

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
DOCKET NO. 1:14-cv-00166-MOC

LANGDON M. COOPER, Trustee)
)
 Appellant,)
)
 Vs.) **ORDER**
)
 WPB POLAR RIDGE, LLC,)
)
 Appellee.)

THIS MATTER is before the court on appellant's Notice of Appeal (#1), which has now been fully briefed. Appellant has raised the following issues on appeal:

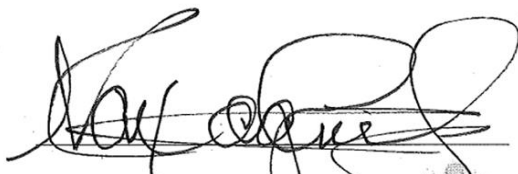
- I. The Bankruptcy Court erred in granting WPB Poplar Ridge's Motion to Dismiss because there are genuine issues of fact as to whether the Poplar Ridge Deed of Trust encumbered the Declarant Rights.
- II. WPB Poplar Ridge did not pay "reasonably equivalent value" for the Declarant Rights and, regardless, the Bankruptcy Court erred by making factual determinations on this point inappropriate for a Motion to Dismiss.
- III. The North Carolina Planned Community Act treats Declarant Rights as separate from real estate. Consequently, the Bankruptcy Court erred in concluding that WPB Poplar Ridge automatically acquired them in foreclosure or that the Trustee had "artificially separated" the Declarant Rights from the real estate.
- IV.

The court will calendar such appeal for oral arguments.

ORDER

IT IS, THEREFORE, ORDERED that the Clerk of this Court calendar appellant's Appeal for oral arguments on the January 2015 hearing date in Asheville.

Signed: November 18, 2014



Max O. Cogburn Jr.
United States District Judge