THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Master-in-Equity

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.

FINAL BRIEF OF RESPONDENT

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II. Whether the Master-in-Equity properly exercised authority under S.C. Code Ann. § 33-31-160 to modify the percentage of votes needed for approval of an amendment to the Regime's Master Deed where the Regime demonstrated it was impossible and impractical for the Regime to otherwise obtain the consent of its members, despite the provisions contained in the Regime's Master Deed.

III. Whether the Master-in-Equity properly granted relief to the Regime in the exercise of the Court's equitable powers.

STATEMENT OF THE CASE

This case arises out of an intractable dispute among the six (6) unit ownership of the South Beach Village Lagoon Villas II, Horizontal Property Regime LVII (the "Regime"), in Hilton Head Island, South Carolina. As set forth herein, the owners of three (3) of the six (6) units, over a period of over twenty (20) years, renovated and expanded those units into the common elements of the Regime. For approximately twenty (20) years, the Regime ownership has discussed the need to amend the Master Deed to properly describe and reflect the changed property and rights of the co-owners. For approximately twenty (20) years, the Regime ownership, including Appellants, operated on the basis of ownership percentages which are different than those expressed in the Master Deed, due to the unit expansions. All Parties to this action agree and concede that the Master Deed requires an amendment, and that the Council of Co-Owners has a duty to pass an amendment to the Master Deed. 100% approval of the co-owners is required to pass an amendment thereto. In 2018, the Regime commenced a concerted effort to effectuate an amendment to the Master Deed, but was unable to do so due to the inability to acquire unanimous consent of the co-owners. After being named a Third Party Defendant in the underlying Civil Action between the owners of two (2) of the Regime units relating to the unit expansions, the Regime filed a Petition pursuant to S.C. Code Ann. § 33-31-160, seeking relief from the Master-in-Equity to alter the unanimous approval requirement for amendment of the Master Deed in order to effect the necessary amendment. The Master-in-Equity properly granted the Regime's Petition.

The Regime was established pursuant to the Master Deed filed November 2, 1973 in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 215 at Page 1092 (the "Master Deed"). **(R. p. 59)**. The Regime is subject to the provisions of the Horizontal Property Act, S.C. Code Ann. § 27-31-10, *et. seq*. The Regime is also a nonprofit corporation

formed and existing under the laws of the State of South Carolina, and subject to the provisions of the South Carolina Nonprofit Code, S.C. Code Ann. § 33-31-101, *et seq*. The Regime property is located on Hilton Head Island, in Beaufort County, South Carolina, and includes six (6) units. **(R. p. 61, ¶ 3)**. The six (6) dwelling units are owned by co-owners, each of whom has a particular and exclusive property right to their dwelling unit, as well as an undivided interest and common right to share in the general and limited common elements of the Regime. **(R. p. 61, ¶ 3)**.

In accordance with the requirements of the Horizontal Property Act, the Master Deed incorporates and/or includes a plat and plans showing and describing the Regime property, including individual dwelling units and common elements. **(R. p. 61, ¶ 3)**. Pursuant to the Master Deed, the Regime property is defined and specified as having "a total area of 0.77 acres of which 8,071.21 square feet will constitute Dwelling Units, and 25,469.99 square feet will constitute common elements." **(R. p. 61, ¶ 4)**. Further, the dwelling units making up Regime property are described and the measurements of the various units are identified as follows:

> 1. Building 1: This buildings contains two (2) Dwelling Units (hereinafter referred to as "Villas") and commonly referred to as Villas 1591 and 1592.
>
> 2. Building 2: This building contains two (2) Dwelling Units commonly referred to as Villas 1593 and 1594.
>
> 3. Building 3: This building contains two (2) Dwelling Units commonly referred to as Villas 1595 and 1596.
>
> …[T]he Villas, as shown on the plans of the Property, are composed of four (4) 2 bedroom Type A Villas, and two (2) three bedroom Type B Villas.
>
> 1. Two-bedroom Type A Villas: (Units 1591, 1592, 1595, and 1596). These Villas measure 39.83 feet wide and 36.66 feet deep in their maximum interior dimensions and contain a net interior area of 1,086 square feet.

2. Three-bedroom Type B Villas: (Units 1593 and 1594) These Villas measure 44.83 feet wide and 44 feet deep in their maximum interior dimensions and contain a net interior area of 1,400 square feet.

(R. pp. 61-62, ¶ 5).

As defined in the Master Deed, the general common elements and the limited common elements together comprise the "Common Elements" of the Regime. The general common elements include all Regime property, excluding the limited common elements and the dwelling units. **(R. pp. 61, ¶ 3; R. pp. 61-62, ¶ 5)**. The limited common elements include pertinently, "the rear and front yards and service areas…adjacent to each dwelling unit…" **(R. p. 62, ¶ 5.2.B.1)**

In accordance with the requirements of the Act, the Master Deed provides "the title and interest of each co-owner of a Dwelling Unit in the common elements (both general and limited)…and their proportionate share in the profits and common elements (both general and limited), as well as the proportionate representation for voting purposes… are as follows:"

A. Dwelling Units 1591, 1592, 1595 and 1596: 15.939 percent each based on a value of $73,000 for each of said Dwelling Units.

B. Dwelling Units 1593 and 1594: 18.122 percent each based on a value of $83,000 for each of said Dwelling Units.

(R. p. 62, ¶ 6).

Pursuant to the Master Deed, "the percentage of the undivided interest in the common elements (both general and limited) established herein shall not be changed except with the unanimous consent of all of the co-owners expressed in an amendment to this Deed duly recorded." **(R. p. 63, ¶ 11); *see also* S.C. Code Ann. § 27-31-60**. Additionally, the Master Deed requires unanimous consent of all co-owners of the Regime to amend any provisions thereof. **(R. p. 64, ¶ 14)**.

Over the past many years, Dwelling Unit 1591, Dwelling Unit 1594 and Dwelling Unit 1595 (the "Encroaching Units") were expanded such that they encroach into Common Elements of the Regime. Thus three (3) of the six (6) dwelling units that make up the Regime now encroach into the Common Elements of the Regime. **(R. p. 6; R. p. 126, ¶ 5; R. p. 200, ¶ 8)**. The Appellants are the owners of Unit 1595. Appellants completed the expansion of Unit 1595 in 1998. **(R. p. 226, ¶ 6)**. Following the expansion of Appellants' Unit, the Regime ownership informally adopted a change in the ownership percentages of each unit based on the expansion of Unit 1595, without passing an amendment to the Master Deed. **(R. p. 226, ¶¶ 8-9)**. In 2003, the owners of Unit 1594 expanded their unit. **(R. p. 227, ¶ 13)**. Sometime after Unit 1594 was expanded, the Regime ownership again informally adopted a change in the ownership percentages of each unit based on the expansion of Unit 1595, without passing an amendment to the Master Deed. **(R. p. 227, ¶ 13)**. In approximately 2004, the owners of Unit 1591 completed the expansion of that unit. **(R. p. 6)**. Upon information and belief, these expansions were not opposed by the Regime ownership. **(R. p. 50)**.

Beginning as far back as 2001, the Regime has discussed the need to amend the Master Deed to reflect changes to the Regime property and rights of the co-owners as the result of the unit expansions. In 2001, the Regime engaged an attorney who prepared a proposed amendment to the Master Deed. **(R. p. 227, ¶ 11)**. The Regime did not pass this amendment. **(R. p. 227, ¶¶ 11-12)**. On October 16, 2003, the co-owners requested an amendment to the Master Deed to reflect changes to the ownership percentages based on the newly-completed expansion of Unit 1594. **(R. p. 127, ¶ 9; R. p. 136)**. At an October 14, 2004 Regime meeting, the co-owners discussed that the Regime had again retained counsel to prepare an amendment to the Master Deed to reflect the

changes in the Regime Property and ownership percentages. **(R. p. 127, ¶ 10, R. pp. 137-38)**. Despite these efforts, the Regime did not pass an amendment to the Master Deed.

The concerns regarding the Master Deed re-surfaced in October 2017, when Regime meeting minutes reflect that Appellant Kennie Miller Gill expressed that the Master Deed and Bylaws were "out of date and they would eventually need to be updated. In addition the percentage of ownership was not current, with the patio additions and improvements…" **(R. p. 128, ¶ 12, R. pp. 143-44)**. Following this concern raised by Appellant Kennie Miller Gill, the Regime retained counsel, Novit & Scarminach, P.A., to advise it regarding issues surrounding the Master Deed. **(R. p. 128, ¶ 12, R. pp. 143-44)**. Counsel advised the Regime it needed an amendment to the Master Deed to reflect the expansion of the Encroaching Units and the changes to the Regime property. **(R. p. 129, ¶ 13)**. In particular, counsel for the Regime advised that the expansion of the Encroaching Units into the common elements is prohibited under the Master Deed and the Act, regardless of whether the expansions were done with the consent of the Regime. Regime Counsel further advised that, because of the expansion of the Encroaching Units the description and depiction of the Regime property and the Encroaching Units as set forth in the Master Deed no longer conform to the physical layout of Regime property as it currently exists. **(R. p. 129, ¶ 14)**.

On May 11, 2018, Appellant Kennie Miller Gill sent an email to the co-owners raising continued concerns regarding the Master Deed and stating that immediate corrective action was required; Appellant requested the Regime ask Regime Counsel to begin the process of amending the Master Deed. **(R. p. 131, ¶ 20; R. pp. 157-58)**. From 2018-2019, the Regime worked with Regime Counsel to prepare an amendment to the Master Deed. **(R. p. 130, ¶ 16)**. The Regime also engaged Survey Consultants to provide a revised survey of the Regime Property reflecting the

current property, including the Encroaching Units, for use in the amendment process. **(R. p. 130, ¶ 17)**.

Following this process, via letter dated October 9, 2019, Regime Counsel sent the co-owners a proposed Consent Resolution and Amendment to Master Deed in an attempt to secure an amendment ("October 2019 Proposed Amendment"). **(R. p. 131, ¶ 22; R. pp 163-74)**. All co-owners signed the October 2019 Proposed Amendment, except for Appellant Kennie Lee Miller Gill.[1] **(R. pp. 131-32, ¶ 23; R. pp. 175-81)**. From the fall of 2019 through 2020, the Regime continued to attempt to garner 100% approval of the October 2019 Proposed Amendment, meaning the approval of Appellant Kennie Miller Gill. **(R. p. 132, ¶ 26)**.

Ultimately, the Regime was unable to effectuate an amendment to the Master Deed due to the inability to obtain the agreement of 100% of the co-owners of the Regime. **(R. p. 133, ¶ 29)**. Since 2018, the Regime has incurred not less than $20,017.50 in connection with its attempts to effectuate an amendment to the Master Deed, including legal fees and surveying fees. **(R. p. 133, ¶ 30)**.

On July 31, 2020, Respondent/Plaintiff Todd Taylor filed the instant lawsuit against the Appellants/Defendants, asserting, *inter alia,* that Appellants illegally expanded Unit 1595 into the Common Area of the Regime, and the encroaching structure must be removed. **(R. pp. 25-31)**. On December 3, 2020, Appellants/Defendants filed an Amended Answer and Third Party Complaint against the Regime, seeking, *inter alia*, a Declaratory Judgment that the Regime approved Appellants' addition, and that a valid and enforceable encroachment agreement exists between Appellants and the Regime. **(R. pp. 32-40)**. On August 25, 2021, in an effort to seek resolution

[1] Appellants Kenneth V.L. Miller and Anna M. Miller originally signed the Amendment, but later withdrew their consent. **(R. p. 228, ¶ 17; R. p. 270, ¶ 10)**.

of the outstanding controversy, the Regime filed a Petition for Relief Pursuant to S.C. Code Ann. § 33-31-160, seeking the aid and intervention of the court to provide a procedure which may permit it to pass an amendment to the Master Deed. **(R. pp. 45-46)**. Specifically, the Regime sought an Order from the Court requiring, *inter alia,* the Regime to hold a meeting of the members for the purpose of approving an amendment to the Master Deed, and to alter the voting percentage required to approve an amendment to the Master Deed at the meeting from 100% to a majority of the co-owners based upon the ownership percentages expressed in the Master Deed. **(R. pp 45-46; R. p. 8)**.

Respondent Taylor joined in the Regime's request for relief. **(R. p. 8)**. On November 11, 2021, Appellants filed a Response to the Regime's Petition. Appellants joined in the request for a special meeting to be held for the purpose of consideration by the Council of Co-Owners of proposed Master Deed amendments, and for a vote to be held regarding the same. However, Appellants requested the Court deny the Regime's Petition insofar as it sought to alter the unanimous voting requirement to amend the Master Deed. **(R. pp. 91-92)**.

On October 6, 2021, with the consent of all parties, the case was referred to the Honorable Marvin H. Dukes, III, Master-in-Equity for Beaufort County. **(R. pp. 1-2)**. The Master held a hearing on the Regime's Petition on November 22, 2021. On February 3, 2022, the Master entered an Order granting the Regime's Petition pursuant to "S.C. Code § 33-31-160 and the equitable powers of [the] court" (the "2-3-2022 Order"). **(R. pp. 4-16).** On February 11, 2022, Appellants filed a Motion for Reconsideration of the 2-3-2022 Order, which the Court denied on March 10, 2022. **(R. pp. 121-22; R. p. 27)**.

Pursuant to the 2-3-2022 Order, the Master found "the intervention of the Court is warranted to order a special meeting of the Regime members for the purpose of voting on an

amendment to the Master Deed" and "that it is necessary and appropriate to modify the voting requirement for the passage of an amendment to the Master Deed." **(R. p. 10).** The 2-3-2022 Order directed the Regime to hold a Special Meeting within 45 days of the Court's Order for the purpose of voting on a proposed amendment to the Master Deed. **(R. p. 10).** The 2-3-2022 Order provided for a structure in which both Respondent Taylor and Appellants could submit proposed Master Deed amendments for the consideration and vote of the co-owners. **(R. p. 12).** The 2-3-2022 Order provided that at the Special Meeting, "if a proposed amendment to the Master Deed receives a majority vote, the Court shall order the amendment to constitute a valid and lawful amendment by subsequent order." **(R. p. 11).**

On March 17, 2022, the Regime held the Special Meeting in accordance with the requirements and procedures set forth in the 2-3-2022 Order. **(R. pp. 274; R. pp. 278-85).** Appellants submitted a proposed amendment to the Master Deed for the consideration of the ownership prior to the March 17, 2022 Special Meeting, but withdrew the proposed amendment from consideration during the Special Meeting itself. **(R. p. 275, R. pp. 280-82).** Respondent Taylor presented a proposed amendment that received the approval of 52.183% of the co-owners of the Regime (hereinafter "3-17-22 Amendment"). **(R. p. 275; R. pp. 284-85)**. The 3-17-22 Amendment corrected the description and depiction of Regime property to reflect the current layout of the dwelling units and Common Elements, the undivided title and interest of each co-owner in the Common Elements, proportionate share in the profits, and the proportionate representation for voting purposes. **(R. pp. 321-24)**. Appellants' percentage was 15.939% under the Master Deed and <u>increased</u> to 15.995% under the 3-17-2022 Amendment. **(*Compare* R. p. 323 *with* R. p. 62, ¶ 6)**.

On March 31, 2022, the Regime filed a Motion for Entry of Order Declaring Master Deed Amendment Valid and Lawful, which remains pending before the Master.

STANDARD OF REVIEW

S.C. Code Ann. § 33-31-160 affords a lower court broad authority and discretion to fashion relief in a manner the "court finds fair equitable under the circumstances." There appears to be no South Carolina precedent describing the standard of review of a lower court's exercise of authority under S.C. Code Ann. § 33-31-160. Based upon the broad discretion afforded to a court under the statute, this Court should review the exercise of such authority for abuse of discretion. "An abuse of discretion occurs when the [lower] court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support." *State v. Oates,* 421 S.C. 1, 13, 803 S.E.2d 911, 918 (Ct. App. 2017). Further, "[t]he appellate court's standard of review in equitable matters is [its] own view of the preponderance of the evidence." *Horry Cnty. v. Ray*, 382 S.C. 76, 80, 674 S.E.2d 519, 522 (Ct. App. 2009).

ARGUMENT

I. THE MASTER-IN-EQUITY PROPERLY EXERCISED AUTHORITY PURSUANT TO S.C. CODE ANN. § 33-31-160 TO MODIFY THE PERCENTAGE OF VOTES NEEDED FOR APPROVAL OF AN AMENDMENT TO THE REGIME'S MASTER DEED, WHERE THE REGIME DEMONSTRATED IT WAS IMPOSSIBLE AND IMPRACTICAL FOR THE REGIME TO OTHERWISE OBTAIN THE CONSENT OF ITS MEMBERS, DESPITE ANY PROVISIONS CONTAINED IN THE HORIZONTAL PROPERTY ACT.

1. This Court should affirm the Master-in-Equity's Grant of the Regime's Petition because the Master-In-Equity properly exercised the authority granted to the Court under S.C. Code Ann. § 33-31-160.

The Regime is governed by the South Carolina Nonprofit Code, S.C. Code Ann. § 33-31-101, *et seq.,* which provides a framework for governing the activities and management of a nonprofit corporation, as well as the rights and relationships among the members of a nonprofit

corporation. The Regime is also governed by the Horizontal Property Act, S.C. Code Ann. § 27-31-10, *et. seq.,* which provides a framework for establishing real property as a horizontal property regime, and contains provisions which define the rights among the co-owners who have an ownership interest within a horizontal property regime.

The South Carolina Nonprofit Code includes a provision entitled "Judicial Relief" which provides:

> (a) If for any reason it is impractical or impossible for a corporation to call or conduct a meeting of its members, delegates, or directors, or otherwise obtain their consent, in the manner prescribed by its articles, bylaws, or this chapter, then upon petition of a director, officer, delegate, member, or the Attorney General, the court of common pleas… may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members, delegates, or directors be authored, in such a manner as the court finds fair and equitable under the circumstances….
>
> (c) The order issued pursuant to this section 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 the articles, bylaws, or this chapter.
>
> (d) Whenever practical, any order issued pursuant to this section shall limit the subject matter of meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section. However, an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, or sale of assets….

S.C. Code Ann. § 33-31-160.

The official comment describes the court's authority as an "escape valve" to permit the corporation to take action when it otherwise would not be able to. *See id.* (stating the statute "provides an escape valve allowing nonprofit corporations to conduct meetings or obtain the

consent of members, delegates, or directors when it is otherwise impractical or impossible to do so").

The Master properly recognized the impossible and unique situation facing the Regime. In this small, six (6) unit Regime, half of the units constructed additions over the years that encroach into the Common Elements of the Regime, and the description and depiction of the Regime property and the Encroaching Units in the Master Deed no longer conforms to the physical layout of Regime property in violation of the Horizontal Property Act. Additionally, the Regime ownership operated for approximately 20 years based upon informally adopted proportionate ownership percentages, which were different than those set out in the Master Deed. Following a renewed and concerted effort and the expenditure of a large sum of money beginning in 2018, the Regime was simply unable to acquire the consent of all co-owners to a particular form of amendment due to disagreement regarding the content of the amendment. The Master summarized this assessment by stating:

> The Master Deed requires an amendment in order to lawfully and properly describe the Regime property, dwelling units, common elements, and the rights of the co-owners. All Parties to this Action agree and concede that the Master Deed requires an amendment, and that the Council of Co-Owners and the Board of Administration have a duty to pass an amendment to the Master Deed. I find that the Regime has shown, based on the lengthy history of attempts to amend the Master Deed, the expenses incurred, the discussions and efforts which have taken place since 2018, and the instant lawsuit, that it is impossible or impractical for the Regime to call or conduct a meeting of its members or otherwise obtain their consent in order to vote on a valid amendment to the Master Deed.

R. p. 10. The Master properly found the Regime made the required showing for the Court to exercise its authority to provide relief under S.C. Code Ann. § 33-31-160, that is, the Regime showed it was impossible or impractical for the Regime to call or conduct a meeting of its members or otherwise obtain their consent in order to effect an amendment to the Master Deed.

In the 2-3-2022 Order, the Master further found "that it is necessary and appropriate to modify the voting requirement for the passage of an amendment to the Master Deed." **R. p. 10**. The 2-3-2022 Order directed the Regime to hold a special meeting and provided a structure for both Respondent Taylor and Appellants to submit proposed Master Deed amendments for the consideration and vote of the co-owners. **R. pp. 10-14**. The 2-3-2022 Order provided that at the Special Meeting, "if a proposed amendment to the Master Deed receives a majority vote, the Court shall order the amendment to constitute a valid and lawful amendment by subsequent order." **R. p. 11**. Appellants concede that the Master properly ordered the Regime to hold a special meeting for the purpose of consideration of proposals for amendment of the Master Deed, and for voting to amend the Master Deed, as Appellants joined in the Regime's Petition insofar as it sought these items of relief. **R. pp. 91-92;** ***see also*** **App. Br. 12-13.**

Appellants argue, however, that in modifying the voting requirement from unanimous consent to majority vote, the Master exceeded its authority because a provision of the Horizontal Property Act provides that the co-owners' ownership percentage in the common elements of the Regime property "shall not be altered without the acquiescence of the co-owners representing all the apartments of the property." S.C. Code Ann. § 27-31-60. Appellants argue "[t]he Master had no power to direct, without their consent, a change in the property interests of [Appellants] in the Regime common and limited common areas and the formula by which those interests were calculated." **App. Br. at 13**. Appellants further argue "the Master was without authority to direct the adoption of amendments to the 1973 Master Deed effecting the ownership of the [Appellants] in the common and limited common area elements of the Regime without their consent." **App. Br. at 14.**

However, this is an inaccurate characterization of the relief granted by the Master. The Master 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 to the Regime ownership for consideration and vote. The Master's Order instead altered the procedural requirements for passage of an amendment to the Master Deed, and specifically provided a procedure for the submission of proposed amendments by both Appellants and Respondent Taylor, for the consideration and vote by the Regime membership. The Regime asserts the Master's provision of this procedural framework is squarely within the "escape valve" authority afforded pursuant to S.C. Code Ann. § 33-31-160.

Appellants further argue, as a matter of statutory construction, that a court's "escape valve" authority pursuant to S.C. Code Ann. § 33-31-160 to dispense with otherwise applicable voting requirements, cannot override the requirement of S.C. Code Ann. § 27-31-60 that the proportionate ownership percentages "shall not be altered without the acquiescence of the co-owners representing all of the apartments of the property."

The Regime agrees with Appellants that the provisions of the Horizontal Property Act and Nonprofit Code can and should be harmonized. The goal of statutory construction is to harmonize statutes whenever possible and to prevent an interpretation that would lead to a result that is plainly absurd. *Florence Cnty. v. Moore,* 344 S.C. 596, 601, 545 S.E.2d 507, 509 (2001). Further, "[t]he cardinal rule of statutory construction is to ascertain and effectuate the legislative intent whenever possible. *State v. Landis,* 362 S.C. 97, 102, 606 S.E.2d 503, 505 (Ct. App. 2004). "All rules of statutory construction are subservient to the one that legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in the light of the intended purpose of the statute." *Id.*

The Horizontal Property Act expressly recognizes and contemplates that the council of co-owners of a horizontal property regime is permitted to incorporate under the South Carolina Nonprofit Code for the purpose of "the administration of the property constituted into a horizontal property regime." S.C. Code Ann. § 27-31-90. Thus, the legislature expressly contemplated that a group of co-owners with an interest in a horizontal property regime can properly subject itself to the provisions of the South Carolina Nonprofit Code, including S.C. Code Ann. § 33-31-160. Pursuant to S.C. Code Ann. § 27-31-90, the legislature clearly intended for all provisions of the South Carolina Nonprofit Code, including S.C. Code Ann. § 33-31-160, to apply to a horizontal property regime once duly incorporated.

Appellants acknowledge that the council of co-owners of a horizontal property regime may incorporate and be subject to the provisions of the Nonprofit Code. However, Appellants seek to draw a distinction based upon the language contained in S.C. Code Ann. § 27-31-90 which permits incorporation for the purpose of "*administration* of the property constituted into a horizontal property regime." *See* **App. Br. at 11**; *see also* **App. Br. at 13** (suggesting Master only had authority to order matters "concerning the 'administration' of the Regime"); *id.* (arguing that while the amendment approved by the co-owners at the March 17, 2022 Special meeting "touch[es] on 'administration' of the Regime, [it] does far more than that."). Appellants suggest that procedural matters relating to voting and the relationships between the members and co-owners of the Regime fall outside of the "administration" of the property constituted into a horizontal property regime and therefore outside the scope of the Master's authority pursuant to S.C. Code Ann. § 33-31-160.

"Administration" is not a defined term in the Horizontal Property Act. *See* S.C. Code Ann. § 27-31-20 (providing definitions for the Horizontal Property Act). Merriam-Webster defines "administration" as (1) performance of executive duties; and (2) the act of administering

something. *See Administration*, Merriam-Webster.com Dictionary, https://www.merriam-webster.com/dictionary/administration (last visited September 27, 2022). "Administer" is further defined as "to manage or supervise the execution, use, or conduct of." *See Administer,* Merriam-Webster.com Dictionary, https://www.merriam-webster.com/dictionary/administer (last visited September 27, 2022). The authority of a court to order relief is not limited to matters which are concerned with the "administration" of the Regime, as there is no such restriction contained within S.C. Code § 33-31-160. However, to the extent the Master's authority under § 33-31-160 was limited to ordering relief concerned with the administration of a horizontal property regime, the relief ordered by the Master was directly concerned with the "administration" of the Regime, as it was concerned with the management and use of the Regime property, and the management, use, and conduct of the Regime's affairs and voting procedures.

Appellants argue that the power of a court to alter voting requirements pursuant to S.C. Code Ann. § 33-31-160 is limited by certain provisions of the Nonprofit Code itself. *See* **App. Br. at 12**. Appellants argue that under the Nonprofit Code, a corporation has the power to do all things necessary or convenient to further the interests of the corporation so long as such actions are not "inconsistent with law." S.C. Code Ann. § 33-31-302(18). Appellants further argue S.C. Code Ann. § 33-31-301(b) subjects nonprofit corporations to other, specific limitations required by other statutes. These provisions relate to the powers and purposes of the nonprofit corporation itself, and merely provide that a nonprofit corporation is required to act in a lawful manner. These provisions do not provide a restriction on the specific and broad grant of authority to a *court* under S.C. Code Ann. § 33-31-160, and cannot be read as a limitation on the Legislature's provision of broad "escape valve" authority.

Appellants further argue that the language of S.C. Code Ann. § 33-31-160 "confines the vote alteration intervention power to the percentage of votes needed for approval the articles, bylaws or the [Nonprofit Code]" and that this provision does not allow for alteration of voting requirements contained in the Regime's Master Deed or the Horizontal Property Act. *See* **App. Br. at 12.** The language of S.C. Code Ann. § 33-31-160(c) confers broad authority on a court, upon the proper showing, to "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 the articles, bylaws, or this chapter." S.C. Code Ann. § 33-31-160(d) further confers broad authority on a court to "authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, or sale of assets."

S.C. Code Ann. § 33-31-160(c) is not limited in the manner argued by Appellants. Indeed, the first clause of this code section reads "the order issued pursuant to this section may dispense with any requirement relating to the holding of or voting at meetings or obtaining votes..." The statute goes on to state that this broad grant of authority includes "any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or this chapter." Pursuant to the plain language of the first clause of S.C. Code Ann. § 33-31-160(c), a court is authorized to "dispense with **any** requirement relating to the holding of or voting at meetings or obtaining votes…" (emphasis added). This broad grant of authority is not limited by its terms, and does not exclude voting requirements contained in a Horizontal Property Regime's Master Deed or the Horizontal Property Act. Therefore the Master-in-Equity acted within the authority afforded pursuant to the Statute in granting the Regime's Petition and modifying the unanimous vote requirement.

However, Appellants argue the Master exceeded his authority under S.C. Code Ann. § 33-31-160 based on the plain language of the statute. Appellants suggest the Master should have ordered the Regime to hold a special meeting and directed a vote on proposed amendments to the Master Deed at the meeting, but should have left the unanimous vote requirement in place. Any such "relief" afforded by the lower court would have been futile relief, an effective nullity, and an absurd outcome, as demonstrated by the long history of the inability of the Regime co-owners to come to unanimous agreement on an amendment to the Master Deed.

"All statutes must be construed in the light of their purpose. A literal reading of them which would lead to absurd results is to be avoided when they can be given a reasonable application consistent with their words and with the legislative purpose." *Haggar Co. v. Helvering*, 308 U.S. 389, 394, 60 S. Ct. 337, 339, 84 L. Ed. 340 (1940) (declining to accept litigant's literal reading of tax statute when such reading would lead to "harsh and incongruous result", which did not serve the function and purpose of the statute). If possible, a statute is to be construed so as to escape any absurdity and carry legislative intent into effect. *Kiriakides v. United Artists Commc'ns, Inc.,* 312 S.C. 271, 275, 440 S.E.2d 364, 366 (1994). "In so doing, the Court should not concentrate on isolated phrases within the statute, but rather, read the statute as a whole and in a manner consonant and in harmony with its purpose." *Duke Energy Corp. v. S.C. Dep't of Revenue*, 415 S.C. 351, 355–56, 782 S.E.2d 590, 592 (2016).

The clear intent and purpose of S.C. Code Ann. § 33-31-160 is to provide a court with authority to grant "escape valve" relief to an entity organized under the Nonprofit Code, which has reached an impasse due to quorums, voting percentages, or other procedural requirements relating to the affairs of the corporation. That is precisely what the Master did in this case. The unanimous approval requirement contained in S.C. Code Ann. § 27-31-60 is a generally applicable

requirement that is subject to alteration where a horizontal property regime is likewise incorporated pursuant to the provisions of the Nonprofit Code, in the extraordinary cases where the required showing is made pursuant to § 33-31-160. In this manner, the provisions of the Horizontal Property Act and the Nonprofit Code can be read to be in harmony with each other. However, to the extent they cannot be read to be in harmony with each other, the provisions of S.C. Code Ann. § 33-31-160 should control as the legislative intent in enacting this statute was to provide "an escape valve allowing nonprofit corporations to conduct meetings or obtain the consent of members…when it is otherwise impractical or impossible to do so." *See* Official Comment to S.C. Code Ann. § 33-31-160. The intent of the Legislature to provide an avenue for relief in the alteration of voting requirements to a nonprofit corporation in a situation such as that of the Regime should not be overridden by a previously enacted, generally applicable rule requiring unanimous voting approval. The Master acted within his authority pursuant to S.C. Code Ann. § 33-31-160.

2. This Court should affirm the grant of the Regime's Petition on preservation grounds because Appellants did not raise their statutory construction arguments with sufficient specificity below and the Master-in-Equity did not rule on the arguments.

An argument must be raised to and ruled upon by the lower court in order to be preserved for appeal.

> A great number of reported cases in South Carolina for at least four generations, and more recently the appellate court rules and rules of civil procedure, have emphasized the importance and absolute necessity of ensuring that all issues and arguments are presented to the lower court for its consideration. Issues and arguments are preserved for appellate review only when they are raised to and ruled on by the lower court.

Elam v. S.C. Dep't of Transp., 361 S.C. 9, 23–24, 602 S.E.2d 772, 779–80 (2004). *See also Madison ex rel. Bryant v. Babcock Ctr., Inc.,* 371 S.C. 123, 144, 638 S.E.2d 650, 661 (2006) ("This argument was neither presented to nor ruled on by the circuit court; therefore, it is not preserved for appellate review."). Furthermore, if an argument is presented to the circuit court

but not ruled upon, the litigant is obligated to move for reconsideration to obtain a ruling in order to preserve the argument for appeal. *Kosciusko v. Parham,* 428 S.C. 481, 506, 836 S.E.2d 362, 375 (Ct. App. 2019). However, an argument cannot be presented for the first time in a motion for reconsideration or on appeal. *Id.*

The preservation requirement is imposed to give the lower court an opportunity to rule properly after considering the relevant facts, law, and arguments. *I'On, L.L.C. v. Town of Mt. Pleasant,* 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000). In *I'On, L.L.C.,* 338 S.C. at 422, the Supreme Court noted:

> The losing party must first try to convince the lower court it is has ruled wrongly and then, if that effort fails, convince the appellate court that the lower court erred. This principle underlies the long-established preservation requirement that the losing party generally must both present his issues and arguments to the lower court and obtain a ruling before an appellate court will review those issues and arguments…Imposing this preservation requirement on the appellant is meant to enable the lower court to rule properly after it has considered all relevant facts, law, and arguments.

Appellate courts will not reverse a lower court on a ground that was not submitted to the lower court. *Powers v. City of Aiken*, 255 S.C. 115, 117, 177 S.E.2d 370, 371 (1970). After all, the court of appeals is a court of review. *Id.* The purpose of an appeal is to determine whether the lower court did not do something it should have, or did something it should not have. *Id.* To accomplish this review purpose, an argument must be sufficiently presented to the lower court so it has an opportunity to rule. *See id.*

When considering whether the argument was presented to the lower court, the appellate court examines whether the appellant raised the argument with sufficient specificity. The argument must be sufficiently clear so that it can be understood by the lower court and ruled upon. *See, e.g.*, *Herron v. Century BMW,* 395 S.C. 461, 466, 719 S.E.2d 640, 642 (2011). This does not require an appellant to use the exact name of a legal doctrine; instead, the issue must be fairly

raised such that the lower court is given opportunity to rule on the issue. *State v. Brannon*, 388 S.C. 498, 502, 697 S.E.2d 593, 596 (2010). Distilled to its essence, this is a requirement of substance over form. *See id.* (finding an argument to the circuit court that "an arrest was not being made when the appellant ran from police" was sufficient to preserve argument on appeal that there was not a seizure under the Fourth Amendment, despite the appellant never using the terms "seizure" or "Fourth Amendment"); *State v. Mitchell*, 378 S.C. 305, 662 S.E.2d 493 (Ct. App. 2008) (finding appellate argument based on Confrontation Clause preserved despite not mentioning the "Confrontation Clause" to the circuit court when defense counsel argued a written statement should be excluded because he could not cross-examine the witness).

If, on the other hand, the litigant fails to use the name of a legal doctrine and the arguments below do not clearly present the issue to the circuit court, the argument is not preserved. *See Kosciusko*, 428 S.C. at 506, 836 S.E.2d at 375 (finding "estoppel" argument not raised with sufficient specificity to be preserved when a father argued to the family court the other party "agreed to the arbitration" but did not argue the other party "accepted the benefits of the void judgment"); *id.* (finding father's "law of the case" appellate argument was not preserved by father's argument to the family court that "the arbitration award had been approved by another judge" because father did not argue the orders were "unappealed" or "binding" and his reference was more likely seen as comment on procedural posture, not law of the case).

Beyond parsing words or phrases, a court determining whether an argument was presented below in the absence of express reference to a doctrine will evaluate whether the litigant cited relevant legal authority to the circuit court. *Compare State v. Dunbar*, 356 S.C. 138, 142, 87 S.E.2d 691, 693 (2003) (finding argument that search warrant should be thrown out based on the warrant statute was not preserved when the warrant statute was not argued, the only grounds argued

were constitutional, and the cited authority did not relate to the warrant statute) *with State v. Russell*, 345 S.C. 128, 132, 546 S.E.2d 202, 204 (Ct. App. 2001) (finding defendant's "corpus delicti" argument preserved despite defendant not mentioning the doctrine by name in directed verdict motion because the record reflected the motion was based on the doctrine, and the State in response below mentioned "corpus delicti" and cited relevant authority).

Here, Appellants are requesting this Court reverse the Master's grant of the Regime's Petition on grounds they did not sufficiently present to the Master-in-Equity. Specifically, Appellants argue this Court should reverse the Master in Equity's decision pursuant to principles of statutory construction. But Appellants never made statutory construction arguments concerning the proper construction of S.C. Code Ann. § 33-31-160 and § 27-31-60 to the Master-in-Equity in form or substance, nor cited relevant authority.

In Section I of Appellants' Brief, Appellants make a number of arguments based on principles of statutory construction, such as harmonizing conflicting statutes and interpreting statutes to give effect of to the legislature's intent. Appellants argue the relevant portions of the Horizontal Property Act and the Non-Profit Corporation Act can be harmonized, and they highlight and construe isolated phrases under both Acts. *See* **App. Br. at 10**. If the statutes cannot be harmonized and there is a conflict, Appellants argue alternatively the Horizontal Property Act should be interpreted to control over the Non-Profit Corporation Act. *See* **App. Br. at 14-15**. Moreover, Appellants argue the language of S.C. Code Ann. § 33-31-160 is limited by its terms and simply did not permit the Master to modify the unanimous voting requirement contained in the Master Deed and the Horizontal Property Act. *See* **App. Br. at 12.**

Examining the record below, Appellants did not argue the form or substance of statutory construction to the Master in Equity. Appellants' response to the Regime's Petition does not

reference "statutory construction," "interpretation," "harmonize," or "legislative intent." *See generally* **R. pp. 91-101**. Neither did Appellants make such arguments at the hearing on the Petition. *See* **R. pp. 360-436**. The arguments Appellants advanced below focused on repeating the unanimous voting requirements under the Horizontal Property Act, that the owners agreed to the language in the Master Deed and should be bound by it, and that the proposed amendment to the Master Deed would unfairly prejudice the unimproved lots. *See* **R. pp. 94-94, 98**. None of Appellants' arguments below could be construed as raising the substance of a statutory construction argument the Master-in-Equity. Further, it is not clear from the colloquy with the Master-in-Equity and the order that the Master-in-Equity understood Appellants were making an argument on statutory construction grounds. Moreover, in the court below, Appellants did not assert that the terms of S.C. Code Ann. § 33-31-160 themselves were restricted and did not permit the Master-in-Equity to modify the unanimous voting requirement to amend the Master Deed. *See generally* **R. pp. 91-101.** Similar to *Kosciusko*, because Appellants did not argue to the Master-in-Equity their statutory construction arguments by name nor in substance, Appellants failed to raise these arguments and they are not preserved for appeal.

Additionally, the legal authorities upon which Appellants rely on appeal were not cited below or argued to the Master-in-Equity in response to the Regime's Petition. Other than references to some of the same statutes, the only two cases Appellants cite on appeal that they cited below were not cited in relation to any arguments regarding statutory construction. Instead, the arguments related to enforcing contracts despite the contracting parties' wisdom or folly (*Ellis v. Taylor*) and what it generally means for a property to be considered a horizontal property regime (*Queen's Grant II*). *See* **R. pp. 94-95.** Similar to *Dunbar*, because Appellants failed to expressly argue statutory construction below and did not cite relevant legal authority regarding statutory

construction to the Master-in-Equity, Appellants' arguments are not preserved for appeal and this Court should affirm the Master's grant of the Regime's Petition.

In sum, under Issue I Appellants are asking this Court to reverse the Master-in-Equity on grounds they did not present to the Master-in-Equity. By failing to argue statutory construction below, the Master-in-Equity was not given an opportunity to rule on the matter. As expressed in *Powers*, appellate courts will not reverse lower courts on grounds not presented to those courts. As set forth in Section I(1) above, Appellants' arguments do not provide a substantive basis for reversal of the Master-in-Equity in any event. However, additionally, this Court should find Appellants failed to preserve their arguments under Issue I and affirm the grant of the Regime's Petition.

Finally, if Appellants believed they presented these arguments to the Master-in-Equity but he failed to rule on the arguments, it was Appellants' obligation to request a ruling from the Master-in-Equity in a motion for reconsideration. However, this was not done. Therefore, the arguments raised under Issue I are not preserved.

II. THE MASTER-IN-EQUITY PROPERLY EXERCISED AUTHORITY TO MODIFY THE PERCENTAGE OF VOTES NEEDED FOR APPROVAL OF AN AMENDMENT TO THE MASTER DEED, PURSUANT TO S.C. CODE ANN. § 33-31-160, WHERE THE REGIME DEMONSTRATED IT WAS IMPOSSIBLE AND IMPRACTICAL FOR THE REGIME TO OTHERWISE OBTAIN THE CONSENT OF ITS MEMBERS, DESPITE THE PROVISIONS OF THE MASTER DEED.

Appellants further argue that the provisions of the Master Deed serve as a limitation on the court's authority pursuant to S.C. Code Ann. § 33-31-160 based on contract law principles. *See* **App. Br. at 17-18.** Appellants correctly note that the Eleventh and Fourteenth Sections of the Master Deed require unanimous approval of the co-owners in order to effect an amendment to the Master Deed. *See* Master Deed at Eleventh Paragraph; Fourteenth Paragraph. Appellants further correctly note that generally, governing documents such as a Master Deed are viewed as largely

contractual in nature. *See Queen's Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp.,* 368 S.C. 342, 361, 628 S.E.2d 902, 913 (Ct. App. 2006).

As set forth above in Section I, the Master had authority pursuant to S.C. Code Ann. § 33-31-160 to "dispense with any requirement relating to the holding of or voting at meetings", including such a requirement as contained in the Master Deed. A court's authority pursuant to S.C. Code Ann. § 33-31-160 is not constrained based on contract principles, or a contractual agreement requiring a certain percentage for approval of certain matters, as set out in the Master Deed. Corporate governing documents such as bylaws are also construed as being contractual in nature. *See, e.g.*, *Shuler v. Tri-Cnty. Elec. Co-op., Inc.*, 374 S.C. 516, 523, 649 S.E.2d 98, 101 (Ct. App. 2007) (construing corporate bylaws in the same manner as a contract because they form the basis for the relationship among the parties), *aff'd.,* 385 S.C. 470, 684 S.E.2d 765 (2009). There is no question that a court has authority pursuant to S.C. Code Ann. § 33-31-160 to modify or dispense with requirements in corporate bylaws of an entity that is not also a horizontal property regime, despite the fact that doing so may be violative of the parties' intent at the time of becoming a member or shareholder of the corporation and may abrogate some right the member or shareholder had based on those documents. This is indeed the very purpose and function of S.C. Code Ann. § 33-31-160. That is, upon the proper showing that it is impractical and impossible for a nonprofit corporation to obtain the consent of its members, to dispense with a default provision which would otherwise apply to a nonprofit corporation's voting requirements, where doing so will or may enable the corporation to continue managing its affairs. The Master Deed sets out provisions regarding the rights and relationships of owners of units within the Regime, and rules for the conduct of its affairs just as the articles of incorporation and bylaws do for a nonprofit corporation

that is not also a horizontal property regime, and is a functional equivalent of these types of documents in many respects.

Appellants assert that an effect of the Master's Order in altering the voting requirement was the passage of an amendment that alters Appellants' substantive property rights, because the 3-17-22 Amendment modified Appellants' "property rights in the Regime common and limited common area elements without their consent." *See* **App. Br. at 18**. The Master Deed assigns a percentage basis to the title and interest of a co-owner in the common elements of the Regime, but this is an undivided interest and "common right to share" which is not subject to partition. *See* **R. pp. 61, ¶ 3; 62-63, ¶¶ 6, 10**. The amendment passed by the majority of the Regime ownership increased Appellants' undivided common right to share in the common elements by **0.056** percent. *Compare* **R. pp. 62-63, ¶ 6** *with* **R. p. 323.**

There is no restriction contained in the text of § 33-31-160 that limits a court from modifying a 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. Moreover, even if such a limitation did exist on the court's authority under the Statute, the impact of the 3-17-22 Amendment on Appellants' property interest is de minimis and under these circumstances is not a sufficient basis to restrict the authority of a court pursuant to § 33-31-160. The Master properly exercised his authority to modify the unanimous voting requirement pursuant to S.C. Code. Ann. § 33-31-160.

III. THE MASTER-IN-EQUITY PROPERLY GRANTED RELIEF TO THE REGIME IN THE EXERCISE OF THE COURT'S EQUITABLE POWERS.

The Master-In-Equity ordered the relief granted to the Regime in the 2-3-2022 Order pursuant to "S.C. Code § 33-31-160 and the equitable powers of [the] Court." *See* **R. p. 10**. As an additional ground supporting the Master's 2-3-2022 Order, the relief granted to the Regime was

an appropriate exercise of the Master's equitable powers. It is a "time honored equitable maxim that all courts have the inherent power to do all things reasonably (*sic*) necessary to ensure that just results are reached to the fullest extent possible." *Buckley v. Shealy*, 370 S.C. 317, 323-324, 635 S.E.2d 76, 79 (2006) (*citing Ex Parte Dibble*, 279 S.C. 592, 595-596, 310 S.E.2d 440, 442 (Ct. App. 1983)). "The equitable power of a court is not bound by cast-iron rules but exists to do fairness and is flexible and adaptable to particular exigencies so that relief will be granted when, in view of all the circumstances, to deny it would permit one party to suffer a gross wrong at the hands of the other." *Hooper v. Ebenezer Sr. Servs. & Rehab. Ctr.,* 386 S.C. 108, 116–17, 687 S.E.2d 29, 33 (2009); *see also Brown v. Plata*, 563 U.S. 493, 538 (2011) (discussing courts' substantial flexibility when deciding cases in equity, stating "[o]nce invoked, the scope of a district court's equitable powers is broad, for breadth and flexibility are inherent in equitable remedies.") (internal citation omitted). In the exercise of a court's equitable powers, it is an equitable maxim that equity will not suffer a wrong without a remedy. *See State ex rel Daniel v. Strong*, 185 S.C. 27, 43, 192 S.E.2d 671, 678 (1937) ("[E]quity abhors a wrong without a remedy.").

As set forth above, the Master-in-Equity fashioned relief to provide the Regime with a procedure to assist it in overcoming a demonstrated impasse in reaching unanimous consent as to the content of an admittedly necessary and required amendment to the Master Deed. As set forth above, all Parties agree and concede that an amendment is necessary, and that the Council of Co-Owners and the Board of Administration have a duty to pass an amendment to the Master Deed. *See* **R. p. 10**. However, the Regime has been unable to pass an amendment to the Master Deed due to the inability to acquire unanimous consent. Prior to the underlying action, all co-owners of the Regime had agreed to an amendment prepared by counsel retained by the Regime with the exception of Appellant Kennie Lee Miller Gill. *See* **R. pp. 131-32, ¶ 23; R. pp. 175-81**. The

Regime's inability to amend the Master Deed had a negative impact on the Regime's financial health and ability to conduct business, particularly necessary maintenance items. *See* **R. p. 134, ¶ 33.** In addition to relief being proper pursuant to S.C. Code. Ann. § 33-31-160, the relief fashioned by the Master in the 2-3-2022 Order was an appropriate exercise of equitable powers.

As set forth above, Appellants concede the ordering a special meeting and requiring the Regime ownership to hold a vote on proposed amendments to the Master Deed was within the authority of the Master-in-Equity. However, Appellants' position is that the Master should have ordered the Regime to hold a special meeting and directed a vote on proposed amendments to the Master Deed at the meeting, but should have left the unanimous vote requirement in place. As argued in Section I above, any such meeting ordered by the Master would have constituted hollow and futile relief, as the Regime properly demonstrated the impossibility and impracticability of obtaining unanimous consent. "South Carolina courts have long observed that equity looks beneath rigid rules of law to seek substantial justice, and it is well-settled that equity will not require the doing of a futile task." *Drury Dev. Corp. v. Found. Ins. Co.,* 380 S.C. 97, 102, 668 S.E.2d 798, 801 (2008). The Master-in-Equity properly fashioned the relief granted in the 2-3-2022 Order to grant effective relief to the Regime based on the particular exigencies of this case.

CONCLUSION

For the aforementioned reasons this Court should affirm the Master-in-Equity's grant of the Regime's Petition and the relief granted to the Regime.

This 5th day of December, 2022.

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Master-in-Equity

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.

PROOF OF SERVICE

I certify that I have served **Regime Respondent's Final Brief**, upon the parties below by depositing a copy of it in the United States Mail, postage prepaid and/or via electronic mail, on December 5, 2022, addressed as follows:

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THE STATE OF SOUTH CAROLINA
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…….…….Respondent.

CERTIFICATE OF COMPLIANCE

Undersigned counsel certifies that the Final Brief of Respondent South Beach Village Lagoon Villas, II; Horizontal Property Regime LVII complies with Rule 211(b), SCACR.

[SIGNATURE PAGE ATTACHED]

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