



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

WILMINGTON FRIENDS)
SCHOOL, INC.,)
)
Plaintiff,)
)
v.)
)
ALAPOCAS MAINTENANCE)
CORPORATION and ALAPOCAS)
MAINTENANCE CORPORATION)
BOARD OF DIRECTORS,)
)
)
Defendants.)

C.A. No. _____

**VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT AND
INJUNCTIVE RELIEF**

Wilmington Friends School, Inc. (“WFS”), by and through its undersigned counsel, alleges for its Complaint against Alapocas Maintenance Corporation (“AMC”) and Alapocas Maintenance Corporation Board of Directors (the “AMC Board”) (collectively, “Defendants”) as follows:

INTRODUCTION

1. This action seeks to enjoin Defendants from unreasonably interfering with WFS’s use and enjoyment of its property. WFS has advised Defendants that it plans to build a new state-of-the-art lower school building (the “Lower School

Project”) on its main campus. Defendants have purported to deny WFS’s plans, thereby seeking to prevent WFS from proceeding with the Lower School Project.

2. Defendants have purported to deny WFS’s building proposal based on alleged enforcement powers, as set forth in an indenture between Woodlawn Trustees, Inc. (“Woodlawn”), and Reuben Satterthwaite, Jr, dated December 10, 1936, and recorded in the Office of the Recorder of Deeds in and for New Castle County, State of Delaware in Deed Record D, Volume 40, Page 312; as amended by a Consent to Amendment to Declaration of Restrictions, executed September 15, 1972 and recorded in the Recorder’s Office in Deed Record H, Volume 87, Page 571; as assigned pursuant to an Assignment of Rights and Easements, executed February 2, 1973 and recorded in the Recorder’s Office in Deed Record H, Volume 87, Page 858 (collectively, the “Deed Restrictions”).

3. WFS’s proposed building plan is consistent with the Deed Restrictions, and the Deed Restrictions provides no basis to deny WFS’s building plans.

4. In short, judicial intervention is needed to prevent Defendants from unreasonably interfering with WFS’s use and enjoyment of its property.

THE PARTIES AND JURISDICTION

5. WFS is a private school serving students from preschool through 12th grade and is located within the Alapocas neighborhood. WFS was founded in

1748 and provides students with a college preparatory curriculum rooted in Quaker values.

6. Defendant AMC is a Delaware corporation who may be served by way of its registered agent, Alapocas Maintenance Corp, at P.O. Box 487, Montchanin, DE 19710.

7. Defendant AMC Board was formed by AMC to represent the collective interests of homeowners and lot owners within the Alapocas community.

8. This Court has jurisdiction over this action pursuant to 10 *Del. C.* §§ 341, 348 and 6501.

FACTUAL BACKGROUND

A. The Upper School Parcel

9. WFS is one of the earliest, long-time neighbors of the Alapocas community.

10. For nearly 275 years, WFS has been an educational leader that challenges students to seek truth, value justice and peace, and act as creative, independent thinkers with a conscious responsibility to the good of all. From fourth graders creating instructional podcasts to AP Statistics students applying math to social justice concepts, WFS has been strategic, open to change, and strongly committed to an educational program for all families, regardless of their economic situation.

11. On October 11, 2019, WFS announced the sale of its Lower School property to Incyte (the “Lower School Parcel”) to unify and reinvest in its facilities.

12. As a result, WFS has sought to replace the school buildings located on the Lower School Parcel by relocating its Lower School to the main campus where the middle and upper schools are located. WFS owns the main campus parcel.

B. The Deed Restrictions

13. In 1936, Woodlawn filed the Deed Restrictions, for what now houses the Alapocas community, in the Office of the Recorder of Deeds in and for New Castle County. A true and correct copy of the Deed Restrictions is attached hereto as Exhibit A.

14. The Deed Restrictions are primarily directed to the residential portions of the Alapocas neighborhood but make limited reference to the WFS property.

15. Paragraph 3 of the Deed Restrictions states:

3. Buildings to be used for schools, churches, libraries, or for recreational, educational, religious or philanthropic purposes may be erected and maintained in locations approved by said Woodlawn Trustees, Incorporated, provided the design of such building be approved by said Woodlawn Trustees, Incorporated, and further provided there has been filed in the office of the Recorder of Deeds, in and for New Castle County, an Indenture or other Instrument of

Writing executed by the said Woodlawn Trustees, Incorporated, approving the location, design, and limiting the uses to which such buildings may be put.

Ex. A, ¶ 3.

16. Paragraph 5 of the Deed Restrictions states in relevant part:

5. No building, fence, wall or other structure shall be commenced, erected or maintained, nor shall any addition to or change or alteration therein be made, until plans and specifications, plot plan and grading plan, or satisfactory information shall have been submitted to and approved in writing by said Woodlawn Trustees, Incorporated. The said Woodlawn Trustees, Incorporated, shall have the right to refuse to approve any such plans or specifications which in its opinion are not suitable or desirable; and in so passing upon such plans and specifications the said Woodlawn Trustees, Incorporated, may take into consideration the suitability of the proposed building or other structure and of the materials of which it is to be built, to the site upon which it is proposed to erect same, the harmony thereof with the surroundings and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring properties.

Ex. A, ¶ 5. Paragraph 5 does not apply to the WFS property.

17. Instead, the Deed Restrictions make clear that the WFS property will only be subject to additional restrictions if it ceases to be used as a school. For example, Paragraph 11 of the Deed Restrictions states:

If, and when, the land known as Friends School Tract shall no longer be used for school purposes and shall be used for residential purposes, said land shall be subject to all the limitations, reservations, restrictions and conditions herein contained.

Ex. A, ¶ 11.

B. WFS's Proposed Lower School Project

18. Consistent with its past practice, WFS presented its current design proposal of the Lower School Project to Defendants on October 8, 2020.

19. On December 2, 2020, the AMC Board conducted a neighborhood meeting via Zoom to discuss WFS's building proposal.

20. On January 7, 2021, the AMC Board sent a letter to WFS rejecting its proposal for the Lower School Project. A copy of the letter is attached hereto as Exhibit B. In its letter, the AMC Board denied WFS's proposal stating that the AMC Board is charged with duties that include "enforce[ing] all those certain powers, rights, and easements reserved unto [Woodlawn] as set forth in the [Deed Restrictions]." Ex. B at 1. Under its purported authority, Defendants determined that "the Lower School Project would significantly, substantially, and irreparably alter the character of Alapocas by introducing buildings and vehicle traffic that are out of scale and character of the neighborhood." Ex. B at 3. The AMC Board also relied on provisions of the Deed Restrictions, including Paragraph 5, that do not apply to WFS.

21. WFS responded to the AMC Board's letter on February 11, 2021. A copy of the WFS letter is attached hereto as Exhibit C. In its letter, WFS highlighted that the AMC Board's denial was inconsistent with the longstanding

past practice of the parties, purported to apply inapplicable portions of the Deed Restrictions, and was not based on any objective criteria.

22. Following its February 11 letter, WFS has sought to engage the AMC Board and the larger Alapocas community to find a resolution that would be acceptable. However, the AMC Board continues to insist that its authority to review and approve plans for WFS is broader than permitted in the Deed Restrictions. Despite several requests, the AMC Board has not approved the Lower School Project.

COUNT I- DECLARATORY JUDGMENT

23. The allegations of paragraphs 1-22 are re-alleged and incorporated herein as if fully set forth.

24. WFS has submitted plans for the Lower School Project that comply with all applicable Deed Restrictions.

25. Defendants have improperly denied WFS's building plans, interfering with WFS's use and enjoyment of its property.

26. There is an actual controversy between WFS and Defendants related to and concerning the application of the Deed Restrictions to WFS.

27. WFS and Defendants' interests in the controversy related to the Deed Restrictions are real and adverse.

28. The controversy between WFS and Defendants related to and concerning the Deed Restrictions is ripe for judicial determination.

29. WFS is entitled to a declaration from this Court that Defendants have no basis for their denial of WFS's building plans based on the Deed Restrictions, and that WFS's plans are consistent with all applicable Deed Restrictions.

COUNT II- DECLARATORY JUDGMENT

30. The allegations of paragraphs 1-29 are re-alleged and incorporated herein as if fully set forth.

31. WFS has submitted plans for the Lower School Project that comply with all applicable Deed Restrictions. However, the AMC Board has purported to apply provisions of the Deed Restrictions that are not applicable to WFS.

32. The AMC Board's application of the Deed Restrictions lacks any objective criteria and renders the Deed Restrictions invalid.

33. There is an actual controversy between WFS and Defendants related to and concerning the applicability and enforceability of the Deed Restrictions.

34. WFS and Defendants' interests in the controversy related to the Deed Restrictions are real and adverse.

35. The controversy between WFS and Defendants related to and concerning the Deed Restrictions is ripe for judicial determination.

36. WFS is entitled to a declaration from this Court that the Deed Restrictions are invalid.

COUNT III- INJUNCTIVE RELIEF

37. The allegations of paragraphs 1-36 are re-alleged and incorporated herein as if fully set forth.

38. Defendants are interfering with WFS's property rights and attempting to prevent WFS from constructing the Lower School Project.

39. No provision of the Deed Restrictions supports Defendants' actions.

40. WFS's building plans comply with all enforceable and applicable provisions of the Deed Restrictions.

41. WFS has no adequate remedy at law for Defendants' intended unreasonable interference with the use and enjoyment of its property.

42. WFS seeks an injunction to enjoin Defendants from interfering with its construction of the Lower School Project.

COUNT IV- ATTORNEYS' FEES AND COSTS

43. The allegations of paragraphs 1-42 are re-alleged and incorporated herein as if fully set forth.

44. WFS is entitled to an award of attorneys' fees and court costs pursuant to 10 Del. C. § 348(e).

45. An award of attorneys' fees against Defendants will not result in an unfair, unreasonable, or harsh outcome.

PRAYER FOR RELIEF

WHEREFORE, WFS respectfully requests that the Court enter an order including the following relief:

A. Declaring that WFS's plans for the Lower School Project comply with the Deed Restriction;

B. Declaring that Defendants' denial of the plans for the Lower School Project was improper;

C. Declaring that the Deed Restrictions are invalid as applied by Defendants to the Lower School Project;

C. Enjoining Defendants from interfering with WFS's use and enjoyment of its property, which includes interfering or otherwise attempting to prevent WFS from completing the Lower School Project in accordance with the building plans as presented to Defendants;

D. Awarding attorneys' fees and costs to WFS; and

E. Awarding such other and further relief as may be just and proper.

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