

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF FLUVANNA

RONALD E. STRICK  
SHEILA F. STRICK,  
Complainants,

v.

DECREE  
Chancery No. 02E141

ALICE E. HALE  
RONALD GALE  
ANTHONY W. LONGENECKER  
ANN S. LONGENECKER  
WILLIAM V. SAUM  
SHIRLEY B. SAUM  
WENDY D. MEADE  
ROBERT J. PACZOWSKI, Trustee  
NIKKI PACZOWSKI, Trustee  
BENO B. HORVATH  
MADELINE K. HORVATH,  
Respondents,

and

OUTH KESWICK OWNERS  
SSOCIATION,  
Intervenor Respondent  
and Cross Complainant.

This cause came on this day to be heard upon the pleadings filed herein; upon the decree of reference entered on July 17, 2003; upon the ore tenus hearings conducted by the Commissioner in Chancery on December 10, 2003 and December 16, 2003; upon the report of the Commissioner in Chancery filed on February 2, 2004; upon the exceptions to the report of the Commissioner in Chancery filed by Respondents and Intervenor/Cross Complainant; upon the memoranda filed by Respondents and Intervenor/Cross Complainant in support of their exceptions to the report of the Commissioner in Chancery; upon the ore tenus hearing conducted on May 14, 2004 on the exceptions to the report of the

Commissioner in Chancery; and was argued by counsel.

A transcript of the rulings of the Court issued on May 14, 2004 having been filed among the papers in this cause, the Court doth ADJUDGE, ORDER and DECREE that the findings and rulings set forth in such transcript be, and hereby are, incorporated into this decree as fully as if set out herein.

Upon consideration whereof the Court, being of the opinion that the findings and conclusions set forth in the report of the Commissioner in Chancery are supported by the evidence and are not contrary to the law, doth hereby ADJUDGE, ORDER and DECREE that the exceptions filed by Respondents and Intervenor/Cross Complainant to said report be, and hereby are, overruled.

The Court doth therefore ADJUDGE, ORDER and DECREE that the report of the Commissioner in Chancery filed herein be, and hereby is, approved, ratified and confirmed in all respects.

In accordance with the findings and recommendations set forth in the report the Commissioner in Chancery and with the rulings of the Court on May 14, 2004, the Court doth ADJUDGE, ORDER and DECREE as follows:

1. That Respondents, within ninety (90) days from the entry of this decree, shall remove from their respective lots in "South Keswick" subdivision, Fluvanna County, Virginia, all fences and gates located on, along or within the twenty foot (20') recreational easement, which recreational easement is more fully described in the South Keswick Amended And Restated Declaration Of Restrictions, Covenants and Conditions of record in the Clerk's Office of this Court in Deed Book 185 at Page 182, as supplemented.

2. That Respondents be, and hereby are, now and in the future enjoined from unlawfully obstructing or interfering with the use and enjoyment of the aforesaid recreational easement located on their respective lots.

3. That with respect to the recreational easement rules and regulations adopted by Intervenor/Cross Complainant (Intervenor Exhibit <sup>3</sup>/<sub>4</sub>), rules seven (7) and ten (10), because they represent an unlawful exercise of the authority granted to South Keswick Owners Association and are violative of the rights of Complainants, are hereby declared unenforceable, while the remaining nine rules are hereby declared to be enforceable as to the parties to the present litigation and as to their respective lots. *The said rules and regulations are also attached to the Intervenor's Answer and Cross-Bill as Exhibit #1.*

4. That Respondents, their respective shares to be apportioned among them, shall pay one-half (1/2) of the litigation costs incurred by Complainants, and Intervenor/Cross Complainant shall pay one-half (1/2) of the litigation costs incurred by Complainants, all such payments to be made to Complainants within sixty (60) days from the entry of this decree. The total litigation costs incurred by Complainants are \$3,343.63.

5. That Respondents, their respective shares to be apportioned among them, shall pay to Complainants, within sixty (60) days from the entry of this decree, the counsel fees incurred by Complainants in connection with this litigation, such fees totaling \$14,556.25.

6. That the request of Respondents and Intervenor/Cross Complainant for an award of their counsel fees and costs incurred herein be, and hereby is, denied.

The Court doth finally ADJUDGE, ORDER and DECREE that this cause be, and hereby is, retained on the docket for purposes of enforcement of the terms of this decree.

ENTER:

J. R. Cole  
Judge

DATE:

6-28-04

I Ask For This:

Ralph E. Main, Jr., p.q.

Seen And Excepted To:

F. B. Crowther, 3rd, p.d.

George H. Dygert, p.d.

Frederick W. Payne  
Frederick W. Payne  
William W. Tanner  
Counsel for Intervenor/  
Cross Complainant

CHARLOTTESVILLE, VIRGINIA  
ATTORNEY AT LAW  
RALPH E. MAIN, JR.