

STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

IN THE GENERAL COURT OF JUSTICE  
**FILED** SUPERIOR COURT DIVISION  
FILE #: 07 CVS 4887

2008 SEP 15 AM 10:55

LOUISE PACK METCALF, BARBARA  
PACK HOLCOMBE, MICHAEL  
LAWRENCE, BARBARA PACK WHITE  
and ALICE WHITE MOBIDINE,  
Plaintiffs,

vs.

BLACK DOG REALTY, LLC, and  
BUNCOMBE COUNTY, NORTH  
CAROLINA,  
Defendants.

BUNCOMBE COUNTY, C.S.C.

BY Bte

**J U D G M E N T**

THIS CAUSE, coming on to be heard before the Honorable J. Marlene Hyatt, Judge Presiding in the Superior Court, Buncombe County, North Carolina at the 25 August 2008 Civil Session on Motion for Summary Judgment filed by the Plaintiffs; Motions to Dismiss filed by Defendant, Black Dog Realty, LLC; and Motion for Summary Judgment filed by Defendant, Buncombe County, North Carolina.

After considering Plaintiffs' factual allegations against Black Dog as true, and considering the undisputed material facts presented on Plaintiffs' and Buncombe County's forecasts of evidence, and hearing arguments of counsel, it appears to the Court that Plaintiffs are entitled to relief as follows:

IT IS ORDERED, ADJUDGED and DECREED as follows:


1. That Defendant, Black Dog Realty, LLC's Motions to Dismiss are denied;
2. That Defendant, Buncombe County, North Carolina's, Motion for Summary Judgment is denied; and

3. That Plaintiffs' Motion for Summary Judgment is allowed as there is no genuine issue as to any material fact and Plaintiffs are entitled to judgment as a matter of law against both Defendants;

IT IS FURTHER ORDERED, ADJUDGED and DECREED, and the Court so declares, pursuant to N.C.G.S. §1-253 et seq., that the subject property described in and attached to Plaintiffs' Amended Complaint has been and continues to be subject to the offer of dedication by George W. Pack and the acceptance of said offer by the Board of Commissioners of Buncombe County, North Carolina, and that said land shall only be used for purposes consistent with said dedication and acceptance.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Defendants are hereby permanently enjoined from allowing the subject property to be used in any way inconsistent with the dedication and this Judgment.

THIS, the 12<sup>th</sup> day of September, 2008.

  
HONORABLE J. MARLENE HYATT  
JUDGE PRESIDING, SUPERIOR COURT  
BUNCOMBE COUNTY, NORTH CAROLINA