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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH KOWALCZYK and ALIL PERICIC,

ANSWER

Plaintiffs,

08 CIV 6992 (KMK)

-against-

JOHN BARBARITE, SUE FLORA, GORDON JENKINS and
THE VILLAGE OF MONTICELLO, a municipality of the
State of New York,

Defendants.
-----X

The defendant, Sue Flora, by her attorneys, McCabe & Mack LLP, as and for her answer to the complaint of the plaintiffs, respectfully shows to the court and alleges as follows.

A. THE PARTIES

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs numbered "1(a) and (b)" of the complaint.

B. JURISDICTION

2. With regard to paragraphs numbered "3" and "4" of the complaint neither admits nor denies as states conclusions of law.

D. RELATIONSHIP OF THE PARTIES

3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "6" of the complaint.

4. Denies those allegations contained in paragraphs numbered "7" of the complaint.

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E. FACTS RELATING TO KOWALCZYK'S CLAIMS

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs numbered "8", "17" and "19" of the complaint.
6. With regard to paragraph numbered "9" of the complaint, admits only that plaintiff received permit #2646 and denies knowledge of information sufficient to form a belief as to the remaining allegations.
7. With regard to paragraph numbered "10" of the complaint, neither admits nor denies and refer the court to the document for its content and import.
8. With regard to paragraph numbered "11" of the complaint, admits only that plaintiff obtained a building permit for four additional apartments and denies knowledge or information sufficient to form a belief as to the remaining allegations.
9. With regard to paragraph numbered "12" of the complaint, admits defendant Flora occasionally inspected plaintiff's premises.
10. With regard to paragraph numbered "13" of the complaint, admits knowledge of one "unannounced" visit by John Barbarite and denies knowledge of any of the statements alleged to have been made by him.
11. With regard to paragraph numbered "14" of the complaint, admits only that plaintiff received a conditional certificate of occupancy and refers the court to the document for its content and import and denies knowledge or information sufficient to form a belief as to the remaining allegations.
12. With regard to paragraphs numbered "15 and "18" of the complaint, denies that she visited the premises at least every two weeks and denies knowledge or information sufficient to form a belief as to the remaining allegations.
13. Denies knowledge or information sufficient to form a belief with respect to the

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alleged statements and notices and denies the remaining allegations contained in paragraph numbered "16" of the complaint.

14. Denies those allegations contained in paragraph numbered "18" of the complaint.

F. KOWALCZYK'S CAUSES OF ACTION

AS TO THE FIRST CAUSE OF ACTION

15. Denies those allegations contained in paragraphs numbered "20" and "21" of the complaint.

AS TO THE SECOND CAUSE OF ACTION

16. Denies those allegations contained in paragraphs numbered "22" and "23" of the complaint.

AS TO THE THIRD CAUSE OF ACTION

17. Denies those allegations contained in paragraphs numbered "24", "25" and "26" of the complaint.

AS TO THE FOURTH CAUSE OF ACTION

18. Denies those allegations contained in paragraphs numbered "27" and "30" of the complaint.

19. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs numbered "28" and "29" of the complaint.

AS TO THE FIFTH CAUSE OF ACTION

20. Denies those allegations contained in paragraphs numbered "31", "32" and "33" of the complaint.

AS TO THE SIXTH CAUSE OF ACTION

21. Denies those allegations contained in paragraphs numbered "34", "35" and "36" of the complaint.

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G. Facts Relating to Pericic's Claims

22. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs numbered "37", "45" and "46" of the complaint.

23. With regard to paragraph numbered "39" of the complaint, admits only that defendant Flora saw some work being performed after issuance of the permit and denies the remaining allegations.

24. Denies those allegations contained in paragraphs numbered "40" and "44" of the complaint.

25. With regard to paragraph numbered "41" of the complaint, denies Flora visited the premises approximately every two weeks and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

26. With regard to paragraph numbered "42" of the complaint, admits only that plaintiff retained William Gill and denies knowledge or information sufficient to form a belief as to the remaining allegations.

27. With regard to paragraph "43" of the complaint, denies knowledge or information with respect to the alleged statements and denies the remaining allegations.

AS TO THE FIRST CAUSE OF ACTION (PERICIC)

28. Denies those allegations contained in paragraphs numbered "47" and "48" of the complaint.

AS TO THE SECOND CAUSE OF ACTION (PERICIC)

29. Denies those allegations contained in paragraphs numbered "49" and "50" of the complaint.

AS TO THE THIRD CAUSE OF ACTION (PERICIC)

30. Denies those allegations contained in paragraphs numbered "51", "52" and

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“53” of the complaint.

AS TO THE FOURTH CAUSE OF ACTION (PERICIC)

31. Denies those allegations contained in paragraphs numbered “54” and “55” of the complaint.

AS TO THE FIFTH CAUSE OF ACTION (PERICIC)

32. Denies those allegations contained in paragraphs numbered “56”, “57” and “58” of the complaint.

AS TO THE SIXTH CAUSE OF ACTION (PERICIC)

33. Denies those allegations contained in paragraphs numbered “59” and “60” of the complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE
(KOWALCZYK’S CLAIMS)**

34. Defendant Flora acted in good faith and is entitled to qualified immunity.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

35. The entire complaint fails to state a claim against defendant Flora.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

36. The sixth cause of action fails to state a claim.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE
(PERICIC’S CLAIMS)**

37. The entire complaint fails to state a claim against defendant Flora.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

38. Defendant Flora acted in good faith and is entitled to qualified immunity.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

39. The sixth cause of action fails to state a claim.

WHEREFORE, the defendant, Sue Flora, demands judgment dismissing the complaint


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of the plaintiffs herein, plus the costs and disbursements of this action and for such other and further relief as to the Court may seem just and proper.

DATED: Poughkeepsie, New York
October 14, 2008

Yours, etc.

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