

# KM KENNERLY MONTGOMERY

*Attorneys & Counselors Since 1916*

E-mail: [kstevens@kmfpc.com](mailto:kstevens@kmfpc.com)

July 15, 2010

Fred Chaney, Clerk & Master  
Loudon County Chancery Court  
601 Grove Street  
Loudon, TN 37774

Re: *Dannie A. Hutcherson and Richard T. Anklin v. Tellico Village Property Owners Association, Inc.*  
Loudon County Chancery Court, Docket No. 11513

Dear Mr. Chaney:

Please find enclosed Tellico Village Property Owners Association, Inc.'s Motion for Judgment on the Pleadings and a Notice of Hearing for filing with the Court. I have also enclosed extra copies to be stamped "filed" and returned in the enclosed self-addressed stamped envelope. By copy of this letter, I am forwarding the Motion and Notice to all counsel of record.

The hearing of this motion will take approximately 15 minutes. Thank you for your assistance in this matter. Please feel free to contact me should you have any questions.

Sincerely,

**KENNERLY, MONTGOMERY & FINLEY, P.C.**

By: 

Kevin C. Stevens

KCS:ces

Enclosure

cc: J. Scott McCluen, Esq. ✓

**IN THE CHANCERY COURT FOR LOUDON COUNTY, TENNESSEE**

DANNIE A. HUTCHERSON and )  
RICHARD T. ANKLIN )

Plaintiffs, )

vs. )

Docket No. 11513

TELLICO VILLAGE PROPERTY )  
OWNERS ASSOCIATION, INC. )

Defendant. )

**NOTICE OF HEARING**

TO: Dannie A. Hutcherson and Richard T. Anklin  
c/o J. Scott McCluen, Esq.  
111 Deer Haven Court  
Harriman, TN 37748

Please take notice that the undersigned will appear before Chancellor Frank V. Williams, III, in the Loudon County Chancery Court on August 2, 2010 at 9:30 a.m., to present for the Chancellor's consideration the Defendant's Motion for Judgment on the Pleadings. You are invited to attend and participate.

This is the only notice you will receive.

Respectfully submitted this 15<sup>th</sup> day of July, 2010.

**KENNERLY, MONTGOMERY & FINLEY, P.C.**

By 

C. Coulter Gilbert, Esq. (BPR# 011824)  
Kevin C. Stevens, Esq. (BPR# 023035)  
Attorneys for Plaintiff  
550 W. Main Street, 4<sup>th</sup> Floor  
Knoxville, TN 37901  
(865) 546-7311

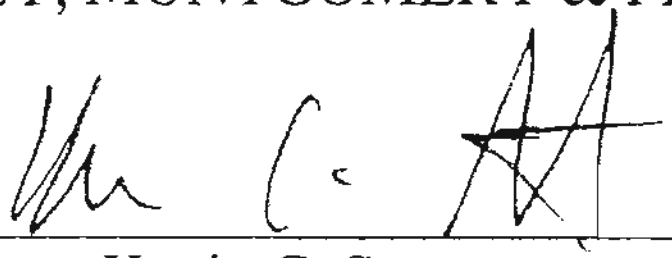
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and exact copy of the foregoing document has been served upon the following by delivering same via facsimile or by placing same in the United States Mail, postage prepaid.

J. Scott McCluen, Esq.  
111 Deer Haven Court  
Harriman, TN 37748

This the 15<sup>th</sup> day of July, 2010.

KENNERLY, MONTGOMERY & FINLEY, P. C.

By   
Kevin C. Stevens

**IN THE CHANCERY COURT FOR LOUDON COUNTY, TENNESSEE**

<b>DANNIE A. HUTCHERSON and</b>	)	
<b>RICHARD T. ANKLIN</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>vs.</b>	)	<b>Docket No. 11513</b>
	)	
<b>TELLICO VILLAGE PROPERTY</b>	)	
<b>OWNERS ASSOCIATION, INC.</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

**MOTION FOR JUDGMENT ON THE PLEADINGS**

Comes now Tellico Village Property Owners Association, Inc. (“TVPOA”), by and through counsel, and moves the Court for an Order pursuant to Tenn. R. Civ. P. 12.03, dismissing Plaintiffs’ cause of action as all relief requested by the Plaintiffs has been received thus rendering this case moot. In support of this Motion, TVPOA would show as follows:

1. Plaintiffs asserted a cause of action against TVPOA under the Tennessee Non-Profit Corporation Act, codified at Tenn. Code Ann. § 48-66-101 et seq., seeking disclosure of certain TVPOA records that were previously requested pursuant to specific written document requests attached as Exhibits 1-5 to the Complaint (the “TVPOA Records”).

2. This Court entered an Order dated April 8, 2010, which permitted Plaintiffs to inspect at the office of TVPOA all of the TVPOA Records within the physical possession or control of TVPOA (the “Order”). Pursuant to the Order, Plaintiffs were entitled to designate any documents or electronic records from the TVPOA Records to receive copies thereof.

3. Following entry of the Order, Plaintiffs thoroughly inspected all the available TVPOA Records at the office of TVPOA on at least two occasions. Plaintiffs designated certain TVPOA Records for copying and have received all copies requested.

4. Plaintiffs have now had the opportunity to review and copy all the available TVPOA Records that they sought disclosure of in this case.

5. Plaintiffs sought no relief in their Complaint other than to review and copy all the available TVPOA Records that they requested.

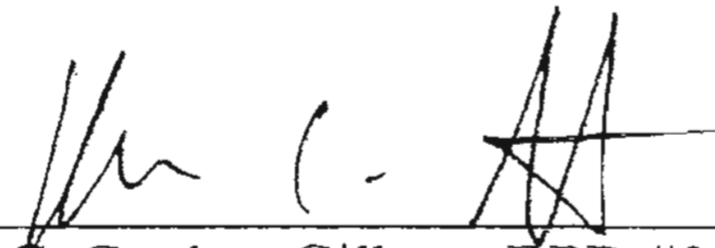
6. Plaintiff's cause of action against TVPOA is rendered moot as they have received all the relief requested in their Complaint and there no longer exists a justiciable cause of action for determination by the Court. See Alliance for Native American Indian Rights in Tennessee, Inc. v. Nicely, 182 S.W.3d 333, 339 (Tenn. Ct. App. 2005).

7. Based upon the mootness of Plaintiffs' cause of action against TVPOA, and in furtherance of justice, Plaintiffs' cause of action should be dismissed pursuant to Tenn. R. Civ. P. 12.03.

WHEREFORE, in consideration of the foregoing, TVPOA respectfully asks the Court to enter an Order pursuant to Tenn. R. Civ. P. 12.03 dismissing with prejudice the Complaint filed against it in this cause.

Respectfully submitted.

**KENNERLY, MONTGOMERY & FINLEY, P.C.**

By   
C. Coulter Gilbert, BPR #011824  
Kevin Stevens, BPR #023035  
Attorneys for Defendant  
Bank of America Center, Fourth Floor  
550 W. Main Street  
Knoxville, TN 37901  
(865) 546-7311

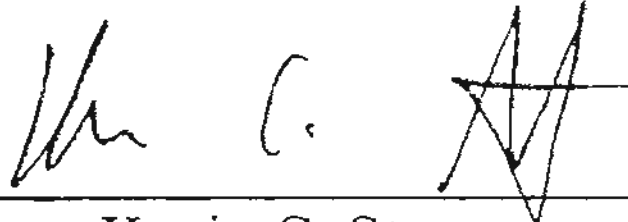
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The undersigned hereby certifies that a true and exact copy of the foregoing document has been served upon the following by delivering same or by placing same in the United States Mail, postage prepaid.

J. Scott McCluen  
111 Deer Haven Court  
Harriman, TN 37748

This 15<sup>th</sup> day of July, 2010.

**KENNERLY, MONTGOMERY & FINLEY, P.C.**

By:   
\_\_\_\_\_  
Kevin C. Stevens