

IN THE SUPERIOR COURT OF FORSYTH COUNTY

STATE OF GEORGIA

HIGH GABLES HOMEOWNERS  
ASSOCIATION, INC.,

Plaintiff,

v.

LARRY C. OLDHAM,

Defendant.

Civil Action File No. 05-CV-2005

**DEFENDANT'S FIRST REQUEST  
FOR ADMISSIONS OF FACT TO PLAINTIFF**

COMES NOW Defendant Larry C. Oldham and serves upon High Gables Homeowners Association, Inc. ("you"), his First Request for Admissions of Fact (the "Request for Admissions"), asking you, pursuant to O.C.G.A. § 9-11-36, to admit, within the time period allowed by law, the following facts for purposes of the above-styled Action.

Please be advised that should you not admit the matters requested herein and Defendant is required to prove them at trial, Defendant will seek reimbursement of the reasonable expenses incurred in making such proof (including attorney's fees) as authorized by O.C.G.A. § 9-11-37.

The capitalized terms used herein shall have the meaning given to them in Defendant's Verified Answer, Counterclaim and Third Party Complaint unless otherwise defined herein. In addition, the following terms used herein shall have the definitions given to them as set forth below:

"ACC" means the Architectural Control Committee of Plaintiff as contemplated by the Declaration and all individual members thereof.

"Board" means Plaintiff's board of directors as same may have been constituted at any time-frame contemplated hereby.

"Building and Design Specifications" means that certain document entitled "Standard Building and Design Specifications for High Gables, Revised August 1, 2001, Phases Two and Three".

"Covenants" means those certain easements, covenants and restrictions contained in the Declaration.

"Declaration" means that certain Declaration of Covenants, Conditions, Restrictions and Easements for High Gables recorded at Deed Book 1538, Page 769, Forsyth County, Georgia records, as amended from time to time.

"Defendant's Alleged Covenant Violations" means each of the alleged violations of the Covenants set forth in Plaintiff's Complaint, namely Defendant's failure to install his (i) driveway; (ii) sidewalk; (iii) entrance landscaping; and (iv) mailbox.

"Governmental Authorities" means the governmental and regulatory authorities of Forsyth County, Georgia, including, without limitation, the engineering department, the sheriff's department, and its erosion and sedimentation control enforcement personnel.

"HOA Members" means the members of Plaintiff, as determined in accordance with the requirements and conditions of the Declaration.

"Management Company" means Heritage Property Management, or any predecessor management company that has performed services for Plaintiff.

"Neighborhood" means High Gables Subdivision, Phases One, Two and Three, all of which are located on Holtzclaw Road in Cumming, Forsyth County, Georgia.

"Officers and Directors" means the members of the Board in their capacities as officers and/or directors of Plaintiff.

"Oldham Property" means Lot 38 of High Gables - Phase Three, located at 4250 High Gables East, Cumming, Georgia 30041.

"Plaintiff's Counsel" means attorneys with Stites & Harbison, PLLC or Hawkins & Parnell, LLP, as the context requires.

#### ADMISSIONS OF FACT

Defendant requests that, pursuant to O.C.G.A. § 9-11-36, you either respond or object to the following factual allegations within the time period allowed by law. Your objections and/or responses shall be in writing, signed by you or your attorney, and served upon Defendant's counsel, Larry C. Oldham, at Oldham & Reece, LLP, 416 Pirkle Ferry Road, Suite K-500, Cumming, Georgia 30040, within the time period specified by law.

You should respond to each of the enumerated paragraphs and your answers should specifically admit or deny the matters contained therein. If you are unable to admit or deny any of such matters, you must so specify and explain in detail why you cannot admit or deny them. You may not give lack of information or knowledge as a reason for your failure to admit or deny unless you state that you have made a reasonable inquiry and that the information known or readily obtainable by you is insufficient to enable you to admit or deny the matter you are being requested to admit. If you do not timely serve your answers or objections upon Defendant's attorney as required by law, the matters contained in this Request for Admissions will be deemed to be admitted.

1.

Admit that two-thirds (2/3) of the HOA Members did not approve the June 23, 2003 Amendment to the Declaration recorded at Deed Book 2876, Page 548, Forsyth County, Georgia records.

2.

Admit that a quorum was not present at the 2004 annual meeting of Plaintiff.

3.

Admit that a quorum was not present at the 2005 annual meeting of Plaintiff.

4.

Admit that in the absence of a quorum being present at a meeting of the HOA Members, it is impossible to elect a Board that is duly authorized to act on behalf of Plaintiff.

5.

Admit that one of the 2004-2005 or 2005-2006 Officers and Directors is the author of the anonymous letter sent to Defendant in the second week of July which is attached to Defendant's Answer, Counterclaim and Third Party Complaint as Exhibit A.

6.

Admit that your October 19, 2005 letter to the HOA Members contains false and misleading statements that are slanted in such a way as to justify Plaintiff's filing of this Action and to make Defendant appear litigious and unreasonable.

7.

Admit that Defendant told Bobby Lawson, David Marchat and Bob Clark that he had site issues he was dealing with on the Oldham Property and that he would complete his work as soon as he was done with such work.

8.

Admit that you have never met with Defendant regarding the issues in the Action.

9.

Admit that Defendant has requested a number of meetings with you since December of 2005.

10.

Admit that all of the work underlying Defendant's Alleged Covenant Violations has been completed, other than the installation of "neighborhood standard" mailbox.

11.

Admit that you have never provided Defendant with the specifications for the "neighborhood standard" mailbox other than directing him to use a particular company to install his mailbox.

12.

Admit that there are violations of the Covenants in the Neighborhood that you have elected not to enforce.

13.

Admit that you selectively enforce the Covenants depending on the identity of the homeowner in violation.

14.

Admit that you have no basis for recovering attorney's fees from Defendant other than pursuant to O.C.G.A. § 13-6-11.

15.

Admit that Defendant verbally responded to the correspondence that you attached to your Complaint prior to your filing the Action against him.

16.

Admit that Defendant verbally informed you that he had every intention of pouring his driveway prior to your filing the Action against him.

17.

Admit that you were aware that Defendant had ongoing site issues which preventing him from pouring his driveway sooner.

18.

Admit that a residential concrete driveway can be damaged by driving heavy earth moving equipment and machinery over it.

19.

Admit that it rained frequently during the summer months of 2005.

20.

Admit that rainy weather can delay the pouring of concrete driveways.

21.

Admit that the Covenants set forth in the Declaration fail to rank their order of importance such that each is as equally important as the next.

22.

Admit that you do not treat each alleged violation of the Covenants equally.

23.

Admit that you consider some violations of the Covenants more serious than others and that you handle them more aggressively.

24.

Admit that your Officers and Directors have made comments about Defendant that could be damaging to his reputation as an attorney.

25.

Admit that Defendant's occupation as an attorney has been discussed by your Officers and Directors in connection with Defendant's Alleged Covenant Violations.

26.

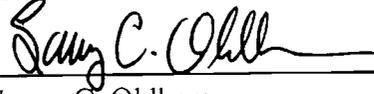
Admit that you circulated a petition among the HOA Members prior to your filing the Action against Defendant.

27.

Admit that since the filing of this Action, Defendant has poured his driveway and sidewalk to those specifications set forth in the Covenants and has also completed his entrance landscaping.

These Requests for Admissions are submitted to Plaintiff as of February 25, 2006.

OLDHAM & REECE, LLP

A handwritten signature in black ink, appearing to read "Larry C. Oldham", is written over a horizontal line.

Larry C. Oldham

Georgia State Bar No. 551455

Attorneys for Defendant

416 Pirkle Ferry Road  
Suite K-500  
Cumming, Georgia 30040  
(770) 889-8557 (phone)

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**CERTIFICATE OF SERVICE**

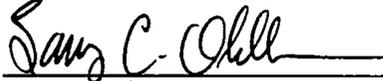
I hereby certify that I have delivered a true and correct copy of the within and foregoing **Defendant's First Request for Admissions of Fact to Plaintiff** to opposing counsel of record by depositing same in the United States Mail with adequate postage thereon and addressed as follows:

P. Jay Pontrelli, Esq.  
Stites & Harbison, PLLC  
303 Peachtree Street, N.E.  
2800 SunTrust Plaza  
Atlanta, Georgia 30339

Peter R. York, Esq.  
Hawkins & Parnell, LLP  
4000 SunTrust Plaza  
303 Peachtree Street, N.E.  
Atlanta, Georgia 30308

So certified as of February 25, 2006.

OLDHAM & REECE, LLP



Larry C. Oldham  
Georgia State Bar No. 551455  
Attorneys for Defendant

416 Pirkle Ferry Road  
Suite K-500  
Cumming, Georgia 30040  
(770) 889-8557 (phone)

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**RULE 5.2 CERTIFICATE**

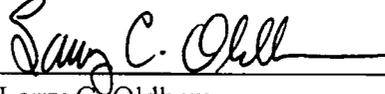
In accordance with Uniform Superior Court Rule 5.2, I hereby certify that on February 25, 2006 I have served **Defendant's First Request for Admissions of Fact to Plaintiff** to opposing counsel of record by depositing same in the United States Mail with adequate postage thereon and addressed as follows:

P. Jay Pontrelli, Esq.  
Stites & Harbison, PLLC  
303 Peachtree Street, N.E.  
2800 SunTrust Plaza  
Atlanta, Georgia 30339

Peter R. York, Esq.  
Hawkins & Parnell, LLP  
4000 SunTrust Plaza  
303 Peachtree Street, N.E.  
Atlanta, Georgia 30308

So certified as of February 25, 2006.

OLDHAM & REECE, LLP



Larry C. Oldham  
Georgia State Bar No. 551455  
Attorneys for

416 Pirkle Ferry Road  
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Cumming, Georgia 30040  
(770) 889-8557 (phone)