

DISTRICT COURT, PARK COUNTY COLORADO 300 – 4 th Street Fairplay, Colorado 80440	EFILED Document CO Park County District Court 11th JD Filing Date: Sep 10 2010 2:26PM MDT Filing ID: 33174466 Review Clerk: Delia Moreno
<p>Plaintiffs: ELK FALLS PROPERTY OWNERS ASSOCIATION, a Colorado corporation; KATHRYN WELLS; THE PAUL VASTOLA AND SUZANNE G. NELSON LIVING TRUST, U/A; ROBERT W. PHELPS; and KEVIN O'CONNELL</p> <p>Defendants: VERA B. DUNWODY, DRAYTON D. DUNWODY, and FARM CREDIT OF SOUTHERN COLORADO, ACA, an agricultural credit association</p> <p>Plaintiffs In Intervention: PETER J. BRAUN and RENAE J. BRAUN</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
Victor F. Boog, No. 2561 Amanda B. Crusier, No. 30601 Boog & Crusier, P.C. 3333 S. Wadsworth Blvd., Suite D201 Lakewood, CO 80227 303-986-5769 Fax 303-985-3297 <i>Attorneys for Defendants Vera B. Dunwody and Drayton D. Dunwody</i>	Case Number: 2010 CV 65 Div.: B
<p style="text-align: center;">DEFENDANTS' REQUESTS FOR ADMISSION TO THE ELK FALLS PROPERTY OWNERS ASSOCIATION</p>	

Defendants, Vera B. Dunwody and Drayton D. Dunwody (hereinafter the "Dunwodys"), pursuant to C.R.C.P. 36, request the Plaintiff Elk Falls Property Owners Association (hereinafter "EFPOA") admit the following:

1. The EFPOA has no easement rights of record over and across the Disputed Roads.
2. The EFPOA has no easements granted specifically or by inference by virtue of recorded subdivision plats of Block 1, 2, and 3 of the Elk Falls Subdivision.

3. The EFPOA has no fee interest in any real property.
4. The EFPOA has no real property for which the Disputed Roads are a way of necessity.
5. The EFPOA has had no interest in real property for a period of not less than 18 years which could be served by the Disputed Roads.
6. Since 1960, there has been no period of 18 consecutive years during which the Disputed Roads have been continuously available for use by the general public as opposed to owners of property within the Elk Falls subdivision.
7. There has been no period of 18 consecutive years since 1965 in which the general public has been able to use the public roads within Blocks 1, 2, and 3 of the Elk Falls subdivision without interruption or objection by the EFPOA or its members.
8. From at least 1940 until at least 1960, the "West gate" referred to in paragraph 14 of the Amended and Restated Complaint was used and referred to as the main entrance to the Elk Falls Ranch and Block 1 of the Elk Falls subdivision.
9. From at least 1940 until at least 1960, access through the West gate to the property then owned by Alice Berg was not open at all times to the general public.
10. The Disputed Roads have never been ways of necessity to any of the platted lots within Blocks 1 and 2 of the Elk Falls subdivision.
11. Those portions of Juniper Road and Jensen Road which are outside the meets and bounds descriptions of the property included within Blocks 1, 2, and 3 of the Elk Falls subdivision are not ways of necessity to any of the lots owned by members of the EFPOA.

Dated this 10th day of September, 2010.

BOOG & CRUSER, P.C.

*/s/ Victor F. Boog – original signature on file
at the offices of Boog & Cruser, P.C.*

Victor F. Boog, No. 2561

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of September, 2010, a true and correct copy of the foregoing **DEFENDANTS' REQUESTS FOR ADMISSION TO THE ELK FALLS PROPERTY OWNERS ASSOCIATION** was sent electronically via LexisNexis File and Serve, properly addressed to:

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*/s/ Bonnie J. Cowell – original signature on file
At the offices of Boog & Cruser, P.C.*
