

various motions requesting that the court grant partial summary judgments as to various issues in this case. Subsequent to the court's oral ruling on May 6, 2016, on May 13, 2016 Plaintiffs filed Plaintiffs' Motion To Reconsider Ruling Regarding Removal Of John Clark And Robert Leffingwell From The Association Board Of Directors. On May 18, 2016, the court granted Plaintiffs' Motion. On July 18, 2016, Plaintiffs filed a motion requesting that the court take judicial notice of certain matters. On July 19, 2016, Plaintiffs filed Plaintiffs' Motion to Render Final Judgment.

All matters in controversy, both legal and factual, have been submitted to the court for its determination. The court has considered all motions and pleadings filed by all of the parties in this action. The court has also considered the evidence admitted at the nonjury trial beginning on May 3, 2016 and concluding on May 6, 2016. Based upon all matters, evidence, pleadings, motions, previous orders, and other documents filed of record, the court renders Judgment for Plaintiffs and Interveners, Cliff Seidel and Drusilla Rogers as follows.

IT IS ORDERED, ADJUDGED, DECREED AND DECLARED that:

1. All relief requested by Pine Forest Investments Group, LLC, Defendant, is DENIED;
2. All relief requested by Third-Party Defendants, John Gardner, John Clark, William Haschke, and Robert Leffingwell is DENIED;

3. All relief requested by Intervener, Pine Forest Property Owners' Association, Inc. is DENIED;



4. The declaratory relief requested by Plaintiffs is GRANTED as follows:

a. The Real Estate Contract for the purchase and sale of 127 lots and 135 lots in Pine Forest Subdivision, Unit 6, Phase II, executed by the Bastrop Independent School District on February 21, 2012, by the City of Bastrop, Texas on February 22, 2012, by Bastrop County on February 24, 2012, by Pine Forest Property Owners' Association, Inc. on October 4, 2012 and by Defendant, Pine Forest Investments Group, LLC on October 15, 2012 which is the subject matter the above referenced civil action (referred to herein as the "Real Estate Contract") has terminated and is null and void and has no effect, and the court adopts the Plaintiffs' grounds and evidence that the Real Estate Contract is terminated and is null and void;

b. The Construction Development Agreement between Pine Forest Investments Group, LLC and the City of Bastrop, Texas dated September 14, 2012 was never effective, and it is null and void, and of no effect;

c. Defendant, Pine Forest Investments Group, LLC does not now and has never had equitable title to any of the 127 lots and 135 lots in Pine Forest Subdivision, Unit 6, Phase II described in the Real Estate Contract;

d. John Gardner, former President of the Association, ~~committed a false~~ ^{CTB} ~~and fraudulent act~~ ^{ENNEB} by suggesting that Defendant, Pine Forest Investments Group,

LLC had equitable title to the 127 lots and 135 lots in Pine Forest Subdivision, Unit 6, Phase II described in the Real Estate Contract;

e. As of September 12, 2013, the Bastrop Independent School District held record title and was the owner of 193 lots in Pine Forest Subdivision, Unit 6, Phase II, Bastrop County, Texas;

f. As of September 12, 2013, Bastrop County held record title and was the owner of 175 lots in Pine Forest Subdivision, Unit 6, Phase II, Bastrop County, Texas;

g. As of September 12, 2013, the City of Bastrop, Texas held record title and was the owner of 1 lot in Pine Forest Subdivision, Unit 6, Phase II, Bastrop County, Texas;

h. As of September 12, 2013, Defendant, Pine Forest Investments Group, LLC held record title and was the owner of 1 lot in Pine Forest Subdivision, Unit 6, Phase II, Bastrop County, Texas;

i. At the September 12, 2013 Association membership meeting, Defendant, Pine Forest Investments Group, LLC, was without authority to vote for approval of the September 13, 2013 Declaration Amendment on behalf of 262 lots owned by Plaintiffs in Pine Forest Subdivision, Unit 6, Phase II, Bastrop County,



Texas and as described in the Real Estate Contract because Pine Forest Investments Group, LLC did not hold record title to such lots and had no authority to vote the lots at any Association membership meeting;

j. At the September 12, 2013 Association membership meeting, Defendant, Pine Forest Investments Group, LLC unlawfully misappropriated membership votes that were lawfully owned by Plaintiffs;

k. All actions of the Association taken based on Pine Forest Investments Group, LLC's vote of any lots in the Association which were owned by Plaintiffs, and specifically, any actions based on Pine Forest Investments Group, LLC's vote of any of the 127 lots or the 135 lots in Pine Forest Subdivision, Unit 6, Phase II described in the Real Estate Contract are invalid, null and void, and of no effect;

l. The September 13, 2013 Association DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PINE FOREST, PHASE II, UNIT 6 adopted by the Association on September 12, 2013 at a members' meeting, and filed and recorded in the official public records of Bastrop County on September 13, 2013 at 4:40:37 p.m. and recorded at "RESTRICTION" 201312219 at Book:2264 PAGE 345 -359 was not ratified by the owners of at least 1/3 of the lots in the Unit 6 Subdivision;

m. The September 13, 2013 Association DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PINE FOREST,

PHASE II, UNIT 6 adopted by the Association on September 12, 2013 at a members' meeting, and filed and recorded in the official public records of Bastrop County on September 13, 2013 at 4:40:37 p.m. and recorded at "RESTRICTION" 201312219 at Book:2264 PAGE 345 -359 is invalid and of no force and effect;

n. The August 13, 2015 ASSOCIATION DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PINE FOREST, PHASE II, UNIT 6 adopted by the Association on April 4, 2015 at a members' meeting, and filed and recorded in the official public records of Bastrop County on August 13, 2015 at 11:22:15 a.m. and recorded at "RESTRICTION" 201510450 was not ratified by the owners of at least 1/3 of the lots in the Unit 6 Subdivision;

o. The August 13, 2015 ASSOCIATION DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PINE FOREST, PHASE II, UNIT 6 adopted by the Association on April 4, 2015 at a members' meeting, and filed and recorded in the official public records of Bastrop County on August 13, 2015 at 11:22:15 a.m. and recorded at "RESTRICTION" 201510450 was not recommended by the Architectural Control Committee;

p. The August 13, 2015 ASSOCIATION DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PINE FOREST, PHASE II, UNIT 6 adopted by the Association on April 4, 2015 at a member meeting, and filed and recorded in the official public records of Bastrop County on

August 13, 2015 at 11:22:15 a.m. and recorded at "RESTRICTION" 201510450 is invalid, and of no force and effect;



q. The Association Board of Directors is without authority to sever lots within the Pine Forest Subdivision, Phase II, Unit 6 of Bastrop County, Texas from the jurisdiction of the Association;

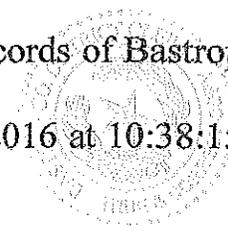
r. No lots within the Pine Forest Subdivision, Phase II, Unit 6 of Bastrop County, Texas were legally and validly severed at any time;

s. The Association's Board of Directors' adoption of a resolution severing lots from the jurisdiction of the Association at the February 19, 2016, Board meeting constitutes an illegal ultra vires act that is invalid, and void as a matter of law;

t. The Association's Board of Directors' adoption of a resolution severing lots from the jurisdiction of the Association at the February 25, 2016, Board meeting constitutes an illegal ultra vires act that is invalid, and void as a matter of law;

u. The DECLARATION OF SEVERANCE AND WITHDRAWAL OF CERTAIN LOTS IN PINE FOREST, PHASE II, UNIT 6, BASTROP COUNTY, TEXAS FROM THE JURISDICTION OF THE PINE FOREST PROPERTY OWNERS' ASSOCIATION, signed by John Clark, President of the Association and Paul Burt, member of the Pine Forest Architectural Control Committee, on

February 22, 2016 and filed and recorded in the official public records of Bastrop County, Texas at "RESTRICTION" 201601977 on February 22, 2016 at 10:38:15 a.m. is invalid, and of no force and effect;



v. The lots owned by Interveners, Cliff Seidel and Drusilla Rogers, and lots owned by Plaintiffs and all others for which they hold record title in Unit 6 are lots within Pine Forest Subdivision, Phase II, Unit 6 of Bastrop County, Texas;

w. Plaintiffs, Interveners and all other lot owners in Pine Forest Subdivision, Phase II, Unit 6 of Bastrop County, Texas are members of the Association;

x. A lot or property owner in Pine Forest Subdivision, Phase II, Unit 6 of Bastrop County, Texas is a person who holds record title to property, and is entitled to vote as a member at Association membership meetings one vote for each lot for which record title is held;

y. Defendant, Pine Forest Investments Group, LLC is not and never has been the holder of record title to the 127 lots and 135 lots in Pine Forest Subdivision, Unit 6, Phase II described in the Real Estate Contract;

z. Interveners and Brenda Winkler were validly elected to the Pine Forest POA and remain current members of the Pine Forest POA Board;

aa. The Pine Forest POA's Bylaws do not require members of the Board to be members of the Pine Forest POA;

bb. The Pine Forest POA's Board's appointment of John Gardner and William Haschke to the Board at the February 25, 2016, Board meeting constitutes an illegal ultra vires act that is invalid, and void as a matter of law;

cc. John Gardner and William Haschke are not valid members of the Board of Directors of the Pine Forest POA;

dd. The special meeting of the Pine Forest POA's membership was validly called by Plaintiffs and conducted on February 27, 2016, in compliance with the Pine Forest POA's Bylaws and the Texas Nonprofit Corporation Law;

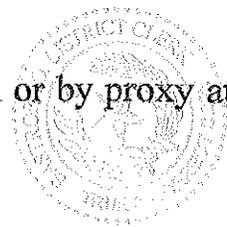
ee. The members of the Pine Forest POA validly and effectively removed John Clark and Robert Leffingwell from the Board at the special meeting of the Pine Forest POA's membership conducted on February 27, 2016;

ff. As of February 27, 2016 the valid members of the Pine Forest POA's Board were Sue Lane McCulley, Jill Rosales, Clifton Seidel, Drusilla Rogers, and Brenda Winkler;

gg. William Haschke, John Gardner, John Clark, and Robert Leffingwell have no authority to control or access the financial accounts of the Pine Forest POA held at the First National Bank of Bastrop;

hh. All other items voted on by the members of the Pine Forest POA at the special meeting of the Pine Forest POA's membership conducted on February

27, 2016, were validly approved by the members present in person or by proxy at such meeting;



ii. The MEMORANDUM OF CONTRACT FOR THE SALE AND PURCHASE OF LAND filed by John Gardner, former President of the Association dated June 4, 2013 and filed with the Bastrop County clerk and recorded at "memo" 210307272, book 2238, page 299 -- 312 ~~is false and fraudulent~~ *CL*, is null and void, and of no effect;

jj. At the April 11, 2015 annual meeting of members of the Pine Forest Property Owners' Association, Inc. (the "Association"):

(1) the Bastrop Independent School District was the record owner of and held record title to 192 lots in Pine Forest Subdivision, Phase II, Unit 6 of the Association, and had 192 votes at the membership meeting as a member of the Pine Forest Property Owners' Association, Inc;

(2) Bastrop County was the record owner of and held record title to 194 lots in Pine Forest Subdivision, Phase II Unit 6 of the Association, and had 194 votes at the membership meeting as a member of the Pine Forest Property Owners' Association, Inc; and,

(3) the City of Bastrop, Texas was the record owner of and held record title to 2 lots in Pine Forest Subdivision, Phase II, Unit 6 of the Association, and had 2



votes at the membership meeting as a member of the Pine Forest Property Owners' Association, Inc.

kk. As of December 21, 2015:

(1) the Bastrop Independent School District was the record owner of and held record title to 192 lots in Pine Forest Subdivision, Phase II, Unit 6 of the Association and had 192 votes as a member of the Pine Forest Property Owners' Association, Inc;

(2) Bastrop County was the record owner of and held record title to 200 lots in Pine Forest Subdivision, Phase II, Unit 6 of the Association, and had 200 votes as a member of the Pine Forest Property Owners' Association, Inc; and,

(3) the City of Bastrop, Texas was the record owner of and held record title to 2 lots in Pine Forest Subdivision, Phase II, Unit 6 of the Association, and had 2 votes as a member of the Pine Forest Property Owners' Association, Inc.

II. ~~Plaintiffs' motion requesting that the court take judicial notice of certain matters filed July 18, 2016 is GRANTED.~~ 

5. The declaratory relief requested by Interveners, Cliff Seidel and Drusilla Rogers is granted as follows:

- (a) Defendant Pine Forest Investments Group was without authority to vote for approval of the 2013 Declaration Amendment on behalf of 262 lots owned by Plaintiffs because it was not the owner of record of such lots;
- (b) The 2013 Declaration Amendment was not ratified by the owners of



- at least 1/3 of the lots in the Unit 6 Subdivision;
- (c) The 2013 Declaration Amendment is invalid and of no force and effect;
 - (d) The 2015 Declaration Amendment was not ratified by the owners of at least 1/3 of the lots in the Unit 6 Subdivision;
 - (e) The 2015 Declaration Amendment was not recommended by the Architectural Control Committee;
 - (f) The 2015 Declaration Amendment is invalid and of no force and effect;
 - (g) The Pine Forest POA's Board is without authority to sever lots within the Unit 6 Subdivision from the jurisdiction of the Pine Forest POA;
 - (h) The Pine Forest POA's Board's adoption of a resolution severing lots from the jurisdiction of the Pine Forest POA at the February 19, 2016, Board meeting constitutes an illegal ultra vires act that is invalid and void as a matter of law;
 - (i) The Pine Forest POA's Board's adoption of a resolution severing lots from the jurisdiction of the Pine Forest POA at the February 25, 2016, Board meeting constitutes an illegal ultra vires act that is invalid and void as a matter of law;
 - (j) The Severance Declaration is invalid and of no force and effect;
 - (k) The Seidel and Rogers Properties are lots within the Unit 6 Subdivision;
 - (l) Intervenors are members of the Pine Forest POA;
 - (m) Intervenors were validly elected to the Pine Forest POA and remain current members of the Pine Forest POA Board;
 - (n) The Pine Forest POA's Bylaws do not require members of the Board to be members of the Pine Forest POA;
 - (o) The Pine Forest POA's Board's appointment of John Gardner and William Haschke to the Board at the February 25, 2016, Board meeting constitutes an illegal ultra vires act that is invalid and void as



a matter of law;

- (p) John Gardner and William Haschke are not valid members of the Board of Directors of the Pine Forest POA;
- (q) The special meeting of the Pine Forest POA's membership was validly called by Plaintiffs and conducted on February 27, 2016, in compliance with the Pine Forest POA's Bylaws and the Texas Nonprofit Corporation Law;
- (r) The members of the Pine Forest POA validly and effectively removed John Clark and Robert Leffingwell from the Board at the special meeting of the Pine Forest POA's membership conducted on February 27, 2016;
- (s) The valid members of the Pine Forest POA's Board are Sue Lane McCulley, Jill Rosales, Clifton Seidel, Drusilla Rogers, and Brenda Winkler;
- (t) William Haschke has no authority to control or access the financial accounts of the Pine Forest POA held at the First National Bank of Bastrop; and
- (u) All other items voted on by the members of the Pine Forest POA at the special meeting of the Pine Forest POA's membership conducted on February 27, 2016, were validly approved by the members present in person or by proxy at such meeting.

6. The permanent injunction relief requested by Plaintiffs is granted as follows:

A. IT IS FURTHER ORDERED, ADJUDGED, and DECREED that except for pleadings filed in this action or any appeal of this action or statements made in open court in this action or any appeal of this action, Defendant, Pine Forest Investments Group, LLC, and Defendant's respective officers, managers, members, trustees, agents, servants, employees, attorneys, confederates and all

other persons in active concert or participation with them, are hereby permanently restrained and enjoined immediately from:



1. Taking any action to enforce the Real Estate Contract;
2. Taking any action to enforce the Construction Development Agreement between the City of Bastrop, Texas and Pine Forest Investments Group, LLC dated September 14, 2012;
3. Misappropriating Plaintiffs' voting rights with respect to Plaintiffs' membership interest in the Association; and,
4. Casting any votes at any membership meeting or any kind with the Association for the lots described in the Real Estate Contract.

B. IT IS FURTHER ORDERED, ADJUDGED, and DECREED that except for pleadings filed in this action or any appeal of this action or statements made in open court in this action or any appeal of this action, Third-Party Defendants, John Gardner, John Clark, William Haschke, and Robert Leffingwell and any and all of their respective officers, managers, members, trustees, agents, servants, employees, attorneys, confederates and all other persons in active concert or participation with them, are hereby permanently restrained and enjoined immediately from

1. Taking any action to enforce the Real Estate Contract;



2. Taking any action to enforce the Construction Development Agreement between the City of Bastrop, Texas and Pine Forest Investments Group, LLC dated September 14, 2012;

3. Misappropriating Plaintiffs' voting rights with respect to Plaintiffs' membership interest in the Association; and,

4. Casting any votes at any membership meeting or any kind with the Association for the lots described in the Real Estate Contract.

This Judgment finally disposes of all claims and all parties and is appealable.

All taxable court cost are taxed against Defendant, Pine Forest Investments Group, LLC, and ~~Third Party Defendants, John Gardner, John Clark, William Hasehke, and Robert Leffingwell jointly and severally,~~

Handwritten initials

The court orders execution to issue for this Judgment.

SIGNED this 21st day of September, 2016

I, the undersigned Clerk of District and County Court at Law Courts for Bastrop County, Texas, do certify that the foregoing is a true and correct copy of the original document now on file and record in my office. WITNESS my hand and seal of said Court this 21st day of September, 2016
By Sarah Loucks, Clerk of Courts
Deputy

Signature of Carson Campbell
THE HONORABLE CARSON CAMPBELL
DISTRICT COURT JUDGE
21st JUDICIAL DISTRICT COURT OF
BASTROP COUNTY, TEXAS

APPROVED AS TO FORM AND SUBSTANCE:

By: /s/ Charles Bundren
WM. CHARLES BUNDREN & ASSOCIATES LAW GROUP, PLLC
Wm. Charles Bundren, Esq.\

FILED 12:04 PM
DATE 09/21/2016
Sarah Loucks



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ATTORNEYS FOR INTERVENORS,

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APPROVED AS TO FORM ONLY:

BY: NOT APPROVED

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