

II.

Defendants plead not guilty to all allegations made in the petition.

III.

Defendants further show the following:

A. By Warranty Deed dated April 14, 1982, fee simple title was legally vested in Defendant Episcopal Church of the Good Shepherd, a Texas non-profit corporation, in the following described property situated in San Angelo, Tom Green County, Texas:

First Tract: That certain tract of 2.361 acres of land out of T.J. Moore Survey No. 11, Abstract No. 5908, as described in a deed dated November 21, 1962, from Henry Charless, A.D. Rust and Lloyd R. Hershberger, Trustees, to Charles J.E. Lowndes, Lee T. Bivins and George H. Quarterman, Trustees of the Northwest Texas Episcopal Diocese, recorded in Volume 443, Page 420, Deed Records of Tom Green County, Texas, to which record reference is here made for the metes and bounds description of said tract of land.

Second Tract: The north, or northwest one-half (1/2) of Lot Twenty-one (21), Block Two (2) Section One (1), CLAR-MOR HEIGHTS, an addition to the City of San Angelo in Tom Green County, Texas, and being the tract of land conveyed by Baugh Lewis and wife, Helen Hale Lewis, to the Northwest Texas Episcopal Board of Trustees by deed dated January 31, 1969, recorded in Volume 531, Page 320, Deed Records of Tom Green County, Texas, to which record reference is here made for a more particular description of said tract of land.

A copy of such deed is attached hereto as Exhibit "A", and made a part hereof for all purposes.

B. By Warranty Deed dated May 24, 2005, fee simple title was legally vested in Episcopal Church of the Good Shepherd, a Texas non-profit corporation, in the following described property situated in San Angelo, Tom Green County, Texas:

A tract of land containing 5.287 acres, more or less, and being all of HILLSIDE TERRACE SUBDIVISION, a Subdivision of land in the City of San Angelo, Tom Green County, Texas, which subdivision is recorded in Vol. 4, Pages 486-487, Plat Records of Tom Green County, Texas, and which subdivision is also found in Cabinet D, Slide 21, Plat Records of Tom Green County, Texas.

A copy of such deed is attached hereto as Exhibit "B", and made a part hereof for all purposes.

C. The said Warranty Deed dated April 14, 1982, contained no reservations, exceptions or conditions of title. The said Warranty Deed dated May 24, 2005, contained no reservations or conditions of title in favor of Plaintiffs, but is subject to vendor's lien and deed of trust to secure payment of a real estate note in the original principal sum of \$85,000.00, payable to Texas State Bank, San Angelo, Texas.

D. The said Warranty Deed dated April 14, 1982, was executed by the Grantor, NORTHWEST TEXAS EPISCOPAL BOARD OF TRUSTEES, and the execution of it without reservations, exceptions or conditions estops Plaintiffs from asserting the claims made in Plaintiffs' Original Petition, which claims are in direct contravention of the terms of the deed.

E. Episcopal Church of the Good Shepherd is properly chartered as a Texas non-profit corporation, and is controlled by its members as set forth in the Texas Non-Profit Corporation Act. By duly authorized vote, the name of the corporation was changed on March 7, 2007, to Anglican Church of the Good Shepherd, a Texas non-profit corporation. Fee simple title in the above described property is properly vested in Anglican Church of the Good Shepherd, a Texas non-profit corporation.

F. The natural persons sued herein assert no personal claims or control over the above described property, and do no more than carry out their duties as duly elected members of the vestry of the non-profit corporation which holds fee simple title to said property.

G. The claims made in Plaintiffs' Petition are barred by the Statute of Frauds, § 26.01, Texas Business and Commerce Code, and by the Statute of Frauds, § 112.004, Texas Property Code.

H. Plaintiffs cannot by unilateral action create for themselves rights, titles and interests in the above described property.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that Plaintiffs recover nothing by reason of this suit, that judgment be entered denying all claims made by Plaintiffs, that Defendants go hence without day with costs in their behalf expended, and that Defendants have such other and further relief to which they may be entitled at law or in equity.

COUNTERCLAIM

Now come ROBERT MASTERSON, MARK BROWN, GEORGE BUTLER, CHARLES WESTBROOK, RICHEY OLIVER, CRAIG PORTER, SHARON WEBER, JUNE SMITH, RITA BAKER, STEPHANIE PEDDY, BILLIE RUTH HODGES, DALLAS CHRISTIAN and EPISCOPAL CHURCH OF THE GOOD SHEPHERD, a non-profit Texas Corporation, which is now named ANGLICAN CHURCH OF THE GOOD SHEPHERD, a non-profit Texas Corporation, herein called "Counter-Plaintiffs", and file this Counterclaim against THE DIOCESE OF NORTHWEST TEXAS, THE REV. CELIA ELLERY, DON GRIFFIS and MICHAEL RYAN, herein called "Counter-Defendants," and show the Court as follows:

IV.

Discovery should be conducted in accordance with a discovery control plan under Rule 190.3, Level 2, Texas Rules of Civil Procedure.

V.

Counter-Plaintiffs bring this action to quiet title to property, and for declaratory judgment pursuant to the provisions of Section 37.001 *et. seq.*, Civil Practice & Remedies Code.

VI.

Counter-Plaintiffs allege again all matters set forth in Paragraph III above.

VII.

This Court should enter a Declaratory Judgment which declares as follows:

A. that Counter-Plaintiff, Episcopal Church of the Good Shepherd, a Texas non-profit corporation, which is now named Anglican Church of the Good Shepherd, a Texas non-profit corporation, is the owner of fee simple title to the property described above;

B. that Counter-Defendants have no rightful claim to ownership or possession of said property described above;

C. that Counter-Plaintiffs are entitled to the use and possession of said property describe above uninterrupted by Counter-Defendants;

D. that all claims made by Counter-Defendants, as set forth in Plaintiffs' Original Petition filed herein, are groundless, invalid and of no force and effect; and,

E. that the cloud on the title of Anglican Church of the Good Shepherd, a Texas non-profit corporation, to said property described above, which cloud has been generated by the claims made by Counter-Defendants as set forth in Plaintiffs' Original Petition filed herein, is removed, and fee simple title to the property described above is quieted in Anglican Church of the Good Shepherd, a Texas non-profit corporation.

VIII

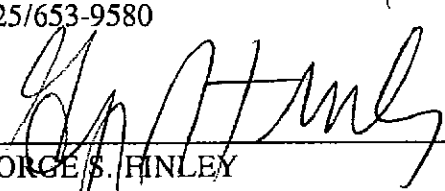
It has become necessary for Counter-Plaintiffs to employ the undersigned attorneys to represent them herein, and to prosecute this action on their behalf, and Counter-Plaintiffs sue Counter-Defendants for their reasonable attorneys' fees incurred, for costs of suit and for all other expenses incurred in connection herewith as allowed by law.

WHEREFORE, Counter-Plaintiffs request that Counter-Defendants be cited to appear and answer herein, that on final hearing Counter-Plaintiffs have declaratory judgment entered as set forth herein, that Counter-Plaintiffs have judgment removing the cloud on title to the property described above and quieting title in Anglican Church of the Good Shepherd, a Texas non-profit corporation, that Counter-Plaintiffs have judgment for attorneys fees, expenses and costs, and that Counter-Plaintiffs have any other relief which they may be entitled to receive.

Respectfully submitted,

SMITH, ROSE, FINLEY, HARP & PRICE
A PROFESSIONAL CORPORATION
P.O. Box 2540
San Angelo, Texas 76902-2540
325/653-6721
FAX 325/653-9580

By: _____


GEORGE S. FINLEY
State Bar No. 07022000

ATTORNEYS FOR ROBERT MASTERSON,
MARK BROWN, GEORGE BUTLER,
CHARLES WESTBROOK, RICHEY
OLIVER, CRAIG PORTER, SHARON
WEBER, JUNE SMITH, RITA BAKER,
STEPHANIE PEDDY, BILLIE RUTH
HODGES, DALLAS CHRISTIAN and
EPISCOPAL CHURCH OF THE GOOD
SHEPHERD, DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was mailed by facsimile, on this the 2nd day of April, 2007 to the following attorney of record:

Ted A. Liggett
SMITH & LIGGETT, P.C.
1220 Avenue K
Lubbock, Texas 79401

Guy D. Choate
WEBB, STOKES & SPARKS
314 W. Harris
P. O. Box 1271
San Angelo, Texas 76902



GEORGE S. FINLEY

EXHIBIT A

NOTICE

Prepared by the State Bar of Texas for use by Lawyers only. Reviewed 1-1-76. To select the proper form, fill in blank spaces, strike out form provisions or insert special terms constitutes the practice of law. No "standard form" can meet all requirements.

183783

WARRANTY DEED

THE STATE OF TEXAS
COUNTY OF TOM GREEN

} KNOW ALL MEN BY THESE PRESENTS:

That NORTHWEST TEXAS EPISCOPAL BOARD OF TRUSTEES, acting by its under-
signed officer, duly authorized,

~~of the County of~~ _____ and State of Texas, for and in
consideration of the sum of Ten and No/100 (\$10.00) -----
----- DOLLARS

and other valuable consideration to the undersigned paid by the grantee herein named, the receipt of
which is hereby acknowledged,

have GRANTED, SOLD AND CONVEYED, and by these presents do GRANT, SELL AND CONVEY unto
GOOD SHEPHERD EPISCOPAL CHURCH, a Texas non-profit corporation, whose
address is 3355 West Beauregard Street, San Angelo, Texas 76904,
of the County of Tom Green and State of Texas, all of
the following described real property in Tom Green County, Texas, to-wit:

Reference is here made to Exhibit A attached to this deed,
and to First Tract and Second Tract thereof and described
thereon, such Exhibit A constituting a description of the
lands covered by this deed, together with the improvements
situated upon the same.

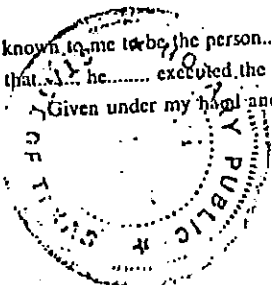
TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and
appurtenances thereto in anywise belonging, unto the said grantee, its successors ~~heirs~~ and assigns
forever; and / ~~do~~ hereby bind itself, its successors / ~~heirs, executors and administrators~~ and assigns
WARRANT AND FOREVER DEFEND all and singular the said premises unto the said grantee, its
successors ~~heirs~~ and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

(Acknowledgment)

THE STATE OF TEXAS }
COUNTY OF

Before me, the undersigned authority, on this day personally appeared

known to me to be the person..... whose name..... subscribed to the foregoing instrument, and acknowledged to me that he..... executed the same for the purposes and consideration therein expressed.
Given under my hand and seal of office on this the 14th day of April, A.D. 1982



Bonnie DuLaney
Notary Public in and for Lubbock County, Texas.
My commission expires 8-28, 1985.
BONNIE DuLANEY
(Printed or stamped name of notary)

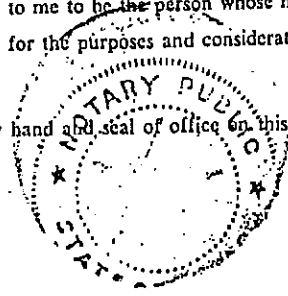
(Corporate Acknowledgment)

THE STATE OF TEXAS }
COUNTY OF LUBBOCK

Before me, the undersigned authority, on this day personally appeared SAM HULSEY
President of NORTHWEST TEXAS EPISCOPAL BOARD OF TRUSTEES

a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

Given under my hand and seal of office on this the 14th day of April, A.D. 1982.



Bonnie DuLaney
Notary Public in and for State of Lubbock County, Texas.
My commission expires 8-28, 1985.
BONNIE DuLANEY
(Printed or stamped name of notary)

EXHIBIT A

First Tract: That certain tract of 2.361 acres of land out of T. J. Moore Survey No. 11, Abstract No. 5908, as described in a deed dated November 21, 1962, from Henry Charless, A. D. Rust and Lloyd R. Hershberger, Trustees, to Charles J. E. Lowndes, Lee T. Bivins and George H. Quarterman, Trustees of the Northwest Texas Episcopal Diocese, recorded in Volume 443, page 420, Deed Records of Tom Green County, Texas, to which record reference is here made for the metes and bounds description of said tract of land.

Second Tract: The north, or northwest one-half (1/2) of Lot Twenty-one (21), Block Two (2), Section One (1), CLAR-MOR HEIGHTS an addition to the City of San Angelo, in Tom Green County, Texas, and being the tract of land conveyed by Baugh Lewis and wife, Helen Hale Lewis, to the Northwest Texas Episcopal Board of Trustees by deed dated January 31, 1969, recorded Volume 531, Deed Records of Tom Green County, Texas, to which

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

WARRANTY DEED WITH VENDOR'S LIEN

Date: May 24, 2005

Grantor: John Glenn Polhemus, III and wife, Mollie S. Polhemus
Grantor's Mailing Address (including county): P.O. Box 549, Miles, Runnels County, Texas 76861

Grantee: Episcopal Church Of The Good Shepherd, a Texas non-profit corporation
Grantee's Mailing Address (including county): 3355 W. Beauregard Ave., San Angelo, Tom Green County, TX 76904

Consideration: \$10.00 and a note of even date that is in the principal amount of \$85,000.00 and is executed by Grantee, payable to the order of Texas State Bank, San Angelo, Texas, a state banking association. The note is secured by a vendor's lien retained in favor of Texas State Bank, in this deed and by a deed of trust of even date from Grantee to Gary D. Cox, Trustee.

Property (including any improvements): A tract of land containing 5.287 acres, more or less, and being all of HILLSIDE TERRACE SUBDIVISION, a Subdivision of land in the City of San Angelo, Tom Green County, Texas, which subdivision is recorded in Vol. 4, Pages 486-487, Plat Records of Tom Green County, Texas, and which subdivision is also found in Cabinet D, Slide 21, Plat Records of Tom Green County, Texas.

Reservations From Conveyance: None

Exceptions to Conveyance and Warranty: 1. 25' building restriction line across North side of property as per plat recorded in Volume 4, Page 486, Plat Records, Tom Green County, Texas. 2. Easement for alley across East side of property as per plat recorded in Volume 4, Page 486, Plat Records, Tom Green County, Texas. 3. Any prior mineral severances 4. Any easements or rights-of-way apparent from an inspection of the property

Grantor for the Consideration and subject to the Reservations from Conveyance and Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, and assigns forever. Grantor hereby binds Grantor and Grantor's heirs, executors, administrators, and successors, to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

The vendor's lien against and superior title to the Property are retained until each note described is fully paid according to its terms, at which time this deed shall become absolute.

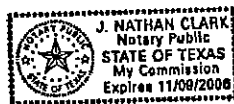
Texas State Bank, San Angelo, Texas, at Grantor's request, has paid in cash to Grantor that portion of the purchase price of the Property that is evidenced by the note described above. The vendor's lien and superior title to the Property are retained for the benefit of Texas State Bank, San Angelo, Texas, and are transferred to that party without recourse on Grantor.

When the context requires, singular nouns and pronouns include the plural. Ad valorem taxes for 2005 having been prorated to closing, Grantee assumes payment of same.

John Glenn Polhemus III and Mollie S. Polhemus (signatures and names)

State of Texas § County of Tom Green §
This instrument was acknowledged before me on the 24th day of May, 2005, by John Glenn Polhemus III and wife Mollie S. Polhemus.

(Notary Seal)



Notary Public In And For The State Of Texas
My Commission Expires:
Print Name:

300
Suwonly

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS COUNTY OF TOM GREEN

I hereby certify that the above is a true & correct copy of the original record on file in my office.

Sheri Woodfin, District Clerk, Tom Green, Texas

Attest: **MAR 31 2005**

By *[Signature]*
Deputy

FILED FOR RECORD
2005 MAY 25 PH 3:11
ELIZABETH MCGILL
COUNTY CLERK
COUNTY OF TOM GREEN, TEXAS

STATE OF TEXAS
COUNTY OF TOM GREEN
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me, and was duly RECORDED in the Official Public Records of Real Property of Tom Green County, Texas on



MAY 26 2005
Elizabeth McGill
ELIZABETH MCGILL COUNTY CLERK
TOM GREEN COUNTY, TEXAS