

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

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

COUNTY OF HENDERSON,
Plaintiff,

v.

COMPLAINT FOR DECLARATORY
RELIEF; MOTION FOR APPOINTMENT
OF GUARDIAN *AD LITEM* FOR
UNKNOWN HOLDERS OF INTEREST OF
REAL ESTATE; MOTION FOR
SUMMARY JUDGMENT; NOTICE OF
HEARING

SEVEN FALLS LLC, a North Carolina Limited
Liability Company; ASBILL, BRIAN H.;
ASBILL, SARAH W.; ASKELAND, ERLING B.;
BALLAS, THOMAS P. ; BALLAS, AMY M. BRITTON; BANKS,
PAMELA; BEECH, JOSEPH III TRUSTEE; BLACK, BENJAMIN
KEITH; BLACK, SUSAN T.; BLECHER, KENNETH WAYNE ;
BLECHER, JAN CHRISTINE; BRANHAM, ANTHONY G.
;BRANHAM, LYNN GAIL; BREEDE, BARRY D.;BREEDE, NANCY
E.; BURNS, SUSAN BRODIE ; BURNS, ROBERT KENT; BYRNE,
JANET R.; CARPENTER, WILLIAM WILLOUGHBY ; CARPENTER,
WILLIAM; CHAPMAN, RAYMOND M.; CHAPMAN, RAYMOND M.
JR ; CIRUCCI, THOMAS G. ; CIRUCCI, NOREEN J.; COOPER,
MARIE Y. TRUSTEE ; MARIE Y. COOPER REVOCABLE ; DEAN,
REBECCA G.; DIETRICH, K. DAWN; EDMISTON, PHILLIP W. ;
EDMISTON, LINDA L.; ENSLEY, CURTIS E.; GABLER, GEORGE M.;
GOLDSTEIN, STEVE ; GOLDSTEIN, LINDA; HAGER, ANDREW Q.
;HANSEN, TODD HERMAN ; HANSEN, LESLIE DIANNE CAMPBE;
HANSOTIA, KARRIE J. TRUSTEE ; KARRIE J. HANSOTIA REV.;
HATHAWAY, WILLIAM R. ; HATHAWAY, SHARON C.;
HOLMLUND, THOMAS R. ; HOLMLUND, ANTOINETTE;
KEATING, JOHN T. ; KEATING, MARILYN L.;KELLER, GERALD
A. ; KELLER, CAROLINE B.;LANGER, SHARON REVOCABLE
LIVING TRUST; LUCAS, STEVEN D. ; LUCAS, MICHELE J.; MACE,
STANLEY A.; MAIER, GERALD J. CO TRUSTEE ; MAIER,
CORINNE CASSED; MARKHAM, L. GAIL;MARSHALL, KELLEY W.
TRUSTEE ; KELLEY WOODRUFF MARSHALL; MARTIN,
AMANDA; MARTIN, RONNIE B.; MARTIN, SHERRI L.;
MCDONOUGH, CHRISTOPHER ; MCDONOUGH, MONALISA;
MITCHELL, STEVEN W. ; MORGAN, THOMAS R. REVOCABLE
TRUST; NEWMAN, STEPHEN A. ; NEWMAN, WENDY S.;
NEWMAN, WILLIAM M. ; NEWMAN, CYNTHIA M.; PARKS,
TERRY R. ; PARKS, HELAINE; PIERCE, LONELL G. ; PIERCE,
MARY KAY; PIGNATIELLO, STEPHEN L.; PORTER-SHIRLEY,
KENNETH; RANTZOS, KOSTAS N. ; RANTZOS, EMILY A.;
RERYCH, JULIA MARTIN; SAMS, RONALD F. III; SCHILLING,
CARL J. ; SCHILLING, LAUREN C.; SCIUPIDER, DAVID M. ;
SCIUPIDER, MARY C.; STOKES, WILLIAM F. JR. TRUSTEE ;
WILLIAM F. STOKES JR.;SYED, BABAR Z.;TALLEY, THOMAS A. ;
TALLEY, DONNA G.; TEAGUE, JAMES J. CO TRUSTEE ; TEAGUE,
BETH O. CO TRUSTEE; WALLACE, STEVEN P. ; WALLACE,
CAROL B.; WEISS, DAVID L. ; WELLS, DAVID F. ; WELLS, JUDITH
H.; WILSON, STUART A. ; WILSON, KAREN L.; WORLUND,
EDWARD H.; WORRALL, JAMES C. ; WORRALL, ALICE J.; AIZED

FILED
2013 MAR 22 PM 3:12
HENDERSON CO., C.S.C.
BY Carly

REAL ESTATE LLC A NC LL COMPANY; BARBRO LLC A NC LL COMPANY; BOND HOLDINGS LLC A FLORIDA LIABILITY CO.; BRITTON WILKINS DEVELOPMENT LLC A SC LL COMPANY; BSW INVESTMENTS LLC A SC LL COMPANY; DION HOLDINGS LLC ANC LLC; DISTINCTIVE APPALACHIAN PROPERTY CONCEPTS NC GENER.; DPM INVESTORS LLC A NC LL COMPANY; FNK LLC.; GARVEY HOLDINGS LLC A KS LL COMPANY; IRISH LADS LLC; IRISH LADS LLC A NEVADA LL COMPANY; MHS CAPITAL LLC A NC LL COMPANY; MPM INVESTMENT LLC A NC LL CO.; NC WALNUT LLC A NC LL CO.; OKAY PROPERTIES LLC A NC LL CO.; PARTNERS REALTY GROUP LLC A SC LL CO.; PICB REAL ESTATE HOLDINGS LLC.; PICB REAL ESTATE HOLDINGS LLC A MI LLCOMPANY; PIMPERNAL LLC A SC LL COMPANY; PKR FINANCIAL LLC; ROGERS TIME LLC A NC LL COMPANY; RUGBY ASSOCIATES LLC A NC LL CO.; ABC SUPPLY CO.; APPALACHIAN ANTIQUE HARDWOODS C/O ZACHARY GUY; CHAPMAN COYLE CHAPMAN & ASSOCIATES; CLARK & CO. LANDSCAPE ARCHITECTURE C/O BRUCE LOWE; CLARY HOOD INC. C/O WO GEER; DOOLEYMACK CONSTRUCTORS OF THE CAROLINAS C/O WENDY MACK; GREAT SMOKEY MOUNTAIN PROPERTIES, INC. C/O DEBORAH SMITH; LANDSCAPES UNLIMITED OF NEBRASKA LLC; MANDERLEY TURF PRODUCTS, INC.; MOUNTAIN WEST CONSTRUCTION CO., INC.; PETE DE LA VEGA, JR., DLV ROOFING; SOUTHERN CONCRETE SPECIALTIES C/O THOMAS GREENE; STEVE GOLDSTEIN; STEVEN WALKER; TAYLOR AND MURPHY C/O KENNETH MURPHY; TINDALL CORPORATION; WINDSOR AUGHTRY C/O RUSSELL SMART; COMMUNITY BANK OF ROWAN; NATIONAL BANK OF SOUTH CAROLINA; OLDTOWN BANK; SYNOVUS BANK; SOUTHERN COMMUNITY BANK AND TRUST; TD BANK N A. ;

_____, guardian *ad litem* for all persons not yet ascertained but with an interest in Seven Falls Subdivision Sections 1, 1A and 2, all Located in Henderson County, North Carolina, Defendants.

COMPLAINT FOR DECLARATORY RELIEF

The Parties

1. The Plaintiff, County of Henderson (“the County”), is a body corporate and politic organized under the laws of the State of North Carolina.
2. The Defendant, Seven Falls LLC, is a North Carolina Limited Liability Company, whose registered agent is Richard B. Fennell, with an address on file with the Secretary of State of North Carolina of 600 South College Street, Charlotte, North Carolina 28202. Upon information and belief, Seven Falls LLC is the owner of Lots within “the Subdivision” (described below).
3. Brian H. Asbill and Sarah W. Asbill are citizens and residents of Buncombe County, North Carolina. Upon information and belief, Brian H. Asbill and Sarah W. Asbill, own one or more lots within “the Subdivision” (described below).

4. Thomas P. Ballas and Amy M. Britton Ballas are citizens and residents of Brevard County, Florida. Upon information and belief, Thomas P. Ballas and Amy M. Britton, own one or more lots within "the Subdivision" (described below).
5. Pamela Banks is a citizen and resident of Henderson County, North Carolina. Upon information and belief, Pamela Banks, owns one or more lots within "the Subdivision" (described below).
6. Joseph Beech, III is a citizen and resident of Hamilton County, Ohio. Upon information and belief, Joseph Beech, III, owns one or more lots within "the Subdivision" (described below).
7. Benjamin Keith Black and Susan T. Black are citizens and residents of Buncombe County, North Carolina. Upon information and belief, Benjamin Keith Black and Susan T. Black, own one or more lots within "the Subdivision" (described below).
8. Kenneth Wayne Blecher and Jan Christine Blecher are citizens and residents of Lee County, Florida. Upon information and belief, Kenneth Wayne Blecher and Jan Christine Blecher, own one or more lots within "the Subdivision" (described below).
9. Anthony G. Branham and Lynn Gail Branham are citizens and residents of Lexington County, South Carolina. Upon information and belief, Anthony G. Branham and Lynn Gail Branham, own one or more lots within "the Subdivision" (described below).
10. Barry D. Breede and Nancy E. Breede are citizens and residents of Grenneville County, South Carolina. Upon information and belief, Barry D. Breede and Nancy E. Breede , own one or more lots within "the Subdivision" (described below).
11. Robert Kent Burns and Susan Brodie Burns are citizens and residents of Duval County, Florida. Upon information and belief, Robert Kent Burns and Susan Brodie Burns, own one or more lots within "the Subdivision" (described below).
12. William Willoughby Carpenter is a citizen and resident of Wake County, North Carolina. Upon information and belief, William Willoughby Carpenter, owns one or more lots within "the Subdivision" (described below).
13. Raymond M. Chapman is a citizen and resident of Buncombe County, North Carolina. Upon information and belief, Raymond M. Chapman, owns one or more lots within "the Subdivision" (described below).
14. Raymond M. Chapman, Jr. is a citizen and resident of Buncombe County, North Carolina. Upon information and belief, Raymond M. Chapman, Jr., owns one or more lots within "the Subdivision" (described below).
15. Thomas G. Cirucci and Noreen J. Cirucci are citizens and residents of Burke County, North Carolina. Upon information and belief, Thomas G. Cirucci and Noreen J. Cirucci, own one or more lots within "the Subdivision" (described below).
16. Marie Y. Cooper is a citizen and resident of Henderson County, North Carolina. Upon information and belief, Marie Y. Cooper, owns one or more lots within "the Subdivision" (described below).
17. Rebecca G. Dean is a citizen and resident of Greenville County, South Carolina. Upon information and belief, Rebecca G. Dean, owns one or more lots within "the Subdivision" (described below).
18. Phillip W. Edmiston and Linda L. Edmiston are citizens and residents of Greenville County, South Carolina. Upon information and belief, Phillip W. Edmiston and Linda L. Edmiston, own one or more lots within "the Subdivision" (described below).

19. Curtis E. Ensley is a citizen and resident of Buncombe County, North Carolina. Upon information and belief, Curtis E. Ensley, owns one or more lots within "the Subdivision" (described below).
20. George M. Gabler is a citizen and resident of Buncombe County, North Carolina. Upon information and belief, George M. Gabler, owns one or more lots within "the Subdivision" (described below).
21. Steve Goldstein and Linda Goldstein are citizens and residents of Palm Beach County, Florida. Upon information and belief, Steve Goldstein and Linda Goldstein, own one or more lots within "the Subdivision" (described below).
22. Todd Herman Hansen and Leslie Dianne Campbe Hansen are citizens and residents of Buncombe County, North Carolina. Upon information and belief, Todd Herman Hansen and Leslie Dianne Campbe Hansen, own one or more lots within "the Subdivision" (described below).
23. Karrie J. Hansotia is a citizen and resident of Rock Island County, Illinois. Upon information and belief, Karrie J. Hansotia, owns one or more lots within "the Subdivision" (described below).
24. William R. Hathaway and Sharon C. Hathaway are citizens and residents of Buncombe County, North Carolina. Upon information and belief, William R. Hathaway and Sharon C. Hathaway, own one or more lots within "the Subdivision" (described below).
25. Thomas R. Holmlund and Antoinette Holmlund are citizens and residents of Lee County, Florida. Upon information and belief, Thomas R. Holmlund and Antoinette Holmlund, own one or more lots within "the Subdivision" (described below).
26. John T. Keating and Marilyn L. Keating are citizens and residents of Fairfield County, Connecticut. Upon information and belief, John T. Keating and Marilyn L. Keating, own one or more lots within "the Subdivision" (described below).
27. Gerald A. Keller and Caroline B. Keller are citizens and residents of Buncombe County, North Carolina. Upon information and belief, Gerald A. Keller and Caroline B. Keller, own one or more lots within "the Subdivision" (described below).
28. Sharon Langer is a citizen and resident of Broward County, Florida. Upon information and belief, Sharon Langer, owns one or more lots within "the Subdivision" (described below).
29. Steven D. Lucas and Michelle J. Lucas are citizens and residents of Monroe County, Tennessee. Upon information and belief, Steven D. Lucas and Michelle J. Lucas, own one or more lots within "the Subdivision" (described below).
30. Stanley A. Mace is a citizen and resident of New Hanover County, North Carolina. Upon information and belief, Stanley A. Mace, owns one or more lots within "the Subdivision" (described below).
31. Gerald J. Maier and Corinne Cassed Maier are citizens and residents of Henderson County, North Carolina. Upon information and belief, Gerald J. Maier and Corinne Cassed Maier, own one or more lots within "the Subdivision" (described below).
32. Gail L. Markham is a citizen and resident of Lee County, Florida. Upon information and belief, Gail L. Markham, own one or more lots within "the Subdivision" (described below).
33. Kelley W. Marshall is a citizen and resident of Fulton County, Georgia. Upon information and belief, Kelley W. Marshall, owns one or more lots within "the Subdivision" (described below).

34. Erling B. Askeland and Amanda Martin are citizens and residents of Buncombe County, North Carolina. Upon information and belief, Erling B. Askeland and Amanda Martin, own one or more lots within "the Subdivision" (described below).

35. Ronnie B. Martin and Sherri L. Martin are citizens and residents of Nelson County, Virginia. Upon information and belief, Ronnie B. Martin and Sherri L. Martin, own one or more lots within "the Subdivision" (described below).

36. Christopher McDonough and Monalisa McDonough are citizens and residents of Miami-Dade County, Florida. Upon information and belief, Christopher McDonough and Monalisa McDonough, own one or more lots within "the Subdivision" (described below).

37. Steven W. Mitchell and K. Dawn Dietrich are citizens and residents of Transylvania County, North Carolina. Upon information and belief, Steven W. Mitchell and K. Dawn Dietrich, own one or more lots within "the Subdivision" (described below).

38. Thomas R. Morgan is a citizen and resident of Haywood County, North Carolina. Upon information and belief, Thomas R. Morgan, owns one or more lots within "the Subdivision" (described below).

39. Stephen A. Newman and Wendy S. Newman are citizens and residents of Buncombe County, North Carolina. Upon information and belief, Stephen A. Newman and Wendy S. Newman, own one or more lots within "the Subdivision" (described below).

40. William M. Newman and Cynthia M. Newman are citizens and residents of Buncombe County, North Carolina. Upon information and belief, William M. Newman and Cynthia M. Newman, own one or more lots within "the Subdivision" (described below).

41. Terry R. Parks and Helaine Parks are citizens and residents of Harris County, Texas. Upon information and belief, Terry R. Parks and Helaine Parks, own one or more lots within "the Subdivision" (described below).

42. Lonell G. Pierce and Mary Kay Pierce are citizens and residents of Henderson County, North Carolina. Upon information and belief, Lonell G. Pierce and Mary Kay Pierce, own one or more lots within "the Subdivision" (described below).

43. Stephen L. Pignatiello is a citizen and resident of Buncombe County, North Carolina. Upon information and belief, Stephen L. Pignatiello, owns one or more lots within "the Subdivision" (described below).

44. Kenneth Porter-Shirley is a citizen and resident of Buncombe County, North Carolina. Upon information and belief, Kenneth Porter-Shirley, owns one or more lots within "the Subdivision" (described below).

45. Kostas N. Rantzios and Emily A. Rantzios are citizens and residents of Buncombe County, North Carolina. Upon information and belief, Kostas N. Rantzios and Emily A. Rantzios, own one or more lots within "the Subdivision" (described below).

46. Julia Martin Rerych is a citizen and resident of Buncombe County, North Carolina. Upon information and belief, Julia Martin Rerych, owns one or more lots within "the Subdivision" (described below).

47. Ronald F. Sams, III, is a citizen and resident of Davidson County, Tennessee. Upon information and belief, Ronald F. Sams, III, owns one or more lots within "the Subdivision" (described below).

48. Carl J. Schilling and Lauren C. Schilling are citizens and residents of Montgomery County, Maryland. Upon information and belief, Carl J. Schilling and Lauren C. Schilling, own one or more lots within "the Subdivision" (described below).
49. David M. Sciupider and Mary C. Sciupider are citizens and residents of Henderson County, North Carolina. Upon information and belief, David M. Sciupider and Mary C. Sciupider, own one or more lots within "the Subdivision" (described below).
50. William F. Stokes, Jr. is a citizen and resident of Henderson County, North Carolina. Upon information and belief, William F. Stokes, Jr., owns one or more lots within "the Subdivision" (described below).
51. Babar Z. Syed is a citizen and resident of Buncombe County, North Carolina. Upon information and belief, Babar Z. Syed, owns one or more lots within "the Subdivision" (described below).
52. Thomas A. Talley and Donna G. Talley are citizens and residents of Hennepin County, Minnesota. Upon information and belief, Thomas A. Talley and Donna G. Talley, own one or more lots within "the Subdivision" (described below).
53. James J. Teague and Beth O. Teague are citizens and residents of Buncombe County, North Carolina. Upon information and belief, James J. Teague and Beth O. Teague, own one or more lots within "the Subdivision" (described below).
54. Steven P. Wallace and Carol B. Wallace are citizens and residents of DuPage County, Illinois. Upon information and belief, Steven P. Wallace and Carol B. Wallace, own one or more lots within "the Subdivision" (described below).
55. David L. Weiss and Janet R. Byrne are citizens and residents of Roanoke County, Virginia. Upon information and belief, David L. Weiss and Janet R. Byrne, own one or more lots within "the Subdivision" (described below).
56. David F. Wells and Judith H. Wells are citizens and residents of Buncombe County, North Carolina. Upon information and belief, David F. Wells and Judith H. Wells, own one or more lots within "the Subdivision" (described below).
57. Stuart A. Wilson and Karen L. Wilson are citizens and residents of Escambia County, Florida. Upon information and belief, Stuart A. Wilson and Karen L. Wilson, own one or more lots within "the Subdivision" (described below).
58. Andrew Q. Hagar and Edward H. Worlund are citizens and residents of Rutherford County, North Carolina. Upon information and belief, Andrew Q. Hagar and Edward H. Worlund, own one or more lots within "the Subdivision" (described below).
59. James C. Worrall and Alice J. Worrall are citizens and residents of Buncombe County, North Carolina. Upon information and belief, James C. Worrall and Alice J. Worrall, own one or more lots within "the Subdivision" (described below).
60. AIZED REAL ESTATE LLC is a North Carolina Limited Liability Company, whose registered agent is AKBAR, FARZAD, with an address on file with the Secretary of State of North Carolina of PO Box 461, Fletcher, NC., 28732. Upon information and belief, AIZED REAL ESTATE LLC owns one or more lots within "the Subdivision" (described below).
61. OKAY PROPERTIES LLC is a North Carolina Limited Liability Company, whose registered agent is SMITH, KENT E., with an address on file with the Secretary of State of North Carolina of PO BOX 609, SKYLAND, NC. 28776. Upon information and belief, OKAY PROPERTIES LLC owns one or more lots within "the Subdivision" (described below).

62. PKR FINANCIAL LLC is a North Carolina Limited Liability Company, whose registered agent is RANTZOS, PAUL KOSTAS with an address on file with the Secretary of State of North Carolina of 126 STUYVESANT RD., ASHEVILLE NC 28803. Upon information and belief, PKR FINANCIAL LLC owns one or more lots, within "the Subdivision" (described below).

63. ROGERS TIME LLC is a North Carolina Limited Liability Company, whose registered agent is ELLISTON, ROGER D., with an address on file with the Secretary of State of North Carolina of 82 CLOVERTOP LANE, ARDEN, NC. 28704. Upon information and belief, ROGERS TIME LLC owns one or more lots, within "the Subdivision" (described below).

64. DION HOLDINGS LLC is a North Carolina Limited Liability Company, whose registered agent is DIMITRIS, NICHOLAS, with an address on file with the Secretary of State of North Carolina of 511 SMOKEY PARK HWY STE B1 PMB 2500, CANDLER, NC. 28715. Upon information and belief DION HOLDINGS LLC owns one or more lots, within "the Subdivision" (described below).

65. RUGBY ASSOCIATES. LLC is a North Carolina Limited Liability Company, whose registered agent is RAXTER, GREG, with an address on file with the Secretary of State of North Carolina of 115 BERRY HILL DR., HENDERSONVILLE, NC. 28791. Upon information and belief RUGBY ASSOCIATES. LLC owns one or more lots, within "the Subdivision" (described below).

66. MHS Capital, LLC is a North Carolina Limited Liability Company, whose registered agent is BRUMIT, JOE, II with an address on file with the Secretary of State of North Carolina of PO BOX 15726 ASHEVILLE, NC. 28813. Upon information and belief MHS Capital, LLC. Owns one or more lots, within "the Subdivision" (described below).

67. BARBRO, LLC is a North Carolina Limited Liability Company, whose registered agent is STEVENS, REBECCA L. With an address on file with the Secretary of State of North Carolina of 132 GLEN TRILLIUM DRIVE, FLETCHER, NC 28732. Upon information and belief BARBRO, LLC. Owns one or more lots, within "the Subdivision" (described below).

68. MPM INVESTMENT, LLC is a North Carolina Limited Liability Company, whose registered agent is CORPORATION SERVICE COMPANY with an address on file with the Secretary of State of North Carolina of 327 HILLSBOROUGH STREET, RALEIGH, NC 27603. Upon information and belief MPM INVESTMENT, LLC. Owns one or more lots, within "the Subdivision" (described below).

69. N.C. WALNUT, LLC is a North Carolina Limited Liability Company, whose registered agent is BIGGERS, WILLIAM T. With an address on file with the Secretary of State of North Carolina of 79 WOODFIN PLACE SUITE, ASHEVILLE, NC, 28801. Upon information and belief N.C. WALNUT, LLC. Owns one or more lots, within "the Subdivision" (described below).

70. DPM INVESTORS, LLC is a North Carolina Limited Liability Company, whose registered agent is DHALIWAL, ANITA , with an address on file with the Secretary of State of North Carolina of 130 STRATFORD ROAD, ASHEVILLE NC 28804. Upon information and belief, DPM INVESTORS, LLC owns one or more lots within "the Subdivision" (described below).

71. BRITTON WILKINS DEVELOPMENT LLC is a South Carolina Limited Liability Company, whose registered agent is LAM B BRITTON III. With an address on file with the Secretary of State of South Carolina of 804 SPAULDING FARM RD., GREENVILLE, SC., 29615. Upon information and belief BRITTON WILKINS DEVELOPMENT LLC. Owns one or more lots, within "the Subdivision" (described below).

72. PARTNERS REALTY GROUP, LLC is a South Carolina Limited Liability Company, whose registered agent is KEVIN S WALKER with an address on file with the Secretary of State of South Carolina of 136 CREEKSIDE DR., FORT MILL, SC., 29715 Upon information and belief PARTNERS REALTY GROUP, LLC owns one or more lots, within "the Subdivision" (described below).

73. F N K LLC is a South Carolina Limited Liability Company, whose registered agent is KIMBERLY L MODE with an address on file with the Secretary of State of South Carolina of 448 OLD IRON WORKS RD, SPARTANBURG, SC., 29302. Upon information and belief F N K LLC owns one or more lots, within "the Subdivision" (described below).

74. BSW INVESTMENTS, LLC is a South Carolina Limited Liability Company, whose registered agent is ROLAND WIMMER with an address on file with the Secretary of State of South Carolina of 3 BREEZEWOOD CT, GREENVILLE, SC., 29607. Upon information and belief BSW INVESTMENTS, LLC owns one or more lots, within "the Subdivision" (described below).

75. PIMPERNAL, LLC is a South Carolina Limited Liability Company, whose registered agent is H. DAVE WHITENER JR. ESQ. With an address on file with the Secretary of State of South Carolina of 2001 PARK STREET, COLUMBIA, SC., 29201. Upon information and belief PIMPERNAL, LLC owns one or more lots, within "the Subdivision" (described below).

76. PICB REAL ESTATE HOLDINGS, LLC is a Michigan Limited Liability Company, whose registered agent is BRIAN ENGLISH with an address on file with the Secretary of State of Michigan of 200 WASHINGTON SQUARE NORTH, LANSING, MI.48933. Upon information and belief PICB REAL ESTATE HOLDINGS, LLC owns one or more lots, within "the Subdivision" (described below).

77. IRISH LADS, LLC. Is a Nevada Limited Liability Company, whose registered agent is NEVADA CORPORATE HEADQUARTERS, INC with an address on file with the Secretary of State of Nevada of PO BOX 27740, LAS VEGAS, NV., 89126. Upon information and belief IRISH LADS, LLC owns one or more lots, within "the Subdivision" (described below).

78. BOND HOLDINGS, LLC is a Florida Limited Liability Company, whose registered agent is BOND, DAVID with an address on file with the Secretary of State of Florida of 11021 NW 3 STREET, PLANTATION, FL 33324. Upon information and belief BOND HOLDINGS, LLC owns one or more lots, within "the Subdivision" (described below).

79. GARVEY HOLDINGS, LLC is a Kansas Limited Liability Company, whose registered agent is RANDY J. GARVEY with an address on file with the Secretary of State of Kansas of 10525 Red Wing Circle, OLATHE, KS 66061. Upon information and belief GARVEY HOLDINGS, LLC owns one or more lots, within "the Subdivision" (described below).

80. SYNOVUS BANK is a corporation organized and existing under the laws of North Carolina, with Corporation Service Company , 327 Hillsborough Street, Raleigh, NC 27603, listed as registered agent by the Office of the Secretary of State of North Carolina. Upon information and belief, Synovus is owner of one or more lots, within "the Subdivision" (described below).

81. Community Bank of Rowan is a corporation organized and existing under the laws of North Carolina, with Lonnie Christopher , 322 E. Innes Street, Salisbury, NC 28144, listed as registered agent by the Office of the Secretary of State of North Carolina. Upon information and belief, Community Bank of Rowan is owner of one or more lots within "the Subdivision" (described below).

82. Southern Community Bank and Trust is a corporation organized and existing under the laws of North Carolina, with James Hastings at 4605 Country Club Road, Winston Salem, NC 27104, listed as registered agent by the Office of the Secretary of State of North Carolina. Upon information and belief, Southern Community Bank and Trust is owner of one or more lots, within "the Subdivision" (described below).

83. Oldtown Bank is a corporation organized and existing under the laws of North Carolina, with Charles Umberger , 2045 South Main Street, Waynesville, NC 28786, listed as registered agent by the Office of the Secretary of State of North Carolina. Upon information and belief, Oldtown Bank is owner of one or more lots, within "the Subdivision" (described below).

84. TD Bank is a corporation at 200 College Street, Asheville, NC 28801, listed as registered agent by the Office of the Secretary of State of North Carolina. Upon information and belief, TD Bank is owner of one or more lots, within "the Subdivision" (described below). TD Bank does not have a registered agent within the state of North Carolina and therefore will be served through the Secretary of State at Service of Process Agent, NC Secretary of State, PO Box 29622, Raleigh, NC 27626-0622.

85. Seven Falls, LLC is a North Carolina Limited Liability Company, whose registered agent is Richard Fennell, with an address on file with the Secretary of State of North Carolina of 600 South College Street, Charlotte, NC 28202. Upon information and belief, Seven Falls, LLC is owner of one or more lots within "the Subdivision" (described below).

86. ABC Supply Company, with a registered agent of Daniel Hall at 217 W. Russell Street, Fayetteville, NC 28301 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below).

87. Appalachian Antique Hardwoods , with a registered agent of Zachary Guy at 635 Sonoma Road, Waynesville, NC 28786 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below).

88. Mountain West Construction Company, with a registered agent of Erich Leatham at 1905 Little River Road, Flat Rock, NC 28731 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below).

89. Clark and Company Landscape Architecture, with a registered agent of Bruce Lowe at 514 Saunders Road, Franklin, NC 28734 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below).

90. Windsor Aughtry, with a registered agent of Russell Smart at 113 Planters Creek Road, Fletcher, NC 28732 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below).

91. Great Smokey Mountain Properties, with a registered agent of Deborah Smith at 625 Barber Loop, Mooresville, NC 28177 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below).

92. Taylor and Murphy Company, with a registered agent of Kenneth Murphy at PO Box 6215, Asheville, NC 28816 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below).

93. Manderley, at 21 Concourse Gate, Unit 2, Ottawa, Canada, K2E 7S4 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below). Manderley does not have a registered agent within the state of North Carolina and therefore will be served through the Secretary of State at Service of Process Agent, NC Secretary of State, PO Box 29622, Raleigh, NC 27626-0622.

94. Landscapes Unlimited of Nebraska, LLC, with a registered agent of National Registered Agents, INC at 120 Penmarc Drive Suite 118, Raleigh, NC 27603 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below).

95. Chapman Coyle Chapman and Associates, with a registered agent of Registered Agent Solutions, INC at 176 Lake Mine Court, Suite 100, Raleigh, NC 27615 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below).

96. Steve Goldstein at 19629 Island Court Drive, Boca Raton, Florida 33434 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below).

97. Tindall Corporation, with a registered agent of CY Corporation Systems at 150 Fayetteville Street, Box 1011, Raleigh, NC 27601 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below).

98. Clary Hood, Inc., with a registered agent of WO Geer at Old Caroleen Road, PO Box 332, Caroleen, NC 28019 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below).

99. Dooleymack Constructors of the Carolinas, with a registered agent of Wendy Mack at 318 N. Main Street, Ste 12, Hendersonville, NC 28739 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below).

100. Southern Concrete Specialities, with a registered agent of Thomas Greene at 180 Old Newfound Road, Leicester, NC 28748 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below).

101. DLV Roofing, with a registered agent of Pete De La Vega, Jr at PO Box 295, Arden, NC 28704 is listed in the records of the Clerk of Court of Henderson County as a lienholder on one or more lots within "the Subdivision" (described below).

102. Walter Carpenter has been appointed by the Court, pursuant to N.C. Gen. Stat. §1A-1, Rule 17(d), for persons not ascertained but who have an interest in the real property comprising Seven Falls Subdivision Sections 1, 1A and 2 (as described hereinbelow), Henderson County, North Carolina.

The Facts

103. The Defendant, Seven Falls LLC (hereafter "the Developer"), was the developer of Seven Falls Subdivision Sections 1, 1A and 2 (collectively these Sections are referred to elsewhere in this document as "the Subdivision"), which were to be a part of Seven Falls Golf and River Club, a golf course development to be located within Henderson County, North Carolina.

104. In order to be permitted, pursuant to N.C. Gen. Stat. §153A-331, and pursuant to the Henderson County Land Development Ordinance, Chapter 200A of the Henderson County Code, to sell lots in the Subdivision prior to completion of certain improvements required in the Subdivision ("the Improvements"), executed a Performance Guaranty, which was later extended, in favor of the County. A copy of this Performance Guarantee is attached hereto as an Exhibit.

105. To further guarantee the Developer's completion of the Performance Guarantee, a surety bond was required by the County and subsequently obtained, in the amount of Six Million Dollars (\$6,000,000.00). This amount represented one hundred twenty-five percent (125%) of the project engineer-estimated cost of the Improvements.

106. The Developer defaulted under the terms of the Performance Guarantee.

107. After litigation with the surety (*see* Henderson County Clerk of Court file number 10-CVS-08, which is also found at in the Office of the Clerk of the North Carolina Court of Appeals at file 11COA1601, and in the Office of the Clerk of the North Carolina Supreme Court at file 375P12), the County received payment of this surety bond, in an amount totaling \$6,000,124.59 (\$3,257,097.80 from Clerk of Court, representing a deposit on behalf of the surety in 10-CVS-08, plus \$2,743,026.79 directly from the surety) as of October 10, 2012 (this total amount hereinafter "the Surety Bond Proceeds").

108. Henderson County has a duty, to the extent of the Surety Bond Proceeds, to complete the Improvements.

109. Since the time of the default of the Developer, the site comprising the Subdivision, and the work which was previously performed toward the obligations of the Developer to complete the Improvements, has degraded substantially, to the extent that the certified engineer most familiar with the project now estimates that the cost of completion of the Improvements will exceed the Surety Bond Proceeds.

110. As the funds required to complete the Improvements exceed the Surety Bond Proceeds, the County, in attempting to remedy the Developer's breach, could be subject to claims by the Defendants, or some of them, resulting from the failure to complete all of the work of the Improvements.

111. In addition, the Developer's failures has caused to be revoked certain permits, issued by (and subsequently revoked by) the United States Army Corps of Engineers, required for the installation of the improvements. Such Corps of Engineers permits required either the performance of work in mitigation of the results of certain crossing or affecting of the waters of the United States by bridge, culvert or other means, or payment of sums in lieu of such work. The cost of this work in mitigation, or the payment of sums in lieu of the same, was not included in the costs of the Improvements, as at the time of the negotiated of the Performance Guarantee the developer possessed such permits (since revoked by the Corps of Engineers).

112. The expenditure of funds from the Surety Bond Proceeds for the work in mitigation, as referred to above, or the payment of sums in lieu of the same, may result in a claim against the County by the Defendants, or some of them. However, without such expenditure, performing the work required for portions of the Improvements would be unlawful.

113. By reason of the potentially conflicting claims of the Defendants, the County is in great doubt as the manner in which to proceed to carry out its duties with respect to the Improvements and the Surety Bond Proceeds.

114. Except as is otherwise stated herein, no personal claim is made against any Defendant named herein, within the meaning of N.C. Gen. Stat. §6-23.

**MOTION
PARTIAL SUMMARY JUDGMENT
FOR EMERGENCY APPROVAL OF WORK TO BE PERFORMED**

Plaintiff moves the Court, pursuant to N.C. Gen. Stat. §1A-1, Rule 56, as follows:

1. The allegations of the Complaint, hereinabove, are realleged and incorporated herein by reference.
2. Certain of the Improvements are such that it would be in the interest of all parties that a portion of the work toward completion of the Improvements be immediately performed ("the Emergency Work"), both to secure the Subdivision site from further degradation, as alleged in the Complaint, and to avoid a continuation of the environmental harm that results from such degradation.
3. The Emergency Work, for which the County seeks an emergency Order of partial summary judgment, is work which is a part, in any case, of the Improvements.
4. To further delay the Emergency Work will only increase its later cost, using up a greater portion of the Surety Bond Proceeds than if the work is earlier approved and carried out.
5. The County prior to hearing will present an affidavit containing a complete listing and schedule of the Emergency Work, and an estimate provided by the engineer who designed the Subdivision of the cost of the same. The Emergency Work consists (in general terms) of site stabilization by grading,

clearing erosion traps, reinstalling and repairing existing erosion control measures, and seeding with grass the grades and slopes to avoid further degradation.

6. The County seeks an emergency hearing and grant of an order, pursuant to N.C. Gen. Stat. §1A-1, Rule 56, allowing the County to proceed with the Emergency Work, and to pay for the same from the Surety Bond Proceeds.

**MOTION
APPOINTMENT OF GUARDIAN AD LITEM**

Plaintiff moves the Court, pursuant to N.C. Gen. Stat. §1A-1, Rule 17, for the appointment of a guardian ad litem. In support of this motion, Plaintiff shows the Court that this is an action involving rights of owners and holders of an interest (as creditor or otherwise) of all of the real property in subdivision, and the Plaintiff's attempting to remedy the breach of the developer of such subdivision in providing certain improvements required by the Plaintiff's Land Development Code. Because of the nature of the ownership of record title, and because of the numerous foreclosures which have taken place within the subdivision, and because of the likely conveyance, reconveyance, securitization and delivery of creditors' interests in the subdivision, it is possible that all owners and holders of an interest in the subdivision property are not listed as parties Defendant to this suit. Plaintiff requests that the Court appoint a discreet person to act as guardian ad litem for any such owners or holders of an interest.

NOTICE OF HEARING

TO: All parties

You will take notice that the undersigned will bring on for hearing before the Judge presiding over the Superior Court in Hendersonville, Henderson County, North Carolina, the Motion filed herein for a partial summary judgment, on Monday, May 6, 2013, at 10:00 a.m., or as soon thereafter as these matters may be heard by the Court.

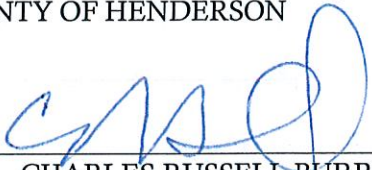
WHEREFORE, Plaintiff prays the Court as follows:

1. That the Court appoint a guardian *ad litem*, pursuant to N.C. Gen. Stat. §1A-1, Rule 17, for any unknown or unlisted owners or holders of an interest in the Subdivision.
2. That the Court determine and declare, pursuant to Article 26 of Chapter 1 of the North Carolina General Statutes, the appropriate and lawful course for the County for fulfilling, within the limits of the Surety Bonds Proceeds, the defaulted performance of the Developer under the Performance Guarantee.
3. That the Court grant the Plaintiff's motion for partial summary judgment for the "Emergency Work" as stated above.
4. That the Court award to the County from the Surety Bond Proceeds its costs expended in obtaining this relief, including the necessary expenditure of funds required in order to present this matter to court and accomplish the course determined by the Court.
5. That the Plaintiff be discharged from further liability to the Defendants and any other person or entity claiming an interest in the real estate making up the Subdivision except as to the course determined by the Court as requested above.
6. That the Plaintiff have such other and further relief as to the Court may seem mete and just.


This the 22nd day of March, 2013.

COUNTY OF HENDERSON

By: _____


CHARLES RUSSELL BURRELL
County Attorney
N.C. State Bar Identification Number 12885

By: _____


SARAH G. ZAMBON
Deputy County Attorney
N.C. State Bar Identification Number 35680

Office of the County Attorney for Henderson County
1 Historic Courthouse Square, Suite 5
Hendersonville, North Carolina 28792
Telephone (828) 697-4719
Facsimile (828) 697-4536

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

VERIFICATION

Autumn Radcliff, being first duly sworn, deposes and says:

That she is the Interim Planning Director for the Henderson County, the plaintiff herein; and that the contents of the foregoing Complaint are true to her knowledge, except as to matters stated on information and belief, and as to those matters, she believes them to be true.

Autumn Radcliff

Autumn Radcliff
Interim Planning Director
Henderson County

Sworn to and subscribed before me, this the 22nd day of March, 2013.

Kathryn L. Finotti

Notary Public

My commission expires: 3/23/13

