

STATE OF INDIANA) IN THE MONROE CIRCUIT COURT
) ss:
COUNTY OF MONROE) CAUSE NO. 53C01-1912-MI-002936

JUDIE BAKER and)
DAVID HOLDMAN,)
)
Plaintiffs,)
)
vs.)
)
TERRI PORTER, in her capacity as)
Director of the City of Bloomington)
Planning and Transportation Department)
of the City of Bloomington, and)
JIM GERSTBAUER, in his capacity as the)
Building Commissioner of the Monroe)
County Building Department,)
)
Defendants.)

DEFENDANT’S ANSWER TO PLAINTIFFS’ VERIFIED COMPLAINT FOR MANDATE

Defendant, Jim Gerstbauer, in his capacity as the Monroe County Building Commissioner (“Monroe County”), by counsel, responds to plaintiffs’ “Verified Complaint for Mandate” (hereinafter, “Complaint”) as follows:

1. The statement presented by plaintiffs in paragraph one (1) of their Complaint is not a factual allegation to which a response is required by the Indiana Rules of Trial Procedure; therefore, Monroe County offers no response to paragraph one (1) of plaintiffs’ Complaint.
2. Monroe County admits the allegation asserted by plaintiffs in paragraph two (2) of their Complaint.
3. Monroe County admits the allegation asserted by plaintiffs in paragraph three (3) of their Complaint.
4. Monroe County admits the allegation asserted by plaintiffs in paragraph four (4) of their Complaint.

5. Monroe County admits the allegation asserted by plaintiffs in paragraph five (5) of their Complaint.

6. Monroe County admits the allegation asserted by plaintiffs in paragraph six (6) of their Complaint.

7. Monroe County admits the allegation asserted by plaintiffs in paragraph seven (7) of their Complaint.

8. Monroe County admits the allegation asserted by plaintiffs in paragraph eight (8) of their Complaint.

9. Monroe County lacks knowledge or information sufficient to form a belief about the truth of the allegations asserted by plaintiffs in paragraph nine (9) of their Complaint.

10. Monroe County lacks knowledge or information sufficient to form a belief about the truth of the allegations asserted by plaintiffs in paragraph ten (10) of their Complaint.

11. The provision of the Bloomington Municipal Code referred to by plaintiffs in paragraph eleven (11) of their Complaint speaks for itself and does not require a response by Monroe County.

12. Monroe County admits the allegation asserted by plaintiffs in paragraph twelve (12) of their Complaint.

13. Monroe County lacks knowledge or information sufficient to form a belief about the truth of the allegations asserted by plaintiffs in paragraph thirteen (13) of their Complaint.

14. Monroe County lacks knowledge or information sufficient to form a belief about the truth of the allegations asserted by plaintiffs in paragraph fourteen (14) of their Complaint.

15. Monroe County lacks knowledge or information sufficient to form a belief about the truth of the allegations asserted by plaintiffs in paragraph fifteen (15) of their Complaint.

16. Monroe County admits that the Monroe County Building Commissioner is authorized to issue demolition permits, subject to conditions precedent in certain cases.

17. Monroe County admits the allegation asserted by plaintiffs in paragraph seventeen (17) of their Complaint.

18. Monroe County denies the allegation asserted by plaintiffs in paragraph eighteen (18) of their Complaint.

WHEREFORE, defendant, Jim Gerstbauer, in his capacity as the Monroe County Building Commissioner, requests judgment in its favor and all other relief that is just and proper.

Affirmative Defenses

Defendant, Jim Gerstbauer, in his capacity as the Monroe County Building Commissioner, by counsel, asserts the following affirmative defenses to the legal claim asserted by plaintiffs:

1. Plaintiffs fail to state a claim against defendant, Jim Gerstbauer, upon which relief can be granted, as a claim against defendant in his official capacity as the Building Commissioner is a claim against the Monroe County Building Department.

2. Plaintiffs' claim against Monroe County is not ripe for adjudication, as a condition precedent to issuance of a demolition permit, such as issuance of a certificate of zoning compliance by the City of Bloomington, has not been satisfied.

WHEREFORE, defendant, Jim Gerstbauer, in his capacity as the Monroe County Building Commissioner, requests judgment in its favor and all other relief that is just and proper.

Respectfully submitted,

/s/ David B. Schilling
David B. Schilling 2255-12

Monroe County Attorney

CERTIFICATE OF SERVICE

I certify that on December 26, 2019, I served the foregoing document upon all registered counsel of record by the Indiana E-Filing System and upon the following by regular U.S. Mail, postage prepaid:

City of Bloomington
c/o Terri Porter
401 N. Morton Street
Bloomington, Indiana 47404

/s/ Lee F. Baker

Lee F. Baker

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