

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

GARY STAFFIERI and ADRIA CHARLES :  
STAFFIERI, :

Plaintiffs, :

v. :

C.A. No. 7439-VCL

HENRY BLACK, MARY LOU BLACK, :  
RAYMOND BUCHTA, BLACKBALL :  
PROPERTIES, LLC, PAUL MILLER, :  
CANDY MILLER, W. SCOTT BLACK, :  
and GAKIS PROPERTIES II, LLC, :

Defendants. :

**CERTAIN DEFENDANTS' RULE 60 MOTION  
TO MODIFY POST-TRIAL ORDER**

Certain Defendants<sup>1</sup>, by and through their undersigned counsel, hereby move this Court for an Order pursuant to Rule 60(a) and/or Rule 60(b)(1) or (6) for relief from an abbreviated term contained in the Court's Post-Trial Order dated October 24, 2012, based upon the following:

1. Pursuant to Court of Chancery Rule 60(a), the Court is authorized to correct any clerical mistake or error contained in an Order arising from oversight.
2. Under Court of Chancery Rule 60(b)(1) and (6), the Court may relieve a party from an Order based upon mistake or for "any other reason justifying relief from the operation of the judgment," respectively.
3. In the Court's Post-Trial Order dated October 24, 2012 (the "PT Order"), the Court adopted an abbreviated term for one portion of the driveway area situated on the Triplex Properties located at 1701 through 1705 Concord Pike: the "Back Parking Area." PT Order at 2.

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<sup>1</sup> Certain Defendants include Defendants Henry Black, Mary Lou Black, Raymond Buchta, W. Scott Black, and Blackball Properties, LLC.

The reference to “Parking” in this shorthand reference was a misnomer which has now caused confusion; the 1946 Deeds clearly establish that the area the Court was referring to is a “common driveway” available only for “driveway purposes,” and not a “parking area” available for “parking purposes.”

4. The PT Order holds that the Plaintiffs have easement rights, but only to the extent provided for in the 1946 Deeds. In turn, language contained in the 1946 Deeds expressly describes: 1) a 27 foot deep by 63 foot wide area in front of the Triplex Buildings that is available for “parking and driveway purposes”; and 2) a flag-shaped area whose “pole” is 9 feet wide and runs to the rear of the Triplex Buildings and whose “flag” is 27 foot deep by 72 foot wide which is the “common driveway” available solely for “driveway purposes.”

5. Despite the Court’s clear holding that Plaintiffs possess easement rights only to the extent contained in the 1946 Deeds, the Court’s use of the term “Back Parking Area” in the PT Order has caused the Plaintiffs to assert that they may park anywhere in the flag-shaped area (a/k/a “common driveway”). In addition, the Court’s use of the “Back Parking Area” reference has permitted the Plaintiffs to mislead New Castle County into believing the Court held that they may park in the “common driveway” area.

6. Attached as Exhibit A is a copy of a letter submitted by the Plaintiffs, in which they assert that the Court has held that they may park on the common driveway behind the Triplex Buildings. Although this belies logic and common sense, since a driveway may not be blocked by vehicular parking, the Plaintiffs soldier on in asserting they may park in the common driveway.

7. Recently, the New Castle County Department of Land Use has even argued to the New Castle County License, Inspection And Review Board (“LIRB”) that the PT Order permits

parking in the common driveway. Despite the arguments of Certain Defendants and their counsel to the LIRB to the contrary, the LIRB actually relied upon this clear misrepresentation in rendering a decision favorable to the Plaintiffs and adverse to Certain Defendants at a public appeal hearing conducted on Monday, July 8, 2013.

8. The Court may treat the use of the abbreviated term "Back Parking Area" in the PT Order as a minor oversight, which was unintended. Under those circumstances, the Court may modify the PT Order by changing the reference to the entire flag-shaped area as a singular "Common Driveway" or the like. Such a correction of the term used to describe the common driveway would resolve the confusion which has been created as a result of the use of the term "Back Parking Area."

9. In the alternative, the Court is empowered to modify the PT Order so as to correctly refer to the flag-shaped area as a "Common Driveway" or similar abbreviated term under the Rule 60(b) mistake or injustice standards. Obviously, the PT Order intended Plaintiffs to receive only those easement rights that were contained in the 1946 Deeds. Because the Plaintiffs have been able to successfully confuse and mislead governmental officials to make important decisions based upon the misrepresentation that this Court's use of the term "Back Parking Area" intended to grant them rights to park in the driveway area, an injustice has occurred which should be corrected by the Court.

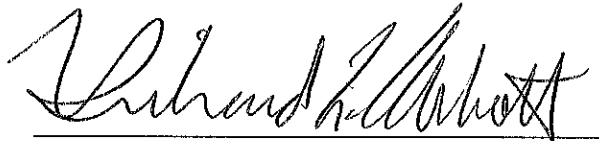
10. Finally, the Plaintiffs have utilized the common driveway area on the Triplex Properties on numerous occasions for the parking of vehicles. Attached as Exhibit B are copies of photographs that show the parking which blocks the common driveway, in direct contravention to the limited "common driveway" use permitted pursuant to the 1946 Deeds. Thus, correction of the PT Order is also appropriate in order to insure that the Plaintiffs do not

continue to exceed the extent of easement rights granted by the Court, as they have in recent months.

11. Certain Defendants have previously attempted to obtain Plaintiffs' compliance with the PT Order on this subject. *See* letters attached as Exhibit C. But Plaintiffs have continued to disregard the PT Order by parking in the common driveway.

WHEREFORE, Certain Defendants respectfully request that this Court enter an Order in accordance with the form attached, modifying the PT Order so as to eliminate reference to the abbreviated term "Back Parking Area" and to instead refer to the entire flag-shaped common driveway as the "Common Driveway" or the like.

ABBOTT LAW FIRM

A handwritten signature in dark ink, appearing to read "Richard L. Abbott", written over a horizontal line.

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Henry Black, Mary Lou Black, Raymond Buchta,  
W. Scott Black and Blackball Properties, LLC

Dated: July 19, 2013