THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from Beaufort County

Marvin H. Dukes, III, Master-in-Equity
Case No: 2020-CP-07-01547

Appellate Case No. 2022-000301

Todd E. Taylor, ...Respondent,

-v-

Amar and Kennie Gill Living Trust Dated March 15, 2019; Kennie Lee Miller Gill, Trustee of the Amar and Kennie Gill Living Trust Dated March 15, 2019; Kenneth V.L. Miller; and Anna M. Miller..... Appellants,

-v-

South Beach Village Lagoon Villas, II, Horizontal Property Regime LVII .....Respondent.

APPELLANTS' INITIAL REPLY BRIEF

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Under Rule 208(b)(3), SCACR, Appellants, Amar and Kennie Gill Living Trust Dated March 15, 2019, Kennie Lee Miller Gill, Trustee of the Amar and Kennie Gill Living Trust Dated March 15, 2019, Kenneth V.L. Miller, and Anna M. Miller (the "Gill-Millers"), respectfully submit the following Reply Brief.

I. Introduction.

When the Gill-Millers purchased their condominium unit, they received title to unit 1595, and a 15.939% undivided interest in the common and limited common area elements of the horizontal property regime ("Regime") established by the 1973 Master Deed, and an identical percentage voting interest in the Regime. When they purchased their unit, paragraphs Eleventh and Fourteenth[1] of the 1973 Master Deed provided, under HPA § 27-31-60, that it could not be amended to change the Gill-Millers' ownership interest in the common and limited common areas of the Regime, or their voting percentage interest, without the consent of all the Regime unit owners, that is say, without the Gill-Millers' consent.

Contrary to these clear and unambiguous provisions of the 1973 Master Deed and HPA § 27-31-60, and over the Gill-Millers' strenuous objections, the Master-in-Equity's Order allowed a bare majority of the Regime's voting percentage interests to change the Gill-Millers' ownership interest in the common and limited common area elements.

The Master-in-Equity's Order contravenes the unanimity provisions of the HPA, ignores the unanimity language of the 1973 Master Deed and fundamentally changes the property rights the Gill-Millers obtained when they purchased their condominium unit, all without their consent.

The Master-in-Equity's order must be reversed.

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[1] The paragraphs of the 1973 Master Deed are "numbered" starting with "First," and continuing "Second," "Third," Fourth," and so on to "Eleventh," and "Fourteenth."

II. Standard of review is *de novo.*

The Regime asserts the Master-in-Equity's Order should be reviewed for abuse of discretion, and argues the issues are equitable and, therefore, this Court's "standard of review in equitable matters is [its] own view of the preponderance of the evidence". Regime Initial Brief at 10, quoting *Horry Cnty. v. Ray,* 382 S.C. 76, 80, 674 S.E. 2d 519, 522 (Ct. App. 2009).

This is not correct.

The novel issue in this case concerns the interplay between the Horizontal Property Regime Act, § 27-31-10, *et seq.* (the "HPA") and South Carolina's Nonprofit Corporation Act of 1994, § 33-31-101, *et seq.* (the "NCA"). The analysis of this question requires the Court interpret the meaning of sections of both statutes.

Interpreting a statute involves a question of law for the court. *Charleston Cnty. Parks & Rec. Comm'n v. Somers*, 319 S.C. 65, 67, 459 S.E.2d 841, 843 (1995). Questions of law are reviewed *de novo. Turner v. Milliman,* 392 S.C. 116, 122, 808 S.E.2d 766, 769 (2011).

The Regime further suggests equitable principals apply to the question presented regarding the interplay between the HPA and the NCA. Regime Initial Brief at 10. However, "equity follows the law" and "equity will not prevail over a positive enactment[s] of the legislature." *Roearte v. Univ. of S.C.,* 419 S.C. 592, 603, 799 S.E.2d 912, 917 (2017), (citations omitted).

The Court's standard of review is *de novo* regarding the statutory interpretation issue presented here.

The same standard of review applies to the contract interpretation issue presented concerning the 1973 Master Deed. "Because the construction of a clear and unambiguous contract is a matter of law for the court, we review the court's findings of law *de novo*." *Lee v. Univ. of S.C.,* 407 S.C. 512, 517, 757 S.E.2d 394, 397 (2014).

III. The issues raised in this appeal concerning the interplay between the HPA and the NCA were raised in the court below and, accordingly, are properly before this Court.

The Regime contends the Court should ignore the statutory interpretation arguments made by the Gill-Millers in their Initial Brief because these were not made with "sufficient specificity" below, and the Master-in-Equity did not rule on the arguments. Regime Initial Brief at 19.

The Regime's argument ignores the Master-in-Equity's clear understanding of the statutory construction issues raised before him. During the argument on the Gill-Millers' Rule 59(e), SCRCP, Motion, the Master-in-Equity, addressing counsel for the Gill-Millers, said:

> [L]ooking at the statute at 160 [NCA § 33-31-160(c)] doesn't (c) allow for the modification of quorums and percentages and numbers and that kind of thing. And I get what you're saying. You're saying maybe it doesn't matter because maybe property rights perhaps trump that section [NCA § 33-31-160(c)]. You're not saying [NCA § 33-31-160(c)] doesn't say what it says; you're saying it doesn't matter because property rights shouldn't be affected by the Nonprofit Act, the relief valve or truck struck (sic) provision. Is that a fair assessment?[2]
>
> Trans. of March 4, 2022, Rule 59(e) motion argument, p. 23 l. 25 – 24 l. 8, ROA pp. ___ - ___.

The Regime's "Petition for Relief," asking the Master-in-Equity to alter the 1973 Master Deed voting requirements references, naturally, NCA § 33-31-160, and HPA § 27-31-60. (Regime Petition for Relief, pp. 1, 2, 11 and 13 (NCA § 33-31-160) and 5 and 6 (HPA § 27-31-60), ROA ___, ___, ___, ____, ___, and ___). The Gill-Millers' Response to the Regime Petition for Relief also refers to these sections of the NCA and HPA and quotes the portion of HPA § 27-31-60 which says that the computation regarding voting and common and limited common area ownership percentages "shall not be altered without the acquiescence of the co-owners representing all the

[2] Counsel for the Gill-Millers responded "yes" to the Master-in-Equity's question. Trans. of Rule 59(e) motion argument, p. 24 l. 9, ROA p. ___.

apartments of the...." horizontal property regime ("HPR"). (Gill-Millers Response to Petition for Relief, pp. 1 § 33-31-160), and 3, 5, 9, and 10 (§ 27-31-60, ROA ___, ___, ___, ___ and ___).

At the November 22, 2021, hearing on the Regime's Petition for Relief under § 33-31-160(c), counsel for the Gill-Millers said, "[b]ut the real issue is with the modification of the unanimous voting requirement. And our position is that, first, that violates the expressed (sic) language of the 1973 Master Deed. And second, that it violates the Horizontal Property Act." (Trans. of November 22, 2021 hearing, p. 43, ll. 2 – 6, ROA ___ - ____.). Gill-Millers' counsel further argued, "[w]hen these owners purchased their units in Lagoon Villas II, they were bound by the 1973 Master Deed and by the Horizontal Property Act, which specifically states that any votes to amend the 1973 Master Deed must be unanimous." (Trans. of November 22, 2021, hearing, p. 43, ll. 17 – 21, ROA ___ - ___.) Finally, Gill-Millers' counsel argued:

> And to go back again to the main argument that revising the unanimous voting requirement under the Horizontal Property Act would result in an unenforceable and invalid amendment. I think that's really the highlight of our argument here today in that it would be subject to future challenge. And I think that not having the other property owners' consent to essentially taking the property out of the Horizontal Property Regime, which in and of itself would require a unanimous consent, you can't have it both ways. You can't say, "You're part of a Horizontal Property Regime, yet we're going to modify this unanimous voting requirement without your participation and your involvement in it.
>
> Nov. 22, 2021, hearing p. 51, ll. 8 – 22, ROA ___ - ____.

An appellant must raise an issue with the trial court with sufficient specificity and have that issue ruled on by the trial court, in order to preserve the issue for appellate review. *S.C. Dep't of Transp. v. First Carolina Crop. of S.C.,* 372 S.C. 295, 301-02, 641 S.E.2d 903, 907 (2007), cited in *Allegro, Inc. v. Scully,* 400 S.C. 33, 48, 733 S.E.2d 114, 122 (Ct. App. 2011). However, "... an over-zealous application of appellate preservation rules denigrates the primary purpose of the judiciary, which is to serve the citizens and the business community ... by settling disputes and

promoting justice." *Atl. Coast Builders & Contrs., LLC v. Lewis,* 398 S.C. 323, 332, 730 S.E.2d 282285 (2012), (Toal, CJ, dissenting).

The statutory interpretation issue in this case concerns whether under NCA § 33-31-160(c), the Master-in-Equity had the power to override, ignore, change, etc., the unanimity requirement of HPA § 27-31-60. In the court below, the Regime and the Gill-Millers argued at length the merits of their respective positions regarding these two statutes, and the Master-in-Equity, at the final oral argument on the Gill-Millers' Rule 59(e), SCRCP, motion, explicitly recognized and articulated this issue as central to his decision. While neither party used the phrases, "statutory construction," or "statutory interpretation," both sides argued extensively for their respective construction or interpretation of the statutory provisions at issue, and the use of these particular words or phrases is unnecessary to preserve this issue for appeal. "Error preservation rules do not require a party to use the exact name of a legal doctrine in order to preserve an issue for appellate review. *State v. Branon,* 388 S.C. 498, 502, 697 S.E. 2d 593, 595 (2010), citing *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 694 (2003).

The Gill-Millers raised this issue with sufficient specificity, it was ruled on by the Master-in-Equity, and it is reviewable by this Court.

IV. The NCA does not provide the Master-in-Equity authority to alter the unanimity requirement of HPA § 27-31-60(a) regarding changes in the Regime unit owners' ownership percentages in the Regime common and limited elements.

The Regime argues that the Master-in-Equity's Order granting the Regime the relief it requested under the NCA § 33-31-160(c), i.e., that the 1973 Master Deed could be amended by a bare majority of the votes cast by the co-owners who attended the Special Meeting, altered a simple "procedural requirement[]" for amending the 1973 Master Deed. Regime Initial Brief at 14.

This misapprehends the substantive property rights the Gill-Millers acquired when they purchased their HPR unit and conflates those substantive property rights with "simple procedural requirements."

"Procedure" means "[t]he mode of proceeding by which a legal right is enforced, as distinguished from substantive law which gives or defines the right...." *Black's Law Dictionary* (5th Ed. 1979) at 1083. The unanimity voting requirement under the HPA and the 1973 Master Deed, i.e., those provided by statue and contract, are not merely "procedural," i.e., they do not deal with how votes are cast, or when and where votes are taken, and the like. The unanimity voting requirement is there to protect the property rights created by the HPA in the common and limited common area elements of an HPR and are fundamental, substantive property rights which the HPA and the 1973 Master Deed explicitly provide cannot be altered without the consent of owners of those rights. In derogation of both the HPA and the 1973 Master Deed, the Master-in-Equity decreed the property rights acquired by the Gill-Millers when they purchased their HPR unit could be altered without their consent. This is error.

The Regime asserts the Master-in-Equity's order did not "direct that any particular form of amendment be adopted by the Regime or direct the content of the proposed amendments to be submitted...." This is correct but ignores the context in which the Regime requested relief under the NCA and conflates, once again, procedural with substantive property rights.[3]

The Regime's Motion for Relief under the NCA requested the Master-in-Equity alter the voting unanimity required by the 1973 Master Deed and the HPA to amend the Master Deed in a way that would affect the Gill-Miller's substantive property rights. Attached to the Regime's

[3] It also ignores the fact that the Regime now seeks the Master-in-Equity's approval of the majority approved changes in the Gill-Millers' substantive property rights in the common and limited common area elements. *See* Retime's March 31, 2022, Motion for Entry of Order Declaring Master Deed Amendment Valid and Lawful. ROA ___.

Motion for Relief was a proposed October 2019 amendment to the 1973 Master Deed. This proposed amendment revised the valuation basis on which the individual HPR dwelling units were granted substantive property rights in the form of ownership percentages in the common and limited common area elements and identical voting percentages. The Gill-Millers objected on multiple occasion to the adjustment of the statutory ownership values because it did not comply with the 1973 Master Deed paragraph Sixth, which mirrored, as it must, the requirements of HPA § 27-31-60 and 27-31-100. Further, regime counsel advised any amendment to the 1973 Master Deed would require the consent of all the HPR owners. (May 9, 2019 Minutes of Board of Directors Meeting, Ex. G to affidavit of John Elder, ROA ___ and letters dated Jan. 9, 2019, and July 14, 2020, from attorney C.A. Scarminach, Exhs. K and Q to Aff. of T. Taylor, ROA ___ and ___).

The October 2019 proposed amendment turned out to be identical to the 1973 Master Deed amendment a bare majority of the Regime owners adopted under the Master-in-Equity's Order. This is the context in which the Regime requested relief under the NCA – it wanted a particular form of amendment to which the Gill-Millers would not consent – and only way to get it was to convince the Master-in-Equity to override the substantive property rights acquired by the Gill-Millers under the HPA when they purchased their HPR unit.

The Regime agrees that the "provisions of the [HPR] and the [NCA] can and should be harmonized...," Regime Initial Brief at 14, but then proceeds not to harmonize these provisions, but simply ignores the substantive property rights created by the HPA, suggesting those substantive property rights can be overridden under the NCA by a court ordered simple majority of the other HPR owners.

NCA § 33-31-301(b) provides that a "corporation engaging in an activity that is subject to regulation under another statute … may incorporate [under the NCA] only if incorporation [under the NCA] is not prohibited by the other statute. *The corporation is subject to all limitations of the other statute."* (Emphasis added).

Official Comment 2 to NCA § 33-31-301 says:

> Many nonprofit corporations are subject to regulation as a result of the nature of their activities. Hospitals, colleges, secondary schools and health maintenance organizations, for example, are subject to extensive regulation. Section 3.01(b) provides that nonprofit corporations continue to be subject to applicable statutory provisions even though they have broad corporate purposes.

NCA § 33-31-302(18) provides that "[u]nless its articles of incorporation provide otherwise, every corporation … has the same powers as an individual ... to do all things necessary or convenient *not inconsistent with law,…*" (Emphasis added).

The Regime is not a hospital, college, secondary school or health maintenance organization. It is, however, subject to the HPR, which includes the unanimity provisions discussed at length in the Gill-Millers opening Brief. The Regime makes no attempt to reconcile the HPA unanimity provision with the Master-in-Equity's Order because it cannot do so – the Order simply writes the HPA's unanimity requirement out of the HPA.

This was not the intent of the legislature when it enacted the NCA and explicitly provided corporations organized under its auspices remain subject to "all limitations" of other statutes and the requirements of other "applicable statutory provisions."

The establishment by the HPA of substantive property rights and the inclusion in the HPA of the ability of an HPR to organize under the NCA can be harmonized by looking at the plain language of the HPA and the NCA, but not in the way the Regime suggests, which is to redact the unanimous voting right requirement of the HPA.

HPA § 27-31-90, allows an HPR to organize under the NCA to "administer" HPR property. The Regime quotes the meaning of the term "administration" from an on-line version of the Merriam-Webster Dictionary as (1) performance of executive functions; and (2) the act of administering something. The Regime also quotes the same dictionary definition for the word "administer" as meaning "to manage or supervise the execution, use, or conduct of" something. Nothing, however, in the phrases "to manage;" "to supervise;" or "to perform executive functions;" suggests a legislative intent to empower a court, under the NCA and on a petition from an HPR, to alter the substantive rights property and voting rights an individual HPR unit owner over their objection. There is nothing managerial or supervisory about doing so. To "manage" or "supervise" is to "administer" the HPR and are procedural acts or, as Merriam-Webster says, executive functions. What is "managed," "supervised," or "administered" can include substantive rights, but none of these three words suggests that to "manage," "supervise," or "administer" substantive rights includes altering those rights without the consent of the owners of those rights.

Nor is there any indication the South Carolina General Assembly intended to delegate its constitutional authority to amend the statutory requirements of the HPA to a mere majority vote of members of an HPR simply because the HPR is organized under the NCA. The Order by the Master-in -Equity not only fails to harmonize these two statutes, it places the HPA and the NCA in discord so that the provisions of one statute must be overridden to allow for the application of the other, thereby creating the potential for the plainly absurd result that the HPA can be overridden in numerous and varying ways by any Regime which cannot find a way to reach the statutorily required unanimity. The 1973 Master Deed *is* the definitive statement of the real property rights of HPR owners and is relied upon by numerous parties to real estate transactions, including not just buyer and sellers, but third parties such as financial institutions, mortgage companies,

investment companies, insurance and re-insurance companies, state and local taxing authorities and the general public. It cannot be the Legislature's intent to allow a mere majority of the co-owners of an HPR to use the NCA to alter the property or contract4 interests of these third parties without so much as a whisper of notice to them.

An HPR can organize under the NCA to assist it in the "administration" of the HPR, but by using the word "administration," the Legislature contemplated an HPR organized under the NCA to confine itself to using the provisions of the NCA to "manage," "supervise," and perform the necessary "executive functions" to "administer" the HPR, not to use the provisions of the NCA to change the substantive voting rights, in this instance, the requirement of unanimity, to alter the substantive property rights of HPR members.

This reading of the NCA is borne out by the specific language of NCA § 33-31-160(c), providing that an order issued under this section, as was the Master-in-Equity's Order, "may dispense with any requirement relating to the holding of or voting at meetings or obtaining votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by *articles, bylaws, or this chapter.*" This section concerns the administration of the HPR under the NCA. It has nothing to do with altering substantive rights created by another statute, i.e, the HPA, or by contract, i.e., the 1973 Master Deed.

The Master-in-Equity erred holding otherwise and his Order must be reversed.

V. The NCA does not provide the Master-in-Equity with authority to change the Gill-Millers' property rights established by the 1973 Master Deed without the Gill-Millers' consent.

Indicative of the Regime's view of contract and property rights is its extraordinary statements at page 26 of its Initial Brief that, "... [NCA] § 33-31-160 is not constrained based on

contract principles, or a contractual agreement requiring a certain percentage of approval for certain matters." The Regime goes on to say that "[t]here is no restriction in the text of [NCA] § 33-31-160 that limits a court from modifying the voting requirement if the modification of such requirement could result in a nonprofit corporation passing a vote on some matter that could modify a party's substantive property rights." *Id.*

In other words, regardless of the clear provisions of the HPA and the 1973 Master Deed, anything the majority of the voting interests of this HPR, or any other HPR organized under the NCA, wants, it can get. This cannot be what our Legislature intended when it enacted the HPA provision allowing HPR to be organized under the NCA.

The ownership percentage of the common and limited common area elements of the Regime, and the voting percentage interests of the individual Regime members is inextricably intertwined – they are the same number, and, under the HPA, cannot be altered without the Gill-Millers' consent.[4]

The Regime asserts that the change in the Gill-Millers' common and limited common area ownership interest and their voting percentage interest wrought by the majority vote does not amount to a large change – 15.939% when the Gill-Millers purchased their HPR unit, to 15.995%.- The Regime focuses only on the numerical change in the Gill-Millers' ownership percentage,

[4] The Master's Order fails to recognize that while the voting percentages are numerically identical to the ownership percentages, they are not independent of the HPR owners' property rights; they flow from the ownership percentages assigned in the 1973 Master Deed calculated under provisions of the HPA. Any adjustment in those percentages -- whether for voting purposes or for granting the proportionate share of ownership in the common and limited common area elements -- is a change in substantive real property ownership rights. The Regime mistakenly conflates the administrative use of the ownership percentages for voting purposes with the HPA statutory requirement that the Master Deed must express "The value of the property and of each apartment, and, according to these basic values, the percentage appertaining to the co-owners in the expenses of, and rights in the elements held in common;" HPA § 27-31-100(d), i.e., the substantive property rights of each co-owner.

without seeing this change in the larger context of the overall changes in the relative ownership percentages allowed by the Master-in-Equity ordered bare majority vote. What happens next time, and the time after that, when a majority wants to amend the 1973 Master Deed?

Further, the change in the percentage ownership and voting interests changes[5] the balance of voting interests for all matters if the majority wishes to again change the Gill-Millers' substantive property rights, or the rights of any other HPR unit owner who objects. Under the amended ownership/voting percentages, the one super-unit (Unit 1594), having a voting percentage of 22.801%, can reach a 50% majority with any two of the other units, whereas for any other unit to reach the 50% majority threshold, it would have to be joined by **three** HPR units. (*See* Exhibit "E" to Gill-Millers Response to Regime Petition for Relief, ROA ___.).

Under the 1973 Master Deed there is no more than a 2.183% difference in ownership value and voting percentages between any unit, and all four 2-bedroom units have identical voting percentages, reflecting the relative comparability of all six units. The amendment adopted by a mere majority of owners under the Master-in-Equity's Order significantly alters the relative voting power of all the units and results in a maximum difference in voting power of 9.252%. (*Id.*). Moreover, the increase in ownership percentage and voting percentage of the three improved units varies wildly ranging from an increase of 4.679% for a roughly 400 square foot addition (Unit 1594) to an increase of 0.284% for a roughly 142 square foot addition (Unit 1591) to an increase of 0.056% for a roughly 154 square foot addition (Unit 1595, the Gill-Millers' Unit). *Id.* That is a significant change in the Gill-Millers' *relative* ownership percentage and voting power.

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[5] This change in property interests/voting percentages is based on a recalculation of the square footage of all 6 HPR units, a calculation which, as pointed out in the Gill-Millers' Response to the Regime's Petition for Relief, does not comport with the provisions of the HPA. *See* Gill-Millers' Response to Regime Petition for Relief, p. 9, ROA ___.

"The court's duty is to enforce the contract made by the parties regardless of its wisdom or folly, apparent reasonableness, or other parties' failure to guard their rights carefully." *Ellis v. Taylor,* 316 S.C. 245, 248, 449 S.E. 2d 387, 488 (1994). "The terms of the Master Deed were expressly incorporated into each unit owner's purchase contract. By signing the purchase contract at closing, each homeowner was charged with having read the Master Deed's contents." *Gates at Williams-Brice Condo Ass'n v. DDC Constr. Inc.,* 418 S.C. 282, 297, 792 S.E.2d 240, 248 (Ct. App. 2016).

The 1973 Master Deed provides that the "mere acquisition" of an individual unit signifies the acceptance and ratification of the 1973 Master Deed by the individual unit grantee. The Master-in-Equity, under the NCA § 33-31-301(b), had no power to alter the contractually agreed-upon unanimity required under the 1973 Master Deed to allow amendments to that deed without the consent of the Gill-Millers. The result of the Master-in-Equity's overreach is an alteration of the Gill-Millers' property rights in the Regime common and limited common area elements without their consent.

CONCLUSION

Under the HPA, the 1973 Master Deed established the Regime and, under the HPA § 27-31-60(a), provided a formula for calculating the individual unit owners' percentage of ownership of the Regime's common and limited common area elements and voting percentages. The HPA provides these percentages cannot be changed without the Gill-Millers' consent, and the 1973 Master Deed provides that neither the ownership percentages, nor any other of its provisions, can be amended without the consent of all the individual unit owners, i.e., without the Gill-Millers' consent.

The HPA allows, for administration purposes, HPR's established under its auspices to incorporate under the NCA. The NCA provides that any nonprofit corporation formed under the NCA has the powers of a natural person to act in accordance with the law, and all nonprofit corporations remain subject to the limitations of any other statute governing their existence or operation. Accordingly, regardless of its incorporation under the NCA, the Regime remains subject to the HPA, particularly HPA § 27-31-60(b). While NCA 33-31-160(c), provides in certain circumstances a court may alter the voting requirements for "approval, that would otherwise be imposed by the...." NCA or a nonprofit's corporate articles or bylaws, the Master-in-Equity, under this provision of the NCA, had no power to alter the unanimity required under the HPA to change the Gill-Millers' ownership interests in the Regime's common and limited common area elements or their voting percentages. The 1973 Master's Deed is not a Regime corporate article or by-law. It is a deed establishing the property rights of the Gill-Millers and the other Regime co-owners in the common and limited common areas of the Regime and voting percentages. While the Master-in-Equity under the NCA may have been able to alter the voting requirements to amend a Regime article of incorporation or by-law, the Master-in-Equity had no power, under the HPA or NCA, to affect the property rights of the Gill-Millers established under the 1973 Master Deed without their consent.

Finally, upon acquisition of their respective interests in the Regime, all the individual Regime unit owners agreed to and ratified the 1973 Master Deed, including the paragraph requiring unanimous agreement to amend the 1973 Master Deed. The Master-in-Equity had no power to excise this requirement from the 1973 Master Deed without the Gill-Millers' consent.

The Master-in-Equity's Order must be reversed, and the case remanded.

Respectfully submitted,

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October 17, 2022
Columbia, South Carolina

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APPEAL FROM BEAUFORT COUNTY
Master in Equity

Marvin H. Dukes, III, Master in Equity
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vs.

South Beach Village Lagoon Villas, II, Horizontal Property Regime LVII .....Respondent.

PROOF OF SERVICE

I hereby certify that, on this date, the **Appellants' Initial Reply Brief and Counter Designation of Matter to be Included in the Record on Appeal,** was served on Respondent's counsel via AIS email, pursuant to Supreme Court Order dated March 20, 2020, as amended on May 29, 2020, as follows:

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A copy of the service email is attached hereto, as required.

I further certify that all parties required by Rule to be served have been served.

s/ Louis H. Lang
Louis H. Lang

October 17, 2022
Columbia, South Carolina

From:	Crystal Smith
To:	ekubec@coffeykubec.com; dmackelcan@csvl.law; lhoughton@csvl.law
Cc:	Louis Lang; Crystal Smith
Subject:	2022-000301 (Todd E. Taylor v. Amar and Kennie Gill Living Trust)
Date:	Monday, October 17, 2022 4:16:24 PM
Attachments:	Initial Reply Brief (signed by LHL).pdf Counter DOM of Gill-Millers.pdf Proof of Service.001.pdf Clerk.Court of Appeals.006 (Filing Initial Reply Brief).pdf

Dear Counsel,

Attached please find Appellants' Initial Reply Brief, Counter Designation of Matter to be Included in the Record on Appeal, Proof of Service, and letter to the appellate clerk regarding the above-referenced matter. The attached documents are being submitted today to the Court of Appeals for filing. Thank you.

With kind regards,

Crystal Smith

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October 17, 2022

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Post Office Box 11629
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Re: Todd E. Taylor v. Amar and Kennie Gill Living Trust Dated March 15, 2019; Kennie Lee Miller Gill, Trustee of the Amar and Kennie Gill Living Trust Dated March 15, 2019; Kenneth V.L. Miller; and Anna M. Miller
Appellate Case No. 2022-000301
Our File No. 8828.001

Dear Ms. Kitchings:

Enclosed herewith please find the Appellants' Initial Reply Brief, Counter Designation of Matter to be Included in the Record on Appeal, together with the Proof of Service, in the above-referenced matter. Kindly file the same and return a clocked-in copy of each to the undersigned via return email.

The enclosed documents have been served upon Respondent's counsel today via email as indicated in the Proof of Service.

Please feel free to contact me with any questions. Thank you.

With kind regards, I am

Sincerely yours,

CALLISON TIGHE & ROBINSON, LLC

s/ Louis H. Lang

Louis H. Lang

LHL:cs
Enclosures
cc: (w/ encls.) Edward M. Kubec, Esq.
(w/ encls.) Douglas W. MacKelcan, Esq.
(w/ encls.) Lacey L. Houghton, Esq.
Clerk.Court of Appeals.006