

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

**GREGORY KNIGHT and WILLARD
HOLLIMAN,**

PLAINTIFFS,

v.

**THE BALDWIN COUNTY COMMISSION
and BALDWIN COUNTY, ALABAMA,**

DEFENDANTS.

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CASE NO.: _____

COMPLAINT

COME NOW, the Plaintiffs in the above-styled cause, and file the following Complaint against Defendants the Baldwin County Commission and Baldwin County, Alabama:

JURISDICTION

1. Gregory Knight is an adult resident of Baldwin County, Alabama and at all times relevant herein is and was a resident of Baldwin County Zoning District 19 (“District 19”).
2. Willard Holliman is an adult resident of Baldwin County, Alabama and at all times relevant herein is and was a resident of District 19.
3. Baldwin County, Alabama (“the County”) is a political subdivision of the State of Alabama and is a body corporate.
4. The Baldwin County Commission (“the Commission”) is the governing body of the County.

5. On or about July 21, 2020, Battles Road Preservation Group, LLC (“BRPG”) petitioned the County to create District 19, which is a portion of Zoning District 17. District 19 includes most but not all of Voting Precinct 10 (Precinct 10”).

6. Upon information and belief, the members of BRPG are residents of the Lakewood Subdivision who desired to create District 19 in order to disenfranchise the African American residents of District 19.

7. Ala. Code § 45-2-261.07 (2010) provides that a zoning district shall correspond to a voting precinct or precincts in the county, unless the Commission determines that the use of the voting precinct boundaries is not feasible.

8. On or about August 4, 2020, the Commission voted to approve District 19, which only encompasses part of Precinct 10, without making a determination that was not feasible to use the boundaries of Precinct 10. As such, District 19 is not valid and lawful.

9. On or about August 17, 2020, BRPG petitioned the County to conduct an election regarding whether District 19 would come under the County’s zoning jurisdiction. The petition included 256 signatures of purported residents of District 19 who wanted District 19 to come within the planning and zoning authority of the County.

10. While the Legislative Text for file #: 21-0068 pertaining to the Commission’s October 6, 2020 meeting states that 705 qualified voters reside in District 19, the Baldwin County Register’s Office shows that there are 896 qualified voters District 19. The County elections coordinator shows that there are 820 qualified electors in District 19. At its October 6, 2020 meeting, the Commission voted to certify the petition and instructed the

Baldwin County Judge of Probate to provide for a zoning election no later than December 29, 2020.

11. Ala. Code § 45-2-261.07 requires that the Commission notify each qualified elector of District 19 by U.S. mail of the date and time of the election and of the polling place for voting. The Commission did not send notice of the election by U.S. mail to each qualified elector in District 19. Many if not most of the African American qualified electors in District 19 did not receive notice of the zoning election.

12. The District 19 zoning election was held on December 29, 2020 at the Bethel Lutheran Church on County Road 32. The election was held in the sanctuary of the church, which is highly irregular and inappropriate. Some African Americans chose not to vote because they were shocked and intimidated by the election being held in the church's sanctuary. Normally, if not always, elections are held in a church's community hall or center, not the sanctuary where people worship God.

13. Ala. Code § 45-2-261.07 states in two places that the Commission shall not exercise zoning powers and jurisdiction unless a majority of the qualified electors in a district vote in favor of zoning. Only 293 qualified electors voted in favor of District 19 zoning, which at best is only 42% of the qualified electors in District 19. Regardless of the fact that a majority of the qualified electors in District 19 did not vote in favor of zoning, the County and the Commission have wrongfully asserted zoning power and authority over District 19.

COUNT ONE
Declaratory Judgment (Ala. Code § 6-6-220)

14. Plaintiffs adopt and reallege the allegations set forth in paragraphs 1-13 of the Complaint as if set forth fully herein.

15. A bona fide justiciable controversy exists between the Plaintiffs and the Defendants regarding whether District 19 was properly established and whether results of the December 29, 2020 zoning vote grants the Defendants zoning power and authority in District 19. Plaintiffs contend that Defendants did not comply with Ala. Code § 45-2-261.07, that District 19 was not properly established and that zoning was not approved by a majority of the qualified electors of District 19.

WHEREFORE, the above premises considered, Plaintiffs request pursuant to Alabama Code § 6-6-220 that this Court issue an Order declaring that District 19 was not properly established and is therefore null and void, that the Defendants do not have zoning powers and authority over District 19 and that the Court award attorneys' fees and costs to Plaintiffs.

COUNT TWO
Injunction

16. Plaintiffs adopt and reallege the allegations set forth in paragraphs 1-15 of the Complaint as if set forth fully herein.

17. Plaintiffs request that Defendants be enjoined from recognizing zoning District 19 and to be further enjoined from asserting zoning powers and authority over District 19.

WHEREFORE, the above premises considered, Plaintiffs request that this Court issue an Order enjoining Defendants from recognizing District 19 as a valid zoning district, enjoining Defendants from exercising its zoning power and authority over District 19 and awarding attorneys' fees and costs to the Plaintiffs.

Respectfully submitted,

/s/ Thomas H. Benton, Jr.

THOMAS H. BENTON, JR. (BEN028)

OF COUNSEL:

Benton Law Firm, LLC.
Post Office Box 11
Mobile, AL 36601
(251) 338-4286 Direct Dial
(251) 694-1998 Facsimile
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DEFENDANTS TO BE SERVED VIA CERTIFIED MAIL:

Baldwin County Commission
Baldwin County, Alabama
C/O Joe Davis, III
1100 Fairhope Ave
Fairhope, AL 36532



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CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
JODY L. WISE, CLERK

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**PLAINTIFFS' FIRST SET OF INTERROGATORIES & REQUESTS FOR
PRODUCTION TO DEFENDANTS**

COME NOW, the Plaintiffs in the above-styled cause and propounds the following Interrogatories and Requests for Production to Defendants the Baldwin County Commission and Baldwin County, Alabama to be answered separately as follows:

INTRODUCTION

In answering this discovery you are required to furnish all information available to you, including information in the possession of your attorney or any person acting on your or his behalf, and not merely such information as is known of your own personal knowledge. If you cannot answer any particular interrogatory in full, after exercising due diligence to secure the information, you should state and answer to the extent possible, specifying your inability to answer the remainder.

Unless counsel for the Plaintiff agrees to extend the time for production, all documents and other items that are responsive to the requests for production are to be

produced within 45 days, to the offices of Benton Law Firm, LLC, Post Office Box 11, Mobile, AL 36601, unless otherwise agreed by counsel for Plaintiff.

You are under a duty to reasonably amend a prior response if you obtain information upon the basis of which (a) you know that the response was incorrect when made, or (b) you know that the response, though correct when made, is no longer true, and the circumstances are such that a failure to amend the response is, in substance, a knowing concealment. Any such supplemental response is to be filed and served upon counsel of record for this Defendant within fifteen (15) days after receipt of such information. These interrogatories and requests for production are continuing until the time of trial, and the responses hereto must be supplemented at the times and under the circumstances set forth in Rules 33 and 34 of the *Alabama Rules of Civil Procedure*.

DEFINITIONS

A. “You” and “your” means the Baldwin County Commission and Baldwin County, Alabama, as well as any employees, agents, attorneys, accountants, investigators, representatives, or other individuals working on its behalf, directly or indirectly.

B. “Plaintiffs” mean Gregory Knight and Willard Holliman.

C. “Defendants” mean the Baldwin County Commission and Baldwin County, Alabama.

D. “Communication” means any discussion, conversation, inquiry, examination, notice, representation, correspondence, telegram, negotiation, transaction, review, claim, agreement, understanding, meeting, or interview, whether conducted in person, in writing, by telephone, or otherwise. Communications “between” any individual

or entity and any other individual or entity include communications going in either direction between such individuals or entities.

E. “Describe in detail” means (1) to state with specificity each and every fact, ultimate fact, circumstance, incident, act, omission, event, and date relating to or otherwise pertaining to the matters of which description is requested; (2) to identify each and every person who witnessed or participated in any incident, event, or act pertaining to the matters of which description is requested; and (3) to identify any and all documents which relate in any way to those matters or the information supplied by you in your response.

F. “Document” is used in its broadest sense and means graphic matter of any kind or nature, whether written, printed, typed, recorded filmed, punched, transcribed, taped, or produced or reproduced by any other means. The term “document” includes, but is not limited to, all records, personal notes, cablegrams, telexes, studies, calendars, diaries, desk calendars, appointment books, agendas, minutes, pamphlets, envelopes, telephone messages, email, computer discs, graphs, records of meetings, summaries of records of telephone conversations, summaries of records of personal conversations or interviews, summaries of records of meetings or conferences, tabulations, analysis, evaluations, projections, work papers, statements, summaries, journals, billing records, correspondence, notes, memorandum and invoices. The term “document” also includes every other means by which information is recorded or transmitted, including, but not limited to, photographs, videotapes, tape recordings, microfilms, punch cards, computer programs, printouts, all recordings made through data processing techniques, and the written information necessary to understand and use such materials. For purposes of this definition, drafts and non-

identical copies (i.e., those bearing notations or marks not found on other versions of the document) are separate documents.

G. “Identify” when used with reference to a “person” means to state each person’s full name, address, telephone number and any other names used by the person during the past ten (10) years if known; when used with reference to a document or communication, “identify” means to state the nature of the document or communication; the date, time, and title (if any) of the document or communication; the identity of each person contributing to or participating in the document or communication; the subject matter and substance thereof; and the name and last known business and home addresses and telephone numbers of each person who has possession, custody, or control of any document evidencing communications;

H. “Person” means any natural person; any group of natural persons, acting either individually or collectively (e.g., as a committee, board of directors, etc.); any corporation, partnership, or joint venture; and any other incorporated or unincorporated business, government, or social entity.

INTERROGATORIES

1. Produce any and all documents showing where you made a determination that it was not feasible to use the boundaries of voting precinct 10 for the Boundaries of Zoning District 19 (“District 19”).

RESPONSE:

2. Do you agree that District 19 does not encompass all of voting precinct 10?

If your answer is no, please state in detail how Zoning District 19 follows the boundaries of voting precinct 10.

RESPONSE:

3. Identify how many qualified voters were in District 19 on December 29, 2020.

RESPONSE:

4. State how many qualified voters voted in favor of District 19 zoning by the County.

RESPONSE:

5. Produce the voter role/list for District 19 on December 29, 2020.

RESPONSE:

6. Produce your entire file regarding the establishment of District 19 and the zoning vote for District 19, including but not limited to petitions, orders, correspondence, e-mails, notes, voting results, plats, maps, notes or any other documents.

RESPONSE:

Respectfully submitted,

/s/ Thomas H. Benton, Jr.

THOMAS H. BENTON, JR. (BEN028)

OF COUNSEL:

Benton Law Firm, LLC.
Post Office Box 11
Mobile, AL 36601
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TO BE SERVED WITH THE COMPLAINT