

FORSYTH COUNTY GEORGIA
FILED IN THIS OFFICE

OCT 08 2007

In the Superior Court
of Forsyth County
State of Georgia

Douglas Daniels
CLERK SUPERIOR COURT

Michael D. Peck on Behalf of)
Himself and All Homeowners) Civil Action File Number
Adjacent to Lanier Golf Club) 07 CV 2147
f/k/a Canongate on Lanier)
Golf Club,)
Plaintiffs,)
v.)
Lanier Golf Club, Inc.,)
Defendant.)

Complaint in Class Action

Comes now Michael D. Peck ("Plaintiff") on behalf of himself and all homeowners adjacent to Lanier Golf Club f/k/a Canongate on Lanier Golf Club (collectively, "Plaintiffs") who state their complaint as follows:

1.

A Lanier Golf Club, Inc. ("Defendant") a Georgia Corporation doing business in Forsyth County, Georgia and as such is subject to the jurisdiction of this Court.

2.

A The registered agent for service for Defendant is John P. Manton, who can be personally served at 1475 Blackberry Lane, Cumming,

Georgia 30040.

3.

AD Plaintiff and Plaintiffs are all persons who are owners of real property adjacent to Lanier Golf Club f/k/a Canongate on Lanier Golf Club and are subject to the jurisdiction of this Court.

4.

D The prosecution of separate actions by individual members of the class described above would create a risk of inconsistent or varying adjudications of the claim outlined below, which would establish incompatible standards of conduct for the Defendant.

5.

AD The above-outlined class is so numerous that a joinder of all members is impracticable.

6.

AD There exist in this complaint questions of law or fact that are common to all members of the above-outlined class.

7.

AD The claims of the Plaintiff listed above are typical of the claims of the entire class, the Plaintiffs.

8.

AD The Plaintiff will fairly and adequately protect the interests of the entire class, the Plaintiffs.

9.

D In the 1960's, a very large tract of property in this county was developed into a Planned Unit Development known at the time as UniCity.

10.

D The real property that would be developed into UniCity¹ was located between Buford Dam Road on the north side, Sanders Road on the west side, Samples Road on the east side, and various other property located north of Georgia Highway 20.

11.

AD At one time, most of this property was owned by James S. Mashburn, Marcus Mashburn, Sr. and Marcus Mashburn, Jr.

12.

D The purpose of UniCity was for the development and sale of residential lots for single family homes.

13.

D The centerpiece of the development was a 177-acre² golf course ("Property") to be known as Canongate on Lanier ("Golf Course").

¹ Information on the development of UniCity is difficult to obtain; however, the Plaintiff believes that the Defendant either has some of these records or may have destroyed some of the records.

² According to the tax records, the Property is located in Land Lots 217, 218, 286, 287, 288, 290, & 291 of the 2nd District and Land Lots 42, 43, 44, 75, & 76 of the 14th District.

14.

D The deeds into the Golf Course indicate that there was a condition in the deed that an 18-hole championship golf course was to be constructed thereon. For whatever reason, this restriction was only for seven years.

15.

D Approximately 100 lots³ ("Golf Course Lots") in the UniCity Development were located adjacent to the Golf Course that was to be known as Canongate on Lanier.

16.

D The Golf Course Lots were sold by the Defendant or their predecessors in title.

17.

D Over the years, the Golf Course has been owned and managed by various persons; however, it remained a part of the group of golf courses known as Canongate.

18.

(X) In 1986, Defendant purchased the Golf Course from its then owner, Patten Seed Company, and removed it from the Canongate group.

19.

D Defendant renamed the Golf Course to Lanier Golf Club and

³ Recently this number has increased in that the Defendant developed 36 townhouses adjacent to the second hole.

required all members of the prior club to rejoin Lanier Golf Club.

20.

D In January of 2006, Defendant announced that they planned to discontinue the Golf Course and sell the Property for high density development.

A 21.

In February of 2006, Wellstone, LLC ("Wellstone") signed a contract with the Defendant to purchase the Property.

D 22.

The contract with Wellstone was contingent upon rezoning for development of a 772-unit residential development that includes a 300-unit continuing care retirement community in the place of the Golf Course.

A 23.

Play on the Golf Course for the members was continued to the end of 2006; then, all memberships were terminated by the Defendant.

A 24.

The Golf Course remained open as a public course until September of 2007.

D 25.

In early September of 2007, the Defendant closed the Golf Course and denied the Plaintiff any access to the Golf Course.

26.

A On September 20, 2007, the Forsyth County Commissioners voted 5-0 to deny Wellstone's zoning.

27.

D Wellstone immediately announced that it intends to bring a civil action against Forsyth County to try to reverse the decision of the Board of Commissioners.

28.

D Regardless of the outcome of the Wellstone contract or the litigation, the Defendant has made it very clear that they will not use the Property for golf course purposes but will sell the Golf Course to other developers who will use it for residential and/or commercial development.

29.

D When the Plaintiffs purchased the Golf Course Lots, the Golf Course was a material part of the value of their property.

30.

AD The Golf Course was the principal incentive for the Plaintiffs or their predecessors in title to purchase their property.

31.

AD This class of persons paid a premium value for the Golf Course Lots that they purchased.

32.

Plaintiff and the Class purchased lots according to a recorded plat that clearly depicted the Golf Course.

33.

In purchasing the Golf Course Lots, Plaintiffs acquired an easement, or an implied covenant, in the Golf Course.

34.

The Plaintiffs should have an irrevocable property interest in the Golf Course that is not extinguished by the Defendant's election to sell the Property.

35.

In most cases, the Defendant has an expressed easement in the Golf Course Lots owned by the Plaintiffs up to some point such as the out-of-bounds markers. This is an irrevocable property right that has been vested in the Golf Course for the last 37 years.

36.

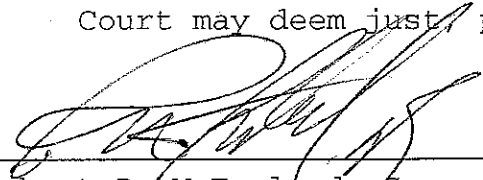
The Plaintiffs have a vested property right in the Golf Course, and the Defendant is attempting to disregard these rights by selling the Property for development.

Wherefore, Plaintiff prays and demands on behalf of the Plaintiffs that:

- (a) The Court certify the Plaintiffs as a class for purposes of satisfying the requirements of O.C.G.A. § 9-11-23.
- (b) The Court declare and enforce against Defendant or any new

owners an implied restriction limiting use of this property to golf course purposes only.

- (c) The Plaintiffs recover from the Defendant the expenses of litigation, including reasonable attorney fees.
- (d) The Plaintiffs have such other and further relief as the Court may deem just, proper, and equitable.



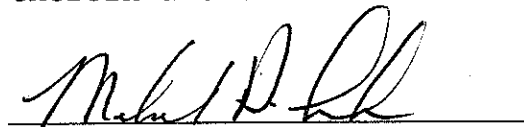
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Verification


State of Georgia
County of Forsyth

Personally appeared before the undersigned attesting officer comes Michael D. Peck who states under oath that he is the named plaintiff in the foregoing complaint and that facts stated therein are true and correct.



Michael D. Peck

Sworn to and subscribed before me this October 5, 2007.



Notary Public

