

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON**

Strawberry Point Bluffs Subdivision
Homeowners Association, a Michigan
profit corporation, and Strawberry Hills Estates I,
II, III & IV Home Owners Association, a Michigan
nonprofit corporation,

Plaintiffs,

v.

Gold Krause, Et Al, L.L.C., a Michigan
limited liability company, Michael and Frankie
Hayes, Andrews Michael, Laurence and Irene
Gauthier, David and Jennifer Howard, Scott and
Denise Landis, Keli Murillo, and Blane A. Murillo,

Defendants,

and

Sarah and Joseph DeFrancesco, Robert and Debra
Mardeusz, Jacqueline Shaffer, Timothy and
Kyle Baker, Chuck and Shelly Stevens,
Thomas and Marsha Jenkins, Edward & Susan King,
and John and Pamela Musa,

Additional Defendants,

and

Michael Andrews, Laurence and Irene Gauthier, David
and Jennifer Howard, and Scott and Denise Landis,

Cross-Plaintiffs,

v

Gold Krause. Et Al, LLC, a Michigan limited
liability company,

Cross-Defendants.

and

TRUE COPY
Hon. Theresa M. Brennan
Acting as Assigned
44th Circuit Court / Family Division

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FIRST AMENDED CONSENT JUDGMENT REGARDING LOT 116 OF STRAWBERRY POINT BLUFFS SUBDIVISION
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Gold Krause, Et Al, LLC, a Michigan limited liability company,

Counter-Plaintiff,

v

Strawberry Point Bluffs Subdivision
Homeowners Association, a Michigan
profit corporation, and Strawberry Hills Estates I,
II, III & IV Home Owners Association, a Michigan
nonprofit corporation,

Counter-Defendants.

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**FIRST AMENDED CONSENT JUDGMENT REGARDING LOT 116 OF
STRAWBERRY POINT BLUFFS SUBDIVISION**

At a session of said Court held in the
City of Brighton, County of Livingston,
State of Michigan, this

8-10-09

PRESENT: HONORABLE THERESA M. BRENNAN P-34510
District Court Judge

Whereas the plaintiffs, Strawberry Point Bluffs Subdivision Homeowners Association (“SPBSHA”) and Strawberry Hill Estates I, II, III & IV Home Owners Association (“SHEA”) filed their Complaint For Declaratory Judgment and Injunctive Relief on May 15, 2006, against defendant Gold Krause, Et Al, LLC;

Whereas, pursuant to the Order of the Court dated April 7, 2008, plaintiffs filed their Second [Amended] Complaint for Declaratory Judgment and Injunctive Relief on May 15, 2008, thereby naming the current owners of Lot 116 in the Strawberry Point Bluffs subdivision in Hamburg Township, Michigan, as additional defendants;

Whereas, pursuant to a Quit Claim Deed dated March 26, 1981, and recorded on March 27, 1981, in the Livingston County land records, Lot 116 is jointly owned by the present and future owners of Lots 1, 2, 3, 4, 5, 6, 21, 22, 23, 24 and 25 of the Strawberry Hill Estates I, according to the recorded plat thereof as recorded in Liber 19 of Plats, page 19, Livingston

County land records, with the joint ownership of Lot 116 running with the land, specifically the above-listed lots in the Strawberry Hill Estates I (“Lot 116 Owners”);

Whereas, the current Lot 116 Owners as of the date of this Consent Judgment are:

Lot 1:	Robert and Debra Mardeusz
Lot 2:	Jacqueline K. Shaffer
Lot 3:	Kyle and Timothy Baker
Lot 4:	Kyle and Timothy Baker
Lot 5:	Kyle and Timothy Baker
Lot 6:	Charles and Shelly Stevens
Lot 21:	Thomas R. Jenkins and Marsha A. Jenkins
Lot 22:	Thomas R. Jenkins and Marsha A. Jenkins
Lot 23:	Thomas R. Jenkins and Marsha A. Jenkins
Lot 24:	Edward and Susan King
Lot 25:	Pamela A. Musa;

Whereas, the parties are in a dispute as to whether Lot 116, its present and future owners, are beneficiaries of the easement to Lots 121-117 in the Strawberry Point Bluffs (“Park Lots”) as set forth in Paragraph 22 of the Building and Use Restrictions On Strawberry Point Bluffs Subdivision, recorded at Liber 588 of Plats, page 122, Livingston County land records (“Building and Use Restrictions”), and/or whether the Lot 116 Owners have any or other rights to the Park Lots;

Whereas, this case has been assigned to the 53rd District Court for the State of Michigan, *Hon. Theresa Brennan* presiding, for decision;

Whereas, the parties have agreed to a final resolution of their dispute regarding the use of and/or access to the Park Lots that will be binding on all present and future owners of Lot 116, the SPBSHA, and SHEA; and

The Court having been fully apprised of the premises, the Court hereby enters the following as its Consent Judgment regarding the Lot 116, its owners, and their rights to the Park Lots:

IT IS HEREBY ORDERED AND ADJUDGED that all present and future legal title owners of Lot 116 will be and hereby are deemed beneficiaries of the written easement to the Park Lots as set forth in the Building and Use Restrictions, and shall have the same rights to the Park Lots as other beneficiaries of that easement, with all such rights being deemed as part of the original easement from the date of its inception. If any present or future owners of one or more of Lots 1, 2, 3, 4, 5, 6, 21, 22, 23, 24 and 25 of the Strawberry Hill Estates I no longer own one or more of those lots and thus no longer a joint owner of Lot 116, that former owner will no longer be a beneficiary of the written easement and shall have no right or privilege to use the Park Lots.

IT IS FURTHER ORDERED AND ADJUDGED that, on or before May 1, 2009, the Lot 116 Owners shall enter into a written easement, in recordable form, that grants SPBSHA and SHEA, jointly, an irrevocable exclusive easement to Lot 116, which provides SPBSHA and SHEA the exclusive use and control of Lot 116, as if owned by fee simple, including, but in no way limited to, allowing others to access and use Lot 116 at the discretion of SPBSHA and/or SHEA, subject to the easement granted by the Lot 116 Owners for ingress and egress, as set forth below.

As the rights being granted to SPBSHA and SHEA as to Lot 116, they shall have the right to sell, transfer, assign, mortgage, hypothecate, or grant its rights, in part or in full, under this Consent Judgment and/or the written exclusive easement as set forth above, at their sole discretion, provided that legal title of Lot 116 shall be retained by the current and future owners of Lots 1, 2, 3, 4, 5, 6, 21, 22, 23, 24 and 25 of the Strawberry Hill Estates I, jointly, with that joint legal title running with those lots, and any such sale, transfer, assignment, mortgage, hypothecation, or any grant of their rights shall be further subject to the ingress and egress

easement across Lot 116 that allows access to Lots 95-115 of the Strawberry Point Bluffs subdivision.

SPBSHA and SHEA, jointly, shall be liable for all property taxes and new assessments on Lot 116 that arise after date of this Consent Judgment, with all prior property taxes previously invoiced by the applicable municipality and/or governmental agency prior to the date of the Consent Judgment and prior assessments on Lot 116 being the sole and full responsibility of the Lot 116 Owners. As of the date of the Consent Judgment and thereafter, the Lot 116 Owners shall forward all notices and/or invoices relating to Lot 116 to the Board of Directors of SPBSHA and SHEA within two weeks after receipt, and the Lot 116 Owners shall be responsible for any penalties and/or any losses incurred as a result of their failure to timely forward said notices and/or invoices.

SPBSHA and SHEA, jointly, shall indemnify and hold harmless any or all of the Lot 116 Owners against and from all claims arising from the use of or access to Lot 116 by any member of SPBSHA or SHEA and/or any third-party, including reasonable attorneys' fees, costs and liabilities incurred in or about the defense of any such claim or action or proceeding brought thereon, with the exception of any claim caused by the act, negligence, or willful misconduct of any or all of the Lot 116 Owners. If any action or proceeding is brought against any or all of the Lot 116 Owners by reason of such claim, they shall provide timely notice to SPBSHA and SHEA of that claim, and no later than after receipt of service of process, and SPBSHA and SHEA, jointly, shall defend the same at their expense and shall have the sole and total control over the selection of attorneys, any defenses and decisions regarding that litigation, and settlement.

IT IS FURTHER ORDERED AND ADJUDGED that, on or before May 1, 2009, the Lot 116 Owners, jointly, shall enter into a written irrevocable easement in recordable form that grants across Lot 116 an easement located next to or near Strawberry Lake, for the limited purpose of non-motorized ingress and egress for access to each of the Lots, 95-115, that are east of Lot 116 for the benefit of the owner(s) of those easterly lots. The rights and benefits of this easement shall run with the land.

IT IS FURTHER ORDERED AND ADJUDGED that this Consent Judgment hereby completely and finally resolves all disputes between SPBSHA, SHEA, and Lot 116 Owners, their assignees and successors-in-interest, regarding Lot 116 and/or rights to the Park Lots.

IT IS FURTHER ORDERED AND ADJUDGED that legal title of Lot 116 shall run with the land and any and/or all future owners of Lots 1, 2, 3, 4, 5, 6, 21, 22, 23, 24 and 25 of the Strawberry Hill Estates I, jointly, will have all benefits and burdens set forth in this Consent Judgment.

This Consent Judgment may be recorded in the Livingston County land records, and shall be recorded in the line of title for Lot 116, the Park Lots, and Lots 1, 2, 3, 4, 5, 6, 21, 22, 23, 24 and 25 of the Strawberry Hill Estates I, at the sole expense of the Lot 116 Owners. See Exhibit A attached hereto listing the legal descriptions of those lots.

This Consent Judgment will be deemed as having been entered by the Court simultaneously with the entry of the Consent Judgment Regarding Lots 95-114 of Strawberry Point Bluffs Subdivision.

This Consent Judgment does not resolve the last issue or closes this case.

THERESA M. BRENNAN P-34510
District Court Judge

EXHIBIT A

Lot 116 of the Strawberry Point Bluffs Subdivision as platted and recorded in Liber 2 of Plats, page 26, Livingston County Records.
Parcel ID: 4715-27-301-168

Lots 117, 118, 119, 120, 121 of the Strawberry Point Bluffs Subdivision as platted and recorded in Liber 2 of Plats, page 26, Livingston County Records.
Parcel ID: 4715-27-301-166 and 4715-27-300-045

Lot 1 of the Strawberry Hill Estates I subdivision, as platted and recorded in Liber 19 of Plats, page 19, Livingston County Records.
Parcel ID: 15-27-302-001

Lot 2 of the Strawberry Hill Estates I subdivision, as platted and recorded in Liber 19 of Plats, page 19, Livingston County Records.
Parcel ID: 15-27-302-002

Lot 3 of the Strawberry Hill Estates I subdivision, as platted and recorded in Liber 19 of Plats, page 19, Livingston County Records.
Parcel ID: 15-27-302-067

Lot 4 of the Strawberry Hill Estates I subdivision, as platted and recorded in Liber 19 of Plats, page 19, Livingston County Records.
Parcel ID: 15-27-302-067

Lot 5 of the Strawberry Hill Estates I subdivision, as platted and recorded in Liber 19 of Plats, page 19, Livingston County Records.
Parcel ID: 15-27-302-067

Lot 6 of the Strawberry Hill Estates I subdivision, as platted and recorded in Liber 19 of Plats, page 19, Livingston County Records.
Parcel ID: 15-27-302-006

Lot 21 of the Strawberry Hill Estates I subdivision, as platted and recorded in Liber 19 of Plats, page 19, Livingston County Records.
Parcel ID: 15-27-302-021

Lot 22 of the Strawberry Hill Estates I subdivision, as platted and recorded in Liber 19 of Plats, page 19, Livingston County Records.
Parcel ID: 15-27-302-022

Lot 23 of the Strawberry Hill Estates I subdivision, as platted and recorded in Liber 19 of Plats, page 19, Livingston County Records.
Parcel ID: 15-27-302-023

Lot 24 of the Strawberry Hill Estates I subdivision, as platted and recorded in Liber 19 of Plats,
page 19, Livingston County Records.
Parcel ID: 15-27-302-024

Lot 25 of the Strawberry Hill Estates I subdivision, as platted and recorded in Liber 19 of Plats,
page 19, Livingston County Records.
Parcel ID: 15-27-302-025

When recorded return to:
Jill A. Bankey, Esq.
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Southfield MI 48076