

cc: KKS, KUB, clients

DISTRICT COURT, PARK COUNTY, COLORADO

Court Address: Park County District Court
300 - 4th Street
Fairplay, Colorado 80440

Petitioner:

WILL-O-WISP METROPOLITAN DISTRICT, a quasi-municipal corporation of the State of Colorado,

v.

Respondents (Lot 134):

MAGNESS LAND HOLDINGS LLC, a Colorado limited liability company; FIRSTBANK OF EVERGREEN; FIRSTBANK OF CHERRY CREEK; NORTH FORK ASSOCIATES, a limited partnership; WOODSIDE LTD., a Colorado corporation; WOODSIDE PARK UNIT 5 HOMEOWNERS' ASSOCIATION, a/k/a WOODSIDE PARK UNITS 5 AND 6 HOMEOWNERS' ASSOCIATION, a Colorado non-profit corporation; and MICHELLE A. MILLER, in her official capacity as the Treasurer of Park County and as the Public Trustee of Park County,

v.

Respondents (Lot 133):

MARY L. WINDEMULLER; DOUGLAS L. WINDEMULLER; FIRSTBANK OF EVERGREEN; FIRSTBANK OF CHERRY CREEK; MOUNTAIN MUTUAL RESERVOIR COMPANY; NORTH FORK ASSOCIATES; WOODSIDE LTD., a Colorado corporation; WOODSIDE PARK UNIT 5 HOMEOWNERS' ASSOCIATION, a/k/a WOODSIDE PARK UNITS 5 AND 6 HOMEOWNERS' ASSOCIATION, a Colorado non-profit corporation; and MICHELLE A. MILLER, in her official capacity as the Treasurer of Park County and as the Public Trustee of Park County,

v.

Respondents (Lot 131):

THE DAVID WILLIAM BROWN LIVING TRUST, a Colorado Trust; GAIL MARIE BROWN LIVING TRUST; CHARLES SCHWAB BANK, N.A.; WOODSIDE LTD., a Colorado corporation; WOODSIDE PARK UNIT 5 HOMEOWNERS' ASSOCIATION, a/k/a WOODSIDE PARK UNITS 5 AND 6 HOMEOWNERS' ASSOCIATION, a Colorado non-profit corporation; and MICHELLE A. MILLER, in her official capacity as the Treasurer of Park County and as the Public Trustee of Park County.

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▲ COURT USE ONLY ▲

Case Number: 06-CV-320

Division B

Karen L. Brody, No. 27215
Kenneth K. Skogg, No. 17053
LOWE, FELL & SKOGG LLC
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**STIPULATION FOR IMMEDIATE POSSESSION
(WOODSIDE)**

Petitioner, the Will-O-Wisp Metropolitan District ("Petitioner") and Respondents Woodside Park Unit 5 Homeowners' Association, a/k/a Woodside Park Units 5 and 6 Homeowners' Association ("Woodside"), hereby stipulate and agree to the Petitioner's immediate possession and condemnation of the property described in the First Amended Petition in Condemnation upon the following terms and conditions:

1. In this Condemnation Action, Petitioner seeks to condemn certain property in fee ("the Fee Take"), certain permanent easements ("the Permanent Easement Take") and certain temporary construction easements ("the Temporary Easement Take"), all as defined in Exhibits A, B and C, attached to and incorporated into the First Amended Petition in Condemnation.

2. Woodside claims an interest in the Fee Take, Permanent Easement Take and the Temporary Easement Take by virtue of certain instruments of record, including: (a) Declarations of Covenants, Conditions and Restrictions dated November 27, 1979 and recorded December 3, 1979 in book 304 at page 858 of the real property records of the Park County Clerk and Recorder and all Amendments thereto and (b) Woodside Park Unit 5 Plat, approved by the Park County Board of County Commissioners and recorded on December 4, 1979 at Reception No. 281451 in the real property records of the Park County Clerk and Recorder and all Amendments thereto. The documents identified in this paragraph are collectively identified as the "HOA Documents."

3. Petitioner and Woodside stipulate and agree that so far as Woodside's interest in these proceedings goes, this Condemnation Action shall be limited exclusively as set forth herein. The Fee Take property will be permanently excluded from Woodside, such that the HOA Documents will no longer apply to the Fee Take. The Permanent Easement Take property will be excluded from Woodside and the HOA Documents will no longer apply to the Permanent Easement Take to the extent of the interest being condemned herein by the Petitioner. Any residual interest in the Permanent Easement Take remaining with the Respondents will also remain with Woodside and be subject to the HOA Documents. Notwithstanding this provision, it is understood by the parties that any enforcement of the HOA Documents against the residual interest shall in no way affect or interfere with the use

and enjoyment of Petitioner's permanent easement. The Temporary Easement Take property will be excluded from application of the HOA Documents only for the duration of the Temporary Easement Take. Immediately upon termination of the Temporary Easement Take by the Petitioner, such property will thereafter be and remain subject to the HOA Documents and will not be excluded. Petitioner agrees that this Condemnation Action does not seek to invalidate or otherwise affect the HOA Documents in favor of Woodside on any property other than the property identified in Exhibits A, B, and C of the First Amended Petition in Condemnation. In other words, the balance of any property subject to the HOA Documents shall remain subject to and be bound by the terms and conditions of the HOA Documents.

4. Petitioner and Woodside stipulate and agree that the terms of Paragraph 3 of this Stipulation will be expressly incorporated into the Rule and Order to be entered in the Condemnation Action. Petitioner agrees that, prior to filing the Rule and Order, it will provide a draft copy to counsel for Woodside for comment and approval in accordance with this Stipulation.

5. By entering into this Stipulation, the parties agree that neither party is waiving any rights that they may have in the separate declaratory judgment lawsuit filed in Park County District Court and referenced as Woodside Park Units 5 and 6 vs. Will-O-Wisp Metropolitan District, Case No. 05-CV-302.

6. Based upon the terms of this Stipulation, Woodside withdraws all of its objections and defenses to the Court granting immediate possession to Petitioner and to the condemnation of the property identified in Exhibit A, Exhibit B and Exhibit C to the First Amended Petition in Condemnation filed in the Condemnation Action.

7. Woodside hereby disclaims any interest in the condemnation proceeds in this Condemnation Action. Petitioner and Woodside stipulate that Woodside shall remain on the service list in this case and shall be provided with copies of all documents filed with the Court in this matter.

8. This Stipulation shall be binding upon Petitioner, Woodside and their successors, and assigns.

9. Petitioner and Woodside hereby request that this Stipulation be approved by and become enforceable as an Order of this Court.

WHEREFORE, Petitioner and Woodside hereby request that the Court adopt the terms and conditions of this Stipulation and enter it as an Order of the Court. A proposed order is filed simultaneously with this stipulation.

FAEGRE & BENSON LLP



/s/ Leslie A. Fields, No. 11232
Attorney for Will-O-Wisp
Metropolitan District

LOWE FELL & SKOGG, LLC



/s/ Kenneth K. Skogg, #17053
Karen Brody, #27215

Attorneys for Woodside Park Unit 5
Homeowners' Association, a/k/a
Woodside Park Units 5 and 6 Homeowners'
Association

In accordance with C.R.C.P. 121 §1-26(9) a printed copy of this document with original signatures is being maintained by the filing party and will be made available for inspection by other parties or the court upon request.

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of February, 2008, a true and correct copy of the foregoing **STIPULATION FOR IMMEDIATE POSSESSION (WOODSIDE)** was sent via JusticeLink to the following:

Todd W. Miller, Esq.
Holland & Hart LLP
90 S. Cascade Ave., Suite 1000
Colorado Springs, CO 80903


Kenneth K. Skogg
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370 17th Street, Suite 4950
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Michael C. Schaefer
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The David William Brown Living Trust
Gail Marie Brown Living Trust
c/o David Brown
665 Meadow Drive
Pine, Colorado 80470

Mark E. May
May & Associates, P.C.
8008 E. Arapahoe Court, Suite 100
Centennial, CO 80112-6839



/s/

DISTRICT COURT, PARK COUNTY, COLORADO

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▲ COURT USE ONLY ▲

Case Number: 06-CV-320

Division B

ORDER GRANTING IMMEDIATE POSSESSION (WOODSIDE)

THIS MATTER having come before the Court on Petitioner, Will-O-Wisp Metropolitan District, and Respondent (Woodside Park Unit 5 Homeowners' Association, a/k/a Woodside Park Units 5 and 6 Homeowners' Association ("Woodside")) Stipulation for Immediate Possession of the property described within Exhibit A, B and C of the First Amended Petition in Condemnation ("Subject Property"), and the Court being fully advised in the premises, does hereby:

ORDER that subject to the terms and conditions of the Stipulation for Immediate Possession between Petitioner and Respondent Woodside, Respondent Woodside withdraws all of its objections and defenses to the granting of immediate possession and to the condemnation of the Subject Property and also disclaims any interest in the condemnation proceeds of the Subject Property. Notwithstanding this disclaimer, Respondent Woodside shall remain on the service list of this case to receive copies of all pleadings. The Rule and Order to be entered in this case shall expressly incorporate the terms and conditions of the Stipulation for Immediate Possession between the parties.

IT IS FURTHER ORDERED that the Stipulation for Immediate Possession between Petitioner and Respondent Woodside is hereby approved and made an Order of this Court, together with all the terms and conditions of the Stipulation.

APPROVED AS TO FORM:

FAEGRE & BENSON LLP

LOWE FELL & SKOGG, LLC

/s/ Leslie A. Fields, No. 11232
Attorney for Will-O-Wisp
Metropolitan District

/s/ Kenneth K. Skogg, #17053
Karen Brody, #27215

Attorneys for Woodside Park Unit 5
Homeowners' Association, a/k/a
Woodside Park Units 5 and 6 Homeowners'
Association

DATED this ____ of _____, 2008

BY THE COURT:

District Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of February, 2008, a true and correct copy of the foregoing **ORDER GRANTING IMMEDIATE POSSESSION (WOODSIDE)** was sent via JusticeLink to the following:

Todd W. Miller, Esq.
Holland & Hart LLP
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Michael C. Schaefer
500 Meadow Drive
Pine, CO 80470
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The David William Brown Living Trust
Gail Marie Brown Living Trust
c/o David Brown
665 Meadow Drive
Pine, Colorado 80470

Mark E. May
May & Associates, P.C.
8008 E. Arapahoe Court, Suite 100
Centennial, CO 80112-6839

/s/ Pamela Hollen

ORDER GRANTING IMMEDIATE POSSESSION (WOODSIDE)

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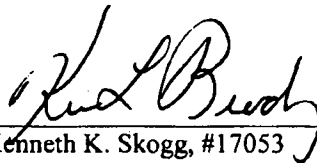
APPROVED AS TO FORM:

FAEGRE & BENSON LLP



/s/ Leslie A. Fields, No. 11232
Attorney for Will-O-Wisp
Metropolitan District

LOWE FELL & SKOGG, LLC



/s/ Kenneth K. Skogg, #17053
Karen Brody, #27215

Attorneys for Woodside Park Unit 5
Homeowners' Association, a/k/a
Woodside Park Units 5 and 6 Homeowners'
Association

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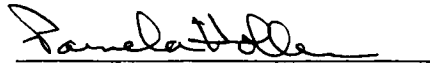
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c/o David Brown
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Mark E. May
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Centennial, CO 80112-6839



Pamela Holler

Anne Van Teyens

From: LexisNexis File & Serve [efile@fileandserve.lexisnexis.com]
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To: Anne Van Teyens
Subject: Case: 2006CV320; Transaction: 18593629 - Notification of Service

Karen L Brody, Kenneth Kent Skogg has allowed you, Anne Van Teyens, to receive a copy of this notification for Transaction ID 18593629. The details for this transaction are listed below.

To: Karen L Brody, Kenneth Kent Skogg
Subject: E-Service for CO Park County District Court 11th JD

Titles:

Entry of Appearance (3 pages)
Stipulation for Immediate Possession (Windemuller) (4 pages)
Order Granting Immediate Possession (Windemuller) (3 pages)
Attorney Signature Page and Certificate of Service Signautre Page for Order Granting Immediate Possession (Windemuller) (2 pages)
Exhibit B to the Order Granting Immediate Possession (Windemuller) (5 pages)
Stipulation for Immediate Possession (Woodside) (5 pages)
Order Granting Immediate Possession (Woodside) (3 pages)
Attorney Signature Page and Certificate of Service Signature Page for Order Granting Immediate Possession (Woodside) (2 pages)
Case: WILL O WISP METROPOLITAN DISTRICT et al vs. MAGNESS LAND HOLDINGS LLC et al Case #: 2006CV320
Date: Feb 13 2008 3:27PM MST
Attorney: Leslie A Fields
Firm: Faegre & Benson LLP-Colorado
Transaction #: 18593629
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