

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS & ST. JOHN



GREAT ST. JIM, LLC

Plaintiff,

v.

CHRISTIAN KJAER *in personam*, &  
PARCEL 11, ESTATE NAZARETH, ST.  
THOMAS, U.S. VIRGIN ISLANDS *in rem*,

Defendants.

)  
) Civil No. ST-18-CV-293  
)  
)

) ACTION FOR ENFORCEMENT  
) OF COVENANT, INJUNCTIVE  
) RELIEF, PRIVATE NUISANCE,  
) DIMINUTION OF VALUE,  
) UNJUST ENRICHMENT &  
) ACCOUNTING  
)  
) JURY TRIAL DEMANDED

ANSWER

COMES NOW, Defendants Christian Kjaer (“Kjaer”) *in personam* and Parcel 11, Estate Nazareth, St. Thomas, U.S. Virgin Islands *in rem* (“Parcel 11”) (collectively “Defendants”), by and through their undersigned counsel, Gaylin Vogel, appearing and for its Answer and Affirmative Defenses without prejudice to its pending Motion to Dismiss the First Amended Complaint states in response to Plaintiff’s numbered paragraphs as follows:

1. Defendants do not have sufficient information to either admit or deny the allegations in paragraph 1, and leaves Plaintiff Great St. Jim, LLC (“Plaintiff”) to its proof.
2. Admit.
3. Admit.
4. Denied.
5. Admit.
6. Defendants do not have sufficient information to either admit or deny the allegations in paragraph 6, and leaves Plaintiff to its proof. To the extent an answer is required the allegations are denied.

7. Denied, there is no restrictive covenant for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
8. Denied, the 1965 Deed does not apply for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
9. Denied, the 1965 Deed does not apply for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
10. Denied, there is no restrictive covenant for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
11. Denied, there is no restrictive covenant for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
12. Denied, there is no restrictive covenant for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
13. Denied, there is no restrictive covenant for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings

**COUNT I:** Enforcement of restrictive covenant and/or express or implied easement against Kjaer and Parcel 11

14. Defendant repeats and realleges the foregoing answers to the First Amended Complaint as if fully set forth herein.
15. Denied, there is no restrictive covenant for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
16. Denied, there is no restrictive covenant for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.

17. Denied, there is no restrictive covenant for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
18. Denied, there is no implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
19. Denied, there is no restrictive covenant for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
20. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
21. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
22. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
23. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.

**COUNT II:** Private Nuisance against Kjaer and Parcel 11

24. Defendant repeats and realleges the foregoing answers to the First Amended Complaint as if fully set forth herein

25. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
26. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
27. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
28. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
29. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.

**COUNT III:** Action for declaratory judgment against Kjaer and Parcel 11

30. Defendant repeats and realleges the foregoing answers to the First Amended Complaint as if fully set forth herein.
31. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.

32. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.

33. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.

**COUNT IV:** Diminution of value of Plaintiff's property against Kjaer and Parcel 11

34. Defendant repeats and realleges the foregoing answers to the First Amended Complaint as if fully set forth herein.

35. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.

36. Denied.

37. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.

38. Denied.

**COUNT V:** Unjust enrichment and action for accounting against Kjaer

39. Defendant repeats and realleges the foregoing answers to the First Amended Complaint as if fully set forth herein.

40. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.

41. Denied.
42. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
43. Denied, there is no restrictive covenant or implied easement for the reasons stated in Defendants' Motion to Dismiss the First Amended Complaint and Motion for Judgment on the Pleadings.
44. Denied.

#### **AFFIRMATIVE DEFENSES**

1. Plaintiff has failed to state a claim for which relief has been granted.
2. Plaintiff's claims are barred by the statute of limitations.
3. Plaintiff's claims are barred under the statute of frauds.
4. This court does not have in rem jurisdiction over Parcel 11.
5. Plaintiff has unclean hands.
6. Plaintiff has failed to join a necessary party.
7. Plaintiff has failed to mitigate its damages.
8. Plaintiff's First Amended Complaint alleges damages are the result of acts or omissions committed by non-parties to this action over whom the Defendants have no responsibility or control.
9. Plaintiff lacks standing to bring suit under the counts alleged in the First Amended Complaint.
10. Plaintiff's claims are barred under the doctrine of laches.
11. Defendants reserve the right to add additional affirmative defenses

Dated: October 25, 2018

Kevin F. D'Amour, P.C.



Gaylin Vogel  
VI Bar #1077  
P.O. Box 10829  
St. Thomas, VI 00801



**CERTIFICATE OF SERVICE**

**THIS IS TO CERTIFY** that on this 25 day of October, 2018, I caused a true and correct copy of the Answer to the First Amended Complaint to be sent to the following via US Mail, postage prepaid.

Christopher Allen Kroblin, Esq.  
Marjorie Whalen, Esq.  
Kellerhals Ferguson Kroblin PLLC  
Royal Palms Professional Building  
9053 Estate Thomas, Suite 101  
St. Thomas, VI 00802

