

**IN THE SUPERIOR COURT OF DEKALB COUNTY
STATE OF GEORGIA**

CITY OF STONECREST, GEORGIA

Plaintiff,

vs.

METRO GREEN RECYCLING THREE, LLC,
AND DEKALB COUNTY, GEORGIA; THE
STATE OF GEORGIA DEPARTMENT OF
NATURAL RESOURCES ENVIRONMENTAL
PROTECTION DIVISION; RICHARD E.
DUNN, in his official and individual capacities,
DIRECTOR, ENVIRONMENTAL
PROTECTION DIVISION, GEORGIA
DEPARTMENT OF NATURAL RESOURCES,

Defendants.

Civil Action File No. 20-cv-5610-10

ORDER GRANTING CHASE'S MOTION TO INTERVENE

This matter comes before the Court on The Citizens for a Healthy and Safe Environment's (hereinafter "CHASE") Motion to Intervene, filed on November 18, 2020. The Court held a hearing on this matter on December 11, 2020. Upon considering the record and the arguments presented at the hearing, the Court hereby finds as follows:

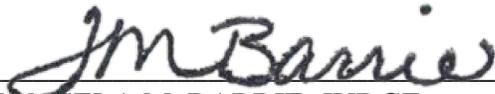
CHASE is an environmental organization that seeks to intervene in this case. CHASE argued that it is entitled to intervene pursuant to O.C.G.A. § 9-11-24(a), intervention of right, because some of its members are unincorporated DeKalb County residents whose adjacent homes will be directly impacted by the development. Metro Green opposed intervention, stating that such members are adequately represented by DeKalb County, already a party to the case.

Indeed, the Court previously denied intervention¹ to Nicole Aaron, a City of Stonecrest resident and adjoining homeowner, on the grounds that the City adequately represented her interest. However, the Court finds CHASE's posture to be different than Ms. Aaron's. While Ms. Aaron's interest was represented by the City of Stonecrest (the prosecuting Plaintiff), CHASE's concern is for DeKalb residents. DeKalb County is not a Plaintiff in the case. The County is in a defensive posture, not a prosecutorial posture. The fact that the City and the County are opponents in this case inherently means that they cannot be aligned, and CHASE's members want similar relief to that sought by the City. Indeed, CHASE is most concerned about the mandamus, and when questioned by the Court, DeKalb County's attorney stated that DeKalb does not have a position on the mandamus. Neither does the County plan to file any counterclaims or cross-claims in this matter. Therefore, the Court finds that CHASE's interest is not adequately represented in this matter. *See Ebon Found. v. Oatman*, 269 Ga. 340, 342–43 (1998) (holding defendant inadequately represented intervenor-plaintiff where defendant failed to file cross-claims against co-defendant). Consequently, the Court finds that intervention is necessary and proper pursuant to O.C.G.A. § 9-11-24(a), and hereby **GRANTS** CHASE's Motion.

In light of this ruling, the Court will schedule a status conference to amend its original case management Order.

IT IS SO ORDERED.

This 30th day of December, 2020.



TANGELA M. BARRIE, JUDGE
SUPERIOR COURT OF DEKALB COUNTY

¹ Ms. Aaron's request was filed as a "Motion for Joinder of Plaintiff," which this Court interpreted as a request to intervene.