

PAUL JOHN CISAR, et al.

Plaintiffs,

v.

F.O. MITCHELL & BRO, et al.

Defendants.

* IN THE
* CIRCUIT COURT
* FOR
* HARFORD COUNTY
* CASE NO.: C-12-CV-22-000888

* * * * *

**DEFENDANT FREDERICK WARD ASSOCIATES, INC.’S
OPPOSITION TO PLAINTIFFS’ MOTION TO STRIKE IMPROPER AND
UNSUPPORTED EXHIBITS TO AND ASSERTIONS IN DEFENDANT FREDERICK
WARD ASSOCIATES, INC.’S MOTION TO DISMISS VERIFIED AMENDED
COMPLAINT**

Defendant Frederick Ward Associates, Inc. (“FWA”), by and through its undersigned counsel, oppose Plaintiffs’ Motion to Strike Improper and Unsupported Exhibits to and Assertions in Defendant Frederick Ward Associates, Inc.’s Motion to Dismiss Verified Amended Complaint (“Motion to Strike”), stating the following:

ARGUMENT

This Honorable Court should consider Exhibits A and B to FWA’s Motion to Dismiss Amended Complaint (“Motion to Dismiss”) and the assertions made within its memorandum because the exhibits and assertions are referenced in Plaintiffs’ Amended Complaint, supplement the allegations in the Amended Complaint and cannot be refuted.

I. Exhibits A & B attached to FWA’s Memorandum are Proper.

Plaintiffs’ Amended Complaint specifically references numerous documents related to the development of Mitchell Farm, including but not limited to the Forest Stand Delineation. *See* Amended Complaint ¶ 34. Exhibit A is that exact document and it “merely supplements the allegations of the complaint and the document is not controverted.” *Advance Telecom Process LLC*

v. DSFederal, Inc. 224 Md. App. 164, 175 (2015). As such, Plaintiffs have no valid basis for their request to strike Exhibit A.

Plaintiffs' request to strike Exhibit B is also improper. This Court may consider facts which may properly be judicially noticed, such as "official public documents." *Chesek v. Jones*, 406 Md. 446, 456 n.8 (2008), Maryland Rule 5-201. Exhibit B is a public document issued directly by the Harford County Executive. It was published and circulated in a number of publications, including but not limited to The Baltimore Sun, the Maryland Daily Record and Harford County Government. Exhibit B is a public record that is easily accessible, widely circulated and can be easily verified. As such, this Court should take judicial notice of Exhibit B and the authenticity is not of issue.

Furthermore, FWA hereby adopts by reference herein Defendant F.O. Mitchell & Bro.'s Opposition to Plaintiffs' Motion to Strike Improper and Unsupported Exhibits, Argument I.

II. The Highlighted Portions Plaintiffs' Request to Strike are Proper.

Plaintiffs request that this Court strike FWA's reference to 1) documents specifically referenced in the Amended Complaint, 2) that FWA is not a construction company and 3) that FWA and Plaintiffs have no relationship and that no services were provided by FWA to Plaintiffs.

First, FWA specifically included a document (Exhibit A) that was directly referenced in the Amended Complaint and therefore the inclusion of that document is proper. Second, the Court can take judicial notice that FWA is not a construction company. This information is easily confirmed through FWA's website and is not in dispute. Lastly, the Amended Complaint does not allege any contractual relationship between FWA and Plaintiffs. Therefore, again, this fact is not in dispute. Therefore, FWA's assertions are based on documents contained in the public record or

matters of common knowledge and do need not be supported by affidavit on a motion to dismiss.
See *Faya v. Almaraz*, 329 Md. 435, 444 (1993).

CONCLUSION

WHEREFORE, for the reasons stated above, Defendant Frederick Ward Associates, Inc., respectfully requests that this Court deny Plaintiffs' Motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March, 2023, a copy of Defendant, Frederick Ward Associates, Inc., Opposition was e-filed and served on:

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