



4. Plaintiff, AGUSTIN AVILA, an individual, is a resident of Montgomery County, Texas.

5. Plaintiff, ELVIA AVILA , an individual, is a resident of Montgomery County, Texas.

6. Plaintiff, MIGUEL GALVEZ , an individual, is a resident of Montgomery County, Texas.

7. Plaintiff, JAKELIN GARCIA, an individual, is a resident of Montgomery County, Texas.

8. Plaintiff, GLADIS HERNANDEZ , an individual, is a resident of Montgomery County, Texas.

9. Plaintiff, ALVARO MORALES, an individual, is a resident of Montgomery County, Texas.

10. Plaintiff, MARGARITA OCHOA, an individual, is a resident of Montgomery County, Texas.

11. Defendant, THE NEW KING’S COLONY PROPERTY OWNERS ASSOCIATION, INC. (“New King’s” or “Defendant”), a Texas corporation whose registered office is P.O. Box 9799, Huntsville, Texas 77340 in Walker County, Texas may be served with process by serving its registered agent, Ashlie Management, Inc., at One Financial Plaza, Suite 300, Huntsville, Texas 77340.

12. Defendant, JOHN HARRIS (“Defendant” or “Harris”), an individual, may be served with process at Defendant’s usual place of business, 1300 S. Frazier, Suite 210, Conroe, Texas 77301.

### **C. Jurisdiction**

13. The Court has jurisdiction over the lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements.

### **D. Venue**

14. Venue is proper in Montgomery County under Texas Civil Practice & Remedies Code §15.002 because all of the events giving rise to the claim occurred in Montgomery County and the suit involves land located in Montgomery County, Texas.

### **E. Facts**

15. New King's Colony is a subdivision located in Montgomery County, Texas. Individuals purchase unimproved lots on which they can build structures or place mobile homes. There is no plumbing, only septic tanks and water wells, and the overwhelming majority of roads in front of the lots are not paved. The lots have primarily been marketed and sold to individuals in the Hispanic community with a genuine desire to be landowners.

16. John Harris is the president of the Property Owners Association, as well as the "developer" of New King's Colony, and he holds the title to the lots in New King's Colony until the landowners have made all of their required payments. In the past, when landowners have sought a change in the leadership of the Property Owners Association and have cast what apparently are enough votes to replace Harris, he claims to have enough votes to retain the presidency. Harris does not reside in New King's Colony and nor do most of the other officers of the Property Owners Association.

17. Plaintiffs are all landowners in New King's Colony. On or about June 18, 2012, they and other landowners were informed that the New King's Colony Property Owners

Association desired to “establish a policy to provide adequate annual maintenance assessments to provide for the needs of the various sections of Kings Colony subdivision.”

The New King’s Colony Property Owners Association, Inc. Annual Maintenance Assessment Policy dated June 18, 2012, is attached as Exhibit A. The landowners were informed that “the annual maintenance fee as shown in the Declarations of Paragraph 18.A shall be \$180.00 per year until such time that the Association decides to change said amount.” That effectively doubled the existing maintenance fee of \$90.

18. The “Declarations” referenced in Exhibit A are on file with the Montgomery County Clerk. They set forth that funds raised from the maintenance fee are to be used for “the maintenance of streets, roads, highways, curbs, ditches, gutters, sidewalks, parks, the employment of policemen, watchmen or other security personnel.” They further set forth that:

“Funds arising from such charge shall be applied, so far as sufficient, toward the common good of the community, civic betterment, municipal, educational and public recreational purposes (but not by way of limitation) as follows:

- (1) To render constructive civic welfare for the promotion of the social welfare of the community and of the citizens of King’s Colony, to inculcate civic consciousness by means of active participation in constructive projects which will improve the community state and nation [sic].
- (2) To promote and/or provide municipal services and educational and public recreational services and facilities for residents of King’s Colony.
- (3) To acquire, maintain and construct buildings and property for public services and educational and recreational facilities.
- (4) To do any other thing necessary or desirable or of general benefit to the community.

19. Landowners in New King’s Colony began paying the increased maintenance fee in 2012 based on the Property Owners Association’s

representations that the increased amount would constitute an adequate assessment to provide for needs as set forth in the Declarations. However, that was completely false. The Property Owners' Association had no intention whatsoever of providing for the needs of the landowners and since the fee was increased in 2012, not only is there no maintenance of streets, roads, curbs, gutters, sidewalks, and parks, there are hardly any paved streets or roads and there are no curbs, gutters, sidewalks and parks whatsoever. Plaintiffs are forced to travel through the subdivision on horribly cratered and bump-filled pathways that can hardly even be described as streets or roads. Furthermore:

- (1) There have been no constructive projects to improve the community, state, and nation;
- (2) There have been no municipal services and educational and public recreational services and facilities for residents of New King's Colony;
- (3) There has been no acquisition, maintenance or construction of buildings and property for public services and educational and recreational facilities; and
- (4) There has been next to nothing done for the general benefit of the community.

The New King's Colony Property Owners Association and John Harris simply pocketed the maintenance fee while landowners received nothing in return.

#### **F. Count 1 – Common-Law Fraud**

20. Plaintiffs incorporate paragraphs 1 – 19 as if set forth in their entirety.

21. As set forth more fully above, Defendants represented to Plaintiffs that they were establishing a policy to provide adequate annual maintenance assessments to provide for the needs of the various sections of Kings Colony subdivision.

22. Defendants' representation to Plaintiffs was material because it was extremely important in making their decision to willingly accept and pay the new fee. They believed

civic improvements as set forth in the declarations were forthcoming as a result of the representation.

23. Defendants' representation to Plaintiffs was a false promise of future performance. As stated above, The Property Owners Association and John Harris had no intention of providing civic improvements as set forth in the declarations.

24. Defendants made the false representation knowing it was false. At the time the representation was made, there were no plans or intentions to provide civic improvements. The only plan was to pocket the increased maintenance fee.

25. Defendants intended for Plaintiffs to rely on the false representation. They wanted them to believe improvements were forthcoming so they would willingly pay the fee.

26. Plaintiffs relied on Defendants' false representation when they continually paid the increased maintenance fee while waiting for improvements to come.

27. Defendants' false representation directly and proximately caused out-of-pocket damages for Plaintiffs. For years, they have routinely paid the annual maintenance fee and have received nothing in return.

28. Plaintiffs seek unliquidated damages within the jurisdictional limits of this Court.

### **G. Exemplary Damages**

29. Plaintiffs' injury resulted from Defendants' actual fraud or malice, which entitles Plaintiffs to exemplary damages under Texas Civil Practice & Remedies Code §41.003(a). Defendants had a specific intent to cause substantial injury to Plaintiffs by doubling the maintenance fee and not providing increased maintenance, or any buildings and services in return.

### **H. Vicarious Liability – Corporate Veil**

30. Plaintiffs incorporate paragraphs 1 – 29 as if set forth in their entirety.

31. The New King’s Colony Property Owners Association, Inc. was organized and has been operated as a mere tool or business conduit of Defendant John Harris. He holds the title to all of the lots until they are paid off and runs the Property Owners Association as his own personal fiefdom, denying all legitimate efforts for a change in leadership. All of the officers and directors of New King’s Colony Property Owners Association on file with the Texas Secretary of State share the same office address with John Harris and three of the five directors share the same last name of “Harris.” The funds raised from the increased maintenance fee have not gone to improve New King’s Colony for Plaintiffs and other landowners but to expand the personal bank account of John Harris.

### **I. Jury Demand**

32. Plaintiffs demand a jury trial and tender the appropriate fee with this petition.

### **J. Request for Disclosure**

33. Under Texas Rule of Civil Procedure 194, Plaintiffs request that Defendant disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

### **J. Prayer**

34. For these reasons, Plaintiffs ask that the Court issue citations for Defendants to appear and answer, and that Plaintiffs be awarded a judgment against Defendants for the following:

- a. Actual damages.
- b. Exemplary damages.

- c. Prejudgment and postjudgment interest.
- d. Court costs.
- e. All other relief to which Plaintiffs are entitled.

Respectfully submitted,

**CHRIS BELL P.C.**

*/s/ Chris Bell*

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