

Settlement Agreement

Civil 91-97

Filed this 28th Day of July, A.D. 993

At 2:3 o'clock PM

June Little

Clerk of District Court

Park County – signed by Sandra Uinient

WHEREAS, Park County has alleged in Civil Action Nos. 91-97 and 91-98 of the Sixth Judicial District, Park County, Montana, that violations of the Park County, Montana, Subdivision Planning Regulations have occurred on Parcel 35, Certificate of Survey No. 616A located in Glastonbury South (Parcel 35/616A: and on Parcel 47, Certificate of Survey No 615A located in Glastonbury North (“Parcel 46/615A”), Park County; and

WHEREAS, Church Universal and Triumphant, Inc. (the ”Church”, Elizabeth Clare Prophet and Edward L. Francis (referred to herein as the “Church Defendants”); John Lee Baylor, Linda Joyce Baylor, Maria Dulce De Almeida Santos, Shirley Lloyd, Sherman Dunn, Nancy Weintraub Cook Dunn (sic) and Margaret Roach (referred to herein as the “Parcel 47/615A Defendants”); Carla Emma Pagnier, Damiaan Kletter, Adriana Rotgans, Lubertus Van Hulzen, Kimille Jensen, Anthony Ten Broek, Carolyn (sic Ten Broek, Patricia Bruno and Aaltge (sic) Westerbeek (referred t here in as the “Parcel35/616A Defendants”) **and other unnamed John and Mary Does (all of the forgoing referred to herein collectively as the “Defendants”)** have in those same actions denied that any violations of the Park County Subdivision Planning Regulations have occurred; and

WHEREAS, Park County and the Defendants share a mutual interest in addressing and resolving the issues identified in the two civil actions referenced above; and

WHEREAS, **other owners of property located in Glastonbury North and Glastonbury South (hereinafter the “Property Owners”)** may also have an interest in resolving subdivision and other issues concerning their property; and

WHEREAS, in this Agreement “Glastonbury North” includes all of the lands located in Certificates of Survey Nos. 607, 615A, 883; and 884, excluding the Golden Age Village Final Preliminary Plat; and “Glastonbury South” includes all of the lands located in Certificates of Survey Nos. 610, 616A, 892, 895, and 981, Park County Montana; and

WHEREAS the Defendants and Park County agree that this Settlement Agreement is not intended to have any effect on any lawsuits brought by the State of Montana against any of the Defendants or on any environmental impact statements presently being prepared; and

WHEREAS, the Defendants contend that representatives of Park County have in the past notified or advised some of the Defendants and/or Property Owners who had applied to subdivide or expressed an interest in subdividing their property that Park County would deny any such applications on individual parcels in Glastonbury unless a master plan covering all of Glastonbury North and Glastonbury South was submitted and approved:

NOW THEREFORE, to fully resolve Counts I of Civil Action Nos. 91-97 and 91-98 and the outstanding related issues concerning Glastonbury North and Glastonbury South, the Defendants and Park County agree as follows:

- **Recording of Ownership Interests**

The Defendants and any Property Owners who elect to participate (referred to herein as the “Participating Property Owners”) shall have until one hundred twenty (120) days after the execution of this Settlement Agreement by all parties to document in appropriate deeds, abstracts, notices of interest, or other instruments of conveyance and to submit t the Park County Clerk and Records Office, in a form suitable for recording, their ownership interests in the parcels or tracts of land, or portions thereof, in Glastonbury North and Glastonbury South which are not now recorded in Park County Records.

Within said one hundred twenty (120) days, the Defendants and Participating Property Owners shall submit a list of the existing dwellings, developed but currently unoccupied dwelling sites, and other major real property improvements which are located on each parcel or tract of land owned by them in Glastonbury North and Glastonbury South. This list shall be submitted to the Park County Attorney’s office and may also include those dwellings which have been purchased by any of the Defendants or Participating Property Owners but which have not yet been moved onto their parcels or tracts of land in Glastonbury North and Glastonbury South prior t the signing of this Settlement Agreement pending the resolution of the lawsuits brought by Park County. (Note: Contacts where made in search of this list in the County Attorney’s office, Court Records or Church Records, and no one found a copy)

Ownership interests of record, tenants in common and their successors and assigns, and existing dwellings, developed dwelling sites and improvements (or their replacements) which have been recorded or identified as described above shall not be the subject of future legal action by Park County asserting violations of Park County Subdivision Planning Regulations due to multiple ownership interests or dwellings (except for mobile homes) on a single parcel or tract of land of 20 acres or larger, so long as the requirements contained in Sections No. 1 and No.2 herein have been met for the individual parcels or tracts involved.

Park County shall not be restrained, however, from asserting violations against those who are not in compliance with subdivision laws or regulations for any other reasons than those addressed in this Settlement Agreement.

- **Sanitary Sewage Disposal Systems**

Park County and the Defendants acknowledge that each existing or future dwelling or grouping of dwellings identified in the list described above in Section No. 1 are required by Park County to be served by an on-site sanitary sewage disposal system which complies with the Park County On-Site Sewage Disposal Regulations.

The Defendants and Participating Property Owners shall, to the extent records are available, include in the list described in Section No. 1 those dwellings, groupings of dwellings, developed but currently unoccupied dwelling sites, and other major real property improvements located or to be located on each parcel or on-site sewage disposal system and whether said systems have been permitted and inspected by the Park County Health Department, if known. In any case where the adequacy of any structure's on-site sewage disposal system is questioned by Park County officials, a copy of the permit issued for that particular structure which shows that the system had been permitted, inspected and approved shall be proof of satisfactory compliance. The Defendants and Participating Property Owners may also present other evidence to prove that their on-site sewage disposal systems were approved. Park County agrees to make copies of permits in its files available to any property owner who requests it.

Those Defendants or Participating Property Owners with dwellings, developed but currently unoccupied dwelling sites, or other major real property improvements in Glastonbury North or Glastonbury South which by Park County regulations are required to have but do not have a county-approved on-site sanitary sewage disposal system shall apply to Park County Health Department for a permit within ninety (90) days after submission of the list described in Section No. 1. If requested by the Park County Sanitarian during review of any such application, individual Defendants or Participating Property Owners applying for such permits will remove the soil covering sufficient portions of any such existing septic tank or drain field as is necessary and reasonable to allow for inspection and verification of the as-built on-site sewage disposal system.

Defendants or Participating Property Owners applying for such permits that are determined by the Park County Sanitarian to have inadequate or deficient on-site sanitary sewage disposal systems on their property shall alter their systems as directed by the Park County Sanitarian to comply with the Park County On-Site Sewage Disposal Regulations (Rev. 6/92). Corrective

alterations shall be made within a reasonable period of time (not to exceed ninety (90) days, weather permitting) after receipt of the Park County Sanitarian's written inspection report which identifies the deficiency. Upon completion of the alterations, the particularly Defendants or Participating Property Owners involved shall notify the Park County Sanitarian in writing that the work has been completed. The Park County Sanitarian shall within thirty (30) days thereafter conduct a final inspection and if the corrective alterations have been satisfactorily completed, issue a permit show that the system has been given final approval.

- **Mobile Home/Subdivision Review**

Park County and the Defendants are in disagreement on the issue of whether several mobile homes and/or mobile home spaces location on the Defendants' properties may constitute a "subdivision" subject to local government review under the Montana Subdivision and Platting Act, Section 76-3-101 et seq., MCA, and/or the Park County Subdivision Planning Regulations (1979). In order to attempt to resolve this dispute, Park County and the Defendants agree to jointly request an indefinite continuance from the Sixth Judicial Court, Park County, of Count II of the Complaints in Civil Action Nos. 91-97 and 91-98 pending a review by Park County of proposed subdivisions on Parcel 35/616A and Parcel 47/615A.

Within sixty (60) days after submission of the list described in Section No. 1, the Parcel 35/616A Defendants and the Parcel 47/615A Defendants, respectively, shall each make application to Park County for review and approval of a subdivision covering the mobile homes and/or joint interests on their respective parcel. The applications shall be reviewed and promptly acted upon by Park County in accordance with the applicable Park County Subdivision Planning Regulations and the Montana Subdivision and Platting Act.

Any Participating Property Owners in Glastonbury North or Glastonbury South may also apply for review and approval of a subdivision on their property in accordance with the terms set forth in this Section (No. 3) and if approved by Park County, no violations shall be asserted by Park County against them due to more than one mobile home or mobile home space being located on a single parcel or tract of land.

Each proposed subdivision containing five (5) or fewer parcels (for a division of land) or five (5) or fewer mobile homes (for multiple mobile homes on a single parcel or tract of land without a division of land) which is submitted to Park County by the Defendants or Participating Property Owners shall be reviewed as a minor subdivision and an environmental assessment shall not be required, in accordance with Section II.A.20 of the Park County Subdivision Planning Regulations.

Since Glastonbury is a private religious community with no public access, Park County will not require public parkland dedication of Glastonbury parcels that are proposed for subdivision. However, owners of property interests in Glastonbury who desire to subdivide their parcels will be required, at their option, to either pay the county cash-in-lieu of dedicating land for public parkland purposes or they may form a private property owners association and dedicate land within their parcel for a park to be owned by their property owners' association. A cash donation in lieu of dedicating public parkland in a proposed subdivision shall be based on the case equivalent of the fair market value of the land that would otherwise be dedicated. The fair market value of such land is equal to the value of the unsubdivided, unimproved land as set forth in Park County Subdivision Planning Regulations.

Should Park County review and approve the proposed subdivisions for Parcel 35/616A and Parcel 47/615A, then County II of the Complaints in Civil Action Nos. 91-97 and 91-98 shall both be dismissed with prejudice and no violations may be asserted by Park County against the Defendants due to more than one mobile home or mobile home space being located on a single parcel or tract of land. Should Park County deny or fail to approve either or both of the subdivisions, or approve either or both of them with conditions that are unacceptable to either the Parcel 35/616A Defendants or the Parcel 47/615A Defendants respectively, then the affected group(s) of Defendants reserve the right to fully litigate the issues in said County II of Civil Action Nos. 91-97 and/or 91-98 and to assert any and all claims or defenses, without limitation.

The Defendants and Participating Property Owners are agreeing to apply for review and approval of subdivisions for settlement purposes only. None of the Defendants or Participating Property Owners shall be deemed to have made any admissions or to have waived any claims, defenses or other rights that may otherwise be asserted by them on account of applying to Park County for review and approval of a subdivision on their property in accordance with this Section (No.3) or on account of making any statements or providing any information in connection therewith.

The parties agree that under current law, a "mobile home" is and, for purposes of this Settlement Agreement, shall be defined as follows:

"A factory-assembled structure, or combination of structures, that is designed, used and installed as a residence, and is equipped with a permanently attached chassis, undercarriage and tongue for towing, which may be moved by a hauling vehicle. The term shall not include, however, a "factory-built building" as that term is defined in Section 50-60-101(6), MCA, or a modular or manufactured home which is built or certified in accordance with the Uniform Building Code as adopted in Montana.

- **Roads**

Defendant Church Universal and Triumphant, Inc. (the “Church”), or its assignee, agrees to maintain in a serviceable condition those portions of the platted private community road system in Glastonbury North and Glastonbury South that provide access to individual parcels or tracts of land upon which dwellings exist as described in the “Declaration of Covenants for the Community of Glastonbury” and the applicable specifications and standards adopted thereunder. Within thirty (30) days after submission of the list described in Section No. 1, a representative or representatives of Park County may, together with a representative or representatives of the Church, inspect the platted community road system to determine if the roads are reasonably ditched and culverted and are of reasonable width to allow access for Park County emergency services. It is understood by the parties’ to this agreement that the roads within the Glastonbury community are private and that Park County has no maintenance responsibility for or jurisdiction over these roads.

- **Rural Addressing System**

The Defendants and Park County agree to make reasonable efforts to facilitate the completion and implementation of the rural addressing system (including street names) in Glastonbury North and Glastonbury South.

- **Transfers to Tenants In Common and Future Rights**

Defendants and Participating Property Owners agree that, after the date of execution of this Settlement Agreement by all parties, no transfers of parcels or tracts of land in Glastonbury North or Glastonbury South shall be made from the Church, or other defendants or Participating Property Owners to multiple tenants in common unless the tenants in common are related as spouses or members of the same immediate family. An “immediate family” for the purposes of this Settlement Agreement, shall include mother, father, grandmother, grandfather, legal guardians, children, siblings and any of their spouses.

The interests of tenants in common which have been established of record as described in Section No. 1, including any partial interests in real estate and any present or future dwellings or improvements owned by any such tenants in common which meet the requirements of this Settlement Agreement, shall be fully transferable after the date of this agreement. Such transfers shall not be the subject of future legal action or refusals to act (i.e. to record documents, grant permits, etc.) by Park County based upon the assertion of a violation of the Park County Subdivision Planning Regulations. However, the Defendants and Participating Property Owners acknowledge that any newly created or segregated parcels of land will comply with the applicable subdivision laws and regulations in effect at that time.

In addition, the parties acknowledge that each tenant in common or other owner of such partial interest in real estate successors and assigns, currently have the right (subject

to the provisions of Section No. 2) to place one dwelling and associated improvements on his or her property, whether or not such dwelling or developed dwelling site currently exists, subject to all subdivision and sanitary restrictions in place at the time they propose to build. Provided, however, that where two or more of such dwellings to be located on a single parcel or tract of land are mobile homes as defined herein, the Defendants acknowledge that Park County will consider such installations as subdivisions subject to the Park County Subdivision Planning Regulations and the provisions of Section No. 3.

The Defendants and Participating Property Owners have been informed that Park County intends, after the execution of this Settlement Agreement by all parties, to treat any “new” partial interests in real estate created subsequent to the execution of this Settlement Agreement through conveyances or transfers to tenants in common, other than transfers or conveyances to spouses or members of the same “immediate family” as defined above, as “divisions of land” which shall be subject to the requirements of the Park County Subdivision Planning Regulations.

For purposes of clarifying which future tenancy in common interests will be subject to subdivision review pursuant to the terms of Section No. 6 of this Settlement Agreement, in interpreting existing state and Park County Subdivision Planning laws and regulations, Park County will **not** treat tenancy in common interests that were:

- Sold prior to the execution of this Settlement Agreement by the Defendants or Participating Property Owners to persons who are not “immediate family members” as defined herein, but
- Not recorded with the Park County Clerk and Recorders Office as of the date of the execution by all parties to this Settlement Agreement,

as “new” partial interests, created subsequent to the execution of this Settlement Agreement, and thereby subject to subdivision review and approval by Park County officials, **if such non-immediate-family tenancy in common interests are filed with the Park County Clerk and Recorder’s Office within one hundred twenty (120) days after the execution by all parties of this Settlement Agreement.**

- **Future Subdivisions of Parcels or Tracts**

In reviewing proposals to subdivide parcels or tracts of land in Glastonbury North and Glastonbury South which are made subsequent to the date of this Settlement Agreement, Park County shall consider on the individual parcel or tract that is proposed by the applicant for subdivision to be the “tract of record” to be reviewed under the Park County Subdivision Planning Regulations and the Montana Subdivision and Platting Act. This section (No.7) is not intended

to limit the authority of the planning board or other officials in considering the impacts of a subdivision on surrounding and adjoining property or developments.

- **Effect of this Settlement Agreement on Park County Cause Nos. 91-97 and 91-98**

Upon execution of this Settlement Agreement, Park County shall file with the Sixth Judicial District Court, Park County, a Motion to Dismiss with Prejudice, Count I of the actions it has brought against the Defendants who are named in civil cases 91-97 and 91-98.

- **General Provisions**

This agreement is binding upon and shall inure to the benefit of the heirs, executors, personal representatives, administrators, successors, and assigns of each of the parties hereto.

- Execution of Counterparts

The signature pages to this Settlement Agreement may be executed and delivered in any number of counterparts, each of which when executed by the parties hereto shall be deemed an original, but such counterparts shall together constitute one and the same document.

Signature Page Note: The page I have shows 4/17/93 as the date signed.

However, implementation of this Agreement must acknowledge that “other unnamed John and Mary Does” identified as defendants in the second “WHEREAS” would not be considered legally aware of completion of the Agreement until it is in the public records, which occurred July 28th, 1993 when the Agreement was filed in the Court records. Thus the 120 day period authorized to record ownership interests began July 28, 1993 and ended November 25th, 1993