

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

PATRICK MATTHEWS BOGART :  
and BENJAMIN KURTZ :

Plaintiffs, :

v. :

Case No. 273518-V

CARDEROCK SPRINGS CITIZENS :  
ASSOCIATION, INC. :

Defendant. :

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PLAINTIFFS' OPPOSITION TO DEFENDANT'S  
MOTION FOR PRELIMINARY INJUNCTION

COMES NOW, the Plaintiffs, Patrick Matthews Bogart and Benjamin Kurtz, by and through counsel, VanGrack, Axelson, Williamowsky, Bender & Fishman, P.C. and Samuel D. Williamowsky, Esq., Jeffrey M. Axelson, Esq., and Koushik Bhattacharya, Esq. and file this Opposition to the Defendant's Motion for Preliminary Injunction:

1. That on December 19, 2006 the Defendant filed a Motion for Preliminary Injunction seeking an order from the Court precluding the Plaintiffs from commencing construction on their property.
2. That in order to obtain a preliminary injunction the Defendant must show (1) that there is a real probability that the Defendant will succeed on the merits; (2) that injury that would be suffered if interlocutory injunction is granted is less than harm that would result from its refusal; (3) that the Defendant will suffer irreparable injury if it is not granted; and (4) granting an injunction would be in public interest. *Maloof v. State, Dept. of Environment*, 136 Md.App. 682, 767 A.2d 372
3. That the Defendant has failed to satisfy the above requirements and is not entitled

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to a preliminary injunction.

4. That in the alternative, the Plaintiffs ask that the Defendant be required to file a \$750,000.00 bond to obtain its preliminary injunction to protect the Plaintiff from the harm they would suffer from the injunction.

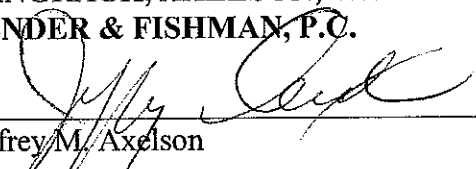
5. The attention of the Court is respectfully addressed to the Memorandum of Points and Authorities in Support of the Plaintiffs' Opposition to Defendant's Motion for Preliminary Injunction attached hereto and made a part hereof.

WHEREFORE, for the foregoing reasons the Plaintiffs respectfully request this Court deny the Defendant's Motion for Preliminary Injunction and grant Plaintiffs costs, attorney's fees and such other and further relief as the Court deems just and proper

Respectfully submitted,

**VANGRACK, AXELSON, WILLIAMOWSKY,  
BENDER & FISHMAN, P.C.**

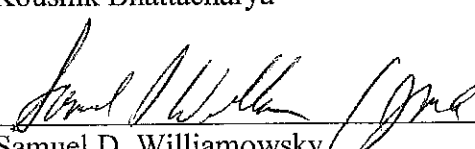
By: \_\_\_\_\_

  
Jeffrey M. Axelson

By: \_\_\_\_\_

  
Koushik Bhattacharya

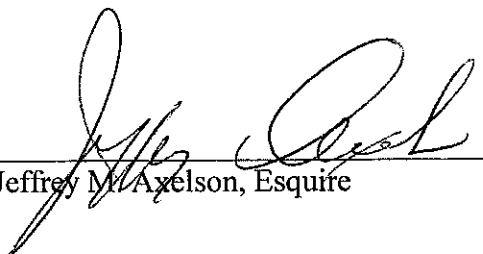
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Samuel D. Williamowsky  
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Attorney for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was mailed, via first class, postage prepaid, this 29<sup>th</sup> day of December 2006 to:

John F. McCabe, Jr.  
200A Monroe Street, Suite 300  
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Attorney for Defendant

  
\_\_\_\_\_  
Jeffrey M. Axelson, Esquire