

IN THE CLARK CIRCUIT COURT NO. 2  
STATE OF INDIANA

STATE OF INDIANA, )  
 )  
 Plaintiff, )  
 ) CASE #: 10C02-1208-PL-88  
 v. )  
 )  
 KEVIN ZIPPERLE, )  
 MARY LOU TRAUTWEIN- )  
 LAMKIN, SHARON )  
 CHANDLER, and FRANK )  
 PRELL, )  
 )  
 Defendants. )

**KEVIN ZIPPERLE RESPONSES  
TO PLAINTIFF'S INTERROGATORIES AND REQUESTS FOR PRODUCTION**

Now comes the Defendant, Kevin Zipperle, by and through the undersigned counsel, to respond to Plaintiff's First Set of Interrogatories and Requests for Production pursuant to Civil Rules 33 and 34 and other applicable rules.

- a. The information contained in these Answers is being provided in accordance with the provisions and intent of the Rules of Civil Procedure which require the disclosure of all facts which may be relevant or may lead to the discovery of relevant information. Accordingly, the party answering this discovery, by providing the information requested, does not waive objections to its admission into evidence on grounds of materiality or relevancy or other proper grounds for objection.
- b. The information supplied in these Answers is not based solely on the knowledge of the executing party, but includes knowledge of the party, his agents, representatives and attorneys unless privileged.
- c. The word usage, sentence structure, and syntax may be that of the attorney assisting in the preparation of these responses, and thus, does not necessarily purport to be the precise language of the executing party.
- d. Because the duty to respond is ongoing, respondent reserves the right to modify, amend or correct any answer as warranted as information becomes available.

**GENERAL OBJECTIONS**

1. Defendant objects to the instructions in Plaintiff's Interrogatories and Requests for Production, ("Discovery Requests") as vague and ambiguous.

2. Defendant objects to the Discovery Requests as seeking information and material that is protected by the attorney-client privilege.
3. Defendant objects to the Discovery Requests as seeking information not reasonably calculated to lead to the discovery of admissible evidence.
4. Defendant objects to the Discovery Requests as seeking information and material that is protected by the work product doctrine.
5. Defendant generally objects to the Discovery Requests as overly broad and unduly burdensome.
6. Defendant objects to the Discovery Requests to the extent they attempt to impose obligations upon Defendant other than those imposed or authorized by the law or which call for Defendant to draw a legal conclusion.
7. Defendant objects to the Discovery Requests to the extent that they seek confidential information regarding persons who are not parties to this action and/or that is protected from disclosure pursuant to the physician/patient privilege and/or federal or state statutory and regulatory law, including, without limitation, the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
8. Defendant objects to the Discovery Requests to the extent that they assume facts not in evidence or duties not imposed by law.
9. Defendant objects to the Discovery Requests to the extent they seek or purport to seek information that is already known to Plaintiff or that is in the public domain. To the extent Plaintiff seeks such information that is more readily available from other sources or already known to it, Defendant objects to the Discovery Requests as unduly burdensome.
10. These General Objections shall be deemed continuing as to the Discovery Requests, incorporated in each response to the Discovery Requests whether or not specifically stated in each response to the Discovery Requests, and are not waived or in any way limited by the following responses.
11. The relevant time of the events and circumstances surrounding this matter is from February 1, 2007 to present. Defendant objects to the extent that the Discovery Requests seek information outside that time period as it is irrelevant to the events of this case and not likely to lead to any discoverable information. Further, such Discovery Requests are overly broad and unduly burdensome.
12. Again, Defendant reserves the right to supplement these responses at any time as responsive information may become available.

### **Interrogatory Responses**

1. Identify each person who provided information in responding to these interrogatories.

**ANSWER:**

Kevin Zipperle

2. List the name, address and occupation of each person you intend to call as a witness at the trial of this case, and indicate whether he or she will be an expert witness.

**ANSWER:**

Respondent objects to this request as it seeks privileged attorney/client information and attorney work product. Respondent further objects that the request is premature as discovery is ongoing and it has not been determined who will be called as a witness in trial of this case. Subject to these objections, Respondent anticipates that Kevin Zipperle, Sharon Chandler and Mary Lou Trautwein-Lamkin would be witnesses. Respondent reserves the right to supplement this response.

3. List all units you, and/or your spouse, have owned or currently own, in the Harbours. Include the Unit number(s), owner(s), dates of ownership, price paid and type of ownership interest.

**ANSWER:**

Respondent objects to this request to the extent that it exceeds any time period for which discovery would reasonably be relevant or lead to further discoverable information. Subject to these objections, Respondent does provide the following:

[INDIVIDUAL means “owned by Debbie Zipperle or Kevin Zipperle”, as indicated; JOINT means “owned by Debbie Zipperle and Kevin Zipperle”, ESTATE means “owned as life estate by non-spousal party with Debbie Zipperle as remainder interest”; PARTNERSHIP means “owned by Debbie Zipperle and/or Kevin Zipperle along with other non-spousal parties”.]

- a) 310 Kevin Zipperle April 2011-October 2011 \$0 (individual),
- b) 312 Debbie Zipperle September 2006-present \$355,000 (individual),
- c) 310 Kevin Zipperle & Greg and Cindy Richards June 2006-April 2011 \$175,000 (partnership),
- d) 1103 Kevin Zipperle February 2012-August 2012 \$175,000 (individual),
- e) 317 Debbie Zipperle March 2009-present \$0 (individual),
- f) 315 Debbie Zipperle July 2007-present \$137,000 (individual),
- g) 1103-04 Debbie Zipperle and Mary Lou Trautwein-Lamkin August 2012-present \$0 (estate),
- h) 310 Kevin Zipperle April 2013-present \$0 (individual),

- i) 311 Debbie and Kevin Zipperle Aug 2001-present \$160,900 (joint),
- j) 421 Kevin and Debbie Zipperle May 2001-January 2004 \$105,900 (joint),
- k) 1103 Kevin Zipperle February 2012-August 2012 \$175,000 (individual),
- l) 307 Debbie Zipperle and Greg & Cindy Richards August 2005-December 2005 \$171,500 (partnership),
- m) 611 Debbie Zipperle and Pamela Vanover March 2007-present \$0 (estate).

4. List all parking spaces you, and/or your spouse, have owned or currently own, in the Harbours. Include the number(s), owner(s), dates of ownership and type of ownership interest.

**ANSWER:**

Respondent objects to this request to the extent that it exceeds any time period for which discovery would reasonably be relevant or lead to further discoverable information. Subject to these objections, Respondent does provide the following:

[INDIVIDUAL means “owned by Debbie Zipperle or Kevin Zipperle”, as indicated; JOINT means “owned by Debbie Zipperle and Kevin Zipperle”, ESTATE means “owned as life estate by non-spousal party with Debbie Zipperle as remainder interest”; PARTNERSHIP means “owned by Debbie Zipperle and/or Kevin Zipperle along with other non-spousal parties”.]

- a) 308 Debbie Zipperle September 2006-July 2010 (individual),
- b) 312 Debbie Zipperle and Pamela Vanover March 2004-March 2007 (estate),
- c) 612 Kevin Zipperle April 2011-October 2011 (individual),
- d) 330 Kevin Zipperle June 2014-present (individual),
- e) 354 Kevin Zipperle April 2013-present (individual),
- f) 323 Debbie Zipperle September 2006-March 2007 (individual),
- g) 601 Debbie Zipperle September 2006-present (individual),
- h) 6 Debbie Zipperle September 2006-October 2007 (individual),
- i) 332 Kevin Zipperle February 2012-August 2012 (individual),
- j) 217 Debbie Zipperle and Mary Lou Trautwein-Lamkin August 2012-present (estate),

- k) 136 Debbie Zipperle September 2006-November 2006 (individual),
- l) 355 Kevin and Debbie Zipperle May 2001-January 2004 (joint),
- m) 657 Debbie Zipperle September 2006-January 2008 (individual),
- n) 320 Debbie Zipperle June 2010-July 2010 (individual),
- o) 354 Kevin Zipperle April 2011-October 2011 (individual),
- p) 660 Kevin and Debbie Zipperle August 2001-March 2007 (joint),
- q) 21 Kevin and Debbie Zipperle February 2006-present (joint),
- r) 214 Debbie Zipperle June 2010-present (individual),
- s) 138 Debbie Zipperle September 2006-November 2006 (individual),
- t) 329 Kevin Zipperle June 2014-present (individual),
- u) 310 Debbie Zipperle and Pamela Vanover March 2007-present (estate),
- v) 331 Kevin Zipperle June 2014-present (individual),
- w) 352 Debbie Zipperle January 2007-July 2010 (individual),
- x) 313 Kevin and Debbie Zipperle March 2007-present (joint),
- y) 612 Kevin Zipperle and Greg & Cindy Richards June 2006-April 2011 (partnership),
- z) 635 Debbie Zipperle September 2006-present (individual),
- aa) 5 Debbie Zipperle September 2006-April 2007 (individual),
- bb) 319 Debbie Zipperle June 2010-July 2010 (individual),
- cc) 19 Debbie Zipperle September 2007-present (individual),
- dd) 107 Debbie Zipperle June 2010-July 2010 (individual),
- ee) 201 Debbie Zipperle June 2009-present (individual),
- ff) 218 Debbie Zipperle and Mary Lou Trautwein-Lamkin August 2012-present (estate),
- gg) 318 Debbie Zipperle June 2009-present (individual),
- hh) 242 Debbie Zipperle May 2007-present (individual),
- ii) 657 Debbie Zipperle July 2010-present (individual),
- jj) 660 Debbie Zipperle and Pamela Vanover March 2007-present (estate),
- kk) 328 Kevin Zipperle June 2014-present (individual),

- ll) 608 Debbie Zipperle June 2009-present (individual),
- mm) 313 Debbie Zipperle and Pamela Vanover March 2004-Mar 2007 (estate),
- nn) 443 Debbie Zipperle June 2006-present (individual),
- oo) 355 Debbie Zipperle April 2007-present (individual),
- pp) 354 Kevin Zipperle and Greg & Cindy Richards June 2006-April 2011 (partnership),
- qq) 137 Debbie Zipperle September 2006-May 2007 (individual),
- rr) 23 Kevin and Debbie Zipperle June 2006-March 2013 (joint),
- ss) 201 Kevin and Debbie Zipperle February 2006-December 2007 (joint),
- tt) 310 Kevin and Debbie Zipperle August 2001-March 2007 (joint),
- uu) 312 Kevin and Debbie Zipperle March 2007-present (joint),
- vv) 323 Debbie Zipperle July 2010-present (individual),
- ww) 318 Kevin and Debbie Zipperle October 2004-December 2007 (joint),
- xx) 23 Kevin Zipperle April 2013-present (individual),
- yy) 332 Debbie Zipperle and Mary Lou Trautwein-Lamkin August 2012-present (estate),
- zz) 356 Debbie Zipperle and James Plummer, November 2003-Mar 2007 (estate).

5. List the dates, position held and responsibilities for all periods of service as a Board member or Officer of the Home Owners Association of the Harbours. Additionally, list the dates and responsibilities for any sub-committee or special assignments you held as a Board member.

**ANSWER:**

Respondent has been a board member since 2004 including several terms as President, Vice President, and Secretary (specific dates unknown); past member of Building & Grounds, Finance, Legal, and Insurance Committees (dates unknown).

6. List the person(s) who drafted *Bulletin No. 1: Parking Spaces Conveyed to Kevin Zipperle by the Developer* ("Bulletin No. 1"), dated March 5, 2009.

**ANSWER:**

Respondent was the primary author with possible contributions from Gary Davis, Doug Farnsley, and Cindy Richards, among others. It was reviewed by Doug Farnsley, as Chair of the Legal Committee, and presented to the rest of the Board for final adoption.

7. Describe the approval process and Board members that approved Bulletin No. 1.

**ANSWER:**

The members of the Board at that time are a matter of record; Respondent does not recall specifically who they were. A majority of Board members approved the purpose and content of this document. See Respondent's answer to Question #6 regarding the process leading up to the Board's review.

8. List members of the legal committee and the Board which approved Bulletin No. 1.

**ANSWER:**

Doug Farnsley was Chair of the Legal Committee at that time, but Respondent does not recall the names of other members. The Board included Doug Farnsley, Mary Lou Trautwein-Lamkin, Sharon Chandler, and Respondent, but he does not recall the names of the other members.

9. List the person(s) who drafted *Bulletin No. 2: Balcony Railings, Parking Spaces Conveyed by the Developer & Funds Gifted to the Association* ("Bulletin No. 2"), dated March 5, 2009.

**ANSWER:**

Respondent believes this document was mostly drafted by Cindy Richards who was the Property Manager at that time. Respondent believes that he and Doug Farnsley may have contributed to its drafting.

10. Describe the approval process and Board members that approved Bulletin No. 2.

**ANSWER:**

Similar to Bulletin No. 1, this document was reviewed by Doug Farnsley, as Legal Committee Chair, after it was drafted. It was then presented to the Board for adoption. A majority of Board members were agreeable with the purpose and content of Bulletin No. 2.

11. List members of the legal committee and the Board which approved Bulletin No. 2.

**ANSWER:**

Doug Farnsley was Chair of the Legal Committee at that time, but the Respondent doesn't recall the other members with certainty. The Board included Doug Farnsley, Mary Lou Trautwein-Lamkin, Sharon Chandler, and Respondent, but the Respondent doesn't recall the other members with certainty.

12. List all of the offers to purchase that you, Deborah Zipperle or both, made for Condominium Unit 1103. Provide dates, proposed purchase price and outcome.

**ANSWER:**

Respondent is not aware of any offers by Deborah Zipperle, individually or jointly, to purchase Condominium Unit 1103. Respondent does not recall all of the offers that he submitted for Condominium Unit 1103. There was an initial offer for the combined purchase of Condos 1103 and 1104 for \$300,000. Once Bank of America determined that the two properties must be sold separately, the process of submitting individual offers for each condo commenced, the first offers at \$150,000 for each. Thereafter, offers expired or were rejected and had to be resubmitted, Bank of America mandated that the properties be physically separated (temporary wall constructed), the offer prices increased, Condominium Unit 1104 was foreclosed, and the short sale for the final price of \$175 thousand was approved for Condominium Unit 1103.



13. List all of the offers to purchase that you, Deborah Zipperle or both, made for Condominium Unit 1104. Provide dates, proposed purchase price and outcome.

**ANSWER:**

Respondent is not aware of any offers or sealed bids by Deborah Zipperle, individually or jointly, to purchase Condominium Unit 1104. In addition to Respondent's offers for Condo 1104 referenced in his answer to Question #12, he does not recall all of the sealed bids that he submitted to Fannie Mae for this property. All of his bids expired or were rejected. There was a joint bid submitted by Mary Lou Trautwein-Lamkin and Respondent that was also unsuccessful. Once Ms. Trautwein-Lamkin decided with certainty to try to purchase and reside in Condominium Unit 1104, Respondent no longer submitted bids for this property.

**VERIFICATION**

I AFFIRM UNDER THE PENALTY OF PERJURY THAT THE FOREGOING RESPONSES TO INTERROGATORIES ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Kevin Zipperle

### **Documents To Be Produced**

1. All documents you intend to refer to or to introduce into evidence as exhibits or testimony at the final hearing.

#### **ANSWER**

Respondent objects to this request to the extent that it seeks confidential attorney/client information or privileged attorney work product. Respondent further objects to the extent that discovery is still ongoing and he does not yet know what information he intends to introduce at the trial of this matter. Subject to these specific and the general objections previously listed, Respondent identifies all depositions taken in this matter and all documents and information produced by any party and non-party to discovery requests as items she may present at the trial of this matter. Information that has been received through non-party subpoenas, that has not yet been produced will be provided.

2. All documents and/or correspondence to or from any person or entity regarding the purchase of Condominium # 312.

#### **ANSWER**

This information was included in documents previously furnished to the Indiana OAG in response to its Subpoena Duces Tecum dated September 13, 2011 (copy attached) to Kevin and Deborah Zipperle. There is no additional information available.

3. Any documents regarding the parking spaces included in the Condominium # 312 transaction.

#### **ANSWER**

See response to Request No. 2.

4. Any contracts or other documents for the Condominium 312 transaction which include Deborah Zipperle.

**ANSWER**

See response to Item #2.

5. Provide all documentation regarding the funding provided to Mary Lou Trautwein for the purchase of Unit 1104.

**ANSWER**

No additional documentation exists except for Exhibit II referenced in Paragraph 212 of the Complaint and appended thereto.

6. Provide records showing repayment of the funds provided to purchase Unit 1104.

**ANSWER**

Respondent has no physical records in his possession nor has he ever possessed such records. Any outstanding financial commitment on the part of Ms. Trautwein-Lamkin at the time of purchase is now paid in full.

Respectfully Submitted,

Dated: October \_\_, 2014

\_\_\_\_\_  
J. Clayton Culotta, #26733-11  
815 E. Market Street  
New Albany, IN 47150  
Telephone No. (812) 941-8886  
Facsimile No. (812) 941-8883  
[clayculotta@culottalaw.com](mailto:clayculotta@culottalaw.com)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Defendant's Responses to Interrogatories was served via U.S. mail, postage pre-paid, on this \_\_ day of October, 2014 upon:

Paula J. Beller  
Office of Attorney General  
Indiana Government Center South  
302 W. Washington Street, 5<sup>th</sup> floor  
Indianapolis, IN 46204

\_\_\_\_\_  
J. Clayton Culotta