

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

DESIGN BASICS, LLC,

Plaintiff,

VS.

LANCIA HOMES, INC., d/b/a Lancia
Construction, Springmill Development,
Lancia Real Estate, Lancia Homes,
Springmill Wood Development, and
Waterford Enterprises,

Defendant.

Case No.: 1:16-cv-00047

JURY DEMANDED

COMPLAINT

Plaintiff, Design Basics, LLC, files this Complaint against Lancia Homes, Inc. (“Lancia Homes”), and for its causes of action alleges the following:

Parties

1. Design Basics, LLC, is a Nebraska Limited Liability Company with its principal place of business in Omaha, Nebraska. Under Articles of Merger executed on July 1, 2009, Design Basics, LLC, is the successor by merger to Design Basics, Inc., and as such is the owner of all assets (including copyrights, trade and service names, trade and service marks, and all causes of action) that Design Basics, Inc., owned as of that date. Design Basics, LLC, and its predecessor (Design Basics, Inc.) will hereinafter be referred to as “Design Basics.”

2. Design Basics is engaged in the business of creating, marketing, publishing and licensing the use of “architectural works” (as that term is defined in the Copyright Act and the

Architectural Works Copyright Protection Act of 1990, both codified at 17 U.S.C. § 101 et seq.) and technical drawings depicting such architectural works.

3. Defendant Lancia Homes, is a corporation organized under the laws of the State of Indiana with its principal place of business in Allen County, Indiana. Lancia Homes may be served through its registered agent, Dennis Sutton, 1000 Standard Federal Plaza, Fort Wayne, Indiana 46802.

4. Lancia Homes does business as, among other names, Lancia Construction, Springmill Development, Lancia Real Estate, Lancia Homes, Springmill Wood Development and Waterford Enterprises.

Jurisdiction and Venue

5. This Court has subject matter jurisdiction of this case under 28 U.S.C. § 1338 because this action arises under federal copyright law, 17 U.S.C. § 101 et seq.

6. Venue is proper in this District under 28 U.S.C. § 1400(a) because the defendant may be found in this District. Furthermore, or in the alternative, venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims at issue occurred in this District; and defendant resides and does business in this District.

Factual Background

7. Design Basics is a building design firm which creates, markets, and licenses the use of “architectural works” (as that term is defined in the Copyright Act and the Architectural Works Copyright Protection Act of 1990 (the “AWCPA”)) and technical drawings depicting architectural works. Design Basics owns copyrights protecting the architectural works and technical drawings it has created.

8. Design Basics is the author and the owner of all copyrights in the following works, each of which has been registered with the United States Copyright Office:

Title	Registration Certificate No.
Plan No. 1032 – Monte Vista	VA 282-203, 694-095 & 752-162
Plan No. 1380 – Paterson	VA 314-024 & 694-094
Plan No. 1748 – Sinclair	VA 371-214, 694-094 & 726-353
Plan No. 1752 – Lancaster	VA 371-204, 694-094 & 756-041
Plan No. 2154 – Galvin	VA 434-192, 826-741 & 1-950-268
Plan No. 2235 – Albany	VA 434-219, 694-094 & 756-041
Plan No. 2236 – Bermier	VA 434-207, 694-094, 752-162 & 1-932-031
Plan No. 2537 – Tahoe	VA 524-183, 694-095 & 726-363
Plan No. 2638 – Linden	VA 540-030, 694-094 & 756-041
Plan No. 3090 – Jarrett	VA 624-153 & 624-154

9. The foregoing works described in paragraphs 8 above will be referred to collectively as the “Copyrighted Works.”

10. The Copyrighted Works have been published in various Design Basics plan books and publications. A chart that identifies some of those Design Basics plan books that published the various Copyrighted Works is attached as Exhibit A. The Copyrighted Works have also been published by Design Basics on the internet at www.designbasics.com.

11. Each of the Copyrighted Works constitutes original material that is copyrightable under federal law.

12. Design Basics is currently, and at all relevant times has been, the sole owner of all right, title and interest in and to the works described in paragraph 8 above.

13. Lancia Homes has been engaged, at least in part, in the business of creating, publishing, distributing and advertising residential home designs through traditional print media, on the internet on sites such as www.lanciahomes.com, and in marketing, advertising, constructing and selling homes built according to such designs.

14. Lancia Homes has published, distributed, marketed and advertised certain architectural designs for single family residential homes, each consisting of a floor plan and exterior elevations, that Lancia Homes has identified and marketed under the following model names:

Cambridge
Cambridge II
Cambridge III
Charleston
Fairfield
Firenza
Hawthorne II
Kingston
Monterey
Richmond II
Richmond III
Rockford
Scottsdale
Scottsdale II
Scottsdale III
Scottsdale IV
Sycamore
Westfalon
Wyndham
Wyndham II
Wyndham III

15. Design Basics' home designs, including the Copyrighted Works, have been marketed for years on a nationwide basis, including in this District, by means of plan books and other publications and also on the internet, including many websites.

16. Lancia Homes has been actually aware of Design Basics and the works that Design Basics markets. At all times material to this case, Lancia Homes has had a reasonable opportunity to have viewed the Copyrighted Works.

17. Lancia Homes has violated and continues to violate Design Basics' exclusive rights in each of the Copyrighted Works (including the right to reproduce, the right to prepare

derivative works and the right to sell), by copying, publishing, distributing, advertising, marketing, selling and/or constructing in the marketplace, plans, drawings and houses which were copied or otherwise derived from the Copyrighted Works, as detailed below:

- a. The Lancia Homes “Cambridge” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 3090 – Jarrett (and any predecessor or derivative thereof).
- b. The Lancia Homes “Charleston” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 2537 – Tahoe (and any predecessor or derivative thereof).
- c. The Lancia Homes “Hawthorne II” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 1380 – Paterson (and any predecessor or derivative thereof).
- d. The Lancia Homes “Kingston” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 2235 – Albany (and any predecessor or derivative thereof).
- e. The Lancia Homes “Monterey” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 1032 – Monte Vista (and any predecessor or derivative thereof).
- f. The Lancia Homes “Richmond II” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 2236 – Bermier (and any predecessor or derivative thereof).
- g. The Lancia Homes “Rockford” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 2154 – Galvin (and any predecessor or derivative thereof).
- h. The Lancia Homes “Scottsdale” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 1032 – Monte Vista (and any predecessor or derivative thereof).

- i. The Lancia Homes “Scottsdale III” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 1032 – Monte Vista (and any predecessor or derivative thereof).
- j. The Lancia Homes “Scottsdale IV” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 1032 – Monte Vista (and any predecessor or derivative thereof).
- k. The Lancia Homes “Sycamore” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 1752 – Lancaster (and any predecessor or derivative thereof).
- l. The Lancia Homes “Wyndham” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 1748 – Sinclair (and any predecessor or derivative thereof).
- m. The Lancia Homes “Wyndham III” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 1748 – Sinclair (and any predecessor or derivative thereof).
- n. The Lancia Homes “Fairfield” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 2638 – Linden (and any predecessor or derivative thereof).
- o. The Lancia Homes “Firenza” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 1032 – Monte Vista (and any predecessor or derivative thereof).
- p. The Lancia Homes “Scottsdale II” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 1032 – Monte Vista (and any predecessor or derivative thereof).
- q. The Lancia Homes “Wyndham II” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 1748 – Sinclair (and any predecessor or derivative thereof).

- r. The Lancia Homes “Richmond III” (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 2236 – Bermier (and any predecessor or derivative thereof).

Cause of Action
Copyright Infringement

18. Design Basics complains of Lancia Homes for copyright infringement and incorporates paragraphs 1 through 17 above by reference.

19. Lancia Homes’ construction and sale of houses, and creation of associated design and construction drawings based on Design Basics’ Copyrighted Works has infringed and continues to infringe Design Basics’ copyrights in the Copyrighted Works.

20. Lancia Homes’ creation and publication of non-pictorial representations based on Design Basics’ Copyrighted Works have infringed and are infringing Design Basics’ copyrights in the Copyrighted Works.

21. Design Basics is entitled to recover the actual damages it suffered as a result of the foregoing infringement, and all of Lancia Homes’ profits from such infringement, pursuant to 17 U.S.C. § 504(b).

22. In the alternative to the actual damages and infringer profits sought above, Design Basics is entitled to an award of statutory damages for all infringements of Design Basics’ Copyrighted Works, as permitted by 17 U.S.C. § 504(c).

23. Pursuant to 17 U.S.C. § 505, Lancia Homes is liable for plaintiff’s costs and reasonable attorneys’ fees incurred in this action.

24. In addition, Design Basics is entitled to preliminary and permanent injunctions pursuant to 17 U.S.C. § 502 prohibiting Lancia Homes from further infringement of their

copyrights, including but not limited to the further use of infringing plans, creation or use of derivative plans, and construction, sale or rental of infringing structures.

25. Furthermore, this Court should issue an order pursuant to 17. U.S.C. § 503 directing the United States Marshal's Service to (a) impound all copies of the Copyrighted Works, in possession of Lancia Homes or its agents or contractors in violation of plaintiff's exclusive rights, and (b) upon final hearing of this case, to destroy or otherwise dispose of those copies.

Conditions Precedent

26. With respect to all counts, Design Basics generally avers that all conditions precedent to their rights of recovery have occurred or been performed, or have been waived or excused by Lancia Homes.

Jury Demand

27. Pursuant to Federal Rule of Civil Procedure 38, Design Basics respectfully demands a trial by jury of all issues so triable.

WHEREFORE, Design Basics, LLC, prays that defendant Lancia Homes, Inc., be cited to appear and answer; and that upon final trial have and recover from defendant as set forth above, that they have permanent injunctive relief against defendant as requested herein, and that they have such and other relief as they may show themselves to be entitled.

Respectfully submitted,

/s/ Sean J. Quinn

John D. LaDue (19039-71)

Sean J. Quinn (29441-71)

LADUE | CURRAN | KUEHN

200 First Bank Building

205 West Jefferson Boulevard

South Bend, Indiana 46601

Telephone: (574) 968-0760

Facsimile: (574) 968-0761

jlade@lck-law.com

squinn@lck-law.com

ATTORNEYS FOR PLAINTIFF

DESIGN BASICS, LLC