

Paul Kardos
204 Cleveland Lane, Monroe Bldg.
Rockaway, NJ 07866
973-527-1433 cell
732-259-4727 alternate cell
Plaintiff *Pro Se*

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SUPERIOR COURT
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MORRIS COUNTY
CIVIL DIVISION

Paul Kardos <i>Plaintiff</i> v. Fox Hills at Rockaway Condominium Association, Inc. <i>Defendant</i>	Superior Court of New Jersey Chancery Division Morris County Docket No. C-102-18 Civil Action COMPLAINT
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Plaintiff, Paul Kardos, residing at 204 Cleveland Lane, Township of Rockaway, County of Morris, State of New Jersey, complaining of defendant, states as follows:

COUNT ONE

1. The Plaintiff (Paul Kardos) was and is a homeowner at the Defendant, Fox Hills at Rockaway Condominium Association, Inc. (hereafter "Defendant Association") and as such under the Defendant Association Bylaws is a member of the Defendant Association.
2. Defendant Associations Rules & Regulations Article I Section 3 (Exhibit A) describes the requirements and procedures to be used for flyer distribution within the condominium complex of the Defendant Association.
3. On Thursday morning of May 17, 2018, Plaintiff submitted a flyer (Exhibit B) to the Defendant Association by dropping the flyers off at the condominiums clubhouse for Friday folder distribution (standard distribution to each of 14 residents' buildings).

4. On Thursday May 17, 2018, at 10:22 AM, the Plaintiff received a phone message from Defendant Association agent (Community Manager) Lynn Meekins stating, *“regarding your flyer for Friday folders, the board has decided not to post that, unfortunately you are attacking the board and calling them liars and that’s not acceptable to be posted.”*
5. Defendant was criticized/attacked in the Defendant Association Board of Directors (hereafter “the Board”) Notice of February 16, 2018 (Exhibit C).
6. Freedom to speak and write and publish are guaranteed by the *New Jersey Constitution* and are further defined by the New Jersey Supreme Court in Dublirer vs. 2000 Linwood Ave. , 220 NJ 71-89 (2014).
7. The Plaintiff brings this action because of the Boards failure to follow New Jersey Constitution Article I paragraph 6, *“Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or the press.”*

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

8. Declare that the action of Defendant Association’s agent described in the Complaint violated Plaintiffs rights to free speech under the New Jersey Constitution.
9. Declare that Defendant Association Rules and Regulations Article I section 3. A. (requiring written permission of the Board to distribute literature) violates the free speech guarantee in New Jersey’s Constitution.
10. Declare that Defendant Association Rules and Regulations Article I section 3. B. 2. (prohibiting any attack against persons or groups) violates the free speech guarantee in New Jersey’s Constitution.

11. Declare that Defendant Association Rules and Regulations Article I section 3. C.
(requiring board approval for Friday folder distribution) violates the free speech guarantee in New Jersey's Constitution.
12. Permanently enjoin Defendant Associations agents, employees and all persons in active concert or participation with Defendant Association who receive actual notice of the injunction, to provide the same or equal distribution for homeowner's political flyers throughout the condominium complex as is available and used by the Board.
13. Order such other relief as the Court may deem just and proper.

COUNT TWO

14. The Plaintiff repeats and realleges the allegations of COUNT ONE of this Complaint as if fully set forth herein at length..
15. Title 46 Chapter 8B section 13 (a) of the *Condominium Act* prescribes,

"...all meetings of that governing board, except conferences or working sessions at which no binding votes are to be taken, shall be open to attendance by all unit owners, ... except that the governing board may exclude or restrict attendance at those meetings, or portions of meetings, dealing with (1) any matter the disclosure of which would constitute an unwarranted invasion of individual privacy; (2) any pending or anticipated litigation or contract negotiations; (3) any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer; or (4) any matter involving the employment, promotion, discipline or dismissal of a specific officer or employee of the association."
16. In the June 2018 issue of the official publication of the Defendant Association, The Fox Hills Courier (Exhibit D), the Board announced that the speed limit was being raised to 25 miles per hour.
17. The only Board meeting that was open to unit owners in 2018 prior to the June announcement of the new speed limit was the quarterly meeting of April 2, 2018. There

is no mention of a decision to raise the speed limit in the minutes of this meeting. Indeed, the minutes of this meeting report, "No old business" and "No new business."

18. The decision to raise the speed limit must have been made other than at a Board meeting open to all homeowners.

19. The Plaintiff brings this action because of the Boards failure to follow the *Condominium Act* requiring binding decisions to be made at meetings open to homeowners.

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

20. Declare that the Boards decision to raise the speed limit violated Title 46 Chapter 8B section 13 (a) of the *Condominium Act*.

21. Permanently enjoin the Defendant Associations Board of Directors to open all Board meetings to all unit owners except for those conferences or working sessions at which no binding decisions are to be made.

22. Order such other relief as the Court may deem just and proper.

CERTIFICATION OF NO OTHER ACTIONS

I certify that the dispute is not the subject of any other action pending in any other court or a pending arbitration proceeding, to the best of my knowledge or belief. Also to the best of my knowledge or belief no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

Dated: Sept. 20, 2018

Signature Paul Kardos

Paul Kardos

CERTIFICATION OF FILING AND SERVICE

The undersigned hereby certifies that a copy of this pleading was served and filed within the time permitted by the court rules.

Dated: Sept. 20, 2018

Signature Paul Kardos

Paul Kardos

CERTIFICATION OF IDENTIFIERS

I certify that confidential identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

Dated: Sept. 20, 2018

Signature Paul Kardos

Paul Kardos

EXHIBIT A (sheet 1 of 2)

FOX HILLS AT ROCKAWAY CONDOMINIUM ASSOCIATION, INC. RESTATED RULES AND REGULATIONS

The Fox Hills at Rockaway Condominium Association is a community organization made up of owners of units in the Fox Hills Condominium located in Rockaway Township, New Jersey.

These Rules and Regulations are intended to set out the use restrictions and rules for living in a planned community in such a way that all can enjoy peace and quiet, with respect for one another. These Rules should be read in conjunction with the Master Deed and By-Laws. The Master Deed, By-Laws, and Rules and Regulations apply to all unit owners, as well as their tenants and guests. Unit owners are responsible for the conduct of their tenants and/or guests and infractions committed by them.

A failure not to enforce one or more of the Rules and Regulations shall not be deemed a waiver of the right, obligation, and power of the Board of Directors to enforce any of them.

Should any provision hereof be determined to be invalid or unenforceable, the remaining provisions hereof shall remain in full force and effect.

I GENERAL PROVISIONS

1. Smoking is prohibited in the following areas: garages, building hallways and lobbies, the greenhouse, clubhouse, tennis courts, bocce courts, shuffleboard courts, horseshoes, pools, covered outdoor pool area, barbecue area, clubhouse balconies, and all other common facilities and areas. Smoking is permitted in the Clubhouse upper and lower level parking lots ONLY!
2. Each unit resident should have 1 photo ID and 1 guest card or badges per unit without charge. Those unit owners who still retain the brown guest badges shall be permitted to use them.
3. A. The distribution of literature to residential units without the prior written permission of the Board of Directors is prohibited. Any Association member wishing to distribute literature must submit a written request including a copy of the literature to the Association for review by the Board of Directors. Approval may be granted if, in the sole discretion of the Board of Directors, the material is deemed appropriate and does not expose the Association to any liability. Photo identification must be on your person at all times.
3. B. Political flyers may be distributed door to door with the following limitations:
 1. The flyer must relate to the governance or operation of Fox Hills;

EXHIBIT A (sheet 2 of 2)

2. The flyer date and the resident's name must appear on the flyer; and may not contain any attack against persons or groups.
3. The resident distributing the flyer is responsible for following all applicable N.J. Laws (e.g. libel, slander, etc.)
4. Residents from another building distributing flyers door to door must be accompanied by a building resident that allows them in.
3. **C.** Flyer distribution in buildings will be done by giving the flyers to the office for distribution in Friday's folders with review and approval by the board
4. Guests must always be accompanied by a resident at all common area amenities.
5. Photos taken at Fox Hills, for use on the internet, require the signed permission of everyone in the photo.
6. Definitions

For the purpose of brevity and clarity, certain words and terms used in these Rules and Regulations are defined as follows, unless the context clearly indicates otherwise:

Association: The entity formed to serve as a means through which the condominium may take action with regard to the administration, management, maintenance, repair and operation of the property. The Association shall be governed by the New Jersey Condominium Act, the Master Deed, the By-Laws and the Rules and Regulations.

Board or Board of Directors: The entity of the Condominium Association, as constituted at any time or from time to time, in accordance with the applicable provisions of the By-Laws.

By-Laws: The governing regulations adopted under the New Jersey Condominium Act (46:8B-12.2) for administration and management of the condominium and condominium property and the actions of the Association.

Common Elements: All properties within the boundaries of Fox Hills Condominium exclusive of residential units.

Director: A member of the Board of Directors.

Extenuating Circumstances: An unusual circumstance suggesting a Board ruling.

Guest: Shall mean and refer to a person who occupies or visits a unit but has a permanent residence elsewhere. Aides are not considered guests as they are considered a paid employee of a resident.

Limited Common Elements: Spaces within residential buildings assigned to the sole use of a specific unit. Garage parking, utility closets and balconies are the current designated areas.

Photo ID: A facial picture card dated annually which should be carried by the resident when in the common areas of the community.

Resident:

The term "Resident" and "Permanent Resident" when used herein shall be synonymous.

EXHIBIT B - Flyer

The opinions of the author do not necessarily reflect the opinions of the Board. However, in accordance with the First Amendment (Freedom of Speech) this document is being distributed

The litigation (Fox Hills vs. Applebaum, Kardos & Rothstein) started with a lie and now ends with a lie.

Starting Lie:

Paragraph 4 in the Verified Complaint:

"During the course of that communication, the Owners conspired to "shoot" a recently elected member of the Board; currently the Board's president, Ms. Gloria Stahl. Paul Kardos assembled the Owners, along with others who he believed might be willing to participate in his conspiracy, and to participate in the actual shooting."

This is pure fantasy. In my mind it is akin to deliberate perjury. But I was unable to sustain a claim for defamation due to a legal principle called *Litigation Immunity*. Deliberate lies are allowed in legal pleadings. .

I would like to know who wrote this lie. I would like to know who on the board, besides Secretary Cohen who signed for it, acquiesced to this lie. If any board member objected to this lie, I'd like to know who it was. They should be commended for knowing it's wrong to falsely accuse someone of a crime.

Ending lie¹:

The board posted a notice dated May 10, 2018 stating:

"We have been advised by Council that the Agreements preclude the Board from providing any additional information regarding this matter".

According to my attorney the contents of the Settlement Agreement are confidential, BUT anything else about the litigation can be discussed!!!

Questions:

The following questions have nothing to do with settlement agreements and should be able to be answered by the board:

1. What lessons were learned from this frivolous litigation?
2. What was the total cost of the litigation to homeowners?
3. Why is David J. Byrne, Esq. no longer the association's attorney?
4. Was any attorney or settlement money paid for by insurance?
5. Was any settlement money paid for by David J. Byrne, Esq.?
6. Did the attorney encourage the Board to pursue this lawsuit, or did the Board convince him?
7. Attorneys do not come cheap. Would any of the board members contribute toward attorney costs of the defendants? How about \$500 per director?
8. Do you think the board owes an apology to the defendants for the frivolous litigation and the false report filed with the police department?
9. Do you think the board owes an apology to the homeowners of Fox Hills?

Paul Kardos

¹ The board statement is not true. If the board knew it wasn't true, and they must have known, then it's a lie. If they thought it was true but it wasn't, then it's just a false statement.

5/17/18

EXHIBIT C

Notice

Update on Association's Complaint Against 3 Homeowners

February 16, 2018

Yesterday, Judge Robert J Brennan rejected the Association's attempt to subject the 3 homeowners to restraints. He also granted motions to dismiss for 2 of the 3 homeowners.

While the Board is disappointed in these rulings, it stands by its decision to file this Complaint, as an attempt to discourage future instances of cyber-harassment and bullying in our community.

The language used in the chain of emails by the 3 homeowners included the language, "shoot her" and "if I could get away with it, I'd buy a gun and pull the trigger." According to one of the 3 homeowners, Judge Brennan did acknowledge that this language was inappropriate, well out-of-bounds and terribly in bad taste.

The Board agrees with the Judge, especially in light of Wednesday's mass shooting in Florida... the latest in a rash of shootings in recent years.

We realize that this complaint will result in an extra legal cost for the Association. The Board believes this legal cost represent a necessary price to pay for pro-actively trying to protect all homeowners from harassment and fear. We should keep in mind that this extra legal cost is a direct result of the irresponsible behavior of the 3 homeowners.

Your Board of Directors

EXHIBIT D



The Fox Hills Courier

"The Premier Active Adult Community In Morris County"

Fox Hills at Rockaway Condominium Association, Inc.
One JFK Circle * Rockaway, NJ 07866 * 973-361-4057
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Fox Hills Board of Directors

Gloria Stahl, President
Eleanor Hunt, Vice President
Bonnie Cohen, Secretary
Peter Forman, Treasurer
Connie Kelly, Assistant Treasurer
Jay Amdur, Director
Barrie Werfel, Director

Quarterly Directors' Meetings

1st Quarterly Meeting
April 2, 2018, 7:00 PM

2nd Quarterly Meeting
July 9, 2018, 7:00 PM

3rd Quarterly Meeting
October 1, 2018, 7:00 PM

Annual Meeting
December 10, 2018, 7:00 PM

Courier Committee

Aurelie Gurda
Adrienne Migdale

BOARD NEWS...

SAR I Lawsuit Regarding Easement Rights

The Board is very grateful to the residents for their great efforts to return their votes in a timely manner. It was a challenging time table, but we had the best response to any ballot sent to the community. The official count:

497 - Mediation

33 - Litigation

As mediation continues, we will keep you apprised of developments. Since this is a very serious matter with great consequence to the community, we will make every effort to keep you informed in a timely manner.

2017 Audited Financial Statements

Our independent auditor, Marie Mirra, has completed our 2017 Audited Financial Statements (AFS), in which she issued a "clean" opinion... the highest level of confidence regarding the reliability of our financial statements. Copies of the 2017 AFS will be available in the office on or shortly after June 4th to interested homeowners.

Speed Limits within the Property



Although it may seem counter-intuitive, in an effort to reduce speeding within the community, the Speed Limit signs are in the process of being changed to 25 MPH rather than 15 MPH. Our intent is to offer a more realistic speed limit that drivers, especially outside vendors and delivery trucks, could maintain. The 25 MPH is used state wide in all residential and school areas unless otherwise posted.