

CS-14-97

CLYDE W. DAVIS
MICHAEL L. BROUSSARD
JOSHUA K. MARTIN
ROBERT D. BERNARD
BRETT L. STEGER *

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BERNARD & STEGER, P.A.

2014 DEC -8 PM 3:04

ATTORNEYS AT LAW

COUNTY ATTORNEY

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AMELIA ISLAND OFFICE
960185 GATEWAY BLVD. #104
AMELIA ISLAND, FLORIDA 32034
904-261-2848

YULEE OFFICE
463049 STATE ROAD 200
YULEE, FLORIDA 32097
904-225-8885

December 5, 2014

COUNTY ATTORNEY

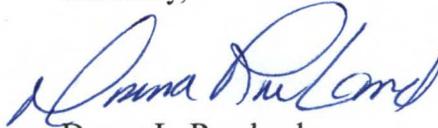
Ms. Joyce T. Bradley
Nassau County Attorney's Office
96135 Nassau Place, Ste. 6
Yulee, FL 32097

Re: Julie Hutson/Lot 13, Bunker Hill

Dear Joyce:

Enclosed is an original Complete Release and Settlement Agreement executed yesterday by Ms. Hutson. It has been a pleasure to come to an amicable resolution of this matter.

Sincerely,



Donna L. Rowland
Assistant to Clyde W. Davis

/dlr
Enclosure

COMPLETE RELEASE AND SETTLEMENT AGREEMENT

KNOW ALL PERSONS BY THESE PRESENTS:

This Complete Release and Settlement Agreement (the "Agreement") is entered into effective as of December 4, 2014, by, between and among Nassau County, a political subdivision of the State of Florida, hereinafter referred to as "the County", and Julie Wildes Hutson, hereinafter referred to as "Hutson", and collectively referred to as the "Parties".

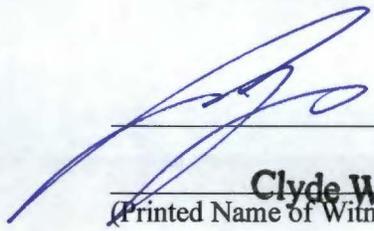
The undersigned, Julie Wildes Hutson, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), the receipt of which is hereby acknowledged, does hereby release, satisfy, and forever discharge, **NASSAU COUNTY, FLORIDA**, hereinafter referred to as "Nassau County", its assigns, Commissioners, employees, agents, and attorneys, from any and all actions, causes of action, suits, claims and demands whatsoever, whether known or unknown, sums of money, accounts, law or equity, actions, reckonings, bills, attorney's fees, expenses, contracts, controversies, agreements, promises, damages, claims, or demands of any kind, which against Nassau County, its assigns, Commissioners, employees, agents, and attorneys, the undersigned ever had, now has, or may hereafter have for or by reason of any cause, matter, or thing whatsoever. This is to include, but is not limited to, any and all claims arising from Nassau County's entry upon; earth work and other activities, including improvements, restoration and repair to the site (more particularly described as Parcel No. 47-2N-25-4080-0011-0040); attorney's fees and costs; and any other direct or indirect damages arising from or growing out of the County's entry and activities upon the site of the undersigned now or in the future. The activities are those being more particularly described in the attached Exhibit "A".

It is understood and agreed that any and all liability to the undersigned by Nassau County, Florida, is denied. The consideration aforesaid is paid and accepted in full and complete settlement of any and all claims whatsoever, whether known or unknown, of the undersigned,

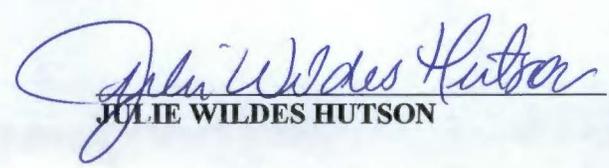
including any and all claims now existing or which may accrue in the future and to avoid the expense, hazard, and uncertainty of litigation.

The undersigned have been represented by Clyde W. Davis, Attorney at Law, Florida Bar No. 0277266, and she has reviewed this Release, consisting of two (2) pages with him, and understands the purpose, tenor, and effect of it.

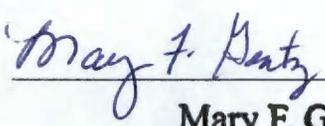
EXECUTED this 4 day of December, 2014.



Clyde W. Davis
(Printed Name of Witness)



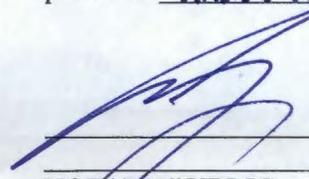
JULIE WILDES HUTSON



Mary F. Gentz
(Printed Name of Witness)

STATE OF FLORIDA
COUNTY OF

The foregoing instrument was acknowledged before me this 4 day of December, 2014, by Julie Wildes Hutson, who is/are personally known to me or who have produced known to me as identification and who did take an oath.



NOTARY PUBLIC
State of Florida at Large
My Commission expires:

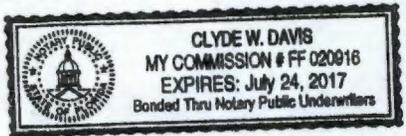


EXHIBIT A

CLYDE W. DAVIS
MICHAEL L. BROUSSARD
JOSHUA K. MARTIN
ROBERT D. BERNARD
BRETT L. STEGER *

DAVIS, BROUSSARD, MARTIN
BERNARD & STEGER, P.A.

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2014 AUG 21 AMELIA ISLAND OFFICE
960183 GATEWAY BLVD. #104
AMELIA ISLAND, FLORIDA 32034
904-261-2848
COUNTY ATTORNEY

ATTORNEYS AT LAW

WWW.NEFLAW.COM

YULEE OFFICE
463049 STATE ROAD 200
YULEE, FLORIDA 32097
904-225-8885

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August 19, 2014

Mr. David Hallman
County Attorney
96135 Nassau Place, Ste. 6
Yulee, FL 32097

Re: Julie Hutson/Lot 13, Bunker Hill

Dear David,

Thanks for meeting with me this morning. Based on our discussion, it is my understanding that we have a framework for resolution of this matter. Of course, any formal settlement is subject to approval by our respective clients. However, there does not seem to be any inclination to mountain climb a mole-hill.

If I understand correctly, there will be an amicable resolution of this matter, as follows:

I. The goal of this settlement is a restoration of the parties to the position previously occupied.

The goal will be implemented as follows:

- a. Nassau County will re-fill the ditch to an elevation that is consistent with the adjoining property. The fill will be of a consistency and type as found on the adjoining sides. No toxic waste, hazardous or noxious material will be placed therein or thereon;
- b. The ditch will be filled, as outlined, on or before November 15, 2014, to allow for optimum time of year for re-planting, which is agreed to be between November 1 of this year, and March 31, 2015;
- c. The estimated area of timber loss is approximately 1/3 acre. Leonard Wood, a consulting forester, has been consulted on this matter and we have mutually agreed to his expertise in calculation of the value of timber lost and implementation of remediation. He advises that:
 1. He will charge a fee of \$500.00 for his services, so long as the parties are willing to take a "reasonable" versus "litigation" approach. These services do not include the actual expense of replacement seedlings or planting. His services will include calculation of market value of lost timber, selection of replacement seedlings, and supervision of their planting. He advises that the long, narrow nature of the ditch and embankments, coupled with an interlocking canopy, makes it a significant problem to re-stock to the same volume, and expect acceptable

survival under even optimum conditions. He further suggested [and I should have thought of it] that the ditch area, after filling, will be an attractive nuisance and invitation for uninvited users of 4-wheelers and off-road type vehicles, as well as illegal dumping. This would also have a negative impact on seedling survival, and damage to the shoulder of the County road. In order to avoid this loss, and potential liability, he suggest that a section of fence be installed to discourage such activity.

2. Regarding his fee, he is concerned about how precise the parties want him to be in estimating the loss. Given the small area, he advises that if the parties require numerous test plots then he will have to charge accordingly and that such a level of effort is not cost-effective. However, he remains quite willing to work to whatever level demanded, so long as he is compensated. That being said, if the parties are willing to accept a "reasonable to the marketplace" approach, based upon his inspection of the site and measurements made to his professional satisfaction, he believes that he can get us reasonably close.

3. The bottom line is that we're trying to get Ms. Hutson back to where she was, without spending any more money than necessary. I trust Leonard Wood because I have known him since he was a young forester with Rayonier. We have coached ball together and owned timber properties together in the past, and his advice on when to buy and sell timberland, or just the timber, has always been spot-on. He has helped me make money and has helped my clients in the same manner for years. We've had Friday lunch together for almost 25 years, and his son was in my son's wedding. This does not mean that you need to trust him, but you should know why I trust him. However, if he says he can figure the timber volume, types, and values, plus handle the supervision of reforestation for only \$500.00, then I will take him at his word.

d. If this is an acceptable approach, then the total "cost" of settlement, if agreed by both parties, would be the sum of:

Cost to the County to re-fill the ditch and level to existing grade of surrounding lands; plus

1. Direct costs: \$250.00 attorney fees to me for the actual initial charge I made to Ms. Hutson and \$500.00 to Leonard Wood for forestry consulting services;

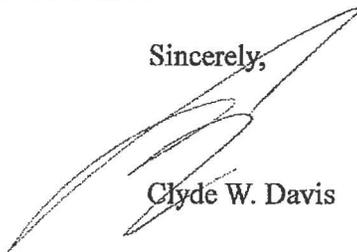
2. Actual value of lost timber, as established by Mr. Wood. If we had to make a "seat of the pants" estimate in order to provide a cap on this figure, I'd suggest that it be \$1,500.00. I suspect that it may be about half of that, but will not want to bind myself too much.

3. Actual cost for seedlings, and to re-plant and install a short section of fence: Maybe \$1,500.00. I'd be surprised if it is more than this.

Total dollar cost: Perhaps \$3,500.00 to \$4,000.00 tops.

If this sounds like a sensible plan, then let's put it into motion. By copy of this letter I am seeking my client's approval for us to move forward.

Sincerely,



Clyde W. Davis

CWD/
cc: Client

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2014 JUL 17 PM 1:22

**DAVIS, BROUSSARD, MARTIN,
BERNARD & STEGER, P.A.**

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AMELIA ISLAND, FLORIDA 32034
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July 15, 2014

David Hallman, Esq.
Nassau County Attorney
96135 Nassau Place, Ste. 6
Yulee, FL 32097

Re: Julie Hutson, Lot 13, Bunker Hill

Dear David,

Today, I had the pleasure of meeting with Ms. Julie Hutson regarding her property and the ditch which the County constructed. This ditch was created by Nassau County across her property without her prior permission and without any compensation for the taking. So far as I know, there was no engineering performed, nor any attempt at securing permission before construction. The enclosed photographs show the referenced ditch. From the appearance and her description, it appears to be a cross between a ditch and a storm-water retention area.

By her description, the ditch lies east of, and runs perpendicular to Jones Way. It runs roughly east and west, parallel to SRA1A. The ditch is off of the SR A1A right of way by about one hundred (100.0') feet. Its length is approximately three hundred sixteen (316.0') feet and it is approximately twenty (20.0') feet wide, with a cleared swail of about ten (10.0') feet or more along each bank. The total area would be about 12,640 square feet. It runs through a "hammock" areas consisting of a mixed stand of pine and hardwoods. From the enclosed photographs, you can see that there was both merchantable and pre-merchantable timber removed. The ditch was constructed on about April 2, 2014. The supervisor on the project was David Hearn. I do not know if there is an outfall for the ditch at the eastern boundary of the property or if it simply ends without crossing onto the neighbor.

It has been more than ninety (90) days since construction and my client has already contacted both Mr. Selby and Mr. Herring about this matter. It does not appear that the matter is taken seriously. Unless this is cured, the provable damages sustained will be:

- a. The loss of standing timber removed in the construction of the ditch;
- b. The sub-division of her existing, contiguous parcel into two (2), non-contiguous parcels;

- c. The impact on her valuable road frontage along A1A, as well as the practical limitation on development of her entire tract;
- d. The increased risk of flooding created by the diversion of storm-water runoff; and
- e. The continued maintenance cost of this ditch in order to avoid future flooding.

I would suggest that it is much cheaper to resolve the matter than to litigate the taking and the resulting losses. I would suggest the following as a resolution:

1. Nassau County will immediately fill the ditch to a level consistent with the surrounding elevation. The fill material will be top-soil consistent with the surrounding area. The restoration must be completed no later than September 30 so that the re-planting [outlined below] can take place during the optimum months;

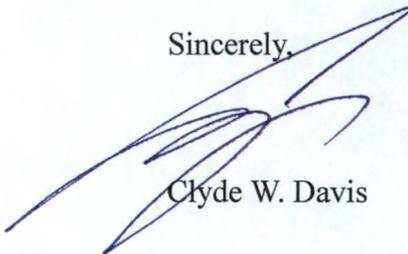
2. My client will employ Jowett and Wood, Consulting Foresters, to:

- a. Conduct a timber cruise and provide an opinion as to the value of the loss of standing timber; and
- b. Re-plant the restored area with appropriate pine or hardwoods, consistent with the remaining property; then

3. Nassau County will reimburse my client for her loss and damages, as determined by the forestry consultants, together with their expenses and my nominal fee of \$250.00.

If this proposal is acceptable, then please so advise within the next thirty (30) days and provide a time-line for the restoration. We should both also pray that we do not have a tropical storm during that period as the resulting flooding of my client's property would immediately negate the above proposal.

Sincerely,



Clyde W. Davis

CWD/

enc.

Cc: Client



