

OCT 24 2022

MARION CO., TN
TIME 12:45 BY VL

THE CHANCERY COURT OF TENNESSEE FOR THE
TWELFTH JUDICIAL DISTRICT
AT JASPER

CHARLES T. KING, III and)
MICHAEL D. KING,)

Plaintiffs,)

v.)

THE CITY OF NEW HOPE, TENNESSEE,)

MARK MEYERS, in his)

official capacity as Mayor)

of New Hope, Tennessee,)

QUINTON CHOATE, in his official)

capacity as Vice-Mayor of New Hope,)

Tennessee, MARK PHILLIPS, in his)

Official capacity as Alderman of New)

Hope, Tennessee, and)

JERRY CROSSLIN, in his official)

capacities as Alderman and Fire Chief of)

New Hope, Tennessee,)

Defendants.)

No. 8310

COMPLAINT

Come the Plaintiffs, Charles T. King III and Michael D. King, and sue the Defendants, the City of New Hope, Tennessee, Mark Meyers, in his official capacity as Mayor of New Hope, Tennessee, Quinton Choate, in his official capacity as Vice- Mayor of New Hope, Tennessee, Mark Phillips, in his official capacity as Alderman of New Hope Tennessee, and Jerry Crosslin, in his official capacities as Alderman and Fire Chief of New Hope, Tennessee, and show the following:

1. The plaintiffs are citizens and residents of Marion County, Tennessee.
2. Defendant New Hope Tennessee (New Hope) is a Tennessee incorporated city.

3. The individual defendants are citizens and residents of Marion County, Tennessee.

4. The individual defendants are officials of New Hope.

5. This action involves real estate owned by the parties located in New Hope, Marion County, Tennessee.

6. Jurisdiction and venue are proper in this Court.

7. The properties that are the subject of this action were, at one time, both owned by the plaintiffs' father, Charles T. King, Jr.

8. By deed of record in the Register's Office of Marion County, Tennessee, Charles T. King, Jr. conveyed a tract (New Hope Property) containing .47 acres to Charles T. King, Jr., J.L. Kennemore, and Guy Allen Frame, Trustees of the New Hope Volunteer Fire Department. A copy of this deed is attached hereto as "Exhibit 1."

9. Upon information and belief, there are no persons presently serving as Trustees of the New Hope Volunteer Fire Department.

10. Charles T. King, Jr. continued to own the property to the east of the New Hope Property which is now owned by the plaintiffs (King Property). When Charles T. King, Jr. died, the King Property was left to Charles T King, Jr.'s three children. His daughter conveyed her interest to her brothers, the plaintiffs.

11. New Hope officials built a structure for the fire department, installed a gas tank and paved part of the property. Part of the fire department building, part of the pavement and the gas tank (Encroachments) are located on the King Property.

12. In addition to the known Encroachments, there was at one time an underground fuel tank installed by New Hope on the King Property. The plaintiffs do not know if the New Hope City officials had this underground fuel tank removed.

13. The plaintiffs had the properties surveyed and a copy of their survey is attached hereto as "Exhibit 2." The survey depicts the Encroachments on the King Property.

14. The New Hope building has been used by New Hope for various public purposes. The part of the building located on the King Property is used as a tax office and accessed by the public. The gas tank is used by various New Hope officials. The pavement on the King Property is used by the public.

15. The plaintiffs demanded that the Encroachments be removed, including the underground fuel tank if it is still on their property, but the defendants refused to do so.

16. The Encroachments constitute an unauthorized and illegal possession of the King Property by the defendants and the public.

17. The Encroachments constitute trespass.

18. The Encroachments constitute a continuing nuisance.

19. The plaintiffs are entitled to have the Encroachments removed and have the property remediated and restored to its original condition.

WHEREFORE, the plaintiffs pray that:

1. Process enter and be served on the defendants requiring them to respond in accordance with law.

2. The Court conduct a trial of this matter.

3. The Court enter an Order requiring the defendants to account for the underground fuel tank and, if still located on the King Property, to remove it in an environmentally safe manner.

4. The Court enter an Order requiring the defendants to remove all Encroachments from the property of the plaintiffs and to remediate and restore the King Property to its original condition.

5. The Court grant a judgment in favor of the plaintiffs and against the defendants for the fair rental value of the use of the plaintiffs' property.

6. The Court award a judgment against the defendants and in favor of the plaintiffs for damages to the King Property.

7. The plaintiffs have general relief.

Respectfully submitted,

CAVETT, ABBOTT & WEISS, PLLC

By: John C. Cavett, Jr. *per se*
John C. Cavett, Jr. TN BPR #09388
801 Broad Street, Suite 428
Chattanooga, TN 37402
(423) 265-8804

- DEED -

FOR AND IN CONSIDERATION of the sum of One (\$1.00) Dollar, cash in hand paid, and other good and valuable considerations, receipt of which is hereby acknowledged, we, CHARLES T. KING, JR. and wife, VIRGINIA ANN KING, have this day bargained and sold and by these presents transferred and conveyed unto

CHARLES T. KING, JR.
J. L. KENNEMORE
GUY ALLEN FRAME

Trustees of the NEW HOPE VOLUNTEER FIRE DEPARTMENT, their successors and assigns, for the specific use of a Fire Department, to be used by the said New Hope Volunteer Fire Department; the following described real estate, with the expressed understanding that any time the property hereinafter conveyed is abandoned and no longer used for the purpose of a volunteer fire department, it shall revert automatically and specifically to the grantors herein or their heirs and assigns, said property situated in the New Hope Community, First Civil District of Marion County, Tennessee and more particularly described as follows, to-wit:

Being a portion of Parcel No. 1 in the deed of Charles T. King, Sr., recorded in Deed Book 6C, page 55-6, Register's Office of Marion County, Tennessee, to the said Charles T. King, Jr. and the transfer of the said Charles T. King, Jr. to make said property a tenancy by the entirety by deed of record in Deed Book 7N, page 265, Register's Office of Marion County, Tenn. Said property being one-half(1/2) acre of land and beginning at the intersection of the gravel road and state road; thence 105 ft. down the state road; thence 210 ft. parallel with the gravel county road; thence 105 ft. parallel with the state road; thence 210 feet north to the point of beginning and containing one-half acre, more or less.

TO HAVE AND TO HOLD unto the Trustees of the New Hope Volunteer Fire Department, their successors and assigns forever, subject to the restriction that upon it ceasing to be used as a volunteer fire department, it shall revert to the undersigned grantors, their heirs or assigns as the case may be.

THIS INSTRUMENT WAS PREPARED BY Y. M. ABLES, JR. ATTORNEY SOUTH PITTSBURG, TENNESSEE 37380

Taxes for the year of 1974 will be assumed by New Hope Volunteer Fire Dept. of South Pittsburg, Tenn.

EXHIBIT
1

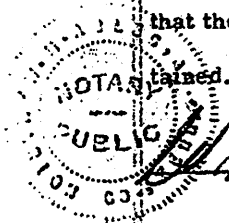
WE COVENANT that we are lawfully seized and possessed of said real estate, have a good and lawful right to sell, transfer and convey the same and that title thereto is free, clear and unencumbered and that we will forever warrant and defend the title thereto against the lawful claims of all persons whomsoever.

IN TESTIMONY WHEREOF, witness our hands, this 1st day of June, 1974.

Charles T. King, Jr.
CHARLES T. KING, JR.
Virginia Ann King
VIRGINIA ANN KING

STATE OF TENNESSEE)
COUNTY OF MARION)

On this 1st day of June, 1974 before me personally appeared the within named individuals, CHARLES T. KING, JR. and wife, VIRGINIA ANN KING, with whom I am personally acquainted and who acknowledged that they executed the within instrument (deed) for the purposes therein con-



[Signature]
NOTARY PUBLIC

My Commission Expires: Oct. 19, 1974

STATE OF TENNESSEE, MARION COUNTY
I, Johnny Matthews, Register of said County, do hereby certify that the foregoing instrument and certificate were noted in Note Book 8 Page 313 11730 No. 2 1974 and recorded in Deed Book 8-C Page 313 State Tax Paid \$ 0 Fee 0 Recording Fee \$ 400 Total \$ 400

Receipt No. 18154
Johnny Matthews
Register

I, or we, hereby swear or affirm that the actual consideration for this transfer or value of the property transferred, whichever is greater, is \$ 1000, which amount is equal to or greater than the amount which the property transferred would command at a fair and voluntary sale.

Charles T. King, Jr.
Subscribed and sworn to before me this 1 day of

Nov. 1974

Johnny Matthews
Notary Public

RONALD
MCDANIEL
(RB. 498, pg. 1421)

GRAVEL
PARKING
AND DRIVE

EXISTING GARAGE

LEAN-TO

0.47 Acres
20675.54 Sq. Ft.

FORMER
FIRE-HALL
BUILDING

GAS TANK

DANIEL B. FOX
(RB 414, pg. 1523)

MICHAEL KING JR.
(RB. 513, pg. 1274)

PINE GROVE ROAD (50' R/W)

N 27°27'22" E
210.00'

N 105°00'
W 143°53'46" W
105.00'

S 27°27'22" W
210.00'

S 63°51' E
62.38'

S 44°21' E
42.66'

31.93'

59.47'

PAVED DRIVE

tabbles®

EXHIBIT

2

