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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY

PAMELA D. BLAIR,)	Case No. <u>3220-cv. 466-RGJ</u>
)	
PLAINTIFF)	
)	
vs.)	
)	
SANCTUARY BLUFF HOMEOWNERS)	
ASSOCIATION, ET AL)	
)	
DEFENDANTS)	

NOTICE OF REMOVAL OF ACTION

COMES NOW the Petitioner, Pamela D. Blair (hereinafter "Plaintiff" or "BLAIR"), pro se, and hereby removes consolidated Cases No. 19-CI-05335 and 19-CI-05241 from the Circuit Court of Jefferson County, Kentucky, to the United States District Court for the Western District of Kentucky, pursuant to 28 USC §§ 1331, 1367, 1443 and 42 USC § 1983 and as grounds for its removal states s follows:

INTRODUCTION

This case as raised federal question jurisdiction which began as a land use dispute, which now issues of a constitutional magnitude has arisen. Questions relating to abridgment of BLAIR’S right to due process under the 14th Amendment, her protecte rights speech under the First Amendment of the U.S. Constitution and constitutionally secured right to be free from gender discrimination, are proper issues for a Federal Court to decide.

Statement of the Case

1. In 2018, Defendants Sham Kakar, together with his construction company Sunrise Custom Homes,LLC, a minority owned company, purchased a lot in the Sanctuary

Bluff subdivision (Subdivision).

2. In January, 2019, Mr. Kakar presented his building plans to the local building officials and obtained a building permit and began building a house.
3. After four (4) months of construction residents noticed that the house at 4119 was being built approximately fifteen (15) feet out of compliance with the setback building line.
4. Defendant Kakar was forced to file an Application for a Variance before the Louisville Metro Board of Zoning Adjustment (BOZA).
5. On June 03rd, BOZA heard Kakar's application and meticulously reviewed and investigated Defendant Kakar's building plan and its compliance with the requirement under the law. BOZA paid special attention to Kakar's adherence to approved building plans and the building permit.
6. After careful review, BOZA determined that Defendant Kakar did not build a structure to the plans approved by the building permit and unanimously denied his variance application. A Copy of BOZA's finding is attached hereto as **Exhibit A**.
7. The reason for BOZA's denial of Defendant Kakar's variance was not appealed. Kentucky law makes it mandatory the pre-approval of building plans KRS 198B.060(8) and strict adherence to those plans, KRS 198B.062. Kentucky law does provide for changes to unapproved building plans, KRS 198B.062.
8. Also, the Kentucky Residential Code requires file site plan or lot before it was built, as required per the Kentucky Residential Code R106.2. These plans are required to be submitted for a Building Application, per R105.3 Application for permit.
9. An Applicant is also required to provide all the documents required by building officials, R106.2 requires a Site plan or plot plan showing the location requires a

builder to first obtain a permit the application for permit shall be accompanied by a “site plan showing the size and location of new construction”.

10. On June 03rd, BLAIR opposed the variance along with the majority of Subdivision residents for being a substantial annoyance and interfering with her use and enjoyment of her property.
11. On June 03, 2019, Defendant Biddle, representing the Sanctuary Bluff, informed BOZA several times to tear the building down built at 4119 and that it was the only “fair thing to do” and that no one resident of Sanctuary Bluff subdivision was being damaged more by the continuing existence of the subject structure than BLAIR.
12. However, shortly after the June 3rd hearing, Defendant Biddle “persuaded” Defendant Kakar to sell him the property at 4119 .
13. Instead of doing the “fair thing” Defendant Biddle secretly did the most profitable thing; he bought the subject property for himself, obtains building permits which can only be issued under color of law, completes it and allegedly sold it.
14. The structure at 4119 had just been declared hopelessly illegal when owned by Defendant Kakar, but now that Defendant Ronald Biddle owns the property, it’s not.
15. On or about July 08, 2019, Biddle is given a building permit to continue building the structure already determined by BOZA to be illegal and he is given approval by local building authorities, despite having being declared illegal by BOZA.
16. BLAIR objected to the continued construction to which was causing damage to her property and was subjected to harassment by Defendant BIDDLE for opposing his continued construction.
17. BLAIR contacted building officials and directed to call Louisville Metro Call, which

she did. But, her complaint was ignored.

18. On or about July, 2019, BLAIR contacted other residents by email and notified them that Defendant Biddle and his builder Gary Shearer were continuing to build illegally, without a valid building permit.
19. On August 23, 2019, the Defendants GDS Builders, Gary Shearer and Ronald Biddle (hereinafter "GDS") filed a Complaint against the Plaintiff BLAIR for defamation and intentional and negligent interference with commercial relations.
20. On September 13, 2009, BLAIR was served with the GDS summons and complaint. A copy is in the record filed along with this Notice of Removal.
21. On or about August 30, 2019, BLAIR filed her Complaint, In the Jefferson Circuit Court, seeking, inter alia, an injunction to restrain Biddle from construction without a valid building permit. Biddle was building on a permit issued under color of law, contrary to KRS 100.267.
22. The trial court refused to enjoin the Defendants from building. BLAIR was advised by the trial court to exhaust her administrative remedy to compel the local building and planning commission to enforce the law,
23. A copy of the Complaint has been filed with this Notice of Removal.
24. On September 05, 2019, BLAIR filed her first amended complaint. A copy is in the record filed along with this Notice of Removal.
25. On or about September 12, 2019, BLAIR Answered GDS' Complaint. A copy is in the record filed along with this Notice of Removal.
26. On September 16, 2019, GDS Builder, Gary Shearer, Jamie Shearer, Sham Kakar, Renu Kakar and Sunrise Custom Homes filed their Answers; on September 18, 2019, GDS

Builders, (consolidated case, 19 CI-05241) Gary Shearer and Ronald Biddle filed their Answers; on September 20, 2019, Ronald Biddle filed his Answer; on September 23, 2019, the defendants Stephanie Gilezan, President of the Sanctuary Bluff HOA and the Sanctuary Bluff HOA, Gilezan Realty/EXP, all filed their Answers all filed their Answers to BLAIR'S Amended Complaint; on October 07, 2019 Defendants RAP Properties, Mohana and Rama Arla, filed their Answers.

27. BLAIR'S complaint is based on the contention Defendants Kakar, Biddle and Shearer built and are continued to build and intend sell the house at 4119 Sanctuary Bluff, next to BLAIR'S home. The local government refused to restrain Biddle from the illegal construction of the house.
28. BLAIR argued Biddle's construction is in violation of Kentucky law, the Kentucky Residential Building Code, the approval and conditions precedent required for construction established by the Sanctuary Bluff's Architectural Review Committee, and it is contrary to the Declarations, Covenants Conditions and Restriction for Sanctuary Bluff (CC&Rs), which prohibits poorly designed and built structures in the subdivision.
29. As a result, BLAIR'S Complaint initially sought a declaration of rights and permanent injunction against the Developer RAP, the owners Mohan and Rama Arla and the HOA Board of Directors for violating the Declarations, Covenants, Condition and Covenants for Sanctuary Bluff (CC&Rs) and tortious interference with the Developers performance under the CC&Rs by Stephanie Gilezan, Gilezan Realty and EXP Realty; the breach of statutory duties of the HOA Board of Directors under KRS 273.215; involuntary dissolution of the HOA; an injunction to secure access to records of the HOA, per KRS 273.233; a finding that the house at 4119 Sanctuary Bluff Ln is a

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