear irrelevant to the instant case.

II. STANDARD FOR A PROTECTIVE ORDER

Under O.C.G.A. § 9-11-26(c) Georgia's courts have discretion, "for good cause shown," to "make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including . . . [t]hat the discovery may be had only on specified terms and conditions" and "that certain matters not be inquired into or that the scope of the discovery be limited to certain matters." Further, a third-party is only required to provide relevant and nonprivileged documents. O.C.G.A. § 9-11-34(c)(1); Sechler Family P'ship v. Prime Grp., Inc., 255 Ga. App. 854, 854 (2002).

² Bose is the sole representative of Mommies Properties, LLC. The County is presently in litigation with Mommies Properties, LLC, in Mommies Properties LLC v. Forsyth County, Civil Action No. 18CV-1197-2. In that case, Mommies Properties LLC – and, therefore, Bose – is counseled by Stuart Teague. In this case, Teague does not appear to represent Bose in his personal, individual capacity. However, to avoid the appearance of improper communications or any misunderstandings, Teague was copied on Forsyth County's February 13, 2019 correspondence to Bose.

III. ARGUMENT AND CITATION TO AUTHORITY

A. Bose's RPD is Unduly Burdensome and Prohibitively Expensive

The RPD is directed at “each and every commissioner, director, manager, consultant, attorney, officer and/or employee of Forsyth, as well as to the knowledge and information of Forsyth, its attorneys, agents, and other representatives including but not limited to the following departments: Engineering Department, Planning & Development; Inspections and Inspectors; [a]ny and all County Commissioners; Attorney[s] (Jarrard & Davis & Rich Neville); Planning Commissioner’s office; [a]ny and all Planning Commissioners; ZBA and any or all of its members; and general public (non-county employees).” (Exhibit A, p. 2). The RPD directs the production of *all* “documents including but not limited to notes, photographs, audio recording, video recording, journal entries, transcripts, memo’s, communication, correspondence [p]lus emails and all attachments to the emails,” from August 1, 2017 to the present for documents pertaining to:

- (1) A “stop work order” to the extent that it pertains to the “Chattahoochee River Club Subdivision and/or Mommies Properties LLC and/or Vinay Bose”;
- (2) “Mommies Properties LLC” and/or “Mommies Properties” generally;
- (3) “Vinay Bose”, or “Bose”, or “Vinay”;
- (4) “Chattahoochee River Club”, “Chattahoochee River Club Subdivision”, “CRC”, “CRC HOA”, “Chattahoochee River Club Home Owners Association”, or “Chattahoochee River Club Homeowners Association, Inc.”;
- (5) “3450 Bentwood Drive, Cumming GA 30041” or any reference to the “property address located at 3450 Bentwood Drive, Cumming, GA 30041”;
- (6) An “Equestrian Center” if it pertains to the “Chattahoochee River Club Subdivision and/or Mommies Properties, LLC, and/or Vinay Bose”;

- (7) “Horse Stables”, if it pertains to the “Chattahoochee River Club Subdivision and/or Mommies Properties, LLC, and/or Vinay Bose”;
- (8) “Grading Without Permit” if it pertains to the “Chattahoochee River Club Subdivision and/or Mommies Properties, LLC, and/or Vinay Bose”;
- (9) “Land Disturbance Without Permit” or “Land Disturbance”; if it pertains to the “Chattahoochee River Club Subdivision and/or Mommies Properties, LLC, and/or Vinay Bose”;
- (10) Communications between Forsyth County and the Georgia Department of Natural Resources Environmental Protection Division or Georgia EPD, if it pertains to the Chattahoochee River Club Subdivision or Mommies Properties, LLC, or Vinay Bose; and
- (11) Communications between Forsyth County and the United States Army Corps of Engineers or USACE, if it pertains to the Chattahoochee River Club Subdivision or Mommies Properties, LLC, or Vinay Bose.

Although some of Bose’s requests are more narrow, under the terms of this RPD, Bose is seeking any and all records from August 1, 2017 to the present that contain the phrases:

- (1) “Chattahoochee River Club”, “Chattahoochee River Club Subdivision”, “CRC”, “CRC HOA”, “Chattahoochee River Club Home Owners Association” or “Chattahoochee River Club Homeowners Association, Inc.”;
- (2) Mommies Properties, LLC or Mommies Properties;
- (3) “Vinay Bose” to include documents that individually reference “Bose” or “Vinay”; and
- (4) 3450 Bentwood Drive.

This is an extraordinarily expansive request, such that it is unduly burdensome, prohibitively expensive, and many of the requested documents appear to be irrelevant to the instant case. Further, as described below, many of the documents Bose seeks are clearly protected by attorney-client privilege or attorney work product.

To place this request in context, a brief overview of the responsive records is warranted. In an attempt to respond, the County conducted a good-faith preliminary search of its records, to include its IT servers. Based on that search, the County estimates that there are approximately **417** pages of hard-copy documents responsive to this request. There are also approximately **2,910** responsive emails. Conservatively, assuming that each email generates approximately three pieces of printed paper, this RPD is seeking **8,730** pages of emails (2,910 x 3).³ Combined with the hard-copy documents, that equates to **9,147** pages of paper (417 + 8,730). Charging \$0.10 per page, it is estimated that this request will incur approximately **\$914.70** for copy charges alone.

Respectfully, copying charges are a fraction of the actual cost to respond to this RPD. The County cannot simply provide its email correspondence to Bose without printing, reviewing, and redacting the correspondence first. Emails may contain privileged information and, in some cases, an email may contain information that is *partially* subject to disclosure and *partially* privileged. In such situations, the County must produce the unprivileged portion of the record while redacting the remainder. This is a time-consuming process that requires each individual responsive document to be printed and visually inspected for possible protected information. Consequently, the documents must be printed, reviewed, redacted (if applicable) and manually produced.

³ This is a conservative estimate. Forsyth County generally assumes (for ORA request purposes) that each email will generate approximately three pieces of printed paper. Some printed emails generate more; some less. Additionally, this does not account for any attachments that will likely be a part of those responsive emails.

Considering *only* County employee time – and not factoring in the time spent by the County’s legal counsel – responding to this RPD will require County employees to spend approximately **eighty-nine and a half (89 ½) hours** to search for, retrieve, redact, and produce the requested records. Applying the pertinent hourly rate that these employees are paid, the labor alone will result in an administrative cost of approximately **\$1,895.26**.⁴ The time and expense, alone, make responding to this RPD extremely burdensome for the County. If the County were permitted to charge the full cost of responding to this request – excluding attorney’s fees – responding to this RPD would cost approximately **\$2,809.96 (\$914.70 + \$1,895.26)**. This is a good-faith, conservative estimate.

Of course, absent relief from this Court, under O.C.G.A. § 9-11-34(c) the County may only charge “a reasonable document copy charge” for producing records under a Request for Production of Documents. As explained above, the County estimates that it may ‘recoup’ approximately \$914.70 responding to Bose’s RPD, which accounts only for the ‘paper’ costs of production. Accordingly, without this Court’s intervention, the County will be required to expend **\$1,895.26** in administrative costs (and taxpayer money) searching for, retrieving, redacting, and producing records responsive to Bose’s RPD without compensation.

⁴ This estimate utilizes Forsyth County’s formula for responding to an Open Records Act request. Although this is *not* a request under the Open Records Act, the Act provides a good method of evaluating the burden of this request. Under the Act, the County is authorized to charge for the search, retrieval, redaction, and production or copying costs involved in responding to a request. In this case, responding to this request will take (A) an employee earning an hourly rate of \$16.00 per hour approximately one (1) hour; (B) an employee earning an hourly rate of \$14.56 per hour approximately forty (40) hours; (C) an employee earning an hourly rate of \$16.45 approximately one (1) hour; (D) an employee earning an hourly rate of \$34.09 approximately four (4) hours; and (E) an employee earning an hourly rate of \$26.30 approximately forty-three (43) hours and thirty (30) minutes to compile the requested documents. These employees are the lowest paid, full-time employee who possesses the necessary skills to respond to this RPD. Collectively, these employees will expend nearly ninety (90) hours of County employee time responding, which is \$1,895.26 in administrative time and cost.

Additionally, for purposes of considering the context of the County’s Motion for Protective Order, it should be noted that this is not the first time Bose has sought these documents. On July 13, 2018, Bose submitted a *similar* (although less expansive) request under the Open Record Act (“ORA”). Under the ORA, the County estimated that responding to Bose’s July 13, 2018 ORA request would cost approximately \$1,925.73 and requested pre-payment for same, before the records were produced. (See Exhibit “C”). Faced with this cost, Bose *declined* to pay for his ORA request and did not submit a modified request. Now, however, Bose seeks to use this Court’s compulsory power to require the County to produce *even more* records than previously requested – this time using a procedural vehicle that only allows a fraction of the cost recovery as is allowed under the ORA. Consequently, Bose is effectively using this Court’s compulsory power to seek *more* records at a *fraction* of the cost, when he previously declined to pay a reasonable rate for a similar request.

B. Many Responsive Documents Are Clearly Unrelated to Bose’s Litigation

As explained *supra*, responding to Bose’s request will require the County to produce *all* non-privileged records relating to the Chattahoochee River Club Subdivision, Mommies Properties LLC, Vinay Bose, and 3450 Bentwood Drive. Complying with this request will require the County to sift through approximately 9,147 pages of material.

Under Georgia law, a third-party is only required to provide *relevant* and *nonprivileged* documents in response to a Request for Production of Documents. See O.C.G.A. § 9-11-34(c)(1); Sechler Family P’ship, 255 Ga. App. 854. “Items that are neither pertinent nor relevant need not be produced.” Walker v. Bruhn, 281 Ga. App. 149, 151 (2006). Accordingly, this Court “has wide discretion in entering orders to prevent the use of discovery directed at irrelevant or immaterial matter.” Atlanta Journal-Constitution v. Jewell, 251 Ga. App. 808, 812 (2001).

The County acknowledges that there may be relevant records contained in Bose's expansive request; however, it is probable that *hundreds* of pages of documents responsive to the terms of the RPD are *irrelevant* to the instant civil action. A preliminary review of Bose's Petition to Quiet Title demonstrates that this case, at its core, involves the applicability of certain covenants and easements affecting 3450 Bentwood Drive. (Petition for Quiet Title). However, and by way of example, responding to this request will require the County to provide *any* record that mentions the Chattahoochee River Club Subdivision since August 1, 2017. The Chattahoochee River Club Subdivision contains approximately 620 lots and households. (Petition, ¶ 7). Accordingly, any building permit issued to a resident of the subdivision would be responsive. It is unclear how a neighbor's building permit relates to this litigation.

The above, non-exhaustive example is intended to demonstrate that by filing such a broad and expansive request - Bose will necessarily receive *hundreds* of irrelevant pages. The County should not be required to expend its resources to provide *hundreds* (if not thousands) of pages of irrelevant material, due to Bose's disinclination to narrowly target his request for only relevant records.

C. Bose's Request Seeks the Production of Privileged Material

On the face of Bose's RPD, he seeks documents – including correspondence – of *numerous* attorneys. This is not incidental to the RPD: he specifically states that he demands the records of Jarrard & Davis, LLP and attorney Rich Neville. Jarrard & Davis, LLP represents Forsyth County, and attorney Rich Neville represents the Forsyth County's Zoning Board of Appeals. Additionally, Forsyth County is presently defending litigation filed against the County by Mommies Properties, LLC in Mommies Properties, LLC v. Forsyth County, Civil Action No. 18CV-1197-2. That case

involves five appeals from the Zoning Board of Appeals, and relates to County Stop Work Orders and Land Disturbance Permits.⁵

This RPD is, therefore, seeking communications and records that are protected by attorney-client privilege, the work product doctrine, and the protection against the release of trial preparation communications, documents, and materials that are prepared in anticipation of litigation. Bose, respectfully, *does not* have a right to this privileged material. See generally, St. Simons Waterfront, LLC v. Hunter, Maclean, Exley & Dunn, P.C., 293 Ga. 419 (2013); NationsBank, N.A. v. SouthTrust Bank of Georgia, N.A., 226 Ga. App. 888, 896 (1997). Further, O.C.G.A. § 24-5-501(a)(2) provides that communications between attorney and client are excluded from evidence on grounds of public policy. Bose's RPD that seeks *any and all* correspondence between Jarrard & Davis, LLP and Forsyth County employees (or attorney Rich Neville and Forsyth County employees) almost assuredly encompasses privileged communications, work product, and trial materials shared between attorney and client relating to legal opinions, legal conclusions, legal strategy, thoughts, theories and mental impressions of counsel. Because such communications would be protected from disclosure, in an abundance of caution Forsyth County moves for an Order specifying that *no* records containing attorney-client privilege, work product, or trial materials are subject to disclosure.

IV. REQUESTED RELIEF

Forsyth County may be the custodian of records that are relevant and necessary for Bose's litigation. However, as presently worded, Bose's RPD will require the County to sift through an

⁵ To the extent Bose seeks records to bolster his case in Mommies Properties, LLC v. Forsyth County, that case is proceeding by writ of certiorari and the record cannot be supplemented by additional evidence. York v. Athens Coll. of Ministry, Inc., 348 Ga. App. 58, 821 S.E.2d 120, 123 (2018).

estimated 2,910 emails (approximately 8,730 pieces of paper); produce an estimated 417 additional pages in hard copy; and spend approximately ninety (90) hours of County time processing this RPD. Although not factored into the cost above, this RPD will also require significant attorney review time, as Mommies Properties is presently in litigation with Forsyth County. This request is incredibly broad and, as worded, will likely produce hundreds of pages of material that are irrelevant and immaterial to the present litigation. Further, it expressly seeks privileged records, which Bose has no legal right to obtain.

To be clear, Forsyth County is not endeavoring to entirely shut down Bose's RPD. Rather, Forsyth County is seeking a more narrowly tailored RPD, which is better targeted at producing non-privileged, relevant materials. Targeted requests – including some of the targeted requests already contained in the RPD – are less burdensome on the County and more likely to produce relevant, non-privileged records. To that end, the County requests that this Court:

- (1) Strike paragraph 4 – seeking all documents including the terms “Chattahoochee River Club”, “Chattahoochee River Club Subdivision”, “CRC”, “CRC HOA”, “Chattahoochee River Club Home Owners Association” and/or “Chattahoochee River Club Homeowners Association, Inc.” in its entirety;⁶
- (2) Strike the specific requests that the County produce *any* documents containing just the words “Vinay” or “Bose”;
- (3) Strike the request that Jarrard & Davis, LLP and Rich Neville produce documents in their exclusive custody and control;


⁶ Searching for all records relating to the Chattahoochee River Club subdivision – without a secondary search term – will likely produce the majority of the irrelevant documents. Respectfully, searching for “equestrian center” *and* “Chattahoochee River Club subdivision” (with the search query requiring ‘hits’ on both key phrases) is more likely to produce relevant materials. Accordingly, Forsyth County would prefer combined requests of that nature.

(4) Otherwise Order that records containing privileged information are not subject to disclosure.

Additionally, due to the size of this RPD, Forsyth County respectfully requests that it be permitted to charge Bose the *entire* reasonable cost of production as calculated using the fee shifting methodology of the ORA. Georgia Emission Testing Co. v. Reheis, 268 Ga. App. 560, 564 (2004) (a litigant may be required to pay a third-party's reasonable costs for producing the discovery). The ORA allows the County to impose a "reasonable charge for the search, retrieval, redaction, and production or copy costs for the production of records," which includes charging for the prorated hourly salary of the lowest paid full-time employee who has the necessary skills and training to perform the request. O.C.G.A. § 50-18-71(c)(1). As outlined above, a good-faith estimate indicates that responding to this request will require the County to expend eighty-nine (89) hours and thirty (30) minutes; thereby translating (applying the pertinent hourly rates) to \$1,895.26 in direct administrative costs. This does not include attorney's fees. Accordingly, the County requests an Order stating that it may charge Bose in the same manner as he would have been charged under the ORA – which may ultimately be more, or less, than the County presently estimates.

Respectfully submitted this 18th day of February, 2019.

JARRARD & DAVIS, LLP



Paul B. Frickey, Esq.
Georgia Bar No. 277130



Melissa A. Klatzkow, Esq.
Georgia Bar No. 692540

Attorneys for Movant Forsyth County

IN THE SUPERIOR COURT OF FORSYTH COUNTY

STATE OF GEORGIA

VINAY BOSE, MOMMIES PROPERTIES,
LLC, and FH PARTNERS, LLC
Plaintiffs,

VS.

JOHN RICHARDS, CHATTAHOOCHEE RIVER :
CLUB HOMEOWNERS ASSOCIATION, INC., :
And JOHN DOE and JANE DOE, :
Defendants :

Civil Action File No.: 18-CV-1887-1

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing **FORSYTH COUNTY'S**
MOTION FOR PROTECTIVE ORDER by depositing a copy in the United States first-class
mail in a properly addressed envelope with adequate postage affixed thereon addressed to:

Vinay Bose
3001 Wembley Ridge
Atlanta, GA 30340

Stuart Teague
Teague & Chambless, LLP
110 Samaritan Drive, Suite 109
Cumming, GA 30040

R. Clay Rattereee, Esq.
Kimberly Cofer Butler, Esq.
Ellis, Painter, Ratterree & Adams, LLP
P.O. Box 9946
Savannah, GA 31412

Kevin J. Tallant, Esq.
Jonah B. Howell, Esq.
Miles, Hansford & Tallant, LLC
202 Tribble Gap Road, Suite 200
Cumming, GA 30040

Larry C. Oldham
Larry C. Oldham, P.C.
416 Pirkle Ferry Road, Suite K-500
Cumming, GA 30040

Jeffrey H. Schneider
Weissman, P.C.
One Alliance Center
3500 Lenox Road, Fourth Floor
Atlanta, GA, 30326

This 18th day of February, 2019.

JARRARD & DAVIS, LLP



Paul B. Frickey, Esq.

Georgia Bar No. 277130

Melissa A. Klatzkow, Esq.

Georgia Bar No. 692540

Attorneys for Movant Forsyth County

Certified Mail to Eric Johnson

cc: Ken Tarrand
Tom Brown
RECEIVED

January 22, 2019

JAN 31 2019

FORSYTH COUNTY
BOARD OF COMMISSIONERS

VIA UNITED STATES MAIL

CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ARTICLE NO. 7016 0910 0000 1880 2557

RE: Vinay Bose, Mommies Properties, LLC and FH Partners, LLC v. John Richards,
Chattahoochee River Club Homeowners Association, Inc., and John Doe and Jane Doe
Forsyth County Superior Court, Civil Action File No. 18CV-1887-1

Dear Mr. Johnson,

My name is Vinay Bose and I am a Pro Se Plaintiff in the above-referenced matter. Enclosed, **in accordance with O.C.G.A. § 9-11-34(c)** is a Request for Production of your records relating to the above-referenced parties.

Please either have the requested documents for inspection and copying at your office or in the alternative, please forward copies of the requested documents to me. To save paper and time of your staff, I would prefer having the documents in electronic form such as emails and PDF scanned documents for which I will bring a flash drive to your office whenever you schedule me to come and inspect.

For those documents that are only on paper and have to be copied and the cost of reproduction exceeds \$50.00, I will personally come and inspect the documents before any copies are made and authorize payment before reproduction. If the cost is less than or equal to \$50.00, I will remit payment provided the records are received by me within thirty (30) days from the date of the request.

In addition, please sign the enclosed Verification form and include it with the returned documents.

I appreciate your assistance in this matter.

Sincerely yours,



VINAY BOSE



 **COPY**

SUPERIOR COURT OF FORSYTH COUNTY

STATE OF GEORGIA

**FORSYTH COUNTY GEORGIA
FILED IN THIS OFFICE**

JAN 28 2019

[Signature]
CLERK SUPERIOR COURT

VINAY BOSE, MOMMIES PROPERTIES,
LLC, and FH PARTNERS, LLC,

Plaintiffs,

vs.

JOHN RICHARDS, CHATTAHOOCHEE RIVER
CLUB HOMEOWNERS ASSOCIATION, INC.,
and JOHN DOE and JANE DOE,

Defendants.

CIVIL ACTION FILE

NO. 18CV-1887-1

**PLAINTIFF VINAY BOSE's REQUEST FOR PRODUCTION OF DOCUMENTS TO
NON-PARTY – FORSYTH COUNTY, GEORGIA**

TO: Mr. Eric Johnson,
County Manager,
Forsyth County,
110 East Main Street,
Cumming, GA 30040

COMES NOW, Plaintiff Vinay Bose, and serves this request upon Forsyth County (“Forsyth”) as a non-party, and requests that Forsyth County produce, pursuant to O.C.G.A. § 9-11-34, for inspection and copying at the offices of Forsyth County, the documents described below that are in the actual or constructive possession, custody or control of Forsyth and/or its attorneys, agents, representatives, all in accordance with the Georgia Rules of Civil Procedure. In the interest of saving paper and County staff time, Plaintiff Vinay Bose requests that the documents can be produced electronically for inspection and can be copied on a Flash Drive, which Plaintiff Vinay Bose will provide Forsyth County at his expense.

Each request is addressed to the personal knowledge of each and every commissioner, director, manager, consultant, attorney, officer and/or employee of Forsyth as well as to the knowledge and information of Forsyth, its attorneys, agents, and other representatives including but not limited to the following departments: Engineering Department; Planning & Development; Inspections and Inspectors; Any and all County Commissioners; Attorney/s (Jarrard & Davis & Rich Neville); Planning Commissioner's office; Any and all Planning Commissioners; ZBA and any or all of its members; and general public (non-county employees).

You are hereby requested to produce the following documents which are in your possession, custody, or control:

Note:

*Please exclude all records maintained on eStatus.

**Please produce all emails as requested, but as for any and all attachment/s to each email please produce only one copy of that attachment if it were unedited and merely forwarded to several people and this will exclude production duplicate attachment/s to emails. If unsure and/or do not understand this instruction, please err on the side of caution and produce any and all email attachment/s.

1.

For the period from August 1, 2017 to present, please produce any and all documents including but not limited to notes, photographs, audio recording, video recording, journal entries, transcripts, memo's, communication, correspondence Plus emails and all attachments to the emails with the phrase "stop work order" to the extent such documents pertain to Chattahoochee River Club Subdivision and/or Mommies Properties, LLC and/or Vinay Bose (*)(**).

2.

For the period from August 1, 2017 to present, please produce any and all documents including but not limited to notes, photographs, audio recording, video recording, journal entries, transcripts, memo's, communication, correspondence Plus emails and all attachments to the emails with the company name "Mommies Properties, LLC" and/or "Mommies Properties" (*)(**).

3.

For the period from August 1, 2017 to present, please produce any and all documents including but not limited to notes, photographs, audio recording, video recording, journal entries, transcripts, memo's, communication, correspondence Plus emails and all attachments to the emails with the name "Vinay Bose" and/or "Vinay" and/or "Bose" (*)(**).

4.

For the period from August 1, 2017 to present, please produce any and all documents including but not limited to notes, photographs, audio recording, video recording, journal entries, transcripts, memo's, communication, correspondence Plus emails and all attachments to the emails with the name "Chattahoochee River Club" and/or "Chattahoochee River Club Subdivision" and/or "CRC" and/or "CRC HOA" and/or "Chattahoochee River Club Home Owners Association" and/or "Chattahoochee River Club Homeowners Association, Inc." (**).

5.

For the period from August 1, 2017 to present, please produce any and all documents including but not limited to notes, photographs, audio recording, video recording, journal entries, transcripts, memo's, communication, correspondence Plus emails and all attachments to the emails with the address "3450 Bentwood Drive, Cumming, GA 30041" and/or

in reference to the “property address located at 3450 Bentwood Drive, Cumming, GA 30041”
(*)(**).

6.

For the period from August 1, 2017 to present, please produce any and all documents including but not limited to notes, photographs, audio recording, video recording, journal entries, transcripts, memo’s, communication, correspondence Plus emails and all attachments to the emails with the phrase “Equestrian Center” to the extent such documents pertain to Chattahoochee River Club Subdivision and/or Mommies Properties, LLC and/or Vinay Bose (*)(**).

7.

For the period from August 1, 2017 to present, please produce any and all documents including but not limited to notes, photographs, audio recording, video recording, journal entries, transcripts, memo’s, communication, correspondence Plus emails and all attachments to the emails with the phrase “Horse Stable/s” to the extent such documents pertain to Chattahoochee River Club Subdivision and/or Mommies Properties, LLC and/or Vinay Bose (*)(**).

8.

For the period from August 1, 2017 to present, please produce any and all documents including but not limited to notes, photographs, audio recording, video recording, journal entries, transcripts, memo’s, communication, correspondence Plus emails and all attachments to the emails with the phrase “Grading Without Permit” to the extent such documents pertain to Chattahoochee River Club Subdivision and/or Mommies Properties, LLC and/or Vinay Bose (*)(**).

9.

For the period from August 1, 2017 to present, please produce any and all documents including but not limited to notes, photographs, audio recording, video recording, journal entries, transcripts, memo's, communication, correspondence Plus emails and all attachments to the emails with the phrase "Land Disturbance Without Permit" and/or "Land Disturbance" to the extent such documents pertain to Chattahoochee River Club Subdivision and/or Mommies Properties, LLC and/or Vinay Bose (*)(**).

10.

For the period from August 1, 2017 to present, please produce any and all documents including but not limited to notes, photographs, audio recording, video recording, journal entries, transcripts, memo's, communication, correspondence Plus emails and all attachments to the emails regarding communication between any Forsyth County employee / commissioner / director / officer and Georgia Department of Natural Resources Environmental Protection Division (Georgia EPD)) to the extent such documents pertain to Vinay Bose or Mommies Properties, LLC or the property address of 3450 Bentwood Drive, Cumming, GA 30041 (*)(**).

11.

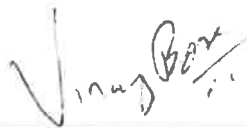
For the period from August 1, 2017 to present, please produce any and all documents including but not limited to notes, photographs, audio recording, video recording, journal entries, transcripts, memo's, communication, correspondence Plus emails and all attachments to the emails regarding communication between any Forsyth County employee / commissioner / director / officer and United States Army Corps of Engineers (USACE) to the extent such documents pertain to Vinay Bose or Mommies Properties, LLC or the property address of 3450 Bentwood Drive, Cumming, GA 30041 (*)(**).

Please make available all documents and inform Plaintiff Vinay Bose who will personally come, inspect and copy and/or scan the produced documents that he needs. Additionally, to save everyone's time and paper, Plaintiff Vinay Bose will provide the County with a Flash Drive to make the copies electronically. In lieu of appearing personally, you may respond to this request by mailing copies of the documents to the undersigned 3001 Wembley Ridge, Atlanta, GA 30340 within thirty (30) days after receipt of this request.

Upon your failure to respond to this Request for Production of Documents, you may be subject to sanctions by the Court as provided by O.C.G.A. § 9-11-37.

This 28th day of January, 2019.

Respectfully submitted,

By  _____

Vinay Bose, Pro Se

Vinay Bose,
3001 Wembley Ridge,
Atlanta, GA 30340
Phone: 770-480-1111

CERTIFICATE OF SERVICE (Rule 5.2)

Pursuant to Uniform Superior Court Rule 5.2 (2), I hereby certify that on the date below I have served a true and correct copy to opposing counsel and co-defendant's counsel and co-defendants with the foregoing **PLAINTIFF VINAY BOSE's REQUEST FOR PRODUCTION OF DOCUMENTS TO NON-PARTY – FORSYTH COUNTY, GEORGIA** by placing a copy in the United States Mail, with sufficient postage affixed thereon to ensure delivery, addressed to:

To: Mr. Eric Johnson,
County Manager,
Forsyth County
110 East Main Street,
Cumming, GA 30040

To: Mr. R. Clay Ratterree,
Kimberly Cofer et al, LLP
P. O. Box 9946,
Savannah, GA 31412

To: Mr. Kevin J. Tallant,
Miles Hansford Tallant, LLC
202 Tribble Gap Road, Suite 200,
Cumming, GA 30040

To: Mr. Larry C. Oldham,
Larry C. Oldham, P.C.,
416 Pirkle Ferry Road, Suite K-500,
Cumming, GA 30040

To: Mr. Jeffrey H. Schneider,
Weissman, P.C.,
One Alliance Center,
3500 Lenox Road, Fourth Floor,
Atlanta, GA 30326

To: Mr. Stuart Teague,
Teague & Chambliss, LLLP,
110 Samaritan Drive, Suite 109,
Cumming, GA 30040

This 28th day of January, 2019.



Vinay Bose, Pro Se
3001 Wembley Ridge
Atlanta, GA 30340
770-480-1111

SUPERIOR COURT OF FORSYTH COUNTY
STATE OF GEORGIA

VINAY BOSE, MOMMIES PROPERTIES, :
LLC, and FH PARTNERS, LLC, :

Plaintiffs, :

vs. :

JOHN RICHARDS, CHATTAHOOCHEE RIVER :
CLUB HOMEOWNERS ASSOCIATION, INC., :
and JOHN DOE and JANE DOE, :

Defendants. :

CIVIL ACTION FILE

NO. 18CV-1887-1

VERIFICATION

Before the undersigned officer, duly authorized by law to administer oaths came _____
_____, who first being sworn, deposed and said that the enclosed documents
constitute the materials responsive to the Request for Production of Documents in the care,
custody, and control of _____.

Records Custodian for

Sworn to and subscribed before me
this _____ day of _____, 2019.

Notary Public

My Commission Expires:



JARRARD & DAVIS, LLP

Limited Liability Partnership

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ANGELA E. DAVIS
CHRISTOPHER J. HAMILTON
MEGAN N. MARTIN
KENNETH P. ROBIN

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JESSICA H. THOMAS†
MELISSA A. KLATZKOW†

February 13, 2019

VIA EMAIL ONLY

Mr. Vinay Bose
3001 Wembley Ridge
Atlanta, GA 30340
vinaybose@vinaybose.com

Re: Request for Production of Documents

Dear Mr. Bose:

This office and the undersigned represent Forsyth County, Georgia. We are in receipt of your Request for Production of Documents ("Request"), filed January 28, 2019. Please accept this as Forsyth County's initial, good faith response to your Request; and the County's contemporaneous effort at amicably resolving a discovery dispute. Some of the documents you are seeking in your Request are privileged. Your Request is also unduly burdensome, prohibitively expensive, and many of the requested documents appear to be irrelevant. As such, the County may have no choice but to file a Motion for Protective Order. If so, we will file same on or before February 18, 2019,

As a means of explanation, the County would offer the following.

First, we note that on July 13, 2018, you submitted a request seeking similar records under the Open Records Act ("ORA"). In responding, the County estimated that the total pre-retrieval estimate was \$1,925.73. You *declined* to pay the pre-retrieval costs and did not pursue that ORA request. As this Request is (even) broader than the prior ORA request, a brief review of anticipated costs is warranted.

Using the ORA as a guide, a preliminary search of hard-copy documents responsive to your Request resulted in approximately 417 pages at \$0.10 per page, thereby resulting in an estimate of \$41.70 for copying charges. Additionally, it will take an employee earning an hourly rate of \$16.00 per hour approximately one (1) hour, another employee earning an hourly rate of \$14.56 per hour approximately forty (40) hours, and another employee earning an hourly rate of



\$16.45 per hour approximately one (1) hour to compile the requested documents, resulting in an administrative cost of \$614.85.

Additionally, a preliminary search for emails resulted in the identification of approximately 2,910 responsive emails. This office assumes that each responsive “hit” will generate three pieces of printed paper. Some printed emails generate more; some less. Based upon the produced number, it is estimated that responding to your Request will generate approximately 8,730 pieces of paper (2,910 x 3). This is a *conservative* estimate, as it does not account for attachments that will likely be a part of the responsive emails. Charging \$0.10 per page, it is estimated that your Request will result in \$873.00 for copying charges. Additionally, after the first 15 minutes, it will take an employee earning an hourly rate of \$34.09 approximately four (4) hours, and another employee earning an hourly rate of \$26.30 approximately forty-three (43) hours and thirty (30) minutes to compile the requested documents, resulting in an administrative cost of \$1,280.41. Consequently, Forsyth County anticipates that responding to your Request would cost **\$2,809.96** under the ORA.

Forsyth County understands that your Request is *not* an ORA request. The above explanation and fee estimate (using ORA methodology) is offered as a means of contextualizing the County’s concern; and further highlighting the position the County will take in the event a Motion for Protective Order is warranted.

Please be aware that Forsyth County is permitted to charge you a minimum of **\$914.70** for processing your Request, *without* moving for a protective order or otherwise seeking relief from the Court. O.C.G.A. § 9-11-34(c) (“A reasonable document copy charge may be required”). Forsyth County intends to charge for all copying costs for this Request, as it is a fraction of the cost the County will incur responding. This is only for the ‘paper’ costs of production. Please also note that in the event the County is required to move for an order of protection, we will ask the Court to require you to pay the *entire* (reasonable) cost of production. Georgia Emission Testing Co. v. Reheis, 268 Ga. App. 560, 564 (2004) (a litigant may be required to pay a third-party’s reasonable costs for producing the discovery).¹

Using a good-faith estimate, responding to this Request will require County employees to expend eighty-nine (89) hours and thirty (30) minutes; thereby translating (applying the pertinent hourly rate) to \$1,895.26 in direct administrative costs. The time and expense, alone, makes responding to this Request extremely burdensome.

Furthermore, your Request does not seem tailored to the production of relevant documents. Under Georgia law, a third-party is only required to provide relevant and

¹ Although you ask to personally inspect the documents *before* any copies are made and before you authorize payment for production, that is not possible for the majority of your request. The bulk of this request is contained in email correspondence, which is stored electronically. As the responsive emails may contain attorney-client privileges communications and other confidential information, Forsyth County will need to print, review, and, where necessary, redact the email correspondence *before* producing same.

nonprivileged documents. See O.C.G.A. § 9-11-34(c)(1), Sechler Family P'ship v. Prime Grp., Inc., 255 Ga. App. 854, 854 (2002). Accordingly, you are not permitted to utilize the Court's power to demand that a third-party provide irrelevant or privileged documents. However, and respectfully, the broad nature of your Request means that responding to this Request will necessarily require the County to provide hundreds of pages of material that appears irrelevant to your litigation.

Specially, a review of your Complaint indicates that Bose v. Richards, Civil Action No. 18-CV-1887-1 is a quiet title action relating to the applicability of certain covenants and easements affecting your property. However, despite the relatively narrow scope of the litigation, your Request is framed in a manner that seeks a vast array of documents. For example, your Request seeks *any and all* documents referencing "Mommies Properties LLC", "Vinay Bose", "Vinay", or "Bose", and *all* documents pertaining (generally) to the "Chattahoochee River Club". Based upon the un-constricted nature of the Request (with no embedded filters to reduce irrelevant 'hits'), the County will necessarily have to assemble, review and produce *all* documents relating, for example, to Chattahoochee River Club ("CRC") – including, for instance, a building permit for a neighbor's pool. While some of the documents responsive to your Request *may* be relevant in the quiet title litigation, it is highly likely that hundreds of documents responsive to your Request as presently framed *are not* relevant.

We would respectfully propose that you work with the County to narrow the parameters of your Request – such that you are only paying for what you truly want; and the County is not burdened to review and produce documents for which you have no use.

Finally, we note that your Request seeks a considerable number of privileged documents, which we are under no obligation to provide. Specifically, O.C.G.A. § 24-5-501(a)(2) provides that communications between an attorney and client are excluded from evidence on grounds of public policy and, therefore, we are not required to produce attorney-client communications. On the face of your Request, you seek numerous privileged documents - as you request documents from the attorneys at Jarrard & Davis, LLP and attorney Rich Neville. This is not incidental to your Request: you specifically ask for the communications and work product of numerous attorneys. Accordingly, our office intends to object to the production of any and all attorney-client communications and attorney work-product. Our office will not produce attorney-client communications or attorney work-product, which may otherwise be responsive to your Request, unless and until so ordered by the Court.

Please allow us to emphasize, and as mentioned above, we are happy to work with you in narrowing the scope. Forsyth County recognizes that it is the custodian of numerous records that are relevant and necessary for your litigation. Unfortunately, as worded, your Request will require the County to sift through 2,910 emails (approximately 8,730 pieces of paper); produce approximately 417 additional pages in hard copies; and spend approximately ninety (90) hours of County time processing your Request. This will be extraordinarily burdensome. Based upon the concerns expressed above, this Request is objectionable as framed.

We are, though, happy to discuss any alternative search criteria if you would like to

narrow the scope. By way of example, searching for "Chattahoochee River Club" *and* "Mommies Properties" (with our search query requiring 'hits' on both key phrases) is considerably narrower than searching for the "Chattahoochee River Club" alone. We would respectfully propose that you reach out to our office and allow us to work together to narrow your queries in a similar manner.

A narrowed Request for Production of Documents would produce less irrelevant documentation for you to manage, will be less expensive, will better comply with the intent of O.C.G.A. §9-11-34(c), and will be less burdensome on Forsyth County. Please contact our office if you would like to discuss this further, or if you would otherwise like to submit a more tailored Request for Production of Documents.

Kindest regards.

Sincerely,

JARRARD & DAVIS, LLP



Melissa A. Klatzkow

MAK/kgs

cc: Stuart Teague, Esq. (via email)
Larry Oldham, Esq. (via email)

Nicole Simpson

From: Grace Stacy
Sent: Wednesday, February 13, 2019 6:26 PM
To: vinaybose@vinaybose.com
Cc: Melissa Klatzkow; Ken Jarrard
Subject: Request for Production of Documents to Forsyth County
Attachments: 2-13-19 Response to Bose RPD.pdf

Mr. Bose,

Please find attached correspondence regarding the above-referenced matter. If you have any questions or concerns, please do not hesitate to contact me.

Grace Stacy
Paralegal



222 Webb Street
Cumming, GA 30040
Phone: 678-455-7150
Fax: 678-455-7149
Email: gstacy@jarrard-davis.com
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PATRICK DOYLE DODSON*
JESSICA H. THOMAS‡
MELISSA A. KLATZKOW†

July 18, 2018

VIA EMAIL ONLY

vinaybose@vinaybose.com

Mr. Vinay Bose

RE: Open Records Act Request Dated July 13, 2018

Dear Mr. Bose:

This office and the undersigned represent Forsyth County, Georgia. Forsyth County received your Open Records Act request dated July 13, 2018 regarding Mommies Properties, LLC. In accord with O.C.G.A. § 50-18-71, *et seq.*, Forsyth County hereby responds to your request within three (3) business days of receipt.

As you know, pursuant to the Open Records Act, the County is authorized to charge for the search, retrieval, redaction, and production or copying costs involved in responding to your request, after the first 15 minutes of department employee time expended, at the hourly rate of the lowest paid, full-time employee who possesses the necessary skill to so respond. The County may also charge ten (10) cents for each letter or legal-sized page that you request to have copied and an additional fee for certified copies or other copies for which a fee is specifically authorized or otherwise provided for by law.

Per your request, hard copy records responsive to your request have been prepared for your review. These records have been redacted according to O.C.G.A. § 50-18-72(a)(20)(A) and are available for review in the Forsyth County Engineering Department during normal business hours. Please contact DeAndrea Jordan at (770) 781-2165 to coordinate your review.

Additionally, in accord with O.C.G.A. § 50-18-71, *et seq.*, we are providing you with a pre-retrieval estimate for responsive emails utilizing the above methodology. A preliminary search for emails resulted in the identification of approximately 2,707 responsive emails. This office assumes that each "hit" will generate three pieces of printed paper. Some generate more; some less. Based upon the produced number, it is estimated that responding to your request will generate



approximately 8,121 pieces of paper (2,707 x 3). This is a conservative estimate, as it does not account for attachments that will likely be a part of the responsive emails. Charging \$0.10 per page, it is estimated that your request will result in \$812.10 for copying charges. Additionally, after the first 15 minutes, it will take an employee earning an hourly rate of \$32.65 approximately two (2) hours and forty-five (45) minutes, and another employee earning an hourly rate of \$25.28 approximately forty (40) hours and thirty (30) minutes to compile the requested documents, resulting in an administrative cost of \$1,023.84. Therefore, the total pre-retrieval estimate for the requested email documentation is **\$1,925.73**.

Pursuant to O.C.G.A. § 50-18-71(d), if the estimated costs for production of the records exceed \$500.00, the County may insist on prepayment of the costs prior to beginning search, retrieval, review or production of the records. Please remit a check in this amount made payable to Forsyth County and mail your payment to:

Forsyth County Finance Department
ATTN: Open Records Payment
110 E. Main Street, Ste. 255
Cumming, GA 30040

Please know that the amount set forth in this correspondence is an estimate, and Forsyth County reserves the right to adjust upward or downward depending upon the number of copies and the amount of time it takes to respond. Forsyth County also reserves the right to review and redact the documents responsive to your request and further reserves the right to assert additional, specific objections under the Act if warranted following receipt of responsive documentation.

The County is mindful that this pre-retrieval fee is significant and we are happy to discuss any acceptable alternative search criteria if you would like to narrow the scope of your request. Please contact our office if you would like to discuss this further, or if you would like to submit alternate search criteria.

Kindest regards.

Sincerely,

JARRARD & DAVIS, LLP



Molly N. Esswein

MNE/dkr