

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

Steven R. Andrews,

Plaintiff,

vs.

CASE No.: 2012 CA 859
Judge John Cooper

Governor Rick Scott, Attorney General
Pam Bondi, Chief Financial Officer Jeff
Atwater, and Commissioner Adam Putnam,
as the Board of Trustees for the
Internal Improvement Trust Fund, et al

Defendants.

CASE No. 2012 CA 3416

Board of Trustees of the Internal
Improvement Trust Fund of the
State of Florida,

Plaintiff,

v.

Grove Properties Limited, a Florida
Limited Partnership and John K. Aurell,
As general partner of Grove Properties Limited,

Defendants.

RESPONSE IN OPPOSITION TO ANDREWS’
“VERIFIED MOTION ADOPTING AND JOINING MOTION FOR
SUMMARY JUDGMENT AND JOINING IN MOTION FOR SUMMARY
JUDGMENT BY THIRD PARTY”

The Board of Trustees of the Internal Improvement Trust Fund (“the Board”) responds in opposition to Steve Andrews’ (“Andrews”) “Verified Motion

Adopting and Joining Motion for Summary Judgment and Joining in Motion for Summary Judgment by Third Party”. Mr. Andrews’ motion should be denied because:

1 - Mr. Andrews’ now second amended complaint – including the count I to which his motion is directed is the subject of five motions to dismiss.

2 - Mr. Andrews’ claim at count I for declaratory judgment regarding his contract to purchase the properties at issue in this case is subject to myriad defenses of the type presented in the Board’s December, 2012 and January 9, 2013 motions for summary judgment that have been directed to Defendants Grove Properties Ltd and John Aurell.

3- In the event this court concludes that Andrews’ motion can be heard and decided on January 15, 2013, the Board adopts and incorporates the arguments and defenses in those motions and responses into this response.

4. Mr. Andrews’ motion is at best an affirmation of his beliefs. It verifies nothing of evidentiary substance. The authenticity of documents in the court file can be judicially noticed. Downloaded website materials are not admissible evidence.

5 - The “Sworn statement of Robert Hightower” at Plaintiff’s exhibit D as to “ the legal effect of the order of summary administration” and the other documents allegedly reviewed by the affiant is only the opinion of one lawyer who has been

hired by the Plaintiff. The opinion has no evidentiary value. See e.g. Hann v. Balogh, 920 So. 2d 1250, 1251 (Fla. 2d DCA 2006) and *Brophy v. Condon (In re Estate of Williams)*, 771 So. 2d 7, 8 (Fla. 2d DCA 2000)(attorney opinion testimony as to the legal interpretation of Florida law is not a proper subject of expert testimony) (emphasis added)

6 – Further, Mr. Hightower does not attest to have viewed the pleadings and motions in this case file. His opinion is contrary to holdings in cases recited in the Board’s December, 2012, motion for partial summary judgment and in holdings recited in the Board’s January 9, 2013 motion for partial summary judgment regarding the Board’s vested interest in its right of first refusal and the legally deficient means by which Defendants Grove Properties Ltd and John Aurell attempted to defeat the Board’s vested interest in that right.

Conclusion

The Board respectfully requests (i) that ruling on Mr. Andrews’ “verified” motion await rulings on pending motions to dismiss Andrews’ second amended complaint or (ii) an order denying that motion for summary judgment based on its facial deficiencies.

CERTIFICATE OF SERVICE

I CERTIFY the foregoing was served on January 9, 2013, electronically and by U.S. Mail to:

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