

red 10/19/17

COMMONWEALTH OF KENTUCKY  
FAYETTE CIRCUIT COURT  
DIVISION THREE  
CIVIL ACTION NO. 17-CI-00640  
consolidated with  
CIVIL ACTION NO. 17-CI-00986



WHITAKER BANK, INC.

PLAINTIFF

v.

ANDOVER GOLF AND COUNTRY CLUB, INC.;  
COMMONWEALTH OF KENTUCKY, COUNTY OF FAYETTE;  
THE RANGE, INC.; COMMUNITY TRUST BANK, INC.; and  
GREAT AMERICA FINANCIAL SERVICES CORPORATION

DEFENDANTS

AND

COMMONWEALTH OF KENTUCKY  
FAYETTE CIRCUIT COURT  
DIVISION THREE  
CIVIL ACTION NO. 17-CI-01360

BALL HOMES, LLC and  
LOCHMERE DEVELOPMENT CORPORATION

PLAINTIFF

v.

WHITAKER BANK, INC. and  
ANDOVER GOLF AND COUNTRY CLUB, INC.

DEFENDANTS

**JUDGMENT**

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Pursuant to and incorporating the Court's Opinion of September 22, 2017, and its holding, in part, that Ball Homes, Inc. ("Ball Homes"), Lochmere Development Corporation ("Lochmere") and Troy Thompson ("Thompson") (collectively Ball Homes, Lochmere and Thompson are referred to as the "Developers") "do not have a legitimate interest in seeking the enforcement of the express restrictive covenant nor do they have a legal duty or obligation to do so" and that the "Developers therefore do not have standing to enforce the purported express

restrictive covenant created by the Lease Agreement,” it is ORDERED, DECREED and ADJUDGED that:

- 1) The Developers’ claims asserted in Civil Action 17-CI-640 (the “Foreclosure Case”) are dismissed with prejudice as the Developers are dismissed as parties from the action;
- 2) The Developers’ Motion to Dismiss the lawsuit filed against them by Whitaker Bank, Inc. (“Whitaker”) in its Declaratory Judgment Action, Civil Action 17-CI-986, is DENIED as moot insofar as the relief sought therein cannot be given to Whitaker as against the Developers based on the Court’s Opinion of September 22, 2017; and any claims asserted therein by Whitaker against the Developer are DISMISSED as moot as the Developers are dismissed as parties from the action;
- 3) The Developers’ claims asserted in their Declaratory Judgment Action, Civil Action 17-CI-1360, against Whitaker and Andover Golf and Country Club, Inc., are DISMISSED with prejudice, as the Developers are dismissed as parties from the action;
- 4) The Developers not having a legitimate interest in seeking the enforcement of the purported express restrictive covenant, not having a legal duty or obligation to do so and therefore not having standing to enforce the purported express restrictive covenant, and being dismissed as parties from the above referenced actions, and there being no just cause for delay, pursuant to CR 54.02(1), this Order is final and appealable; and
- 5) The clerk is directed to file a copy of Court’s Opinion of September 22, 2017, and this Judgment in the record in each case, numbers 17-CI-640, 17-CI-986 and 17-CI-1360.

Dated this 18 day of OCT, 2017.

/s/ JAMES D. ISHMAEL, JR.

A TRUE COPY

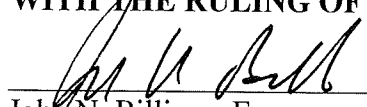
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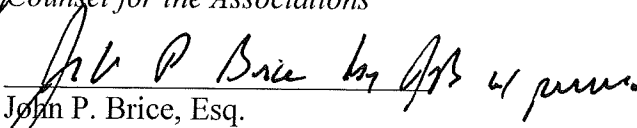
FAYETTE CIRCUIT COURT

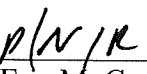
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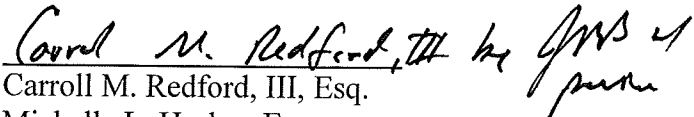
Hon. James D. Ishmael,  
Fayette Circuit Court Judge

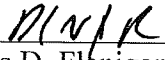
**ATTESTED AS BEING IN CONFORMITY  
WITH THE RULING OF THE COURT:**

  
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**CLERK'S CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing Order has been served upon the following parties, via First Class Mail, this 18 day of October, 2017:

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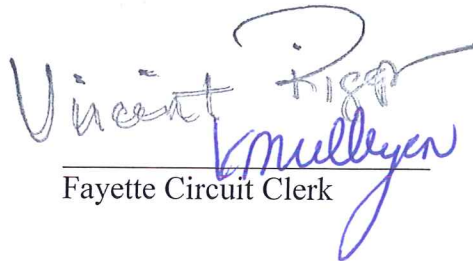
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Fayette Circuit Clerk

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