

STATE OF NORTH CAROLINA
COUNTY OF WAKE
WAKE COUNTY
SUPERIOR COURT JUDGES OFFICE
BY: S. Smallwood
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
24 CVS 020607-910

STEVE SYPHER DESIGNS, INC.,

Plaintiff,

v.

MICKEY C. D'LOUGHY and ARIKA N.
RIFFEL D'LOUGHY, et al.,

Defendants

ORDER ON SUMMARY JUDGMENT

THIS MATTER came on for hearing before the undersigned Superior Court Judge Presiding at the February 4, 2025, session of Wake County Civil Superior Court on Plaintiff's Motion for Partial Summary Judgment and Defendants' Motion for Summary Judgment. It appears to the Court after reviewing the court file and the pleadings in this matter, and the submissions and arguments of counsel, that there are no genuine issues as to any material facts precluding an entry of judgement as a matter of law. In reaching its decision, the Court notes as follows:

A. Joint Stipulations. The parties have jointly stipulated as to the following facts:

1. Plaintiff owns property located at 528 Barksdale Drive, Raleigh, Wake County, North Carolina, 27604, more particularly described as Lot 8, Block U of the Woodcrest Subdivision as shown on Book of Maps 1959, Page 36 (the "528 Property").
2. Plaintiff also owns property located at 524 Barksdale Drive, Raleigh, Wake County, North Carolina, 27604, more particularly described as Lot 9, Block U of the Woodcrest Subdivision as shown on Book of Maps 1959, Page 36 (the "524 Property").
3. The Complaint accurately reflects the real property owned by the JP Defendants [as defined in the Answer] and the other named defendants, which are also a part of the Woodcrest Subdivision and shown on Book of Maps 1959, Page 36.
4. The lots owned by Plaintiff, the JP Defendants and the other named defendants are collectively referred to for purposes of this document as the "Subject Properties."
5. In 1958, the Subject Properties were all made subject to the restrictive covenants set out in that declaration recorded on or about May 28, 1958 in Book 1319 on Page 253 of the Wake County Public Registry ("Declaration"). A true and accurate copy of the Declaration was attached as Exhibit A to the stipulation.

6. The Plaintiff intends to develop the 528 Property and the 524 Property in a manner consistent with zoning allowed by the City of Raleigh but in a manner that would be prohibited by the Declaration.

7. With respect to the 528 Property:

- a. The 528 property was conveyed to George R. Lee and Jeanne M. Lee via a deed recorded on November 17, 1958 in Book 1340, Page 411 of the Wake County Public Registry. This deed contains a reference to the Declaration by book and page. A true and accurate copy of said deed was attached as Exhibit B to the stipulation.
- b. George R. Lee owned the 528 Property with his wife Jeanne M. Lee until his death on December 16, 2003, at which point title to the lot vested solely in Mrs. Lee by operation of law given that Mr. and Mrs. Lee took title as tenants by the entirety via the 1958 deed. Record notice of Mr. Lee's death is set forth in estate file 03-E-002814-910.
- c. Jeanne M. Lee owned the 528 Property until her death in 2021. Upon her death, the 528 Property vested in her heirs George R. Lee, Jr., Mary Ellen Lee and James Patric Lee. A true and accurate copy of Mrs. Lee's Last Will and Testament which is a part of Wake County Estate File 21-E-689 was attached as Exhibit C to the stipulation.
- d. The 528 Property was conveyed to Plaintiff by deed recorded on September 20, 2021 in Book 18705, Page 708 of the Wake County Public Registry. A true and accurate copy of said deed was attached as Exhibit D to the stipulation.

B. Injunctive Relief. Consistent with Rule 65 of the North Carolina Rules of Civil Procedure, the Court set forth the following reasons for issuing a permanent injunction in this matter:

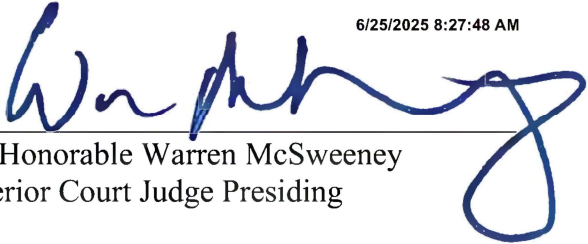
- a. The Declaration is applicable to the 524 and 528 Properties. The Declaration has not been extinguished by The North Carolina Marketable Title Act.
- b. Among other things, the Declaration limits the type of structures that can be erected on the Subject Properties to detached single-family homes not to exceed two and one-half stories in height and building any closer than 30 feet from the front lot line of a lot. Plaintiff admits that its proposed development would contradict those restrictions.
- c. Given the unique nature of land, Defendants would have no adequate remedy at law if Plaintiff were to proceed with development of the 524 or 528 Properties in violation of the Declaration and irreparable harm would result.
- d. Plaintiff and its officers, agents, servants and employees are permanently enjoined from developing the subject properties in a manner that is inconsistent with the provisions of the Declaration.

WHEREFORE IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. Plaintiff's Motion for Partial Summary Judgment filed December 11, 2024, is DENIED.
2. Defendants' motion for summary judgment filed January 24, 2025, is GRANTED.
3. The matter of awarding costs in this action is held open for further orders of this

Court upon motion by the prevailing party.

This the 25 day of June, 2025.


The Honorable Warren McSweeney
Superior Court Judge Presiding

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