

STATE OF NORTH CAROLINA
ORANGE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
25CV002097-670

TRIANGLE LAND CONSERVANCY

Plaintiff,

v.

UNION GROVE FARM, INC.; BANDIT
FARMS II, LLC; BANDIT FARMS III, LLC;
EASTWEST ORGANCS, LLC; HARPER
GRACE, LLC; MEREDITH G. SAYBE

Defendants.

**TRIANGLE LAND CONSERVANCY'S
MOTION TO CONTINUE HEARING ON
EASTWEST ORGANICS LLC'S
MOTION TO DISMISS**

Plaintiff, Triangle Land Conservancy ("TLC"), by and through undersigned counsel, respectfully moves the Court to continue the hearing on Defendant EastWest Organics LLC's Motion to Dismiss, which is calendared for hearing on December 15, 2025 at 2pm in Orange County Civil Superior Court. The reason for this Motion is as follows:

1. This matter relates to the enforcement of a Grant of Conservation Easement and Development Rights (the "Conservation Easement") located on what is now known as Union Grove Farm in Orange County.

2. TLC is a North Carolina nonprofit corporation that exists and operates for conservation purposes, including the protection of environmentally valuable and sensitive land for charitable, scientific, educational, and aesthetic purposes. TLC is the holder of the Conservation Easement.

3. The Property subject to the Conservation Easement (the "Conservation Property") consists of five (5) parcels, owned by the following:

- PIN: 9851-50-8662 – Harper Grace, LLC & Eastwest Organics, LLC (each with an equal ½ interest in the property).

- PIN: 9851-71-4716 – Bandit Farms II, LLC
- PIN: 9851-62-2001 – Bandit Farms III, LLC
- PIN: 9851-61-4001 – Meredith Grace Sabye
- PIN: 9851-61-9223 – Meredith Grace Sabye

4. The above-listed owners of the Conservation Property (collectively the “Property Owners”) are the Defendants in this lawsuit. While the Conservation Property is owned by different property owners, the Conservation Property is used collectively to operate Union Grove Farm (or “UGF”) as a single establishment.

5. The Complaint seeks a declaratory judgment to interpret the terms of and enforce the Conservation Easement with respect to: 1) the construction of three roads at the Conservation Property; and 2) UGF’s proposal to local an amphitheater at the Conservation Property, all of which TLC believes is in violation of the Conservation Easement.

6. Defendants EastWest Organics LLC (“EastWest”) and Harper Grace, LLC (“Harper Grace”) each have an equal, ½ interest in their property which is subject to the Conservation Easement, and both have filed Motions to Dismiss the Complaint.

7. Specifically, on September 11, 2025, EastWest filed a Motion to Dismiss the Complaint pursuant to Rules 12(b)(1) and 12(b)(6). EastWest’s Motion alleges, among other things, that the roads at issue are not located on the property owned by EastWest (which is co-owned with Harper Grace); EastWest was not properly notified of the road violation pursuant to the Conservation Easement; and, because EastWest withdrew from its appeal of an interpretation made by the Orange County Planning Director regarding the proposed amphitheater, there is no active controversy with EastWest regarding the proposed amphitheater.

8. Separately, on September 22, 2025, Harper Grace filed a Motion to Dismiss the Complaint, alleging the Complaint fails to state a claim upon which relief can be granted. Like EastWest’s Motion, Harper Grace’s Motion alleges there are not facts to “tie” either the road

violations or the proposed amphitheater to Harper Grace's property (which is also EastWest's property).

9. On October 21, 2025, EastWest noticed its Motion to Dismiss for hearing on December 15, 2025.

10. On October 22, 2025, Defendant Meredith Sabye filed an Answer and Motion to Dismiss pursuant to Rule 12(b)(6). Like Defendants EastWest and Harper Grace, Defendant Sabye alleges in its Answer that: the road violations did not occur on its property, Defendant Sabye was not properly notified of the road violations, and Defendant Sabye is not involved in the request for an interpretation from the Orange County Planning Director regarding the proposed amphitheater.

11. To date, neither Harper Grace nor Meredith Sabye have calendared their Motion to Dismiss for hearing.

12. On November 21, 2025, all parties received from the Court an Order for Mediated Settlement Conference and Civil Case Management Schedule, requiring the selection of a mediator by December 12, 2025.

13. On December 4, 2025, counsel for TLC sent an email to counsel for all parties, notifying the parties of several legal and practical concerns with conducting a hearing on only Defendant EastWest's Motion to Dismiss. A copy of the December 5, 2025 email is attached hereto as Exhibit A.

14. As explained in the December 4 email, it is TLC's position that holding a hearing on only EastWest's Motion would be problematic, because EastWest and Harper Grace have a shared interest in their property and both filed Motions to Dismiss based on the same reasons. However, only EastWest noticed its Motion for hearing. Holding two separate hearings, one for

each co-owner, on the same legal and factual question would not only be inefficient and a waste of judicial resources, but it could also lead to inconsistent verdicts and cause even more litigation and expenses. Defendant Meredith Sabye has also filed a Motion to Dismiss, which has not been noticed for hearing. To the extent Defendant Sabye's legal arguments overlap with those of Defendants' EastWest and Harper Grace, which appears likely given Defendant Sabye's Answer, this would create further issues with inconsistent verdicts and require the Parties to expend even more time and resources.

15. Additionally, it is TLC's position that all Defendants are necessary parties to this Declaratory Judgement action because they are the owners of the Conservation Property subject to the Conservation Easement, and the failure to include any one owner would invalidate any judgement rendered. See, e.g., Cole v. Bonaparte's Retreat Property Owners' Ass'n, Inc., 259 N.C. App. 27, 815 S.E.2d 403 (2018); Hine v. Blumenthal, 239 N.C. 537, 80 S.E.2d 458 (1954); Rice v. Randolph, 96 N.C. App. 112, 384 S.E.2d 295 (1989); Regency Lake Owners' Association, Inc. v. Regency Lake, LLC, 258 N.C. App. 636, 814 S.E.2d 121 (2018); N.C. Dept. of Transp. V. Stagecoach Village, 174 N.C. App. 825, 622 S.E.2d 142 (2005); and Boone v. Rogers, 210 N.C. App. 269, 708 S.E.2d 103 (2011).

16. For the reasons above, TLC's counsel informed the parties that it believed all Defendants' pending Motions to Dismiss should be calendared for hearing at the same time, and if EastWest did not agree, TLC would file a Motion to Continue.

17. On December 5, 2025, counsel for EastWest informed TLC's counsel that it intends to proceed with a hearing on its Motion to Dismiss on December 15 and would oppose this request for continuance. To date, no other party has stated its position on TLC's Motion for

Continuance and Defendants Harper Grace and Meredith Sabye have not indicated their intent to calendar their Motions to Dismiss for hearing.

WHEREFORE, for the reasons stated herein, TLC respectfully requests that the Court continue the hearing on EastWest's Motion to Dismiss, which is currently scheduled for December 15, 2025, until such time that all pending Motions to Dismiss, including the Motions to Dismiss filed by Defendants EastWest, Harper Grace and Meredith Sabye, can be calendared for hearing at the same time.

RESPECTFULLY SUBMITTED, this the 8th day of December, 2025.

**SMITH, ANDERSON, BLOUNT, DORSETT,
MITCHELL & JERNIGAN, LLP**

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing *Triangle Land Conservancy's Motion to Continue Hearing on EastWest Organics LLC's Motion to Dismiss* has been electronically filed with the Clerk of Court using the Odyssey eFileNC system which will automatically send e-mail notification of such filing to the following:

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This, the 8th day of December 2025.

**SMITH, ANDERSON, BLOUNT, DORSETT,
MITCHELL & JERNIGAN, LLP**

/s/ Robin L. Tatum
Robin L. Tatum

EXHIBIT A

Amanda Ball

From: Catherine Hill
Sent: Thursday, December 4, 2025 2:46 PM
To: farmer@annshylaw.com; Samuel A. Slater; mgladstone@wyrick.com;
paul@pmdubbeling.com
Cc: Robin Tatum
Subject: TLC v. Union Grove Farm, Inc., et al .

All – we are writing regarding EastWest’s Motion to Dismiss, which EastWest has calendared for December 15. For several legal and practical reasons, we have concerns with holding a hearing on only EastWest’s motion. We wanted to bring these concerns to your attention and see if we can reach a consensus on a different way to proceed that we believe would be more efficient and cost-effective for all parties.

As you know, EastWest and Harper Grace, LLC each have a ½ property owner interest in their property. Both EastWest and Harper Grace, LLC have filed Motions to Dismiss based on the same reasons, but only EastWest has noticed its Motion for hearing on the 15th. We believe holding a hearing on only EastWest’s Motion would be futile, as this would lead to 2 separate hearings on the same question. Not only would this be a significant waste of judicial resources, but it could also lead to inconsistent verdicts and cause even more litigation and expenses. Meredith Sabye has also filed a Motion to Dismiss, which has not been noticed for the 15th. To the extent Ms. Sabye’s legal arguments overlap with EastWest and Harper Grace, LLC’s legal arguments, this would create further issues with inconsistent verdicts and require everyone to expend even more time and resources.

Additionally, it is clear that all property owners who own property subject to the Conservation Easement must be named as parties to this lawsuit for the judgment to be valid. There are several cases on this – all of which hold in actions seeing a judicial interpretation and determination regarding an easement, all owners of property subject to the easement are necessary and must be joined in the action. A few of these cases include: Cole v. Bonaparte’s Retreat Property Owners’ Ass’n, Inc., 259 N.C. App. 27 (2018); Hine v. Blumenthal, 239 N.C. 537, 80 S.E.2d 458 (1954); Rice v. Randolph, 96 N.C. App. 112, 384 S.E.2d 295 (1989); Regency Lake Owners’ Association, inc. v. Regency Lake, LLC, 258 N.C. App. 636, 814 S.E.2d 121 (2018); N.C. Dept. of Transp. V. Stagecoach Village, 174 N.C. App. 825, 622 S.E.2d 142 (2005); and Boone v. Rogers, 210 N.C. App. 269, 708 S.E.2d 103 (2011).

In short, not only do we believe it would be inefficient and legally problematic to hold a hearing on just EastWest’s Motion to Dismiss, but we do not believe the Court can legally grant the relief requested.

As everyone is aware, this case has also been ordered to mediation. We are required to select a mediator by December 12. We have been in discussions with Sam Slater about conducting a mediation with the parties he represents and we have all agreed to hold a mediation on February 5 with Scott Hart from Sumrell Sugg as the mediator. Please let us know if EastWest and Meredith Sabye are in agreement, so we can inform the Court. Given the legal points above, we see postponing a hearing on EastWest’s Motion to Dismiss until after the parties can conduct this mediation as the most logical and efficient path forward.

Alternatively, if EastWest insists on proceeding with their Motion on the 15th, we will file a motion to continue, notifying the court of our legal concerns and requesting the motion be continued until all parties' motions to dismiss can be calendared for hearing at the same time.

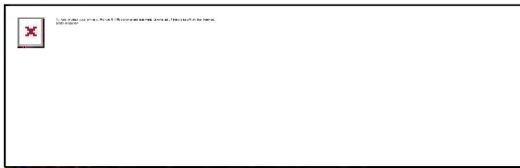
Please let us know your position on this by the end of the day tomorrow, including whether you consent to designating Scott Hart as the mediator for this case.

Thank you.

CATHERINE H. HILL | COUNSEL

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