

CAUSE NO. 2018-36108

JASON ALEXANDER <i>et al.</i>	§	IN THE DISTRICT COURT OF
<i>Plaintiffs,</i>	§	
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
THE WOODLANDS LAND	§	
DEVELOPMENT COMPANY L.P., THE	§	
HOWARD HUGHES CORPORATION,	§	
LJA ENGINEERING, INC. F/K/A LJA	§	
ENGINEERING & SURVEYING, INC.,	§	
JAMES R. BOWLES	§	
<i>Defendants.</i>	§	215th JUDICIAL DISTRICT

**DEFENDANTS LJA ENGINEERING, INC.S AND JAMES R. BOWLES’  
ANSWER TO PLAINTIFFS’ ORIGINAL PETITION**

Defendants LJA Engineering, Inc. f/k/a LJA Engineering & Surveying, Inc. and James R. Bowles file this Answer to Plaintiffs’ Original Petition, and show as follows:

**RESERVATION**

1. Plaintiffs combine the claims of approximately 485 individuals, 2 trusts, and 1 community association concerning hundreds of properties. Defendants reserve the right to object to the joinder of all of these claims in this single matter and/or seek separate trials of each of Plaintiffs’ claims concerning each of these properties. Accordingly, Defendants reserve the right to file, at the appropriate time, a motion to sever and/or for separate trials and amend their Answer to state their response separately for each house in separate pleadings.

**GENERAL DENIAL**

2. The Constitution and laws of the State of Texas provide protections to Defendants from the claims asserted by Plaintiffs, including that Plaintiffs prove their allegations against Defendants by a preponderance of the evidence. Defendants invoke these protections, and pursuant to Rule 92 of the Texas Rules of Civil Procedure, enter this general denial of all claims asserted in Plaintiffs’ Original Petition and in any subsequently amended or supplemental

petition, and demand strict proof of every allegation contained in it and of every element of each of their claims, for each Plaintiff.

### **AFFIRMATIVE DEFENSES AND OTHER DEFENSIVE MATTERS**

3. In addition to their general denial, and without waving any of their rights, Defendants assert the following non-exhaustive set of specific denials, affirmative defenses, and other defensive matters:

- (a) Plaintiffs' claims are completely preempted by the National Flood Insurance Act, 42 U.S.C. § 4101 *et seq.*, and raise a substantial federal question;
- (b) Plaintiffs fail to state a claim upon which relief can be granted;
- (c) Plaintiffs' claims are subject to the administrative process set out in 42 U.S.C. § 4104;
- (d) Plaintiffs failed to mitigate their damages, in whole or in part, including by failing to participate in the National Flood Insurance Program and/or by failing to engage in the administrative process set out in 42 U.S.C. § 4104;
- (e) Plaintiffs failed to exhaust their administrative remedies;
- (f) Plaintiffs' claims against Defendants are barred because Plaintiffs' Certificate of Merit as to Defendants is deficient and does not meet the requirements set forth in Texas Civil Practices and Remedies Code § 150.001 *et seq.*
- (g) Some or all of Plaintiffs' claims are barred by the applicable statutes of limitations;
- (h) Some or all of Plaintiffs' claims are barred by the applicable statute of repose;
- (i) Plaintiffs' claims are barred because they assumed the risk;
- (j) The statements complained of constitute non-actionable puffing or opinion, or were not representations at all;
- (k) Plaintiffs' injuries were caused by the conduct of responsible third parties and/or parties, factors, and events beyond their control;
- (l) Defendants were justified in their reliance on others;
- (m) Some or all of Plaintiffs' claims are barred pursuant to, among others, Sections 17.49(c) and 17.506 of the Texas Business & Commerce Code;

- (n) Plaintiffs' claims are barred because they failed to satisfy all conditions precedent to filing suit, including the notice requirement under Section 17.505 of the Texas Business & Commerce Code;
- (o) Plaintiffs' claims against Defendants are barred because they were caused by an act of God;
- (p) Plaintiffs' claims against Defendants are barred because the alleged cause was unprecedented and unforeseeable;
- (q) Plaintiffs' claims against Defendants are barred under the doctrines of new and independent cause, superseding cause, and/or sole proximate cause;
- (r) Some or all of Plaintiffs' claims are barred by their complete lack of privity with and any legal duty owed by Defendants;
- (s) Plaintiffs' own acts or omissions caused or contributed to their alleged injuries;
- (t) Some or all of Plaintiffs' claimed damages are barred by the doctrine of election of remedies;
- (u) Some or all of Plaintiffs' claims are barred by the doctrines of waiver, laches, unclean hands, release, and/or estoppel or quasi-estoppel;
- (v) Pursuant to TEX. CIV. PRAC. & REM. CODE § 33.001, *et seq.* and any other applicable law, Defendants are entitled to a credit or reduction against any verdict or settlement between Plaintiffs and any third party, are entitled to a credit or reduction for any amount of money collected from any other Defendant (or their insurers) by settlement, compromise, or agreement, or in payment of any judgment entered in this case, and Defendants seek contribution from any co-Defendant or Third-Party Defendant in proportion to any percentage of fault of such co-Defendant or Third-Party Defendant;
- (w) Defendants are entitled to a separate determination by the trier of fact of the percentage of responsibility for each claimant, each defendant, each settling person, and each responsible third party;
- (x) Plaintiffs' claims for exemplary damages are capped and limited pursuant to TEX. CIV. PRAC. & REM. CODE § 41 *et seq.*, and all other statutory, constitutional, and common law caps and limitations pursuant to Texas, and Federal law; and
- (y) Defendants plead all affirmative defenses pled by any other Defendant to the extent such defenses are applicable to the claims against Defendants.

## RIGHT TO AMEND

4. Defendants reserve the right to remove this case, as well as to amend their answer should other and further defenses become available prior to the trial of this action.

WHEREFORE, premises considered, Defendants LJA Engineering, Inc. f/k/a LJA Engineering & Surveying, Inc. and James R. Bowles pray that:

- (1) Plaintiffs take nothing from Defendants and go hence without day;
- (2) Defendants recover judgment in their favor prejudicial to Plaintiffs' claims and awarding Defendants their attorney's fees and costs of court; and
- (3) Defendants have such other and further relief, general and special, at law or in equity, to which they may show themselves to be justly entitled.

Respectfully submitted,

**TAYLOR, TAYLOR & RUSSELL**

*/s/ Todd C. Collins*

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**ATTORNEYS FOR DEFENDANTS,  
LJA ENGINEERING, INC. AND  
JAMES R. BOWLES**

**CERTIFICATE OF SERVICE**

I certify that on July 2, 2018, I served a true and correct copy of the foregoing document on all counsel of record.

*/s/ Todd C. Collins*

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Todd C. Collins