

THE CURRITUCK ASSOCIATES - RESIDENTIAL PARTNERSHIP, a North Carolina general partnership v. RAY E. HOLLOWELL, JR., D/B/A SHALLOWBAG BAY DEVELOPMENT COMPANY v. KITTY HAWK ENTERPRISES, INC., Third-Party Defendant

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SHALLOWBAG BAY DEVELOPMENT COMPANY, LLC v. THE CURRITUCK ASSOCIATES - RESIDENTIAL PARTNERSHIP

No. 528A04

FILED: 16 DECEMBER 2005

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 166 N.C. App. 17, 601 S.E.2d 256 (2004), affirming an order entered on 22 May 2003 by Judge W. Russell Duke, Jr., in Superior Court, Dare County. Heard in the Supreme Court 20 April 2005.

*Poyner & Spruill LLP, by J. Nicholas Ellis, for appellee.*

*Ragsdale Liggett PLLC, by George R. Ragsdale and Walter L. Tippett, Jr., for appellants Ray E. Hollowell, Jr. and Shallowbag Bay Development Company.*

PER CURIAM.

Justice MARTIN took no part in the consideration or decision of this case. The remaining members of the Court are equally divided, with three members voting to affirm and three members voting to reverse the decision of the Court of Appeals. Accordingly, the decision of the Court of Appeals is left undisturbed and stands without precedential value. See *Crawford v. Commercial Union Midwest Ins. Co.*, 356 N.C. 609, 572 S.E.2d 781 (2002); *Robinson v. Byrd*, 356 N.C. 608, 572 S.E.2d 781 (2002).

AFFIRMED.