

IN THE CIRCUIT COURT OF THE
FIFTH JUDICIAL CIRCUIT IN
AND FOR LAKE COUNTY,
FLORIDA

KINGS RIDGE COMMUNITY
ASSOCIATION, INC.; et al.,

CASE NO.: 2005-CA-2718

Plaintiffs,

vs.

LENNAR LAND PARTNERS; et al.,

Defendants.

**ORDER DENYING PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT
DETERMINING THAT LENNAR LAND PARTNERS BREACHED DECLARATION**

THIS CAUSE came before the Court on Plaintiffs' Motion for Partial Summary Judgment. A lengthy hearing was held in the matter on November 28, 2007. The Court has read Plaintiffs' motion, Defendants' memorandum in opposition, and Plaintiffs' reply, considered the arguments of counsel, reviewed the file, consulted the relevant authority and has otherwise been fully advised.

First, there is a question of whether or not the issues raised by Plaintiffs are ripe for summary judgment because certain discovery matters are still pending and therefore facts are still being developed. However, even assuming Plaintiffs' Motion is not premature, it still must be denied because many factual and legal issues exist and therefore summary judgment is not appropriate. For example, during Plaintiffs' own oral argument they raised significant issues regarding chain of title to the subject property and therefore the Court is uncertain at this point who has legal title to the

1

RECEIVED

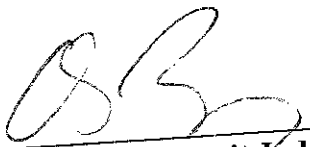
DEC 11 2007

Per 2785-1 PAD
cc: via e-mail clients
RWA

property in question. Furthermore a central issue in the case regards whether or not Florida Statutes §617.31 was breached and if breached what remedy is available to Plaintiffs. There is still a factual dispute as to what subsection of §617.31 Plaintiffs' case falls under. Therefore, because genuine issues of fact and law exist in this case it is not appropriate for summary judgment to be granted.

ORDERED AND ADJUDGED that Plaintiffs' Motion for Partial Summary Judgment Determining that Lennar Land Partners Breached Declaration is DENIED.

DONE AND ORDERED in chambers at Tavares, Lake County, Florida this 7 day of Dec 2007.



Don F. Briggs, Circuit Judge

Certificate of Service


I hereby certify that a true and correct copy of the foregoing Order and any attachments have been sent via U.S. Mail this 7 day of Dec 2007 to the following:

Phil A. D'Aniello, Esq.
FASSETT, ANTHONY & TAYLOR, P.A.
1325 W. Colonial Dr.
Orlando, FL 32804

Charles Cacciabeve, Esq.
Michael P. Sampson, Esq.
CARLTON FIELDS, P.A.
500 CNL Center
450 S. Orange Ave, Suite 500
Orlando, FL 32801

Philip S. Smith, Esq.
MCLIN & BURNSED, P.A.
P.O. Box 491357
Leesburg, FL 34749

Don H. Lester, Esq.
LESTER & MITCHELL, P.A.
1035 LaSalle Street
Jacksonville, FL 32207



Judicial Assistant/ Clerk