

IN THE CHANCERY COURT FOR ROANE COUNTY, TENNESSEE

JANIE V. LOVE (SALYERS), JACK &
MARILYN ELKINS, MARGARET LARSON
EVANS, MARK A. FERSNER, LAWRENCE
& JOAN EDENFIELD, RONALD & DEBRA
FARMER, WILLIAM & GAIL ELY, GARY &
MARY BYRD, and KENNETH & DEBORA
HENSLEY,

Plaintiffs,

v.

GREG LANDAICHE, COLLEEN LANDAICHE,
and PAINT ROCK FARM LAKE ESTATES
OWNERS' ASSOCIATION, INC.,

Defendants.

No. 16853

CERTIFICATE

A TRUE COPY OF THE COMPLAINT
OF Love et al

VS

Landaiche et al

FILED **SEP 26 2011**

CLERK & MASTER

At 10:45am

Oliver Minton Jr

AMENDED COMPLAINT

Come the plaintiffs, through counsel, and for their amended cause of action would show unto the Court as follows:

1. Plaintiffs are owners and/or residents of property in the Paint Rock Farm Lake Estates subdivision in Roane County, Tennessee. Attached as Exhibit A is a list of the owners by name and the appropriate lot owned by plaintiffs hereto.
2. Defendants, Greg Landaiche and Colleen Landaiche, are owners of the lots 1 and 2 in the Paint Rock Farm Lake Estates subdivision.
3. The added defendant, Paint Rock Farm Lake Estates Owners' Association, Inc. ("PRFLEOA") is a non-profit Tennessee corporation which may be served with process through its registered agent for service of process, Jenny L. Keller, 225 Eagle Ridge Road, Kingston, TN 37763.
4. Venue is proper before this Court, as the matter in controversy concerns alleged inappropriate conduct by defendants Landaiche with respect to violations of

restrictive covenants and/or easements within the subdivision located in Roane County

Tennessee.

5. Plaintiffs bring the instant action seeking a declaration and order from the Court that the defendants' conduct is in violation of the Paint Rock Farm Lake Estates' restrictive covenants and requiring that the defendants comply with the restrictive covenants and abate their violations thereto.

6. Specifically, in the summer of 2010, defendants constructed a gate/barricade across a subdivision roadway on the border of their property between lot 2 (owned by defendants) and lot 3 (owned by Margaret L. Evans, a plaintiff herein) on Eagle Ridge Road. Eagle Ridge Road is a private road in the interior portion of Paint Rock Lake Estates. Attached hereto as Exhibit B is a copy of the map for Paint Rock Farm Lake Estates.

7. From a review of Exhibit B, the lower portion of Eagle Ridge Road adjacent to lots 1 through 7 of the subdivision crosses along the interior portion of said lots. Defendants have, by their conduct, excluded access and use of the private road to other residents of Eagle Ridge Road and the entire subdivision. The end of Eagle Ridge Road that culminates in a cul-de-sac on lot 1 has historically been used by residents and other invited persons as a turnaround, and is also necessary at times for larger vehicles, including garbage, emergency vehicles, and other larger vehicles unable to turn around on Eagle Ridge Road without accessing driveways of residents.

8. The portion of the road that has been cut off by the defendants has consistently been maintained and monies expended by Paint Rock Farm Lake Estates Owners Association.

9. Additionally, defendants have created an obstacle in the cul-de-sac in the roadway by placing rocks, dirt, mulch, and other materials that renders said cul-de-sac unusable for travelers on the roadway.

10. On July 16, 1976, an Easement Deed in favor of PRFLEOA (and each and every member thereof) was recorded in the Roane County Register of Deeds Office providing for the right-of-way easements, including the easement at issue, and such easements are for the benefit of all landowners and/or with said land. See attached Exhibit C.

11. The restrictive covenants of Paint Rock Farm Lake Estates (as most recently revised on December 16, 2008) has consistently provided, at paragraph 3, that "All roadway easements above described shall exist for the use and benefit of all Association members, their heir, successors, and assigns."

12. Page 1 of the restrictive covenants, at paragraph c) entitled Amendment Provisions require that amendments to the restrictive covenants in the Paint Rock Farm Lakes Estates Owners Association require amendment by a two-thirds (2/3) vote, or 44 votes, of the Association. To plaintiffs' knowledge, the Paint Rock Farm Lake Estates Owners Association has never voted to amend or allow the defendants to close the road at the border of their property, or restrict access along the maintained portion of the roadway that bisects the defendants' lots 1 and 2.

13. Paragraph 12 of the restrictive covenants provides that it is "lawful for any person or persons or entities owning any real property situated in Paint Rock Farm Lake Estates or for the Paint Rock Farm Lake Estates Owner's Association, Inc. to prosecute any proceedings in law or in equity against the person or persons violating or attempting to violate any such covenants to prevent that person or persons from doing so or to recover damages or other dues for such violations." Plaintiffs herein are such persons entitled to bring a private action against the defendants for the defendants' violation of the restrictive covenants referenced herein.

14. Attached as Exhibit D is a copy of the Paint Rock Farm Lake Estates

Owner's Association, Inc. restrictive covenants as revised on December 16, 2008, and of record at Book 1303, page 640 in the Register's Office for Roane County, Tennessee.

15. Subsequent to the original Complaint being filed in the instant action, on or about January 4, 2011, a special called meeting of the PRFLEOA was held to vote to modify the existing easement on Eagle Ridge Road and to allow defendants Landaiche to build or maintain a gate/barrier previously erected at the border of lot 2 and lot 3. Defendants Landaiche prepared a letter and sent a proxy to association members soliciting votes in favor of their proposed modification to the road easement at issue. Attached as Exhibit E is a copy of the letter sent by defendants Landaiche to association members.

16. A vote was taken at said meeting at which 26.88 votes were casts in favor of the proposed amendment to allow the Landaiches to barricade Eagle Ridge Road at the border of their property.

17. Plaintiffs contend that the information provided by defendants with respect to the special called meeting of January 4, 2011, was incorrect and misleading. Plaintiffs further contend that the votes obtained at said meeting were insufficient and inadequate and not in accordance with the Restrictive Covenants and voting guidelines of the Owners' Association and/or otherwise inadequate at law to modify or amend the right-of-way easements granted to plaintiffs and all landowners of the subdivision. Thus, neither the vote of the Owners' Association nor the actions of defendants Landaiche with respect to the barricade/barrier across the roadway are appropriate or warranted in the instant case.

WHEREFORE, the plaintiffs pray as follows:

1. That a copy of the Amended Complaint and Summons issue upon the added defendant PRFLEOA and that they be made to answer according to the


Tennessee Rules of Civil Procedure;

2. That the Court render judgment in favor of plaintiffs and against the defendants and find that the defendants have violated the restrictive covenants of the Paint Rock Farm Lake Estates Owner's Association and/or violated plaintiffs' rights with respect to easements, and that the defendants' conduct blocking off or putting a gate at the edge of lot 2 is in violation of the restrictive covenants of the subdivision;

3. That said judgment require and order the defendants to remove their gate/barricade on Eagle Ridge Road and restore the roadway and cul-de-sac to its prior condition such that access be available to all residents of Paint Rock Farm Lake Estates subdivision for their use and enjoyment as required in the restrictive covenants of said subdivision;

4. That the plaintiffs have such other further damages or relief as may be shown and to which they are entitled;

Respectfully submitted this 22 day of September, 2011.



F. Scott Milligan, BPR #13886
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Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the persons listed below by placing a copy thereof, first class postage prepaid, hand delivery, and facsimile, this 22nd day of September, 2011.

Gregory P. Isaacs, Esq.
P.O. Box 2338
Knoxville, TN 37901-2448



F. Scott Milligan