

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
16 CVS 18653

SVF WESTON LAKESIDE, LLC,)
Plaintiff,)
v.)
CROSLAND, LLC; CROSLAND WESTON)
LAKESIDE, LLC; WESTON LAKESIDE,)
LLC; CAP CONSTRUCTION, LLC f/k/a)
CROSLAND CONTRACTORS, LLC;)
CROSLAND RESIDENTIAL)
MANAGEMENT SERVICES, LLC; and)
HOUSING STUDIO, PA,)
Defendants.)

**ORDER ON OPPOSITION
TO DESIGNATION**

THIS MATTER is before the Court pursuant to Plaintiff's Opposition to Notice of Designation as Mandatory Complex Business Case under N.C. Gen. Stat. § 7A-45.4 ("Opposition"). After reviewing the Notice of Designation, the Opposition, Defendants' joint response to the Opposition, and other pertinent filings, the Court concludes that designation of this case as a mandatory complex business case is not proper.

Plaintiff filed its Complaint on October 17, 2016. The Complaint alleges multiple causes of action against several entities arising out of a construction dispute among a buyer and seller of a project, the developer, the property managers, the general contractor, and the architect, including claims for negligence, breach of the implied warranty of fitness for a particular purpose, negligent misrepresentation, breach of contract, bad-faith breach of warranty, constructive

fraud, willful or wanton negligence/actual fraud, breach of fiduciary duty, and unfair and deceptive trade practices.

Defendants Crosland, LLC, Crosland Weston Lakeside, LLC, Weston Lakeside, LLC, and Crosland Residential Management Services, LLC (“Crosland Defendants”) filed a Notice of Designation of Action as Mandatory Complex Business Case under N.C. Gen. Stat. § 7A-45.4 (“Notice of Designation”) on November 18, 2016. The Notice of Designation casts the dispute as one that involves the law governing corporations, partnerships, and limited liability companies and thus qualifies for designation under N.C. Gen. Stat. § 7A-45.4(a)(1) (2015). The Crosland Defendants also note that, but for the consent of Plaintiff, the action would meet the requirements for designation under N.C. Gen. Stat. § 7A-45.4(a)(9), which allows for designation of contract cases between corporations, partnerships, or limited liability companies where the amount in controversy is greater than \$1 million and all parties consent to designation.

Defendants have not yet answered. Therefore, the case is properly designated as a mandatory complex business case only if the allegations of the Complaint satisfy the requirement of N.C. Gen. Stat. § 7A-45.4(a)(1). The Court concludes that the allegations of Plaintiff’s Complaint present a construction-defect case rather than a case involving a material issue related to a dispute involving the law governing corporations. While the construction project at issue involves multiple corporate entities, any allegation regarding the relationship of those

corporate entities is incidental to the material issues presented by the claims alleged in the Complaint.

Accordingly the Complaint itself does not support mandatory designation under section 7A-45.4(a)(1), and Defendants do not have a unilateral right to mandatory designation. Further, because not all parties consent to designation, this case is not properly designated under section 7A-45.4(a)(9).

IT IS THEREFORE ORDERED that, without further order, this action shall proceed on the regular civil docket of the Mecklenburg County Superior Court.

This Order on Opposition is without prejudice to any action to designate this case (i) as “exceptional” or “complex business” pursuant to Rules 2.1 and 2.2 of the General Rules of Practice for the Superior and District Courts Supplemental to the Rules of Civil Procedure, or (2) as a mandatory complex business case under section 7A-45.4(a) based on the allegations of subsequently filed claims or counterclaims.

This the 18th day of January, 2017.

/s/ James L. Gale
James L. Gale
Chief Business Court Judge