

SETTLEMENT AGREEMENT AND RELEASE

Meredith and Adam Bauguess (the “Bauguesses”) enter this Agreement in release and settlement of any and all claims against the North Carolina Department of Health and Human Services (“DHHS”), including the Division of Public Health (“DPH”), and Rowan County and the Rowan County Health Department (collectively “RCHD”).

The parties to this Agreement agree and stipulate that:

1. The Bauguesses are the owners of the property located at 2184 Phaniel Church Road in Rowan County, North Carolina (“the property”).
2. DPH, as a division of DHHS, is responsible for the enforcement of rules and statutes regulating on-site wastewater systems and environmental health specialists in RCHD act as agents of DHHS for enforcement of such rules and statutes.
3. An Improvement Permit and a Construction Authorization was issued for the property on April 14, 2019, to serve a 3-bedroom residence on the property.
4. In August, 2020, RCHD reevaluated the property and determined the wastewater system could not be installed as permitted. At the time RCHD could not find an option under the state wastewater laws and rules to permit a wastewater system on the site. By letter dated August 24, 2020, RCHD issued an intent to suspend (revoke) the improvement permit and construction authorization for the property. The letter contained appeal rights. The Bauguesses appealed the decision by filing a petition for contested case hearing with OAH.
5. Further evaluation by RCHD’s soil scientist located a possible location for a new wastewater system. Soil samples were tested and the site was determined to be suitable. The Bauguesses submitted revised plans for the new system and a new improvement permit and

construction authorization was issued on November 20, 2020. The Bauguesses took a voluntary dismissal of the contested case hearing on November 23, 2020. The wastewater system was installed and inspected by RCHD, and An Operation Permit was issued by RCHD.

5. The Bauguesses claim that RCHD improperly permitted the site and that RCHD and DHHS are responsible for the additional costs arising from or related to the need to install a new wastewater system in a new location.

Based upon the foregoing stipulations, and in consideration of the compromise of any claims arising from the matters set out herein and the payment of the sums set out herein, the Bauguesses, DHHS and RCHD voluntarily and knowingly execute this Settlement Agreement and Release with the express intention of effecting the extinguishment of any and all rights, claims, demands or obligations which the Bauguesses have or may have against DHHS, DPH, Rowan County, and RCHD on account of, connected with, growing out of or in any way arising out of the matters referred to herein.

NOW, THEREFORE, in consideration of the agreements contained herein, the parties agree to the following terms:

1. DHHS and RCHD will pay to the Bauguesses the total sum of twenty thousand dollars (\$20,000.00) in complete settlement of the matter set out herein. This amount will be paid to the Bauguesses separately by DHHS and RCHD, each paying fifty percent of the settlement in the amount of ten thousand dollars each (\$10,000.00). Payment shall be made within 60 days of execution of this Agreement.

2. The parties agree that the settlement amount above to be paid by DHHS and RCHD, is in full settlement of this matter and that no further costs arising from or related to this matter

will be paid by DHHS and RCHD. DHHS and RCHD are not paying any costs for additional gravel or additional depth of trenches for the new system.

3. The parties agree that the Baugesses or their heirs, successors and assigns will perform all required operation and maintenance of the wastewater system for so long as the wastewater system is in operation and all such costs are solely the responsibility of the Baugesses or their heirs, successors and assigns.

4. For the sole and only consideration of a total amount stated above in paragraph 1, the undersigned Mr. and Mrs. Baugess, for their heirs, executors, administrators, successors and assigns, do RELEASE AND FOREVER DISCHARGE DHHS, including DPH, Rowan County, RCHD, and their present or former officers, employees, agents and servants,, both individually and officially, and otherwise, specifically including but not limited to Adrian Pruett, Gene Young and Kevin Neal, of and from any and all, known or unknown, claims, demands, damages, actions, causes of action of whatever kind or nature, for the evaluation, issuance, denial, suspension, or revocation of any wastewater permits and authorizations, specifically including but not limited to any repairs or authorizations for repairs of systems, or for any evaluation, preparation, excavation, or installation, materials, increased costs, costs related to construction delays, costs related to installation of system delays, or any other alleged damages related to any wastewater systems on property or the installation, operation or maintenance of the wastewater system on the property, in any way connected to, either directly or indirectly, the approval or operation of a wastewater system on such property, or for any alleged breach of duty, neglect, violation of constitutional rights, financial losses, lost wages or income, interest or mortgage rates, recoupment of expenses, payments to third parties, emotional distress, pain and suffering, and any and all other damages on account of or arising from the matters set out herein.

5. The Bauguesses acknowledge and agree that the release and discharge set forth herein is a general release of all claims on their behalf. The Bauguesses understand that this release is made as a compromise to avoid expense and to terminate all controversy and/or claims for damages or injuries, subrogation and third-party or otherwise, of whatever nature, known or unknown, including future developments thereof, in any way growing out of or connected to the matters set out herein. The Bauguesses expressly waive and assume the risk of any and all claims for damages, including any claims that they do not know or suspect to exist, whether through ignorance, oversight, error, negligence or otherwise, and that, if known, would materially affect their decision to enter into this settlement agreement and release.

6. The Bauguesses understand and agree that the sums paid by DHHS and RCHD are solely by way of compromise of any claims and are not to be construed as an admission of wrongdoing or liability, and DHHS, DPH, Rowan County, and RCHD specifically deny any wrongdoing or liability.

7. Nothing in this Agreement shall relieve the Bauguesses of their responsibility to comply with applicable rules and statutes for wastewater systems.

8. If either party fails to abide by the terms of this Agreement, the other party shall enjoy any applicable remedy at law to enforce the terms of this Agreement.

9. The parties understand and agree that they have read and reviewed this instrument, and that the parties each have counsel and their counsel have read and reviewed this agreement, t and that this instrument contains the entire agreement between the parties hereto, that the terms of this Settlement Agreement and Release are in full settlement of all claims and are not mere recitals.

10. The parties understand and agree that the terms of this Settlement Agreement and Release are set out herein in their entirety and that no part of this Settlement Agreement and

Release may be changed in any way unless the change is made in writing and signed by all parties.

11. This Agreement becomes binding on the parties hereto only when signed by all named parties. The parties agree that the parties may sign electronic or facsimile copies of this Agreement and it will have the same effect as an original signature, and signatures may be signed on separate pages and still have full force and effect.

In witness whereof, the parties hereto have executed this Settlement Agreement and Release on this the _____ day of March, 2022 and have set forth their signatures and seals with the intention of executing this document under seal.

Meredith Bauguess

Mark T. Benton
Assistant Secretary for Public Health
DPH, DHHS

Adam Bauguess

Aaron Church
Rowan County Manager
Rowan County, RCHD