

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

In re:

Foxwood Hills Property Owners Association,
Inc.,

Debtor.

Foxwood Hills Property Owners Association,
Inc.,

Plaintiff.

v.

783-C LLC; *et al.*,¹

Defendants.

Case No. 20-02092-hb

Chapter 11

Adv. Pro. No. 20-80049-hb

**CONSENT ORDER RESOLVING
PLAINTIFF’S CLAIMS AGAINST
DEFENDANT OCONEE COUNTY
FORFEITED LAND COMMISSION**

This matter comes before me upon the consent and motion of Plaintiff Foxwood Hills Property Owners Association, Inc. (the “**Association**”) and Defendant Oconee County Forfeited Land Commission (“**OCFLC**”), pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure and SC LBR 9019-1, for the Court to enter this Consent Order stating the terms upon which the Association’s claims against OCFLC shall be fully resolved in this adversary proceeding.

The Association and OCFLC agree and stipulate that:

¹ Pursuant to Rule 10(a) of the Federal Rules of Civil Procedure, made applicable herein by Rule 7010 of the Federal Rules of Bankruptcy Procedure, Plaintiff Foxwood Hills Property Owners Association, Inc. is naming the first defendant in this caption, rather than listing all defendants, who number over 3,300 names and otherwise comprise a caption of over twenty-six pages.

1. On July 13, 2020, the Association commenced this adversary proceeding by filing its Complaint [Doc. 1]. On July 23, 2020, prior to service of the Complaint on any party, the Association filed its Amended Complaint [Doc. 2] (the “**Amended Complaint**”) to add as defendants fifty-five (55) individuals who had recently become lot owners in the Foxwood Hills community (the “**Community**”).

2. Because OCFLC owns a substantial number of lots in the Community, it was named as a defendant in the Amended Complaint. After the Association duly and properly served OCFLC with the Summons and Amended Complaint, OCFLC filed its Answer on September 24, 2020 [Doc. 36]. On September 30, 2020, OCFLC filed its Amended Answer (the “**Amended Answer**”) [Doc. 39].

3. Attached as Exhibit “A” to its Amended Answer, OCFLC lists the hundreds of lots that it owned in the Community at that time. The number of lots OCFLC owns in the Community fluctuates at any given point in time. OCFLC holds title ownership to these lots for the benefit of the public, to ensure the payment of past due property taxes, pursuant to S.C. Code § 12-59-10, *et seq.*

4. In its Amended Complaint, the Association seeks an Order from the Court declaring that (a) all of the Defendants are members of the Association with equal voting rights, and (b) all of the Defendants must pay annual budget-based dues, fees and assessments to the Association in order to enable it to remain solvent and meet its annual approved budget.

5. To fully resolve the Association’s claims against OCFLC in this adversary proceeding, the Association and OCFLC hereby covenant and agree as follows: (a) OCFLC shall not be deemed a member of the Association as a result of its title ownership of lots in the Community; (b) OCFLC shall not have any rights, access or use of the Association’s amenities; (c) OCFLC shall not be subject to the Association’s Bylaws and shall have no voting rights in the

Association; and (d) OCFLC shall not be required to pay budget-based fees, dues and assessments to the Association for the lots it owns, nor shall OCFLC be required to any fees, dues and assessments to the Association whatsoever.

6. The Association and OCFLC hereby covenant and agree that the terms stated herein shall only be applicable to lots in the Community while they are owned by OCFLC. Once the lots owned by OCFLC are transferred to a non-governmental third-party, that transferee will be a member of the Association, subject to the Association's Bylaws, and required to pay annual budget-based dues, fees and assessments to the Association.² *See Judgment*, pp. 1-2 [Doc. 140] (relating to successors in interest to current lot owners).

7. The Association shall state the terms herein in its amended Chapter 11 Plan of Reorganization, wherein the Association will state its treatment of OCFLC as a separate, impaired class.

It appearing that the Association and OCFLC consent to the terms stated herein to resolve all claims by the Association against OCFLC in this adversary proceeding;

It further appearing that all parties appearing in this adversary proceeding, all creditors and appearing parties in interest were served with the Notice and Application for Settlement and Compromise, and no objections were made or filed in the prescribed time. It further appears that the resolution proposed by the Association and OCFLC is proper and should be granted.

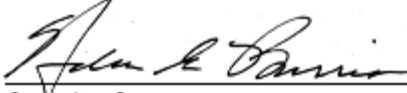
Therefore, it is ORDERED that the Association's claims against OCFLC are resolved pursuant to the terms stated herein.

² With the exception of OCFLC, neither the Association's claims against all other defendants who have filed an answer or responsive pleading in this adversary proceeding (the "Answering Defendants"), nor the Answering Defendants' claims and defenses against the Association, shall be affected by this Consent Order. The Association understands that since the filing of the Amended Complaint, OCFLC has transferred certain lots in the Community to Answering Defendants; however, this Consent Order does not serve to automatically render those Answering Defendants who purchased lots from OCFLC as members of the Association or require them to pay budget-based fees, dues and assessments to the Association. Those issues remain pending and subject to adjudication by the Court in this matter.

AND IT IS SO ORDERED.

**FILED BY THE COURT
05/12/2021**




Chief US Bankruptcy Judge
District of South Carolina

Entered: 05/12/2021

WE SO MOVE AND CONSENT:

/s/ Kyle A. Brannon

Julio E. Mendoza, Jr., Court ID No. 3365
Kyle A. Brannon, Court ID No. 11509
Carl H. Petkoff, Court ID No. 13447
NEXSEN PRUET, LLC
1230 Main Street, Suite 700 (29201)
Post Office Box 2426
Columbia, South Carolina 29202
Telephone: 803-540-2026
Email: rmendoza@nexsenpruet.com
kbrannon@nexsenpruet.com
cpetkoff@nexsenpruet.com

Attorneys for Plaintiff Foxwood Hills
Property Owners Association, Inc.

April 15, 2021
Columbia, South Carolina

/s/ James W. Logan, Jr.

James W. Logan, Jr., Court ID No. 2712
LOGAN & JOLLY, LLP
1805 North Boulevard (29621)
P.O. Box 259 (29622)
Telephone: 864-226-1910
Facsimile: 864-226-1931
Email: logan@loganandjolly.com

Attorneys for Defendant Oconee
County Forfeited Land Commission

April 15, 2021
Anderson, South Carolina

Notice Recipients

District/Off: 0420-7

User: admin

Date Created: 5/12/2021

Case: 20-80049-hb

Form ID: pdf01

Total: 1

Recipients of Notice of Electronic Filing:

aty Kyle A Brannon kbrannon@nexsenpruet.com

TOTAL: 1