

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION GENERAL EQUITY  
SALEM COUNTY  
DOCKET NO: SLM-C-000017-23  
APP.DIV. NO. \_\_\_\_\_

|                         |   |            |
|-------------------------|---|------------|
| THE ESTATES AT LAYTON'S | : |            |
| LAKE HOMEOWNER'S        | : |            |
| ASSOCIATION, INC.,      | : |            |
|                         | : | TRANSCRIPT |
| Plaintiff,              | : |            |
|                         | : | OF         |
| v.                      | : |            |
|                         | : | HEARING    |
| BONNIE WATSON AND       | : |            |
| LORRAINE BOCK,          | : |            |
|                         | : |            |
| Defendants.             | : |            |

Place: Salem County Courthouse  
1 N. Broad Street  
Woodbury, NJ 08096

Date: April 12, 2024

BEFORE:

HONORABLE ROBERT G. MALESTEIN, P.J.Ch.

TRANSCRIPT ORDERED BY:

MARK SANDER, ESQ. (Mattleman, Weinroth &  
Miller, P.C.)

APPEARANCES:

JEFFREY MALATESTA, ESQ. (Mattleman, Weinroth &  
Miller, P.C.)  
MARK R. SANDER, ESQ. (Thomas Thomas & Hafer, LLP)  
Attorneys for Plaintiff Layton's Lake Homeowner's  
Association, Inc.

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Attorney for Defendants Bonnie Watson and Lorraine  
Bock

I N D E X

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## Colloquy

4

1 (Proceeding in session at 1:44:11 p.m.)  
 2 THE COURT: We are on the record.  
 3 I'm Judge Malestein. This is the matter of  
 4 The Estates at Layton's Lake HOA v. Bonnie Watson and  
 5 Lorraine Bock. It's under Salem County Chancery Docket  
 6 17-23.  
 7 Counsel, make your appearances, please.  
 8 MR. MALATESTA: Good afternoon, Your Honor.  
 9 Jeff Malatesta, for plaintiff, The Estates at  
 10 Layton's Lakes Homeowner's Association, Incorporated.  
 11 MR. NAPUDA: Good afternoon, Your Honor.  
 12 Michael Napuda, of Masten & Ray, on behalf of  
 13 defendants, Bonnie Watson and Lorraine Bock.  
 14 MR. SANDER: Good afternoon, Your Honor.  
 15 Mark Sander, from Thomas Thomas & Hafer, on  
 16 behalf of the plaintiff.  
 17 I have entered an appearance and filed an  
 18 answer to the counterclaim in this action on behalf of  
 19 The Estates at Layton's Lakes, the plaintiff.  
 20 THE COURT: Okay. I think everybody is  
 21 ready.  
 22 Who really wants to -- who was the first  
 23 filer, by the way. Who -- look at the exact dates? Is  
 24 there --  
 25 MR. MALATESTA: Mr. Napuda filed first.

## Motion

5

1 THE COURT: Mr. Napuda, I'll hear from you  
 2 first.  
 3 MR. NAPUDA: Okay. Thank you, Your Honor.  
 4 I'll leave more of the details in the  
 5 arguments in the papers, as I'm sure you've read them.  
 6 I supplied a brief and then a reply -- a  
 7 reply to brief, of sorts.  
 8 So basically, just overall, the big picture  
 9 here, if you step back and look at what's happened, my  
 10 clients' built a fence.  
 11 They submitted plans to the HOA and they get  
 12 a letter back from the committee saying go ahead and  
 13 build your fence. They build it.  
 14 And then three months after that they get a  
 15 violation saying the fence is in violation of  
 16 something.  
 17 Well, what exactly is the violation of  
 18 changed a little bit. It was first characterized as  
 19 one thing and then it was changed to a sidewalk  
 20 easement, then a site angle -- so it bounced around.  
 21 Then it was incorrect materials and stuff  
 22 like that. All those were erroneous.  
 23 And then three months after they made their  
 24 first violation, the HOA finally settled on the  
 25 argument that they have today, which is this outside of

Motion

6

1 the setbacks, and they're referring to a paragraph in  
2 the covenants that has a 30-foot setback.

3 Well the thing is that that paragraph deals  
4 with sheds, shacks, and other similar structures, and  
5 they're taking the other similar structures and they're  
6 really running with that. They're going through the  
7 Township ordinances and trying to find what similar  
8 structure is a fence.

9 Well in the covenants, Your Honor, there is  
10 another paragraph in 8.1 that deals with fences. It  
11 says what a fence is. It doesn't have to -- you don't  
12 have to stretch it out to other similar structures.

13 It's right there, and it doesn't say anything  
14 about a setback.

15 But what it does do is it refers you to the  
16 ordinances. So the HOA is looking at the ordinances to  
17 try to get a definition to define other similar  
18 structures as a fence.

19 If you go into the Carney's Point Township  
20 ordinances, they say setback for a fence is four inches  
21 from the property line, which is what my clients' fence  
22 is, four inches from the property line. That's how  
23 they got the zoning permit, is to build a fence to that  
24 spec.

25 So here we are, you know, with these two

Motion

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1 arguments, where my clients are saying that look,  
2 there's this paragraph in the covenants that deals with  
3 fences.

4 If there was a 30-foot setback on fences,  
5 then why wouldn't it be in the fence paragraph. It was  
6 never meant-- the fence -- fences in the neighborhood  
7 were never meant to have a 30-foot setback.

8 A 30-foot setback makes sense for additions  
9 and sheds and shacks and whatever else is in that other  
10 paragraph that has a 30-foot setback, but not for  
11 fences. Fences are silent.

12 So you go to the ordinances and you find four  
13 inches, which makes a heck of a lot more sense for  
14 fences, which are something that's typically towards  
15 the perimeter of your property, not 30 foot back from  
16 your property.

17 You know, if you were putting a fence 30 foot  
18 back from your property and that's how big your house  
19 could be, or how close your house could be, what would  
20 you do, put a fence directly up against your house?

21 It just doesn't cut it. It doesn't make any  
22 sense.

23 So that's -- to kind of a give an overview  
24 here, is this started out -- it almost seems like they  
25 -- the HOA wanted the fence to be in violation of

## Motion

8

1 something and they've tried the sidewalk, they tried  
 2 the site angle, and eventually landed on this argument.  
 3 And I'm just not buying it.

4 I think it's pretty clear that the paragraph  
 5 that controls fences is the one that says fence, I  
 6 think, seven times, and it's silent on setback, so you  
 7 go into the ordinances and you see four inches.

8 So that, in summary, is our position.

9 THE COURT: Okay. Go ahead, Mr. Malatesta.

10 MR. MALATESTA: Yes.

11 This motion was brought by The Estates of  
 12 Layton's Lakes to prevent the defendants from building  
 13 or maintaining their fence within the minimum setbacks  
 14 on the plan as indicated.

15 And the covenants here have Section 8.1 and  
 16 defense counsel referenced 8.1 Section C, which does  
 17 regulate fences and the other height and the type of  
 18 construction of the fence, you know, wood, white PVC,  
 19 or black aluminum tubing, open style -- that has to do  
 20 with the style of the fence.

21 Section 8.1 DD has to do with minimum  
 22 setbacks. It's a catch-all provision that essentially  
 23 says you can't build anything within these minimum  
 24 setbacks set forth on the plan.

25 It doesn't use the word fence specifically

## Motion

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1 because it means everything. They used over broad  
 2 language for that purpose.

3 And counsel -- defense counsel left out an  
 4 important part of this. He did not say the words  
 5 exterior improvements, which are listed in there. I  
 6 think it's a common nomenclature for a fence to be  
 7 considered an exterior improvement.

8 The bottom line is we have setbacks set forth  
 9 in the plan, which was Exhibit B of the plaintiff's  
 10 moving papers. It shows the minimum setbacks for that  
 11 specific lot.

12 The (inaudible) has a course of conduct.  
 13 For all the years, nobody had been building fences  
 14 outside of the minimum setback in the plan, so we have  
 15 a course of conduct that this is the way the community  
 16 has interpreted this.

17 Recently they even had a vote where they were  
 18 going to change the minimum setback and amend the  
 19 declaration. That vote was struck down.

20 Defendants voted against it, and I do see  
 21 their argument that it was bundled with other things,  
 22 but when a public association has a vote on an amended  
 23 declaration, they don't have 50 votes for each separate  
 24 amendment. It's done as one vote for the meeting that  
 25 night.

## Decision

10

1 And that's really where we are, Your Honor.  
 2 You have to decide -- the Court is being asked to  
 3 decide if Section 8.1(dd) allows for fences to be built  
 4 within the minimum -- beyond the minimum setbacks set  
 5 forth in the plan. We think exterior improvement or  
 6 other similar structures includes fence.

7 I'd also like to point out that when the  
 8 defendants submitted their arch approval, that was for  
 9 the style of fence and not the location of it.

10 Thank you.

11 THE COURT: Anything back in response?

12 MR. NAPUDA: Just that, in particular with  
 13 the vote, yes, my clients voted no when they were  
 14 trying -- the HOA was trying to amend the minimum  
 15 setbacks and they did it for two reasons.

16 One, they did it because it was bundled in  
 17 with a bunch of other things they didn't agree with  
 18 and, two, they were trying -- the HOA was trying to  
 19 amend the minimum setbacks to ten feet and they -- you  
 20 know, if they voted for it, my clients would be in  
 21 violation of that.

22 So they -- you know, they're going all in on  
 23 arguing that their fence, where it stands now, is in  
 24 compliance with the covenants as written and, you know,  
 25 it would be -- the amendment to clarify what the

## Decision

11

1 setback is for fences would have put their fence in  
 2 violation, and then, you know, they would basically  
 3 kind of shoot themselves in the foot.

4 So that's their reasoning there.

5 (Pause)

6 THE COURT: Give me just a second.

7 (Pause)

8 THE COURT: I'm just trying to pull up the  
 9 original of what -- you know, of how close in space --  
 10 under Section 8 of the bylaws, how close they were  
 11 together, if you will.

12 All right. Okay.

13 (Pause)

14 THE COURT: All right. So this matter is  
 15 before the Court. It's on competing motions for  
 16 summary judgment.

17 The central issue really concerns the  
 18 construction of a fence by the defendants on their  
 19 property, and the issue that is presented before the  
 20 Court is whether or not their covenant in Section  
 21 8.1(c) is applicable or whether it's 8.1(dd) that's  
 22 applicable.

23 It really has to do with the setback  
 24 requirement of the fence itself.

25 The defendants posit that the setback

## Decision

12

1 requirement under Subsection (dd) is not applicable,  
 2 and that the defendants did everything that they were  
 3 required to do for approval, if you will, of the fence  
 4 and to have the fence put up, and that Subsection  
 5 8.1(c) says that -- it gives a general description.  
 6 It's talking about fences, walls, hedges, or shrubs.

7 "No fence, wall, hedge,  
 8 or shrub planting which  
 9 obstructs sight lines at  
 10 elevations between two  
 11 and six feet above the  
 12 roadways..."

13 Blah, blah, blah. So that's one section that  
 14 nobody really talks about.

15 We have the (dd) section, which says,

16 "No accessory building,  
 17 shed, shack, porch, or  
 18 other similar type of  
 19 structure or exterior  
 20 improvement, whether  
 21 temporary or permanent,  
 22 shall be constructed,  
 23 erected, placed, or  
 24 maintained on lot for use  
 25 other than by the owner

## Decision

13

1 and his immediate family.

2 In addition."

3 Yadda, yadda, yadda.

4 And then they talked in terms of the 30-foot  
 5 setback requirement.

6 So Subsection 8.1(c), just to go back up to  
 7 that, which is what the defendants rely on, it says,

8 "No fence, wall, hedge,  
 9 or mass planting or  
 10 similar continuous  
 11 structure shall be  
 12 erected or maintained in  
 13 the front yard of the  
 14 main house structure."

15 That's not the issue.

16 "If the owner elects to  
 17 erect a fence, wall,  
 18 hedge, or mass planting  
 19 to the rear or side of  
 20 the main house structure,  
 21 such fence, wall, hedge,  
 22 or mass planting must be  
 23 a maximum of four feet in  
 24 height, or such lesser  
 25 amount required by



## Decision

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1 municipal ordinance, be  
 2 approved by the  
 3 architectural control  
 4 committee, not be in  
 5 conflict with any  
 6 municipal ordinance, with  
 7 respect to fences be  
 8 constructed of wood,  
 9 white PVC, or black  
 10 aluminum tubing, and be  
 11 of an open style, such as  
 12 a split rail or estate  
 13 fence.

14 "A wood fence may be kept  
 15 in a natural, unpainted  
 16 condition, or may be  
 17 treated with a clear,  
 18 waterproofing material.  
 19 "Owners shall be allowed  
 20 to affix open-hole screen  
 21 to a permitted fence."

22 So when the defendants went to erect their  
 23 fence, they looked at subsection (c) and they felt as  
 24 if they were in compliance, which means it's four feet  
 25 in height or less, it was approved by the -- actually,

## Decision

15

1 they have an architectural control committee. It was  
 2 approved by them.

3 It was constructed in a fashion of black  
 4 aluminum tubing and in such style as was required.

5 And they even went so far as to make certain  
 6 that the local zoning ordinance was being followed, and  
 7 went for the zoning ordinance, got the zoning ordinance  
 8 and they placed it four inches from the property line,  
 9 which is what's required in the ordinance.

10 So they followed the ordinance requirements,  
 11 as well, of Carney's Point.

12 On the other hand, the plaintiffs opine that  
 13 in some fashion, under 8.1(dd),

14 "No accessory building,  
 15 shed, shack, porch, or  
 16 other similar type of  
 17 structure or exterior  
 18 improvement, whether  
 19 temporary or permanent,  
 20 shall be constructed,  
 21 erected, placed, or  
 22 maintained on lot for use  
 23 other than by the owner  
 24 or his immediate family.

25 "In addition, no

## Decision

16

1 accessory building, shed,  
 2 shack, porch, or other  
 3 similar type of structure  
 4 or exterior improvement,  
 5 whether temporary or  
 6 permanent, shall be  
 7 located on any lot closer  
 8 to the front side of your  
 9 property boundaries than  
 10 a minimum setback shown  
 11 in the plan, or the  
 12 minimum setback as  
 13 required by ordinance,  
 14 whichever is more  
 15 restrictive."

16 And then there's some other language in there  
 17 about meeting the requirements and all that really is  
 18 discussing the requirements of the sheds, if you will,  
 19 and they have that 30-foot setback requirement.

20 So really the issue before the Court is which  
 21 is applicable here.

22 So the defendants present two alternative  
 23 arguments regarding the applicable section, primarily  
 24 focusing on Section 8.1(c).

25 They do assert that the covenants are

## Decision

17

1 unequivocal. Section 8.1(c) explicitly addresses  
 2 fences and establishes a clear setback requirement,  
 3 which would be the ordinance requirement.

4 Secondly, in the event that the Court  
 5 determines that 8.1(dd) introduces ambiguity or  
 6 conflict regarding fence setback regulations that  
 7 obscures the applicability of 8.1(c), they advocate for  
 8 the application of a contra proferentum doctrine, which  
 9 dictates that any ambiguity within language should be  
 10 construed against the drafter of the document, which  
 11 would be the HOA.

12 In response, the plaintiff invokes covenant  
 13 8.1(dd), arguing that the defendant's fences encroaches  
 14 the setback area and has to be relocated.

15 The plaintiff, which is a New Jersey  
 16 nonprofit corporation, operates the homeowner's  
 17 association for The Estates of Layton's Lakes  
 18 Homeowner's Association, posits that the language of  
 19 8.1(dd) referring to accessory building, shed, shack,  
 20 or similar type of structural or exterior improvement  
 21 encompasses the fences, and they're seeking summary  
 22 judgment declaring that Section 8.1(dd) of the by-laws  
 23 are valid setbacks regarding fences and also require  
 24 the defendants to move their fence out of the setback  
 25 area.

## Decision

18

1 They agree on the factual aspects concerning  
 2 the fence's location, construction materials, and the  
 3 procedural history that led to the current dispute, and  
 4 the crux of that lies in the interpretation of the  
 5 covenant's provisions, each urging the Court to  
 6 adjudicate which understanding is more appropriate.

7 I think the facts are pretty clear. I don't  
 8 think that there is any genuine issue of material fact.  
 9 The real issue is how should this be interpreted.

10 Summary judgment has to be granted if the  
 11 pleadings, depositions, answers to interrogatories, and  
 12 admissions on file show that there is no genuine issue  
 13 as to any material fact challenged and that the moving  
 14 party is entitled to a judgment or order as a matter of  
 15 law.

16 The function is not to weigh the evidence and  
 17 determine the truth, but to determine whether there is  
 18 a genuine issue for trial.

19 The trial judge has to consider whether  
 20 competent evidence presented, when viewed in the light  
 21 most favorable to the non-moving party, are sufficient  
 22 to prevent a rational fact finder to resolve the  
 23 alleged disputed issue in favor of the non-moving  
 24 party.

25 When the facts present a single non-avoidable

## Decision

19

1 resolution and the evidence is so one-sided that one  
 2 party must prevail as a matter of law, then the trial  
 3 court is required to grant summary judgment.

4 I can't go into the facts to resolve factual  
 5 issues. I believe that this is just a simple matter of  
 6 interpretation of the by-laws.

7 The fact of the matter is that the fences --  
 8 my clear reading, and I think anybody reading these  
 9 bylaws -- a clear, unambiguous reading of these bylaws  
 10 reveals that Section 8.1(c) pertains to fences.  
 11 Section 8.1(dd) pertains to other structures.

12 And I realize that counsel has said well, you  
 13 know, they define structure in a certain way.

14 If that, in fact, was the case, then it  
 15 should have been all in one paragraph together. It  
 16 shouldn't be Section 8.1(c) that deals only with fences  
 17 and 8.1(dd), which involves structures and sheds.

18 I mean, any clear wording of 8.1(dd) is an  
 19 accessory building, chicken coop, whatever it might be  
 20 -- a shed, a shack, a porch, a similar type of  
 21 structure or exterior improvement.

22 I don't know if you can say that a fence is  
 23 an exterior improvement or not, whether temporary or  
 24 permanent. This -- that (dd) was meant for the wood  
 25 shacks, the metal shacks, a porch that's kind of

## Decision

20

1 permanent in nature. It's a structure. It's not a  
2 fence.

3 Nobody can interpret this language, building,  
4 shed, shack, porch, or a similar type of structure as  
5 including the fence when fences are directly addressed  
6 under a prior section.

7 And referring to the zoning ordinance, I  
8 believe that fences are governed under 8.1(c). I don't  
9 find that there's any material fact that can be  
10 disputed as to which part of this agreement provides  
11 for where the fence can be. It's a zoning ordinance.

12 They complied with -- they went and got a  
13 zoning permit and they did it.

14 I think 30 feet for a fence I think is --  
15 it's a disingenuous position to take because the fence  
16 itself, 30 feet back -- I think Mr. Napuda is right.

17 Thirty feet -- I don't know the size of the  
18 lots over there, but unless you've got a couple acres,  
19 30 feet back off your property line is a pretty  
20 significant distance.

21 Frankly, it wouldn't be very aesthetically  
22 pleasing if you look at it that way, which is what  
23 these HOA rules are meant to provide.

24 They want the front -- they want to keep the  
25 community a certain way and a 30-foot setback

## Decision

21

1 requirement for a fence is just something -- it's  
2 unheard of.

3 I've never seen it anywhere. I've never  
4 heard of any association having a 30-foot setback  
5 requirement from a property line for a fence.

6 Drive around South Jersey. They're all -- a  
7 lot of the fences, as Mr. Napuda said, they're often at  
8 the property line, but you've got to get them off your  
9 neighbor's line unless you get their permission.

10 So I don't find that there is any material  
11 fact here. I think fences are specifically addressed  
12 under 8.1(c). If they wanted a setback requirement to  
13 be required, 8.1(c) should have had a setback  
14 requirement contained within that area.

15 Otherwise, it should have been all under  
16 (dd), and it should have mentioned fences as well, but  
17 it did not.

18 They separated them and there's a reason for  
19 that. Fences in one and the structures in another, the  
20 accessory buildings and shacks.

21 I think it's pretty clear. And if there is  
22 any ambiguity, as Mr. Napuda said, you resolve that  
23 against the drafter and Mr. -- I think the defendants  
24 in this matter, they followed exactly what they were  
25 supposed to do under 8.1(c). The fence can stay.

## Decision

22

1 I'm going to grant summary judgment in favor  
 2 of the defendants. I'm going to dismiss the claim as  
 3 to the plaintiff's request for summary judgment. I'm  
 4 going to deny that and then the order -- I will enter  
 5 the orders accordingly. Okay.

6 MR. NAPUDA: Thank you, Your Honor.

7 THE COURT: All right. Very good.

8 Mr. Sander --

9 MR. MALATESTA: Thank you.

10 THE COURT: Ms. Linder has her hand up.

11 Can you hear me?

12 MS. LINDER: Yes. I can hear you.

13 THE COURT: What's your hand up for, ma'am?

14 MS. LINDER: I just want to ask if there was  
 15 an opportunity for me to speak with Mr. Malatesta, but  
 16 I believe we are moving forward with --

17 THE COURT: I am -- I'm going to hang up --  
 18 I'm not going to hang up. I've got other matters.

19 Mr. Malatesta is going to hang up.

20 Mr. Malatesta, do you have a few minutes you  
 21 can call Ms. Linder?

22 MR. MALATESTA: Absolutely.

23 THE COURT: Okay. Ms. Linder?

24 MS. LINDER: Um-hum.

25 THE COURT: He's going to give you a call.

## Decision

23

1 You can exit out of Zoom program and speak with  
 2 Mr. Malatesta, okay?

3 MS. LINDER: Thank you.

4 THE COURT: Mr. Sander, do not leave.

5 Before the attorneys hang up, Mr. Sander, I  
 6 need to have a chat with you off the record. The  
 7 attorneys know what I'm going to talk to you about.

8 Counsel, do you have any objection if I speak  
 9 to Mr. Sander about this issue that we discussed  
 10 before --

11 MR. NAPUDA: No, Your Honor.

12 THE COURT: -- outside of your presence?

13 MR. SANDER: Your Honor, I have a question  
 14 also with regard to the motion that's pending before we  
 15 go off the record with regard to the motion.

16 THE COURT: Yes.

17 MR. SANDER: I was wondering how that deals  
 18 with it at all, the counterclaim.

19 THE COURT: The counterclaim by --

20 MR. SANDER: We filed an answer with regard  
 21 to the counterclaim. There's also two other suits that  
 22 have been filed, but -- I don't know, maybe even  
 23 three.

24 THE COURT: Well, the other two suits are --  
 25 we're going to have to deal with in some fashion.

## Decision

24

1 MR. SANDER: But as far as this suit is  
2 concerned, there is a counterclaim that we have filed  
3 an answer with regard to.

4 THE COURT: Well I just entered summary  
5 judgment in favor of the defendants, right?

6 MR. MALATESTA: I believe that disposed of  
7 the counterclaim.

8 THE COURT: I think it does.

9 MR. SANDER: Well then are there going to be  
10 counsel fees and costs assessed?

11 THE COURT: I'm not going to approach any  
12 counsel fees or costs. I'm going to abide by,  
13 generally, the American rule.

14 Listen, something is rotten in the state of  
15 Denmark with this Layton's Lakes that I need to chat  
16 with you about but, you know, the litigation -- at some  
17 point we're going to have to move forward with it.

18 But I do have -- just give me one second here  
19 because I got a note from my law clerk while I was on  
20 here.

21 (Pause)

22 THE COURT: Okay. Scheduled case management  
23 conference for this one today, which we'll need to do.

24 We also have a case management conference for  
25 46-22. Hold on a second.

## Decision

25

1 (Pause)

2 THE COURT: I'm sorry. All right. Those are  
3 the two claims. I don't know when they're coming back  
4 up again -- 20 and 21.3.

5 MR. SANDER: I may be confusing this with  
6 another case, but May 17th stands out in my mind. Does  
7 Your Honor's calendar show anything on May 17th for  
8 either?

9 A SPEAKER: I have mediation on May 17th.  
10 Okay. I have -- I have a case management  
11 conference scheduled for 1:30 on May 17th and that's  
12 for --

13 A SPEAKER: May 21.

14 THE COURT: -- both of them.

15 MR. SANDER: I guess it's --

16 THE COURT: Answering docket 20-23 or 21-23.

17 MR. SANDER: Okay. That's what I was  
18 thinking.

19 THE COURT: Has there been service on 20?

20 MR. SANDER: There was recently service, yes.  
21 I can answer that. There was service on April 2nd,  
22 which would mean the answer is due May 7th.

23 I believe I've -- I'm preparing an answer  
24 with regard to that by the insurance carrier.

25 MR. MALATESTA: Your Honor, do you need me

## Decision

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1 for anything else, or should I sign off?

2 MS. LINDER: Oh, if at all possible, may I  
3 ask one more question for clarity?

4 THE COURT: Yes.

5 MS. LINDER: This is Ms. Linder. One  
6 question I do have, and I know, you know, I'm not too  
7 well-versed of what happened prior as I was not on the  
8 previous calls.

9 But my question was, and this will be to  
10 Judge Malestein, Your Honor, was there ever any review  
11 of the actual resolutions for the development that  
12 talked about the fences?

13 And also, in the Township Code book, were  
14 there any consideration for what the Township defines  
15 fences as because I believe I did provide some  
16 information about our --

17 THE COURT: Again, I talked about that, that  
18 they indicated that the Township ordinance defines  
19 structure to include fence. That doesn't do that.

20 I'm not taking that approach here.

21 MS. LINDER: Okay. The rest --

22 MR. MALATESTA: Ms. Linder, I'm advising you  
23 to --

24 THE COURT: Yeah.

25 MR. MALATESTA: -- just stop and give me a

## Decision

27

1 call.

2 MS. LINDER: Okay.

3 THE COURT: All right. Thank you.

4 Okay. Anything else before I talk to  
5 Mr. Sander? All I'm going to do is tell him exactly  
6 what I told you guys, okay?

7 MR. NAPUDA: Thank you, Your Honor.

8 MR. MALATESTA: It has nothing to do with me,  
9 Your Honor.

10 THE COURT: Perfect. Okay. Thank you.

11 MR. MALATESTA: Okay.

12 THE COURT: All right. You guys can log out.  
13 Mr. Sander, stay with us.

14 (Proceeding adjourned at 2:13:41 p.m.)  
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CERTIFICATION

I, PATRICIA A. LAMONICA, the assigned transcriber, do hereby certify the foregoing transcript of proceedings on CourtSmart, Index No. from 1:44:11 p.m. to 2:13:41 p.m., is prepared to the best of my ability and in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate compressed transcript of the proceedings, as recorded.

/s/ Patricia A. LaMonica  
Patricia A. LaMonica

AD/T 326  
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05/01/2024  
Date