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May 27, 2011

Monroe County Clerk of Court
88820 Overseas Highway
Tavernier, FL 33070

RE: Bellizzi, et al. v. Islamorada Village of Islands
Case No.: 10-CA-334-P

Dear Clerk:

Enclosed please find Defendant Intervenor's Motion for Intervention to be filed with the court.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Brittany E. Nugent, Esq.
For the Firm

BEN: sj

Enclosures

cc: James S. Lupino, Esq.
Jeffrey L. Hochman, Esq.
Stanley Margulies

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IN THE CIRCUIT COURT FOR THE 16TH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA

JAMES BELLIZZI, DONNA BELLIZZI,
and MONROE COUNTY LAND
TRUST, INC.,

Plaintiffs,

v.

CASE NO. 10-CA-334-P

ISLAMORADA, VILLAGE OF ISLANDS,

Defendants.

MOTION FOR INTERVENTION

Intervenor, VENETIAN SHORES HOMEOWNERS ASSOCIATIONS, INC. ("VENETIAN"), by and through its undersigned counsel and pursuant to Fla. R. Civ. P. 1.230 hereby requests that the Court enter an order allowing intervention in the above-styled matter and for permission to file the attached Intervenor Complaint for Declaratory Relief, **Exhibit A**, and as grounds thereof would state:

1. Anyone claiming an interest in pending litigation may at any time be permitted to assert a right by intervention. *Fla. R. Civ. P. 1.230.*
2. Intervenor VENETIAN is a Florida not-for-profit corporation, existing in perpetuity, incorporated on June 19, 1961. The purpose of VENETIAN is to maintain and improve Venetian Shores Subdivision, a community of permanent structure, single family residences (except for duplex authorized parts of Blocks 3 and 4 of Plat 1), and for all purposes and powers authorized by law.
3. Intervenor VENETIAN is a nonprofit corporation consisting of voluntary property owners and is duly authorized to bring this cause of action in its representative capacity on behalf

of its members.

4. The above captioned lawsuit was filed on March 23, 2011, against the Village of Islamorada, and is an action for quiet title, declaratory judgment and inverse condemnation related to the ownership of certain roads and canals located in the Venetian Shores subdivision in Islamorada, Monroe County, Florida. However, the lawsuit did not include VENETIAN.

5. Intervenor, VENETIAN, has an interest in the subject litigation and its interest is of such a direct and immediate character that it will either gain or lose by the direct legal operation and effect of the judgment because should this court find that VENETIAN holds title to said roads, VENETIAN would be responsible for the maintenance and repair, subject to ad valorem taxes, and all liabilities associated with such ownership.


6. Pursuant to Rule 1.230 of the Florida Rules of Civil Procedure, in its discretion the court can order intervention where, as here, the intervening party has an interest in pending litigation. Florida courts have generally ruled that where the litigation is still in the pleading stages and the intervenor's participation will not delay or disrupt the proceedings, liberal exercise of discretion to permit intervention is warranted. Sweet Water Country Club Home Owner's Ass'n v. The Huskey Company, 613 So.2d 936 (Fla. 5th DCA 1993); National Wildlife Fed'n v. Glisson, 531 So.2d 996 (Fla. 1st DCA 1988).

WHEREFORE, Intervenor, VENETIAN, respectfully requests the entry of an order allowing intervention in the above captioned cause, permission to file the attached Intervenor Complaint for Declaratory Relief and full participation in the proceedings through undersigned counsel.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was forwarded via U.S. Mail and facsimile to: **James S. Lupino, Esq.**, Hershoff, Lupino & Yagel, LLP, Attorneys for Plaintiffs, 90130 Old Highway, Tavernier, FL 33070, (305) 852-8848, and **Jeffrey L. Hochman, Esq.**, Johnson, Anselmo, Murdoch, Burke, Piper & Hochman, P.A., Attorneys for Islamorada, Village of Islands, 2455 E. Sunrise Blvd., Suite 1000, Ft. Lauderdale, FL 33304, on this 27th day of May, 2011.

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By: 
Brittany E. Nugent, Esq.
Bar No. 85174

IN THE CIRCUIT COURT FOR THE 16TH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA

JAMES BELLIZZI, DONNA
BELLIZZI, and MONROE
COUNTY LAND TRUST, INC.,

Plaintiffs,

v.

CASE NO. 10-CA-334-P

ISLAMORADA, VILLAGE OF
ISLANDS, FLORIDA, a Florida
municipal corporation,

Defendants,

and

VENETIAN SHORES
HOMEOWNERS ASSOCIATION, INC.

Defendant-Intervenor.

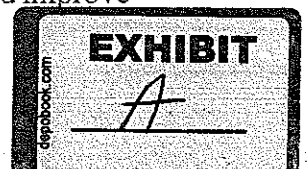
INTERVENOR COMPLAINT FOR DECLARATORY RELIEF

Defendant-Intervenor, VENETIAN SHORES HOMEOWNERS ASSOCIATION, INC.,
("VENETIAN) by and through their undersigned counsel, and hereby files their Complaint for
Declaratory Relief and state as follows:

1. This is an action for a declaratory judgment pursuant to Chapter 86, Florida Statutes (2011)
and for quiet title.

PARTIES, JURISDICTION AND VENUE

2. The real property at issue exceeds \$15,000 in value.
2. Defendant-Intervenor VENETIAN is a Florida not-for-profit corporation, existing in
perpetuity, incorporated on June 19, 1961. The purpose of VENETIAN is to maintain and improve



Venetian Shores Subdivision, a community of permanent structure, single family residences (except for duplex authorized parts of Blocks 3 and 4 of Plat 1), and for all purposes and powers authorized by law.

3. Defendant-Intervenor VENETIAN consists of voluntary member property owners and is duly authorized to bring this cause of action in its representative capacity on behalf of its members.

4. Plaintiff, JAMES BELLIZZI, is a resident of Monroe County, Florida, and is otherwise sui juris.

5. Plaintiff, DONNA BELLIZZI, is a resident of Monroe County, Florida, and is otherwise sui juris.

6. Plaintiff, MONROE COUNTY LAND TRUST, ("TRUST") is a duly formed Florida corporation and is otherwise sui juris.

7. Defendant, Islamorada, Village of Islands, ("VILLAGE") is a Florida municipal corporation existing in Monroe County, Florida.

8. This Court has subject matter jurisdiction pursuant to Florida Statutes § 34.011 (2010) as this case involves disputes pertaining to real property located in Monroe County, Florida.

9. Venue is proper pursuant to Fla. Stat. § 47.011 (2010) in that this action involves real property located in Monroe County, Florida.

GENERAL ALLEGATIONS

10. On November 22, 2010, Plaintiffs filed their Amended Complaint containing actions to quiet title, for declaratory judgment and inverse condemnation related to the ownership of certain roads and canals located in the Venetian Shores subdivision, in Islamorada, Monroe County, Florida.

11. The Complaint requests that the Court quiet title to the properties at issue and a declaration from the Court declaring the right of ways known as Severino Drive, Caprio Drive,

Genoa Drive, Napoli Drive, Venetian Way, Venetian Boulevard, to their midpoints, directly adjacent and abutting Plaintiff's respective properties are privately owned by Plaintiffs. In the event the Court finds that the VILLAGE is the legal owner of the roads, Plaintiff alleges they require compensation for the appropriation of the roads.

12. On March 18, 2011, Defendant, VILLAGE, filed their Answer and Affirmative Defenses, denying all allegations that the roads at issue are privately owned.

13. VILLAGE also stated as affirmative defenses that Plaintiffs failed to satisfy all conditions precedent, Plaintiffs failed to state a cause of action, the claims are barred by the doctrine of repugnancy, Plaintiffs lack standing, Claims asserted by Bellizzi on behalf of Monroe County Land Trust are improper, Plaintiffs' claims are time barred, Plaintiffs' claims are barred by operation of law including statute of limitations, the doctrine of res judicata bars Plaintiffs claims, Plaintiffs' claims are barred because Plaintiffs lack clean hands, Plaintiffs' claims are barred by estoppel and waiver, VILLAGE's claims are superior to those of Plaintiff by virtue of deeds and documents reflected in public records, VILLAGE's claims are superior to those of Plaintiff by virtue of adverse possession and by express or implied public easement, the patchwork relief requested by Plaintiffs is impossible to provide, and that the Complaint fails to state a valid claim for attorneys' fees.

14. VENETIAN asserts that the alleged disputed factual and legal issues over the ownership and maintenance responsibility of certain roads in Venetian Shores were previously addressed by the Circuit Court of the 16th Judicial Circuit in Case No. 85-20019-CA-17.

15. In said case, the Court approved a settlement agreement under which Monroe County (the Village's predecessor in interest) assumed maintenance responsibility for Venetian Boulevard and all feeder roads into Venetian Boulevard on the westerly side of Venetian Shores (including Severino Drive), with the exception of Palo de Oro Drive. *See Settlement Agreement* attached as

Exhibit A.

16. The Village should continue to exercise its rights as the entity that owns, controls, and maintains the roads in Venetian Shores.

17. Altering the current ownership, and maintenance arrangements as requested by the Plaintiffs in this litigation will interfere with the existing rights of the voluntary member property owners of VENETIAN and will lead to (a) diminution in value of their properties, (b) legal disputes among the residents of Venetian Shores, (c) uncertainty relating to ingress and egress to Venetian Shores, including possible delays and denial of access, (d) unnecessary costs and burdens to the voluntary member property owners and other residents, and (e) confusion with regard to the duties and potential liabilities associated with the continued maintenance of the roads in Venetian Shores.

COUNT I
(FOR DECLARATORY RELIEF)

18. Plaintiffs adopt and reallege the allegations contained above in paragraphs 1 through 17, as if fully set forth herein.

19. This is an action for declaratory relief seeking a declaration that the right of ways known as Severino Drive, Capri Drive, Genoa Drive, Napoli Drive, Venetian Way, Venetian Boulevard, to their midpoints, directly adjacent and abutting Plaintiffs' respective properties are under the rightful ownership and maintenance responsibility of Defendant Islamorada, Village of Islands.

20. The Parties are in doubt about their rights as to the ownership and maintenance responsibility of the roads within the Venetian Shores Subdivision under a number of documents, including but not limited to the above referenced Settlement Agreement, **Exhibit A**. The nature of the dispute between parties is on-going and repetitive, and cannot be resolved without judicial

recourse.

21. Defendant-Intervenor VENETIAN has a bona fide, actual, present practical need for a declaration because VENETIAN is uncertain as its rights to the Roads at Issue which are adjacent and abutting voluntary member property owners' respective properties.

22. The declaration sought by VENETIAN pertains to a present controversy based on the aforementioned set of facts.

23. VENETIAN and Plaintiff have antagonistic interests in the subject matter and are before this Court by proper process.

24. VENETIAN is not merely seeking legal advice or propounding questions from this Court for the purpose of satisfying VENETIAN's curiosity.

25. VENETIAN has been damaged by Plaintiffs' actions and request a declaration of their rights.

WHEREFORE, Intervenor-Defendant VENETIAN prays this Court grant them all declaratory relief to which they are entitled, including but not limited to:

1. Declare that the right of ways known as Severino Drive, Capri Drive, Genoa Drive, Napoli Drive, Venetian Way, Venetian Boulevard, to their midpoints, directly adjacent and abutting Plaintiffs' respective properties are not privately owned by Plaintiffs.
2. Declare that the rightful owner of all roads within the Venetian Shores Subdivision is Defendant, Islamorada, Village of Islands.

Dated _____

Respectfully Submitted,

Brittany E. Nugent, Esq.
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