

IN THE SUPERIOR COURT OF DEKALB COUNTY
STATE OF GEORGIA

SOUTH RIVER WATERSHED ALLIANCE,	:	
SOUTH RIVER FOREST COALITION,	:	
MARGARET S. BRADY, ALLEN P. DOYLE,	:	
JOEL FINEGOLD, JOSEPH S. PEERY, and	:	
JOHN AND JANE DOES,	:	CIVIL FILE ACTION NO.
	:	21CV1931
Plaintiffs,	:	
v.	:	
	:	
DEKALB COUNTY, GEORGIA, by and	:	
through its Board of Commissioners, and	:	
BLACKHALL REAL ESTATE PHASE II, LLC	:	
	:	
Defendants	:	

**PLAINTIFFS’ RESPONSE IN OPPOSITION TO BLACKHALL REAL ESTATE
PHASE II, LLC’S MOTION TO COMPEL AND MEMORANDUM IN SUPPORT**

COME NOW Plaintiffs South River Watershed Alliance (“SRWA”), South River Forest Coalition (“SRFC”), Margaret S. Brady, Allen P. Doyle, Joel Finegold, Joseph S. Perry and John and Jane Does (collectively the “Plaintiffs”) and by and through their undersigned counsel, file this, their Response in Opposition to Blackhall Real Estate Phase II, LLC’s (“Blackhall”) Motion to Compel and Memorandum in Support (the “Motion to Compel”) and state as follows:

I. Introduction

This case involves certain dedicated public park land commonly known as Intrenchment Creek Park (“ICP”), which land was conveyed to and held in trust by DeKalb County as public park land for the benefit and use of the public. ICP was

originally conveyed to Defendant DeKalb County, Georgia (the "County") on January 15, 2003 with the express requirement that the land be held and used for public park purposes in perpetuity, as more specifically expressed in the Limited Warranty Deed recorded at Deed Book 14082, Page 22, DeKalb County, Georgia records ("Intrenchment Creek Park Deed" or the "Park Deed"). Pursuant to the explicit language of the Park Deed, "[t]he Property is conveyed subject to the covenant and use restriction that it *shall be used in perpetuity as park property* ("Park Property Restriction")....The foregoing Park Property Restriction and covenant is imposed with the consent and acquiescence of the (County), and is imposed in favor of and for the benefit of the Property so held by the (County) for the *use of the public*... Both (i) the Arthur M. Blank Foundation,, as well as (ii) *any member of the general public who utilizes the Property, shall have the right to take any action necessary at law or in equity to enforce the Park Property Restriction contained herein.*"

Plaintiffs filed this action to protect said public park land and their rights and interests in the same (along with the public's), including their right to enforce the Park Property Restriction, following the County's exchange of certain portions of the dedicated park land for certain private property owned by Defendant Blackhall Real Estate Phase II, LLC ("Blackhall"). While the land exchange itself was executed on January 29, 2021, it now appears that Blackhall was engaged in discussions with the County about the exchange as early as 2017 and well before the public got any wind of the matter. This lawsuit was filed on February 12, 2021, shortly after the execution of the land exchange. Plaintiffs' lawsuit challenges the exchange by the County as being

