



# Supreme Court of North Carolina

GRANT E. BUCKNER, Clerk  
Justice Building, 2 E. Morgan Street  
Raleigh, NC 27601

Phone: (919) 831-5700  
Web: <https://www.nccourts.gov>

Mailing Address:  
PO Box 2170  
Raleigh, NC 27602

From N.C. Business Court  
( 23CV006408-910 )  
From Wake  
( 23CV006408-910 )

7 March 2024

Mr. Walter E. Brock, Jr.  
Attorney at Law  
YOUNG MOORE & HENDERSON, P.A.  
3101 Glenwood Avenue  
Suite 200  
Raleigh, NC 27612

**RE: State of North Carolina v MV Realty PBC, LLC, et al. - 38A24-1**

Dear Mr. Brock:

The following order has been entered on the motion filed on the 22nd of February 2024 by Defendants for Temporary Stay:

"Motion Allowed by order of the Court in conference, this the 7th of March 2024."

**s/ Allen, J.  
For the Court**

Justice Riggs dissents, joined by Justice Earls, as explained in the attachment.

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 7th day of March 2024.

Grant E. Buckner  
Clerk, Supreme Court of North Carolina

A handwritten signature in black ink, appearing to read "M. C. Hackney".

M. C. Hackney  
Assistant Clerk, Supreme Court Of North Carolina

Copy to:

Mr. Walter E. Brock, Jr., Attorney at Law, For MV Realty PBC, LLC, et al. - (By Email)  
Mr. Brian Rabinovitz, Special Deputy Attorney General, For State of NC, ex rel. Joshua H. Stein - (By Email)  
Mr. Keith Clayton, Special Deputy Attorney General, For State of NC, ex rel. Joshua H. Stein - (By Email)  
Mr. David W. Earley, Attorney at Law, For MV Realty PBC, LLC, et al. - (By Email)  
Ms. Angela Farag Craddock, Attorney at Law, For MV Realty PBC, LLC, et al. - (By Email)  
West Publishing - (By Email)  
Lexis-Nexis - (By Email)

Justice RIGGS dissenting.

The Court allows MV Realty’s motion for temporary stay, but I write to note my dissent because I am concerned that the Court’s allowance of the stay in this matter, and more broadly the manner in which this Court is allowing temporary stays, does not comport with the requirement for showing good cause. N.C. R. App. P. 23(e) (“The Court for good cause shown in such a petition for temporary stay may issue such an order ex parte.”). The practice of granting near-automatic stays creates numerous problems, I worry, including masking the unconstrained discretion exercised by this Court, creating confusion for litigants as to the proper standard for stays, and incentivizing parties to pursue inappropriate interlocutory appeals. I dissent because MV Realty’s motion does not show good cause for a temporary stay.

At its core, this case is about the ability of homeowners to enjoy the rights to their property. “The fundamental right to property is as old as our state.” *Kirby v. N.C. Dep’t of Transp.*, 368 N.C. 847, 852 (2016) (citing N.C. Const. of 1776, Declaration of Rights § XII; *Bayard v. Singleton*, 1 N.C. (Mart.) 5, 9 (1787)) (additional citations omitted). “The word ‘property’ extends to every aspect of right and interest capable of being enjoyed as such upon which it is practicable to place a money value” and includes “the right to possess, use, enjoy and dispose of it . . . .” *Hildebrand v. Telegraph Co.*, 219 N.C. 402, 408 (1941). Ambiguities in real property contracts should be resolved “in favor of the natural right to the free use and enjoyment of property and against restrictions.” *Davis v. Robinson*, 189 N.C. 589, 597 (1925).

Currently, over two thousand North Carolina homeowners do not enjoy free and unrestricted use of their property because MV Realty's enjoined "agreements" are clouding the title on their property. Because of this stay, it appears these homeowners are in the untenable situation of paying a potentially illegal fee to sell, refinance, or even transfer their property upon death; alternatively, they are forced to use MV Realty, an alleged unresponsive realtor, to list the property.

In my view, the interlocutory appeal here arguably is not appropriate because MV Realty has not shown that the trial court's preliminary injunction implicates a substantial right. N.C.G.S. § 7A-27 (2023). It is also unclear that MV Realty has established that it will suffer any irreparable harm if a stay is not allowed, since money damages remain available to it on contract grounds. This Court should either make clear through a written opinion as binding precedent or amend Rule 23(e) of the North Carolina Rules of Appellate Procedure to explain that the well-established standards for stays apply to motions for a temporary stay. Doing so would enable the appellate bar and the public to better assess this Court's rigor and consistency when ruling on temporary stays, particularly of interlocutory orders. Such transparency and accountability are central to equal justice and the rule of law.

We should further expressly articulate that the burden is on the party seeking the stay to establish that grounds exist to justify it. Our rules and supporting materials request that parties address whether they will experience irreparable harm when seeking a temporary stay. *See* N.C. R. App. P. Appx. D ("In support of this

*Riggs, J., dissenting*

Application, movant shows . . . the legal and factual arguments for the issuance of such a temporary stay order; e.g., irreparable harm practically threatened if petitioner must obey decree of trial court during interval before decision by Court whether to issue writ of supersedeas[ ].”). Balancing the equities in this matter and after careful review of all the factors relevant to issuance of a stay, I would deny the temporary stay.

Justice EARLS joins in this dissent.