

General Registry <b>FILED</b>
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**IN THE HIGH COURT OF BELIZE, A.D. 2022**

**Claim No. 656 of 2022**

**(BIB PROPERTY OWNERS INC.**

**CLAIMANT**

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**(AND**

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**(BETTER IN BELIZE LTD.**

**1<sup>st</sup> DEFENDANT**

**(BETTER IN BELIZE HOMEOWNERS ASSOCIATION LTD.**

**2<sup>nd</sup> DEFENDANT**

**CLAIMANT’S DEFENCE TO COUNTERCLAIM**

**The Claimant Disputes the 1st & 2nd Defendant’s Counter Claim and say as follows:**

1. Claimant / Counter Defendant (hereinafter “Counter Defendant”) responds to Defendant / Counter Claimant’s (hereinafter “Counter Claimant”) Counterclaim paragraph 34 that repeats paragraph 1 – 32 of its Defence, by repeating the full content of the Claim Form, Statement of Claim and the Claimants Reply to Defendants Defence with Annexes thereto.
2. The Counter Defendant neither admits nor denies the Counter Claimants assertion at paragraph 35 of the Counterclaim and puts the Counter Claimant to strictly prove. In addition, the Counter Defendant was never served **BB1** despite it being referenced as marked in this paragraph 35. This is prejudicial and damaging to the Counter Defendant.
3. The Counter Defendant responds to paragraph 36 of the Counter Claim by repeating paragraphs 8 through 27, and paragraphs 34 through 36 of the Statement of Claim and further refers to all document Annexes and other referred to evidence in the Statement of Claim and Reply to the Defence. In addition, the Counter Defendant was never served **BB2** despite it being referenced as marked in this paragraph 36. This is prejudicial and damaging to the Counter Defendant.
4. The Counter Defendant believes paragraph 37 of the Counter Claim may contain typographical errors misnaming parties, and nonetheless further relies on a premise of misinformation regarding the existence of some type of “license” that has never been asserted nor mentioned in any pleadings let alone documented. Paragraph 37 then alleges some oral notification of the revocation of said license, the existence of which has never

been asserted let alone documented - all of which makes paragraph 37 of the Counter Claim and assertion therein seemingly nonsensical. Nonetheless taking the counterclaim as stated on its face, the Counter Defendant having no understanding of what the Counter Claimant is asserting, must put the Counter Claimant strictly to proof.

5. The Counter Defendant asserts regarding paragraph 38, that like paragraph 37 above, some typo error and/or misnaming parties may exist. That stated, taking the counterclaim on its face, the Counter Defendant must put the Counter Claimant strictly to proof. In addition, the Counter Defendant was never served **BB3** despite it being referenced as marked in this paragraph 38. This is prejudicial and damaging to Counter Defendant.
6. The Counter Defendant denies paragraph 39 of the Counterclaim and resists the premise of it entirely regarding 1<sup>st</sup> Defendants (Counter Claimant) peaceful enjoyment of their property and further because the 2<sup>nd</sup> Defendant (Counter Claimant) does not have and never had any lawful right to manage the Better In Belize Community nor the rights and responsibilities of HOA/EAB per the CCR.
7. The Counter Defendant at paragraph 40 denies ever having harassed or interfered with anyone's lawful rights at the community, including the 1<sup>st</sup> Defendant (Counter Claimant) and accordingly denies that any such harassment or interference has resulted in same losing buyers for its properties and put the counter claimant to strict proof regarding same.
8. The Counter Defendant refers to paragraph 37 and 38 above in that paragraph 41 also appears to perhaps have a typographical error misnaming parties. Receiving the allegation made herein on its face, the Claimant / Counter Defendant would agree that Claimant has been deprived by Defendants of the use and enjoyment of its property. The Counter Defendant nonetheless as per paragraph 6 above, again denies that it has deprived Counter Claimant any use and enjoyment of its property.
9. The Claimant / Counter Defendant at paragraph 42 denies that it has diverted any sums of money and denies that it has misrepresented itself as the lawful Homeowner Association, because it is the lawful homeowner association and as such have properly expended the community maintenance fees to carry out the responsibilities as HOA/EAB per the CCR.
10. The Claimant / Counter Defendant responds to paragraph 43 deprivation and conversion of funds in the same fashion as its response at paragraph 9 to paragraph 42 of the Counterclaim above and adds that the Defendant / Counter Claimants use of the word "*converting*" presupposes and admits the Claimant / Counter Defendants lawful acquisition of said funds in the first place.

11. The Counter Defendant denies paragraph 44 of the Counterclaim in its entirety and states that the fees are not for the Defendants but per the A&R Agreement for Claimant community maintenance and management of the authorities and responsibilities of the HOA/EAB per the CCR.
12. The Counter Defendant at paragraph 45 takes exception to the Counterclaims use of the words "*Alternatively*" in that no different suggested course of action was previously made in the Counterclaim and refers to paragraphs 9 – 11 above and further denies.
13. The Counter Defendant denies paragraph 46 of the Counterclaim and states that it has never misrepresented that they were the lawful Homeowner Association - because they are the lawful Homeowner Association, and the Defendant / Counter Claimant at the bare minimum agrees with same for the time-period 2016 – 2020 as per paragraph 15 of the Defence. Furthermore, the Counter Defendant already provides accounting information for its operations as homeowner association on its website bibhoa.com for all the world to see as stated per paragraph 8 of the Claimants Reply.
14. The Counter Defendant denies paragraph 47 of the Counterclaim as these are monies that have been spent on materials and labour, operations, maintenance, management, upkeep and such works, for the benefit of the entirety of the Better In Belize Community having HOA/EAB authorities and responsibilities per the CCR.
15. The Counter Defendant denies the balance of the Counterclaim referenced therein as paragraphs 1, 2, 3, 4, 6 and 7. To the best of knowledge and information, the 1<sup>st</sup> Defendant owns 27 lots, Belize Property Trust owns 12 lots, Mr. Tremblay owns 2 lots and Mr. Browning claims joint ownership interest of 2 lots at Better In Belize community.
16. The Counter Defendant prays that the Counter Claimant paragraph 1, 2, 3, 4, 6 and 7 are denied in the High Court on the fact that they are vague and unproven.
17. The Counter Defendant prays that the High Court reject the Counter Claimants claim for order from being upon or entering the 1<sup>st</sup> Defendants property and further rejects the claims for damages and any alleged damage done to 1<sup>st</sup> Defendant or on 1<sup>st</sup> Defendants property. The Counter Defendant has acted per the A&R Agreement with the Counter Claimant.
18. The Counter Defendant denies wrongful conversion and states that the Counter Defendant has managed the HOA/EAB per the CCR and A&R Agreement.
19. The Counter Defendant prays that all claims, orders, damages and interest being sought by the Counter Claimant be denied.

20. The Counter Defendant prays the Honourable Court to find that the Claimant is the lawful Homeowners Association (HOA/EAB) per the CCR and the A&R Agreement.

AND THE CLAIMANT / COUNTER DEFENDANT CLAIMS:

- 1. An order of the Court.
- 2. Damages in an amount to be determined by the Court
- 3. That the applications of the 1<sup>st</sup> and 2<sup>nd</sup> Defendant/Counterclaimant be rejected.
- 4. That the judicial relief sought in the Claimants Statement of Claim be fully granted by the court.
- 5. Such further and other relief as the Honorable Court deems just.
- 6. Costs.

**CERTIFICATE OF TRUTH**

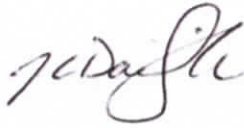
We, A. Rachel Montejo and Joseph C. Danilczyk, attorneys on behalf of the **Claimant / Counter Defendant, BIB Property Owners Association Inc**, hereby certify-

- (a) the Claimant / Counter Defendant believes that the facts stated in this **Counter-Defence** are true to the best of our information; and
- (b) this certificate is given on the Claimant’s instructions.

The Claimant corporation president and other members are out of jurisdiction or at a remote location unable to sign the Certificate of Truth and have given consent to sign.

**DATED** the 23rd day of January 2023.

  
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**Anna Rachel Montejo**

  
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**Joseph C. Danilczyk**

**ATTORNEYS-AT-LAW FOR THE CLAIMANT / COUNTER DEFENDANT**

We are acting for the Claimant/Counter-Defendant and our address for service is:  
**#3321 Central American Blvd.,  
 Belize City,  
 Belize**

The High Court Office is at the Registry Building located downstairs at the High Court Building on Treasury Lane, Belize City, Belize, telephone number 227-7377, fax 227-0181. The High Court Office is open between 8:00 a.m. and 4:00 p.m. except on public and bank holidays.

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