

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DUNEDIN DEVELOPMENT CO., LLC,
and SAILWINDS CONDOMINIUM
ASSOCIATION,

Plaintiffs,

v.

Case No. 8:09-cv-303-T-33TBM

CITY OF DUNEDIN, FLORIDA, and
RICHARD JOHNSON,

Defendants.

ORDER

This matter comes before the Court pursuant to Defendant Richard Johnson's motion to dismiss count II of the amended complaint or, in the alternative, motion for summary judgment (Doc. # 6), which was filed on March 12, 2009.

On March 19, 2009, Plaintiffs filed an unopposed motion to file a second amended complaint. (Doc. # 9). On March 20, 2009, this Court entered an order granting the motion to amend and noting, "[T]his Court will deny the motion to dismiss as moot once the second amended complaint has been filed." (Doc. # 10 at 2). Plaintiffs filed the second amended complaint on March 27, 2009. (Doc. # 11). Accordingly, this Court denies the motion to dismiss as moot.

Accordingly, it is now

ORDERED, ADJUDGED, and DECREED:

Defendant Richard Johnson's motion to dismiss count II of the

amended complaint or, in the alternative, motion for summary judgment (Doc. # 6) is **DENIED AS MOOT**.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 30th day of March, 2009.


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

Copies: All Counsel of Record