

WRIT OF MANDAMUS

WHEREAS: Based upon the matter having gone before the Court on Petition for Judicial Review filed by Old Trails Partnership, LLC, ("Applicant"), the final decision of the Honorable Judge Steven M. Waldron of the Harford County Board of Appeals in Case No. 5071, and as ordered and signed in agreement with the Peoples' Counsel, Harford County, and the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, a Consent Decree (the "Consent Decree") was entered into on the 10th day of March 2004 to fully and finally resolve all issues in Civil Action No. 12-C-03-634 AA (the "Litigation") without further adjudication of the matter, so as to avoid further litigation, expenses and inconvenience on the part of the Parties; *See Exhibit A attached hereto and made a part hereof*; and

WHEREAS: Certain and necessary variances were included in the Decree to develop the Old Trails ("Property"), stipulating that the Property was limited to Residential Development of fifty-six (56) attached homes. The homes were to be designated as Housing for the Elderly as defined by Harford County Zoning Code; and

WHEREAS: The Parties agreed to waive their respective rights to appeal said Consent Decree as it was ordered; and

WHEREAS: The Consent Decree, which included an Appended Site Plan, ("Site Plan") contained the entire understanding of the Parties (including the 120 community resident signors) as to the issues and matters of the Litigation; and

WHEREAS: The Parties agreed that there would be no additional promises other than those contained in the Consent Decree; and

WHEREAS: The Consent Decree would not be modified except in writing and signed by all the Parties, including the original one hundred twenty (120) community signors to the Consent Decree; and

WHEREAS: On September 9, 2005 J. Ralph Medley Senior formed a the Home Owners Association known as River Run Estates on the Gunpowder Home Owners Association, ("Association") specifically designed for, including but not limited to, the common use, benefit,

enjoyment and welfare of the record owner or owners of each lot recorded among the Land Records of Harford County, Maryland ("Land Records") in Liber 6405 Folio 140 as recorded among the Plat Records of Harford County Maryland in Plat Book JJR No. 120 folio 71, 72, 73 respectively now referred to as the "Property", *See Exhibit B attached hereto and made a part hereof*; and

WHEREAS: On November 15, 2005, the Applicant recorded a Declaration of Covenants, Conditions and Restrictions ("Declaration") for the Property Land Records, at Liber J.J.R. No. 6045, folio 0125, "First Declaration-Housing for the Elderly" to the Property; *See Exhibit C attached hereto and made a part hereof*; and

WHEREAS: Also, on November 15, 2005, the Applicant recorded among the Land Records, "River Run Estates on the Gunpowder Homeowners Association, Inc. Declaration" for the Property at Liber J.J.R. No. 6405, folio 0140, known as the "Second Declaration"; *See Exhibit D attached hereto and made a part hereof*; and

WHEREAS: On March 2, 2007 the Applicant recorded the First Amendment to the Declaration in Land Records recorded at Liber J.J.R. No. 7235, folio 367 to add a General Archeological Disclosure dated December 4, 2006 pursuant to the provisions of the National Historic Preservation Act of 1966 resulting in a Memorandum of Agreement executed among the Army Corp of Engineers, the Maryland State Historic Preservation Officer and the Applicant on November 8, 2005 to protect adverse development over a portion of the Property, *See Exhibit D attached hereto and made a part hereof*; and

WHEREAS: On March 2, 2007 the Applicant amended the Declaration by a Second Amendment ("2nd Amendment") recorded in Land Records at Liber 7235, Folio 388 to transfer, set over and assign all of its right, title and interest of the Applicant under the Declaration or any modification thereof to Touse Homes, Inc. A Florida, ("Touse"), which Deeds to the Property are recorded in Land Records. *See Exhibit E attached hereto and made a part hereof*; and

WHEREAS: Subsequent to the 2nd Amendment to the Declaration, Touse filed for Bankruptcy protection in the United States Bankruptcy Court, Southern District of Florida, Case No. 08-10928 BKC-JKO in 2005 which included the Property; and

WHEREAS: Tousa, as Grantor and Applicant entered into a Notice to Termination of Option and Quitclaim Deed for the Property, dated December 5, 2005, that was never recorded, but evidenced the intent of the parties, see *Exhibit F attached hereto and made a part hereof*, and

WHEREAS: On January 25, 28, and 30, 2008 and again on February 29, 2008, Tousa conveyed four (4) of the fifty-six (56) approved Residential Lots from the Property known as Lots # 5, 6, 7, and 8 respectively, and as described on the Site Plan evidenced and recorded among Land Records in Liber 7718, Folio 696, Liber 7681, Folio 332, Liber 7864, Folio 657 and Liber 7718, Folio 322, ("Original Four"), *See Exhibit G attached hereto and made a part hereof*; and

WHEREAS: The Original Four had a certain expectation that the remainder development would be constructed in accordance with the Site Plan appended to the Decree and that the Builders would adhere to the Decree and intentionally limit construction to Residential Development of fifty-six (56) attached residential homes; and

WHEREAS: The Applicant thereafter re-acquired the Property from aforesaid bankruptcy as stated in the "unrecorded" Third Amendment of the Declaration; *See Exhibit H attached hereto and made a part hereof*; and

WHEREAS: By a Special Warranty Deed made the 13th day of October, 2016 the Applicant as Grantor, conveyed and assigned unto OT, LLC, a Maryland limited liability company, its successors and assigns, ("Grantee") the Property excluding therefrom Lots No. 5, 6, 7, and 8 and Parcel A, 0.098 AC Pump Station, (#178 Trails Way) respectively, as recorded among the Land Records Liber 12053, Pages 98-106 on October 21, 2016, *See Exhibit I attached hereto and made a part hereof*; and

WHEREAS: The Property was offered "For Sale" through www.AnsarUSA.org to establish the first "Mini-Peace Village in the United States" ("Complex") with a dedicated Mosque within walking distance. The Property would offer standard features to include, but not be limited to "Audio Feed from Adjacent Mosque for Azan" (call to prayer). *See Exhibit J attached hereto and made a part hereof*; and

WHEREAS: On July 20, 2017, the Harford County Department of Harford County Planning and Zoning issued a Preliminary Plan Approval letter that approved the revision to Plat 120-72 of the Site Plan to eliminate four (4) residential home sites recorded on the Site Plan known as Lots 19,

20, 21, and 22 and create open space for the development of a community center; *See Exhibit K attached hereto and made a part hereof*; and

WHEREAS: On July 25, 2017, the Harford County Attorney, Melissa Lambert, issued a letter to the Applicant stating a Mosque or a House of Worship of any kind would not be permitted on the property; *See Exhibit L attached hereto and made a part hereof*; and

WHEREAS: The Harford County Constituents, the Original Four, and Harford County Delegate communicated with their District Council, Harford County Government Department of Planning and Zoning, Harford County Executive, Harford County Administration, Harford County People's Counsel, and Harford County Attorney, ("County Government") to enforce the Decree and challenge the direction and intention of the Applicant and Complex, and the County Government's Pre-Approval of the Community Center at the Property and investigate the possible violations of the Decree; *See Exhibit M attached hereto and made a part hereof*; and

WHEREAS: On October 11, 2017 Maryland State Department of Assessments and Taxation deleted Lots 20, 21, and 22 from the Site Plan otherwise known as State Taxation District 01, Account Numbers #373250, #373269, and #373277; *See Exhibit N attached hereto and made a part hereof*; and

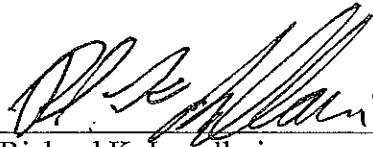
WHEREAS: The Harford County Delegate has sufficiently provided supporting evidence that ample civil and ethical attempts have been made to the County Government to investigate and enforce the Consent Decree issued by Judge Waldron, *intra alia*;

THEREFORE: The Harford County Constituents, the Original Four, and Harford County Delegate respectfully request the Court exercise its rulemaking power in the enforcement of the Consent Decree and challenge the direction and intention of the Applicant, Complex, and the County Government's Approval of the Community Center at the Property and investigate the possible violations of the Decree; and

THEREFORE: The Court exercise its rulemaking power to cause the County Government to rescind the Permits of the Community Center issued to the Applicant and cease and desist from further development of the Community Center on Property until full investigation of the Applicant's development practices are brought under scrutiny of the Court and proven to be in full compliance with the Consent Decree and Order as issued and intended by Honorable Stephen M.

Waldron on the 10th day of March 2004; or in the adverse rescind the Consent Decree and set the Property back to the original requested development of twenty-six attached townhouses and cause the Applicant submit new development plans to the County Government, Harford County Planning and Zoning, Department of Transportation for approval.

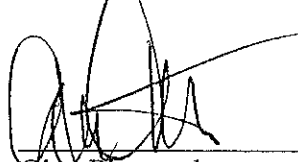
RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read "R. K. Impallaria", written over a horizontal line.

Richard K. Impallaria
Harford County Delegate
District Office
5 Punte Lane
Essex, Maryland 21221
443-257-4782

Plaintiff

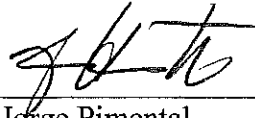
RESPECTFULLY SUBMITTED,



Gina Pimentel
143 Garnett Road
Joppa, Maryland 21085

Plaintiff

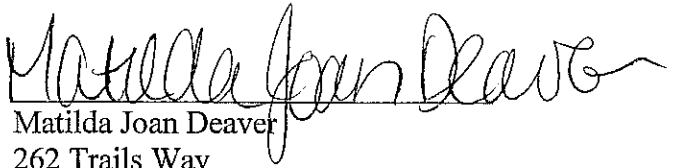
RESPECTFULLY SUBMITTED,



Jorge Pimental
143 Garnett Road
Joppa, Maryland 21085

Plaintiff

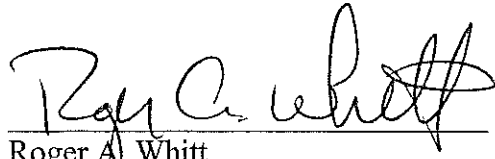
RESPECTFULLY SUBMITTED,

A handwritten signature in cursive script that reads "Matilda Joan Deaver". The signature is written in black ink and is positioned above a horizontal line.

Matilda Joan Deaver
262 Trails Way
Joppa, Maryland 21085

Plaintiff

RESPECTFULLY SUBMITTED,

A handwritten signature in cursive script, appearing to read "Roger A. Whitt", written over a horizontal line.

Roger A. Whitt
252 Trails Way
Joppa, Maryland 21085

Plaintiff

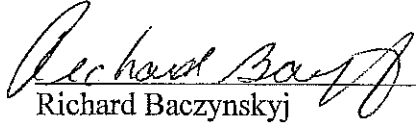
RESPECTFULLY SUBMITTED,

A handwritten signature in cursive script that reads "Renee Brooks". The signature is written in black ink and is positioned above the printed name.

Renee Brooks
264 Trails Way
Joppa, Maryland 21085

Plaintiff

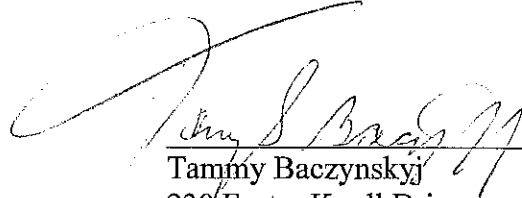
RESPECTFULLY SUBMITTED,



Richard Baczynskyj
230 Foster Knoll Drive
Joppa, Maryland 21085

Plaintiff

RESPECTFULLY SUBMITTED,



Tammy Baczynskyj
230 Foster Knoll Drive
Joppa, Maryland 21085

Plaintiff

Case No.:

ORDER

The Writ of Mandamus having been read and considered together with the opposition on the date of _____ the Court hereby orders

- A.) Harford County Government to rescind all permits and approvals for the Community Center Plan Approval P350-2017 that revised Plat 120-72 by eliminating Lots 19, 20, 21, & 22 and further orders Harford County Government, and its related departments, abide by the Consent Decree as ordered by the Honorable Stephen M. Waldron or, in the alternative;
- B.) Having found both Harford County Government and OT, LLC, the Developer in violation of the Consent Decree, the Court hereby rescinds the Consent Decree and compels Harford County to place the Old Trails Project back to the original form from the Harford County Zoning Hearing Examiner's Decision dated June 24, 2002 and final decision of the Harford Board of Appeals Case No. 5071 dated February 4, 2003.

Judge

Date: