

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

THE ORCHARD PROPERTY
OWNERS ASSOCIATION II, INC.

Plaintiff,

v.

HABERSHAM COUNTY, GEORGIA

Defendant.

CIVIL ACTION NO.: 2023CV382248

**PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING
ORDER AND INTERLOCUTORY INJUNCTION**

COMES NOW Plaintiff The Orchard Property Owners Association II, Inc. (the "Association"), and files this Motion for Temporary Restraining Order and Interlocutory Injunction.

The Association seeks an order enjoining Defendant Habersham County, Georgia (the "Defendant") from erecting a public communication tower on the real property commonly known as Lot 20, Phase IX of The Orchard Subdivision (the "Subject Property") in violation of the Declaration of Covenants and Restrictions for The Orchard, which is recorded in Deed Book 240, Page 419, et seq. of the Habersham County, Georgia records, as amended and supplemented (the "Declaration") and the Habersham County Code of Ordinances. The Association further seeks an order enjoining the Defendant from removing trees and operating equipment and machinery on the Subject Property in violation of the Declaration.

The Temporary Restraining Order and Interlocutory Injunction will prevent further tree removal, site work and construction on the Subject Property thereby preserving the status quo and serving judicial economy. If the Court does not enter a Temporary Restraining Order and

Interlocutory Injunction, immediate and irreparable injury to the Association will result by reason of the fact that the erection public communication tower is direct violation of the restrictive covenants in the Declaration. In support of its Motion, Plaintiff submits herewith its Brief in Support of Plaintiff's Motion for Temporary Restraining Order and Interlocutory Injunction.

WHEREFORE, the Association prays for the entry of a Temporary Restraining Order and Interlocutory Injunction restraining Defendant from erecting a public communication tower on the Subject Property and any work related thereto, including operating machinery and equipment on the Subject Property; cutting trees on the Subject Property; and, clearing the Subject Property.

This 30th day of June, 2023.

NOWACKHOWARD, LLC

/s/ William H. Gourley III

William H. Gourley III

State Bar No. 615023

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