

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

FILED
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IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NUMBER 13 CVS 454

COUNTY OF HENDERSON,
Plaintiff,

HENDERSON CO. C.S.C.
BY KC

v.

ORDER

SEVEN FALLS LLC, *et al.*,
Defendants.

THIS MATTER came on to be heard before the Honorable Mark E. Powell, presiding over the May 5, 2015, session of the Henderson County Superior Court, and was heard on the Motion filed herein by the Plaintiff County. From the record in this case, the court makes the following findings:

1. The Court has made the following findings in this action in its previous Order, entered December 8, 2014:
 3. At present, there remains held by the County the sum of \$5,594,095.33 of the Surety Bond Proceeds, plus an additional relatively modest sum held by the State as interest credited on these sums (deposited by the County with the State Treasurer).
 4. The County has continued to work with the engineering firm authorized in the Court's previous orders herein, WGLA Engineering PLLC ("WGLA"), to move forward in determining the scope and character of the Improvements which may be made given the amount remaining of the Surety Bond Proceeds.
 5. Because of the lapse in a permit from the United States Army Corps of Engineers (for stream crossings needed in the designed road network within the Subdivision) and the lapse in an agreement with Duke Energy (for the installation of electrical power within the Subdivision), both caused by the Developer's defaults, a significant expenditure for a Corps of Engineers permit (as noted below) will be required to build any of the road network in the Subdivision.
 6. Consultants employed by WGLA estimate that the cost of the Corps of Engineers permit for the Subdivision (in the form of a "remediation fee" paid to the Corps, as opposed to the Corps' favored method of actual off-site wetlands remediation) will be in excess of \$1,100,000.00 (on February 8, 2013, the Corps estimated such fee as \$1,131,500.00), and must be paid prior to any improvement of the road network for the Subdivision.
2. WGLA submitted a proposal with their costs and incorporated fees. The proposal includes all anticipated work up to and including bidding the project for construction.
3. The WGLA proposal outlines the following expenses in order to acquire the necessary permits:

Cost of permitting (Includes stream assessment, application, plan preparation, and coordinator with Tennessee Valley Authority and Cultural Resource Services)	\$62,500
Sedimentation and Storm water permits	\$13,000
WGLA updated drawings and assistance with bids	\$10,500
Contingency	\$8,600
Total:	\$94,600

4. In the July 15, 2013 order, the Plaintiff County was reimbursed for service process costs for the Defendants. The County has expended the following sums on service since this date:

Copies of mailings (at \$0.15 each page)	\$229.50
Cost of postcards	\$22.07
Postage for domestic letter mailings	\$172.80
Postage for letters to Canada	\$18.40
Postage for domestic postcards	\$61.20
Postage for Canadian postcards	\$4.60
Service fees for Secretary of State	\$20.00
TOTAL	\$528.57

WHEREFORE, IT IS ORDERED as follows:

1. That the Plaintiff County shall apply for the necessary permits from US Army Corps of Engineers and the North Carolina Department of Environment and Natural Resources.
2. The Plaintiff County is authorized to expend the amount of \$95,128.57 of the Surety Bond funds to acquire federal and state permits and for reimbursement to the Plaintiff County for the cost of service.

This the 5 day of May, 2015.



SUPERIOR COURT JUDGE PRESIDING

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Order has been served on all parties hereto by depositing a copy of the same in a postage prepaid envelope, properly addressed to the persons and entities listed on the attached pages.

This the ____ day of May, 2015.



Sarah Grace Zambon
Attorney for Plaintiff