



**2015017347 00102**

FORSYTH CO, NC FEE \$26.00  
PRESENTED & RECORDED

05-15-2015 11:09:28 AM

C. NORMAN HOLLEMAN

REGISTER OF DEEDS  
BY LORI HOLLOWAY

DPTY

**BK: RE 3230**

**PG: 3789-3790**

Prepared by and return to: Jason T. Campbell  
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280 S Mangum Street, Suite 400  
Durham, NC 27701

**ENVELOPE**

NORTH CAROLINA  
FORSYTH COUNTY

DEPARTMENT OF TRANSPORTATION,  
Plaintiff

v.

JANE W. WHICKER and husband, Larry W. WHICKER;  
BETSY SOUTHERN and husband, DARRON SOUTHERN  
Defendant

**MEMORANDUM OF ACTION**

(Inverse Condemnation G.S. 136-111)  
Re 14 CVS 2966 (Forsyth County)

**Take Notice:**

1. On May 12, 2014, the Department of Transportation filed the above captioned condemnation in Forsyth County Superior Court which was given a file number 14 CVS 2966.
2. As a result of the above condemnation filing, the Department of Transportation filed a Memorandum of Action in Book 3178, page 1729 and filed a Supplemental Memorandum of Action at Book 3193, page 170 in the Forsyth County Registry. The present Memorandum of Action incorporates by reference the information contained in the Department of Transportation's aforesaid Memorandum of Action and Supplemental Memorandum of Action.

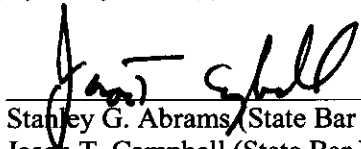
3. In *Kirby v. North Carolina Department of Transportation*, \_\_\_ N.C. App \_\_\_, 769 S.E.2d 218 (2015) the North Carolina Court of Appeals held that A) the Transportation Corridor Official Map Act empowered NCDOT with the right to exercise the State's power of eminent domain, and B) the NCDOT exercised its power of eminent by filing transportation corridor maps in accordance with provisions of the Map Act.
4. In the present case, the NCDOT filed a transportation corridor map pursuant to the Map Act encumbering the subject property on November 28, 2008. It is recorded within the defendant's chain of title at the Register of Deeds in Book 2863, Page 3866, Forsyth County Registry.
5. The filing of the aforesaid transportation corridor map took a temporary easement/regulatory taking encumbering the subject property between the date it was filed and the date of taking herein (The date the NCDOT filed its Complaint, Declaration of Taking, and Notice of Deposit herein).
6. The NCDOT did not allege this temporary taking when it filed its Complaint, Declaration of Taking, Notice of Deposit, and Memorandum of Action herein.
7. Consequently, the Defendants are filing this Inverse Condemnation pursuant to G.S. § 136-111 and N.C. Constitution, Article I § 19.

This the 11 day of May, 2015.

**NC EMINENT DOMAIN LAW FIRM**

*Attorneys for Defendant(s)*

By:

  
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