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DR. RONALD PATRICK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA, UNLIMITED JURISDICTION

DR. RONALD PATRICK, an individual,
Plaintiff.

vs.

2354 CALLE DEL MUNDO, LLC, a
Delaware Limited Liability Company; DOES
1 through 25, inclusive; all persons unknown
claiming legal or equitable right, title, estate,
lien, or interest in the real property described
in the Complaint adverse to Plaintiff's title /
interest, or creating any cloud upon Plaintiff's
title/ interest thereto, named herein as DOES
26 through 100; the testate and intestate
successors of any Defendants believed to be
deceased, and all persons claiming by,
through, or under such person, named herein
as DOES 100-200,

Defendants.

No.

COMPLAINT (VERIFIED) TO QUIET
TITLE TO EASEMENTS ACQUIRED BY
PRESCRIPTION; TO ENJOIN
DEVELOPMENT THAT INFRINGES UPON
PRESCRIPTIVE EASEMENTS AND
RECORDED PARKING EASEMENT; AND
FOR ENFORCEMENT OF COVENANTS,
CONDITIONS, & RESTRICTIONS

[Civil Procedure Code §§761.010; 405.4; Civ.
Code §1007; Civ. Code §5975]

Dept.:
Judge:
Trial Date:

COMES NOW, PLAINTIFF, DR. RONALD PATRICK, to file this Complaint against
Defendant 2354 Calle Del Mundo LLC, a Delaware Limited Liability Company; Does 1 through
25, inclusive; all persons unknown claiming legal or equitable right, title, estate, lien, or interest
in the real property described in the Complaint adverse to Plaintiff's title/interest, or creating any

cloud upon Plaintiff's title/interest thereto, named herein as DOES 26 through 100; the testate and intestate successors of any Defendants believed to be deceased, and all persons claiming by, through, or under such person, named herein as DOES 100-200, and to allege as follows:

PARTIES

1. Plaintiff is Dr. Ronald Patrick. Since 2011, Plaintiff has been and remains the record owner in actual possession of the commercial/industrial property situated in Santa Clara County, California, commonly known as 5191 Lafayette Street, Santa Clara, CA, 95054-1011, APN 097-46-001 ("**Patrick Property**"). The Patrick Property is comprised of three parcels: (1) the fee interest; (2) a parking easement over 2354 Calle Del Mundo ("**Parking Easement**"); and (3) an easement for ingress and egress over the property on Plaintiff's southwestern boundary, which is owned by 5185 Lafayette Street, LLC. A true and correct copy of Plaintiff's deed to 5191 Lafayette Street, which includes the legal description of the Patrick Property, which, in turn, includes the recorded easements described above, is attached as **Exhibit A**.

2. Defendant is 2354 Calle Del Mundo, LLC, a Delaware Limited Liability Company ("**2354 Calle Del Mundo**"). Defendant is the record owner in possession of commercial/industrial property at 2354 Calle Del Mundo, in Santa Clara County, California, commonly known as 2354 Calle Del Mundo, Santa Clara, CA, 95054-1007, APN 097-46-002.

3. The property owned by 2354 Calle Del Mundo is comprised of five parcels, four of which are access easements over other neighbors' properties. A true and correct copy of Defendant's deed to 2354 Calle Del Mundo is attached as **Exhibit B**.

4. Defendants DOES I through 100, inclusive, are sued under fictitious names. Their true names and capacities are unknown to Plaintiff. When their true names and capacities are ascertained, Plaintiff will amend this complaint by inserting their true names and capacities. Plaintiff is informed and believes and therefore alleges that each of the fictitiously named

1 defendants claims some right, title, estate, lien, or interest in the real property described below
2 adverse to Plaintiff's easement rights and/or title, and their claims constitute a cloud on Plaintiff's
3 title. Each reference in this complaint to "Defendant," "Defendants," or a specifically named
4 defendant refers also to all defendants sued under fictitious names.

5
6 **JURISDICTION AND VENUE**

7 5. The amount in controversy in the present action exceeds \$25,000.

8 6. Plaintiff seeks injunctive relief.

9 7. Venue is proper in this Court because the Patrick Property and 2354 Calle Del
10 Mundo are situated in the City of Santa Clara, in the county of Santa Clara, in the State of
11 California, and within this jurisdictional district.

12 8. The acts and events giving rise to the causes of action alleged herein all occurred,
13 in whole or in part, within this jurisdictional district in the County of Santa Clara, State of
14 California, as alleged below.

15 **GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

16 9. Plaintiff purchased the Patrick Property on June 22, 2011, and received title to the
17 Patrick Property through a deed recorded on August 8, 2011.

18 10. Soon after purchasing the Patrick Property, Plaintiff began operating his business,
19 "Engine Control and Monitoring" on the Property. Engine Control and Monitoring develops,
20 manufactures, and sells test instrumentation and control systems for vehicle powertrains,
21 engines, and combustion systems. Engine Control and Monitoring develops Clean-Air
22 Technologies for the federal government, the automotive and truck industry. This work requires
23 car and truck testing and delivery of many large mechanical parts.

24 11. Neighbors, Ernesto Barron and Pvik Leopold hold recorded, 15-foot wide ingress
25 and egress easements over the property of 2354 Calle Del Mundo.

12. The properties owned by 2354 Calle Del Mundo, by Plaintiff, and by neighbors Ernesto Barron and Pvik Leopold, along with other neighboring properties, are governed by a Declaration of Covenants, Conditions, and Restrictions for the "Lafayette Industrial Park," recorded May 13, 1976, as Book C020, Page 583 of Official Records of Santa Clara County ("Official County Records"), as amended by that certain Amendment of Declaration of Covenants, Conditions and Restrictions for Lafayette Industrial Park, recorded June 24, 1996, as Document No. 13342313 in Book P387 Page 1054 and January 23, 1997 as Document No. 13586828, both of Official County Records, that certain Second Amendment of Declaration of Covenants, Conditions and Restrictions for Lafayette Industrial Park recorded on December 27, 2013 as Document No. 22482528, December 27, 2013 as Document No. 22482529, December 27, 2013 as Document No. 22482530, December 27, 2013 as Document No. 22482531, December 27, 2013 as Document No. 22482532, November 24, 2014 as Document No. 22781730, November 24, 2014 as Document No. 22781731, April 9, 2015 as Document No. 22912967, April 9, 2015 as Document No. 22912968, July 21, 2015 as Document No. 23025241, August 20, 2015 as Document No. 23058937, and August 27, 2015 as Document No. 23064457, all of Official County Records, and that certain Third Amendment of Declaration of Covenants, Conditions and Restrictions for Lafayette Industrial Park, recorded March 10, 2016 as Document No. 23241039, of Official County Records (as so amended, the "Declaration").

13. A subset of the properties within the Lafayette Industrial Park purported to terminate the above-referenced CC&Rs, but they obtained approval from the owners of only 2/3 (66.66%) of the property subject to the CC&Rs, rather than the 3/4 (75%) required by section 5.2 of the CC&Rs for amendment, termination, or repeal.

14. The Covenants, Conditions, and Restrictions governing the Lafayette Industrial Park prohibit the development proposed by 2354 Calle Del Mundo.

1 15. The properties owned by 2354 Calle Del Mundo, by Plaintiff, and by neighbors
2 Ernesto Barron and Pvik Leopold, along with other neighboring properties that form a subset of
3 the properties within Lafayette Industrial Park, are further governed by a Declaration of
4 Covenants, Conditions, and Restrictions prepared by “Lafayette Park Ventures” and recorded in
5 the County of Santa Clara on October 18, 1979, as Document number 6533317.

6 16. The Covenants, Conditions, and Restrictions governing the Lafayette Park
7 Ventures properties require the owner of 2354 Calle Del Mundo to maintain access to the
8 neighbors’ 15-foot wide ingress and egress easements as “common driveways.”

9 17. Since 2011, Plaintiff has continually used these ingress and egress easements
10 recorded in favor of Barron and Leopold to access the Patrick Property to service and access
11 Plaintiff’s business.

12 18. From the time Plaintiff purchased the Patrick Property, a concrete block wall has
13 blocked Plaintiff’s ability to access his parking easement from his own Patrick Property.

14 19. Since 2011, Plaintiff has therefore accessed his parking easement by pulling off
15 from the recorded easement roadway and traveling over the property at 2354 Calle Del Mundo.

16 20. An aerial view photo depicting Plaintiff’s route of access to the parking easement
17 is attached hereto as **Exhibit C**.

18
19 **FIRST CAUSE OF ACTION – PRESCRIPTIVE INGRESS AND EGRESS EASEMENT**
20 **CLAIM OF PRESCRIPTIVE EASEMENT COINCIDING WITH OTHER PROPERTY**
21 **OWNERS’ NON-EXCLUSIVE RECORDED EASEMENTS OVER 2354 CALLE DEL**
22 **MUNDO**

23 21. Plaintiff realleges paragraphs 1-20.

24 22. Plaintiff is the owner of a prescriptive easement that burdens 2354 Calle Del
25 Mundo, the real property located in Santa Clara County, California, which is currently owned by
26 Defendant, 2354 Calle Del Mundo, LLC.

23. Plaintiff's rights to the Prescriptive Ingress and Egress Easement coincide with the easements recorded in favor of neighbors Ernesto Barron ("**Barron**") and Pivk Leopold ("**Leopold**").

24. On information and belief, Barron is the record owner of the property at 2346 Calle Del Mundo, Santa Clara, CA, 95054, APN 097-46-003. 2346 Calle Del Mundo is comprised of six parcels, five of which are access easements. A true and correct copy of Ernesto's deed to 2346 Calle Del Mundo is attached as **Exhibit D**.

25. On information and belief, Leopold is the record owner of the property at 2325 Calle Del Luna, Santa Clara, CA, 95054, APN 097-46-010. 2325 Calle Del Luna is comprised of 7 parcels, 6 of which are access easements. A true and correct copy of Leopold's deed to 2325 Calle Del Luna is attached as **Exhibit E**.

26. The area over which Plaintiff alleges a prescriptive easement for egress and ingress ("**Prescriptive Ingress and Egress Easement**") is particularly described as Parcels 5 and 6 of 2346 Calle del Mundo and Parcel 4 of 2325 Calle Del Luna: Parcel 5 is an easement over the southerly 15 feet of 2354 Calle Del Mundo, Parcel 6 is an easement over the easterly 12 feet of 2354 Calle Del Mundo, and Parcel 4 is an easement over the southerly 15 feet of 2354 Calle Del Mundo.

27. The area over which Plaintiff alleges the Prescriptive Ingress and Egress Easement coincides with the "common roadways" described in paragraph 8 of the CC&Rs governing the Lafayette Park Ventures properties.

28. Pursuant to the CC&Rs governing the Lafayette Park Ventures properties, therefore, 2354 Calle Del Mundo has "the obligation, at its sole cost and expense, to maintain" these driveways...."

1 29. Plaintiff's title is based on Plaintiff's actual, open, notorious, hostile, continuous,
2 adverse use of the Prescriptive Ingress and Egress Easement under claim of right for ten (10)
3 years preceding commencement of this action.

4 30. Plaintiff's business requires constant entry and exit of large trucks and trailers.
5 For the past ten (10) years, Plaintiff has entered and exited via the easements claimed herein.

6 31. The large trucks and trailers that enter and exit Plaintiff's business require and
7 utilize the full width of the easement.

8 32. Plaintiff arranges entry and exit of large trucks and trailers approximately 4 times
9 per day and has done so for the entire ten (10) years of his occupation of 5191 Lafayette .

10 33. Defendant, 2354 Calle Del Mundo, claims an interest in the easement as the
11 holder of the legal title to the property, which interest is adverse to Plaintiff.

12 34. Defendant submitted plans to the City of Santa Clara that propose obstruction of
13 Plaintiff's prescriptive easement.

14 35. At a public meeting of the Architectural Review Board on March 17, 2021, Steve
15 Edwards, a representative of 2354 Calle Del Mundo, denied Plaintiff has any right to use the
16 ingress and egress easement along the southerly 15 feet of Defendant's property and along the
17 easterly 12 feet of Defendant's property.

18 36. The Patrick Property and 2354 Calle Del Mundo are two of thirty-six parcels
19 comprising the "Lafayette Industrial Park".

20 37. Properties within the Lafayette Industrial Park are subject to a Declaration of
21 Covenants, Conditions, and Restrictions ("1976 CC&Rs"), that was recorded in 1976 and
22 amended in 1997.

23 38. A true and correct copy of the Declaration of Covenants, Conditions, and
24 Restrictions for Lafayette Industrial Park, as recorded in 1976, is attached as **Exhibit F**.

39. A true and correct copy of the 1997 Amendment to the 1976 CC&Rs is attached hereto as **Exhibit G**.

40. The Patrick Property and 2354 Calle Del Mundo, along with Parcels C-K within the Lafayette Industrial Park, are further governed by the 1979 Declaration of Covenants, Conditions, and Restrictions (“**1979 CC&Rs**”) attached as **Exhibit H**.

41. Exhibit A to the 1979 CC&Rs describes the Patrick Property as “Parcel A” and 2354 Calle Del Mundo as “Parcel B.”

42. Paragraph 8 of the 1979 CC&Rs provides that each owner governed by the 1979 CC&Rs “shall have the obligation, at its sole cost and expense, to maintain any Driveways ... in a first-class manner and condition, including not only maintenance but, to the extent required, replacement thereof from time to time as necessary.”

43. Paragraph 8 of the 1979 CC&Rs also provides: “Further, there shall be no relocation of any Driveways Without the prior written consent and approval of both the Architectural Control Agent and the City of Santa Clara.”

44. Exhibit B of the 1979 CC&Rs depicts the “Driveways” owners must maintain. The “Driveways” include the ingress and egress easements Plaintiff has been using for the past ten years over which he now claims a prescriptive easement.

45. The above-described easements are essential to the operation of Plaintiff's business. Throughout the day, numerous vehicles, including large trucks, use Defendants' easements to access Engine Control and Monitoring to make deliveries, for emissions testing, and other industrial purposes. Plaintiff's Prescriptive Ingress and Egress Easement runs North-South from Calle Del Mundo between 2354 Calle Del Mundo and 2346 Calle Del Mundo, and east-west toward Lafayette Street.

47. The legal description of the portion of the easement running North-South is contained in the legal description of Parcel 6 in the deed for 2346 Calle Del Mundo. The legal description of the easement running East-West toward Lafayette Street is the same as the legal description of Parcel 5 in the deed for 2346 Calle Del Mundo and the legal description of Parcel 4 in the deed for 2325 Calle De Luna.

49. Through his use of the Prescriptive Ingress and Egress Easement, Plaintiff has established a prescriptive easement.

50. Plaintiff seeks to quiet title to the Prescriptive Ingress and Egress Easement against all Defendant's adverse claims and to enjoin any development that blocks or infringes upon Plaintiff's access.

SECOND CAUSE OF ACTION – PARKING EASEMENT
ALLEGATIONS SUPPORTING INJUNCTION TO PREVENT INFRINGEMENT ON
PARKING EASEMENT

52. Plaintiff's property includes a recorded easement "for parking purposes"

(“**Parking Easement**”) as described in Plaintiff’s deed to 5191 Lafayette Street. See **Exhibit A**.

53. Defendant proposes development that includes covering Plaintiff's Parking Easement with permeable, breathable material suitable for drainage but not suitable for parking vehicles.

54. The material proposed will facilitate humidity rising up under parked vehicles hastening corrosion and damaging cars.

55. As the servient estate subject to a recorded easement "for parking purposes," Defendant is responsible for maintaining the Parking Easement in a manner that protects the easement purposes.

56. Defendant's proposed development infringes upon Plaintiff's rights to the Parking Easement.

57. Plaintiff seeks to enjoin the development as proposed and to require installation of surface coverings that are consistent with use of the area for parking – e.g. concrete or asphalt.

THIRD CAUSE OF ACTION – PARKING ACCESS EASEMENT
ALLEGATIONS SUPPORTING REQUEST TO ENJOIN DEVELOPMENT THAT
DAMAGES PLAINTIFF'S PARKING EASEMENT

58. Plaintiff realleges paragraphs 1-57.

59. Plaintiff's property includes a recorded easement for parking purposes ("**Parking Easement**") described in Plaintiff's deed.

60. Plaintiff has, for the past ten (10) years, accessed this Parking Easement by cutting diagonally from the Prescriptive Ingress and Egress Easement to the Parking Easement. The path Plaintiff has taken is referred to herein as the "**Parking Access Easement.**"

61. Plaintiff has regularly parked bicycles, motorcycles, cars, trucks, trailers, and trailer components in the Parking Easement.

62. Plaintiff has exclusively and regularly accessed the Parking Easement by cutting over Defendant's property at 2354 Calle Del Mundo, because there has been a concrete block fence dividing the Parking Easement from the rest of Plaintiff's parking area.

63. Attached as **Exhibit I** is a site plan depicting the recorded Parking Easement route Plaintiff has habitually taken to access Plaintiff's recorded parking easement – i.e. the Parking Access Easement.

64. Defendant has applied to the City of Santa Clara for approval a landscaping and development plan that will completely block Plaintiff's Parking Access Easement.

65. Plaintiff is seeking to quiet title to his Parking Access Easement against all of Defendant's adverse claims and to enjoin the proposed development.

FOURTH CAUSE OF ACTION - ENFORCEMENT OF CC&Rs

66. Plaintiff realleges paragraphs 1-65.

67. The Patrick Property and 2354 Calle Del Mundo are both governed by the 1979 CC&Rs.

68. The Patrick Property and 2354 Calle Del Mundo are both governed by the 1976 CC&Rs.

69. The Patrick Property benefits from the restrictions in the 1976 CC&Rs and the 1979 CC&Rs.

70. The proposed development of 2354 Calle Del Mundo violates the 1976 CC&Rs' prohibitions on filling lots.

71. The proposed development of 2354 Calle Del Mundo must adhere to the requirements of the 1979 CC&Rs, which require 2354 Calle Del Mundo to maintain common driveways.

72. Plaintiff seeks, on behalf of the Patrick Property, to enforce paragraph 8 of the 1979 CC&Rs and to enforce the development restrictions of the 1976 CC&Rs that prohibit the currently proposed project.

73. The Patrick Property seeks to enjoin the development proposed for 2354 Calle Del Mundo.

74.

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. Quieting title to Plaintiff's **Prescriptive Ingress and Egress Easement**.
2. Enjoining development that infringes upon Plaintiff's rights to the **Parking Easement**.
3. Quieting title to Plaintiff's **Parking Access Easement**.
4. Adjudging that Defendant possesses a servient tenement in the areas of the Prescriptive Ingress and Egress Easement and in the Parking Access Easement;
5. Enjoining the project proposed for 2354 Calle Del Mundo as development that infringes upon Plaintiff's Prescriptive Ingress and Egress Easement, Parking Easement, and Parking Access Easement.
6. Enforcing Paragraph 8 of the 1979 CC&Rs.
7. Awarding Plaintiff's costs of suit; and
8. Such other and further relief as may be just and proper.

DATED: May 6, 2021

HARPER & ARMSTRONG, LLP

By: _____
Shona Armstrong
Attorney for Plaintiff

VERIFICATION

I, Dr. Ronald Patrick, am the Plaintiff in the above-entitled action. I have read the foregoing COMPLAINT (VERIFIED) TO QUIET TITLE TO EASEMENTS ACQUIRED BY PRESCRIPTION AND TO ENJOIN DEVELOPMENT THAT INFRINGES UPON RECORDED PARKING EASEMENT and know the contents thereof. The same is true of my own knowledge, except as to those matters that are therein alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at _____, Santa Clara, California.

DATED: May 6, 2021

Dr. Ronald Patrick

VERIFICATION – DR. RONALD PATRICK
Patrick v. Ensemble Investements/2354 Calle Del Mundo LLC; et al.
Complaint (Verified) to Quiet Title To Easement Acquired by Prescription