

IN THE CIRCUIT COURT OF THE EIGHTEENTH
JUDICIAL CIRCUIT IN AND FOR SEMINOLE COUNTY, FLORIDA

CASE NO.: 09-CA-1735-16-W

CARILLON COMMUNITY
RESIDENTIAL ASSOCIATION, INC.,
and KEN HOFER,

Plaintiffs,

vs.

SEMINOLE COUNTY, FLORIDA,
UNIVERSITY OF CENTRAL FLORIDA
AND UNIVERSITY OF CENTRAL
FLORIDA FOUNDATION, INC.

Defendants.

**UCF AND UCF FOUNDATION'S ANSWER AND AFFIRMATIVE DEFENSES TO
COUNT III OF AMENDED COMPLAINT**

Defendants, UNIVERSITY OF CENTRAL FLORIDA and UNIVERSITY OF CENTRAL FLORIDA FOUNDATION, INC. ("Foundation"), by and through their undersigned attorneys, hereby file their Answer and Affirmative Defenses to Count III of the Amended Complaint and allege as follows:

1. Defendants are without knowledge and therefore deny the allegations of paragraph 1 of the Amended Complaint.
2. Defendants are without knowledge and therefore deny the allegations of paragraph 2 of the Amended Complaint.
3. Defendants admit the allegations of paragraph 3 of the Amended Complaint.
4. Defendants are without knowledge and therefore deny the allegations of paragraph 4 of the Amended Complaint.
5. Defendants admit the allegations of paragraph 5 of the Amended Complaint.

6. Defendants admit the allegations of paragraph 6 of the Amended Complaint.
7. Defendants admit the allegations of paragraph 7 of the Amended Complaint.
8. Defendants are without knowledge and therefore deny the allegations of paragraph 8 of the Amended Complaint.
9. Defendants are without knowledge and therefore deny the allegations of paragraph 9 of the Amended Complaint.
10. Defendants are without knowledge and therefore deny the allegations of paragraph 10 of the Amended Complaint.
11. Defendants are without knowledge and therefore deny the allegations of paragraph 11 of the Amended Complaint.
12. Defendants admit the allegations of paragraph 12 of the Amended Complaint.
13. Defendants are without knowledge and therefore deny the allegations of paragraph 8 of the Amended Complaint.
14. With respect to the allegations of paragraph 22 of the Amended Complaint, Defendant is without knowledge of the allegations and therefore denies them.
15. Defendants deny the allegations of paragraph 23 of the Amended Complaint.
16. Defendants are without knowledge of the allegations of paragraph 24 of the Amended Complaint and therefore denies them.

COUNT III

17. Defendants are without knowledge of the allegations of paragraph 61, and the allegations of paragraph 61 of the Amended Complaint are therefore denied.
18. Defendants are without knowledge of the allegations of paragraph 62 of the Amended Complaint are therefore denies them.

19. Defendants reallege and incorporate by reference their answers to the allegation of paragraphs 1 through 13 and 22 through 24 of the Amended Complaint.

20. Defendants are without knowledge and therefore deny the allegations of paragraph 64 of the Amended Complaint.

21. Defendants admit the allegations of paragraph 65 of the Amended Complaint.

22. Admitted that the student housing portion of the Project is not located on the University of Central Florida campus. The remaining allegations of paragraph 66 of the Amended Complaint are denied.

23. Defendants deny the allegations of paragraph 67 of the Amended Complaint.

24. Defendants are without knowledge of the allegations of paragraph 68 of the Amended Complaint and therefore deny them.

25. Defendants are without knowledge as to the allegations of paragraph 69 of the Amended Complaint and therefore deny them.

26. Defendants deny the allegations of paragraph 70 of the Amended Complaint.

First Affirmative Defense

UCF does not own the property that is the subject of Count III of the Amended Complaint and is not developing that property. The property is not located on the UCF campus. Thus, Policy 1.1.3 providing that “university-owned housing shall be built on campus grounds” does not apply to the project that is the subject of the Amended Complaint.

Second Affirmative Defense

Objective 1.2 of the UCF Master Plan provides that its objective is “to ensure the availability of off-campus housing and support facilities, within close proximity to the campus, which will meet the projected student enrolment.” In furtherance of that objective, Policy 1.2.1 provides that “university-affiliated housing facilities off-campus shall be provided to ensure the

availability of off-campus housing within close proximity to the campus. The University will apply similar rules and regulations to students living in these facilities as on-campus housing, and provide services such as shuttles to create and maintain functional linkages with the main campus.” Objective 1.2 and Policy 1.2.1 operate to bar Plaintiffs from the relief they are seeking.

Third Affirmative Defense

Plaintiffs lack standing to bring this cause of action

 #899909

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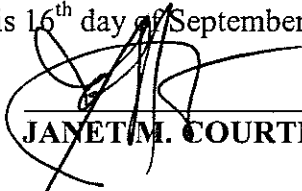
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail to: **DAVID A. THERIAQUE, ESQUIRE, S. BRENT SPAIN, ESQUIRE,** and **LESLIE E. BRYSON, ESQUIRE** of Theriaque, Vorbeck & Spain, 433 North Magnolia Drive, Tallahassee, Florida 320810 and **KATHY FUREY-TRAN**, Seminole County Attorneys Office, 1101 East 1st Street, Sanford, Florida 32771, this 16th day of September, 2009.

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JANET M. COURTNEY