

DISTRICT COURT, LARIMER COUNTY, COLORADO Court Address: 201 LaPorte Avenue, Suite 100 Fort Collins, Colorado 80521 Phone: (970) 494-3500	DATE FILED: April 14, 2021 6:22 PM FILING ID: A5268729A45B3 CASE NUMBER: 2021CV30210
Plaintiffs: RE DENVER and COLORADO FLOORING INDUSTRIES, Inc. as tenants in common, and OSF INVESTMENTS, LLC d/b/a Carpet Exchange, a Washington Limited Liability Company v. Defendants: CITY OF FORT COLLINS, a home rule city, and CITY OF FORT COLLINS PLANNING AND ZONING BOARD, STAN SCOTT, and GUARDIAN STORAGE FORT COLLINS, LLC d/b/a GUARDIAN SELF STORAGE	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
Timothy L. Goddard, Atty. Reg. No. 17645 HASLER, FONFARA AND GODDARD LLP 125 South Howes Street, Sixth Floor P.O. Box 2267 Fort Collins, CO 80522 Phone No.: (970) 493-5070 Fax No.: (970) 493-9703 Email: timg@hfglawfirm.com	Case No.: 21CV30210 Division: 5B
ANSWER OF STAN SCOTT	

Defendant Stan Scott (“Scott”) by his attorneys, Hasler, Fonfara and Goddard LLP, answers and responds to the allegations of the Complaint filed by the named Plaintiffs (jointly, “Plaintiffs”) as follows:

PARTIES, JURISDICTION AND VENUE

1. Scott is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1.
2. Scott is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2.

3. Scott admits the allegations of paragraph 3 on information and belief.
4. Scott admits the allegations of paragraph 4 on information and belief.
5. Scott admits the allegations of paragraph 5, except that Scott notes that title to the referenced property is held under the legal name of Scott, Stanley Scott.
6. Scott admits the allegations of paragraph 6 on information and belief.
7. In response to the allegations of paragraph 7, Scott states that he does not contest venue in Larimer County, admits that the property is located in Larimer County and otherwise states that the allegations state a legal conclusion to which further response is not required.

GENERAL ALLEGATIONS

8. In response to the allegations of paragraph 8, Scott admits that on March 11, 2021, a hearing was conducted by the referenced Planning and Zoning Board on a request for a Project Development Plan (“PDP”) to develop a four-story, 119,300 sq. ft. enclosed mini-storage facility on the subject property, and otherwise states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations.
9. In response to the allegations of paragraph 9, Scott states the application speaks for itself, but states he understands that the application requests relief under the modification process and criteria provided in the Land Use Code Division 2.8.2(H), which is within the power and authority of the Planning and Zoning Board to grant.
10. In response to the allegations of paragraph 10, Scott states the referenced portion of the Zoning Code and the Transit Oriented Development Overlay Zone (“TOD”) speak for themselves, but states the standards provided in the TOD are subject to the power and authority of the Planning and Zoning Board under the Zoning Code to modify the same when the Planning and Zoning Board determines that proper justification for such modification is provided.
11. In response to the allegations of paragraph 11, Scott admits that the Planning and Zoning Board approved the application and request for modification, but denies the approval was contrary to the requirements of the Zoning Code or the TOD.
12. In response to the allegations of paragraph 12, Scott denies that the Planning and Zoning Board exceeded its jurisdiction or abused its discretion and is without knowledge or information sufficient to form a belief as to the truth of remaining allegations of the paragraph.

FIRST CLAIM FOR RELIEF
(Judicial Review and Appeal pursuant to C.R.C.P. Rule 106 (a) (4))

13. If further response is required to the allegations of paragraph 13, Scott incorporates his responses to paragraphs 1-12 above.

14. The allegations of paragraph 14 do not state any facts to which a response by Scott is required. If further response is required, Scott states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations.

15. Scott denies the allegations of paragraph 15.

16. Scott is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16.

17. Scott denies the allegations of paragraph 17.

SECOND CLAIM FOR RELIEF
(Declaratory Relief)

18. If further response is required to the allegations of paragraph 18, Scott incorporates his responses to paragraphs 1-17 above.

19. In response to the allegations of paragraph 19, Scott states the referenced rule speaks for itself.

20. In response to the allegations of paragraph 20, Scott states the referenced rule speaks for itself.

21. The allegations of paragraph 21 state a legal conclusion to which no response is required.

22. Scott is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 22.

23. Scott admits the allegations of paragraph 23 on information and belief.

24. Scott is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 24, but states the referenced document speaks for itself.

25. Scott denies the allegations of paragraph 25.

26. Scott is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 26, but states the referenced document speaks for itself.

27. In response to the allegations of paragraph 27, Scott states that the provisions of the Zoning Code speak for themselves.

28. Scott denies all other allegations of the Complaint, express or implied, except as admitted or otherwise stated above.

AFFIRMATIVE DEFENSES

1. Plaintiffs have failed to exhaust their administrative remedies, and, therefore, the Court may lack subject matter jurisdiction.

2. The Complaint fails to state any claim for which relief can be granted against Scott.

3. Plaintiffs may lack standing to assert the claims.

4. The Planning and Zoning Board acted properly and within its authority provided by the Zoning Code and within its discretion in granting the requested modifications to the standards of the TOD.

5. Scott incorporates by reference the affirmative defenses raised by any other Defendant to the extent such are applicable to any claim asserted against Scott.

6. Plaintiffs' objections to the application of Defendant Guardian Self Storage ("Guardian") are raised for the improper purpose of attempting to prevent a sale of the property by Scott to Guardian and the development of the Scott property, which would extinguish an easement that encumbers the Scott property in favor of the property purportedly owned by Plaintiff RE Denver and Colorado Flooring Industries, Inc. and not due to any alleged detriment to the public interest resulting from the granting of the requested modifications.

7. Scott reserves the right to add or remove affirmative defenses as the claims against Defendants are clarified through disclosures, discovery or otherwise.

WHEREFORE, Scott having answered and responded to the allegations of the Complaint and asserted his affirmative defenses thereto, requests the Court to dismiss the Complaint, with prejudice or, in the alternative, to find that the Planning and Zoning Board acted within its discretion in approving the application submitted by Guardian, including the granting of the modifications to the standards of the TOD at issue. Scott further requests an award of his costs and fees incurred in defending against the claims asserted in the Complaint and for such other and further relief as the Court deems just and proper.

Respectfully submitted this 14th day of April, 2021.

HASLER, FONFARA AND GODDARD LLP

By /s/ Timothy L. Goddard
Timothy L. Goddard, #17645
ATTORNEYS FOR DEFENDANT STAN SCOTT

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of April, 2021, I served a true and correct copy of the above and foregoing **ANSWER OF STAN SCOTT**, via CO Courts E-Filing (CCEF), to the following:

Jon T. Bradley, Esq.
Kelci L. Sundahl, Esq.
Bradley Devitt Haas & Watkins, P.C.
South Mesa Professional Building
2201 Ford Street
Golden, CO 80401
jon@goldenlawyers.com
kelci@goldenlawyers.com
Attorneys for Plaintiffs

By /s/ G. Camille Asadi
G. Camille Asadi

Pursuant to C.R.C.P. 121 § 1-26, the original of this document with original signatures will be maintained in the office of Hasler, Fonfara and Goddard LLP, and will be made available for inspection by other parties or the Court upon request.