

KNOX COUNTY COURT OF COMMON PLEAS, MOUNT VERNON, OHIO 43050

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**IN THE COURT OF COMMON PLEAS  
KNOX COUNTY, OHIO**

STATE OF OHIO, EX REL.

PLAINTIFF,

-vs-

THE LANDINGS PROPERTY  
ASSOCIATION, INC., ET AL.

DEFENDANTS.

Case No. 20IN06-0149

Judge Richard D. Wetzel

**INTERIM ORDER FOR APPOINTMENT OF RECEIVER FOR THE LANDINGS  
PROPERTY OWNERS ASSOCIATION, INC.**

This matter came before the Court on October 3, 2024 for a hearing for the appointment of a receiver in the case, and for a hearing on the State's motion for additional interim risk reduction measures to maintain the safety of the Knox Cattle Company Dam (the "Dam").

This is a civil action for declaratory judgment and injunctive relief, under Ohio's declaratory judgment statute, Ohio Revised Code Chapter 2721 and Civil Rule 57 (Third Amended Complaint filed April 3, 2023, para. 32, and Count One), to enforce Ohio's dam safety laws under Ohio Revised Code Chapter 1521, and Ohio Administrative Code Section 1501:21, and for preliminary and permanent injunctive relief (Third Amended Complaint, Count Two), and to order the owner of the Dam to remedy the violations of the dam safety laws. The Third Amended Complaint seeks a declaration of the owners of the Dam who have responsibility to comply with Ohio's dam safety laws. In addition, the Third Amended Complaint seeks an order that the owners of the Dam as declared by the Court bring the dam into compliance with Ohio's dam safety laws, and to pay all costs

incurred in performing interim risk reduction measures to protect the public health and safety.

The Defendant City of Mount Vernon (the "City") is a necessary party in the case because it implements the city's Stormwater Management and Erosion and Sedimentation Control Program pursuant to Chapter 920 of the Codified Ordinances of the City of Mount Vernon.

The defendants in the Third Amended Complaint include The Landings Property Owners Association, Inc., an Ohio non-profit corporation. Service upon this defendant was completed on August 19, 2024 pursuant to Ohio Revised Code Section 1702.06(H), because the named statutory agent cannot be found.

Other defendants in the Third Amended Complaint include Mullins Bros., Ltd., an Ohio limited liability company (hereinafter "Mullins Bros."). Mullins Bros. was the real estate developer in a residential subdivision in the city of Mount Vernon referred to as The Landings. Additional defendants named in the Third Party Complaint are The Landing Phase VII Lot Owners ("Phase VII Lot Owners") and The Landing Phase VIII Lot Owners ("Phase VIII Lot Owners"). The Phase VII Lot Owners and the Phase VIII Lot Owners are the owners of individual lots in The Landings development.

On September 23, 2024 this Court granted partial summary judgment in the case, finding that The Landings Property Owners Association, Inc. is the owner of the lake and the Dam. This finding will obligate the corporation to comply with Ohio's dam safety laws, and to pay for the costs of bringing the Dam into compliance with the dam safety laws.

The Long Defendants have filed a motion for the appointment of a receiver for the corporation. The City has likewise filed a motion for the appointment of a receiver for the corporation. The State has filed a motion for additional interim risk reduction measures to repair the Dam and to protect the health and safety of the residents and the community.

The City and the Long Defendants have stated legal grounds and factual basis for the need for the appointment of a receiver for the corporation in their respective motions. The Court finds the motions well-taken as to the grounds for the appointment of a receiver.

After a hearing on the motions for the appointment of a receiver, and the statements and arguments of counsel and the parties present, the Court Orders that Jack Harris and Intercept Management Corp. be appointed receiver for The Landings Property Owners Association, Inc. (the "corporation") pursuant to R.C. 2735.01, *et seq.* effective immediately upon the entry of this Order and the entry of the oath of the receiver, and the posting of a surety bond in the amount of \$100,000 with the Clerk of Court.

The powers of the receiver shall be as set forth in the orders of this court, and as those powers may be modified by the court or as otherwise approved by the court upon application of the receiver or a party to the action.

Under the control of the court as provided in section 2735.01 of the Revised Code, the receiver may do any of the following:

- (1) Bring and defend actions in the receiver's own name as receiver;
- (2) Take and keep possession of real or personal property;
- (3) Collect assessments, rents and other obligations, and compromise demands;

(4) Enter into contracts, including, but not limited to contracts of sale, lease, loans or encumbrances, or, so long as existing lien rights will not be impacted, contracts for construction and for the completion of construction work for the interim risk reduction measures and remediation of the Dam to achieve compliance with all applicable laws and regulations;

(5) Sell and make transfers of real or personal property;

(6) Execute deeds, leases, mortgages or other documents of conveyance or encumbrance of real or personal property, including but not limited to the encumbrance of assessments imposed and collected;

(7) Open and maintain deposit accounts in the receiver's name;

(8) Generally do any other acts that the court authorizes.

Any funds that are expended by or on behalf of the receiver, including receivership fees, fees for professionals assisting the receivership, and those expended in entering into or performing contracts under this Order and as it may be modified in the future, including those for the completion of construction work authorized by the court, shall be taxed as court costs or otherwise treated as an administrative expense of the action.

The Receiver is ordered to do the following and to file an interim report with the Court within 30 days of this order:

1. Work with and make application to the City in the most expedient process to secure and encumber available funds that have been earmarked for the repair and maintenance of the Dam, Out of those funds, the City shall set aside immediately the sum of \$70,000.00 to be reserved for fees and expenses of the receiver, to be

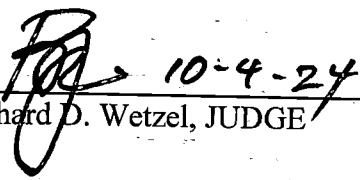
released from time to time upon application of the receiver and pursuant to orders of this Court.

2. Seek and obtain public or private financing to complete the needed remediation and repairs for the Dam and any ongoing maintenance to bring it into compliance with Ohio's dam safety laws.
3. Seek input from the Phase VII and Phase VIII Lot Owners as to the design and financing of any construction, remediation, and improvements to the Dam.
4. Implement essential interim risk reduction measures for the maintenance of the Dam in accordance with recommendations from the Ohio Department of Natural Resources, and the City of Mount Vernon and in compliance with further orders of this Court.
5. Reinstate the corporation, and establish governance for the operation of the corporation in accordance with the Ohio Revised Code, and in collaboration with the Defendant Mullins Bros., including any amendment to the articles of incorporation deemed necessary by the receiver in order to comply with the terms and conditions of this Order and the Declarations of Building and Development Restrictions applicable to the Phase VII and Phase VIII lots.
6. Work with the Defendant Mullins Bros., and with the defendants Phase VII and Phase VIII Lot Owners, to organize and to establish rules and regulations for the governance and the operations of a homeowners association in accordance with the Ohio Revised Code, and pursuant to the Declarations of Building and Development Restrictions which this Court has found are binding upon Mullins Bros. and the Phase VII and Phase VIII Lot Owners, and to achieve full

compliance with and enforcement of those Declarations of Building and Development Restrictions.

7. Determine needed assessments on the Phase VII and Phase VIII Lot Owners pursuant to the Declarations of Building and Development Restrictions in order to comply with the terms of this Order, and work with the City to implement a mechanism to levy and collect those assessments in accordance with the Declarations of Building and Development Restrictions, and in accordance with Chapter 920 of the Codified Ordinances of the City of Mount Vernon to finance the design and construction of any remediation and improvements to the Dam.
8. Defendant Mullins Bros. is ordered to deposit with the Clerk of Court, within 10 days of this Order, the sum of \$20,000 for costs of this action, and to be applied to the fees and expenses of the receivership, to be paid upon motion by the receiver and after hearing and further Order of this Court.
9. The Court sets this matter for further status hearing on November 4, 2024 at 1:30 p.m.

**IT IS SO ORDERED.**

  
Richard D. Wetzel, JUDGE

cc:

All parties and/or counsel of record