Filed
Iredell County, NC
Book 1886 Page 657
Date: 9-25-2007
Time: 3:32:11 P.M.
Brenda D. Bell Register of Deeds

Document Drawn By: L. Hugh West, Jr., Attorney At Law, 307 Davie Avenue, Statesville, N.C. 28677

EASEMENT

STATE OF NORTH CAROLINA

COUNTY OF IREDELL

THIS EASEMENT, made this the 24th day of September, 2007, by and between ABILENE CHURCH OF CHRIST, acting through its Trustees (hereinafter called "GRANTOR"), and COLUMBIA DEVELOPMENT, LLC, a North Carolina Limited Liability Company (hereinafter called "GRANTEE");

WITNESSETH

THAT the Grantor, in consideration of the rents, covenants and agreements, hereinafter set forth, does hereby grant unto the Grantee, its successors and assigns, an easement for the limited purpose of constructing, installing, repairing, monitoring, and maintaining a leach field and septic tank system as hereinafter set forth on property lying in Chambersburg Township, Iredell County, North Carolina, and more particularly described by metes and bounds as follows:

> BEGINNING at a three eighths inch existing iron rod marking the Southwestern corner of Columbia Development, LLC, as described in deed recorded in Deed Book 1867, at Page 1678, which point is on the Eastern margin of the Right of Way of Vance PO Road, and runs from

the beginning with the line of said Columbia Development, LLC, South 85° 52' 13" East 160.32 feet to an iron rod marking the Southeastern corner of said Columbia Development, LLC Property; thence South 08° 08' 03" West 65.00 feet to a point; thence North 85° 53' 00" West 160.32 feet to a point on the Eastern margin of the Right of Way of Vance PO Road; thence with the said margin of said Right of Way, North 00° 35' 09" East 65.00 feet to the point of **BEGINNING**, containing 0.232 acre, more or less, according to a survey and map prepared by Carl Bunton, Registered Land Surveyor..

TO HAVE AND TO HOLD the described premises for the purpose of installing a septic-tank system, including a leach field, to be used for the benefit of and appurtenant to the property owned by the Grantee on the northern side of the described property, upon the terms and conditions hereinafter set forth as follows:

1. **Duration.** The easement rights shall exist and continue until such time as automatically terminated by the availability of public sewer service as herein specified.

2. **Consideration.** The consideration for this easement shall be Fifteen Thousand ($15,000.00) Dollars payable upon execution of this Easement Agreement and Two Thousand ($2,000.00) Dollars on September 24, 2017, and a like sum on each successive September 24th of each calendar year, to and including September 24th, 2021. Thereafter the Grantee shall pay to the Grantor the sum of Three Thousand ($3,000.00) Dollars or Ten (10%) Per Cent of the fair market value of the property on which the easement is located, whichever is higher, on each successive September 24th of each calendar year. In determining the fair market value of the property on which the easement is located there shall be no diminution because of the existence of the easement herein granted, ie, the property shall be valued as though the easement did not exist. In the event of dispute between the Grantor and the Grantee concerning the fair market value, they may agree on a licensed North Carolina real estate appraiser to act as absolute arbitrator in making the fair value determination. In the event the Grantor and the Grantee cannot agree on one real estate appraiser, the Grantor shall appoint one such appraiser and the Grantee shall appoint one such appraiser. The two appraisers so appointed shall select a third appraiser. The majority of the three North Carolina real estate appraisers shall make the final determination of the fair market value of the land on which the easement is located without any diminution on account of the easement.

3. **Installation.** The Grantee shall have the right to install on the premises a leach field and septic-tank system on the described premises, which shall meet all requirements of the Iredell County Health Department and Zoning Authority of Iredell County. All county permits and zoning requirements for the permitted installation shall be the responsibility of the Grantee, at Grantee's expense.

4. **Operation.** The Grantee shall operate the septic-tank system located on the described premises in accordance with all State of North Carolina and Iredell County Health Department regulations in a sanitary manner and maintained free of defects. All of such operations shall be at the Grantee's expense without incurring any costs or obligation on the part of Grantor.

5. **Maintenance of Premises.** Upon completion of the installation of the septic-tank system, Grantee shall restore the surface of the premises to as near the same condition as the same is now. The Grantee shall reseed the surface of the premises and keep the lawn mowed and free of accumulation of any refuse. In the event the Grantee does not maintain the premises as herein specified after demand by the Grantor, the Grantor can secure the maintenance service required by this paragraph. In which case the Grantee agrees to pay the reasonable costs of such maintenance within thirty (30) days of receiving an itemized statement. The Grantee shall not use the surface for storage of any personal property and shall install no structures on the surface of the premises.

6. **Use of premises.** The Grantee shall have the full right for access to the premises for installation of the septic-tank system and further for the maintenance, monitoring, and repair of the installed system, along with access for the right to maintain the surface of the premises. Otherwise, the Grantor shall retain the right to use the premises for any purpose which does not interfere with the right of the Grantee to install or maintain the described septic tank system or damage the surface which is required to be maintained by the Grantee.

7. **Automatic Termination.** From such time as public sewer service is available to within one hundred feet of either the property on which this easement is granted or the property owned by the Grantee to which this easement is appurtenant, the Grantee shall have two years in which to make connection to such service. Upon connection or within two years of the time public sewer service becomes available, whichever

occurs first, all rights under this easement shall immediately terminate, and the Grantee shall have no further rights under the terms of this easement. Upon such termination whether occurring during the first ten (10) years or any successive years, the Grantee shall not be entitled to receive a refund of any unearned compensation for the portion of time for which it has paid in advance.

8. **Taxes.** In the event this easement or the installation of the septic-tank system on the demised premises causes the assessment of any ad valorem tax in connection with the property, the Grantee agrees to pay such taxes and hold the Grantor harmless from any such ad valorem tax.

9. **Insurance.** The Grantee agrees to provide a certificate of insurance with the Grantor as one of the named insured, to protect both Grantor and Grantee from any liability growing out of the use of the property by the Grantee. Said liability insurance shall be in the sum of not less than One Million ($1,000,000.00) Dollars per occurrence, and shall be maintained for so long as this easement or any extensions thereof remain in force.

10. Upon the termination of this easement by the availability of public sewer service as herein set out, the Grantor shall have the option, in its sole discretion, to require the Grantee to remove the septic tank system from the property on which this easement is granted and have the remaining excavations filled with clean compacted soil. After which the Grantee shall reseed and landscape to as near a condition as same now is prior to the installation of the septic tank system. To exercise this option the Grantor shall give to the Grantee not less than ninety (90) days advanced notice of its intent to exercise this option. In the event said notice is given to the Grantee within the ninety day period, the Grantee shall have one hundred twenty (120) days from such notice to comply with the requirements herein specified at Grantees expense. In the event the Grantee does not comply with its obligation under the terms of this paragraph, the Grantor can secure the work specified in this paragraph. In which case the Grantee agrees to pay the reasonably costs of such work within thirty (30) days of receiving an itemized statement.

11. **Remedy.** In the event of failure to make the annual payments set out in Paragraph Number "2. Consideration," this easement cannot be terminated for such failure, but Grantor shall have the right to

pursue legal remedy through court action for such failure in which event the losing party shall pay all costs of litigation including reasonable attorney fees.

IN WITNESS WHEREOF, the parties hereto have executed this easement in duplicate originals, one of which is retained by each of the parties hereto, the day and year first above written.

ABILENE CHURCH OF CHRIST

BY: _____
ROBERT ENGLISH, TRUSTEE

BY: _____
DANNY WEBSTER, TRUSTEE

BY: _____
JOHN STAFORD, TRUSTEE

COLUMBIA DEVELOPMENT, LLC

BY: _____
T. COOPER JAMES, MANAGER

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Robert English, Danny Webster and John Staford.

This 25 day of September, 2007.

Notary Public Cathy D. Johnson
Print Name Cathy D. Johnson
My Commission Expires: 2-26-2012

STATE OF NORTH CAROLINA
COUNTY OF Guilford

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: T. Cooper James, Manager.

This 25th day of September, 2007.

Notary Public Jennifer Parham
Print Name Jennifer Parham
My Commission Expires: 4-11-2009

JENNIFER PARHAM
NOTARY PUBLIC
GUILFORD COUNTY, NC