

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: CIV ⁹⁰²⁸⁰ OF 2011

BETWEEN:

THE PROPRIETORS, STRATA PLAN #376

PLAINTIFF

AND:

MARGARET McLEAN

DEFENDANT



WRIT OF SUMMONS

TO: Margaret McLean H97 Smith Road Villas, Smith Road, George Town, Grand Cayman

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within [14 days] after service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495G, George Town, Grand Cayman, the accompanying Acknowledgement of Service, stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein an intention to contest the proceedings the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this day of July 2011

NOTE - This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgement of Service are given with the accompanying form

STATEMENT OF CLAIM

1. The Plaintiff (hereinafter "the Strata") is a body corporate consisting of a collection of all the Strata Proprietors contained within Strata Plan #376 in accordance with Section 5(1) of the Strata Titles Registration Law (2005 Revision) (hereinafter 'the Law').
2. The Defendant is the registered legal owner of Block and Parcel 14D 98H97, George Town South, Smith Road Villas, Lot 96, (the "property") being a property located within the Strata.
3. The Plaintiff caused to be registered with the Cayman Islands Department of Lands & Survey in or around September 2003 the by-laws of the Strata as amended in accordance with section 21 of the Law.
4. The plaintiff relies upon Section 21 (7) of the Law which states as follows:

"Bye-laws for the time being in force shall bind every corporation and the proprietors to the same extent as if such bye-laws had respectively been signed and sealed by such corporation and each proprietor and contained covenants on the part of such corporation with each proprietor and on the part of each proprietor with every other proprietor and with such corporation to observe and perform all the bye-laws."
5. The property was purchased and conveyed to the defendant on 24 March 2006 and such conveyance contained a covenant that specifically provided that the conveyance was "Subject to the Restrictive Agreements as listed in the By-Laws and any amendments thereof".
6. The bye-laws of the Strata as registered contained the following clauses:

Proprietor's Obligations and Powers

5. A proprietor shall:

5(9) not permit or suffer to be done in or upon his Strata Lot or anything whereby any insurance for the time being effected on the Common Property, the Strata Lot or any other Strata Lot or any part thereof may be rendered void or voidable or whereby the rate of premium may be increased.

5(10) not at any time cut, maim or remove the main walls or timber in the Strata Lot unless for the purpose of hanging pictures or other household effects or for the purpose of remedying and making good any defects therein which shall be remedied and made good accordingly;

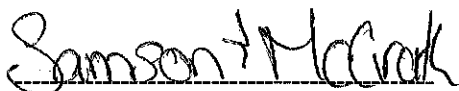
5(11) not make any structural alterations or other additions in or to the Strata Lot without the approval in writing of the Executive Committee to the plans and specifications when approved; and for the purposes of this by-law the term structural alteration is deemed to include but is not limited to:

- (a) painting the exterior of the Strata Lot
 - (b) changing any door that opens on to the common property.
 - (c) Screening, enclosing, painting or otherwise decorating any back patios will be permitted subject to strata committee approval.
7. On or about the middle of April 2011 the defendant began to build a ground floor concrete extension to the property. The plaintiff was not aware that the defendant was building the garage until about the 28th April 2011 when the walls of the extension were built to a height of about 6 feet.
8. On 28 April 2011 the plaintiff at once wrote to the defendant complaining of the erection of the concrete extension and requiring *inter alia* the defendant to cease the construction.
9. The defendant, through her agent, responded on 3 May 2011 confirming that no further building work would be done until approval from the Cayman Islands Planning department and the Strata Board.
10. In breach of the said covenants and in spite of the plaintiff's protests and in breach of the agreement not to continue construction the defendant recommenced building work on or about 14 July 2011.
11. The defendant intends, unless restrained by this Honourable Court from doing so, to complete the erection of the said construction and to leave the said construction erected.
12. The plaintiff is entitled in respect of such damages as he may be awarded to interest at such rate as to this Honourable Court shall seem just pursuant to Section 34 of the Judicature Law (2007 Revision).

13. And the Plaintiff claims:

- (a) An order that the defendant do forthwith pull down and remove the concrete extension to the property.
- (b) An injunction to restrain the defendant by herself, her servants or agents or otherwise from erecting or continuing to erect upon H97 Smith Road Villas any extension or addition to the property without the prior written consent of the plaintiff.
- (c) Damages and interest pursuant to Section 34 of the Judicature Law (2007 Revision).

Dated this 20th day of July 2011



Samson & McGrath
Attorneys-at-Law for the Plaintiff

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**ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important: Read the accompanying directions and notes for guidance carefully before completing this form. Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

1. State the name of the Defendant by whom or on whose behalf the service of this Writ is being acknowledged.

2. State whether the Defendant intends to contest the proceedings (tick the appropriate box)

yes

no

3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (tick box).

yes

no

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

[Defendant in person]

Address for service:

Please complete overleaf

Notes on address for service

Attorney: where the Defendant is represented by an Attorney, state the Attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign Attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office number and the physical address of his residence or, if he does not reside in the Cayman Islands he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered office.

Indorsement by Plaintiff's Attorney (or by Plaintiff if suing in person) of his name, address and reference, if any in the box below:

SAMSON & MCGRATH
5th FLOOR GENESIS BUILDING
GENESIS CLOSE
PO BOX 446
GRAND CAYMAN KY1 - 1106
CAYMAN ISLANDS

Indorsement by Defendant's Attorney (or by Defendant if suing in person) of his name, address and reference, if any, in the box below:

[Empty box for Defendant's Attorney indorsement]