

September 6, 2017

VIA E-MAIL AND FIRST CLASS MAIL

Mr. Scott F. Wyatt
Wyatt Early Harris & Wheeler
1912 Eastchester Drive
High Point, NC 27265

Re: Flood Plain and Open Space

Dear Scott:

In a recent phone call, we discussed at length Starmount Company's position in connection with the Flood Plain and Open Space which it dedicated to the City of Greensboro pursuant to the Plat recorded in Plat Book 64 at Page 103. Starmount Company's position was also clearly stated in my letter of August 11, 2017 to your client. Because your letter of August 24, 2017 states factual assertions which conflict with information we have and believe to be true and because it asserts legal conclusions we believe to be inaccurate, I felt some further response to your letter is required. Since you copied Steve Galanti and Tom Carruthers with your letter, I am copying them with this response as well.

First, we disagree with your assertion that the City of Greensboro has not accepted the dedication of the Flood Plain and Open Space. Our research indicates that a public body may accept an offered dedication in a number of ways, including by exercising dominion and control over the dedicated property, removing the property from the tax rolls or showing the property on zoning maps as property owned by the City. In the present matter, the City of Greensboro accepted the dedication of the Flood Plain and Open Space by various methods, including, we understand, the construction of a sanitary sewer line through the property without obtaining any additional easements or conveyances other than the dedication made by the Plat. We believe the City has effectively accepted the dedication.

Secondly, because you assert that Mr. Minton had at least apparent authority to execute the purported deed, we assume that you and your client have no proof that Mr. Minton had the actual express authority to execute the purported deed on behalf of Starmount. We can assure you that Starmount did not authorize Mr. Minton to execute the purported deed on its behalf and that he had no actual authority to do so. With respect to apparent authority, the party alleging that an agent has the apparent authority to take an action on behalf of the principal has the burden of proof to establish the agent's apparent authority. Furthermore, the party seeking to establish the apparent authority must show that the party reasonably relied upon the apparent authority and will be prejudiced by the principal's disavowal of the agent's authority. In the present case, your client cannot show that it reasonably relied upon any apparent authority of Mr. Minton or that it has relied upon any apparent authority to its detriment or that the purported deed was executed in the ordinary course of business. In this regard, it simply is not reasonable for your client to believe that an assistant secretary of a corporation has the apparent authority to execute

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a deed for 7.8 acres of property previously dedicated to the City of Greensboro by the principal more than thirty years before the date of the purported deed, particularly when no consideration, monetary or otherwise, is being paid to the principal, a for-profit corporation, for the execution of the purported deed. It is not reasonable for your client to believe that Mr. Minton had the corporate authority to donate whatever interest Starmount may have in the Flood Plain and Open Space, if any, by a deed of gift and without any monetary consideration.

Thirdly, you assert that your client made “a frank, open and honest disclosure of its intentions concerning the property to Mr. Minton.” We submit, however, that your client did not make a full and complete disclosure of the material facts associated with its request for the purported deed. Please be advised that our information is that a representative of your client made material misrepresentations of facts to Mr. Minton in an attempt to convince, cajole and pressure him into executing the purported deed. These misrepresentations included an assertion that the City had previously conveyed a lot within the property in question to your client but that through some “technical” error that conveyance was ineffective and the purported deed was being requested only to correct the record. Mr. Minton recalls being shown some deed by your client’s representative which she asserted conveyed the property to your client. Could the deed that was shown to Mr. Minton perhaps have been the deed dated March 13, 2017 recorded in Book 7912 at Page 1267 in the Office of the Register of Deeds of Guilford County by which your client, CTC Land Company, LLC, purported to convey the property to itself citing as the basis of the conveyance the statute governing adverse possession under color of title? What is or was the purpose of that deed?

Suffice it to say that Starmount Company’s position remains as stated in my letter of August 11th. The dedication of the Flood Plain and Open Space has been accepted by the City. Furthermore, Starmount Company has never authorized the conveyance of that property to anyone other than to the City and Mr. Minton had neither the actual nor apparent authority to execute any deeds on behalf of the Company.

Very truly yours,

Smith Moore Leatherwood LLP



Charles E. Melvin, Jr.

CEMjr/ma

cc: (via e-mail)
Mr. Thomas Carruthers
Mr. Steve Galanti