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7 1991

COMMONWEALTH OF KENTUCKY
KENTUCKI **THIRD DIV.** CIRCUIT COURT
DIVISION
CASE NO: 91-CI-02268

SAMUEL VAN BEVER

PLAINTIFF

VS.

BURLINGTON ESTATES, INC.
3180 BURLINGTON PIKE
BURLINGTON, KENTUCKY 41005

*Summons + 3 Copies
issued c/m.*

AGENT FOR SERVICE OF PROCESS:

GEORGE FINKE
3180 BURLINGTON PIKE
BURLINGTON, KENTUCKY 41005

and

FINKE HOMES
3180 BURLINGTON PIKE
BURLINGTON, KENTUCKY 41005

AGENT FOR SERVICE OF PROCESS:

GEORGE FINKE
3180 BURLINGTON PIKE
BURLINGTON, KENTUCKY 41005

and

BURLINGTON ESTATES, INC.
D/B/A FINKE HOMES
3180 BURLINGTON PIKE
BURLINGTON, KENTUCKY 41005

DEFENDANTS

AGENT FOR SERVICE OF PROCESS:

GEORGE FINKE
3180 BURLINGTON PIKE
BURLINGTON, KENTUCKY 41005

COMPLAINT

COMES the Plaintiff, by and through counsel, and for his
Complaint against the Defendants states as follows:

COUNT I

1. That on or about October 5, 1989, in Kenton County, Kentucky, the Defendants, Burlington Estates, Inc., Finke Homes, and Burlington Estates, Inc., d/b/a Finke Homes, by and through their employees and/or agents negligently damaged the Plaintiff's property by driving a bulldozer across the Plaintiff's property without his permission.

2. That as a direct and proximate result of the negligence of the Defendants, the property of the Plaintiff was damaged, including but not limited to, the destroying of several trees and landscaping and its fair market value was reduced in the amount of \$7,123.75; the total damages being sufficient to establish jurisdiction in this Court.

COUNT II

3. Plaintiff reiterates and incorporates as if fully set out herein each and every allegation in Count I of the Complaint.

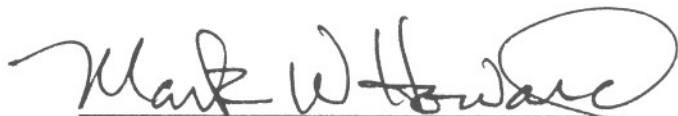
4. That on or about October 5, 1989, in Kenton County, Kentucky, the Defendants, Burlington Estates, Inc., Finke Homes, and Burlington Estate, Inc. d/b/a Finke Homes, by and through their employees and/or agents entered onto the property of the Plaintiff, Samuel Van Bever without his permission.

5. That as a direct and proximate result of the trespass of the Defendants, the Plaintiff's property was damaged and its fair market value was reduced in the amount of \$7,123.75.

WHEREFORE, Plaintiff demands Judgment against the Defendants, Burlington Estates, Inc., Finke Homes, and Burlington Estate, Inc.

d/b/a Finke Homes, jointly and severally, for Plaintiff's damages,
together with interest and the costs of this action, and all other
proper relief to which the proof may show him entitled.

WARE, BRYSON, WEST & BARTLETT
157 BARNWOOD DRIVE
P.O. BOX 17718
EDGEWOOD, KENTUCKY 41017
(606) 341-0255

A handwritten signature in black ink, appearing to read "Mark W. Howard". The signature is written in a cursive style with a large, circular flourish at the end.

MARK W. HOWARD
Attorney for Plaintiff

Dated: October 4, 1991

COMMONWEALTH OF KENTUCKY
KENTON CIRCUIT COURT
THIRD DIVISION
CASE NO. 91-CI-02268

FILED
KENTON CIRCUIT/DISTRICT
" 8 1991
WOLTENBERG, C.
PLAINTIFF

SAMUEL VAN BEVER

VS.


ANSWER


BURLINGTON ESTATES, INC. et al

DEFENDANTS

Defendants, Burlington Estates, Inc. d/b/a Finke Homes, Finke Homes and Burlington Estates, Inc. for their Answer to the Complaint of Samuel Van Bever, states as follows:

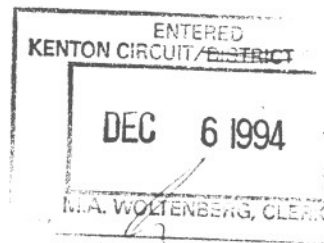
1. Plaintiff fails to state a cause of action upon which relief can be granted.
2. Defendants deny each and every allegation contained in paragraphs 1 and 2 of Count I of Plaintiff's Complaint, paragraphs 3, 4 and 5 of Count II of Plaintiff's Complaint.
3. WHEREFORE, Defendants request this Court to dismiss Plaintiff's Complaint with prejudice and award them their costs incurred in defending this matter plus attorney fees and any and all other relief to which they appear entitled.

I certify that I have served by prepaid United States mail, a copy of the above pleadings to all parties or their attorney of record, on 7/8/94 


JOHN FORTNER
Attorney for Defendants
526 Greenup Street
Covington, Kentucky 41011
(606) 491-1665

cc: Hon. Mark Howard
Attorney for Plaintiff
157 Barnwood Drive
Post Office Box 17718
Edgewood, Kentucky 41017

COMMONWEALTH OF KENTUCKY
KENTON CIRCUIT COURT
THIRD DIVISION
CASE NO. 91-CI-02268



SAMUEL VAN BEVER :
Plaintiff :
 :
 :
-vs- :
 :
 :
BURLINGTON ESTATES, INC. :
FINKE HOMES :
BURLINGTON ESTATES, INC., dba :
FINKE HOMES :
Defendants :

JUDGMENT

This matter coming before the Court for trial to the Court, plaintiff and defendant being represented by counsel, the Court hearing evidence, receiving exhibits, reviewing the arguments of counsel and being otherwise sufficiently advised of the facts, finds as follows:

Plaintiff contends in his complaint that defendant Finke Homes negligently damaged the plaintiff's property by driving a bulldozer across the property without plaintiff's permission. Further, that plaintiff's property was damaged by destroying several trees and landscaping. At trial, defendant admitted that it trespassed upon plaintiff's property and that the only issue is the amount of damages as a result of the destruction of the trees and landscape.

Mr. Martin, a Claims Representative of State Farm Insurance, testified that he visited the scene some 25 days after the damage occurred. He testified that he took a representation of the appropriate amount of trees that may have been in the area that was crossed by the bulldozer. Mr. Martin testified that he used the