

IN THE CIRCUIT COURT FOR THE FIFTH JUDICIAL CIRCUIT
IN AND FOR HERNANDO COUNTY, FLORIDA
CIVIL DIVISION

GREATER TAMPA BAY AREA COUNCIL,
INC., BOY SCOUTS OF AMERICA, a
Florida not-for-profit corporation,

Plaintiff,

Case No.: H-27-2023-CA-1763

v.

HERNANDO COUNTY, a political
subdivision of the State of Florida,

Defendant.

FINAL JUDGMENT
QUIETING TITLE TO REAL PROPERTY

This cause came before the Court on the Joint Stipulation and Consent to Final Judgment Quieting Title by Plaintiff Greater Tampa Bay Area Council, Inc., Boy Scouts of America (the "Boy Scouts")¹ and Defendant Hernando County ("Joint Stipulation and Consent"). The Court, having reviewed the Joint Stipulation and Consent, having considered the pleadings on file, and being otherwise being fully advised in the premises, hereby makes the following findings of fact:

1. On May 16, 1977, Larry Die Polder executed the Last Will and Testament of Larry Die Polder (the "Will").
2. Pursuant to the Will, Die Polder bequeathed certain real property described therein to the Boy Scouts.
3. Larry Die Polder passed away on or around March 18, 1978.

¹ Per the Articles of Merger filed with the Florida Secretary of State on April 26, 2016, "Gulf Ridge Council, Inc., Boy Scouts of America" merged with "West Central Florida Council, Inc., Boy Scouts of America." West Central Florida Council, Inc., Boy Scouts of America is formerly known as Pinellas Area Council, Inc., Boy Scouts of America. The "West Central Florida Council, Inc., Boy Scouts of America" is now the same entity as the "Greater Tampa Bay Area Council, Inc., Boy Scouts of America" who is the Plaintiff in this action.

4. On or around March 21, 1978, Main Henderson filed a Petition for Administration in Hernando County Circuit Court, Probate Division (Case No. 78-33-CP-02; the "Probate Action") as Petitioner and Personal Representative of the Die Polder Estate.

5. The Probate Action named as beneficiaries Courtney Die Polder (Larry Die Polder's wife), Larry Roberts (Larry Die Polder's stepson), Main Henderson (Larry Die Polder's son), Kate Philow (Larry Die Polder's niece), and the Boy Scouts.

6. The Will was recorded on March 22, 1978 at Book 418, Pages 1832-1839 in the Official Records of Hernando County, Florida.

7. The Will provides in relevant part:

X.

I hereby devise all of the land which I own in the following sections in Hernando County, Florida, to-wit: Section 31 and 32, Township 22 South, Range 18 East, and Sections 5 and 6, Township 23 South, Range 18 East to the Gulf Ridge Council, Boy Scouts of America, Inc. and the Pinellas Area Council, Boy Scouts of America, Inc. to be held by said Council in trust for the use and benefit of those organizations. It being specifically understood that this property shall never be sold by said devisees and shall be used in connection with the Boy Scout programs only. The lands must never be used in any way that can be deemed commercial nor sold or disposed of in any way, shape or form. It is my desire and my intent that said property shall be used so that the Boy Scouts will have a place sufficiently large enough to enjoy the great outdoors and the beauties and benefits of nature. The above devisees shall begin to use the above lands for the purposes herein set forth and their purposes within two years from date of my death, and unless said lands are being used for the purposes herein expressed then this gift shall lapse and be of no further force and effect and all of the land above shall pass as hereinafter set forth.

XI.

In the event that the Gulf Ridge Council Boy Scouts of America, Inc. and the Pinellas Area Council Boy Scouts of America, Inc. should fail to utilize the property within the time and manner herein set forth, then the above gift shall lapse and the property shall descend to Hernando County Florida to be used as a recreational area and park. This devise is made so that the citizens of this community will always have an area sufficiently large enough to enjoy the benefits of nature and the great outdoors. In the event that the property passes to Hernando County as herein set forth then Hernando County must use the property as herein set forth and in no way

shall it be sold or used for commercial purposes.

The above provisions in Sections X and XI of the Will are referred to as the "Use Restrictions."

8. After the institution of the Probate Action and the recording of the Will, a dispute arose among the beneficiaries over Courtney Roberts Die Polder's assertion that she was Larry Die Polder's surviving spouse and, as such, had a statutory right to take an elective share and family allowance out of the Estate.

9. This dispute was thereafter settled among the beneficiaries, which resulted in a stipulation dated August 15, 1979, being filed in the Probate Action and recorded on September 24, 1979, at Book 448, Page 1767 in the Official Records of Hernando County, Florida (the "Stipulation").

10. In order to effect to the Will, the settlement, and the Stipulation, Main Henderson, the Personal Representative of the Die Polder Estate, gave two Personal Representative's deeds to the Boy Scouts. The first deed is dated December 28, 1979, and was recorded on December 31, 1979 at Book 454, Pages 1037-1038 in the Official Records of Hernando County, Florida ("1979 Deed"). The second deed is dated January 14, 1981 and was recorded on April 23, 1981 at Book 481, Pages 1856-1857 in the Official Records of Hernando County, Florida ("1981 Deed") (collectively with the 1979 Deed, the "PR Deeds"). The real property described in the PR Deeds is collectively referred to as the "Sand Hill Property."

11. Pursuant to the PR Deeds, the Personal Representative conveyed the Sand Hill Property to the Boy Scouts in "fee simple forever," without reference to, and free and clear of, the Use Restrictions in the Will.

12. The PR Deeds were both given by Main Henderson, pursuant to the powers vested in the Personal Representative in the Will, including the express authority to compromise, settle, or adjust any claims and convey "fee simple" title together with all "tenements, hereditaments and

appurtenances” belonging to the Sand Hill Property, free and clear of the Use Restrictions.

13. The PR Deeds superseded the devise by the Will, and conveyed the Sand Hill Property to the Boy Scouts in “fee simple forever,” free and clear of the Use Restrictions, including, without limitation, without any executory interest in favor of Hernando County.

14. By the time the PR Deeds were given, the Will had been recorded with reference to those Use Restrictions, and those remain of record today and cloud title to the Boy Scouts’ fee simple title to the Sand Hill Property.

15. However, as a result of the settlement and Stipulation, the Boy Scouts took title to the Sand Hill Property, pursuant to the PR Deeds, free and clear of the Use Restrictions set forth in the Will including, without limitation, free and clear of any executory interest in favor of Hernando County.

16. The Boy Scouts therefore have marketable record title to the Sand Hill Property free and clear of the Use Restrictions, including, without limitation, any executory interest that Hernando County may have had pursuant to the Will in or to the Sand Hill Property, and any other claims arising out of the Will.

17. Plaintiff filed this action seeking declaratory judgment and to quiet title to the Sand Hill Property in the Boy Scouts’ name in fee simple, free and clear of the Use Restriction.

18. In light of the foregoing findings and the Stipulation and Consent, the Court finds that the Boy Scouts are entitled to the relief they are seeking.

WHEREFORE, it is hereby **ORDERED, ADJUDGED, and DECREED** that:

1. The Greater Tampa Bay Area Council, Inc., Boy Scouts of America is the fee simple owner of the Sand Hill Property pursuant to the PR Deeds, and has marketable record title to the Sand Hill Property free and clear of the Use Restrictions, including, without limitation, any

executory interest that Hernando County may have had pursuant to the Will in or to the Sand Hill Property and all other claims, reservations, restrictions, or reverters arising out of the Will, now and forever.

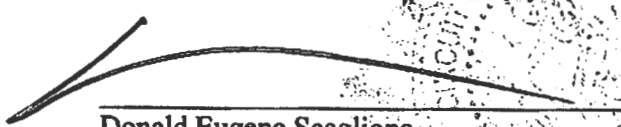
2. Hernando County has no interest of any kind in the Sand Hill Property and any rights that it may have had arising from the Will or otherwise have long been, and are hereby confirmed to have long been, superseded, extinguished, and declared to be null and void.

3. Accordingly, title to the Sand Hill Property is hereby forever quieted in favor of the Greater Tampa Bay Area Council, Inc., Boy Scouts of America, thereby removing any cloud on the Greater Tampa Bay Area Council, Inc., Boy Scouts of America's title to the Sand Hill Property caused by the Will, including, without limitation, the Use Restrictions and any executory interest that Hernando County may have had pursuant to the Will in or to the Sand Hill Property, and any other claims, reservations, restrictions, or reverters purporting to arise out of the Will.

4. Full and final judgment is hereby **ENTERED** in favor of the Greater Tampa Bay Area Council, Inc., Boy Scouts of America.

DONE AND ORDERED in Chambers, at Brooksville, Hernando County, Florida on this

12 day of Jan, 2024.


Donald Eugene Scaglione
Circuit Court Judge

CERTIFICATE OF SERVICE

I hereby certify copies of the foregoing were furnished by E-Service Delivery on this 22 day of January, 2024 to:

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Judicial Assistant