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Dav. Co. Chancery Court

IN THE CHANCERY COURT FOR THE TWENTIETH JUDICIAL DISTRICT
AT NASHVILLE, DAVIDSON COUNTY, TENNESSEE

WAL-MART STORES EAST, LP COMPANY

Plaintiff,

v.

NORTH EDGEFIELD ORGANIZED NEIGHBORS, INC.,

Defendant.

Case No.: 12-446-IV

FILED
2014 JUN 26 AM 9:2
CLERK & MASTER
DAVIDSON CO CHANCERY
D.C.

BILL GARRETT, Davidson County
Trans:T20140045652 ORDER
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Fees:27.00 Taxes:0.00
20140626-0056208

ORDER VESTING FEE SIMPLE TITLE OF LAND IN WAL-MART STORES EAST, L.P. COMPANY

Pursuant to a Quitclaim Deed, dated November 17, 2008, Wal-Mart Stores East, LP, a Delaware limited partnership ("Wal-Mart") conveyed to North Edgefield Organized Neighbors, a Tennessee non-profit corporation ("NEON") a parcel of improved property consisting of 0.278 acres located at 1220 Gallatin Avenue, Nashville, Davidson County, Tennessee (the "Property"). That Quitclaim Deed was recorded on December 9, 2009 with the Register's Office of Davidson County - - Instrument No. 2009 1209-0112646. The specific property description of the Property is attached as **Exhibit A** to this Order.

The Quitclaim Deed provided that if a Casualty (as defined in the Quitclaim Deed) occurred at the Property, title would revert, in fee simple, to Wal-Mart. The Quitclaim Deed defined Casualty to include a fire resulting in damage to all or substantially all of the firehall located on the Property. On December 1, 2011 a fire occurred that resulted in damage to all or substantially all of the firehall located on that Property.

Dispute as to title ensued as between Wal-Mart and NEON. This action was filed by Wal-Mart to quiet title as to the Property and have title, in fee simple, declared in its name. On May 6, 2013, this Court entered an Order in this action which granted Wal-Mart's Motion for

Summary Judgment and found that there was no dispute that the December 1, 2011 fire resulted in damage to all or substantially all of the firehall located on the Property. This Court further held that title to the Property reverted to Wal-Mart and that fee simple title was to be placed in Wal-Mart's name.

NEON appealed this Court's May 6, 2013 Order to the Tennessee Court of Appeals (# M2013-01351-COA-R3-CV). On December 17, 2013, the Tennessee Court of Appeals entered an opinion that affirmed this Court's May 6, 2013 Order. NEON then applied for permission to further appeal to the Tennessee Supreme Court (# M2013-013510SC-R11-CV). On May 15, 2014, the Tennessee Supreme Court denied NEON's application.

Before this Court is Wal-Mart's Motion (filed May 30, 2014) requesting entry of an order divesting title in the Property from NEON and vesting title, in fee simple, in the name of Wal-Mart. This Court has the specific authority to order that title to the Property be divested from NEON and vested in Wal-Mart. T. C. A. § 16-1-108; Rule 70 Tenn.R.Civ.P. Since this Court's May 6, 2013 Order finds Wal-Mart as fee simple titled owner of the Property, since NEON has exhausted all appeals of that Order unsuccessfully, and since NEON has not filed any opposition to Wal-Mart's Motion the Court finds Wal-Mart's Motion well-taken and GRANTS same.

Accordingly, it is ORDERED as follows:

1) Any and all title or claim once held, or currently asserted, by North Edgefield Organized Neighbors, Inc. (or anyone claiming on its behalf) to the Property described in **Exhibit A**, including improvements or structures thereon, is hereby extinguished and/or divested;

2) Title, in fee simple, to the Property described in **Exhibit A**, including all improvements or structures thereon, is hereby vested in Wal-Mart Stores East, LP;

3) The Clerk and Master shall provide to Wal-Mart, or its counsel, a certified copy of this Order for purposes of recording in the Register's Office of Davidson County, Tennessee the fee simple title to the Property held in Wal-Mart's name;

4) Upon recording, the certified copy of this Order shall have the full force and effect of a registered deed placing fee simple title in the name of Wal-Mart Stores East, LP (see T. C. A. § 16-1-109); and

5) All court costs attendant to this matter are taxed as against NEON for which execution may issue for collection.

Because this Order will be registered in the Register's Office of Davidson County, Tennessee to evidence vesting of fee simple title to the Property (and all improvements and structures thereon) in Wal-Mart Stores East, LP, the following is set forth in relation to the future administration of property taxes with respect to the Property:

Property Address:

Tax Parcel Identification 072 13 0 459.0
0.278 acres
1220 Gallatin Avenue
Nashville, TN 37206

Name and Address of Property Owner:

Wal-Mart Stores East, LP
2001 S.E. 10th Street
Bentonville, AR 72712-6489

Mail Tax Bills To:

Wal-Mart Stores East, LP
Property Tax Department
Ref. Store # 3017-00
P.O. Box 8050
Attn: MS 0555
Bentonville, AR 72716-8050
Tax Parcel ID 072 13 0 459.0

It is so ORDERED this the _____ day of June 2014.

Russell T. Perkins

Honorable Russell T. Perkins, Chancellor

I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF ORIGINAL INSTRUMENT FILED IN MY OFFICE.
THIS 25th DAY OF June 2014
CRIS SCOTT, CLERK & MASTER
BY _____ DEPUTY

Submitted for Entry:

J. Graham Matherne

J. Graham Matherne, (BPR# 11294)
WYATT, TARRANT & COMBS, LLP
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Counsel for Plaintiff Wal-Mart Stores East, LP

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing pleading was served via facsimile transmission (297-6005) and via first-class mail, postage prepaid, on Joseph Howell Johnston, P.O. Box 120874, Acklen Station, Nashville, TN 37212 on June 19, 2014.

J. Graham Matherne

61180393.1

EXHIBIT "A"

Legal Description

A tract of land in the City of Nashville, Davidson County, Tennessee, being Lot 2 on the Plan of Final Plat Wal-Mart Neighborhood Market, of record in Instrument No. 20041129-0141459, in the Register's Office of Davidson County, Tennessee, which tract is more particularly bounded and described as follows to wit:

Beginning at an iron rod set in the westerly right-of-way of Gallatin Avenue, approximately 200 feet south of the center of Douglas Avenue, being the southeast corner of the Kenneth Wayne Hackney, Sr. and Linda Darlene Hackney property of record as Instrument Number 20031202-0173473, R.O.D.C.;

Thence with Gallatin Avenue right-of-way South 23° 59' 48" West, 80.63 feet to a chiseled "X" set at the northeast corner of Kenneth Wayne Hackney, Linda Darlene Hackney property of record as Instrument Number 20011003-0107438, R.O.D.C.;

Thence North 70° 17' 00" West, 16.19 feet;

Thence northwesterly with a curve to the left 32.23 feet, said curve having a radius of 133.00 feet, a delta of 13° 53' 00" and a chord of 32.15 feet at North 77° 13' 30" West;

Thence North 84° 10' 00" West, 68.10 feet;

Thence northwesterly with a curve to the right 21.99 feet, said curve having a radius of 14.00 feet, a delta of 90° 00' 00" and a chord of 19.80 feet at North 39° 10' 00" West;

Thence North 84° 10' 00" West, 35.45 feet;

Thence North 05° 51' 17" East, 56.77 feet to the southerly boundary of the aforementioned Hackney property;

Thence with said boundary South 83° 36' 04" East, 190.31 feet to the beginning.

Containing 12,114 square feet or 0.278 acre, more or less, according to the survey by John M. Duffer, R.L.S. Number 1431, of Gresham Smith and Partners, 1400 Nashville City Center, Nashville, TN 37219, dated November 10, 2003, last revised October 27, 2004, bearing file number 21678.22.

Being the same property conveyed to North Edgefield Organized Neighbors, a Tennessee non-profit corporation from Wal-Mart Stores East, LP, a Delaware limited partnership, by Quitclaim Deed dated November 17, 2008, of record in Instrument No. 20091209-0112646 in the Register's Office of Davidson County, Tennessee.