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 ORGANICS, LLC; HARPER GRACE, LLC; MEREDITH G. SABYE, Defendants.	**TRIANGLE LAND CONSERVANCY'S BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT (N.C.R. Civ. P. 56)**

TABLE OF CONTENTS

OVERVIEW AND SUMMARY 1

STATEMENT OF THE CASE AND FACTS 4

I. The Complaint and Defendants' Defenses and Counterclaims. 4

A. Defendant EastWest Organics, LLC. 5

B. Defendant Meredith Saybe. 6

C. Defendants Union Grove Farm, Inc., Bandit Farms II, LLC, Bandit Farms III, LLC and Harper Grace, LLC. 6

II. An Overview of Conservation Easements Generally and TLC's Duties and Responsibilities. 7

III. The Mapleview Farm Conservation Easement Before the Court. 10

IV. Defendants' Violations of the Conservation Easement. 14

LEGAL ARGUMENT 15

I. SUMMARY JUDGMENT STANDARD. 16

II. TLC IS ENTITLED TO SUMMARY JUDGMENT ON THE CLAIMS ASSERTED IN THE COMPLAINT. 16

A. The Undisputed Facts Establish that the New Roads Were Constructed in Violation of the Conservation Easement. 16

i. The New Roads were Constructed by UGF and the Current Property Owners. 16

Electronically Filed Date: 10/1/2026 4:19 PM Orange Superior Court County Clerk of Superior Court

ii. The Three New Roads Violate the Conservation Easement. 19

iii. TLC's Notice Was Lawful. 20

B. TLC is Entitled to Summary Judgment on its Claim that the Proposed Amphitheater, and Any Comparable Use Violates the Terms of the Conservation Easement. 21

III. DEFENDANTS' AFFIRMATIVE DEFENSES ARE NOT LEGALLY VIABLE. 22

A. The Undisputed Evidence Does Not Support Defendants' Factual Claims. 23

B. Defendants' Affirmative Defenses Do Not Apply Because a Conservation Easement Can Only Be Extinguished or Modified By Written Consent of All Parties. 23

C. The Governing Law Does Not Support Defendants' Argument That Easement Restrictions Can Be Barred Forever by the Failure to Enforce Past Violations. 25

D. There is No Legal Precedent That Precludes the Enforcement of a Conservation Easement Because the Violations Were Reported to the Easement Holder By Neighbors. 26

E. The Undisputed Evidence Shows TLC Acted Promptly and Without Delay to Enforce the Conservation Easement and has Never Authorized the Property Owners to Engage in these Activities. 28

CONCLUSION 29

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NOW COMES Plaintiff, Triangle Land Conservancy ("TLC"), by and through undersigned counsel, and respectfully submits the following Brief in Support of its Motion for Summary Judgment.

OVERVIEW AND SUMMARY

This case involves an ongoing dispute between Plaintiff, Triangle Land Conservancy ("TLC"), a North Carolina non-profit corporation which holds a conservation easement on property known as the Union Grove Farm in Orange County and Defendants, who each own either a fee simple or leasehold interest in Union Grove Farm.

The conservation easement is entitled "Mapleview Farm Easement," "Grant of Conservation Easement and Development Rights" and was granted to TLC in 1995 by the former fee simple owners Robert and Aubrey Nutter (the "Conservation Easement"). The property subject to the Conservation Easement is approximately 107 acres (the "Conservation Property"), and its uses and development are governed by, *inter alia*, the terms of the Conservation Easement. While the entire 107 acres was owned solely by the Nutters at the time the Conservation Easement was

created, in or around 2022 it was subdivided and sold to five different owners, including the named Defendants, except Union Grove Farm, Inc. which leases property from the Bandit Farms LLCs to conduct UGF's regenerative farming operations. Attached hereto as Exhibit A is a map from Orange County GIS showing the 5 parcels that make up the Conservation Property and the owners of each parcel.[1]

The express "purposes" of the Conservation Easement is to:

> "protect in perpetuity the open space character, agricultural productivity, watershed protection and scenic qualities of the Property (collectively the 'Conservation Values') and to assure the availability of the Property in perpetuity for agricultural use."

See Conservation Easement, p. 2. (Complaint ["Cmplt"], Ex A)

It is TLC's position that since acquiring the Conservation Property, Defendants have consistently attempted to develop it for more uses and at greater intensities than the Conservation Easement allows. At bottom, it appears Defendants want to operate the Conservation Property as a profitable business open to the public, while TLC is seeking to protect the Conservation Values and further the purposes of the Conservation Easement. The Complaint and remaining Counterclaims arise from the continued tension and ongoing disagreements between the parties over the use and development of the Conservation Property.

TLC's Complaint first alleges that Defendants constructed three new roads in violation of the Conservation Easement (the "New Roads") and asks the Court to require their removal. *See* Cmplt, First and Second Causes of Action.

Second, the Complaint asks the Court to declare that Defendants' proposed 2,500-seat entertainment amphitheater is prohibited by the Conservation Easement. *See* Cmplt, Third and

[1] This map is also attached to the Affidavit of Robert (Bo) Howes as Exhibit 4. Despite the multiple owners, the Conservation Easement remains in full force and applies to all parcels and owners the same as when originally conveyed.

Fourth Causes of Action. Defendants previously asked the Orange County Planning Director to make an official determination that the proposed amphitheater was "agritourism" and, thus, exempt from the zoning and other requirements of the County's Unified Development Ordinance (the "UDO"). *See* N.C. Gen. Stat. § 160D-903. TLC and a group of neighbors, unrelated to TLC and represented by separate counsel, each asked the County to deny the agritourism exemption. The Planning Director ruled against the Defendants and held the amphitheater was prohibited by the UDO. TLC's Complaint asks that the Court declare Defendants' proposed amphitheater is further prohibited by the Conservation Easement.

The claims and issues set forth in the Complaint are simple and straightforward. To reach a decision, all the Court must do is review the undisputed facts related to the constructed New Roads and proposed amphitheater and evaluate whether the Conservation Easement allows them. This answer is informed by, *inter alia,* applying the Conservation Easement's own "Interpretation" clause, to which both the Grantor and Grantee agreed. That clause provides that the Conservation Easement must be interpreted to "resolv[e] any ambiguities and questions of the validity of specific provisions *so as to give maximum effect to its conservation purposes.*" *See* Conservation Easement, ¶19. (emphasis added) This alone requires a decision in TLC's favor.

As to the New Roads, the Conservation Easement expressly prohibits the construction of new roads except in limited locations. The undisputed evidence shows that the three New Roads were: 1) constructed in locations not allowed by the easement; and 2) constructed by Defendants after they purchased the Property and began operating UGF. That is the end of the Road analysis.

As to the 2500-seat amphitheater, it is a large commercial and "Assembly" use that far exceeds the limited development rights retained by the Nutters in 1995. New buildings are absolutely prohibited on the Conservation Property in the area where the amphitheater was

proposed. And new buildings located in what is known as the "Farm Operations Envelope" are limited to those used "solely for agricultural purposes." The County's decision that the amphitheater is not agritourism should answer this question; however, a declaratory judgment that the amphitheater is also prohibited by the Conservation Easement will prevent Defendants from again trying to develop the same or a similar use without TLC's knowledge and by some other means.

Defendants do not seem to dispute that they built the New Roads or that a large entertainment venue exceeds the scope of permitted activities under the Conservation Easement. Instead, Defendants raise spurious and never-before recognized defenses based on unsupported facts to excuse these violations and amend the Conservation Easement to prohibit enforcement of known violations. There is no basis for these defenses in fact or law. Thus, TLC asks that its Motion for Summary Judgment be granted.

STATEMENT OF THE CASE AND FACTS

I. The Complaint and Defendants' Defenses and Counterclaims.

TLC filed the Complaint on August 15, 2025. As explained above, it seeks declaratory judgments to interpret and enforce the Conservation Easement with respect to Defendants' construction of three New Roads and a proposal for a large entertainment amphitheater at the Conservation Property. TLC contends these all constitute violations of the Conservation Easement and requests injunctions to prevent the amphitheater and require the restoration of the Property.

Defendants, who are represented by multiple different attorneys, answered and otherwise responded as summarized below:

A. Defendant EastWest Organics, LLC.

Defendants EastWest Organics, LLC ("EastWest") and Harper Grace, LLC jointly own one parcel located at the southwest corner of the Conservation Property adjacent to Dairyland Road. *See*, Exhibit A. This parcel includes an existing agricultural center.

On September 11, 2025, EastWest filed a Motion to Dismiss the Complaint pursuant to N.C.R. Civ. P. 12(b)(1) and 12(b)(6). The crux of the Motion was that the alleged violations did not occur on the parcel owned by EastWest and that TLC failed to provide EastWest with adequate notices of the New Road violations. TLC's position has consistently been that, *inter alia,* all Conservation Easement owners are necessary parties to the Complaint to obtain a binding judgment regarding the meaning of Conservation Easement terms. *See* TLC's Memorandum of Law in Opposition to EastWest's Motion to Dismiss. *See also, e.g. Regency Lake Owner's Association, Inc. v. Regency Lake, LLC*, 258 N.C. App. 636, 814 S.E.2d 121 (2018). Following a hearing on December 15, 2025, Superior Court Judge Thomas Currin agreed with TLC and denied EastWest's motions to dismiss. *See* Order Denying Defendant EastWest Organics, LLC's Motion to Dismiss, filed December 22, 2025.

Thereafter, EastWest filed an Answer and Counterclaims against TLC. The Counterclaims ask for declaratory judgments that the use of the existing agricultural center and several other hypothetical "potential" uses which do not exist and have not been proposed, are permitted by the Conservation Easement. EastWest specifically states that it seeks these declarations only "as to its own rights and obligations under the Conservation Easement and does not seek to adjudicate or impair the rights of its co-tenant, Harper Grace, LLC."[2]

[2] Notably, as stated, *supra*, Judge Currin has already held that all Property Owners must be named for the court's jurisdiction and a binding judgment.

On March 11, 2026, TLC filed a Motion to Dismiss EastWest's Counterclaims. TLC's Motion to Dismiss is currently pending and scheduled to be heard with TLC's Motion for Summary Judgment.

B. Defendant Meredith Saybe.

Defendant Saybe owns two parcels located at the southern portion of the Conservation Property adjacent to Dairyland Road. *See*, Exhibit A. On October 22, 2025, Defendant Meredith Saybe filed an Answer and Motion to Dismiss the Complaint. Saybe has never noticed her Motion to Dismiss for hearing. *See*, TLC's Motion to Continue Hearing on EastWest Organics LLC's Motion to Dismiss.

C. Defendants Union Grove Farm, Inc., Bandit Farms II, LLC, Bandit Farms III, LLC and Harper Grace, LLC.

Defendant Bandit Farms II owns one parcel located on the eastern side of the Conservation Property, adjacent to Meadowview Road. *See* Exhibit A. Defendant Bandit Farms III also owns one parcel located on the northern portion of the Property, which includes the majority of the Farm Operations Envelope. *See* Exhibit A; Conservation Easement, Exhibit B. As stated above, Defendant Harper Grace, LLC co-owns one parcel with EastWest. Union Grove Farm, Inc. leases several of the Conservation Property parcels and operates Union Grove Farm. Union Grove Farm, Inc. is owned by Greg Bohlen, who also owns Bandit Farms II and Bandit Farms III.

On September 22, 2025, Defendants Union Grove Farm, Inc., Bandit Farms II, LLC, and Bandit Farms III, LLC (the "UGF Defendants") filed an Answer and Counterclaims. The Counterclaims alleged that TLC breached an alleged oral agreement. They later asked to add even more counterclaims seeking declaratory judgments to interpret Conservation Easement terms not currently in dispute. On June 15, 2026, Superior Court Judge Stephanie Reese dismissed the UGF Defendants' existing Counterclaims and denied their request to add more. Specifically, their

Motion to Amend was denied as futile because the only live controversies at this time relate to the New Roads and the amphitheater – not other hypothetical questions.[3]

II. An Overview of Conservation Easements Generally and TLC's Duties and Responsibilities.

An overview of TLC's purpose and its role in the conservation easement process should be helpful in evaluating TLC's Motion for Summary Judgment. This evidence is undisputed and is explained in the Affidavit of Bo Howes, who is the TLC Senior Director of Conservation West and has been employed by TLC since 2008. (Howes Aff. ¶¶ 2, 4). Per Mr. Howes:

> "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's conservation work spans across Chatham, Orange, Lee, Durham, Wake and Johnston counties.
>
> TLC is considered a 'qualified conservation organization,' under Internal Revenue Service (IRS) regulations. TLC's status as a qualified conservation organization allows it to receive tax-deductible gifts, such as conservation easements, and allows the donor to also receive significant tax benefits. To be considered a qualified conservation organization, TLC must, among other requirements, have a commitment to protect the conservation purposes of conservation easements it holds, and have the resources to enforce the restrictions.
>
> TLC is an accredited land trust through the Land Trust Accreditation Commission, which is an independent program of the national Land Trust Alliance (the "LTA"). Land trust accreditation is a mark of distinction, showing that a land trust meets the highest standards for land conservation. The LTA Land Trust Standards and Practices are widely recognized as the national standard for operating a land trust legally, ethically and in the public interest, with a sound program of land stewardship."
>
> (Howes Aff. ¶¶ 5-7)

[3] TLC successfully argued that its lawsuit was not an opportunity to go through the Conservation Easement line by line and obtain a ruling on whether the UGF Defendants could engage in activities in the future not yet proposed or denied by TLC. *See* Order Denying UGF Defendants' Motion for Leave to Amend their Counterclaims, filed July 20, 2026.

TLC uses a variety of strategies to permanently protect land for conservation purposes, including holding and enforcing conservation easements on private property. (Howes Aff. ¶ 8).

In his role at TLC, Howes "regularly negotiate[s] and supervise[s] the acquisition of conservation easements on private property." (Howes Aff. ¶ 9) Howes "engage[s] in discussions with private property owners seeking to establish or modify conservation easements" and he "evaluate[s] the strategic conservation value of the project." (*Id*.) Howes also "ensure[s] that TLC conducts appropriate legal and environmental reviews and complies with the LTA Land Trust Standards and Practices." (*Id*.) He has "extensive experience with drafting and monitoring conservation easements" and is "very familiar with the terms and restrictions which are typically included in conservation easements." (Howes Aff. ¶ 10) Howes oversees and manages TLC's Conservation and Stewardship team "who are the TLC employees responsible for managing the conservation easements held by TLC." (*Id.)*

Howes' Affidavit explains the basics of conservation easements, including how they are established and what they are intended to accomplish, as follows:

> "[c]onservation easements are voluntary legal agreements designed to ensure the long-term viability and protection of land or water areas in their natural, scenic or open condition or in agricultural, farming or forest use, within a surveyed and recorded boundary. A conservation easement's restrictions are tailored to the particular conservation values of the land and the preservation goals of the landowner and grantee. The condition of the property in its natural state prior to granting the conservation easement is usually documented in a baseline report. "
>
> (Howes Aff. ¶ 16)

Conservation easements are negotiated to create "allowances and restrictions that are beneficial to the landowner, the easement holder, and the environment." (Howes Aff. ¶ 17) These restrictions typically include the landowner transferring the "right to develop" on the property by placing restrictions on its use and development "which are enforceable by the holder of the

conservation easement in perpetuity and so run with the title to the property." (*Id.*) "Conservation easements are perpetual and remain in place with each change in land ownership." (*Id.*)

In exchange for this grant of development rights and voluntary restrictions, the landowner receives, among other financial advantages, on-going tax benefits. (Howes Aff. ¶ 19) Specifically, for taxation purposes, the Conservation Act provides land and improvements subject to a conservation easement are "assessed on the basis of the true value of the land and improvements less any reduction in value caused by the agreement." *See* N.C. Gen. Stat. § 121-40. The "true value of the land" is the market value prior to the granting of the conservation easement less the "damage factor" caused by the conservation easement and loss of development rights. *See*, *e.g.*, *Rainbow Springs Partnership v. Macon County*, 79 N.C. App. 335, 339 S.E.2d 681 (1986).

TLC currently holds approximately 200 conservation easements. (Howes Aff. ¶ 10) TLC's Conservation and Stewardship team are responsible for managing its conservation easements. Hannah Royal is currently TLC's Stewardship Manager and has been employed by TLC since 2021. (Royal Aff. ¶ 3) In that role, Royal "oversee[s] and manage[s] all of TLC's conservation easements, with the primary goal of ensuring the conservation property is being used in a manner that adheres to the conservation easement." (Royal Aff. ¶ 7) This is accomplished by "regular communication with the property owner," "scheduling and conducting annual site visits to monitor the condition of the conservation property, preparing post-inspection reports on the condition of the property, investigating allegations of potential easement violations, and engaging in enforcement when violations of the conservation easement occur." (*Id.*)

At all times relevant to the Complaint, Royal has been the Stewardship Manager "responsible for scheduling and conducting the annual site monitoring visits to the Conservation Property and preparing reports on the condition of the Conservation Property following the annual

site visit." (Royal Aff. ¶ 13) Royal also "conduct[s] and prepare[s] reports for other inspections, which are conducted on an as-needed basis." (*Id.)*

TLC's process for enforcing conservation easements is explained by Howes. (Howes Aff., ¶¶ 20-26). TLC's "Easement Enforcement Policy" is used to address potential easement violations. *See* Complaint, Exhibit C. TLC consistently and uniformly enforces its conservation easements according to the procedures set forth in its Easement Enforcement Policy. This is true regardless of how TLC was notified of the potential violation, or whether the potential violation is minor or substantial. "TLC typically learns of potential violations through either an annual easement monitoring visit or by receiving a report from a concerned neighbor or other individual of a suspected violation." (Howes Aff. ¶ 22) TLC then "refers to the Easement Enforcement Policy for next steps." (*Id*.) TLC first attempts to "resolve easement violations with the greatest degree of cooperation from the landowner and the least expense to both landowner and the land trust." (Howes Aff. ¶ 24) TLC "[u]se[s] litigation as a last resort." (*Id.*) *See*, Easement Enforcement Policy, pp. 1-2. In fact, the case *sub judice* is the first lawsuit it has ever filed. *See, e.g.*, TLC's response to Union Grove Farm, Inc.'s Interrogatory #16.

Howes further explained:

> "…TLC's Easement Enforcement Policy defines different types of violations. Technical Violations are procedural violations that have no impact on the conservation easement's intent, purpose and/or protected conservation values. Tier 1, 2 and 3 violations are violations that do have an impact on the conservation easement's intent, purpose and/or the protected conservation values, and these violations are measured on a sliding scale based on their impact. Specifically, Tier 1 violations have a 'negligible impact,' Tier 2 violations have a 'moderate impact,' and Tier 3 violations have a 'significant impact.' The Easement Enforcement Policy provides examples of violations that qualify for each of these tiers."
>
> (Howes Aff. ¶ 25)

III. The Mapleview Farm Conservation Easement Before the Court.

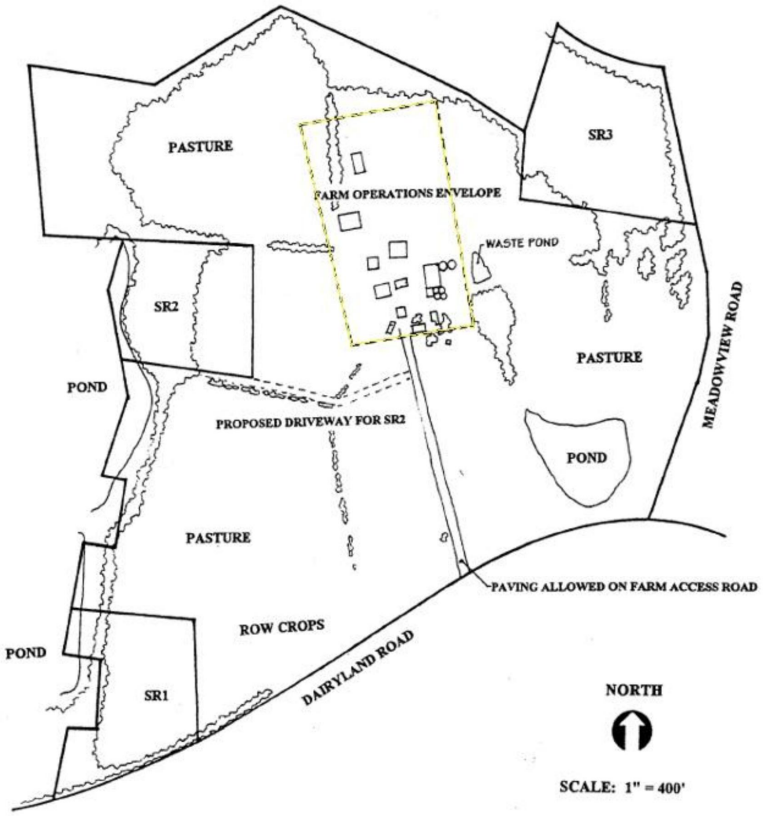
Howes' testimony explains the history of the Conservation Easement:

> "At the time the Conservation Easement was granted to TLC, the Conservation Property was known as Mapleview Farm. Prior to granting the Conservation Easement, the agricultural and other characteristics of the property which warrant preservation and conservation were memorialized in a Report entitled 'The Development and Preservation of Mapleview Farm,' with supplemental appendices, dated August 1995 (the 'Conservation Report'). The Conservation Report is attached [to the Howes Affidavit] as Exhibit 3. The Conservation Report describes Mapleview Farm as 'comprised of rolling pastures, fields, woods and ponds around a working dairy farm and several homes.' *See*, Conservation Report, p. 5."
>
> (Howes Aff. ¶ 28)

The Conservation Property is further described as "primarily open farmland" with "outstanding scenic qualities that can be enjoyed by the general public." (Howes Aff. ¶ 29) These include: 1) "long open views of Mapleview Farm" from the property's frontage along Dairyland Road; 2) "the visibility of every element of indigenous traditional piedmont farming;" and 3) "the harmonious variety of curving tree lines, open fields, winding country roads, and silos silhouetted against the skyline." (*Id*.)

The purpose of the Conservation Easement is to protect in perpetuity the Conservation Values and to assure the availability of the Property in perpetuity for agricultural use. *See* Conservation Easement, p. 2. "To this end, the Conservation Easement prohibits and restricts, among other things, development, subdivision, mining, paving, tree removal, recreational uses, and the construction of roads at the Property." (Howes Aff. ¶ 30)

The Conservation Easement's restrictions refer to various identified areas on the Conservation Property. The diagram below is Exhibit B to the Conservation Easement. To assist the Court, the Farm Operations Envelope is highlighted in yellow.



The Nutters conveyed to TLC: "all developmental rights that are now or hereafter allocated to, implied, reserved or inherent in the Property," with the exception of three (3) limited circumstances, set forth in paragraphs 2(c), 2(d) and 8. *See* Conservation Easement, p. 5, ¶ 4, entitled "Development Rights." As successors-in-interest, Defendants stand in the shoes of the Nutters. *See*, *e.g.*, Conservation Easement, p. 9, ¶ 20.

Per the Conservation Easement, Defendants' only remaining development rights are as follows:

> • **Paragraph 8: <u>New Roads within the Farm Operations Envelope & Certain Access Roads</u>** – The Property Owners are prohibited from constructing new roads, except for roads built within the Farm Operations Envelope or except for access roads as shown on Exhibit B to the Conservation Easement. *See* Conservation Easement, p. 6, ¶ 8;[4]

[4] As explained, *infra*, the three New Roads built by Defendants do not fall within any of these exceptions.

> • **Paragraph 2(c): <u>Agricultural uses within the Farm Operations Envelope</u>** – The Property Owners may, without TLC's written consent, construct "[n]ew buildings and other structures and improvements to be used solely for agricultural purposes" which are located within the confines of the Farm Operation Envelope shown on Exhibit B to the Conservation Easement. *See* Conservation Easement, p. 4, ¶ 2(c); and
>
> • **Paragraph 2(d): <u>Single-Family Dwellings within SR-1, SR-2 and SR-3</u>** – The Property Owners may build and subdivide out no more than three (3) new single-family residential dwellings, together with reasonable appurtenances, in the locations designated as SR-1, SR-2 and SR-3. At the time that construction of such dwellings is to commence, the Property Owners must notify TLC. *See* Conservation Easement, p. 4, ¶ 2(d). Any subdivided tract "shall remain subject to the terms of th[e] easement to ensure the continued agricultural use of the Property." *See* Conservation Easement, p. 5, ¶ 3."

(Howes Aff. ¶¶ 31-33)

The Conservation Easement prohibits violations by the Grantors, and also states the Grantors will not "perform, nor knowingly allow others to perform, any act on or affecting the [Conservation Property] that is inconsistent … with … the Conservation Easement". *See* Conservation Easement, pp. 3-4, Section 1 entitled "Prohibited Acts." (Howes Aff. ¶ 30)

The Conservation Easement includes provisions that govern its enforcement and interpretation. The Enforcement Clause provides that before filing a lawsuit, TLC must give Defendants written notice of the violation and one hundred twenty (120) days to correct the violation, except "when an ongoing or imminent violation could irreversibly diminish or impair" the Conservation Values. (Howes Aff. ¶ 39). The Enforcement Clause also clearly provides that, "[t]he failure of the Grantee [TLC] to discover a violation or to take immediate legal action shall not bar it from doing so at a later time." (Howes Aff. ¶ 40)

There is, however, a mechanism, *i.e.,* the "Discretionary Consent" clause that allows TLC to consider and allow activities which would not otherwise be permitted on the Conservation Property. *See* Conservation Easement, p. 7, ¶ 12. It provides:

> "[i]f, owing to unforeseen or changed circumstances, any of the activities prohibited [] are deemed desirable by both the Grantor and the Grantee, the Grantee may, in it is sole discretion, give permission for such activities, subject to the limitations herein."

(*Id*.)

Requests must "be in writing and shall describe the proposed activity in sufficient detail to allow the Grantee to judge the consistency of the proposed activity with the purpose of th[e] Conservation Easement." (*Id*.) TLC may then only consent if, "it determines, in its sole discretion, that such activities (1) do not violate the purpose of th[e] Conservation Easement and (2) either enhance or do not impair any significant conservation interests associated with the Property." (*Id*.)

IV. Defendants' Violations of the Conservation Easement.

As detailed in the Complaint, beginning in 2023, Defendants constructed the three New Roads and took steps to develop the proposed amphitheater,

Details about the location and construction of the New Roads, including when they were discovered and why they constitute violations, are set forth in the Royal and Howes Affidavits. For each New Road violation, TLC's Executive Director, Sandy Sweitzer, sent notices to Greg Bohlen and UGF, informing them that the New Roads violated the Conservation Easement and, per TLC's Easement Enforcement Policy, constituted a Tier 3 violations. *See* Complaint, Exs. B-D. Each notification letter stated that the property must be restored to the condition that existed prior to the violation and that TLC would perform another site visit in 90 days. (*Id*.) However, to date, the New Roads remain and "the Property Owners and UGF have taken no steps to remedy the violations." (Howes Aff. ¶ 66)

TLC first learned about the amphitheater and its scale and scope on June 13, 2024. Defendants' then-legal counsel sent a letter to the Orange County Planning Director requesting a determination that the proposed amphitheater would constitute "agritourism" and, was, thus,

exempt from the County's zoning regulations. (Howes Aff. ¶ 68, Ex. 5) The proposed site plan and documentation "described a 2,500 seat 'concert venue,' with a large stage and several supporting structures, including backstage dressing rooms, artist areas and restrooms." (Howes Aff. ¶ 78, Ex. 5). The amphitheater was proposed "adjacent to, and mostly outside of, the Farm Operations Envelope," and in an area where development is not allowed per the Conservation Easement. (Howes Aff. ¶¶ 78, 83)

"TLC was not shown the proposed amphitheater before UGF and the Property Owners sought permission from the County to allow the amphitheater at the Conservation Property" and what was proposed "was far beyond what TLC … could ever allow." (Howes Aff. ¶¶ 69, 72) TLC's counsel sent a letter to the County opposing the requested agritourism interpretation. *See,* Complaint, Ex. I. On June 4, 2025, the Planning Director issued a "final and binding" determination that the amphitheater is not "agritourism." On July 3, 2025, Defendants appealed that determination to the Orange County Board of Adjustment. (Complaint, ¶¶ 56-59, Ex. J; Howes Aff., Ex. 8). The appeal was later withdrawn, however, Defendants continued to state their intent to move forward with their plans for a large entertainment venue.

Having exhausted all other means to obtain and ensure Conservation Easement compliance, TLC filed the Complaint.

LEGAL ARGUMENT

Claims seeking the judicial interpretation and enforcement of an easement are properly brought under the Declaratory Judgment Act. *See, e.g., Woodlief v. Johnson*, 75 N.C. App. 49, 54, 330 S.E.2d 265, 268 (1985)("[a]n action to obtain a judicial declaration of rights to an easement is authorized by our Declaratory Judgement Act…"). The Conservation Act also authorizes the holder of conservation agreements, in this case TLC, to enforce conservation agreements "by injunction

and other appropriate equitable relief administered or afforded by the courts of this State." *See* N.C. Gen. Stat. § 121-39.

I. SUMMARY JUDGMENT STANDARD.

Summary judgment shall be rendered "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that any party is entitled to a judgment as a matter of law." *See* N.C.R. Civ. P. 56(c). "It has been established that summary judgment is an appropriate procedure in a declaratory judgment action." *Montgomery v. Hinton*, 45 N.C. App. 271, 273, 262 S.E.2d 697, 698 (1980) (*citing Frank H. Connor Co. v. Spanish Inns Charlotte*, 294 N.C. 661, 242 S.E.2d 785 (1978) and *Blades v. City of Raleigh*, 280 N.C. 531, 187 S.E.2d 35 (1972)).

II. TLC IS ENTITLED TO SUMMARY JUDGMENT ON THE CLAIMS ASSERTED IN THE COMPLAINT.

A. The Undisputed Facts Establish that the New Roads Were Constructed in Violation of the Conservation Easement.

i. The New Roads were Constructed by UGF and the Current Property Owners.

The Road 1 violation was initially discovered by TLC on November 18, 2023, during an inspection by Howes in response to a complaint from a neighbor approximately five days before. (Royal Aff. ¶ 18, Ex. 3; Howes Aff. ¶¶ 51-52; Deposition of Bo Howes ["Howes Dep."] pp. 67-68) The neighbor reported that a new road had recently been constructed which appeared to violate the Conservation Easement. (Royal Aff. ¶ 18, Ex. 3). At the time of Howes's inspection, Road 1 "was dirt; however, it was subsequently further improved with gravel." (Howes Aff. ¶ 52)

Road 1 is a "massive" sixty (60) feet wide road that required the destruction of a mature, hardwood forest. (Howes Dep., pp. 68, 119). Specifically,

> The new Road 1 was constructed from Mapleview Road through a hardwood forest to access the Farm Operations Envelope. Construction of the new road required the

> removal of numerous trees. The new Road 1 was also constructed outside of the Farm Operation Envelope, and not in a location where access roads are allowed pursuant to Exhibit B of the Conservation Easement. As such, Road 1 is in violation of the following provisions of the Conservation Easement: Section 4 (Development Rights); Section 6 (Timber Harvesting); and Section 8 (Paving and Road Construction).

(Howes Aff. ¶ 53)

The Road 2 violation was identified by TLC during an April 15, 2024 site visit by Howes and Matt Rutledge, who at that time was TLC's Associate Director of Stewardship. (Royal Aff. ¶ 19, Howes Aff. ¶ 57). This inspection was also prompted by a report by several neighbors on April 13, 2024 informing that there was "a second new road under construction at the Conservation Property." [5] (Howes Aff. ¶ 56) Road 2 is "a new gravel road … built on the northwestern portion of the Conservation Property." (Howes Aff. ¶ 57) Per Howes:

> "The new Road 2 was constructed from a point north of the Center for Regenerative Agriculture across a field to access the Farm Operations Envelope. The new road was also constructed outside of the Farm Operation Envelope, and not in a location where access roads are allowed pursuant to Exhibit B of the Conservation Easement."

(Howes Aff. ¶ 58)

The Road 3 violation was identified by TLC on or around March 4, 2025 during a site visit by Howes and Royal. (Royal Aff. ¶ 19; Howes Aff. ¶ 61). Road 3 is a road "built to the east of the Farm Operation Envelope, connecting a previously existing farm road from Meadowview Road to the outstanding road violation (Road 1) in the northeast corner of the Conservation Property." (Howes Aff. ¶ 61).

[5] TLC has 200 conservation easements and cannot be at all places at all times. Therefore, reports of questionable activities by neighbors are a common way for easement holders to be alerted of potential violations. (Howes Aff. ¶ 22)

Prior to the construction of the New Roads, there were existing "farm tracks" on the Conservation Property. A farm track is not a road, but is an unimproved area where tractors regularly drive to and from fields and perform agricultural purposes. *See*, *e.g.*, Howes Dep. pp. 54-56, 156-157. A road on the other hand, involves improvements to the surface of the property, such as clearing, grading, and the installation of drainage and gravel, to prevent degradation of the road. *See*, *e.g.*, Howes Dep. pp. 54-57, 73. Road 3 was never a farm track, but is a new road that "left [an] old farm track and went up to meet the road that is [the] subject of notice of violation 1." *See*, Howes Dep. p. 70. Road 3 is "entirely new construction." (*Id*.)

Road 3 "was constructed outside of the Farm Operation Envelope, and in a location where access roads are not allowed pursuant to Exhibit B of the Conservation Easement." (Howes Aff. ¶ 62) Road 3, thus, violates Section 4 (Development Rights) and Section 8 (Paving and Road Construction) of the Conservation Easement. (*Id.*)

On or around August 6, 2025, Royal conducted the 2025 annual site inspection. Royal testified: "During this inspection, I confirmed that Road 3, as well as Roads 1 and 2, continued to remain at the Conservation Property, and no steps had been taken to remedy any of these violations." (Royal Aff. ¶ 22). Royal also confirmed that TLC's inspections and site visits established that the New Roads were constructed in or around late 2023 and early 2024, which was after the Nutters sold the Property. (Royal Aff. ¶ 23).

Royal also used satellite imagery to confirm that Roads 1, 2 and 3 are new roads constructed by Defendants. As the Stewardship Manager, Royal has "access to and regularly use[s] a software program entitled 'Upstream Tech Lens' (referred to as 'Lens'), which is a satellite imagery database." (Royal Aff. ¶ 24) TLC regularly uses Lens as a tool to review and verify violations of conservation easements which TLC holds. (*Id*.)

Exhibit 5 to the Royal Affidavit is a Satellite Imagery Report which Royal created to show satellite imagery of Union Grove Farm from 2022 to 2025. The Report includes satellite aerial photographs taken on February 6, 2022 and June 27, 2025 showing the locations of the three New Roads. These photographs confirm the roads did not exist when the Nutters owned the Property and were constructed after Defendants purchased the Property and UGF began operations. (Royal Aff. ¶¶ 24-26) The undisputed evidence, thus, establishes that the New Roads were constructed by Defendants and they still remain today. (Royal Aff. ¶ 27; Howes Aff. ¶ 66)

ii. The Three New Roads Violate the Conservation Easement.

Several provisions of the Conservation Easement prohibit the New Roads. The first is Section 8 which states:

> *"8. Paving and Road Construction*
>
> No portion of the Property shall be paved or otherwise be covered with concrete, asphalt, or any other non-permeable paving material. (For purposes of this provision, gravel shall be considered to be a permeable material.) ***No new roads may be built except within that portion of the Property designated as the Farm Operations Envelope or except for access roads as shown on Exhibit B****."*

See, Conservation Easement, p. 6, ¶ 8 (emphasis added)

The photographs taken during TLC's inspections and site visits, the aerial images, and the sworn testimony of Royal and Howes, establish the New Roads were built outside of the Farm Operations Envelope and are not identified as permitted on Exhibit B. The New Roads are also not unimproved "farm tracks," but are new construction that required substantial land clearing and grading, the installation of drainage and gravel. *See, e.g.*, Howes Dep. pp. 54-57, 73, 156-157.

Second, the New Roads are also a violation of Section 4, "Development Rights," by which the Nutters specifically conveyed TLC "all developmental rights that are now or hereafter allocated to, implied, reserved or inherent in the Property," except for three limited circumstances not

applicable to the roads. The three New Roads are also a violation of Section 4 because they were constructed in excess of the limited development rights held by Defendants.

Finally, the construction of Road 1 is a violation of Section 6, which states:

"*6. Timber Harvesting*

> Trees may be cut to control insects and disease, to prevent personal injury and property damage, and for firewood and other domestic uses, including construction of permitted buildings and fences on the Property. Trees may also be cut to clear land for cultivation or grazing of livestock, but only if done in accordance with the written conservation plan required by paragraph 5."

As stated in the Road 1 violation notice and the Howes Affidavit, Road 1 went through a hardwood forest and Defendants removed numerous trees to construct it. *See*, Complaint, Ex. B; Howes Aff. ¶ 53; Howes Dep., pp. 68, 119. This is a clear violation of Section 6. *See*, Howes Dep. pp. 120-124.[6]

iii. TLC's Notice Was Lawful.

Some Defendants have alleged the Conservation Easement required TLC to provide written notice of the New Road violations to each individual property owner prior to filing a lawsuit. This argument fails for several reasons. First and as explained *infra*, this defense was already raised and rejected by the Court when it denied EastWest's Motion to Dismiss on the same basis. *See* EastWest's Motion to Dismiss, ¶¶ 1 and 3; and Court's Order denying the same.

Second, assuming *arguendo*, the Court could revisit this defense, it still fails. The Conservation Easement does not require written notice and an opportunity to cure prior to filing a lawsuit "when an ongoing or imminent violation could irreversibly diminish or impair the open

[6] Some Defendants have argued that because they are allowed to conduct "Timber Harvesting," cutting trees to construct Road 1 was not a violation. This is an attempted "after the fact" justification. There is no evidence that Defendants' decision to clear trees was for "timber harvesting" purposes and not to construct Road 1. Defendants also never provided a timber harvesting plan. Regardless, the New Roads still violate Sections 4 and 8.

space character, agricultural productivity, watershed protection values, or scenic qualities of the Property." *See* Conservation Easement, p. 8, ¶ 14. All three (3) Road violations were deemed Tier 3 violations pursuant to TLC's Easement Enforcement Policy. *See* Complaint, Exs. B-D; Howes Aff. ¶¶ 54-55, 59-60, 63-64.

B. TLC is Entitled to Summary Judgment on its Claim that the Proposed Amphitheater, and Any Comparable Use Violates the Terms of the Conservation Easement.

TLC is also entitled to summary judgment on its Third, Fourth and Fifth Claims for Relief which request declaratory judgments that the proposed amphitheater or any similar use, violates the Conservation Easement regardless of whether it is built inside or outside the Farm Operations Envelope. TLC's Fifth Claim for Relief requests an injunction preventing Defendants from taking further actions pursuant to the proposed amphitheater.

The Howes Affidavit explains TLC's concerns with the proposed amphitheater and why it violates the terms of the Conservation Easement. Howes testified that, upon receiving the Property Owners' and UGF's proposed plan for the amphitheater, TLC recognized immediately that the proposal was fundamentally incompatible with both the County's zoning regulations and the Conservation Easement. (Howes Aff. ¶¶ 73-84)

First, the Conservation Property has been zoned Rural Buffer under the Orange County UDO since before the Conservation Easement was established. (Howes Aff. ¶ 74) This district significantly limits development on the Conservation Property, and this is stated in both the Conservation Report and the Conservation Easement. (*Id*.) There is likewise no dispute that the proposed amphitheater is a prohibited use in the Rural Buffer district. Defendants knew this and that is why they sought an agritourism exception. (Howes Aff. ¶ 75)

Second, the proposed amphitheater constitutes an unambiguous violation of the Conservation Easement. Under no interpretation could this project ever be permitted, regardless

of where on the Conservation Property it might be located. (Howes Aff. ¶¶ 77-84) A 2,500-seat concert venue is wholly incompatible with the vision memorialized in both the Conservation Report and the Conservation Easement. (Howes Aff. ¶ 81) The Report contemplates the Conservation Property will remain "mostly open farmland, with unobstructed scenic views from all adjacent roadways, except for a limited number of houses." *See* Report, p. 19. Nowhere in the Conservation Report is there any discussion—or even a suggestion—that a large-scale concert venue could be sited on the Conservation Property. (Howes Aff. ¶ 81)

The proposed amphitheater also violates the Conservation Easement because it is not an agricultural use. (Howes Aff. ¶ 80) The Planning Director recognized this in his interpretation by determining that the amphitheater would be an "assembly use." *See* Complaint, Exhibit J. Under the County's zoning regulations, agricultural uses are permitted in the RB zoning district; assembly uses are not. (Howes Aff. ¶ 80)

Moreover, the amphitheater is also prohibited in the Farm Operations Envelope. (Howes Aff. ¶ 84) The Conservation Easement permits new buildings, structures, and improvements within the Farm Operations Envelope only when they are used "*solely* for agricultural purposes." (emphasis added) A 2,500-seat concert venue is clearly not an agricultural use. (*Id*.) In sum, the proposed amphitheater is a violation of the Conservation Easement, entitling TLC to the relief requested in its Third, Fourth and Fifth Claims for Relief.

III. DEFENDANTS' AFFIRMATIVE DEFENSES ARE NOT LEGALLY VIABLE.

Defendants claim that the lawsuit is barred by multiple affirmative defenses, most of which essentially allege that TLC waived its rights to enforce the Conservation Easement by allowing violations by the prior owners. Defendants also claim laches and selective enforcement and complain that TLC only enforced against Defendants because the violations were discovered and

reported by neighbors. As explained below, none of these defenses are supported by the facts or existing law.

A. The Undisputed Evidence Does Not Support Defendants' Factual Claims.

Defendants allege that: 1) the prior owners violated the Conservation Easement; and 2) TLC failed to take enforcement action against them. There is, however, no evidence that confirms these unsupported claims. Instead, the undisputed evidence establishes that TLC has regularly conducted annual monitoring visits and, as of the date of Howes's Affidavit, the only activities at the Conservation Property in violation of the Conservation Easement are the New Roads and proposed amphitheater. *See*, Howes Aff. ¶ 90.

Significantly, Defendants had no involvement with the Conservation Property until they purchased it and began the UGF operation in or around 2022. They had no relationship with Mapleview Farm so have no first-hand knowledge of what occurred in the past or any proof of prior violations. Their claims are based solely on conjecture to add fuel to their unsupported legal theory that TLC has lost its enforcement rights. The undisputed evidence presented by TLC, which does have first-hand knowledge of what occurred when the Nutters owned the Property, disproves Defendants' speculative allegations. Thus, these defenses should be rejected out of hand based on a lack of factual foundation alone.

B. Defendants' Affirmative Defenses Do Not Apply Because a Conservation Easement Can Only Be Extinguished or Modified By Written Consent of All Parties.

Even assuming *arguendo*, there was a factual basis, Defendants alleged affirmative defenses fail because neither the grantor nor the grantee of a conservation easement can unilaterally terminate or modify the easement's terms.

The Conservation Easement is a unique legal agreement, governed by the Conservation and Historic Preservation Agreements Act. *See* N.C. Gen. Stat. § 121-34, *et seq*. Pursuant to the

Conservation Act, the Conservation Easement is a "Conservation Agreement," which is a defined term and may take the form of a restriction, reservation, easement, covenant or condition in any deed, will or other instrument. *See* N.C. Gen. Stat. § 121-35(1). Regardless of the form it takes, the statutes that apply to a Conservation Agreement are the same.

Among other things, the Conservation Act governs the termination and modification of Conservation Agreements. Specifically, Section 121-39.1 entitled "termination or modification of agreements" states in subsection (e) as follows:

> "[P]arties to a conservation agreement may include a provision at the time an agreement is executed requiring the consent of the grantor or the grantor's successor in interest to terminate or modify the agreement for any purpose."

The Conservation Easement includes such a provision and requires written consent from the grantor and grantee to amend the easement. *See* Conservation Easement, p. 8, ¶ 17. The Conservation Easement further states only a court may terminate the easement "at the joint request of both the grantor and grantee." *See* Conservation Easement, p. 9, ¶ 18. As explained, *supra*, there are also significant tax consequences to the Property Owners if the property is no longer subject to a conservation agreement or if the holder of the easement (TLC) is not administering and enforcing the easement. *See*, *e.g.*, Howes Aff. ¶¶ 6, 19.

Since the Conservation Easement can only be extinguished or amended by written consent of all parties, TLC can never unilaterally, by its own actions, intentional or otherwise, amend or extinguish the terms of the Conservation Easement as a matter of law. This makes Defendants' affirmative defenses, which are based on a theory that TLC somehow forever waived its right to

enforce the Conservation Easement based on past actions, inapplicable to the claims in the lawsuit.[7]

C. The Governing Law Does Not Support Defendants' Argument That Easement Restrictions Can Be Barred Forever by the Failure to Enforce Past Violations.

Again, there is no evidence that TLC has ever failed to enforce the Conservation Easement in the past. However, even if this had occurred, this would not prevent TLC from enforcing the Conservation Easement with respect to the New Roads and the proposed amphitheater.

As an initial matter, the Conservation Easement expressly states, "[t]he failure of the Grantee to discover a violation or to take immediate legal action shall not bar it from doing so at a later time." *See* Conservation Easement, ¶14. That alone negates this defense.

Additionally, case law interpreting restrictive covenants and easements makes clear that the failure to enforce a violation in one instance does not constitute a waiver of the entire easement, nor does it allow the property owners to engage in other violations. *See, e.g. Williamson v. Pope*, 60 N.C. App. 539, 544, 299 S.E.2d 661, 664 (1983)(plaintiffs' waiver of any right to object to a motel did not waive their right to enforce the covenant against a store, which was "a much more radical departure from the permitted use"); *Black Horse Run Property Owners Association-Raleigh, Inc. v. Kaleel*, 88 N.C. App. 83 (1987)(permitting one property owner to erect a single radio tower which was not visible to passersby from the street did not constitute radical departure triggering waiver); *Williams v. Paley*, 114 N.C. App. 571 (1994)(intermittent commercial activity, including rental of residential housing to vacationers and use of residences as rental properties, did

[7] Defendants offer no legal support for their position that legal doctrines such as estoppel, waiver, unclean hands, laches, selective enforcement or consent apply to conservation easements. TLC's counsel has also conducted extensive legal research and has been unable to find a single case that supports the application of any of these defenses to prevent the enforcement of a conservation easement.

not constitute waiver); *Barber v. Dixon*, 62 N.C. App. 455 (1983)(storage shed and boat storage building, even if they were violations, were not so drastic as to warrant removal of the restrictions).

Finally, TLC's past interpretation of the Conservation Easement or prior use of the Discretionary Consent Clause can never give rise to a selective enforcement claim. Defendants have offered no factual support to support their claim that TLC has engaged in selective enforcement. However, the doctrine of selective enforcement derives from the Fourteenth Amendment of the Constitution and only applies to enforcement actions taken by a government actor. TLC is not a governmental entity and, thus, selective enforcement has no application to the Conservation Easement. *See, e.g., Kinsley v. Ace Speedway Racing, Ltd.*, 284 N.C. App. 665, 877 S.E.2d 54 (2022)("Claimant must show that a *state actor* applied the law with 'a pattern of conscious discrimination' …); *Keshk v. Montague*, 180 N.C. App. 237, 636 S.E.2d 341 (2006)(unpublished)("A cause of action for selective enforcement of restrictive covenants does not exist in North Carolina.").

D. There is No Legal Precedent That Precludes the Enforcement of a Conservation Easement Because the Violations Were Reported to the Easement Holder By Neighbors.

In discovery, Defendants spent much time trying to gather evidence that would establish TLC only chose to enforce against Defendants and file this lawsuit because the violations were reported by UGF's neighbors. Defendants essentially claim that TLC is doing the neighbors' bidding and would have ignored these violations but for the neighbors' complaints. While it is true that several of the New Road violations were brought to TLC's attention by neighbors, the theory that TLC should not respond to those reports and enforce a documented violation based on the source is absurd and has no legal basis. At best, this argument is unfounded, and at worst, it is frivolous.

There is no law whatsoever supporting the contention that because a complaint came from a disgruntled neighbor, an easement holder like TLC can be precluded from enforcing its conservation easement against a property owner. There are, however, analogous cases in the context of zoning violations. Under North Carolina law, zoning complaints from neighbors must be addressed and the identity or relationship of a complainant is not a valid defense to enforcement. In fact, in the zoning context, a neighboring property owner actually has a legal right to compel enforcement of zoning violations through a writ of mandamus if the local government ignores their request to enforce. *Midgette v. Pate*, 94 N.C. App. 498, 380 S.E.2d 572 (1989). The reason for the complaint and motivation of the complainant cannot excuse the enforcement of an ordinance, and the same analysis applies to TLC here. *See, e.g., State v. Hales*, 282 N.C. App. 178, 870 S.E.2d 629, 870 S.E.2d 629 (2022)(court rejected defendant's claim that City enforced against him for ordinance violations because a neighbor solicited the code officer to cite him for racially discriminatory reasons).

As the easement holder, TLC has a duty to enforce the Conservation Easement pursuant to the Enforcement clause, and it cannot legally ignore the legitimate complaints from neighbors to allow Defendants to avoid compliance.[8] TLC's staff has an obligation to protect conservation values, maintain TLC's accredited status, and answer to its Board of Directors and the donors who contribute money and resources for TLC to preserve conservation property. In fact, it would be a violation of the Conservation Easement *not* to investigate complaints from individuals who are

[8] This defense is of course inconsistent with Defendants' claim of waiver. On the one hand, they claim the failure to enforce against the Nutters prevents future enforcement against Defendants. On the other hand, they claim that if the complaint comes from a neighbor, TLC's hands are tied and they cannot enforce. Again, there are no cases TLC can locate that support any of these defenses. What is clear is that Defendants' objective is the same regardless of the nonsensical nature of their arguments, *i.e.,* allow them to violate the Conservation Easement and then claim TLC has no enforcement rights against them.

eyewitnesses to potential violations. In sum, this defense is unprecedented, has no legal support and should be rejected.

E. The Undisputed Evidence Shows TLC Acted Promptly and Without Delay to Enforce the Conservation Easement and has Never Authorized the Property Owners to Engage in these Activities.

Finally, the undisputed evidence establishes that TLC acted in good faith, promptly, and without delay in enforcing the Conservation Easement with respect to the New Road violations and proposed amphitheater.

TLC's enforcement process here began long before the issuance of the New Road notices of violation, its opposition to the proposed amphitheater, or the filing of this lawsuit. The undisputed evidence shows that TLC meets with owners of conservation easement property as soon as they acquire the property and every time the property changes hands. *See, e.g.*, Transcript of Sweitzer Deposition ["Sweitzer Dep."], p. 93. At this meeting, TLC goes through the terms of the easement, the limitations imposed thereby, and the fact that the property owner needs to get approval from TLC for changes to the property. *See, e.g.*, Sweitzer Dep. p. 93.

In this case, the facts show that TLC met with UGF owner Greg Bohlen immediately after the sale. Howes Dep. p. 101. In addition, TLC told Bohlen on more than one occasion that he could not build new roads. *See*, Howes Dep. p. 101. The Property Owners and UGF were, thus, aware of the terms of the Conservation Easement and its prohibition on the construction of new roads before they made the decision to build the three New Roads anyway.

Furthermore, per the Conservation Easement, the Property Owners have a continuing responsibility to ensure that neither they, nor anyone else, violate the Conservation Easement or engage in activity that violates the Conservation Values. *See,* Conservation Easement, p. 4, ¶ 1. The Property Owners' obligation to prevent violations from occurring exists regardless of whether and when TLC initiates enforcement action. *See, e.g.*, Howes Dep. p. 101; Sweitzer Dep. p. 94.

After identifying the New Road violations, TLC sent letters to UGF and Bohlen notifying them that the New Roads were a violation and must be restored immediately. *See* Complaint, Exs. B-D. TLC urged Defendants on multiple occasions to bring the Property into compliance with the Conservation Easement and Defendants simply refused to do so. *See, e.g.,* Howes Aff., ¶¶ 66, 85.

With respect to the amphitheater, the undisputed evidence is that it was not until the Defendants submitted a proposal to Orange County seeking approval to construct the amphitheater without regulatory oversight that TLC first became aware of its scale and size. (Howes Aff. ¶¶ 68-72) TLC was immediately concerned and took fast action to oppose Defendants' agritourism request. (Howes Aff., fn 5; Complaint, Ex. I)

In sum, TLC has never deemed the proposed 2,500 seat amphitheater or the New Roads to be in compliance with the Conservation Easement which is confirmed by the undisputed facts. It was only when it became apparent that Defendants did not intend to bring the Property into compliance or abandon their plans for the amphitheater that TLC proceeded with this lawsuit. (*See* Howes Aff., ¶¶ 66, 85)

CONCLUSION

Based on the foregoing, TLC respectfully requests that its Motion for Summary Judgment as to all claims in the Complaint be granted and that TLC be awarded the relief requested.

RESPECTFULLY SUBMITTED this the 1st day of October 2026.

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing ***Triangle Land Conservancy's Brief in Support of Motion for Summary Judgment*** 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 1st day of October 2026.

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

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Exhibit A

TLC - Parcels in Conservation Easement

