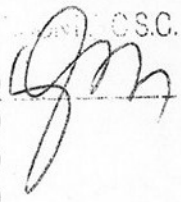


STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
File No. 7 CVS 6365

DURHAM COUNTY, N.C. C.S.C.

SEAN HAUGH, AND J. RUSSELL, )  
CAPPS, )  
Plaintiffs, )



v. )

ORDER GRANTING  
SUMMARY JUDGMENT  
FOR DEFENDANTS

COUNTY OF DURHAM, ELLEN W., )  
RECKHOW, Chairman of the Durham )  
County Board of Commissioners, in her )  
official capacity, MICHAEL D. PAGE, )  
Vice-Chairman of the Durham County )  
Board of Commissioners, in his official )  
capacity; and LEWIS A. CHEEK, )  
PHILLIP R. COUSIN, JR., and BECKY )  
M. HERON, in their official capacities )  
as members of the Durham County )  
Board of Commissioners; MICHAEL )  
M. RUFFIN, Durham County Manager )  
in his official capacity; and NITRONEX )  
CORPORATION, )  
Defendants. )

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THIS CAUSE coming on to be heard and being heard before the Honorable Howard E. Manning, Jr., judge presiding over the June 9, 2008 session of Durham County Civil Superior Court, upon motions to dismiss filed by the Defendants, which motions had previously been converted by order of the Court to motions for summary judgment. Plaintiffs were represented by Jeanette K. Doran, North Carolina Institute for Constitutional Law; the Defendant, Nitronex Corporation, was represented by Lee M. Whitman, and Defendant, County of Durham, was represented by S. C. Kitchen, Durham County Attorney.

IT APPEARING TO THE COURT that Plaintiff, Sean Haugh, is a resident of Durham County, but does not pay property taxes to Durham County, and that Plaintiff, J. Russell

Capps, is a resident of Wake County and does not pay property taxes to Durham County, and that Plaintiffs therefore lack standing to bring this suit.

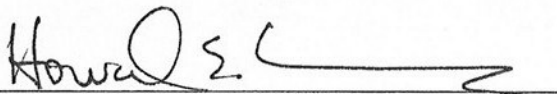
AND IT FURTHER APPEARING TO THE COURT that Defendant, County of Durham, has awarded economic incentives to Defendant, Nitronex Corporation, through a contract authorized and awarded pursuant to N.C. Gen. Stat. § 158-7.1, which statute has previously been held to be constitutional by the North Carolina Appellate Courts, and that the Court therefore lacks subject matter jurisdiction under the political question doctrine.

AND IT FURTHER APPEARING TO THE COURT that there is no genuine issue as to any material fact and that both Defendants are entitled to summary judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that:

1. The Plaintiffs lack standing to bring this action, and that summary judgment is granted in favor of the Defendants against the Plaintiffs.
2. The Court lacks subject matter jurisdiction in that this action is barred by the political question doctrine, and that summary judgment is granted in favor of the Defendants against the Plaintiffs.

3. This action is hereby dismissed, *The Court in its discretion, directs*  
~~with the costs taxed against the Plaintiffs.~~  
*that each party bear its own costs.*  
This the 9th day of July, 2008. *HEE/SCS*  
*7/8/08*



Honorable Howard E. Manning, Jr.  
Judge Presiding