

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION, CASE NO. 20-CA-001400, DIVISION D**

RICHARD M. AARON and
LORNA J. AARON,

Plaintiffs,

CLASS REPRESENTATION

v

BOYETTE SPRINGS HOMEOWNERS
ASSOCIATION, INC., a Florida not for profit
corporation, individually, and on behalf of a
class of persons similarly situated,

Defendant.

**ANSWER AND AFFIRMATIVE DEFENSES TO
AMENDED COMPLAINT FOR DECLARATORY JUDGMENT**

Defendant, BOYETTE SPRINGS HOMEOWNERS ASSOCIATION, INC., a Florida not for profit corporation, individually, and on behalf of a class of persons similarly situated (hereinafter “**Defendant**”), by and through its undersigned counsel, hereby files this Answer and Affirmative Defenses to the Amended Complaint for Declaratory Judgment herein and states as follows:

Parties, Jurisdiction, and Venue

1. Admitted for jurisdictional purposes only.
2. Admitted for jurisdictional purposes only.
3. Without knowledge; therefore denied.
4. Without knowledge; therefore denied.
5. Admitted.
6. Admitted.

The Plaintiff has Standing to Bring this Action

7. Admitted.
8. The document speaks for itself; otherwise, denied.
9. Admitted.

The Original Declarant filed a Declaration of Restrictions to
Establish Use Restrictions Only

10. The document speaks for itself; otherwise, denied.
11. The document speaks for itself; otherwise, denied.
12. The document speaks for itself; otherwise, denied.
13. The document speaks for itself; otherwise, denied.
14. The document speaks for itself; otherwise, denied.
15. The document speaks for itself; otherwise, denied.
16. The document speaks for itself; otherwise, denied.

Over the Years, the Voluntary Civic Association Wrongfully changed the Overall Plan of
Development to Create the Illusion that it was a Chapter 720 Homeowners Association

17. Admitted.
18. Denied.
19. The document speaks for itself; otherwise, denied.
20. Denied.
21. Without knowledge; therefore denied.
22. Admitted.
23. The document speaks for itself; otherwise, denied.
24. The document speaks for itself; otherwise, denied.
25. The document speaks for itself; otherwise, denied.

26. The document speaks for itself; otherwise, denied.
27. The document speaks for itself; otherwise, denied.
28. The document speaks for itself; otherwise, denied.
29. The document speaks for itself; otherwise, denied.
30. The document speaks for itself; otherwise, denied.
31. The document speaks for itself; otherwise, denied.
32. The document speaks for itself; otherwise, denied.

Specific Wrongful Actions Taken by the Association against the Aarons

33. The document speaks for itself; otherwise, denied.
34. The document speaks for itself; otherwise, denied.
35. Without knowledge; therefore denied.
36. The document speaks for itself; otherwise, denied.
37. Denied.

Class Representation Allegations

38. Admitted.
39. Admitted.
40. Admitted.
41. Admitted.
42. Without knowledge; therefore denied.

Action for Declaratory Relief

43. The Defendant realleges paragraphs 1 through 42 above, as if fully set forth herein.
44. Denied.

45. Without knowledge; therefore denied.
46. Without knowledge; therefore denied.
47. Admitted.
48. Admitted.
49. Admitted.
50. Admitted.
51. Admitted.
52. Admitted.
53. Without knowledge; therefore denied.
54. Without knowledge; therefore denied.
55. Without knowledge; therefore denied.

DEMAND FOR ATTORNEYS' FEES

Defendant requests that the Court enter judgment in its favor, and award Defendant its reasonable attorneys' fees and costs, and any and all such further relief as the Court deems appropriate.

AFFIRMATIVE DEFENSES

First Affirmative Defense

As Plaintiffs have challenged the validity and enactment of the First Revised Declaration and the Second Revised Declaration, the statute of limitations with respect to such challenge began to run from the date that the First Revised Declaration and the Second Revised Declaration were recorded in the public records, respectively. Accordingly, any challenge to the validity or enactment of the First Revised Declaration or the Second Revised Declaration is barred by the applicable statute of limitations.

Second Affirmative Defense

To the extent that Plaintiffs seek interpretation of the First Revised Declaration or the Second Revised Declaration, the statute of limitations with respect to such interpretation began to run from the date of taking title to an affected parcel. Accordingly, any request for interpretation of the First Revised Declaration or the Second Revised Declaration is barred by the applicable statute of limitations.

Third Affirmative Defense

Plaintiffs, and any members of the putative class, are estopped from challenging the First Revised Declaration and/or the Second Revised Declaration to the extent that they voted in favor of the First Revised Declaration and/or the Second Revised Declaration.

Fourth Affirmative Defense

Plaintiffs, and any members of the putative class, consented to the First Revised Declaration and/or the Second Revised Declaration when they voted in favor of the First Revised Declaration and/or the Second Revised Declaration.

Fifth Affirmative Defense

Plaintiffs, and any members of the putative class, are estopped from challenging the First Revised Declaration and/or the Second Revised Declaration to the extent that they took title after the recording of the First Revised Declaration and/or the Second Revised Declaration.

Sixth Affirmative Defense

Plaintiffs, and any members of the putative class, consented to the First Revised Declaration and/or the Second Revised Declaration when they took title after the recording of the First Revised Declaration and/or the Second Revised Declaration.

Seventh Affirmative Defense

Plaintiffs, and any members of the putative class, are estopped from challenging the First Revised Declaration and/or the Second Revised Declaration to the extent that they took title from a predecessor in title who voted in favor of the First Revised Declaration and/or the Second Revised Declaration.

Eighth Affirmative Defense

Plaintiffs, and any members of the putative class, consented to the First Revised Declaration and/or the Second Revised Declaration when they took title from a predecessor in title who voted in favor of the First Revised Declaration and/or the Second Revised Declaration.

Ninth Affirmative Defense

Plaintiffs, and any members of the putative class, are estopped from challenging the First Revised Declaration and/or the Second Revised Declaration to the extent that they signed a Planned Unit Development Rider to any mortgage encumbering an affected parcel, or signed any documents at closing that acknowledged a mandatory membership homeowners association with

the authority to (among other things) enforce restrictions, impose assessments, and foreclose a lien for unpaid assessments.

Tenth Affirmative Defense

Plaintiffs, and any members of the putative class, consented to the First Revised Declaration and/or the Second Revised Declaration when they signed a Planned Unit Development Rider to any mortgage encumbering an affected parcel, or signed any documents at closing that acknowledged a mandatory membership homeowners association with the authority to (among other things) enforce restrictions, impose assessments, and foreclose a lien for unpaid assessments.

Eleventh Affirmative Defense

Plaintiffs, and any members of the putative class, were on constructive notice of the First Revised Declaration and/or the Second Revised Declaration by the recording of those documents in the public records.

Twelfth Affirmative Defense

Plaintiffs, and any members of the putative class, were on constructive notice of the First Revised Declaration and/or the Second Revised Declaration, and of the role of the Defendant as a mandatory membership homeowners association with the authority to (among other things) enforce restrictions, impose assessments, and foreclose a lien for unpaid assessments, by the common scheme and development within Boyette Springs.

Thirteenth Affirmative Defense

Plaintiffs have failed to comply with the demand requirements of Section 720.311 of the Florida Statutes, and thus may not recover attorney's fees and costs in this litigation relating to the dispute.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via email to: Anthony G. Woodward, Esquire at litigation@anthonywoodwardpa.com, on this 30th day of June, 2020.



ATTORNEY