

The Order of the Court is stated below:

Dated: March 18, 2019  
04:58:22 PM

/s/ JAMES GARDNER  
District Court Judge



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RASHELLE HOBBS  
Recorder, Salt Lake County, UT  
RICHARDS LAW PC  
BY: eCASH, DEPUTY - EF 5 P.

<p>IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR SALT LAKE COUNTY, STATE OF UTAH, WEST JORDAN DIVISION</p>	
<p>WINDY RIVER SUBDIVISION ARCHITECTURAL CONTROL COMMITTEE, a Utah nonprofit corporation,  Plaintiff,  vs.  THE RELIC HOLDINGS TRUST DATED JANUARY 1<sup>st</sup> 2006, VESTIGE an expired business entity in Utah as Trustee; HOMES FOR HEROES dba HERO FOUNDATION, a Utah nonprofit corporation; NEAL MORTENSEN, an individual; and DOES 1-5,  Defendants.</p>	<p><b>AMENDED ORDER GRANTING PRELIMINARY INJUNCTION</b></p> <p>Case No. 180907554  Judge James Gardner</p>

This matter came before the court pursuant to Rule 65A of the Utah Rules of Civil Procedure upon the motion of Plaintiff, Windy River Subdivision Architectural Control Committee, for a preliminary injunction, which was filed jointly with Plaintiff's motion for a temporary restraining order on October 16, 2018. Defendants opposed the Motion for

Preliminary Injunction on November 8, 2018. Plaintiff then filed its Reply Memorandum in Support of the Motion for Preliminary Injunction on November 13, 2018. An expedited hearing was held on Plaintiff's Motion for Preliminary Injunction on November 14, 2018 before Judge James Gardner, at which time the Motion for Preliminary Injunction was voluntarily withdrawn based partially upon the Parties' agreement to an expedited trial setting on January 7, 2019. However, the expedited trial date later became unworkable and the trial was vacated and replaced with a hearing on two pending cross motions for summary judgment on January 7, 2019. The Court also allowed Plaintiff to renew its Motion for Preliminary Injunction at the January 7, 2019 hearing, and heard oral argument from Plaintiff and Defendants at the hearing.

The Court granted Plaintiff's Motion for Preliminary Injunction based on the testimony and evidence introduced at the November 14, 2018 hearing and the oral arguments of the Parties at both the November 14, 2018 and January 7, 2019 hearings. The Court prepared its own Findings of Fact and Conclusions of Law in Support of Preliminary Injunction, which were entered on January 10, 2019. In addition, an Order Granting Preliminary Injunction (the "Order") was signed by the Court on January 18, 2019 after Plaintiff posted \$50,000 security as required by the Court for the Preliminary Injunction. The Order enjoined Defendants from further construction activities at the real property located at 11896 S. Reeves Lane, Riverton, Utah 84065, also known as Lot 4 of the Windy River Subdivision, Plat A (the "Property"), until further notice or order from the Court.

After entry of the Order, Plaintiff became aware of the potential for slope or soil instability issues at the Property, and moved the Court to amend or modify the Order to allow

Defendants to perform remedial or other work at the Property as needed to properly retain the soils and/or prevent future grading or soil stability issues. Plaintiff's motion does not seek an order requiring any remedial or preventative work, but merely seeks to partially lift the Preliminary Injunction to allow Defendants to perform such work should they elect to do so. Defendants do not oppose or object to Plaintiff's request to modify the Order in this manner, and therefore the Court hereby GRANTS Plaintiff's Motion to Modify Preliminary Injunction as follows:

IT IS HEREBY ORDERED, that the Preliminary Injunction previously ordered in this case is modified and amended to allow Defendants to conduct construction activities at the real property located at 11896 S. Reeves Lane, Riverton, Utah 84065, also known as Lot 4 of the Windy River Subdivision, Plat A (the "Property") relating specifically to remediation or mitigation of current grading, slope, or soil stability issues at the Property, as well as any construction work relating to preventative efforts to avoid future problems with grading, slopes, or soil instability at the Property. The Preliminary Injunction will otherwise remain in full force and effect, restricting and enjoining further construction activities on the contemplated residential structure until further notice or order from the Court. Plaintiff's bond in the amount of \$50,000.00 in this case will remain with the Court as security for the continuing Preliminary Injunction.

----- **END OF ORDER** -----

**\*\*\*Court signature, seal, and date of this Order appear at the top of the first page of this document.\*\*\***

APPROVED AS TO FORM:

Colemere Gibbs & Stout, PLLC

*/s/ Jeffrey T. Colemere*

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**Jeffrey T. Colemere**  
*Attorney for Defendants*

**AFTER RECORDING PLEASE RETURN TO:**

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