

IN THE IOWA DISTRICT COURT FOR WOODBURY COUNTY

CASTLE ON THE HILL ASSOCIATION,	:	CASE NO.: LACV191178
	:	
Plaintiff,	:	
	:	AMENDED AND SUBSTITUTED
vs.	:	PETITION
	:	
CASTLE ON THE HILL LIMITED	:	
LIABILITY COMPANY AND	:	
NUSTYLE INVESTMENT	:	
CORPORATION,	:	
	:	
Defendants.	:	

COUNT I

COMES NOW the Plaintiff and for its cause of action against Castle on the Hill Limited Liability Company states:

1. That the Castle on the Hill Association (COHA) is a duly organized Iowa non-profit association with its principal place of office in Sioux City, Woodbury County, Iowa.
2. That Castle on the Hill Limited Liability Company (Castle LLC) is a duly organized and existing Iowa limited liability company doing business in Sioux City, Woodbury County, Iowa.
3. That on or about October 10, 2002, COHA and Castle LLC entered into a Contract whereby COHA had the option to purchase the Castle on the Hill apartments from Castle LLC.
4. That Castle LLC has wrongfully encumbered the Castle on the Hill apartments' property and otherwise restricted its alienability in such a way that COHA is unable to exercise its option to purchase the property.
5. That COHA has been damaged as a proximate result of Castle LLC's breach of contract and interference with the contract.

6. That COHA is a tenant in the Castle on the Hill apartments and Castle LLC's wrongful acts as described herein have been undertaken for the purpose of evicting and removing COHA from the Castle on the Hill apartments building.

7. That the wrongful actions of Castle LLC are intentional, willful and undertaken with a wanton and reckless disregard for the rights of COHA.

WHEREFORE COHA prays for a judgment against Castle LLC in an amount that fairly and adequately compensate it for its damages and for punitive damages in an amount that will fairly and appropriately punish Castle LLC. Finally, COHA prays for the award of Court costs and attorney fees.

COUNT II

COMES NOW the Castle on the Hill Association and for its cause of action against Nustyle Investment Corporation states:

1. That paragraphs 1 – 6, inclusive, of Count I are hereby replead as if fully set out herein.

2. That Nustyle Investment Corporation is a Nebraska corporation doing business in the State of Iowa and operating under a development services agreement with Castle LLC.

3. That Nustyle has intentionally, wrongfully and tortuously interfered with the contract between COHA and Castle LLC.

4. That COHA has been damaged as a direct and proximate result of the interference of Nustyle.

5. That the wrongful acts of Nustyle have been intentional, willful and undertaken with a wanton disregard for the rights of COHA.

WHEREFORE COHA prays for a judgment against Nustyle in an amount that will fairly and adequately compensate it for its damages and further for punitive damages in an amount that will fairly and adequately punish Nustyle for its wrongful actions. Finally, COHA prays for the award of Court costs and attorney fees.

COUNT III

COMES NOW the Castle on the Hill Association and for its cause of action against both Defendants states:

1. That the Castle on the Hill Association owns the “Castle on the Hill” mark as shown by the attached Renewal of Registration of Mark.
2. That the Defendants chose to use the name “Castle on the Hill Apartments” for their apartment building without the consent, agreement or authorization from the Castle on the Hill Association.
3. That the Plaintiff confronted the Defendants regarding this infringement on its mark at the time of the inception of the Castle on the Hill Apartments. As a result, the Plaintiff agreed to suffer Defendants’ use of their mark because Plaintiff was granted use and control of a significant part of the building.
4. That the Plaintiff’s tolerance of the use of their mark was at will and contingent upon the Plaintiff’s continued presence in and use of the building.
5. That the Defendants have attempted to terminate Plaintiff’s presence in the building and evict them from their tenancy.
6. That the Plaintiff has notified the Defendants that they no longer have any right or authorization to use Plaintiff’s mark.

7. That the Defendants continue to use and infringe upon Plaintiff's "Castle on the Hill" mark despite being notified that they are no longer authorized or allowed to do so.

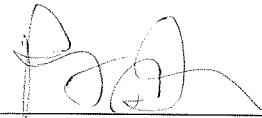
8. That the Plaintiff is being damaged as a direct and proximate result of the Defendants' use and infringement of its mark.

9. That the Defendants' use and infringement upon Plaintiff's mark and the damages resulting therefrom will continue unless the Defendants are permanently enjoined from such use and infringement.

WHEREFORE the Plaintiff prays for a judgment against the Defendants in an amount that will fairly and adequately compensate it for its damages and for an injunction enjoining the Defendants from infringing upon Plaintiff's mark and using it in any manner. The Plaintiff further prays for any and all damages and relief allowed by law.

DECK LAW, PLC

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ATTORNEY FOR PLAINTIFF

IOWA

No: W01139636
Date: 09/25/2017

SECRETARY OF STATE

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THE CASTLE ON THE HILL

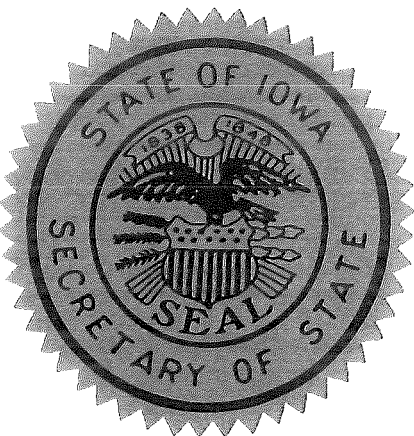
RENEWAL OF REGISTRATION OF MARK

NAME: THE CASTLE ON THE HILL
APPLICANT: CASTLE ON THE HILL ASSOCIATION
EXPIRES: Aug 28 2022 12:00AM

The applicant named above has renewed the registration of mark pursuant to Iowa Code Chapter 548.

The document was filed Aug 24 2017 3:49PM to be effective Aug 24 2017 3:49PM.

The amount of \$10.00 was received in full payment of the filing fee.



A handwritten signature in cursive script that reads "Paul D. Pate".

PAUL D. PATE SECRETARY OF STATE

