

**IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR COLLIER COUNTY, FLORIDA
CIVIL DIVISION**

FLOW WAY COMMUNITY DEVELOPMENT
DISTRICT,

Plaintiff,

v.

Case No.: 20-CA-4147

TAYLOR MORRISON OF FLORIDA, INC.,
TAYLOR MORRISON ESPLANADE NAPLES,
LLC, TIM HALL, TURRELL, HALL & ASSOCIATES,
INC., STEPHEN REITER, ADAM PAINTER, ANDREW
MILLER, JOHN WOLLARD, CHRISTOPHER NIRENBERG,
and ESPLANADE GOLF & COUNTRY CLUB OF NAPLES,
INC.,

Defendants.

**PLAINTIFF'S REPLY TO DEFENDANT, TURRELL, HALL & ASSOCIATES, INC.'S,
AFFIRMATIVE DEFENSES TO THE THIRD AMENDED COMPLAINT**

Plaintiff, FLOW WAY COMMUNITY DEVELOPMENT DISTRICT ("Plaintiff"), by and through its undersigned counsel, and in accordance with the Florida Rules of Civil Procedure, hereby replies to the Affirmative Defenses filed by Defendant, TURRELL, HALL & ASSOCIATES, INC.'s ("TH&A"), in response to the Third Amended Complaint as follows:

1. **First Affirmative Defense:** Plaintiff denies Defendant TH&A's First Affirmative Defense, and demands strict proof thereof. In further reply to this Affirmative Defense, Plaintiff asserts that TH&A's First Affirmative Defense serves as nothing more than a denial of the allegations set forth by Plaintiff against TH&A for breach of fiduciary duty. As such, the First Affirmative Defense fails. *See generally, Wiggins v. Portmay Corp.*, 430 So. 2d 541, 542 (Fla. 1st DCA 1983) ("Affirmative defenses do not simply deny the facts of the opposing party's claim. They raise some new matter which defeats an otherwise apparently valid claim."). Plaintiff has sufficiently pled a claim for breach of fiduciary duty against Defendant TH&A.

2. **Second Affirmative Defense:** Plaintiff denies Defendant TH&A's Second Affirmative Defense, and demands strict proof thereof. In further reply to this Affirmative Defense, Plaintiff asserts that to the extent each of Defendants, Tim Hall, Taylor Morrison of Florida, Inc., Taylor Morrison Esplanade Naples, LLC, Stephen Reiter, Adam Painter, Andrew Miller, John Wollard, Christopher Nirenberg, and/or Esplanade Golf & Country Club of Naples, Inc.'s (collectively "Defendants"), Affirmative Defenses have been adopted and incorporated into TH&A's Affirmative Defenses, Plaintiff restates and incorporates each of its respective replies to Defendants' Affirmative Defenses as if also set forth in full herein.

3. Lastly, Plaintiff asserts that Defendant TH&A is estopped from asserting, or has waived its right to assert, each and every one of its Affirmative Defenses due to its own acts, representations, and/or omissions, as set forth more fully in the Third Amended Complaint (the factual allegations of which are incorporated herein for all purposes).

WHEREFORE, Plaintiff, FLOW WAY COMMUNITY DEVELOPMENT DISTRICT, requests the entry of Judgment in its favor, and against Defendant, TURRELL, HALL & ASSOCIATES, INC., denying the relief requested by TH&A, and awarding all damages, pre- and post-judgment interest, and costs to Plaintiff, together with all such other and further relief that the Court deems just and proper.

Dated this 21st day of June, 2021.

[Signature Block to Follow]

**WOODS, WEIDENMILLER, MICHETTI &
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was electronically filed with the Clerk of Court via the E-Filing Portal on this 21st day of June 2021, which will send notification to the following counsel of record:

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