

ESTTA Tracking number: **ESTTA18373**

Filing date: **11/01/2004**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	BRE/Homestead Village, L.L.C.
Granted to Date of previous extension	11/03/2004
Address	100 Dunbar Street Spartanburg, SC 29306 UNITED STATES

Correspondence information	BRE/Homestead Village, L.L.C. 100 Dunbar Street Spartanburg, SC 29306 UNITED STATES dl@lydeckerwadsworth.com Phone:305-416-3180
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Applicant Information

Application No	78085363	Publication date	07/06/2004
Opposition Filing Date	11/01/2004	Opposition Period Ends	11/03/2004
Applicant	HomeStead Real Estate Co. 846C Broadway West Cape May, NJ 08204 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. First Use: 19971219First Use In Commerce: 19971219
Opposed goods and sevices in the class: REAL ESTATE AGENCIES WHICH
PROVIDE SERVICES TO CONVEY, PURCHASE AND RENT REAL ESTATE

Attachments	statement of the facts.txt (2 pages)
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Signature	/deborah lee/
Name	BRE/Homestead Village, L.L.C.
Date	11/01/2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
BRE/HOMESTEAD VILLAGE, L.L.C.,)

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Opposer,)

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Opposition No.:

ESTTA14545

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vs.)

HOMESTEAD REAL ESTATE CO. INC.,)

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Applicant,)
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NOTICE OF OPPOSITION SHORT AND PLAIN STATEMENT OF THE FACTS

As grounds for the Opposition, it is alleged that:

(1) Opposer is the owner of a family of well known marks encompassing the word ?HOMESTEAD?. These marks include the following trademark registrations and applications in International Class 42 for providing temporary accommodation services an hotel services, including: Serial No.: 76/529,455 for the application for the mark HOMESTEAD SUITES; Serial No.: 78/487214 for the application for the mark HOMESTEAD SUITES WITH DESIGN; U.S. Registration No.: 1819557 for the mark HOMESTEAD VILLAGE; Serial No.: 78489484 for the application for the mark HOMESTEAD VILLAGE WITH DESIGN; U.S. Registration No.: 2504937 for the mark HOMESTEAD GUEST STUDIOS; U.S. Registration No.: 2482936 for the mark HOMESTEAD INSTEAD; U.S. Registration No.: 2715925 for the mark HOMESTEAD EXTENDED STAY LODGING; U.S. Registration No. 2,564,446 for the mark HOMESTEAD STUDIO SUITES; and Serial No. 78,475,869 for the application for the mark HOMESTEAD STUDIO SUITES & DESIGN.

(2) Since its initial use of the aforementioned trademarks, the earliest since 1992, Opposer has extensively used, promoted and advertised Opposer?s services under its trademarks in interstate commerce through various channels of trade. As a result, Opposer?s customers and others have come to know and recognize Opposer?s marks and Opposer has thus built up extensive and invaluable goodwill in connection with the sale of its services under its marks.

(3) Notwithstanding Opposer?s long-prior rights in and to its aforementioned use of the words, ?HOMESTEAD? Applicant filed an application for registration of the trademark HOMESTEAD REAL ESTATE CO. INC. in connection with offering rental of temporary lodging accommodations, namely vacation homes. Said application was assigned Serial No. 78085363.

(4) The application for the trademark HOMESTEAD REAL ESTATE CO. INC., as shown in Application No. 78085363 is confusingly similar to Opposer?s earlier filed marks, and the respective services of the parties, based upon Opposer?s information and belief, with respect to rental of

temporary lodging accommodations are similar, if not identical, and would normally be marketed within the same or similar channels of trade, and to the same class of customers, with the result that Opposer's customers, the trade and the public in general are likely to be confused, mistaken or deceived as to the origin and/or source and/or sponsorship of Applicant's services under the HOMESTEAD REAL ESTATE CO. INC.'S. mark, and misled into believing that such services are marketed by, or are in some way directly or indirectly associated with Opposer, thus resulting in damage and detriment to Opposer and its reputation and goodwill.

(5) That by virtue of the foregoing, if Applicant obtains such rights as conferred under the Principal Register of the Trademark Act of 1946, Opposer will be subjected to great and irreparable damage, and Applicant will enjoy unlawful gain, and advantage to which it is not entitled under the Trademark Act of 1946.

WHEREFORE, this Opposer believes and avers that it is being, and will continue to be, damaged by registration of the HOMESTEAD REAL ESTATE CO. INC. mark, and prays that said Application Serial No. 78085363 be rejected, that no registration be issued thereon to Applicant, and that the Opposition be sustained in favor of Opposer.

Opposer hereby appoints Richard Lydecker, Esquire, a member of the he Bars of the State of Florida and the State of New York and Deborah A. Lee, Esquire, a member of the Bar of Florida, both of the law firm of Lydecker & Wadsworth, L.L.C., 1201 Brickell Avenue, Suite 200, Miami, Florida 33131, telephone number (305) 416-3180, to transact all business in the Patent and Trademark Office in connection with the above opposition proceeding and hereby revokes all previous powers of attorney herein.