

IN THE SUPERIOR COURT OF WAYNE COUNTY
STATE OF GEORGIA

Frances B. Yeargan
Frances Yeargan, Clerk
Wayne County, Georgia

ALTAMAHA BLUFF, LLC, and)	
GRANT LEWIS,)	
)	
Plaintiff,)	CIVIL ACTION NO. 14CV0376
)	
v.)	
)	
JAMES "BOOT" THOMAS, JOHN)	
SHAVER, FRANKLIN SMITH, TIM)	
COCKFIELD, AND JERRY "SHAG")	
WRIGHT AS MEMBERS OF THE)	
WAYNE COUNTY BOARD OF)	
COMMISSIONERS, WAYNE COUNTY,)	
RICHARD GALLONI, MITCHELL)	
JENKINS, HARRY THOMPSON,)	
HOWELL CLEMENTS AND)	
JERRY E. GRIFFITH, THE WAYNE)	
COUNTY BOARD OF ASSESSORS,)	
AND AL SZOKE,)	
TAX COMMISSIONER OF)	
WAYNE COUNTY)	
)	
Defendants.)	

FINAL APPROVAL ORDER AND JUDGMENT

WHEREAS, the instant action pending before the Court is a class action (the "Lawsuit") brought by Plaintiffs Altamaha Bluff, LLC and Grant Lewis (hereinafter "Named Plaintiffs"), individually and on behalf of all other persons similarly situated ("Class Members") against Defendants James "Boot" Thomas, John Shaver, Franklin Smith, Tim Cockfield and Jerry "Shag" Wright, as members of the Wayne County Board of Commissioners (the "BOC"), Wayne County (the "County"), Richard Galloni, Mitchell Jenkins, Harry Thompson, Howell Clements and Jerry E. Griffith, the Wayne County Board of Assessors (the "BOA") and Al Szoke, Tax Commissioner of Wayne County (the "Tax Commissioner") (collectively the "Defendants");

WHEREAS, this matter came before the Court on the Joint Motion for Preliminary Approval of Class Action Settlement, Approval of Notice Program and Scheduling Final Approval Hearing on August 31, 2020;

WHEREAS, the Court GRANTED the Joint Motion for Preliminary Approval of Class Action Settlement, Approval of Notice Program and Scheduling Final Approval Hearing and entered an Order on August 31, 2020 (the “Preliminary Approval Order”);

WHEREAS, this matter is currently before the Court on the Joint Motion for Final Approval of Class Action Settlement pursuant to O.C.G.A. § 9-11-23(e) in which the Court has been asked to give final approval to the [Proposed] Consent Judgment (hereinafter the “Consent Judgment”) entered into by Named Plaintiffs and the County, through counsel, dated August 31, 2020, which, together with the exhibits thereto, sets forth the terms and conditions of the proposed resolution of this Lawsuit;

WHEREAS, a Final Approval Hearing on October 20, 2020 was scheduled in the Preliminary Approval Order and as made known to the Class Members through the notice procedures (the “Notice Program”) approved by the Court in the Preliminary Approval Order;

WHEREAS no objections to the [Proposed] Consent Judgment were filed;

WHEREAS, the Court having considered the entire record of this Lawsuit, including the filings in support of preliminary approval and final approval, the Consent Judgment and the exhibits thereto, and the arguments and representations of counsel, the Court finds that the requirements for final approval have been met and that the proposed resolution of this Lawsuit as set forth in the Consent Judgment is fair, reasonable and adequate compromise of the claims and defenses asserted in this Lawsuit and should therefore be approved pursuant to O.C.G.A. § 9-11-23.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED THAT:

1. This Order of Final Approval and Judgment incorporates herein and makes a part hereof the Consent Judgment, including all exhibits thereto. Unless otherwise provided herein, the terms defined in the Consent Judgment shall have the same meanings for purposes of this Final Order and Judgment.

2. This Court has jurisdiction over the subject matter of this Lawsuit and over all Parties to this Lawsuit including Named Plaintiffs, all Class Members and Defendants.

3. The Parties entered into a Consent Class Certification Order on October 31, 2017 defining the Classes as “[t]axpayers similarly situated who, like Named Plaintiff, own large acreage parcels (parcels consisting of twenty-five [25] or more acres) containing timberland in Wayne County, Georgia who were issued tax bills in any year from 2008 through 2016 and paid property taxes based on the large acreage schedules derived from the 2008 Revaluation performed by the [BOA], whose property was not enrolled in either the ‘Conservation Use Valuation Assessment (‘CUVA’) or the ‘Forest Land Protection Act’ (‘FLPA’) programs for the year in which taxes were paid based on the 2008 Revaluation and who did not file an ad valorem tax appeal for such tax year (the ‘Refund Class’)”.

4. A motion was granted to add refund claims for the tax year 2017 to the Consent Class Certification Order dated October 31, 2017.

5. The Consent Class Certification Order dated October 31, 2017 is hereby amended to include tax years 2018 and 2019.

6. The record shows that notice has been given to the Class Members via the Notice Program approved by the Court in the Preliminary Approval Order. The Court finds the Notice

Program consisted of individual notice mailed to Class Members (the “Full Notice”), a notice in The Press Sentinel (the “Publication Notice”) and a webpage on the County’s website (the “Webpage”). The record shows that The Full Notice was mailed to Class Members identified in Exhibit B of the Consent Judgment to their last known addresses as appearing on the records maintained by the County on September 9, 2020; one hundred and eighty-eight (188) Full Notices were mailed. The record further shows that the webpage was added to the County’s website providing information about the Lawsuit. See <https://www.waynecountyga.us/departmen/division.php?structureid=77>. The Publication Notice, the record shows, was placed in The Press Sentinel on September 9, 2020, September 16, 2020 and September 23, 2020.

The Court finds that the Notice Program (a) constitutes notice that was reasonably calculated under the circumstances to apprise the Class Members of the terms of the Consent Judgment and the Settlement, the Class Member’s right to object and the date and time of the Final Approval Hearing; (b) constitutes due, adequate, and sufficient notice to all persons or entities entitled to receive notice; and (iv) meets the requirements of O.C.G.A. § 9-11-23 and the due process requirements of the Constitution of the United States and the Constitution of the State of Georgia and all other applicable law.

7. For any Full Notice that was returned as undeliverable, the Administrators are directed for any Class Member who is entitled to a refund to cross reference the Class Member’s name with the County records to determine if there is a new address. Generally, the Administrators are directed to use reasonable efforts to confirm the address of any Class Member who is entitled to a refund.

8. The Court finds that the Settlement set forth in the Consent Judgment was the result of extensive and intensive arm's length negotiations taken place in good faith among highly experienced counsel, with the benefit of sufficient facts and expert assistance, and with full knowledge of the risks inherent in litigation. The record shows the Consent Judgment was negotiated at arm's length, without collusion and with the assistance of a respected mediator. The record further shows that the Parties engaged in extensive arm's length settlement negotiations with discussions concerning the terms of the Settlement were conducted by senior attorneys from both sides. The record also shows that all participants in the settlement discussions were experienced in prosecuting and negotiating multimillion-dollar complex class action cases such as this Lawsuit. Each side, the record shows, had a thorough understanding of the allegations regarding the aggregate damages owed, the facts in support of the amount owed and the defenses thereto.

The record shows that on July 28, 2020 the Parties held a formal mediation session with Patrick T. O'Connor, Esquire, an experienced mediator registered with the Georgia Office of Dispute Resolution and the American Arbitration Association and a member of the Georgia Academy of Mediators and Arbitrators.

9. The Court hereby establishes the Altamaha Bluff Qualified Settlement Fund (the "Altamaha Bluff QSF") pursuant to Court Order as a "Qualified Settlement Fund" as that term is described in Internal Revenue Code §468B (26 U.S.C. §468B) and the Treasury Regulations thereto, established by Order of this Court, to hold, invest, administer, and distribute the Altamaha Bluff QSF assets, which shall consist of a proposed service award to the Named Plaintiffs and Class Counsel attorney fees and expenses.

The Settlement monies held by the Altamaha Bluff QSF's bank account shall be held and managed, as required by Treasury Regulations §468B-1(c)(3). Such Altamaha Bluff QSF settlement amounts are to be held, managed, invested, and re-invested, as directed by the Fund Administrator appointed by the Court, in a manner to preserve any accrued income and principal in the Altamaha Bluff QSF until it can be fully distributed. Terry D. Turner, Jr. of Gentle Turner Sexton & Harbison, LLC, 501 Riverchase Parkway East, Suite 100, Hoover, Alabama 35244 is appointed as the Altamaha Bluff QSF administrator (the "Altamaha Bluff QSF Administrator").

The Altamaha Bluff QSF Administrator shall charge a flat fee of \$20,000.00 for his services plus expenses which shall be paid from the Aggregate Refund Fund as set forth in the Consent Judgment.

Class Counsel Fees Awarded and Service Fees shall be paid by the Altamaha Bluff QSF Administrator from the Altamaha Bluff QSF. The Altamaha Bluff QSF shall hold such settlement amount, with any earnings thereon, and the Altamaha Bluff QSF Administrator shall make payments on behalf of the Named Plaintiffs and Class Counsel from the Altamaha Bluff QSF, whether directly, structured settlement payments, or otherwise, and fund administration fees of the Altamaha Bluff QSF. The Altamaha Bluff QSF Administrator shall be entitled to reasonable compensation for his services associated with the administration of the Altamaha Bluff QSF to be paid solely from the funds placed in the Altamaha Bluff QSF. The Court shall retain jurisdiction of the Altamaha Bluff QSF, the Altamaha Bluff QSF Administrator, and all related matters. The Altamaha Bluff QSF is hereby authorized to effect qualified assignments on behalf of the Named Plaintiffs or Class Counsel of any resulting structured settlement liability within the meaning of Section 130(c) of the Internal Revenue Code to the qualified assignee.

10. The Court hereby approves the Objection Form for Class Member attached as Exhibit “F” to the Joint Motion for Final Approval of Class Action for use in the administration of the Settlement as set forth in the Consent Judgment.

11. The Court hereby approves the Notice of Completion attached as Exhibit “G” to the Joint Motion for Final Approval of Class Action for use in the administration of the Settlement as set forth in the Consent Judgment.

12. The Court finds that the Settlement set forth in the Consent Judgment is not the product of fraud or collusion. The Court further finds that based on the record Consent Judgment is the result of hard-fought, arms-length negotiations. The Court finds that there is no evidence of collusion as counsel for both Parties zealously represented the best interests of their clients, even appealing to the Court of Appeals and petitioning the Georgia Supreme Court.

13. The Court hereby approves the Settlement set forth in the Consent Judgment and finds that the Settlement is, in all respects, fair, reasonable, adequate, meets the requirements of due process, and is in the best interest of the Class. This is especially so in view of the complexity, expense and probable duration of further litigation; the discovery conducted to date; the risks of establishing damages; and the reasonableness of the recovery obtained and the meaningful benefits provided to the Class, considering the range of possible recovery and the attendant risks of litigation.

The record shows the direct benefits to the Class Members include the creation of an Aggregate Refund Fund in the amount of \$1,750,000.00. The Court finds that this Settlement provides immediate cash refunds for the Class Members up to 100% of the total calculated refund due less fees and expenses for tax years 2011 to 2019. Therefore, this Court finds that the possibility of a trial producing a more favorable recovery is remote and the Class would risk the

many hazards of litigation, such as trial errors and appeals. Further, the Court finds that Settlement will avoid complex, expensive and continued lengthy litigation, saving resources of the Parties and the Court.

The record shows that the facts of this Lawsuit have also been thoroughly researched as Class Counsel spent a substantial number of hours investigating the hundreds of potential refund claims. In total, the record shows that over the course of the six (6) years of litigation, Class Counsel filed, issued or reviewed not less than nine thousand (9,000) pages of pleadings and discovery materials including four (4) Amended Complaints, twenty (20) motions and briefs, five (5) sets of requests for production of documents, three (3) sets of interrogatories, three (3) sets of request for admission, in addition to post certification interrogatories, request for production of documents and request for admission, numerous Open Records Requests, attended hearings, conducted depositions and participated in formal and informal settlement discussions and mediation.

For all Class Members, the record shows that Class Counsel reviewed property tax record cards, tax bills, and detailed County spreadsheets identifying large acreage parcels (parcels consisting of 25 or more acres) containing timberland in Wayne County and providing parcel specific information. The record further shows that this information was essential to Class Counsel's ability to understand the facts, scope of the refund claims, pertinent evidence, legal and factual arguments and potential defenses and the number of and amount of potential refunds owed to the Class.

The Court finds that Class Counsel was well informed of the merits of the Lawsuit and had sufficient information to weigh the benefits of settlement against further litigation.

14. Based on the foregoing, the Court finds that Class Counsel and Named Plaintiffs have adequately represented the Class.

15. The Court further finds that the Settlement treats Class Members equitably. The record shows that each Qualified Class Member (as defined in the [Proposed] Consent Judgment) will receive payment from the Aggregate Refund Fund pursuant to a formula that ensures they will be fairly compensated. That is, each Qualified Class Member will receive his or her pro-rata share of his or her calculated tax refund up to 100% of the total calculated refund due from the Aggregate Refund Fund less Fees and Expenses (as defined in the Proposed Consent Judgment). This is called the “Pro-Rata Tax Refund”. “Pro-rata” means the proportion each Qualified Class Member’s Pro-Rata Refund bears to the total Aggregate Refund Fund. The record shows that this percentage shall be used to calculate each Qualified Class Member’s pro rata share of the Fees and Expenses.

16. The Court finds that the proposed method of distribution of refunds to the Class Members to be the best method of distribution possible. The record shows that if the Class Member is a Qualified Class Member as defined in the Proposed Consent Judgment and still owns the property for which the refund is due, the Class Member needs to take no further action in order to receive his or her refund. There are no claims forms for such Qualified Class Members to complete. If the Class Member is a Qualified Class Member as defined in the Proposed Consent Judgment and no longer owns the property for which the refund is due, the record shows that the Class Member will fill out a claim form (which will be sent to what is believed to be the current address or can be obtained from the settlement webpage on the County’s website) certifying that he or she is the same taxpayer for which the refund has been calculated and then the refund will be mailed to such Class Member.

17. The Parties are hereby directed to implement and consummate the Settlement according to the terms and provisions of the Consent Judgment.

18. The Parties are Ordered to cooperate fully with each other regarding the implementation of the terms of the Consent Judgment as approved in this Final Order and Judgment.

19. All claims asserted in this Lawsuit are dismissed with prejudice on the merits and without costs to any party except as otherwise provided in this Court's Order on Named Plaintiffs' Application for Attorney's Fees, Reimbursement of Expenses and Service Award to Class Representatives or as otherwise provided in the Consent Judgment which shall be paid exclusively from the Altamaha Bluff QSF.

20. Upon entry of this Final Order and Judgment, Named Plaintiffs and each Class Member, on behalf of themselves and any other legal or natural persons and entities who or which may claim by, through, or under them, release their claims as outlined in the Consent Judgment.

21. Without affecting the finality of this Order, the Court retains continuing and exclusive jurisdiction over all matters relating to the administration, consummation, enforcement and interpretation of the Consent Order, to protect and effectuate this Order, and for any other necessary purpose.

22. The Clerk shall promptly enter the [Proposed] Consent Judgment in the docket of this Lawsuit, which shall become a final Consent Judgment of this Court.

23. The Clerk shall promptly enter this Order as a Final Judgment in the docket of this Lawsuit.

SO ORDERED. This 19th day of Oct., 2020.

David L. Cavender
Judge David L. Cavender
Senior Judge