

STATE OF NORTH CAROLINA  
COUNTY OF BURKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
16-CVS-806

FILED

DAVID STITT, EDITH STITT,  
LEROY SUMMERFIELD,  
et al.,

2016 FEB 16 P 3:02

Plaintiffs,

BURKE CO., C.S.C.

CONSENT JUDGMENT

v.

BY CM

RAY E. HOLLOWELL, JR., et al.,

Defendants.

**THIS CAUSE COMING ON TO BE HEARD** before the undersigned Superior Court Judge, on the date hereinafter subscribed, upon the consent of the parties, in the above-entitled action, for the purpose of approving the final settlement and resolution of this matter; and

**IT APPEARING TO THE COURT** that parties consenting to this Order were all represented legal counsel as indicated below; and

**IT FURTHER APPEARING TO THE COURT** from the signatures of the parties subscribed herein, that the Plaintiffs and the Defendants hereto are in agreement that this matter should be resolved as set forth herein.

**BASED UPON THE FOREGOING, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT,** the Court, having reviewed the pleadings and contents of the Court's file, and having heard from counsel for the parties, finds that the parties have no objection to the entry of this judgment by consent, and determines based upon the consent of the parties, that it is proper to enter the following:

1. On July 9, 2016, this matter was initiated by the Plaintiffs and later amended per an Order by the Court dated November 2, 2016.

2. Pursuant to the Court's Order dated November 2, 2016, numerous parties, who were multiple-lot owners in the Pine Mountain community and as members of the Pine Mountain Owners Association, Inc. ("Association"), were added to this lawsuit either as plaintiffs or defendants. After service of the Amended Complaint by Plaintiff, a number of defendants indicated that they do not want to be a part of this action, notwithstanding the Order by the Court requiring that they be included. On December 18, 2017, a consent Order was entered by the Court dismissing those defendants who indicated they did not want to part of this action and who agreed to be bound by any final determination by the Court in this matter.

3. As shown in the record of this case, other defendants failed to file a timely responsive pleading to the Amended Complaint; default has been entered against these defendants. Furthermore, these defendants will be subject to a default judgment immediately after the entry of this Judgment.

4. The remaining parties---the plaintiffs and also the defendants who were not dismissed by the Order dated December 18, 2017, or who have not had default entered against them---have resolved all outstanding issues in this matter (hereinafter the "Parties").

5. The Parties have previously agreed, and now consent, to this Judgment stating the following:

- (a) That all aspects of the Special Meeting held on November 3, 2017, all Association member action taken in said meeting, including the removal of members from the Association's preceding Board of Directors and the election of new members to said Board conformed with both the Declaration and applicable North Carolina law. As such, the Parties accept the results of said meeting. Furthermore, the meeting that occurred on October 17, 2017, among and between former Board members has no legal effect on the Association or its administration.
- (b) Pursuant to the terms of Section **Declaration Part Four; Article III- Enforcement** of the Declaration and the North Carolina Planned Community Act, Chapter 47F, Members delinquent in their assessments are subject to losing their membership rights and privileges, including their vote, and membership on the Board of Directors. All previous Board action suspending Association members rights and privileges is accepted as valid by the Parties.
- (c) There is no "developer" in the Pine Mountain community as that term is defined under **Section Part One, Article I of the Declaration**, nor are there any "Class B" members as defined under **Section Article V, Section (2) of the Articles of Incorporation, Part One, Article IV, Section 3, Subsection (2) of the Declaration**. Likewise, no property owners or members of the Association have "developer rights."
- (d) As set forth in **Section Article V, Section (1) of the Articles of Incorporation, Part One, Article IV, Section 3, Subsection (1) of the Declaration**, all property owners with the Pine Mountain community are "Class A Members" as defined therein.

6. Solely for purposes of enforcing the contents of this Judgment, the defendants consent to the jurisdiction of this Court over the parties to this action and none of the parties to this action are under any legal disability.

7. The parties to this lawsuit also state that:

- (a) They are executing this Consent Judgment knowingly, voluntarily, and with full knowledge of its significance. She has not been coerced, threatened, or

intimidated into signing this Agreement;

- (b) They have read this Agreement and understands all of its terms;
- (c) They are voluntarily entering into this Consent Judgment after consulting and reviewing this document with or having an ample opportunity to consult and review this document with legal counsel and any other individual or advisor with which they so desire.

8. Except as provided herein, all parties voluntarily dismiss any and all claims in this lawsuit.

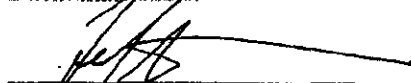
9. This Consent Judgment will be filed and appear of record in Burke County, North Carolina.

This the 15<sup>th</sup> day of February, 2018.

  
\_\_\_\_\_  
Superior Court Judge Presiding

EXHIBIT A


CONSENTED TO:



Ted F. Mitchell, Esq.  
TREGO, HINES & LADENHEIM, PLLC  
9300 Harris Corners Parkway, Suite 210  
Charlotte, NC 28269

Christopher Gelwicks, Esq.  
MORETZ & SKUFCA, PLLC  
300 McGill Avenue, NW  
Concord, NC 28037

*Attorneys for Plaintiffs*



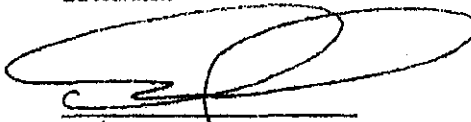
John T. Jeffries, Esq.  
Christopher Campbell, Esq.  
MCANUS GOUDELOCK  
& COURIE, PLLC  
P.O. Box 30397  
Charlotte, NC 28230

*Attorneys for Ray E. Hollowell, Jr.*



Paul C. Lawrence, Esq.  
HEDRICK GARDNER  
KINCHELOE & GAROFALO LLP  
P.O. Box 30397  
Charlotte, NC 28230

*Attorney for Michael Bivens, John E.  
Burch, Ronald Phillips, Janice  
Phillips, Max Butler, Maxwell  
Poteet, Bobby Davis and  
Ed Harmon*



David W. Hood, Esq.  
PATRICK, HARPER & DIXON, LLP  
34 Second Street NW  
Hickory, NC 28603

*Attorney for Bon Viau, My Mountain,  
Burke Mountain, Virginia Highlands,  
Outer Banks Kimateet, Inc.,  
BGM, LLC, Tall Pines West, LLC*