

ESPERANZA LAND, LLC

NUMBER: 78118, DIVISION E

VERSUS

29TH JUDICIAL DISTRICT COURT

310 INVESTMENTS, LLC

PARISH OF ST. CHARLES

STATE OF LOUISIANA

Filed: August 15, 2017
in open court

CONSENT JUDGMENT
(ON THE MERITS)

Jay Armstrong
Clerk

This matter came for consideration by consent of the parties pursuant to the Stipulation filed this date in these proceedings.

Present in Court were: Robert L. Raymond, Attorney at Law, counsel for Esperanza Land, LLC ("Esperanza"); and William C. Shockey, Shockey & Associates, counsel for 310 Investments, LLC ("310").

Considering the evidence adduced at the hearing of the preliminary injunction in this case on April 10, 2015 and April 29, 2015, the testimony and documents received into evidence at the trial on the merits held in these proceedings on October 7, 2016, the granting of the Motion for Partial New Trial of 310 Investments, LLC, and the Stipulation filed in the record of these proceedings:

IT IS ORDERED, ADJUDGED, AND DECREED that that a permanent injunction issue herein restraining, enjoining, and prohibiting 310 Investments, LLC, its agents, successors, or assigns, as well as any future owner of Lot 3 of the Esperanza Business Park from constructing, placing or developing a heliport on Lot 3 of the Esperanza Business Park, which is more fully described as follows:

ONE CERTAIN LOT OR PORTION OF GROUND, together with all of the buildings and improvements thereon, and all of the rights, ways, privileges, servitudes and advantages thereunto belonging or in anywise appertaining, situated in the Parish of St. Charles, State of Louisiana, in that part thereof known as ESPERANZA BUSINESS PARK PHASE I as shown on a Final Plat by Stephen P. Flynn, dated January 16, 2006, entitled "ESPERANZA BUSINESS PARK PHASE I, survey plat and resubdivision of Tract 4C, Tract 40-1-A, Tract 100-1 & Tract 10A-2 of Sugarland Subdivision into lots herein designated as Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 1A, 2A, 1B, 2B, 3B, 4B & Tract 10D-1A of Esperanza Business Park, Phase I, situated in Section 1, 97-102, & 121, T-13-S, R-20-E, Luling St. Charles Parish, Louisiana", which Final Plat was recorded at COB 680, folio 650, Entry No. 324333 of the official records of St. Charles Parish. And according to

the aforementioned Final Plat, the property described herein is designated as LOT 3, which bear the dimensions more fully shown on the above-referenced Final Plat.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that a declaratory judgment issue herein that construction, development, and operation of a heliport on Lot 3 of the Esperanza Business Park is a violation of the Declaration of Building Restrictions for Esperanza Business Park, dated April 12, 2006, recorded in the Official Records of St. Charles Parish, on May 17, 2006, under Entry No. 318366, at Conveyance Book 669, Folio 109 thereof (the "Restrictions").

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that current and future owners of Lot 3 of Esperanza Business Park are expressly prohibited from exercising any rights of use conferred under (1) an "AV-1" zoning classification as provided for under the ordinances of St. Charles Parish and (2) the Special Use Permit issued to 310 Investments, L.L.C. by the St. Charles Parish Department of Planning and Zoning, that are inconsistent with the Restrictions, for as long as the Restrictions remain in effect.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Reconventional Demand of 310 Investments, LLC is dismissed with prejudice.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that 310 Investments, LLC be and is hereby ordered and compelled to make application to the St. Charles Parish Department of Planning and Zoning, within thirty (30) days of the execution of this Judgment, to re-zone Lot 3 of Esperanza Business Park from AV-1 zoning to M-1 zoning and, further, to pursue such zoning change with reasonable diligence and in good faith.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that there be Judgment entered herein, in favor of Esperanza Land, L.L.C. and against 310 Investments, LLC, in the full and true sum of Seventy-Five Thousand and No/100 (\$75,000.00) Dollars in full and final satisfaction of the claims of Esperanza against 310 for all costs and attorney's fees incurred by Esperanza arising from these proceedings on the matters at issue in these proceedings as set forth in Esperanza's Petition herein. The

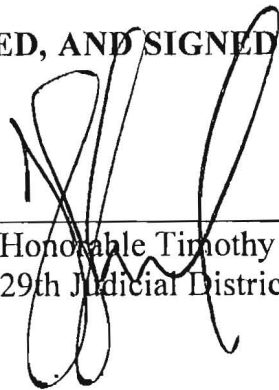
sum of Seventy-Five Thousand and No/100 (\$75,000.00) Dollars shall be payable in five (5) installments of Fifteen Thousand and No/100 (\$15,000.00) Dollars each, the first of which is due and payable on June 1, 2017, with the remaining installments to be due the first day of each month thereafter until all have been paid.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Personal Surety Bond, dated March 27, 2015, given by Debra Dufresne Vial as security for any wrongful issuance of the temporary restraining order herein, shall be canceled and that Debra Dufresne Vial be released from any liability under such bond.

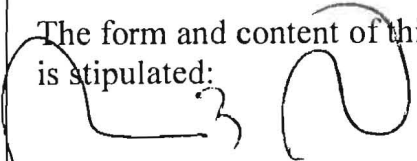
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that except as otherwise provided for herein, each party shall bear its own attorneys' fees, expert witness fees, and costs of court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to the terms of the Stipulation, this Judgment is entered by consent and shall be final and not subject to appellate review.

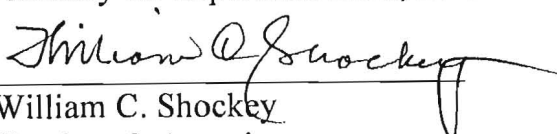
JUDGMENT READ, RENDERED, AND SIGNED, in open court, this 10th day of August, 2017 at Hahnville, Louisiana.


Honorable Timothy Marcel, Judge
29th Judicial District Court

The form and content of this Judgment is stipulated:

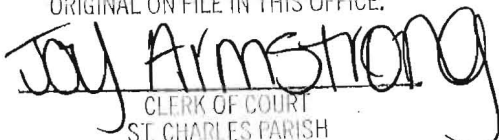

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Attorney for Esperanza Land, L.L.C.


William C. Shockey
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Attorney for 310 Investments, LLC

STATE OF LOUISIANA
PARISH OF ST CHARLES
I HEREBY CERTIFY THAT THE WITHIN
AND FOREGOING IS A TRUE COPY OF THE
ORIGINAL ON FILE IN THIS OFFICE.


CLERK OF COURT
ST. CHARLES PARISH

ESPERANZA LAND, L.L.C.

NUMBER: 78118, DIVISION E

VERSUS

29TH JUDICIAL DISTRICT COURT

310 INVESTMENTS, LLC

PARISH OF ST. CHARLES

STATE OF LOUISIANA

Filed: August 10, 2017
IN OPEN COURT

Jay Armstrong
Clerk

STIPULATION

NOW INTO COURT, through undersigned counsel, come the plaintiff herein, Esperanza Land, L.L.C. ("Esperanza") and the defendant, 310 Investments, LLC, ("310"), who respectfully present this Stipulation to the Court, to-wit:

1.

On October 7, 2016, this matter came for trial on the merits pursuant to regular setting.

2.

Thereafter, on November 17, 2016, this Court entered its Judgment and Incorporated Reasons granting a permanent injunction herein as well as other relief as more particularly set forth therein.

3.

Notice of Judgment was not served upon counsel for 310 until December 12, 2016.

4.

On or about December 15, 2016, 310 timely filed its Motion for Partial New Trial seeking a partial new trial herein with respect to the Judgment and Incorporated Reasons.

5.

During the pendency of the Motion for Partial New Trial, Esperanza and 310 have negotiated a compromise of their respective differences which they desire to be memorialized by Judgment of this court.

6.

Esperanza and 310 have agreed that a consent judgment will be entered herein granting the Motion for Partial New Trial, that this Stipulation will be submitted and that

a Judgment will be entered herein by consent in lieu of a new trial, which judgment will be final and non-appealable.

7.

Accordingly, Esperanza and 310 hereby stipulate as follows:

8.

Considered for purposes of this Judgment shall be the following:

- A. All testimony and documents received in evidence at the hearing of the preliminary injunction of this case held on April 10, 2015 and April 29, 2015; and
- B. All testimony and documents received in evidence at the trial on the merits held in these proceedings on October 7, 2016; and
- C. This Stipulation.

9.

Given the foregoing, Esperanza and 310 stipulate that a permanent injunction issue herein restraining, enjoining, and prohibiting 310 Investments, LLC, its agents, successors, or assigns, as well as any future owner of Lot 3 of the Esperanza Business Park from constructing, placing or developing a heliport on Lot 3 of the Esperanza Business Park, which is more fully described as follows:

ONE CERTAIN LOT OR PORTION OF GROUND, together with all of the buildings and improvements thereon, and all of the rights, ways, privileges, servitudes and advantages thereunto belonging or in anywise appertaining, situated in the Parish of St. Charles, State of Louisiana, in that part thereof known as ESPERANZA BUSINESS PARK PHASE I as shown on a Final Plat by Stephen P. Flynn, dated January 16, 2006, entitled "ESPERANZA BUSINESS PARK PHASE I, survey plat and resubdivision of Tract 4C, Tract 40-1-A, Tract 100-1 & Tract 10A-2 of Sugarland Subdivision into lots herein designated as Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 1A, 2A, 1B, 2B, 3B, 4B & Tract 10D-1A of Esperanza Business Park, Phase I, situated in Section 1, 97-102, & 121, T-13-S, R-20-E, Luling St. Charles Parish, Louisiana", which Final Plat was recorded at COB 680, folio 650, Entry No. 324333 of the official records of St. Charles Parish. And according to the aforementioned Final Plat, the property described herein is designated as LOT 3, which bear the dimensions more fully shown on the above-referenced Final Plat.

10.

Esperanza and 310 further desire that a declaratory judgment issue herein that construction, development, and operation of a heliport on Lot 3 of the Esperanza Business Park is a violation of the Declaration of Building Restrictions for Esperanza Business Park, dated April 12, 2006, dated April 12, 2006, recorded in the Official Records of St. Charles Parish on May 16, 2006, under Entry No. 318366 at Conveyance Book 669, Folio 109 thereof (the "Restrictions").

11.

Esperanza and 310 further stipulate that judgment issue herein that current and future owners of Lot 3 of Esperanza Business Park are expressly prohibited from exercising rights of use conferred under an "AV-1" zoning classification as provided for under the ordinances of St. Charles Parish and the Special Use Permit issued to 310 by the St. Charles Parish Department of Planning and Zoning that are inconsistent with the Restrictions for as long as the Restrictions remain in effect.

12.

Esperanza and 310 further stipulate that the Reconventional Demand of 310 be dismissed, with prejudice.

13.

Esperanza and 310 further stipulate that judgment issue herein ordering and compelling 310 Investments, LLC to make application to the St. Charles Parish Department of Planning and Zoning within thirty (30) days of the execution of judgment pursuant to this Stipulation, to re-zone Lot 3 of Esperanza Business Park from AV-1 zoning to M-1 zoning and to pursue such zoning change with reasonable diligence and in good faith.

14.

Esperanza and 310 further stipulate that Judgment be entered herein in favor of Esperanza and against 310 in the full and true sum of \$75,000 in full and final satisfaction of the claims of Esperanza against 310 for all costs and attorney's fees incurred by Esperanza arising from these proceedings or the matters at issue in these

proceedings as set forth in Esperanza's Petition herein, which sum Esperanza agrees to accept in full and final satisfaction of such claims. Esperanza and 310 further stipulate that the sum of \$75,000 shall be payable in five (5) installments of \$15,000 each, the first of which was due and payable on June 1, 2017, the second of which was due and payable on July 1, 2017. The receipt and sufficiency of the first two (2) installments is acknowledged by Esperanza, who grants full discharge and acquittance therefor, with the remaining installments to be due the first day of each month thereafter until all have been paid.

15.

Esperanza agrees that upon receipt by it of the sum of \$75,000, it will execute a receipt and release therefor as well as the usual and customary documents required to cancel the inscription of the judicial mortgage that will result from recordation of the judgment entered pursuant to this Stipulation; however, the judgment, in all other respects shall remain in full force and effect.

16.

310 agrees that the Personal Surety Bond, dated March 27, 2015, given by Debra Dufresne Vial as security for any wrongful issuance of the temporary restraining order herein, shall be canceled and that Debra Dufresne Vial be released from any liability under such bond.

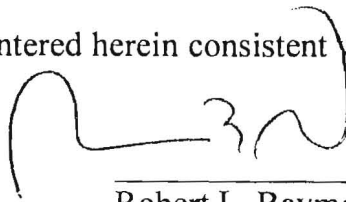
17.

Esperanza and 310 agree that except as otherwise provided for herein, both Esperanza and 310 shall each bear their own attorneys' fees, expert witness fees, and costs of court.

18.

Esperanza and 310 further stipulate that the judgment entered herein pursuant to this Stipulation shall be final and not subject to appellate review.

WHEREFORE, Esperanza Land, L.L.C. and 310 Investments, LLC pray that a final judgment be rendered and entered herein consistent with the foregoing Stipulation.



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Attorneys for 310 Investments, LLC

ESPERANZA LAND, LLC

NUMBER: 78118, DIVISION E

VERSUS

29TH JUDICIAL DISTRICT COURT

310 INVESTMENTS, LLC

PARISH OF ST. CHARLES

Filed: August 10, 2017
In open court

STATE OF LOUISIANA

Jay Armstrong
by clerk

CONSENT JUDGMENT ON MOTION FOR PARTIAL NEW TRIAL

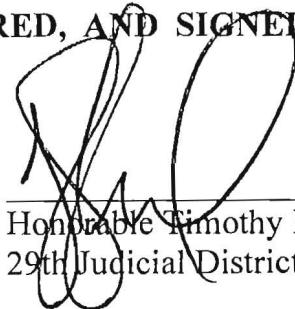
This matter came for hearing pursuant to regular assignment upon the Motion for Partial New Trial filed in these proceedings on behalf of the defendant, 310 Investments, LLC.

Present in Court were: Robert L. Raymond, Attorney at Law, counsel for Esperanza Land, LLC ("Esperanza"); and William C. Shockey, Shockey & Associates, counsel for 310 Investments, LLC ("310").

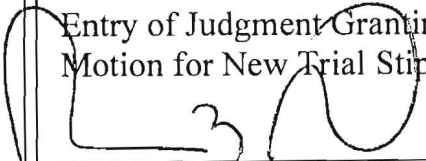
Considering the premises of the Motion for Partial New Trial, and the stipulation of the parties as reflected by the signatures of their counsel below:

IT IS ORDERED that the Motion for Partial New Trial of 310 Investments, LLC, be granted.

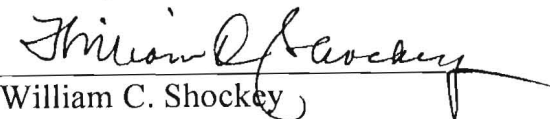
JUDGMENT READ, RENDERED, AND SIGNED this 10th day of August, 2017.


Honorable Timothy Marcel, Judge
29th Judicial District Court

Entry of Judgment Granting
Motion for New Trial Stipulated:

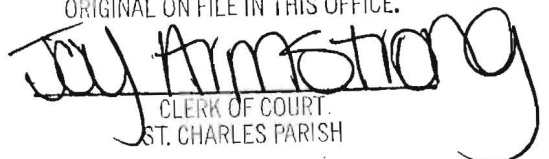

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Attorney for 310 Investments, LLC

STATE OF LOUISIANA
PARISH OF ST CHARLES
I HEREBY CERTIFY THAT THE WITHIN
AND FOREGOING IS A TRUE COPY OF THE
ORIGINAL ON FILE IN THIS OFFICE.


CLERK OF COURT,
ST. CHARLES PARISH