

## Timeline notes on Park Central Covenant Dispute in Land Court and at ZBA

2/14/23 to 3/2/23 – (According to subsequent public documents) An attorney for Dante & Wendy DeMichaelis issued a letter to developer claiming that by pursuing the 40B project "The Residences at Park Central", the developer was in breach of the Covenant Agreement with the DeMichaelis and several neighbors that was executed in 2015.

4/12/23 – Attorney (Bocchino Law) for Park Central and Capital Group [filed](#) in Land Court to seek Declaratory Relief that the Covenant Agreement is unenforceable and/or inapplicable to the plaintiff's new pursuit of a 40B project on the Park Central site.

*(The main argument appears to be that a key part of the agreement was focused on the townhouse project under a Use Variance, and that the agreement is no longer applicable since the Superior Court's nullification of the permit for the original 40B project in effect nullified the townhouse project.)*

5/25/23 – The DeMichaelises' attorneys (Hill Law) [filed](#) answer to complaint with a counterclaim

*(Claim that the restrictions as written are still enforceable and the developer is in breach of contract by not following the restrictions in the agreement and by not providing notice of termination of the agreement then observing a 2 year "cooling down period" before filing for any new permits on the site covered by the agreement. They asked for developer to be enjoined from pursuing a permit and that plaintiff cover all their attorney fees and costs.)*

5/30/2023 – Motion to Dismiss the case [filed](#) by several other parties to the agreement referred by their attorneys (Tymann, Davis & Duffy LLP) as "the Moving Defendants" (*Brian Gray; Melissa Gray; Mark Boyden; Heidi Boyden; David Wu and Yvonne Wu, Trustees of Wu Family Nominee Trust; Grant Whitney and Elizabeth Whitney*)

6/08/2023 – DeMichaelises' [filed](#) request to transfer case to Superior Court

*(Refers to interpretation of prior judgement made by Superior Court as related to case.)*

6/13/23 – Plaintiff [filed](#) objection to transferring case

6/16/23 – Executive Office of the Trial Court [ruled](#) against transfer of case

*(Deemed inapplicable since the Superior Court case is closed.)*

7/17/23 – Plaintiff [filed](#) opposition to dismissing case

9/12/23 – Hearing held over video conference on motion to dismiss. Judge denied motion.

*(Judge ruled "the question of the enforceability of the 2015 Agreement is properly before the court" and issues of the agreement and intent would benefit from further proceedings.*

*Notes in the docket state that court found "a motion to stay proceedings might be appropriate in light of the Plaintiffs anticipated filing of an application with the ZBA. Parties to confer regarding Attorney Bocchino's proposal to proceed with paper discovery pending the issuance of a decision by the ZBA. Case Management Conference scheduled for December.)*

9/22/23 – Plaintiff [filed](#) amended Complaint

9/27/23 – Plaintiff [filed](#) request for production of documents "on Defendant Melissa Gray"

10/9/23 – Attorney for DeMichaelises [issued](#) letter to ZBA claiming that Covenant prohibits the permit applications and hearing

*(States if hearing proceeds, clients will "seek all available legal recourse, including costs and fees, against the Developer and the Board.")*

10/11/23 – ZBA opened hearing on 40B special permit.

*(Representatives for developer gave introductions and laid out timelines for future hearings. Attorney Dan Hill, representing DeMichaelises, highlights that the ZBA pushed the abutters to negotiate an agreement which was mediated by their consultant. Reiterated belief that the application and hearing are illegal. Developer's representative rebutted that the matter is to be decided by land court, not the ZBA.*

*At request of Town Counsel, ZBA invited parties to Covenant to submit attorney memos on applicability/inapplicability of land restrictions to the ZBA hearings and decision)*

10/18/23 – The Moving Defendants [filed](#) Answer to Amended Complaint, with a Counterclaim

*(Similar to counterclaims of DeMichaelises – seek to enjoin plaintiff and recoup costs)*

10/20/23 – Plaintiff [filed](#) reply to counterclaim by Moving Defendants

10/27/23 – DeMichaelises [filed](#) Amended Answer and Counterclaim

10/30/23 – Plaintiff [filed](#) reply to DeMichaelises' amended counterclaims

10/30/23 – Plaintiff [filed](#) amended reply to the Moving Defendants' counterclaim

11/15/23 – Developer's attorney [issues](#) letter to ZBA instructing that it must disregard Covenant

*(Claims that ZBA can't interfere in the Covenant dispute and must proceed with 40B hearings without consideration of restrictions that were included in the agreement.)*

11/27/23 – The Moving Defendants' attorney [issues](#) letter to ZBA instructing that it must abide by Covenant restrictions

*(Claims that ZBA can't overrule agreement.)*

11/27/23 – The DeMichaelises' attorney [issues](#) letter to ZBA informing that they will not debate Covenant in the ZBA hearings.)

*(Referred ZBA to its Oct 9th letter that outlined their position and states "clients do not wish to engage in any further debate with this applicant over the enforceability of this Agreement, except in the Land Court where this question will be decided.")*

Case Management Conference is scheduled for December 20, 2023, at 11:00 am.

Worth noting: The Plaintiff's claims filed in Land Court include that "all defendants are necessary parties", and they have also filed multiple requests to find defendants [Jude](#) and [Kiera](#) Joujoute in default for purportedly not having responded to legal notices they were served. (They are the only two parties to the agreement that aren't currently represented by one of the two defendants' attorneys.)