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STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen Tevis Mullen, Circuit Court Judge

Case No. 04-CP-07-633

Robert L. Cullen, Andrew A. Corriveau,
John Caldwell, Andrea Hucks, Jamie Bellamy,
Michael Pearson, and David Mandell, ...Plaintiffs,

v.

J. Bennet McNeal, B. McNeal Partnership, L.P.,
Anthony R. Porter, and Wright's Point Home
Owners Association, Inc.....Respondents/Appellants,

Of whom Robert L. Cullen, Andrew A. Corriveau
and Andrea Hucks are Appellants/Respondents.

APPENDIX TO RECORD ON APPEAL

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1 because at that point in time Tony had -- Tony was gone,
2 and the house was empty. And I saw Bennet outside I
3 believe cutting the grass and at that point in time we
4 started discussing about getting street signs for
5 Wright's Point, because we kept getting a lot of
6 deliveries to the wrong location. So my wife and I took
7 under the -- asked Bennett to basically put street signs
8 on all the corners so that deliveries would take place in
9 the right area.

10 Q. Did you understand that Mr. McNeal was the
11 president or had been designated as the president of the
12 homeowners association by Mr. Porter?

13 A. No.

14 Q. What was your understanding with regard to his
15 connection to the homeowners association?

16 A. At that point in time in 2003, Bennett, I don't
17 think, knew what his -- at least from what he told me, he
18 didn't know who was in control of the homeowners
19 association. But apparently it was still Tony.

20 Q. At some point in time in 2003, did you have
21 discussions with Mr. McNeal concerning the neighborhood?

22 A. Yes, I did.

23 Q. Describe those for me, will you?

24 A. Well, we had several conversations, one of
25 which was Bennett and I had a conversation while he was

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1 ever had head-to-heads with Mr. McNeal --

2 A. Yes.

3 Q. -- about --

4 A. Yes, it was.

5 Q. -- changing amenities?

6 A. Yes, it was.

7 Q. Is there anything else that you ever did as a
8 director or as an officer?

9 A. Well, we had a -- we had the what -- the
10 dissent decree, so, you know, basically we left it alone
11 and figured we would, you know, have to figure out who
12 was in control.

13 Q. Tell me about the deposit of -- or the opening
14 of this bank account. Tell me what happened in
15 connection with that.

16 A. Well, we brought it up in one of the meetings
17 because of the fact that we needed to have some --
18 basically some security money, just in case we needed it
19 for an emergency or to get our grass cut. And so we
20 asked the people at the meeting if we should go ahead and
21 do it, and everybody said yes. I believe you were even
22 there at that particular meeting. And I was --

23 Q. You are referring to the March homeowners
24 meeting with the twenty-eight people?

25 A. Yes. And so Andrea, as the treasurer, was

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1 supposed to open a bank account. And I think it was four
2 or five people came forward and said, well, here's my
3 check; I haven't paid it yet. And that was the basis for
4 the deposit into the bank account.

5 Q. When you say Andrea, are you talking about Dr.
6 Hucks?

7 A. Andrea. Dr. Andrea Hucks.

8 Q. Where was this account located?

9 A. Right across the street in the Bi-Lo, Midtown
10 Bi-Lo Marine Corps Air Station.

11 Q. Was the account in the name of the homeowners
12 association?

13 A. The account was made out into the Wright's
14 Point Home Owners Association.

15 Q. And was the tax ID number for the Wright's
16 Point Home Owners Association the same one you used for
17 that account?

18 A. Yes.

19 Q. The same one you got from Bundy?

20 A. Yes.

21 Q. Tell me what happened to the money that went
22 into that account.

23 A. Well, as a matter of fact, Andrea was supposed
24 to open it up. And because she got tied up and could
25 never do it, she said, Bob, why don't you go over and

1 Paragraph 11 of your complaint.

2 A. Joel, you know I'm not an attorney.

3 Q. Mr. Cullen, it has nothing to do with you being
4 an attorney. You're a party to the litigation, and I'm
5 only asking you to talk about a document that your
6 attorney prepared and you swore that the allegations in
7 it were true.

8 A. I don't know what you're -- I don't know what
9 you're asking me for.

10 Q. I'm asking you to look at paragraph 11, sir.

11 A. Okay.

12 Q. And I'm asking that you -- in paragraph 11,
13 don't you go into some specifics about what paragraph
14 7.01 of the restrictive covenants says?

15 A. Yes.

16 Q. Okay. Now, in order to do that -- that is, to
17 put this allegation and verify that it's true -- you
18 obviously had to read paragraph 7.01 and be familiar with
19 what it said, did you not?

20 A. Joel, most of the time, I'm just taking advice
21 from my attorney.

22 Q. Okay. Did you take the advice of your attorney
23 when you set up this account at the Wright's -- at the
24 Marine Corps Air Station credit union to put in the funds
25 of the Wright's Point Home Owners Association, Inc.?

1 A. Yes.

2 Q. And you said Mr. North was actually present at
3 that meeting; correct?

4 A. Yes, he was.

5 Q. And you said you didn't solicit any funds from
6 that account, so how did the funds come to be delivered
7 to you to get into that account?

8 A. We simply said that we thought it was a good
9 idea to start a separate bank account, and who wanted to
10 put their money into it.

11 Q. Who told you to use the federal tax ID number
12 that Mr. Porter had procured for the Wright's Point Home
13 Owners Association, Inc., which was his corporation?

14 MR. NORTH: Objection to the form. The
15 question is inferring that Mr. Porter personally owns
16 the non-profit corporation -- the bank asked me to get it

17 THE COURT: It doesn't matter what the question
18 is. He asked the question. He can answer it. This
19 is cross-examination.

20 A. As a matter of fact, the bank asked me to
21 furnish the tax ID number. I had to go back and dig it
22 out.

23 Q. [Mr. Bailey] Dig it out? Where did you dig it
24 out from?

25 A. I can't remember.

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1 Q. [Mr. Bailey] And the point is, Mr. Cullen,
2 isn't it true that this was not privileged communication
3 because you told several other people about what Mr.
4 North had told you to do, and that was to give the money
5 back because you didn't want to give McNeal and Porter
6 any reason to claim they were interfering -- that you
7 were interfering with the affairs of the Wright's Point
8 Home Owners Association? That's why you gave the money
9 back?

10 A. We weren't using it and --

11 Q. Let me show you a letter and ask you if you can
12 recognize that.

13 THE COURT: Are you going to enter this as an
14 exhibit, Mr. Bailey?

15 MR. BAILEY: I'll have it marked as an exhibit
16 at this time, Your Honor, but I don't know if I'll
17 enter it until my time --

18 THE COURT: Okay.

19 Q. [Mr. Bailey] Do you recognize that?

20 A. Yes. I wrote that.

21 Q. You wrote that? You wrote that to a number of
22 people; correct?

23 A. That's correct.

24 Q. And in that, you stated the essence of your
25 conversation with Mr. North about why the money was given

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1 back; correct?

2 A. That's correct.

3 MR. BAILEY: At this time, Your Honor, we would
4 just like to mark it for identification as Defendants'
5 Exhibit 1.

6 THE COURT: Okay. For ID purposes only.

7 [Whereupon, Defendants' Exhibit Number 1, memo
8 dated 6/14/04, for identification only, is marked by
9 the court reporter]

10 [Whereupon, Mr. Bailey and Mr. North confer]

11 Q. [Mr. Bailey] Now, one other thing, Mr. Cullen,
12 is that you testified that you wanted to take this money,
13 the \$7500, and use it for emergencies; correct?

14 A. That's correct.

15 Q. But isn't it true that the real reason that
16 that money was taken and diverted over to that account
17 was to fund the attorney's fees for you to bring this
18 lawsuit?

19 A. Actually, I think there were several reasons
20 that we did it. Our first motivation was to make sure
21 that the grass got cut.

22 Q. Okay. Take a look at the next-to-the-last
23 paragraph --

24 MR. NORTH: May I ask if the witness was done?
25 He was I think going to give additional reasons. I

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1 hate to have his answer cut off.

2 THE COURT: If he would like to go ahead and
3 finish explaining his answer, he can do it.

4 MR. BAILEY: Do you need to say anything else
5 to complete your answer?

6 THE WITNESS: No.

7 MR. BAILEY: I didn't mean to cut you off. I
8 apologize if I did.

9 THE WITNESS: No.

10 Q. [Mr. Bailey] Would you take a look at the
11 next-to-the-last paragraph that starts with although.

12 A. Yeah. Do you want me to read it?

13 Q. Yeah.

14 A. Although your dues monies were intended to fund
15 the legal expenses of our dispute with Porter and McNeal,
16 North assured me that he would be very patient for the
17 payment of his invoices.

18 Q. So the initial reason, the real reason, for
19 diverting that \$7500 was to have a legal fund for your
20 attorney; correct?

21 A. That was the -- I said there were two reasons.
22 One was for the -- to pay our legal fees, and the other
23 was to make sure the grass got cut.

24 Q. Okay. You mentioned, in response to one of Mr.
25 North's questions, that you had some promotional

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1 understand, Joel, to be very honest with you.

2 Q. Ambiguous to you?

3 A. I would say difficult to understand.

4 Q. Well, had you read the covenants and understood
5 the covenants and looked at section 2.01 and saw that the
6 development of the property would be used for single
7 family, multifamily, commercial and mixed use, and then
8 you had looked at multifamily and you saw the definition

9 under 1.23 that it could be duplexes, triplexes, quadru-
10 plexes, condominiums, et cetera, would that have affected
11 your ability to make a decision on buying the property?

12 A. Would you ask your question again, Joel?

13 Q. If you knew that this was multifamily -- let's
14 just make it simple -- or commercial or mixed use, would
15 that have affected your decision to buy your property?

16 A. Probably.

17 Q. I'm trying to understand why it is that you
18 read them but didn't understand them. You said that they
19 were difficult to understand. Did you ask a lawyer or
20 anybody to explain them to you before you bought your
21 house?

22 A. No.

23 Q. Here is the deed that you got from Mr. McNeal;
24 correct? This is the deed to your house? Your property?

25 A. I would assume so.

1 MR. BAILEY: Let me mark this, Your Honor,
2 as I think it's 4, am I correct, for identification.

3 A. Yeah. This is -- Joel, this is what I got.
4 And in here it doesn't show anything about phase one or
5 phase two.

6 Q. [Mr. Bailey] That's a plat of your individual
7 property; correct?

8 A. That's correct.

9 [Whereupon, Defendants' Exhibit Number 4, deed,
10 for identification only, is marked by the court
11 reporter]

12 Q. [Mr. Bailey] And it specifically says that
13 it's made subject to the declaration of covenants that
14 we've just been talking about?

15 A. We were aware that there were covenants for the
16 area.

17 MR. BAILEY: I apologize, Your Honor. I
18 thought there was one, but it's two. Here's one for
19 you.

20 [Whereupon, Mr. Bailey proffers documents to
21 the Court]

22 THE COURT: Thank you.

23 Q. [Mr. Bailey] And by the way, your deed does
24 specifically say that you are buying lot 3, phase one,
25 Wright's Point, does it not, in the legal description?

1 Q. But you said you have a lawyer researching it,
2 the end of number one there; right?

3 A. That's correct.

4 Q. And was that Mr. North?

5 A. That was John. That's correct.

6 Q. Now, you mention in number four of your
7 observations that the dock and the common areas are going
8 to be a big bone of contention; correct?

9 A. Yes, that's correct.

10 Q. Because you felt like you had an elite
11 community there with the forty-four lots, and you didn't
12 want people in the other phases to have access to your
13 common areas; correct?

14 A. That's correct.

15 Q. Bennett told you that his intent at that time
16 was to have the outside families just have walking access
17 without dock -- boat-docking privileges; isn't that true?

18 A. Yes. That's what it says.

19 Q. I notice you had here that you had -- your
20 questioning of the homeowners is you said, how would you
21 like to have 100 poodles urinate on your pansies. Where
22 did you -- is this the language that you used, or is
23 there some factual basis you were using for that?

24 A. I believe that was legal art.

25 Q. Legal art.

1 Now, you mentioned in the last page, under what
2 you can do, you said, Andy Corriveau has engaged a lawyer
3 to examine the covenants. Again, was that Mr. North?

4 A. Yes.

5 Q. And you're encouraging everyone to write an
6 e-mail, give you a letter with your thoughts about it,
7 and also to include any conversations with realtors or
8 Bennett or Tony Porter about the sale of the property;

9 correct?

10 A. That's correct.

11 Q. Isn't it basically true, Mr. Cullen, that what
12 you -- that is, you individually and you the plaintiffs
13 collectively, really wanted was control of this
14 association and that's why you set up the Wright's Point
15 -- you set yourself up purported to be the directors and
16 the officers?

17 A. Control is the main issue of this whole
18 lawsuit.

19 Q. You agree with me on that, don't you?

20 A. No question.

21 Q. And you said during the brief period that you
22 actually felt that you were in control before the consent
23 order was in place you really did two things -- well, you
24 did three things. You said you interfaced with Bundy;
25 correct?

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1 new board, a new architectural review board; correct?

2 A. I don't know what we agreed to that night.

3 Q. It says all agreed the board should appoint a
4 new A.R.B.

5 A. That's what it reads. But I don't personally
6 recall the conversation or the discussion.

7 Q. And it says, consisting of an architect and
8 several homeowners; right? It says, Mr. Cullen suggested
9 using Cindy O'Neal, who was his architect, to see if she
10 would be interested; correct?

11 A. That's what it reads. Yes, sir.

12 Q. Now, you were present when Mr. Cullen testified
13 and when Ms. Pearson testified that the architectural
14 review committee that your group formed consisted
15 supposedly of Ms. Pearson and Mr. Cullen, but she never
16 got involved in anything and Mr. Cullen did whatever was
17 there to be done; correct?

18 A. I did hear that testimony, yes, sir.

19 Q. And that the only action they ever took was to
20 approve your request for Hardiplank?

21 A. Yes, sir.

22 Q. All right. Just so there's no mistake about
23 it: when you bought your home, the restrictive covenants
24 were already in place, weren't they?

25 A. Yes.

1 effect; that is, that all the lots had been developed in
2 the subdivision -- the subdivision -- at which time the
3 developer's rights and obligations with regard to this
4 architectural committee would terminate. And my next
5 question to you is based on that sentence. At any point
6 in time when you were a property owner in Wright's Point,
7 did you receive any notification from the developer to the
8 effect that all of the lots in the subdivision had been

9 fully developed?

10 A. No. I didn't get any notice.

11 Q. Okay. Now, you say that you were elected at
12 this so-called meeting of January of '04; correct?

13 A. Yes, sir.

14 Q. And you say you were elected vice president at
15 that time. Is that your understanding?

16 A. Yes, sir.

17 Q. Were you in any way involved with this
18 architectural review committee that we've talked about
19 here today?

20 A. No, sir.

21 Q. Did you have any knowledge at that particular
22 time in January of '04, after you say you were elected, as
23 to whether or not your group of people -- who you now
24 claim that constitute the officers and directors of the
25 association -- had created a new architectural review

1 Q. [Mr. Bailey] Do you also see in your copy
2 there where the conveyance is made subject to the
3 declaration of covenants for Wright's Point that are
4 recorded in book 1026 at page 1132?

5 A. Yes, sir.

6 Q. So there's no question, is there, but that at
7 the time you took title to this property you were aware
8 that there were plats on file that described the property

9 and that there was a set of restrictive -- excuse me --
10 restrictive covenants that governed the property itself?

11 A. Yes, sir.

12 Q. Now, I won't take up your time, Dr. Hucks, too
13 much with this because we spent some time with it in your
14 deposition. But just to sort of summarize it: in your
15 deposition we went through in the covenants, the parcels
16 of land that it covered. Do you recall?

17 A. We did.

18 Q. And we showed that it was parcel B, C and D,
19 and then a 1.7-acre tract that's shown on that plat, the
20 plat 98, which is a different plat. Do you remember that?

21 A. We went through a lot of things.

22 Q. Yes. Let me -- I don't want you to get
23 confused.

24 [Whereupon, Mr. Bailey reviews documents]

25 Q. [Mr. Bailey] The property that's referenced

1 there?

2 A. I do.

3 Q. Do you know Mr. Richard Radcliff and his wife,
4 for example?

5 A. I have met with him. I don't know that I've
6 met his wife before, but I've met with Richard before.

7 Q. Okay. And are you familiar that he's in the
8 building business as a professional builder?

9 A. Yes, sir.

10 Q. And are you aware that he owns a lot out
11 there?

12 A. I am. I'm not sure whether he owns that lot
13 in the name of his business or if that's his personal lot,
14 and I think that's part of what we're asking the judge to
15 help us sort out in this lawsuit.

16 Q. Okay. Why does that matter?

17 A. Because I think in -- as we referenced the
18 covenants as you went through in Mr. Caldwell's testimony,
19 the question as to whether a builder owns a lot is at the
20 crux of this lawsuit.

21 Q. True. But in the definition under the section
22 of builder, it says a builder can be an individual --

23 THE COURT: Show her a copy of it before you
24 start telling her.

25 MR. BAILEY: I'm sorry.

1 Q. [Mr. Bailey] Here's a copy of the covenants.
2 Actually, this was attached to your complaint. And we
3 reference the definition of builder.

4 A. Uh-huh.

5 Q. You see it says that that means any person or
6 legal entity engaged principally in the business of
7 construction of structures and the developer sells or has
8 sold the lot --

9 A. I see that.

10 Q. So it can be a person or a corporation or a
11 legal entity. Do you see that?

12 A. Right. But, again, I think it depends in part
13 of the intent of that person, whether they are holding it
14 as a builder or if they're holding it for their own
15 personal use.

16 Q. And you have seen the affidavit of Mr.
17 Radcliff in this case where he has stated that he is not
18 holding it to build because he already has a large house
19 on Polowana Island; correct?

20 A. Yes, sir.

21 Q. Now, I want to talk to you just a moment about
22 these meetings. And I won't belabor the point, and I
23 won't spend as much time with you as I did Mr. Caldwell,
24 because I think the points have been made. But I just
25 want -- I want to clarify a couple of things. Your claim

1 this trial commenced, a copy of the sale agreement
2 between Mr. McNeal and Mr. Radcliff, and to sit there
3 and say that we got everything and knew that
4 information is just not correct.

5 THE COURT: All right. Mr. North, I appreciate
6 that, sir. You also didn't ask for a continuance based
7 on that fact, either, which is just noted for the
8 record.

9 At this time it's my understanding -- do you
10 rest your case, Mr. North?

11 MR. NORTH: No. There are a variety of things I
12 need to do as a result of this testimony. One thing I
13 need to do is make sure that as a part of the record of
14 this trial we have the various discovery responses. I
15 will need to go through the pleading book and make sure
16 that any that would relate to this topic are marked and
17 included as an exhibit.

18 I would also want to make sure, before we rest,
19 that all of the various exhibits that we have marked,
20 all the plaintiffs' exhibits that have been marked, are
21 received in evidence.

22 THE COURT: All right, Mr. North. Mia, do we
23 have all the exhibits in, and can Mr. Bailey stipulate
24 that everything that was marked as a plaintiffs'
25 exhibit by Mr. North is, in fact, in evidence by

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1 stipulation?

2 MR. BAILEY: I think with the exception of the
3 deposition testimony he was going to put in that we
4 objected to.

5 THE COURT: The truth is I've seen it all.
6 Remember we're trying this to a judge, not a jury.

7 MR. BAILEY: I agree.

8 THE COURT: That seems to have escaped

9 everybody.

10 MR. BAILEY: I've never seen exhibits 59 and 60.
11 I notice he's put in something he called 61, which I
12 never saw 59 and 60.

13 THE COURT: With that said, he has stipulated
14 that every piece of evidence that you have submitted or
15 given has come into evidence, with the exclusion of the
16 deposition testimony of Robert Radcliff. All right,
17 Mr. North?

18 MR. NORTH: Yes.

19 [Whereupon, Plaintiffs' Exhibits are admitted
20 into evidence by the Court]

21 MR. NORTH: So what I would request, if we can,
22 since it's two o'clock --

23 THE COURT: No.

24 MR. NORTH: -- can we take a lunch break?

25 THE COURT: No, sir, we are not going to take a

1 construction advanced by the defendants. That's the
2 light most favorable to them.

3 So that what we have is is the only evidence
4 before you shows that Mr. Denny is a qualified builder
5 under the definition of this particular section of the
6 definitions code. So is Mr. Radcliff. They are both
7 licensed general contractors. Both testified that they
8 are builders, both testified they meet the definition

9 of a builder under this section. And Mr. North's, I
10 think, premise is, well, they might own the title of a
11 property individually or in a corporate name and do
12 business, vice versa. The covenants don't. They say
13 either a person -- either individually as a person, or
14 as an entity, or a combination thereof.

15 THE COURT: And let me interrupt you just
16 quickly. And Mr. Porter transferred that to each of
17 them, correct, those lots?

18 MR. BAILEY: Yes, he did. Yes, he did.

19 THE COURT: Okay. Thank you.

20 MR. BAILEY: And that definitely meets the
21 definition of a builder.

22 So therefore, clearly under the evidence before
23 you presented through the plaintiffs' case, the
24 plaintiffs have failed to meet their burden of showing
25 that Mr. Porter divested himself of his role as

1 developer, which means that there's no way that the
2 Wright's Point Home Owners Association, Inc., could
3 take the action that they wanted him to take. It would
4 not be proper on their part to do so.

5 So getting back to the derivative requirements,
6 that's the first thing is the -- it has to be a right
7 that could properly be asserted by the corporation.

8 The second thing is that the complaint shall be

9 verified. And in all honestly, Your Honor, there's a
10 purported verification. I don't want to get into
11 quibbling too much on that. But the argument on that
12 is basically the verification wouldn't meet the
13 semantical requirements, because it's supposed to be
14 stated that the verification is based upon their own
15 personal knowledge and belief. And I'm not -- I'm not
16 really going to hammer on that, because I think that
17 the next argument is really much more so.

18 What it goes on to state, Your Honor, is that
19 they have to allege he was a member or shareholder at
20 the time, which I think they've done. And then it goes
21 on further. And this is a key: the complaint shall
22 also allege with particularity, and that's the key
23 word, with particularity, the efforts that were made by
24 the plaintiff to obtain the action that he desired.
25 And then it goes on and talks about -- or the reasons

1 for his failure to obtain it. And there is really
2 nothing alleged with particularity in the complaint
3 that says what they have done in order to get the
4 corporation to take this particular action of
5 recognizing them. It just basically says what they
6 have done, that they've held meetings, they've held
7 themselves out, and they said that's it. They haven't
8 -- there's no allegation that they've gone and made any

9 effort to get the corporation to do it. And I'll be
10 honest with you, I -- he may argue it's a futility. I
11 think -- based on what I just told you, I think it's
12 probably true. I think it is a futility because I
13 don't think the corporation would ever do that simply
14 because it's what I've told you, it's not a proper
15 thing for them to do.

16 So then I want to get down to the real key of
17 it, Your Honor, and that's this. And this is the key
18 language of this rule. The derivative action may not
19 be maintained if it appears that the plaintiff does not
20 fairly and adequately represent the interest of the
21 shareholders or members, similarly situated, in
22 enforcing any rights of the corporation.

23 Now, let's take a look at that. The leading
24 case that I am aware of in the State of South Carolina
25 is a Court of Appeals case decided in 2000, and it's

1 the Carolina First Corporation case found at 343 S.C.
2 176, 539 S.E.2nd 402. Now, in this particular case in
3 which the Court of Appeals affirmed the dismissal by
4 Judge Henry Floyd -- who was then sitting on the same
5 level Your Honor sits before becoming elevated to the
6 lofty ranks of the federal bench -- dismissed the
7 complaint of the plaintiffs in that case. He did it
8 under 12(b)(6). And basically what he said is is that

9 they failed to comply with the demand requirements of
10 Rule 23(b)(1). He points out in the derivative
11 shareholders action exactly what I've just told you in
12 quoting the statute.

13 Here's what the trial court, what Judge Floyd,
14 found in his ruling: that they failed to allege with

15 sufficient particularity a pre-suit demand of the
16 corporation. Now, he says that they did not make any
17 such demand except as to one aspect of the lawsuit, and
18 as to that one demand that they did make -- he noted
19 they failed to allege it properly -- that the board of
20 directors refused. They failed to allege specific
21 facts to support the conclusion that the refusal was
22 wrongful.

23 Now, here's the language of the Court of
24 Appeals, which I think is very important: in South
25 Carolina the authority to direct the business and

1 affairs of a corporation is delegated to a board of
2 directors, not the shareholders, and therefore we adopt
3 through Rule 23(b)(1), in essence, the federal
4 derivative suit provision. And that's important
5 because I'm going to cite you a federal case that
6 follows this. The federal rule was designed to protect
7 against two kinds of potential abuse stemming from
8 derivative actions. And the first one that they quote

9 here is they said: it seeks to prevent the
10 unrestrained use of derivative actions by minority
11 shareholders which would undermine the basic principle
12 of corporate governance that the decision of the
13 corporation should be made by its management. And
14 that's the relative language I would quote on that.

15 They go on to say that these protective
16 principles have long been recognized, and they state
17 cases all the way back to 1893. And then they quote
18 the -- sort of old, old case, sort of the first thing,
19 back to the Halls case where the U.S. Supreme Court
20 said -- they said this: before the shareholder -- and
21 this has been the law for -- obviously now in the
22 United States for way over a hundred years from the
23 Halls case. Before the shareholder is permitted in his
24 own name to institute and conduct a litigation which
25 usually belongs to the corporation, he should show to

1 the satisfaction of the Court that he has exhausted all
2 the means within his reach to obtain, within the
3 corporation itself, the redress of his grievances or
4 actions to conformity to his wishes. He must make an
5 earnest, not a simulated, effort with the managing body
6 to induce remedial action and this must be apparent to
7 the Court. It goes on and says that the efforts to
8 induce the action that the complainant desires should

9 be stated with particularity. Now, there's a
10 justification -- of course, it's noted on that for the
11 court and it says, in essence, that it's there to
12 prevent a failure of justice in cases like this. And
13 it talks about how, you know, an individual may abuse
14 the system by trying to force a corporation to do

15 things that it shouldn't be doing.

16 Now, one of the things that I would point out in
17 that is this: when it goes on, it says -- and I think
18 this is pretty good language, that it -- because it
19 quotes federal cases, since the rule derives from the
20 federal rule. A derivative action is, in essence, a
21 challenge to the board's managerial authority. Well,
22 you couldn't get any more challenge than we've had in
23 this case. Derivative actions have been characterized
24 as a remedy of last resort because these actions
25 impinge on the inherent role of corporate management to

1 conduct the affairs of the corporation, including the
2 power to bring suit.

3 Well, we've seen in this particular case --
4 they're not asking about the power to bring suit, but
5 they are certainly interfering with the role of the
6 management to conduct the affairs. And therefore, the
7 law enforces certain prerequisites on the right to sue
8 derivatively. And that's why it talks about the demand

9 requirement under Rule 23. And I think this is
10 important to know. Rule 23 is a departure from the
11 more liberal pleading requirements of Rule 8 in that it
12 requires particularized allegations, and under Rule 23
13 the shareholder must either make a demand or plead with
14 particularity exceptional circumstances that excuse it.

15 Now, here's what Judge Floyd was confronted with
16 in his -- in regard to the sufficiency of the pleading.
17 He noted, and the Court of Appeals agreed, that the
18 sufficiency of the pleading in meeting the requirements
19 of Rule 23 must be based solely upon the allegations
20 contained within the pleading.

21 Now, here's what -- they quoted the pleading in
22 that particular case, and they said what exactly that
23 he had -- they had done. And they said that they
24 demanded certain information, they made a supplemental
25 demand, and so forth, and various demands. Actually,

1 they list about three or four demands, and they state
2 what they demand, and they get into a little bit of
3 particularity there. Here's what the trial court --
4 here's what the appellate court note said: as the
5 trial court noted, while it appears that the plaintiffs
6 made a pre-suit demand of some sort, the third amended
7 complaint -- looks like they were kind of in the same
8 situation we would be, things getting postponed -- the

9 third amended complaint does not disclose the nature of
10 the demand. To comply with this rule, shareholders'
11 pleading must set forth particularized allegations of
12 the effort made to demand that the board take the
13 actions that the shareholders now seek to compel. The
14 particularized allegations must support an earnest, not

15 a simulated, effort with the managing body to reduce --
16 to induce remedial action on their part. They said in
17 there that that complaint didn't do it, even though the
18 demand that they talk about, when you look at it
19 compared to the language of the present complaint, is
20 extensively more particularized.

21 In this case, Your Honor, if I can refer you to
22 paragraph 18 of the plaintiffs' complaint, the only
23 thing that Mr. North has pled, that the plaintiffs have
24 pled, it says this: despite demand, Porter and McNeal
25 continue to claim to have the right to control the

1 association, and efforts to resolve the dispute with
2 negotiation with Porter and McNeal have failed. That's
3 it. That's what he says. That's his whole thing on
4 particularized allegations concerning demand or
5 anything else. And I submit to Your Honor that if the
6 more -- much more particularized allegations in the
7 complaint that we have just looked at in Carolina First
8 were rejected and affirmed by our court, then this one

9 certainly doesn't meet the particularization
10 requirements of Rule 23.

11 Now, obviously what I'm doing here, Your Honor,
12 in order to try to save time, is I'm sort of combining
13 my motion for a directed verdict with our motion to
14 dismiss --

15 THE COURT: Yes, sir.

16 MR. BAILEY: -- if that's all right.

17 THE COURT: Absolutely.

18 MR. BAILEY: So that, in essence, Your Honor, is
19 the basis -- is one of the bases for the motion there
20 under Rule 23.

21 I would point out to Your Honor that there is a
22 subsequent case, which is the Clearwater Trust case
23 that I gave you, which is a 2006 case which was an
24 appeal to Judge Patterson, and that our Supreme Court
25 basically also affirmed the dismissal because of

1 failure to meet the particularization requirement.

2 I've given you some old cases on the South
3 Carolina law concerning verification, Judge, and I'm
4 not going to get into that because that's just -- in
5 all honesty, to me that's a matter of somewhat a form
6 over substance. I've always been a substance guy.

7 So let me get directly to the heart of this case
8 that I think that you really need to address, in

9 addition to the particularization requirement having
10 been -- not been met, and that is, this requirement, as
11 I stated earlier, of Rule 23(b)(1): the derivative
12 action may not be maintained if it appears that the
13 plaintiff does not fairly and adequately represent the
14 interest of the shareholders or members similarly

15 situated in enforcing any right of the corporation.

16 Now, I want to refer Your Honor to a federal
17 case, which is Baron v. Strawbridge and Clothier. It
18 actually comes out of Pennsylvania. And I point this
19 case out to you, Your Honor, to give you an idea. This
20 is just a representative case. There are a number of
21 cases on the federal level, but this is a pretty

22 representative case because it's got some pretty good
23 language in it. And it says this. Under the portion
24 that says defendant's motion to dismiss derivative
25 claim, they're talking there of Federal Rule of Civil

MIA PERRON, CCR, CVR-CM

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Wrights Point Homeowners Association

Hopefully, we will be having a meeting very shortly (2-3 weeks) to formally setup a Wrights Point Homeowners Association. I will send each of you a notice (to the extent that I have your correct address) to inform you of the Time and Place of our first homeowners meeting.

As you may know, Bundy Management has been doing most of the decision making, payables, and accounting for the lot owners and homeowners. In my discussions with Bennett Mc Neil, it is now time for us to assume direct management and decision making for our neighborhood.

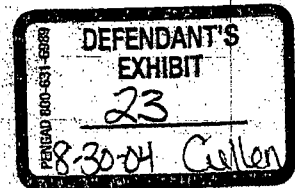
All we currently have for a Home Owners Association is an abridged list of architectural standards. Bennett Mc Neil suggested that we use the Owner's Association document for Polywanna Island, as an initial starting point. This is a legal document, drawn up by lawyers... and is about 60 pages...

My thought was to scan this document in and then modify it for our own use.

You should also know that the scope of our association is only the land inside of the arches and does not pertain to the drive-up area to Wrights Point.

Following is a suggested list of items that might be topics for discussion at the meeting. I am providing this list to give you all some "Think time" about the topics before the meeting.

- Charter and Scope of the Association
- Officers and duties of the Association
- Term and Election of Officers
- Reasons for change of Officers (other than term)
- Frequency of regular meetings
- Composition and authority of the Finance Committee (who pay the routine bills)
- What constitutes Notice, Votes, Absentee Ballots, Hanging Chads, and Majorities
- Building material Covenants (*especially Hardy Plank*)
- Parking Covenants
- Formation of Architectural Review Committee



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- Architectural Covenants
- Landscaping Covenants
- Association Dues
- Voting Rights of "Fully Paid" members
- Neatness, Trash, and Upkeep Covenants
- Current Grounds Projects needing immediate attention.
- Amount of money to be held "In Reserve" for contingencies
- Scope of grounds keeping for lots and common areas
- Maintenance of Gas lamps

If you want to e-mail, or call me with any of your thoughts on these items before the meeting... please feel free to do so.

The sooner that we meet and start our own association, the soon that we can reduce our costs (by the elimination of Bundy Management) and other costs which are in our \$1,000 per year fee.

Finally... Please e-mail me with your -e-mail address to facilitate faster and easier communications.

I am looking forward to meeting each of you in person.

Sincerely yours,

Bob Cullen

(843) 525 0304
bobcullen@charter.net

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TONY PORTER
P.O. Box 2424
Hendersonville, NC 28739

December 8, 2003

Mr. Rob Cullen

Beaufort, South Carolina 29902

Dear Mr. Cullen:

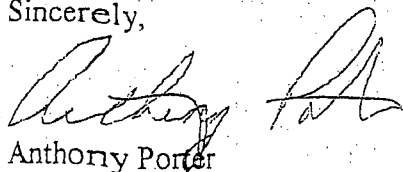
I have been forwarded a copy of your correspondence dated December 4, 2003, wherein you state that a meeting for the Board of Directors for Wrights Point is scheduled to take place at your home on December 9, 2003 at 8:00 a.m., and felt compelled to respond. Please be advised that pursuant to the Declaration of Covenants, Conditions, Restrictions and Easements for Wright's Point, I as the Developer of Wrights Point am currently responsible for the appointment and removal of all members of the Board of Directors and any officers of the Association. In this regard, I have appointed Mr. Bennett McNeal as the President of the Board of Directors, and there has not been a valid election since that time creating a new Board of Directors. Accordingly, I respectfully request that you cease from representing to the Wrights Point owners that you are currently the President.

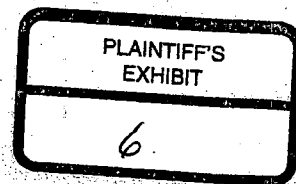
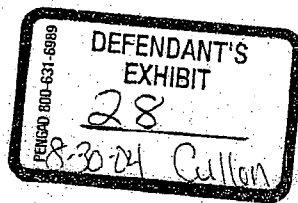
In addition, the Covenants set forth specific requirements which must be satisfied prior to a meeting being called on behalf of the Homeowners Association, including, but not limited to, not less than fifteen (15) days written notice of the same be provided to *all* of the Homeowners. This is to ensure that all owners may have sufficient notice to be present, if they so chose, or provide for alternative arrangements. Clearly, your letter is not in compliance with our Covenants for many reasons.

I do appreciate any information or suggestions with regard to Wrights Point from all of the different owners, and have received some very helpful input. Of course, ultimately, as the Developer, I am responsible for this Development until the time of transition. Although, I encourage strong community involvement, at this time, I am satisfied with Mr. McNeal as President of the Board of Directors, and am not looking to replace him.

Hope you have happy holidays.

Sincerely,


Anthony Porter



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Feb. 10th, 2004

Dear Neighbors and Owners,

Now that our Annual Meeting has taken place and your new Board of Directors elected, I thought I would report to you the developments which have occurred here at Wrights Point.

As you may remember, we initially formed a POA at the suggestion of Mr. Bennett McNeal and after failed attempts to negotiate the transition from the developers; we were forced to retain an attorney to pursue the matter. A careful and thoughtful review of our Covenants along with an analysis by our attorney confirms that control of the Association is vested in the 44 lot owners. After failed attempts to meet with the developer's attorney, we finally met with their attorney, only to have him abruptly walk out of the meeting, ending all attempts to negotiate a orderly transition. We regret this development and your Board is now considering filing a motion for a Declaratory Judgment. We feel strongly that we will prevail in this matter.

The issues are substantial and will have an adverse impact on property values and quality of life in our neighborhood. For the most part, the continued involvement of the developer in our neighborhood and the proposed inclusion of the outside parcels is detrimental to our position.

These issues are important and all owners need to be fully informed. To that end, I have decided to hold another meeting so we might get additional input and answer your questions before proceeding. Please take note of the notice attached. If you are unable to attend, please take the time to call me. In any event, it is equally important that you sign the attached proxy and return it to our secretary as soon as possible so any new business we take up may be acted upon properly.

Also attached is a copy of the minutes of our last meeting for your review. In addition to reading these minutes, I urge you to review the Covenants as well. Our Attorney will attend the meeting to present to us our options and to answer your questions.

We are interested in representing you fairly and can only do so if you participate. I hope that you agree that an open forum is the best approach to agreeing on our course of action. I look forward to speaking with each of you prior to the meeting.

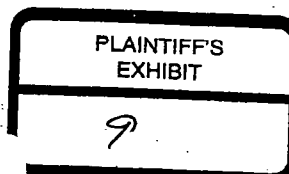
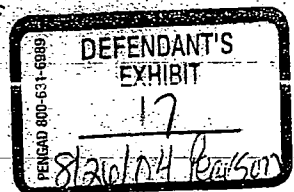
Sincerely,

Bob Cullen, President
Wright's Point Property Owners Association

Port Royal, SC 29935

PLEASE CALL FOR
ADDITIONAL INFO

1.843.525.0304



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STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF BEAUFORT

C/A # 04-CP-07-633

ROBERT L. CULLEN, ANDREW
A. CORRIVEAU, JOHN
CALDWELL, ANDREA HUCKS,
JAMIE BELLAMY, MICHAEL
PEARSON and DAVID
MANDELL,

Plaintiffs,

vs.

J. BENNETT McNEAL, B.
McNEAL PARTNERSHIP, L.P.,
ANTHONY R. PORTER, and
WRIGHT'S POINT HOME
OWNERS ASSOCIATION, INC.

Defendants.

04 JUN 10 PM 4:12
BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

ANSWER AND COUNTERCLAIM OF THE DEFENDANTS

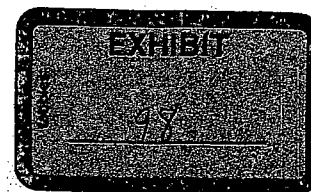
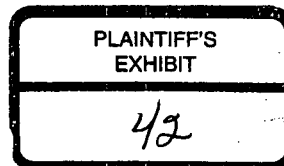
**J. BENNETT McNEAL, B. McNEAL PARTNERSHIP, L.P., ANTHONY R. PORTER and
WRIGHT'S POINT HOME OWNERS ASSOCIATION, INC.**

Specifically preserving all rights under any defense raised herein or under any motion
filed previously or contemporaneously herewith, the Defendants **J. BENNETT McNEAL, B.
McNEAL PARTNERSHIP, L.P., ANTHONY R. PORTER, and WRIGHT'S POINT HOME**

OWNERS ASSOCIATION, INC. respectfully answer the Complaint of the Plaintiffs as follows:

FOR A FIRST DEFENSE

1. The said Defendants deny each and every allegation of the Complaint unless
such allegations are specifically admitted or explained.



2. The said Defendants admit the material allegations of Paragraphs 2, 3, and 5 of the Complaint.

3. The said Defendants deny the material allegations of Paragraphs 23 and 25 of the Complaint.

4. The said Defendants are informed and believe that the allegations of Paragraph 6 of the Complaint constitute conclusions of law, rather than affirmations of fact, and that no response to such allegations is required of the Defendants. To the extent that a response may be required, the said Defendants assert that proof of such allegations is incumbent upon the Plaintiffs and is a matter to be addressed by the Court. Accordingly, the allegations are denied pending proof of the same by the Plaintiffs.

5. As to Paragraph 1 of the Complaint, the said Defendants are informed and believe that at least some of the Plaintiffs are residents of Beaufort County, South Carolina, but lack information sufficient to form a belief as to the accuracy and veracity of the allegations of such Paragraph as to each person identified as a Plaintiff. Accordingly, the allegations are denied pending proof of the same by the Plaintiffs.

6. The said Defendants admit so much of Paragraph 4 of the Complaint as alleges, or may be construed to allege, that the Defendant Anthony A. Porter was, at all times relevant to this matter, a resident of Beaufort County, South Carolina. The said Defendant continues to own real and personal property in such county, including property in Wright's Point Plantation, but also maintains residences outside Beaufort County and the State of South Carolina.

7. The said Defendants admit so much of Paragraph 7 of the Complaint as alleges, or may be construed to allege, that the Defendant Porter and his father, as Developers of

Wright's Point Plantation, have made conveyances of real estate included in such development. Such conveyances are duly documented by deeds, plats and other written instruments, some of which have been recorded with the Register of Mesne Conveyances for Beaufort County. These Defendants affirmatively assert that such written documentation speaks for itself; they specifically crave reference to the same in response to the allegations of Paragraph 7, and deny any allegation or insinuation of the Plaintiffs which is contrary to and inconsistent with any terms of art or the plain meaning of such writings or documentation.

8. The said Defendants admit so much of Paragraphs 8 and 9 of the Complaint as alleges, or may be construed to allege, that the Defendant Porter and his father, as Developers of Wright's Point Plantation, have caused to be prepared and executed a document entitled, "Declarations of Covenants, Conditions, Restrictions and Easements for Wright's Point," and that such document, on more than one occasion, was subsequently recorded, along with documents describing or depicting real estate covered thereby, with the Register of Mesne Conveyances for Beaufort County. These Defendants affirmatively assert that such documents speak for themselves; they specifically crave reference to such documents, and deny any allegation or insinuation of the Plaintiffs which is contrary to and inconsistent with any terms of art or the plain meaning of such documents. Specifically, these Defendants deny that the Defendant Porter is the only individual identified in the restrictive covenants as "Developer," or that the terms "Lot" or "Lots," as used in the restrictive covenants are limited to the 44 lots shown as "Phase I" on the plat recorded in the Office of the Register of Mesne Conveyances in Plat Book 64 at page 150.

9. The said Defendants admit so much of Paragraph 10 of the Complaint as alleges, or may be construed to allege, that the Plaintiffs own lots in Wright's Point Plantation. With

respect to the remaining allegations of such paragraph relating to the restrictive covenants, these Defendants affirmatively assert that such covenants speak for themselves; they specifically crave reference to such documents, and deny any allegation or insinuation of the Plaintiffs which is contrary to and inconsistent with any terms of art or the plain meaning of such documents

10. The said Defendants admit so much of Paragraph 11 of the Complaint as alleges, or may be construed to allege, that the Defendant Porter, as Developer of Wright's Point Plantation, has the authority under § 7.01 of the Plantation's restrictive covenants, to appoint and remove officers or members of the Board of Directors of the Defendant Wright's Point Home Owners Association, Inc. The restrictive covenants specifically provide for the manner in which this authority may be extinguished or transferred, and these Defendants crave reference to the language of such documents, and deny any allegation or insinuation of the Plaintiffs which is contrary to and inconsistent with any terms of art or the plain meaning of such documents. Specifically, these Defendants deny that the Developer of Wright's Point Plantation has conveyed all the lots in the subdivision to a person other than the Developer or Builder, or that the Developer has relinquished the right to appoint or remove officers and/or directors of the Defendant home owners association. These Defendants also specifically deny the validity of any "special meeting" or election of directors or officers instituted by the Plaintiffs. To the contrary, these Defendants affirmatively assert that there was no legal justification or support for any such action taken by or on behalf of the Plaintiffs, and specifically refute any action purportedly taken by the Plaintiffs for or on behalf of the Defendant home owners association.

11. The said Defendants admit so much of Paragraph 12 of the Complaint as alleges, or may be construed to allege, that the Plaintiffs held a meeting wherein they purported to

install themselves as directors and/or officers of the Defendant home owners association. These Defendants specifically deny, however, the validity of any action taken at the said meeting, including any attempt to elect directors or officers other than those appointed by the Developer. To the contrary, these Defendants affirmatively assert that there was no legal justification or support for any such action taken by or on behalf of the Plaintiffs, and specifically refute any action purportedly taken by the Plaintiffs for or on behalf of the Defendant home owners association.

12. The Defendants admit so much of Paragraph 13 of the Complaint which alleges, or may be construed to allege, that the Defendant Porter claims a continuing right to control the appointment and removal of officers and directors of the Defendant home owners association under § 7.01 of the said restrictive covenants, and that he has appointed the Defendant J. Bennett McNeal as president of the association. These Defendants further admit that the Defendants Porter and McNeal have not delivered to the Plaintiffs "all books, accounts and records of the Association" because the Plaintiffs are not legally entitled to such documents. These Defendants further admit that the property owners in Wright's Point Plantation subdivision have been assessed dues by the Defendant Wright's Point Home Owners Association, Inc., which has continued to conduct business with the management company which it retained to manage the affairs of the Association. These Defendants deny any allegation or insinuation in the said paragraph which contends or purports that the Defendants' conduct has been improper or unauthorized; to the contrary, they affirmatively assert that the conduct of the Plaintiffs in this matter has been improper, illegal and unauthorized.

13. With respect to the allegations of Paragraph 14 of the Complaint, the said Defendants admit so much of such Paragraph as alleges, or may be construed to allege, that the Defendant J. Bennett McNeal and/or the Defendant B. McNeal Partnership, L.P. own property

located between S.C. Highway 802 and the present entrance to Phase I of the Wright's Point Plantation subdivision, and that documents evidencing such ownership are recorded with the Register of Mesne Conveyances for Beaufort County.

14. With respect to the allegations of Paragraph 15 of the Complaint, the said Defendants admit so much of such Paragraph as alleges, or may be construed to allege, that the Defendant J. Bennett McNeal and/or the Defendant B. McNeal Partnership, L.P. have the right to develop real estate owned in Wright's Point Plantation subdivision, and that any owners of property in such subdivision will have equal rights to common properties and amenities of the development, regardless of whether their property is located in Phase I or any additional phase of the development.

15. With respect to the allegations of Paragraph 16 of the Complaint, the said Defendants admit so much of such Paragraph as alleges, or may be construed to allege, that persons who do not own property in Wright's Point Plantation subdivision are given neither rights nor obligations under the subdivision's restrictive covenants. These Defendants specifically deny, however, any allegation or insinuation in such paragraph which contends that only property located in Phase I of the subdivision is to be covered by the said restrictive covenants, or that property owners in Phase II or other phases of the subdivision are not part of Wright's Point Plantation or governed by the said restrictive covenants. Additionally, these Defendants affirmatively assert that such documents speak for themselves; they specifically crave reference to such documents, and deny any allegation or insinuation of the Plaintiffs which is contrary to and inconsistent with any terms of art or the plain meaning of such documents.

16. With respect to the allegations of Paragraph 17 of the Complaint, the said Defendants admit so much of such Paragraph as alleges, or may be construed to allege, that neither

the Defendant J. Bennett McNeal nor the Defendant B. McNeal Partnership, L.P. was the Developer of Wright's Point Plantation subdivision, and that no conveyance has expressly designated them as Developer. These Defendants specifically deny any allegation or insinuation in such paragraph which contends that the Defendant J. Bennett McNeal has not been given any authority or position by the Developer in accordance with the aforesaid restrictive covenants.

17. With respect to the allegations of Paragraph 18 of the Complaint, the said Defendants admit so much of such Paragraph as alleges, or may be construed to allege, that the Defendants Porter and McNeal continue to have the right to control the development, including appointment of the officers and directors of the Defendant home owners association, and to conduct business with the management company which handles the administrative affairs of the Defendant home owners association. The contention that Plaintiffs' claims are derivative in nature is a conclusion of law, rather than an affirmation of fact, and these Defendants are informed and believe that they are not required to respond to the same. To the extent that a response may be required, these Defendants deny the allegation pending proof thereof by the Plaintiffs. These Defendants specifically deny any allegation or insinuation in such paragraph which contends that the conduct of the Plaintiffs is supported by the majority of the members of the Defendant home owners association, or that such members have an interest in Plaintiffs' pursuit of their claims in this action.

18. With respect to the allegations of Paragraph 19 of the Complaint, the said Defendants admit so much of such Paragraph as alleges, or may be construed to allege, that the right to govern and control the Defendant home owners association may be determined by the Court in this case. These Defendants deny any allegation or insinuation in the paragraph which contends that the Plaintiffs' motivation in bringing this action was to benefit all members of the Defendant home owners association.

19. With respect to the allegations of Paragraph 20 of the Complaint, the Defendants are informed and believe that no response to such allegations is necessary or required of them. To the extent that a response may be required, the said Defendants adopt their responses to Paragraphs 1 through 19 of the Complaint and incorporate the same as their response to Paragraph 20 of the Complaint.

20. With respect to the allegations of Paragraph 21 of the Complaint, the said Defendants admit so much of such Paragraph as alleges, or may be construed to allege, that this Court is empowered to grant relief by declaring the rights and responsibilities of the parties in this matter. The said Defendants specifically deny, however, that the Plaintiffs are entitled to, or that this Court should grant, the relief sought in sub-paragraphs "a" through "f" of such Paragraph 21.

21. With respect to the allegations of Paragraph 22 of the Complaint, the said Defendants are informed and believe that no response to such allegations is necessary or required. To the extent that a response may be required, the said Defendants adopt their responses to Paragraphs 1 through 21 of the Complaint and incorporate the same as their response to Paragraph 22 of the Complaint.

22. With respect to the allegations of Paragraph 24 of the Complaint, the said Defendants are informed and believe that no response to such allegations is necessary or required. To the extent that a response may be required, the said Defendants adopt their responses to Paragraphs 1 through 23 of the Complaint and incorporate the same as their response to Paragraph 24 of the Complaint.

23. With respect to the allegations of Paragraph 26 of the Complaint, the said Defendants admit so much of such Paragraph as alleges, or may be construed to allege, that some

owners of properties in Wright's Point Plantation subdivision are now unsure as to who has the right to set the budget and approve expenditures of the Defendant home owners association, and have been exposed to loss of peace and tranquility and potential loss of value with respect to their property. The Defendants specifically deny, however, that such uncertainty and loss has resulted from acts or conduct on their part; to the contrary, the Defendants affirmatively assert that such has resulted from the acts or conduct of the Plaintiffs in wrongfully seeking to establish themselves as officers and/or directors of the Defendant home owners association.

24. With respect to the allegations of Paragraph 27 of the Complaint, the said Defendants admit so much of such Paragraph as alleges, or may be construed to allege, that this Court is empowered to grant injunctive relief concerning the rights and responsibilities of the parties in this matter. The said Defendants specifically deny, however, that the Plaintiffs are entitled to, or that this Court should grant, any such relief against the Defendants, including the relief sought in sub-paragraphs "a" and "b" of Paragraph 27. Conversely, the Defendants affirmatively assert that the Plaintiffs, not the Defendants, should be enjoined from taking any acts on behalf of the Defendant home owners association.

FOR A SECOND AND AFFIRMATIVE DEFENSE

25. The said Defendants further and affirmatively assert that, in order to be enforceable, any agreements or contracts upon which the Plaintiffs rely in support of their claims in this matter are required to be in writing and signed by these Defendants, and the said Defendants accordingly assert that the Plaintiffs' claims which are based upon such agreements or contracts are barred by the Statute of Frauds.

FOR A THIRD AND AFFIRMATIVE DEFENSE

26. The said Defendants further and affirmatively assert that the Plaintiffs have failed to state facts sufficient to constitute a cause of action, and their Complaint should be dismissed in whole or in part pursuant to SCRPC 12(b)(6).

FOR A FOURTH AND AFFIRMATIVE DEFENSE

27. The said Defendants further and affirmatively assert that the Plaintiffs lack the prerequisite legal capacity and standing to bring this action under the statutory and case law of the State of South Carolina, as they are not the legitimate officers and/or directors of the Defendant home owners association, and are not the real parties in interest in accordance with Rule 17 of the South Carolina Rules of Civil Procedure.

FOR A FIFTH AND AFFIRMATIVE DEFENSE

28. The said Defendants further and affirmatively assert that the Plaintiffs' claims in this matter are frivolous, and have required the Defendants to incur substantial expenses in order to defend themselves against such claims, thereby entitling the Defendants to such relief as may be proper under the statutes and case law of the State of South Carolina for the institution and/or maintenance of frivolous litigation, including, *inter alia*, recovery of their legal fees and costs.

FOR A SIXTH DEFENSE AND BY WAY OF COUNTERCLAIM

29. The Defendants, by way of Counterclaim against the Plaintiffs, further assert as follows:

GENERAL ALLEGATIONS

(a) The Defendants, at all times relevant to this matter, were all residents and citizens of Beaufort County, South Carolina.

(b) The Defendant J. Bennett McNeal is engaged in the business of purchasing, developing, marketing, and selling real estate, primarily in Beaufort County, South Carolina.

(c) The Defendant B. McNeal Partnership, L.P., is a limited partnership organized and existing under the laws of the State of South Carolina, having its principal place of business in Beaufort County, South Carolina.

(d) The Defendant Anthony R. Porter is a resident and citizen of Beaufort County, South Carolina, but maintains one or more residences outside of such County and State. Mr. Porter is engaged in the real estate development business and is one of the Developers of Wright's Point Plantation in Beaufort County, South Carolina. Mr. Porter also has an ownership interest in one or more lots located in Phase I of Wright's Point Plantation.

(e) The Defendant Wright's Point Home Owners Association, Inc. is a non-profit corporation organized and existing under the laws of the State of South Carolina, having its principal place of business in Beaufort County, South Carolina. It is composed of persons or entities owning property in Wright's Point Plantation.

(f) The Plaintiffs, upon information and belief, are residents and citizens of Beaufort County, and are all owners of real property located in Phase I of Wright's Point Plantation.

(g) The Defendants are informed and believe that they are entitled to monetary damages from the Plaintiffs for the acts or omissions hereinafter set forth. The Defendants' claims for monetary damages are delineated in the First, Second, Third, Fourth, Fifth and Sixth Causes of Action under this Counterclaim. As to such causes of action, the Defendants are informed and believe that they are entitled to have the issues tried by a jury and hereby invoke a demand for trial by jury of the issues under the said First through Sixth Causes of Action.

(h) The Defendants are further informed and believe that monetary damages will be insufficient to provide full relief and justice in this matter, and that they are further entitled to equitable relief as hereinafter set forth. As to such claims for equitable relief, the Defendants are informed and believe that such claims are not properly for determination by a jury, and hereby invoke a demand that such claims be determined non-jury by a Circuit Court Judge, Master-in-Equity or other appropriate judicial officer.

(i) The parties and subject matter of this Counterclaim are within the jurisdiction of this Court.

SPECIFIC ALLEGATIONS

(j) On April 24, 1998, the Defendant Anthony R. Porter, together with his father, Jimmy W. Porter, executed a document entitled, "Declarations of Covenants, Conditions, Restrictions And Easements For Wright's Point," a mixed use real estate development located in the Town of Port Royal, in Beaufort County, South Carolina. This document, commonly known as the restrictive covenants for Wright's Point Plantation, were duly filed and recorded in the Office of the Register of Mesne Conveyances for Beaufort County on or about the 30th day of March, 1999.

(k) The real estate covered by the said restrictive covenants is commonly known as Wright's Point Plantation, and the said Defendant Anthony R. Porter, together with his father, Jimmy W. Porter, are the Developers of such property.

(l) The said Defendant Anthony R. Porter, as the Developer, formulated plans for the development of the property, and retained the services of surveyors, architects, builders, real estate professionals and others to carry out the plans. A prospectus was prepared which

demonstrated the overall development scheme and was shown to each prospective purchaser of property within the development.

(m) Wright's Point Plantation was established as a multi-phase development. Phase I consisted of single family residential lots, together with common areas and amenities for the use and enjoyment of all Wright's Point property owners. Phase II included a mix of commercial and residential properties. These phases are delineated on a plat of the property prepared by David E. Gasque of Gasque & Associates, Inc. of Beaufort, South Carolina, on or about March 3, 1998. The plat was approved by the Town of Port Royal Planning Board on or about March 6, 1998, and recorded on or about April 14, 1998 in the Office of the Register of Mesne Conveyances for Beaufort County in Plat Book 64 at page 150. This plat, together with any amendments, was designated as the plat referenced in the said restrictive covenants.

(n) The said Defendant Anthony R. Porter, as Developer, then retained the Defendant J. Bennett McNeal and his real estate company to market the development and sell lots and tracts within the development to members of the general public. Each sale of property in Wright's Point Plantation included an agreement between the seller and the purchaser that these parties would be bound by the terms and conditions of the said restrictive covenants, which were to run with the land and be binding upon each successive owner of these properties.

(o) The properties sold in Phase I of Wright's Point development were purchased by various persons and entities for various purposes. Some of the lots were purchased by persons who have constructed residences and reside in the development on a permanent basis. Other lots have been purchased by persons or entities who do not intend to permanently reside in the development. Some of these properties are being held by their owners as investments. Several of

the lots have been purchased by professional builders in order to build homes on them for resale purposes. Regardless of the type of owner or use intended for the property, however, each lot sold in Wright's Point Plantation is bound by the aforesaid restrictive covenants.

(p) The Defendants J. Bennett McNeal and/or B. McNeal Partnership, LP, own the property designated as Phase II on the aforesaid plat, and intend to construct structures on such property as may be consistent with the overall plan of development for Wright's Point Plantation. Such construction may involve both single family and multi-family residences, as well as commercial structures, as provided in the said restrictive covenants.

(q) The said Defendant Anthony R. Porter has retained an ownership interest in properties in Wright's Point Plantation, including one or more lots in Phase I. The said Defendant has also engaged, and continues to engage, in various functions and activities as Developer of the said property, including, *inter alia*:

1. In accordance with the express provisions of the said restrictive covenants, he has incorporated under the laws of South Carolina a non-profit corporation, *i.e.*, the Defendant Wright's Point Home Owners Association, Inc., for the purpose of maintaining and administering Wright's Point Plantation. Prior to the incorporation of this entity, he was responsible for the maintenance and administration of the development;
2. He has appointed persons to serve as officers and members of the Board of Directors of the said home owners association, including the Defendant, J. Bennett McNeal, who was appointed by the Developer as President and Secretary of the said association;
3. He has created the Wright's Point Architectural Committee to insure the preservation and enhancement of the property located in Wright's Point Plantation. Prior to his creation of this committee, he formulated the guidelines for construction within the development, and he reviewed, approved and/or rejected construction proposals submitted by or on behalf of owners of such property;

4. He has appointed the Defendant J. Bennett McNeal, together with a licensed real estate broker, Mr. Wayne Webb, and a licensed architect, Mr. Wayne Ramsey, as members of the said architectural committee;
5. He has loaned money to the said association in order that it could meet its financial obligations regarding the maintenance and administration of the development;
6. He has conveyed properties consisting of common elements and amenities to the said association; and
7. He has retained the services of Bundy Appraisal & Management, Inc., a professional property management firm, to perform certain critical administrative functions for the said association and development.

(r) At the present time, all of the lots and properties in Wright's Point Plantation have not been fully developed, and the Defendant Porter, as Developer, maintains the sole authority to appoint and remove officers and members of the Board of Directors of the Defendant home owners association, as well as the sole authority to appoint and remove members of the Wright's Point Architectural Committee.

CLAIMS TO BE DETERMINED BY JURY

FOR A FIRST CAUSE OF ACTION VIA COUNTERCLAIM **(CIVIL CONSPIRACY)**

(1) The Defendants reiterate each and every allegation above as fully and completely as if set forth in this Cause of Action verbatim.

(2) The Defendants further allege that, in or about 2003, the Plaintiffs, intentionally and maliciously, combined with one another, and/or with other persons whose identities are presently unknown to these Defendants, and conspired and agreed to inflict damage and harm upon the Defendants.

(3) The primary purpose of the Plaintiffs' conspiracy was to harm the Defendants, and the Plaintiffs engaged in overt acts in furtherance of the conspiracy, including, *inter alia*:

- a. Deliberately withholding their assessments due to the Defendant Wright's Point Home Owners Association, Inc.;
- b. Usurping the authority provided to the Defendant Anthony R. Porter as Developer and the Defendant home owners association under the said restrictive covenants;
- c. Purporting to appoint themselves as officers, directors or spokesmen for the Defendant home owners association when they had no legal authority to do so;
- d. Contacting and communicating with other Wright's Point Plantation property owners in an attempt to undermine the legitimacy of the Defendants with respect to the development;
- e. Contacting and communicating with persons and/or entities with whom the Defendants maintained contractual and business relationships in an attempt to undermine the legitimacy of the Defendants with respect to the development;
- f. Purporting to appoint themselves as members of the Wright's Point Architectural Committee when they had no legal authority to do so;
- g. Changing the guidelines of the Wright's Point Architectural Committee in order to approve construction methods and materials for themselves when they had no legal authority to do so; and
- h. Initiating frivolous litigation against the Defendants to restrict or remove their authority with respect to Wright's Point Plantation.

(4) As a result of the illegal conspiracy agreement and conduct of the Plaintiffs, the Defendants have sustained special damage and harm, including, *inter alia*, expenditure of monies in the form of investigative costs, attorney's fees and court costs in order to defend against the frivolous claims of the Plaintiffs; loss of time and income in order to defend against the frivolous claims of the Plaintiffs; loss of professional reputation and standing in the community; and mental anguish and emotional distress occasioned by the Defendants' conduct.

FOR A SECOND CAUSE OF ACTION VIA COUNTERCLAIM
(BREACH OF CONTRACT)

(5) The said Defendants reiterate each and every allegation set forth above as fully and completely as if set forth herein verbatim.

(6) The said restrictive covenants constitute a contractual agreement between the purchasers of properties in Wright's Point Plantation, including the Defendant Porter, as Developer.

(7) The Plaintiffs and Defendants, as owners of properties in Wright's Point Plantation, are bound to honor the terms and conditions of the said contractual agreement.

(8) Notwithstanding their duty to honor and abide by the terms and conditions of the said restrictive covenants, the Plaintiffs have breached their duties and have failed and refused to honor their obligations under the said restrictive covenants by, *inter alia*:

- a. Unlawfully attempting to usurp the authority of the Defendant Porter as Developer to control the appointment and/or removal of officers and members of the Board of Directors of the Defendant Wright's Point Home Owners Association, Inc.;
- b. Unlawfully attempting to usurp the authority of the Defendant Porter as Developer to control the appointment and/or removal of members of the Wright's Point Architectural Committee;
- c. Unlawfully attempting to usurp the authority of the Defendant Porter as Developer, the Defendant J. Bennett McNeal as President and the Defendant Wright's Point Home Owners Association, Inc. to assess, collect and utilize assessments from property owners in Wright's Point Plantation;
- d. Unlawfully attempting to usurp the authority of the Defendant Porter as Developer and the duly appointed members of the Wright's Point Architectural Committee to establish guidelines, policies and procedures concerning construction in Wright's Point Plantation;

- e. Unlawfully collecting assessments belonging to the Defendant Porter as Developer and the Defendant Wright's Point Home Owners Association, Inc. and converting the same to their own use;
- f. Unlawfully interfering with contractual and business relationships of the Defendants between themselves and others;
- g. Unlawfully withholding assessments, dues and monies from the Defendants Porter and Wright's Point Home Owners Association, Inc. without valid authority or permission to do so;
- h. Unlawfully constructing and approving for construction in Wright's Point Plantation building sites, structures and materials which are not permitted by the Developer or the legitimate members of the Wright's Point Architectural Committee.

(9) As a direct and proximate result of the Plaintiffs' breach of the said restrictive covenants, the Defendants have been injured and damaged as hereinafter set forth.

FOR A THIRD CAUSE OF ACTION V/A COUNTERCLAIM
(BREACH OF IMPLIED COVENANT OF GOOD FAITH & FAIR DEALING)

(10) The said Defendants reiterate each and every allegation set forth in the other causes of action of their Counterclaim as fully and completely as if set forth herein verbatim.

(11) The said Defendants further allege that, included in each contract in the State of South Carolina, is the implied obligation of the parties to deal fairly with each other and to act in good faith.

(12) The conduct of the Plaintiffs as set forth herein constitutes a violation of their duty to deal fairly and to act in good faith with respect to their contractual obligations under the said restrictive covenants.

(13) As a direct and proximate result of the Plaintiffs' breach of their obligations of good faith and fair dealing with respect to the said restrictive covenants, the Defendants have been injured and damaged as hereinafter set forth.

FOR A FOURTH CAUSE OF ACTION VIA COUNTERCLAIM
(CONVERSION)

(14) The Defendants reiterate each and every allegation above as fully and completely as if set forth in this Cause of Action verbatim.

(15) The Defendants further allege that, during the course of their conduct as set forth above, the Plaintiffs have unlawfully collected monies in the form of assessments and dues from members of the Defendant Wright's Point Home Owners Association, and have illegally and unlawfully appropriated the same to their own use, exercising dominion and control over such monies to the exclusion of the rightful owners, to-wit, the Defendants Porter and Wright's Point Home Owners Association, Inc., thereby denying possession and control of the monies to the lawful owners, such conduct being willful and intentional, and with a conscious and reckless disregard for the rights of these Defendants.

(16) As a direct and proximate result of the Plaintiffs' illegal and unlawful conversion of the property of the said Defendants, such Defendants have been injured and damaged as hereinafter set forth.

FOR A FIFTH CAUSE OF ACTION VIA COUNTERCLAIM
(TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONSHIPS)

(17) The Defendants reiterate each and every allegation above as fully and completely as if set forth in this Cause of Action verbatim.

(18) The Defendants Anthony R. Porter, J. Bennett McNeal and Wright's Point Home Owners Association, Inc., as a result of their association with and involvement in and on behalf of Wright's Point Plantation, have entered into contractual relationships with one or more parties, including, *inter alia*, a contractual relationship with property owners in Wright's Point Plantation

through the restrictive covenants governing such property, and a contractual relationship with Bundy Appraisal & Management, Inc. relating to accounting and management functions.

(19) The Plaintiffs were aware of such contractual relationships, having both actual and constructive knowledge of the same.

(20) Notwithstanding their knowledge and awareness of the said contractual relationships, the Plaintiffs nevertheless sought to interfere with such relationships when they had no legitimate right or authority to do so.

(21) The Plaintiffs' interference with these contractual relationships has included,

inter alia:

- a. The illegal and improper attempt to substitute themselves as officers and/or members of the Board of Directors of the Defendant Wright's Point Home Owners Association, Inc.;
- b. The illegal and improper solicitation and collection of assessments and dues from property owners in Wright's Point Plantation;
- c. The illegal and improper alteration of the guidelines and regulations of the Wright's Point Architectural Committee;
- d. The initiation and/or continuation of frivolous litigation, including the case *sub judice*;
- e. The attempt to direct and control the activities of Bundy Appraisal & Management, Inc.

(22) The Plaintiffs' interference with the Defendants' contractual relationships has been willful, intentional, without just or legal authority, and has been perpetrated with a reckless and conscious disregard for the rights of these Defendants.

(23) The interference on the part of the Defendants has caused the breach of the said Contractual relationships, as property owners in Wright's Point Plantation have not paid their dues

in a timely manner to the Defendant Wright's Point Home Owners Association, Inc., and Bundy Appraisal & Management has not been able to properly perform its management functions on behalf of such Defendant.

(24) As a direct and proximate result of the Plaintiffs' illegal and unlawful interference with the said contracts of the said Defendants, such Defendants have been injured and damaged as hereinafter set forth.

FOR A SIXTH CAUSE OF ACTION V/A COUNTERCLAIM
(DEFAMATION)

(25) The Defendants reiterate each and every allegation above as fully and completely as if set forth in this Cause of Action verbatim.

(26) The Plaintiffs, by virtue of their conduct as set forth herein and otherwise, have expressed to owners of property in Wright's Point Plantation and others that the Defendants have abandoned their roles and responsibilities with respect to Wright's Point Plantation, and are no longer acting on behalf of such property owners, and have no rights with respect to the said Wright's Point Plantation development.

(27) The said conduct and declarations of the Plaintiffs directly and adversely reflects upon the Defendants' professional competence and integrity, has impugned and continues to impugn the Defendants' professional integrity and reputation, and falsely and unfairly portrays the Defendants to the said property owners and to the general public.

(28) The Plaintiffs' portrayal of the Defendants as stated above was and is false and unfair, and has been published by the Plaintiffs to members of the Beaufort business community, the said property owners and others with actual or constructive knowledge of its falsity and unfairness,

and the Plaintiffs' said portrayal of the Defendants has been committed with such recklessness as to evidence a conscious indifference toward the rights of the Defendants.

DAMAGES

(29) As a direct and proximate result of the acts and/or omissions on the part of the Plaintiffs as set forth above, the Defendants have been injured and damaged in one or more of the following particulars:

- a. The Defendants have sustained special damages as set forth in the First Cause of Action, and are entitled to compensation for the same;
- b. The Defendants have been denied the benefit of their bargain under the contractual relationship existing between the parties under the restrictive covenants governing Wright's Point Plantation, and are entitled under the Second and Third Causes of Action to compensation for the same, including, *inter alia*, damages for all costs incurred in this action, including attorney's fees;
- c. The Defendants have been deprived of the use, enjoyment and value of their property and are entitled to recover the full value of the same under the Fourth Cause of Action, together with such other and further damages as may be provided by law;
- d. The Defendants' rights under contractual agreements with third parties have been damaged and undermined as a result of the Plaintiffs' conduct, and the said Defendants are informed and believe that the Plaintiffs are responsible under the Fifth Cause of Action for all damages flowing from such conduct;
- e. The Defendants have been damaged and injured in their reputations as a result of the defamatory conduct and representations of the Plaintiffs, have experienced mental anguish as a further result of such conduct, have been injured in their ability to conduct business in a normal manner, and are informed and believe that they are entitled to be compensated under the Sixth Cause of Action for such damage and injury to their reputations, mental well being and business losses.

(30) The Defendants are informed and believe that they are entitled under the laws of this State to be fully and fairly compensated for all actual damages sustained as a result of the foregoing conduct on the part of the Plaintiffs; to special damages under the First Cause of Action; to punitive or exemplary damages as a result of the willful, reckless and/or intentional conduct of the Plaintiffs; and for such other and further relief as may be provided by law.

CLAIMS TO BE DETERMINED NON- JURY

FOR A SEVENTH CAUSE OF ACTION VIA COUNTERCLAIM (DECLARATORY RELIEF)

(31) The Defendants reiterate each and every allegation above as fully and completely as if set forth in this Cause of Action verbatim.

(32) The Defendants are informed and believe that the conduct of the Plaintiffs as set forth herein has caused and will continue to cause turmoil, confusion and damage to the present and potential property owners in Wright's Point Plantation, and that it is necessary for this Court, pursuant to the South Carolina Uniform Declaratory Judgments Act, to declare the rights, status and other legal relations of the parties hereto in order to terminate the uncertainty and controversy giving rise to this proceeding.

FOR AN EIGHTH CAUSE OF ACTION VIA COUNTERCLAIM (INJUNCTIVE RELIEF)

(33) The Defendants reiterate each and every allegation above as fully and completely as if set forth in this Cause of Action verbatim.

(34) The Defendants are further informed and believe that they are entitled to immediate relief in the form of an injunction, to be imposed both permanently and *pendente lite*, including, *inter alia*, the following particulars:

- a. Prohibiting the Plaintiffs from taking any action reserved to the Developer under the Declarations of Covenants, Conditions, Restrictions and Easements governing present or future property owners in Wright's Point Plantation subdivision;
- b. Prohibiting the Plaintiffs from taking any action in the name of the Wright's Point Architectural Committee including, but not limited to, (a) convening of meetings of the Committee, (b) solicitation, receipt or usage of fees or monies from property owners, or (c) approval of plans, locations, designs, construction methods, or materials for new or existing residences or other buildings in Wright's Point Plantation;
- c. Prohibiting the Plaintiffs from taking any action in the name of Wright's Point Home Owners Association, Inc., or any other entity purporting to be legally entitled to act on behalf of the members of such association, including, but not limited to, (a) convening of meetings of the Association, or (b) solicitation, receipt or usage of fees or monies from property owners; and
- d. Requiring the Plaintiffs to account for and return all monies collected from Wrights Point Plantation property owners or others in the name of the Defendant Wright's Point Home Owners Association, Inc., the Wright's Point Architectural Committee or any other person or entity purporting to have an official status with the Wright's Point Plantation development.

FOR A NINTH CAUSE OF ACTION VIA COUNTERCLAIM
(SPECIFIC PERFORMANCE)

(35) The Defendants reiterate each and every allegation above as fully and completely as if set forth in this Cause of Action verbatim.

(36) The Defendants further allege that the Plaintiffs, as property owners in Wright's Point Plantation, are obligated to abide by the terms and conditions of the restrictive covenants, By-Laws, and rules and regulations of such development, including, *inter alia*:

- a. Recognizing and adhering to the right of the Defendant Porter as Developer to govern the Wright's Point Architectural Committee, including the appointment and/or removal of its members;

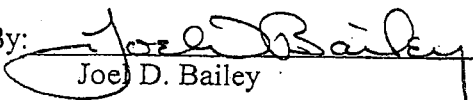
- b. Recognizing and adhering to the right of the Defendant Porter as Developer to incorporate and govern the Defendant Wright's Point Home Owners Association, Inc., including the right to appoint and/or remove officers and members of the Board of Directors of such Defendant;
- c. Recognizing and adhering to the right of the Defendant Porter as Developer to provide for the appearance, development, preservation and enhancement of Wright's Point Plantation by designing, developing and implementing the plans and specifications of the development for those purposes; and
- d. Recognizing and adhering to the right of the Defendant Porter as Developer and the Defendant Wright's Point Home Owners Association, Inc. to contract with third parties in order to provide for goods and services for or on behalf of Wright's Point Plantation.

WHEREFORE, the Defendants request that this Court inquire into the matters set forth herein, and that it issue its Order granting relief to the Defendants by (a) dismissing the Complaint against the Defendants; (b) awarding to the Defendants judgment against the Plaintiffs under their Counterclaim as stated herein; (c) awarding the Defendants such costs as may be permitted by law; including a reasonable attorney's fee, and (d) awarding the Defendants such other and further relief as may be appropriate under the laws of this State.

RESPECTFULLY SUBMITTED,

THE BAILEY LAW FIRM, P.A.
PO Box 1437, 1001 Bay Street
Beaufort, South Carolina 29901

ATTORNEYS FOR THE DEFENDANTS
J. BENNETT McNEAL, B. McNEAL
PARTNERSHIP, L.P., ANTHONY R. PORTER,
and WRIGHT'S POINT HOME OWNERS
ASSOCIATION, INC

By: 
Joe D. Bailey

Beaufort, South Carolina
June 10, 2004

June 14, 2004

To: Andy Corriveau, James Brown, Robert Pearson,
Ken Shuler, John Caldwell, Kyle Meyers, Dan Ripley

From: Bob Cullen

RE: Wrights Point Annual Dues

As you may already know, John North, our attorney, has advised us to forward your annual dues to Bundy Management. North felt that we did not want to give McNeal and Porter any reason to claim that we might be interfering with the affairs of the Wrights Point Homeowners Association.

As such, I personally delivered a check to Bundy for \$7,500.00 on June 11, and closed our Wright's Point checking account at MCAS. This represented the total amount in the checking account.

I personally met with Lawrence Davis of Bundy Management and delivered the enclosed letter which explained our position.

Although your dues money was intended to fund the legal expenses of our dispute with Porter/McNeal, North assured me that he would be very patient for payment of his invoices.

As a small consequence, you will not be receiving any more delinquent notices from Bundy.

Sincerely yours,

Bob Cullen

Bob Cullen

DEFENDANT'S
EXHIBIT

0061

NORTH & BLACK, P.C.
Attorneys at Law
The Historic Anchorage Building
1103 Bay Street
Beaufort, SC 29902
(843) 575-0800 (tel) (843) 575-0900 (fax)

September 27, 2004

VIA U.S. MAIL

Mr. Joel D. Bailey
P.O. Box 1437
Beaufort, S.C. 29901-1437

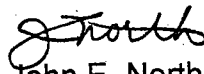
Re: Cullen, et. al. v. McNeal, et. al.

Dear Mr. Bailey:

Enclosed please find copies of the Wrights Point promotional materials reviewed by Bob Cullen in connection with the purchase of his property. The portion of these materials that reflects website information was not copied at the time. Instead, Mr. Cullen simply copied the materials as they exist at this time.

If you have any questions, please contact me.

Yours very truly,


John E. North, Jr.

JEN/jkn

**DEFENDANT'S
EXHIBIT**

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SEP 29 2004
(8)

Wrights Point Plantation is a unique and distinctive deepwater neighborhood nestled in the heart of the Low Country. Wrights Point Plantation has thoughtfully preserved its natural splendor and resources for the enjoyment of its residents and visitors.

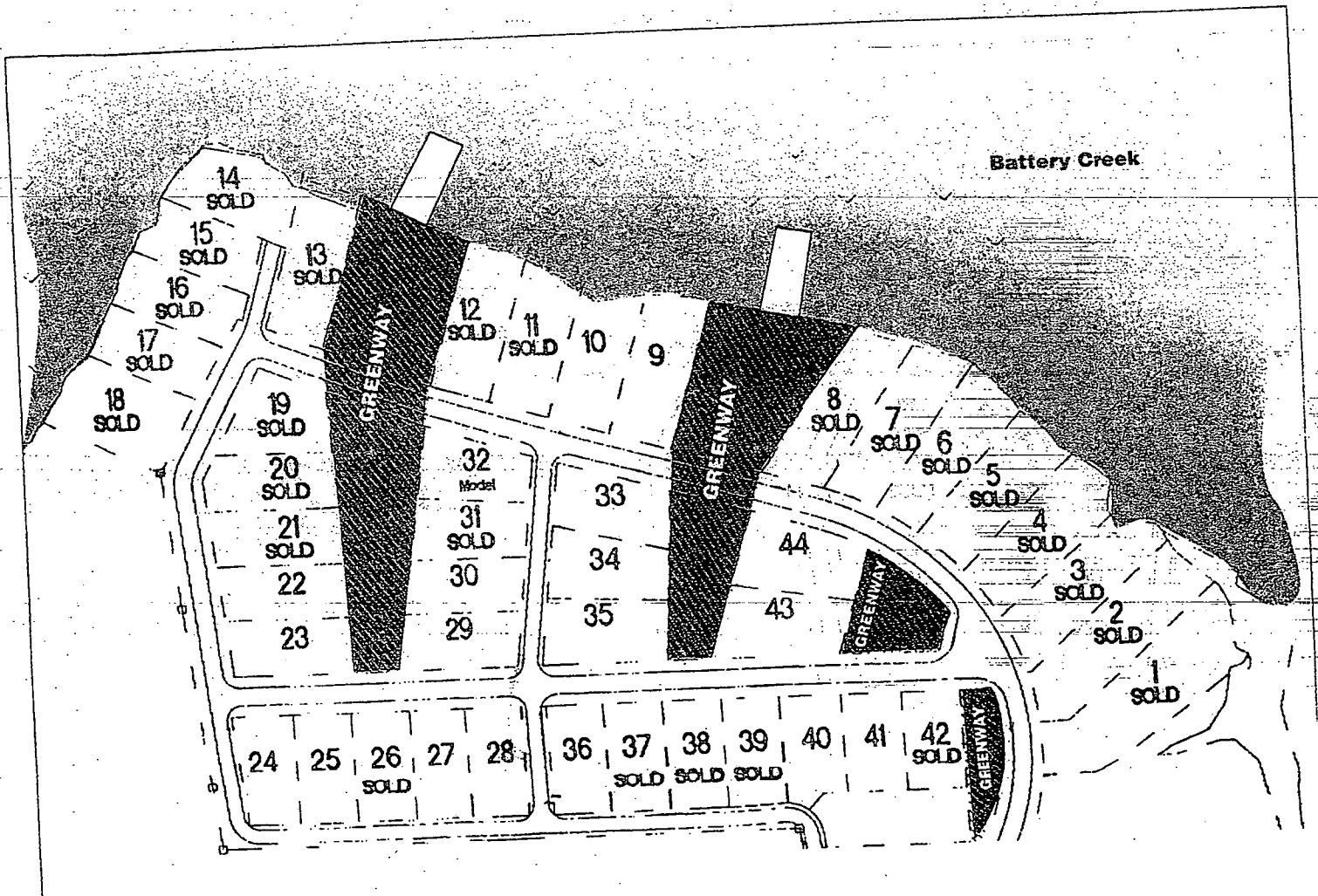
WRIGHTS POINT PLANTATION



"An exclusive, private development accenting the traditional elegance of the Low Country"

Wrights Point Plantation, a premier development in Beaufort, is a Yachtsman's Paradise. Located on the deepwater at Battery Creek, Wright's Point Plantation is an exclusive, private development accenting the traditional elegance of the Low Country - massive live oaks

and beautiful waterfront views - while only minutes from downtown Beaufort. Deepwater homesites starting at \$250,000; premier water view homesites start at \$50,000. All homesites will have deepwater access at the development's two community docks. Homes starting in the low 300's.



0063

Artist representation only. Actual lot dimensions may vary. Please verify all information.

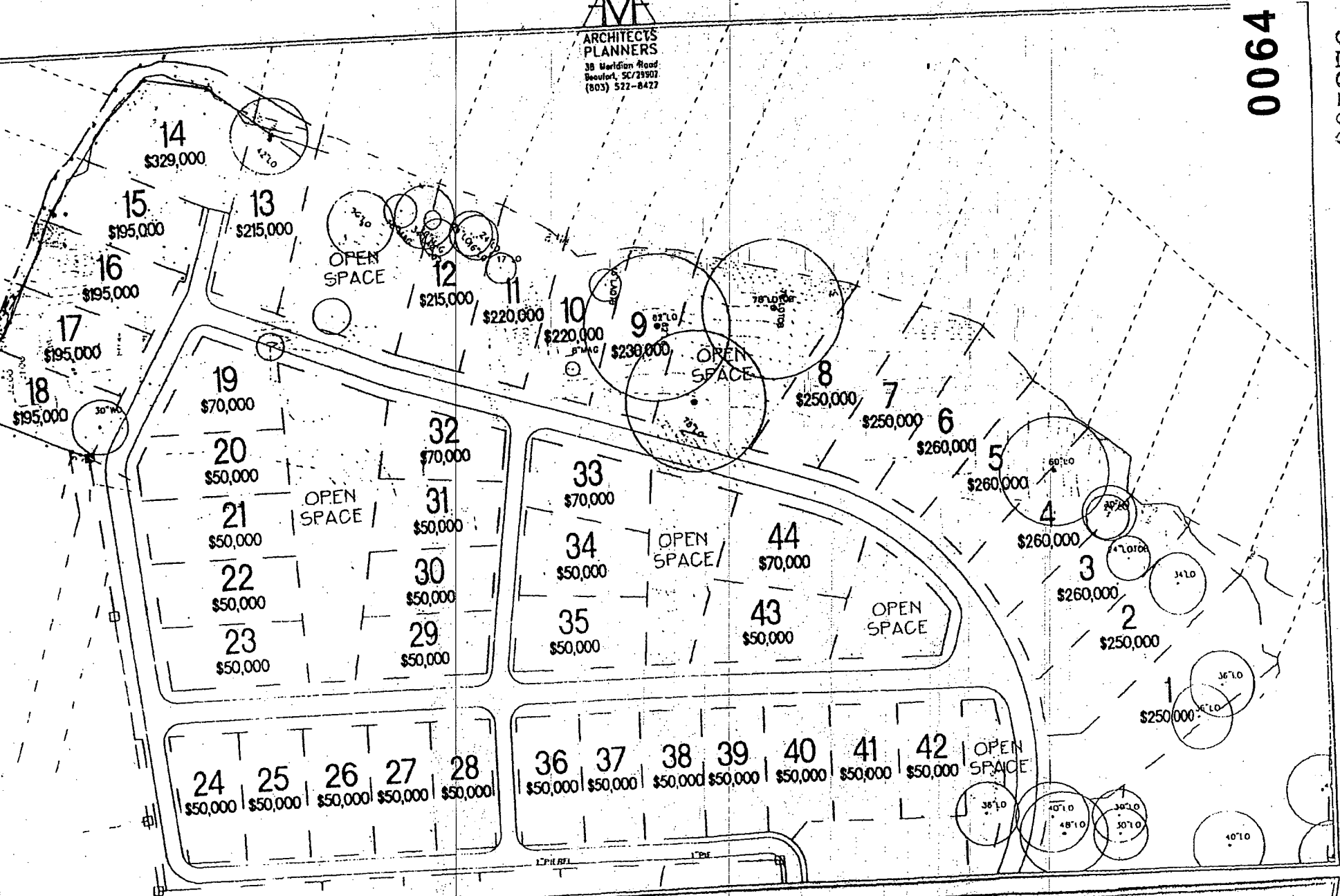
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ARCHITECTS
PLANNERS
38 Maridian Road
Beaufort, SC 29901
(803) 522-8427

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WRIGHT'S POINT PLANTATION

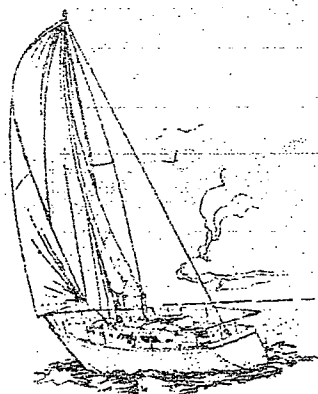
Port Royal, South Carolina

McNeal Land Company



waterfront
marsh views
live oaks
nature trails
community docks...

Wrights Point Plantation, a premier development in Beaufort, is a Yachtsman's Paradise. Located on the deepwater at Battery Creek, Wrights Point Plantation is an exclusive, private development accenting the traditional elegance of the low country - massive live oaks and beautiful waterfront views - while only minutes from downtown Beaufort. Deep water and premier water view homesites available. All homesites will have deepwater access at the development's two community docks.



WRIGHTS POINT PLANTATION



Beautiful Charleston style home with incredible deep water view. Three bedrooms and three full baths with 4th bedroom/study on first floor. Large eat-in kitchen, dining room and family room. Hardwood floors and tiled baths. Great house for entertaining with lots of porches. **\$375,000**



Wonderful Lowcountry style 3 bedroom home with large master bedroom on 1st floor. View of de. water. Floors are hardwood, limestone, ceramic tile and some carpet. Very spacious Carolina room. Community dock. **\$329,000**

343-524-7887

Located directly off Hwy 802 one mile west of the Parris Island Bridge
Across from Bi-Lo Shopping Center

0065

McNeal Realty
Wayne Webb Broker-in-charge

005277



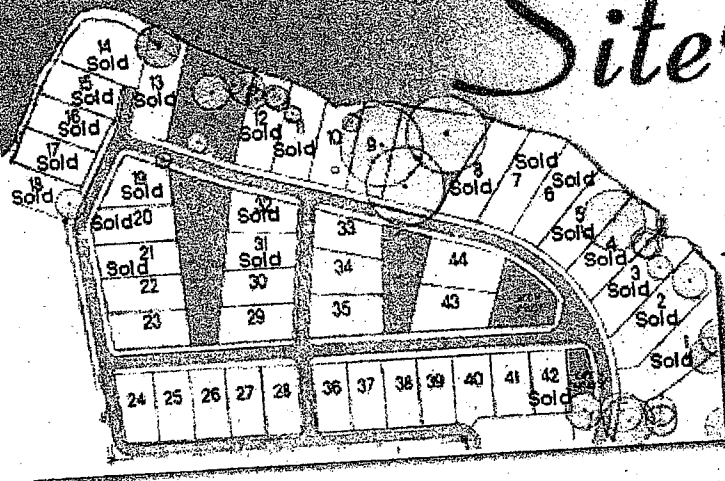


About

Info



Site Map



- Legend**
- Roads
 - Open Space
 - Live Oaks
 - River

The Waterfront



Wright's Point is casual elegance, combining the finest in lowcountry architecture with all the essentials for lowcountry living. We invite you to relax and stay for a while.

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Keywords: Wright's Point Subdivision, McNeal Real Estate, wright's point, Beaufort sc, beaufort, property, beach front, land, real estate, housing, retirement, investment, Sea Islands, Plantations, fishing, real estate, sailing, land, hunting, acreage, coastal resort, ocean, Intercoastal waterway, deep water lots, Sea Islands, Plantations, Golf, retirement, investment, fishing, hunting, real estate, sailing, land, hunting

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005278

9/20/2004



About Wright's Point

Wright's Point Plantation is a unique property within the Town of Port Royal, South Carolina. We are located on a main artery into the Town of Port Royal and into Beaufort Proper (Highway 802). We are already a part of a vibrant and fast growing community, and we are located along a fast growing commercial roadway.



We will strive to be a vital part of the community of Port Royal while preserving the greatest natural assets of our property for the inhabitants of Wright's Point and its visitors. The philosophy behind the development of Wright's Point is derived not only from our relationship to our immediate neighbors and the Town of Port Royal, but also the lay of the land.

There are 3 distinct legs to the property



An entry piece along Parris Island Gateway. This roadway is a major gateway into Beaufort Proper four lane, and slated for a lot of growth in the not too distant future. This leg of the property will be primarily a commercial center with mixed residential (Apartments over shops with small single family residential along the west side of the entry avenue). We will allow for a profitable and marketable shopping center to happen in a contributing fashion for the residential and civic quality of the neighborhood.

To the south and east is a piece which is interior from the water and bordered by a mix of development.

Finally, there is a leg which reaches out to the water front. This leg forms a peninsula which looks to the northeast and northwest and has view to both sunrises over Port Royal Sound and sunsets over the marshes of Battery Creek. On this piece, single family houses



will be arranged on both waterfront lots and interior lots. The interior lots are developed around waterfront greens



0067

005279

9/20/2004

which will have community docks.

Use of the Land

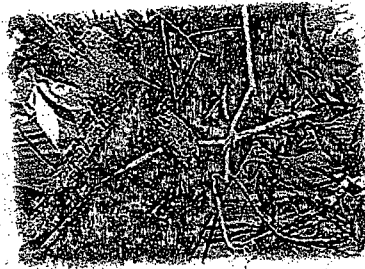


At the heart of the property, central to the three legs, is a natural feature which is unique for the lowcountry. A draw which originates in multiple fingers fed from artesian springs and ends in a tidal marsh on the water front. Because of the springs, this bit of land had never been utilized for agriculture as had the rest of the property, and so, has a number of spectacular trees and a very wild, preserved character. This natural feature will continue to be preserved, however pathways will be introduced, and we have

slated public oriented uses surrounding (a restaurant and inn) so as to add a civic element to it. It is intended to be not only the physical center of the community, but also its heart and soul, being the common link between single family, multi-family, residential over commercial, and visitors coming to the restaurant and inn.

Design Philosophy

The overriding design philosophy for each of the three legs of Wright's Point Plantation should be one which sensitive to the lay of the lot, sensitive to the existing tree canopy and its preservation, sensitive to neighbors (whether building or plants), and sensitive to the public realm created by the architecture.



[\[back to top \]](#)

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Keywords: Wright's Point Subdivision, McNeal Real Estate, wright's point, Beaufort sc, beaufort, property, beach front, land, real estate, housing, retirement, investment, Sea Islands, Plantations, fishing, real estate, sailing, land, hunting, acreage, coastal resort, ocean, Intercoastal waterway, deep water lots, Sea Islands, Plantations, Golf, retirement, investment, fishing, hunting, real estate, sailing, land, hunting

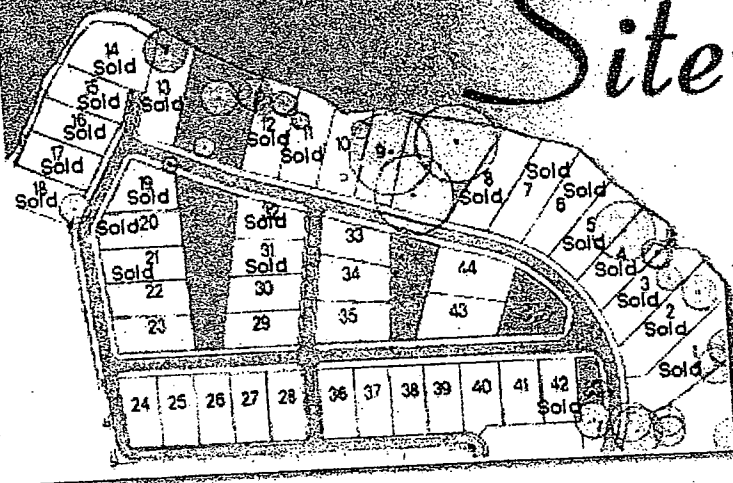
0068

005280

9/20/2004



Site Map



Legend

- Roads
- Open Space
- Live Oaks
- River

The Waterfront



Wright's Point is casual elegance, combining the finest in lowcountry architecture with all the essentials for lowcountry living.
We invite you to relax and stay for a while.

This page is designed and maintained by [Virtual Marketing Concepts](#)
Copyright © 1998 - 2004

Keywords: Wright's Point Subdivision, McNeal-Real Estate, wright's point, Beaufort sc, beaufort, property, beach front, land, real estate, housing, retirement, investment, Sea islands, Plantations, fishing, real estate, sailing, land, hunting, acreage, coastal resort, ocean, intercoastal waterway, deep water lots, Sea Islands, Plantations, Golf, retirement, investment, fishing, hunting, real estate, sailing, land, hunting

0069

005281

9/20/2004

www.virtualmarketing.com/wrightspoint/siteman.html

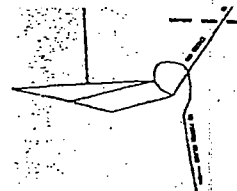
LAND

There are three distinct legs to this property.

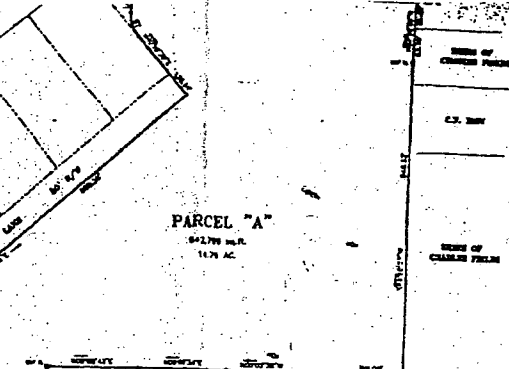
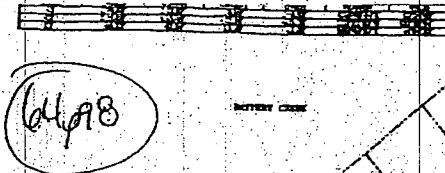
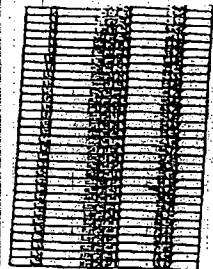
- A. An entry piece along Parris Island Gateway. This roadway is a major gateway into Beaufort Proper, four lane, and slated for a lot of growth in the not too distant future. This leg of the property will be primarily a commercial center with mixed residential. (Apartments over shops with small single family residential along the west side of the entry avenue). We will allow for a profitable and marketable shopping center to happen in a contributing fashion for the residential and civic quality of the neighborhood.
- B. To the south and east is a piece which is interior from the water and bordered by a mix of development: a church; a mobile home park; and a string of water front houses on large lots. This leg of the property is slated for modest sized houses, modest number of multi-family units, assisted care residences, or some other similar occupancy type.
- C. Finally, there is a leg which reaches out to the water front. This leg forms a peninsula which looks to the northeast and northwest and has view to both sunrises over Port Royal Sound and sunsets over the marshes of Battery Creek. On this piece single family houses will be arranged on both water front lots and interior lots. The interior lots are developed around water front greens which will have community docks.

005282

0070



ORIENTATION MAP (N.T.S.)



PARCEL "A"
64.776 AC.
14.76 AC.

PARCEL "B"
60.776 AC.
16.24 AC.

PARCEL "C"
43.264 AC.
10.43 AC.

PARCEL "D"
366.142 AC.
8.41 AC.

TOURISTS SHOWN HEREON ARE MOBILE
AS SUCH ARE SUBJECT TO LOCAL ATTRACTION
RESIDENT OR VISITOR OF U.S. NAVY CORPS
JACKSONVILLE WETLANDS IS
TERMINED AS OF THE DATE OF THIS SURVEY.
30 OF AREA CALCULATION 8000
JOHNSTON SCHOOL
PROPERTY LIES IN FLOOD ZONE "A"
"A" ELEV 13.00 AS DETERMINED BY
A TIDE GAGE-PIER NUMBER
21 0000 & DATED 08/23/78

NCES:
110-000-0000
Y DMS 5.70000
10/29/78
JCM
JURY

0071

91-74

DEFENDANT'S
EXHIBIT
3
PENGAD 100-133-008
PENGAD 100-133-008
PENGAD 100-133-008

BOQUE & ASSOCIATES INC.
LAND SURVEYORS - PLANNERS
704 BLACKBURN STREET, SUITE 307, BEAUFORT, S.C.
29915
(803) 882-1798

Beaumont & Associates, Inc. is a professional corporation organized under the laws of the State of South Carolina. It is duly licensed to practice as a land surveyor and planner. The undersigned, being duly qualified, have performed the services herein described and certify that the same are true and correct to the best of their knowledge and belief.



BOUNDARY SURVEY OF
PARCELS "A", "B",
"C" AND "D"
WRIGHT'S POINT

PREPARED FOR: BENNETT L. MCNE
TOWN OF PORT ROYAL
BEAUFORT COUNTY, SOUTH CAROLINA
DATE: 12/17/97

44923

BEAUFORT COUNTY, S.C.
RECORDING FEES COLLECTED 2321
TOWNSHIP FEES \$
COUNTY \$ STATE \$

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that I, **J. Bennett McNeal, d/b/a McNeal Land Company**, in the State aforesaid, for and in consideration of the sum of **Two Hundred Fifty Thousand and NO/100 (\$250,000.00) Dollars**, to me in hand paid at and before the sealing of these presents, by **Robert L. Cullen and Mary Lou Cullen**, whose address is, 6229 Island Crest Way, Mercer Island, WA, 98040, in the State aforesaid, (the receipt whereof is hereby acknowledged) have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release, unto the said **Robert L. Cullen and Mary Lou Cullen**, as joint tenants with the right of survivorship, and not as tenants in common, their heirs and assigns forever, the following described real estate, to-wit:

ALL that certain piece, parcel or lot of land, situate, lying and being on Port Royal Island, Beaufort County, South Carolina and being designated as Lot Three (3), Phase I, Wright's Point Subdivision, on that certain plat prepared by Gasque and Associates, David E. Gasque, R.L.S., dated the 4th day of May, 1998 with the latest revision dated the 4th day of May, 1999, entitled "Plat Showing Wright's Point, Phase I," a copy of which is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 69 at Page 122. For a more accurate description as to metes and bounds, courses and distances, reference is craved to that individual plat prepared by David S. Youmans, RLS, dated the 15th day of August, 2000, a copy of which is attached hereto and made a part hereof.

This conveyance is made by the Grantor and accepted by the Grantee with the understanding and agreement that the Declaration of Covenants, Restrictions and Easements for Wright's Point as recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Record Book 1049 at Page 2383 and recorded in Book 1152 at Page 2278, and are hereby made applicable to and imposed upon the aforementioned lot and shall be covenants running with the land.

This is a portion of the same property conveyed to the within Grantor by Deed of Anthony R. Porter dated April 23, 1999 and recorded in the Office of the Register of Deeds for Beaufort County in Deed Book 1243 at Page 1917 and Corrective Deed dated the 13th day of March, 2000 and recorded in Deed Book 1273 at Page 1216.

This Deed was prepared in the Law Office of Sherwood N. Fender and Associates, 1509 King Street, Beaufort, South Carolina 29902.

DMP: R110 032 000 0217 0000

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

R-10137-20

0072

DEFENDANT'S
EXHIBIT

4

2322

TO HAVE AND TO HOLD, all and singular the said Premises before mentioned unto the said *Robert L. Cullen and Mary Lou Cullen*, as joint tenants with the right of survivorship, and not as tenants in common, their heirs and assigns forever.

AND I do hereby bind myself, my heirs, successors, and assigns to warrant and forever defend all and singular the said premises unto the said *Robert L. Cullen and Mary Lou Cullen*, as hereinabove provided, their heirs and assigns, forever against me and my heirs, successors and assigns, and against every person or persons whomsoever lawfully claiming or to claim the same, or any part thereof.

IN WITNESS WHEREOF, I have hereunto set my Hand and Seal, this 31st day of August, 2000.

W. R. Platt
WITNESS

J. Bennett McNeal
J. BENNETT MCNEAL D/B/A
MCNEAL LAND COMPANY

Christina E. Wester
WITNESS

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

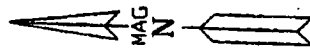
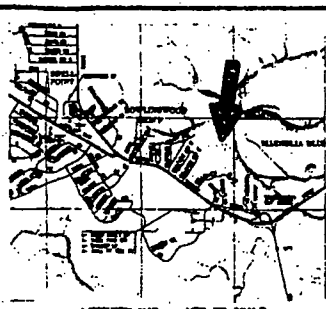
ACKNOWLEDGMENT

I, the undersigned Notary Public, do hereby certify that *J. Bennett McNeal d/b/a McNeal Land Company*, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my Hand and Seal, this 31st day of August, 2000.

Christina E. Wester
Notary Public for the State of South Carolina
My Commission Expires: 11/29/09

0073



BATTERY CREEK 2323

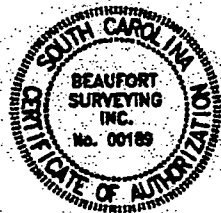
NO.	DELTA	RADIUS	ARC	TANGENT	C.BEARING	CHORD
1	12°29'00"	350.00'	76.26'	38.28'	N19°29'11"E	76.10'

NO.	BEARING	DISTANCE
AA	N79°29'12"E	33.63'
AB	S31°23'18"W	10.18'
AC	S25°53'56"W	34.18'
AD	S01°58'08"E	12.52'
AE	S27°13'01"E	15.70'
AF	S05°43'07"W	29.28'
AG	S11°59'54"W	12.33'
AH	N51°14'58"W	4.90'

THE AREA SHOWN ON THIS PLAN IS A GENERAL REPRESENTATION OF THE PROPERTY. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND HAS FOUND THAT THE PROPERTY IS AS SHOWN ON THIS PLAN. THE SURVEYOR HAS NOT CONDUCTED A PHYSICAL SURVEY OF THE PROPERTY.

David S. Youmans
SURVEYOR

8-16-03
EXPIRATION DATE



EXEMPT
THE DEVELOPMENT PLAN SHOWN HEREON IS EXEMPT FROM THE REQUIREMENTS OF THE TOWN OF PORT ROYAL SUBDIVISION REGULATIONS ACCORDING TO THE PROVISIONS OF ARTICLE 11, SECTION 12-41.15.
CERTIFIED BY *David S. Youmans*
DATE *8/16/03*
BEAUFORT COUNTY JOINT PLANNING BOARD

LOT SURVEY PREPARED FOR
ROBERT L. & MARY LOU CULLEN

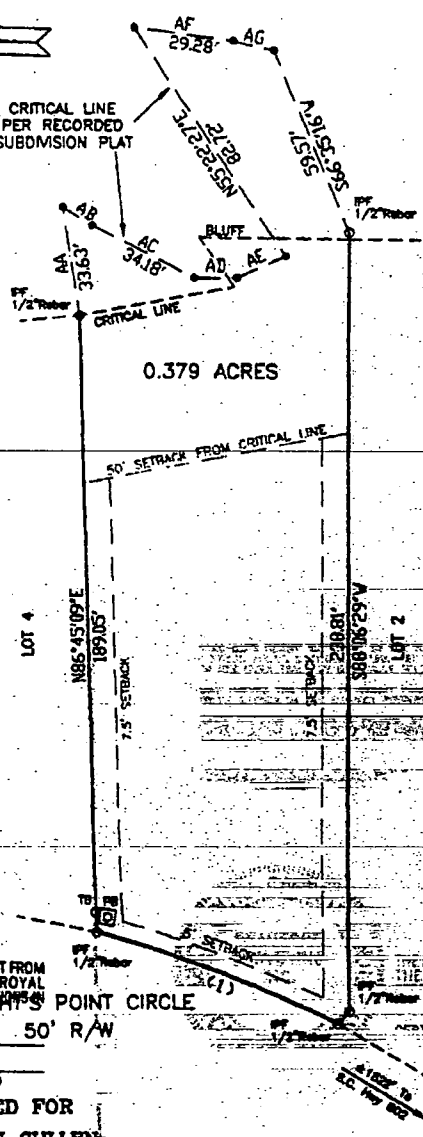
THE SAME BEING LOT 3, WRIGHT'S POINT SUBDIVISION, AS SHOWN ON A PLAT BY DAVID E. GASQUE DATED MAY 4, 1998, REVISED APRIL 9, 1999 AND RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR BEAUFORT COUNTY, SOUTH CAROLINA IN PLAT BOOK 69, PAGE 122.

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS B SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

THIS PROPERTY IS LOCATED IN ZONE A-9 (ELEV. 13.00) AS DETERMINED BY FEMA FIRM COMMUNITY-PANEL NUMBER 450025 0095 D, DATED 9/29/86.

PIN: R100-032-000-0217-0000
0 20' 40' 80' 120'

SCALE 1" = 40'
AUGUST 15, 2000
P8936/JRJ



David S. Youmans
DAVID S. YOUNMANS RLS 9765
BEAUFORT SURVEYING, INC.
1925 DUKE STREET (PO BOX 1231)
BEAUFORT, S.C. 29901
PHONE (843) 624-3281 525-1175

0074

HtB
FILED 5739
JOHN A. SULLIVAN, JR.
R.M.C.
BEAUFORT COUNTY, S.C.

2324

00 SEP 12 PM 2:12

BK 133/ PG 232/
FOLDER #

RECORDED

2009 SEP 27 PM 5:12

BK 133/ PG 232/

Sharon G. Benne

CLERK OF SUPERIOR COURT

0075

44923

BEAUFORT COUNTY, S.C.
RECORDING FEES COLLECTED 2321
TAXES FEES \$
COUNTY \$2750 STATE \$6500

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that I, J. Bennett McNeal, d/b/a McNeal Land Company, in the State aforesaid, for and in consideration of the sum of Two Hundred Fifty Thousand and NO/100 (\$250,000.00) Dollars, to me in hand paid at and before the sealing of these presents, by Robert L. Cullen and Mary Lou Cullen whose address is, 6229 Island Crest Way, Mercer Island, WA, 98040, in the State aforesaid, (the receipt whereof is hereby acknowledged) have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release, unto the said Robert L. Cullen and Mary Lou Cullen, as joint tenants with the right of survivorship, and not as tenants in common, their heirs and assigns forever, the following described real estate, to-wit:

ALL that certain piece, parcel or lot of land, situate, lying and being on Port Royal Island, Beaufort County, South Carolina and being designated as Wright's Point Phase I on that certain plat prepared by Gasque and Associates, David E. Gasque, R.L.S., dated the 4th day of May, 1998 with the latest revision dated the 4th day of May, 1999, entitled "Plat Showing Wright's Point, Phase I," a copy of which is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 69 at Page 122. For a more accurate description as to metes and bounds, courses and distances, reference is craved to that individual plat prepared by David S. Youmans, R.L.S. dated the 15th day of August, 2000, a copy of which is attached hereto and made a part hereof.

This conveyance is made by the Grantor and accepted by the Grantee with the understanding and agreement that the Declaration of Covenants, Restrictions and Easements for Wright's Point as recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Record Book 1049 at Page 2383 and recorded in Book 1152 at Page 2278, and are hereby made applicable to and imposed upon the aforementioned lot and shall be covenants running with the land.

This is a portion of the same property conveyed to the within Grantor by Deed of Anthony R. Porter dated April 23, 1999 and recorded in the Office of the Register of Deeds for Beaufort County in Deed Book 1243 at Page 1917 and Corrective Deed dated the 13th day of March, 2000 and recorded in Deed Book 1273 at Page 1216.

This Deed was prepared in the Law Office of Sherwood N. Fender and Associates, 1509 King Street, Beaufort, South Carolina 29902.

DMP: R110 032 000 0217 0000-49

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

R-107340

0076

000054

005342

2322

TO HAVE AND TO HOLD, all and singular the said Premises before mentioned unto the said **Robert L. Cullen and Mary Lou Cullen**, as joint tenants with the right of survivorship, and not as tenants in common, their heirs and assigns forever.

AND I do hereby bind myself, my heirs, successors, and assigns to warrant and forever defend all and singular the said premises unto the said **Robert L. Cullen and Mary Lou Cullen**, as hereinabove provided, their heirs and assigns, forever against me and my heirs, successors and assigns, and against every person or persons whomsoever lawfully claiming or to claim the same, or any part thereof.

IN WITNESS WHEREOF, I have hereunto set my Hand and Seal, this 31st day of August, 2000.

William R. Platt
WITNESS

J. Bennett McNeal
J. BENNETT MCNEAL D/B/A
MCNEAL LAND COMPANY

Christina E. Wester
WITNESS

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I, the undersigned Notary Public, do hereby certify that **J. Bennett McNeal d/b/a McNeal Land Company**, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

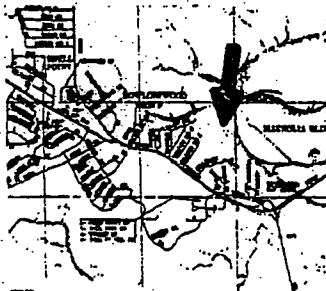
Witness my Hand and Seal, this 31st day of August, 2000.

Christina E. Wester
Notary Public for the State of South Carolina
My Commission Expires: 11/29/09

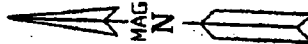
0077

000055

005343



VEGETRY MAP NOT TO SCALE



BATTERY CREEK 2323

NO.	DELTA	RADIUS	ARC	TANGENT	C.BEARING	CHORD
1	12°29'00"	350.00'	76.25'	38.28'	N19°29'11"E	76.10'

NO.	BEARING	DISTANCE
AA	N79°29'12"E	33.63'
AB	S31°23'18"W	10.18'
AC	S25°53'56"W	34.18'
AD	S01°58'08"E	12.52'
AE	S27°13'01"E	15.70'
AF	S05°43'07"W	29.28'
AG	S11°59'54"W	12.33'
AH	N51°14'58"W	4.90'

THE AREA SHOWN ON THIS PLAN IS A GENERAL REPRESENTATION OF THE SUBDIVISION PLAT. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE. THE SURVEYOR HAS NO LIABILITY FOR ANY ERRORS OR OMISSIONS IN THIS PLAN. THE SURVEYOR HAS NO LIABILITY FOR ANY ERRORS OR OMISSIONS IN THIS PLAN.

[Signature]

8-16-00
8-16-03
EXPIRATION DATE



EXEMPT
THE DEVELOPMENT PLAN SHOWN HEREON IS EXEMPT FROM THE REQUIREMENTS OF THE TOWN OF PORT ROYAL SUBDIVISION REGULATIONS ACCORDING TO THE PROVISIONS OF ARTICLE 14, SECTION 12-11-01, WRIGHT'S POINT CIRCLE.
CERTIFIED BY *[Signature]* 50' R/W
DATE 8/11/00
BEAUFORT COUNTY JOINT PLANNING BOARD

LOT SURVEY PREPARED FOR
ROBERT L. & MARY LOU CULLEN

THE SAME BEING LOT 3, WRIGHT'S POINT SUBDIVISION, AS SHOWN ON A PLAT BY DAVID E. WRIGHT'S POINT SUBDIVISION GASQUE DATED MAY 4, 1998, REVISED APRIL 9, 1999 AND RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR BEAUFORT COUNTY, SOUTH CAROLINA IN PLAT BOOK 69, PAGE 122.

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS B SURVEY AS SPECIFIED THEREIN. ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

THIS PROPERTY IS LOCATED IN ZONE A-9 (ELEV. 13.00) AS DETERMINED BY FEMA, FIRM COMMUNITY-PANEL NUMBER 450025 0095 D, DATED 9/29/86.

PIN: R100-032-000-0217-0000
0 20' 40' 80' 120'

SCALE 1" = 40'
AUGUST 15, 2000
P8936/JRJ

[Signature]
DAVID S. YOUNG RLS 9785
BEAUFORT SURVEYING, INC.
1925 DUKE STREET (PO BOX 1231)
BEAUFORT, S.C. 29901
PHONE (843) 624-3281 525-1176

0078

000056
005344

Heb
FILED 579
JOHN A. SULLIVAN, JR.
R.M.C.
BEAUFORT COUNTY, S.C.

00 SEP 12 PM 2:12
BK 1331 PG 2321
FOLDER #

2324

RECORDED

2009 SEP 27 PM 5:12

BK 1331 PG 2321

ST. CL. CLERK

CLERK

0079

000057

005345

RECORDED
2002 Aug -06 03:33 PM
Sharon D. Linn
BEAUFORT COUNTY AUDITOR

BEAUFORT COUNTY SC - ROD
BK 01614 PG 0824
FILE NUM 2002051361
RECORDING FEES 10.00
County Tax 357.50
State Tax 845.00
REC'D BY S SMITH RCPT# 64980
REC'D 08/05/2002 04:27:14 PM

Prepared by and Return to:
Sherwood N. Fender & Associates
Telephone: 843-522-4080 Fax: 843-522-4082
1509 King Street, Post Office Box 1101
Beaufort, SC 29901
Parcel ID No. R112-32-221

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that ROBERT C. DRUMMOND AND CHRISTINA C. DRUMMOND, in the State aforesaid, for and in consideration of the sum of THREE HUNDRED TWENTY FIVE THOUSAND AND 00/100 DOLLARS (\$325,000.00), unto us paid by ANDREW A. CORRIVEAU, in the State aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released and by these presents do grant, bargain, sell, and release unto the said Andrew A. Corriveau, his heirs and assigns, forever, in fee simple, the following described property, to wit:

SEE ATTACHED EXHIBIT "A"

Grantee Address: PO Box 1717
Beaufort, SC 29901

TOGETHER WITH all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Andrew A. Corriveau, his heirs and assigns, forever, in fee simple.

AND Grantors do hereby bind their heirs and assigns, to warrant and forever defend all and singular the said premises unto the said Andrew A. Corriveau, his heirs and assigns, forever, in fee simple, against our heirs and every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

**DEFENDANT'S
EXHIBIT**

ADD DMP Record 8/6/2002 11:57:21 AM
BEAUFORT COUNTY TAX MAP REFERENCE
Dist Map SMap Parcel Block Week
R112 032 000 0221 0000 00

0080

IN WITNESS WHEREOF our Hands and Seals this 30 day of July, 2002.SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:Samela S. Reddick
1st WitnessRobert C. Drummond
Robert C. DrummondSamela S. Reddick
2nd WitnessChristina C. Drummond
Christina C. Drummond

STATE OF INDIANA

COUNTY OF YORKTOWN

PROBATE

PERSONALLY APPEARED BEFORE ME, the undersigned witness, and made oath that he/she saw the within named Robert C. Drummond and Christina C. Drummond sign, seal and as their act and deed deliver the within written Deed; and that he/she with the other witness subscribed above witnessed the execution thereof.

Samela S. Reddick
WitnessSworn to before me this 30
day of July, 2002Samela S. Reddick
Notary Public for the Jurisdiction AforesaidMy commission expires: 2/18/2009

File # 6218-02

I attest that this is a true and
exact copy of the original.Samela S. Reddick
Notary Public, State of IndianaCommission expires: 2/18/2009Commission # 494816

Exhibit A

ALL that certain piece parcel, or lot of land, situate, lying and being on Port Royal Island, Beaufort County, South Carolina and designated as Lot 7, Phase I, Wrights Point Subdivision, on that certain plat prepared by David E. Gasque, R.L.S., dated the 4th day of May, 1998, entitled "Plat Showing Wright's Point, Phase I", a copy of which is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 66 at Page 184. For a more complete description to metes, bounds, courses and distances, reference is made to the aforementioned plat of record.

THIS conveyance is subject to the Declaration of Covenants, Conditions, Restrictions and Easements for Wright's Point Subdivision recorded in the office of the Register of Deeds for Beaufort County, South Carolina.

THE property being conveyed herein is a portion of the same property which the Grantor acquired by deed of Anthony R. Porter dated 23rd day of November, 1998 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Record Book 1145 at Page 822.

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

ROBERT L. CULLEN, ANDREW)
A. CORRIVEAU, JOHN)
CALDWELL, ANDREA HUCKS,)
JAMIE BELLAMY, MICHAEL)
PEARSON and DAVID)
MANDELL,)

Plaintiffs,)

vs.)

J. BENNETT McNEAL, B.)
McNEAL PARTNERSHIP, L.P.,)
ANTHONY R. PORTER, and)
WRIGHT'S POINT HOME)
OWNERS ASSOCIATION, INC.)

Defendants.)

IN THE COURT OF COMMON PLEAS

C/A # 04-CP-07-633

BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

04 AUG -3 PM 1:02

AFFIDAVIT OF ROBERTA WILLIAMS

PERSONALLY appeared before me, ROBERTA WILLIAMS, who, being first duly sworn.

deposes and states that:

1. I am a citizen and resident of Beaufort County, South Carolina.

2. I am the manager of MCAS Beaufort Federal Credit Union in Beaufort, South

Carolina.

3. I am aware that MCAS Beaufort Federal Credit Union was served by counsel

for the Defendants with a *subpoena duces tecum* in the above-captioned case on June 14, 2004, for

production of the following specific documents:

"Any and all documents relating to any accounts maintained by MCAS FCU in the name of the Wrights Point Homeowners Association, including, but not limited to, A/C _____, to include copies of all signatory cards, initial opening documents, bank statements, tax identification numbers, or other documents reflecting deposits and/or withdrawal of funds."

A copy of the *subpoena duces tecum* is attached as **Exhibit 1** to this affidavit.

4. On June 23, 2004, I was given the responsibility to coordinate the assembly and delivery of the requested documents to The Bailey Law Firm.

5. In reviewing the Credit Union records for the specific account requested, I learned that the account was actually opened at our branch office located at Midtown Drive and Paris Island Parkway in Port Royal, South Carolina by Tina Saxton, an employee of that branch.

6. The following documents constitute the records of MCAS Beaufort Federal Credit Union which are responsive to the *subpoena duces tecum*:

- a) A copy of a letter dated February 9, 2004, to "Ms. Painter, Manager, MCAS" signed "Robert L. Cullen, President" and "Andrea Hucks, Treasurer," requesting that a checking account be opened for "The Wrights Point Homeowners Association." The letter requests that the account have a place for two signatures and states, "The address on the checks will be _____, Beaufort, SC 29902." For tax purposes, MCAS Beaufort Federal Credit Union is required to have the member's social security number for all individual accounts, and a federal tax identification number for all corporate accounts. On the top of this letter was handwritten "FED ID # _____". This document is attached as **Exhibit 2** to this affidavit.

- b) A copy of the Credit Union Signature Card signed by Credit Union members Andrea Hucks on 2/16/04 as primary member and Robert L. Cullen on 2/11/04 as joint member. At the top of this card, the name of the account was designated as "Wright's Point Homeowners," which was assigned Member number [redacted] This document is attached as **Exhibit 3** to this affidavit.
- c) A copy of the MCAS Beaufort Federal Credit Union checks request form for "The Wrights Point Homeowners Assoc., 4 Wrights Point Lane, Beaufort, SC 29902, indicating that checks for this member were ordered for Account # 6 [redacted] on 2/12/04. This document is attached as **Exhibit 4** to this affidavit.
- d) A copy of the MCAS Beaufort Federal Credit Union Application for Membership Services dated 2/16/04 and signed by Andrea Hucks and Robert Cullen. The document reflects that Robert Cullen was a member of MCAS Beaufort Federal Credit Union and held account [redacted] This document is attached as **Exhibit 5** to this affidavit.
- e) A copy of a deposit slip dated 3/2/04 reflecting a deposit of \$6,000.00 on that date to Account # 6 [redacted]. The deposit slip shows that the deposit consisted of six (6) checks, each in the amount of \$1,000.00. A copy of the deposit slip, together with copies of the six (6) checks comprising the deposit, is attached as **Exhibit 6** to this affidavit.
- f) A copy of a deposit slip dated 3/30/04 reflecting a deposit of \$1,500.00 on that date to Account # 61 [redacted]. The deposit slip shows that the deposit consisted of two (2) checks, one in the amount of \$1,000.00, and the other in the amount of \$500.00. A copy of the deposit slip, together with copies of the two (2) checks comprising the deposit, is attached as **Exhibit 7** to this affidavit.

g) A copy of a Teller Transaction Voucher (undated) indicating a transfer of funds in the amount of \$10.00 for Member # 5005110. This document is attached as **Exhibit 8** to this affidavit.

h) A copy of a Teller Transaction Voucher dated 6/9/04. This transaction reflects a cash withdrawal of \$5.00 and transfer of \$133.24 from account # . The document further reflects that a Credit Union Check in the amount of \$7,500 was issued to "Homeowners Assoc." "per member request," with the "member" being identified as Robert Cullen, member # . This document is attached as **Exhibit 9** to this affidavit.

i) A copy of Cashier's Check #0304001 dated 6/9/04, issued by MCAS Beaufort Federal Credit Union to Wrights Point Homeowners Association, in the amount of \$7,500. The back of this check reflects that it was deposited in BB&T account: in the name of "Wrights Point Homeowners Assoc." This document is attached as **Exhibit 10** to this affidavit.

j) A copy of a Credit Union computer printout relating to member # identified as "Wrights Point Homeowners, c/o A. Hucks/R. Cullen, Beaufort, SC 29902," for the period ending 3/31/2004. This document is attached as **Exhibit 11** to this affidavit.

k) A copy of a Credit Union computer printout relating to member # identified as "Wrights Point Homeowners, c/o A. Hucks/R. Cullen, Beaufort, SC 29902," for the period ending 4/30/2004. This document is attached as **Exhibit 12** to this affidavit.

l) A copy of a Credit Union Share Transaction List computer printout consisting of two (2) pages, and relating to the savings account for member #

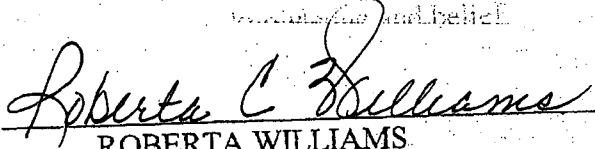
identified as "HOMEOWNERS, WRI." This document is attached as **Exhibit 13** to this affidavit.

- m) A copy of a Credit Union Share Transaction List computer printout consisting of two (2) pages, and relating to the checking account for member # identified as "HOMEOWNERS, WRI." This document is attached as **Exhibit 14** to this affidavit.

7. In gathering the foregoing documents in order to comply with the subpoena, I was informed by Tina Saxton, the Credit Union employee who opened the account for Wrights Point Homeowners Association, that Robert Cullen supplied the Federal ID Number written across the top of the letter referenced as **Exhibit 2** above.

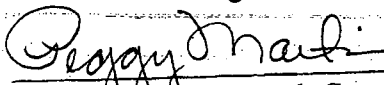
8. I have diligently researched the records of MCAS Beaufort Federal Credit Union for any documents relating to Wrights Point Homeowners Association, and the documents attached as exhibits 2 through 14 to this affidavit, to the best of my knowledge, comprise all of the documents in the possession of the Credit Union relating to this member.

I have read the foregoing 8 paragraphs, and they are true and correct to the best of my knowledge and belief.


ROBERTA WILLIAMS

SWORN to before me this

30 day of July, 2004



Notary Public for South Carolina

My Commission Expires:

Notary Public, South Carolina, State at Large
My Commission Expires November 27, 2006

STATE OF SOUTH CAROLINA
ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF BEAUFORT

Robert L. Cullen, et al.,

Plaintiff

V.

SUBPOENA IN A CIVIL CASE

J. Bennett McNeal, et al.

Defendant

Case Number: 04-CP-07-633
Pending in Beaufort County

TO: MCAS BEAUFORT FCU

☐ YOU ARE COMMANDED to appear in the above named court at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM
DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody, or control at the place, date and time specified below (list documents or objects):

ANY AND ALL DOCUMENTS RELATING TO ANY ACCOUNTS MAINTAINED BY MCAS FCU IN THE NAME OF THE WRIGHTS POINT HOMEOWNERS ASSOCIATION, INCLUDING, BUT NOT LIMITED TO, A/C/ # TO INCLUDE COPIES OF ALL SIGNATORY CARDS, INITIAL OPENING DOCUMENTS, BANK STATEMENTS, TAX IDENTIFICATION NUMBERS, OR OTHER DOCUMENTS REFLECTING DEPOSITS AND/OR WITHDRAWAL OF FUNDS.

PLACE THE BAILEY LAW FIRM, PA
PO BOX 1437, 1001 BAY STREET
BEAUFORT, SC 29901-1437

DATE AND TIME FRIDAY, JUNE 18, 2004
10:00 A.M.

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

DATE AND TIME

PREMISES

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS SUIT IS HEREBY DIRECTED PURSUANT TO RULE 30 (b) (6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY IN ITS BEHALF, AND SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTER ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO THE MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Joel D. Bailey, Esquire
The Bailey Law Firm, P.A.
P.O. Box 1437
Beaufort, SC 29901-1437

(843) 525-6090 office
(843) 525-6070 facsimile

ISSUING

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45 (c) (1) AND THAT NOTICE AS REQUIRED BY RULE 45 (b) (1) HAS BEEN GIVEN TO ALL PARTIES.

Issuing Officer's Signature and Title

Joel D. Bailey, Esquire
ATTORNEY FOR THE DEFENDANTS

DATE: June 11, 2004

PROOF OF SERVICE

SERVED DATE: FEES AND MILEAGE TENDERED TO WITNESS
PLACE: YES NO AMOUNT \$

ON (PRINT NAME) MANNER OF SERVICE SERVED

SERVED BY (PRINT NAME) TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedure, Parts (c) and (d):

PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection is made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel for production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall squash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance; or
- (ii) requires a person who is not a party or an officer, director or managing agent of a party to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (iii) of this rule, such a person may in order to attend trial be commanded to travel from the county where the subpoena was served to the place within the state where the trial is held; or
- (iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- (iv) subjects person to undue burden.

(B) If a subpoena:

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or officer, director or managing agent of a party to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, squash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

0089

REC ID#

February 9, 2004

Ms Painter
Manager, MCAS
Paris Island Gateway
Beaufort, SC 29902

Dear Ms. Painter,

We would like to open a checking account for The Wrights Point Homeowners Association.

We want the checks to have a place for two signatures.

Andrea Hucks, Treasurer
Robert Cullen, President

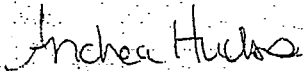
The address on the checks will be

Beaufort, SC 29902

Sincerely yours,



Robert L. Cullen, President



Andrea Hucks, Treasurer

NOTE - we will need 5000
we need to get the checks ordered
Bak

call me 843 525 0304

EXHIBIT "2"

0090

CREDIT UNION SIGNATURE CARD

WRIGHT'S POINT HOMEOWNERS

(To be completed by Credit Union) Member # S

Primary Member Andrea Hicks

SS# _____ Date of Birth 9/13/66

Joint Member ROBERT CULLEN

SS# 1 _____ Date of Birth 8/15/44

Joint Member _____

SS# _____ Date of Birth _____

Address _____

Phone # (h) _____ (w) _____

Employer _____

Length of Employment _____ Supervisor _____

Permanent Home of Record _____

Date Opened 2/11/04 Opened By RS

Initial Deposit \$ _____ If Check, Source _____

SHARE DRAFT INFORMATION ONLY Date Opened _____

Share Asset _____ Share Draft _____

Member Initial _____ Member Initial _____ Member Initial _____

Opened By _____ Initial Deposit \$ _____

I HAVE READ AND SIGNED THE ATTACHED DISCLOSURE FORM

Signature _____
Primary Member A Hicks Date 2/16/04

Signature _____
Joint Member ROBERT C. CULLEN Date 2/11/04

Signature _____
Joint Member R. Cullen Date _____

EXHIBIT "3"

0091

Order Source:
☐ New Order
☐ Reorder With Changes
☐ Vendor Conversion Order
☐ Reorder With No Changes

Express Delivery Options For Rush Orders:
 Quik-Ship** ☐ 1 Day ☐ 2 Day (n/c in Alaska or Hawaii)
 FedEx Ground* ☐ Residential ☐ Commercial
 First Class ☐ Other

*Will not deliver to P.O. Boxes ** Limited styles available with Quik-Ship

NAME Check Ground #24-
 ADDRESS Check Ground #24-
 CITY Beaufort STATE NC ZIP CODE 29902

Financial Institution Name
**MCAS BEAUFORT
 FEDERAL CREDIT UNION
 BEAUFORT, S.C. 29902**

Branch # 07-7822/2532 Starting Number 101 May 1993
 Copy above signature line ☐ Check for additional signature line

IMPRINT INFORMATION (35 characters per line suggested). PRINT IN UPPERCASE ONLY

NAME THE WRIGHTS HOMEOWNERS ASSOC

ADDRESS NE

CITY BEAUFORT

STATE NC ZIP CODE 29902

Catalog Code
 Style/Color
 Home Desk Specific Accessory Options:
☐ Single ☐ 1 Order
☐ Duplicate ☐ 2 Orders
☐ Top-Stub ☐ 3 Orders
☐ End-Stub ☐ 4 Orders

Accessory Options
 Elegant Lettering Code
☐ 05 Script ☐ 21 Graphic
☐ 08 Quill ☐ 22 Brushstroke
☐ 07 Old English ☐ 27 Professional

Home Use Only
 Catalog Code
 Record Type ☐ Run Reason ☐ Sp Prog ☐ Order Type ☐
 Cut Delivery Code ☐
 Other Priority ☐
 Other Emp Type ☐
 Billing Option ☐ Expense Type ☐

Cover ☐ Yes ☐ No
 Color ☐ Black (BK) ☐ Burgundy (BU)
 Binder Style P V H D-
 Register (Reg-PB) Style 20 And 33
 Bllikeeper (VH-BK) Register
 Duplicate Map (VH-OP)

Access Symbol/ Monogram Code
 OneLiners™ Code OL
 Leather Cover/SideKicks
 Address Labels

SPECIAL INSTRUCTIONS (Financial Institution Use)

☐ Employee
☐ Institution expense
☐ Error Reprint
 Program
 Initial To Date Preparer's Name

Ordered 2/12/04
Confirmation 0943048

MCAS Beaufort Federal Credit Union
APPLICATION FOR MEMBERSHIP SERVICES

Name Andrea Hucks SS# _____
Address _____
Permanent Home of Record Beaufort SC 29902
Date of Birth _____ Phone # (w) 522-7600 (h) 525-0741
Employer Beaufort Memorial Hospital Length of Employment 73yrs.
Position MID Supervisor Kathy Bray
Identification/Driver's License # _____ State SC Other _____
Financial Institution Reference Bank of America
Signature A Hucks Date 2/16/04

JOINT OWNER AUTHORIZATION - The credit union is hereby authorized to recognize any of the signatures subscribed below in the withdrawal or transfer of the currently existing and future deposits of funds and earnings in this account. All or any portion of the funds may be withdrawn by any one of the undersigned regardless of which person may have deposited such funds. The funds shall be deemed as being jointly owned with the right of survivorship. All of the undersigned also mutually agree that the person who is the principal member on this account shall have right to terminate the joint status of this account and cancel the rights of the other joint owners at any time without notice to the other parties upon executing and delivering to the credit union a written declaration of such termination. Upon such termination only the principal member shall have any ownership rights in the funds on deposit at such time.

Joint Owner Name ROBERT COLLEN SS# _____
Address 6
Permanent Home of Record BEAUFORT, SC 29902
Date of Birth _____ Phone # (w) _____ (h) 843 5250304
Employer RETIRED Length of Employment _____
Position _____ Supervisor _____
Identification/Driver's _____ State SC Other _____
Financial Institution Reference _____
Signature R Collen Primary Owner Initials _____
Has either applicant held an account at this credit union in the past? YES
If YES, is account still open? Y If YES, Give account number 6006600
If account is closed, give account number and/or dates of membership _____

EXHIBIT "5"

0093

THE WRIGHTS POINT HOMEOWNERS ASSOC

DATE 3/2/04

DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL
ENDORSE & LIST CHECKS SEPARATELY OR
ATTACH LIST.

MCAS BEAUFORT
FEDERAL CREDIT UNION
BEAUFORT, S.C. 29906

	DOLLARS	CENTS
CURRENCY		
COIN		
TOTAL CASH		
CHECKS		
1 Kenneth S. Elder	1000	-
2 B. Pearson	1000	-
3 J. Brown	1000	-
4 B. Cullen	1000	-
5 A. Corneaz	1000	-
6 D. Myers	1000	-
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
TOTAL FROM ATTACHED LIST		
PLEASE ENTER TOTAL HERE		6000.00

TOTAL
ITEMS

\$

6000.00

EXHIBIT "6"

0094

KENNETH SHULER

SKY COV



2859

67-160/532
25211

DATE 2-2-04

PAY TO THE
ORDER OF

Wright's Point Homeowners Assoc. \$ 1,000.00

One thousand

DOLLARS

BB&T

BEAUFORT FCU ADVANTAGE

BRANCH BANKING AND TRUST COMPANY
IRMO, SOUTH CAROLINA

TELLER NO. 71

FOR 04 Dues

9

00000000000000000000

PAY TO THE ORDER OF:
MCAS BEAUFORT FCU
FOR DEPOSIT ONLY
THE WRIGHTS POINT
HOMEOWNERS ASSOC.

03/27/2004
25378223
FCU

Sequence:3000052780 Check#:0 TR:53201607 A
2004

TranCode:2859 Amount:\$1,000.00 Date:03-03-

0095

JAMES K BROWN TTEE TTEE
NORMA F BROWN TTEE TTEE

CMA Cash Management Account

359

DATE Jan 29, 2004

25-80/440

PAY TO THE ORDER OF Wrights Point Homeowners Assoc \$ 1,000.00

one thousand and 00/100 DOLLARS

Merrill Lynch

BANK ONE BANK ONE, COLUMBUS, NA

MEMO Lot #6

0359 0000100000

PAY TO THE ORDER OF
MC/S BEAUFORT FCU
FOR DEPOSIT ONLY
THE WRIGHTS POINT
HOMEOWNERS ASSOC

> 253278223 <
MC/S BEAUFORT FCU
BEAUFORT, SC
> 253278223 <

Sequence: 3000052760 Check# 0 TR: 44000804 Accr
2004

TranCode: 359 Amount: \$1,000.00 Date: 03-03-

0096

Rec. (Rec) Robert F. Pearson
 0248
 February 2, 2004
 DATE
 PAY TO THE ORDER OF Wright's Point Homeowners Assoc \$ 1000.00
One Thousand Dollars and no xx/100 DOLLARS
 MCAS BEAUFORT
 FEDERAL CREDIT UNION BEAUFORT
 BEAUFORT, S.C. 29902
 TELLER NO. 71
 FOR Robert F. Pearson
 00001000000

PAY TO THE ORDER OF
 MCAS BEAUFORT FCU
 FOR DEPOSIT ONLY
 THE WRIGHTS POINT
 HOMEOWNERS ASSOC
 > 253278223 <
 MCAS Beaufort FCU
 BEAUFORT, SC
 > 253278223 <

Sequence:3000052770 Check#:0 TR:253278223 Account:6
 03-2004
 TranCode:248 Amount:\$1,000.00 Date:03-

0097

ROBERT L CULLEN
MARY LOU CULLEN

2482

67-98/532

1/30/04
DATE

PAY TO THE
ORDER OF

\$ 1000.00

DOLLARS



Feature
Security
Design

KH
SOUTH CAROLINA
BANK AND TRUST

MCAS BEAUFORT FCU
Beaufort, SC 29910 NO. 71

Royal Checking

FOR



0000100000

PAY TO THE ORDER OF
MCAS BEAUFORT FCU
FOR DEPOSIT ONLY
THE MIGHTY POINT
HOMEOWNERS ASSOC

> 253278223 <
MCAS Beaufort FCU
BEAUFORT, SC
> 253278223 <

Sequence: 3000052750 Check#: 0 TR: 53200983 A
2004

TranCode: 2482 Amount: \$1,000.00 Date: 03-03-

0098



ANDREW A. CORRIVEAU
STATE FARM INSURANCE COMPANIES
P.O. BOX 1717
BEAUFORT, SC 29901
843-524-1717

FIRST NATIONAL BANK
BEAUFORT, SOUTH CAROLINA
67-98/532

2275

1/8/2004

PAY TO THE
ORDER OF

Wright's Point Homeowners Association

\$ **1,000.00

One Thousand and 00/100*****

DOLLARS

Wright's Point Homeowners Association
c/o Bundy Appraisal Mgmt.
PO Box 1225
Beaufort, SC 29901

BEAUFORT 1/8/04
TELLER NO. 51

MEMO 2004 annual dues

⑈0000100000⑈

1/8/04 2:11 PM

> 253278223 <
MCAS P... Jt FCU
E... JFCU
> 253278223 <

PAY TO THE ORDER OF
MCAS BEAUFORT FCU
FOR DEPOSIT ONLY
THE WRIGHT'S POINT
HOMEOWNERS ASSOC

Sequence: 3000052790 Check#: 2275 TR: 53200983 A
2004

TranCode: 0 Amount: \$1,000.00 Date: 03-03-

0099

DEBRA V MYERS
F KYLE MYERS

2008

87-776/532
BRANCH 77484

1-21-04

DATE

PAY TO THE
ORDER OF

Wrights Point HOA

\$ 1,000.00

One thousand dollar 00

DOLLARS

1



WACHOVIA

Wachovia Bank, N.A.
ACH R/T 053207766

BEAUFORT FCU

SLIPER NO. 777

FOR

40 Fees

Debra Myers

000000000000

CHARTERED 2001

FD-17 (2-2004)

> 253278223 <
MCAS Beaufort FCU
BEAUFORT, SC
> 253278223 <

PAY TO THE ORDER OF
MCAS BEAUFORT FCU
FOR DEPOSIT ONLY
THE WRIGHTS POINT
HOMEOWNERS ASSOC

Sequence:3000052740 Check#:0 TR:53207766 Ac
03-2004

TranCode:2008 Amount:\$1,000.00 Date:03-

0100

THE WRIGHTS POINT HOMEOWNERS ASS

DATE 3/30/04

DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITH
ENDORSE A LIST CHECKS SEPARATE
ATTACH LIST

BILLS		CURRENCY	COIN	TOTAL CASH	CHECKS
1	100				1000
2	50				500
3	20				
4	10				
5	5				
6	1				
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
TOTAL FROM ATTACHED LIST					1500.00

MCAS Beaufort Fed.
Teller No. 73MCAS BEAUFORT
FEDERAL CREDIT UNION
BEAUFORT, S.C. 29906TOTAL
ITEMS

\$

1500.00

EXHIBIT "7"

0101

JOHN CALDWELL
PO BOX 242
PORT ROYAL, SOUTH CAROLINA 29935

1020

67-802/532

3-10-2004 Date

Pay to the
Order of

WRIGHTS POINT HOMEOWNERS ASSOC.

\$ 1,000.00

ONE THOUSAND &

NO CAS Beaufort FCU
Teller No. 79

Dollars

LOWCOUNTRY
National Bank
Beaufort, SC 29901

EASY STREET

For
12

LOT 79

1020

000000000000

ENDORSE HERE:

PAY TO THE ORDER OF
MCAS BEAUFORT FCU
FOR DEPOSIT ONLY
THE WRIGHTS POINT
HOMEOWNERS ASSOC

DO NOT SIGN/WRITE STAMP BELOW THIS LINE
FOR FINANCIAL INSTITUTION USAGE ONLY

> 253278223 <
MCAS Beaufort FCU
BEAUFORT, SC
> 253278223 <

FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

The following security features (and others
not listed) exceed industry standards:

Security Features:
• Document appearance if altered:
• Absence or modification of optical
document series so back of check
appear in signaling line.
• Colored stars or spots appear with
chemical alteration.
• Absence of watermark.
• Absence of color shift icon.
• Absence of color shift icon.

Sequence: 0000021390 Check#: 0 TR: 53208024

TranCode: 1020 Amount: \$1,000.00 Date: 03-31-2004

0102

ANDREA D. HUCKS

07-02

886

DATE 3/30/04

67-448/538 SC
4540

PAY TO THE
ORDER OF

Wright's Point Homeowners Assoc. Fed.
Five hundred and no/100
Teller No. 73

\$ 500.00

DOLLARS

Bank of America.



Premier Banking

ACH F/T 053904483

A. Hucks

0000050000

03/31/2004

> 253278223 <
MCAS Beaufort FCU
BEAUFORT, SC
> 253278223 <

PAY TO THE ORDER OF
MCAS BEAUFORT FCU
FOR DEPOSIT ONLY
THE WRIGHTS POINT
HOMEOWNERS ASSOC

Sequence: 1000021600 Check#: 0 TR: 53904483 Ac

TranCode: 886 Amount: \$500.00 Date: 03-31-2004

0103

TELLER TRANSACTION VOUCHER

MCAS Beaufort FCU Date

Member #

Member Name

Wong's Home Bankers

Dep. Type \$ Type \$ Type \$

W/D Type \$ Type \$ Type \$

MONEY ORDERS

TRANSFERS - FROM TO FROM TO

\$ \$ \$ \$ \$ \$

\$ \$ \$ \$ \$ \$

Cash Draft: Type # \$ Type # \$

Credit Union Check - \$ Payee

Credit Union Check - \$ Payee

Cash Received \$ Cash Disbursed \$

Member's Signature

Miscellaneous

LOAN PAYMENTS

\$

\$

\$

CHECKS RECEIVED

\$

\$

\$

\$

\$

Teller's Stamp:

MCAS BEAUFORT FED.
TELLER NO. 08

TELLER TRANSACTION VOUCHER

MCAS Beaufort FCU Date 6-9-04 Member # 1

Member Name R. Cullen

Dep. Type \$ Type \$ Type \$

W/D 4 Type 05 \$ 5.00 Type 15 \$ 7500.00 Type \$

MONEY ORDERS

\$ \$ \$
\$ \$ \$

TRANSFERS - FROM TO FROM TO

TYPE 10 \$ 15
AMOUNT \$ 133.24 \$

Cash Draft: Type # \$ Type # \$

Credit Union Check - \$ 7500.00 Payee Homeowners Assoc

Credit Union Check - \$ Payee

Cash Received \$ Cash Disbursed \$ 5.00

Member's Signature per member request

Miscellaneous

LOAN PAYMENTS

\$
\$
\$

CHECKS RECEIVED

\$
\$
\$
\$
\$
\$
\$

MCAS BEAUFORT FED.
Teller's Stamp: TELLER NO. 65

0105

EXHIBIT "9"

THE FACE OF THIS DOCUMENT HAS A MICRO-PRINT SIGNATURE LINE. THE BACK CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW.

MCAS BEAUFORT  **CASHIER'S CHECK** NO. 0304001

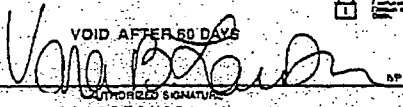
P.O. DRAWER 1227
BEAUFORT, SOUTH CAROLINA 29901 67-7822/2532 06/09/2004

\$7,500.00

Pay *** SEVEN THOUSAND FIVE HUNDRED DOLLARS AND 00 CENTS ***

TO THE ORDER OF WRIGHTS POINT HOMEOWNERS ASSOCIATION

VOID AFTER 60 DAYS


AUTHORIZED SIGNATURE
00 00304001
0000750000

FOR DEPOSIT ONLY
WRIGHTS POINT
HOMEOWNERS ASSOC.

11-2004

Sequence:30251070 Check#:304001 TR:253278223
11-2004

TranCode:0 Amount:\$7,500.00 Date:06-

0106

https://www.creditunionimages.com/scripts/afs/afsweb/AfsWeb.dll?Process?_application=... 6/22/2004

EXHIBIT "10"

12672 0

MCAS BEAUFORT FEDERAL CREDIT UNION

P O DRAWER 1227
BEAUFORT, SC 29901

943-846-2266

ON FILE

WRIGHTS POINT HOMEOWNERS
C/O A. HUCKS / R. CULLEN

02/18/2004 03/31/2004

0.00

PAGE 1

S000 NON-PERSONAL SHARE ACCOUNT

STATEMENT PERIOD:

BEGINNING DATE 02/18/2004

ENDING DATE 03/31/2004

302 302NEW ACCOUNT DEPOSIT TRANSFER-

302 302WITHDRAWAL

NEW ACCOUNT FEE

303 303WITHDRAWAL TRANSFER-0005005110 S005

PREVIOUS BALANCE 000

1000 1000

-500 500

NEW SHARE BALANCE 000

000 000

DIVIDENDS YEAR TO DATE

THIS IS THE FINAL STATEMENT YOU WILL RECEIVE ON THIS ACCOUNT
UNTIL YEAR END

S005 NON-PERSONAL SHARE ACCOUNT

STATEMENT PERIOD:

BEGINNING DATE 03/03/2004

ENDING DATE 03/31/2004

303 303NEW ACCOUNT DEPOSIT TRANSFER-

PREVIOUS BALANCE 000

500 500

NEW SHARE BALANCE 500

000 000

DIVIDENDS YEAR TO DATE

S015 NON-PERSONAL SHARE DRAFT ACCOUNT

STATEMENT PERIOD:

BEGINNING DATE 03/01/2004

ENDING DATE 03/31/2004

302 302NEW ACCOUNT DEPOSIT

302 302WITHDRAWAL TRANSFER-

330 330DEPOSIT

PREVIOUS BALANCE 000

600000 600000

-1000 599000

150000 749000

NEW SHARE BALANCE 749000

000 000

DIVIDENDS YEAR TO DATE

000

000

EXHIBIT "11"

0107

6038. 0

MCAS BEAUFORT FEDERAL CREDIT UNION

843-846-2266

P.O. DRAWER 1227
BEAUFORT, SC 29901

ON FILE

WRIGHTS POINT HOMEOWNERS
C/O A. HUCKS / R. CULLEN

04/01/2004 04/30/2004

PAGE : 1

S015 NON-PERSONAL SHARE DRAFT ACCOUNT

STATEMENT PERIOD:

BEGINNING DATE 04/01/2004

ENDING DATE 04/30/2004

416 416 WITHDRAWAL

-12324

ADJ CHECK ORDER-NEVER CHARGED

PREVIOUS BALANCE

749000

736676

NEW SHARE BALANCE

736676

DIVIDENDS YEAR TO DATE

000

000

000

STOP BY OUR NEW MIDTOWN BRANCH TODAY!
ENJOY THE BEAUTIFUL, SPACIOUS LOBBY PLUS THE CONVENIENCE OF (4) DRIVE
THROUGH LANE THROUGH WAL AND E-UP S!

EXHIBIT "12"

0108

Share Transaction List

HOMEOWNERS, W

---/---/--- Type: 05

Savings

ite	Tr Code	Penalty	Fed Whld	St Whld	Share Amount	Balance
/03/2004	065 SWMC	0.00	0.00	0.00	5.00-	0.00
/09/2004	065 SWEC	0.00	0.00	0.00	0.00	5.00
/03/2004	012 SNST	Des:		5000	5.00	5.00
		0.00	0.00	0.00	0.00	

Date	Tlr Code	Penalty	Fed Whld	St Whld	Share Amount	Balance
03/03/2004	012 SWST	Desc:		S005	5.00-	0.00
		NEW ACCOUNT FEE				
03/02/2004	066 SWFE	0.	0.00	0.00	5.00-	5.00
03/02/2004	066 SNST	Desc:		S015	10.00	10.00
		0.00	0.00	0.00	0.00	

MCAS BEAUFORT
FEDERAL CREDIT UNION
PO DRAWER 1227
BEAUFORT, SO. 29901

6/14/04

Dan M. Jerkko
Operations Assistant

are Transaction List

015 HOMEOWNERS, WRI

---/---/--- Type: 15

Checking

ite	Tlr Code	Penalty	Fed Whld	St Whld	Share Amount	Balance
/09/2004	065 SWMC	0.00	0.00	0.00	7,500.00-	0.00
/09/2004	065 SWEC	0.00	0.00	0.00	0.00	7,500.00
/09/2004	065 SDST	Desc: CULLEN, ROBERT L			133.24	7,500.00
ADJ CHECK ORDER-NEVER CHARGED						
/16/2004	012 SWGL	0.00	0.00	0.00	123.24-	7,366.76
/30/2004	073 SDCR	0.00	0.00	0.00	1,500.00	7,490.00
/02/2004	066 SWST	Desc:		0	10.00-	5,990.00
/02/2004	071 SNCR	0.00	0.00	0.00	6,000.00	6,000.00
		0.00	0.00	0.00	0.00	

Date	Tr Code	Penalty	Fed Whld	St Whld	Share Amount	Balance
06/09/2004	065 SWMC	0.00	0.00	0.00	7,500.00-	0.00
06/09/2004	065 SWEC	0.00	0.00	0.00	0.00	7,500.00
06/09/2004	065 SDST	Desc: CULLEN, ROBERT L			133.24	7,500.00
ADJ CHECK ORDER-NEVER CHARGED						
04/16/2004	012 SWGL	0.00	0.00	0.00	123.24-	7,366.76
03/30/2004	073 SDCR	0.00	0.00	0.00	1,500.00	7,490.00
03/02/2004	066 SWST	Desc: 0 S000			10.00-	5,990.00
03/02/2004	071 SNCR	0.00	0.00	0.00	6,000.00	6,000.00

		0.00	0.00	0.00	0.00	

MCAS BEAUFORT
FEDERAL CREDIT UNION
PO DRAWER 1227
BEAUFORT, SC 29901

6/14/04
Heather M. Sarkko
Operations assistant

7/5
10/5

55071

2201

BEAUFORT COUNTY, S.C.
RECORDING FEES COLLECTED
TRANSFER FEES \$ 0
COUNTY \$ 11.00 STATE \$ 169.00

Prepared By:
Henri Ann Logan
Post Office Box 1008
806 Charles Street (29902)
Beaufort, SC 29901
Tax Map No.: # 110-34-247

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, THAT EDWARD M. CLARKSON, II, and SUSAN R. CLARKSON, in the State aforesaid, for and in consideration of the sum of SIXTY FOUR THOUSAND NINE HUNDRED AND 00/100 DOLLARS (\$64,900.00) to them in hand paid at and before the sealing of these presents by DANIEL C. RIPLEY and ANDREA D. HUCKS, in the State aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto said Daniel C. Ripley and Andrea D. Hucks, for and during their joint lives and upon the death of either of them, then to the survivor of them, his or her heirs and assigns, forever, in fee simple, together with every contingent remainder and right of reversion, the following described property, to wit:

ALL that certain piece, parcel, or lot of land, together with all buildings and improvements thereon, situate, lying, and being on Port Royal Island, in Beaufort County, South Carolina, and being designated as Lot Thirty-Four (34), Phase I, Wright's Point Subdivision, on that certain plat entitled "Plat Showing Wright's Point, Phase I" prepared by Gasque and Associates, David E. Gasque, R.L.S., dated May 3, 1994, and recorded in Plat Book 64 at Page 150 in the Office of the Register of Deeds for Beaufort County, South Carolina. For a more accurate description of said lot as to metes and bounds, courses and distances, reference is craved to the aforementioned plat of record.

This conveyance is subject to the Declaration of Covenants, Conditions, Restrictions and Easements for Wright's Point recorded in Record Book 1026 at Page 1132 in the Office of the Register of Deeds for Beaufort County, South Carolina.

This being the same property conveyed to the within Grantors by deed of Anthony R. Porter dated April 30, 1998, and recorded June 2, 1998, in Record Book 1049 at Page 2422 in the Office of the Register of Deeds for Beaufort County, South Carolina.

Tax Map #: 110-34-247

Grantee(s) Address: 106 Capers Street
Beaufort, SC 29902

DEFENDANT'S
EXHIBIT

12

0113

2202

TOGETHER WITH all and singular the rights, members, hereditaments and appurtenances to the said premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the said Premises before mentioned unto the said Daniel C. Ripley and Andrea D. Hecks, for and during their joint lives and upon the death of either of them to the survivor of them, his or her heirs and assigns, forever, in fee simple, together with every contingent remainder and right of reversion, and they do hereby bind themselves and their Heirs, Executors, Administrators, Successors and Assigns, to warrant and forever defend all and singular the said Premises unto the said Daniel C. Ripley and Andrea D. Hecks as hereinabove provided against themselves and their heirs and assigns and any person or persons whomsoever lawfully claiming or to claim the same, or any part thereof.

0114

2203

WITNESS the execution hereof by their hands and seals this 1st day of ^{NOVEMBER} ~~October~~ in the year of our Lord two thousand.

Signed, Sealed and Delivered
in the Presence of

Eric J. Brown SGT/USMC
1st Witness

Edward M. Clarkson II (SEAL)
Edward M. Clarkson, II

Jane P. Sherman/Hol
2nd Witness

Susan R. Clarkson (SEAL)
Susan R. Clarkson



STATE OF VIRGINIA

COUNTY OF Prince William

PROBATE

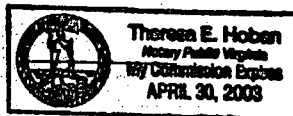
PERSONALLY appeared before me the undersigned witness, who, being duly sworn, says that (s)he saw the within-named Grantors sign, seal, and deliver the within Deed; and that (s)he, with the other subscribing witness whose signature appears above, witnessed the execution thereof.

SWORN to before me this 1st day of ^{NOVEMBER} ~~October~~, 2000.

Jane P. Sherman/Hol
Notary Public for Virginia

Susan R. Clarkson
Witness (Not Notary)
Eric J. Brown SGT/USMC

My Commission Expires



File # 00-0890BVC

0115

Logan 1331

FILED
JOHN A SULLIVAN, JR.
R.M.C.
BEAUFORT COUNTY, S.C. /RB

2204

00 NOV -8 PM 2:07

BK 1351 PG 2201
FOLDER #

RECORDED

2000 DEC 13 AM 9:36

BK 1351

PG 2201

Sharon G. Sullivan
CLINTY ALMOTOR

DEC 13 2000
CLINTY ALMOTOR

0116

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF BEAUFORT)

C/A # 04-CP-07-633

ROBERT L. CULLEN, ANDREW
A. CORRIVEAU, JOHN
CALDWELL, ANDREA HUCKS,
JAMIE BELLAMY, MICHAEL
PEARSON and DAVID
MANDELL,

Plaintiffs,

vs.

J. BENNETT McNEAL, B.
McNEAL PARTNERSHIP, L.P.,
ANTHONY R. PORTER, and
WRIGHT'S POINT HOME
OWNERS ASSOCIATION, INC.

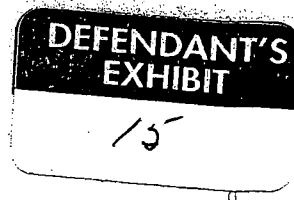
Defendants.

SUPPLEMENTAL AFFIDAVIT OF KATHERINE D. BUNDY

PERSONALLY appeared before me, KATHERINE D. BUNDY, who, being first duly sworn,
deposes and states that:

1. I am a citizen and resident of Beaufort County, South Carolina, and hereby
supplement my prior Affidavit of June 3, 2004.

2. As part of my duties with Bundy Appraisal & Management, Inc., I send
notices to each owner of record for payment of annual assessments owed to Wright's Point Home
Owners Association, Inc.



3. On June 7, 2004, I was notified by Mr. Kenneth Shuler, one of the property owners in Wright's Point Plantation, that he had paid his 2004 annual assessment, even though my records did not reflect such payment.

4. Mr. Shuler sent a copy of his canceled check, together with a request that the records be corrected. A copy of the check and request as received by me *via* mail from Mr. Shuler is attached as Exhibit 1 to this supplemental affidavit.

5. Upon examination of the copy of the canceled check received from Mr. Shuler, it appeared that the check, although made payable to "Wrights Point Homeowners Assoc.," had been deposited into an account at MCAS Federal Credit Union. I found this to be disturbing because Wright's Point Home Owners Association, Inc. does not have a bank account at MCAS Federal Credit Union, and the monies collected for association assessments are maintained in an account in another bank.

6. I sent Mr. Shuler a letter in response on June 9th, advising him that our office had never received his check, had no knowledge concerning the bank account at MCAS Federal Credit Union, and could not change the association records to reflect his payment under these circumstances. A copy of the letter which I mailed to Mr. Shuler is attached as Exhibit 2 to this supplemental affidavit.

7. Mr. Laurance Davis of our office then received a letter dated June 9, 2004, by hand delivery from Mr. Robert Cullen, together with a cashier's check in the amount of \$7,500.00 from the MCAS Federal Credit Union and payable to "Wrights Point Homeowners Association." The letter indicated that the check was to cover 2004 homeowners' assessments for eight property owners at Wright's Point, including Mr. Shuler. A copy of the letter from Mr. Cullen, together with a copy of the cashier's check is attached as Exhibit 3 to this supplemental affidavit.

8. Mr. Davis forwarded the Cullen communication to me to handle, and I sent a letter to Mr. Cullen on June 10, 2004, confirming receipt of the funds and crediting of the same to

the accounts of the respective property owners. A copy of my letter to Mr. Cullen is attached as Exhibit 4 to this supplemental affidavit.

9. By letter dated June 10, 2004, Mr. Shuler was then notified of the receipt of funds for his 2004 annual assessment and that his account is presently listed as being current. A copy of the letter from me to Mr. Shuler, together with a copy of the association's record of credit to his account, is attached as Exhibit 5 to this supplemental affidavit.

10. The current controversy between the parties in this matter has placed Bundy Appraisal & Management, Inc. in a difficult position, as we continue to receive directives from Mr. Cullen, who holds himself out to be in a position of authority for the homeowners, but has not provided us with any documentation or judicial recognition of his position, nor has he provided us with written authorization from either Mr. Porter, the Developer or Wright's Point Plantation, or Wright's Point Home Owners Association, Inc.

I have read the foregoing 10 paragraphs, and they are true and correct to the best of my knowledge and belief.

Katherine D. Bundy
KATHERINE D. BUNDY

SWORN to before me this

10th day of June, 2004

Dusan J. Hogdon
Notary Public for South Carolina

My Commission Expires:

~~My Commission Expires~~ December 8, 2009

*this has been paid
Please correct your records
Lot 19*

KENNETH SHULER 2859

PAY TO THE ORDER OF Wright Point Homeowners Assn \$ 1000.00

one thousand

BB&T BEAUFORT PL ADVANTAGE

BRANCH BANKING AND TRUST COMPANY
IRMO, SOUTH CAROLINA

DATE 11-4-84

2859 000001000000

PAY TO THE ORDER OF
MCAS BEAUFORT FCU
FOR DEPOSIT ONLY
THE WRIGHTS POINT
HOMEOWNERS ASSO

0120

ENCLOSURE

WRIGHTS POINT HOMEOWNER ASSOCIATION

PO BOX 1225 • BEAUFORT • SOUTH CAROLINA • 29901 • 843-524-2207

June 9, 2004

Mr. Kenneth Shuler

74

RE: Your note received June 8, 2004.

Dear Mr. Shuler:

We are in receipt of your request to correct our records to show payment of your 2004 homeowners assessment, together with the copy of your canceled check made payable to Wrights Point Homeowners Association. We never received this check in this office. The check shows that it was deposited in an account with MCAS Beaufort Federal Credit Union in the name of "The Wrights Point Homeowners Association". We have nothing to do with this account.

As you know, Anthony R. Porter is the developer of Wright's Point Plantation. Mr. Porter, as developer, incorporated Wright's Point Home Owners Association, Inc., and retained Bundy Appraisal & Management, Inc. some years ago to provide accounting and related services for the association. Recently, a group of property owners in Wright's Point decided that Mr. Porter was no longer involved in the development and has sought to take over the management functions of the development. I assume that you must have paid your money to this group.

The issue of the legitimacy of the group's claims is presently the subject of litigation pending in the Beaufort County Court of Common Pleas, as Mr. Porter contests the claims of this group of owners. Until we receive authority from Mr. Porter, as developer, or from Mr. Bennett McNeal, as president of Wright's Point Home Owners Association, Inc., we are not in a position to change the association records with respect to your payment unless ordered to do so by the court in the pending litigation.

If you have any questions or require additional information, I suggest that you contact attorney Joel D. Bailey, who is representing Wright's Point Home Owners Association, Inc., in the court action. His address is The Bailey Law Firm, P.A., PO Box 1437, Beaufort, SC 29901, his telephone number is 843-525-6090 and his fax number is 843-525-6070.

Sincerely,

Katherine Bundy
Katherine D. Bundy
Accounting

0121

6/09/2004

Mr. Lawrence Davis
Bundy Management
1204 Boundary Street
Beaufort, SC 29902

RE: Wrights Point POA
2004 Owners Assessments

Dear Lawrence,

Enclosed please find a check in the amount of \$7,500.00, which represents the annual dues paid directly to the Association by the following individuals: Robert Cullen, Andy Corriveau, James Brown, Robert Pearson, Ken Shuler, John Caldwell, Kyle Meyers, and Dan Ripley (\$500). Please credit the account of the listed owners with the payment of their dues for 2004.

As you are probably aware, the individuals who were elected as Officers and Directors of the Wrights Point Homeowners Association have filed a law suite against Tony Porter and Bennett McNeal, who allege that they still control the Association.

Although you have indicated that you do not recognize the Property Owners Association formed by the owners, you are still obligated to disperse these funds for only legitimate association expenses. Your fiduciary responsibilities are to the property owners. The Board of Directors elected by the homeowners will be disputing the propriety of any disbursement of any owner's or association funds to any claim by the developer and/or his assigns which are not normal routine expenses associated with the maintenance of the properties, or for Attorney fees incurred by the developer and/or his assignees, disbursements which relate to the maintenance of the outside properties currently owned by Bennett McNeal or Porter/McNeal, or for the un-substantiated loan shown on the Association books as a liability item.

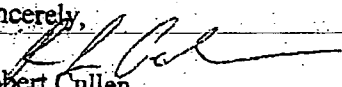
The Owners Association is currently disputing control of the association by McNeal and Porter. Until this lawsuit is concluded, please make sure that only legitimate expenses of the Association are paid with Association funds.

If you have any questions concerning any bill or expense, please feel free to contact me

I may be reached at 525.0304.

Thank you for your continued management.

Sincerely,


Robert Cullen,
President, Wright's Point Owners Association

rcle

2

0122

0123

MCAS
BEAUFORT

THE FACE OF THIS DOCUMENT HAS A MICRO-PART SIGNATURE LINE. THE BACK CONTAINS AN INKED CAL WATERMARK. HOLD AT AN ANGLE TO VIEW.

P.O. DRAWER 1227
BEAUFORT, SOUTH CAROLINA 29901

CASHIER'S CHECK

NO. 0304001

DATE 01/01/2004

AMOUNT \$7,500.00

PAY *** SEVEN THOUSAND FIVE HUNDRED DOLLARS AND 00 CENTS ***

TO THE ORDER OF WRIGHTS POINT HOMEOWNERS ASSOCIATION

VOID AFTER 60 DAYS

Vona B. Linder
AUTHORIZED SIGNATURE

WRIGHTS POINT HOMEOWNER ASSOCIATION
PO BOX 1225 • BEAUFORT • SOUTH CAROLINA • 29901 • 843-524-2207

June 10, 2004

Mr. Robert Cullen

RE: Letter & Check

Dear Mr. Cullen:

This letter will confirm receipt of your letter dated June 9, 2004 to Laurance Davis of this office, as well as the cashier's check in the amount of \$7,500.00. Your letter indicates that this amount represents the 2004 annual assessments for the following property owners: Robert Cullen, Andrew Corriveau, James Brown, Robert Pearson, Kenneth Shuler, John Caldwell, Kyle Meyers and Dan Ripley (\$500.00). I will credit these sums to the outstanding balances of these individuals; however, it may be that there will also be charges for late fees or penalties. That will have to be determined by the Wright's Point Home Owners Association, Inc.

With regard to that portion of your letter concerning your dispute with the developer, I have previously informed you that Bundy Appraisal & Management, Inc. was hired by Mr. Tony Porter, as Developer, and Mr. Bennett McNeal, as an officer of Wright's Point Home Owners Association, Inc. We are not in a position to take directives from anyone else, absent written authorization from Mr. Porter or Mr. McNeal or a valid court order. Once the court decides who has legal authority to act on behalf of Wright's Point Home Owners Association, Inc., Bundy Appraisal & Management, Inc. will follow the directives of the court.

Sincerely,

Katherine Bundy
Katherine D. Bundy
Accounting

Sincerely,

Kathy Bundy
Kathy Bundy
Accounting

WRIGHTS POINT HOMEOWNER ASSOCIATION

PO BOX 1225 • BEAUFORT • SOUTH CAROLINA • 29901 • 843-524-2207

June 10, 2004

Mr. Kenneth Shuler

4

RE: 2004 Association Assessment

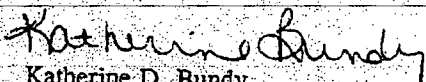
Dear Mr. Shuler:

You will find enclosed a copy of your current statement.

After the letter was mailed to you yesterday, we received, by hand delivery from Robert Cullen, a check and letter stating whose account to apply the funds for the 2004 assessment. Your name was included.

Your account has been paid in full for the 2004 assessment.

Sincerely,


Katherine D. Bundy
Accounting

0125

c/o Bundy Appraisal & Mgmt
PO BOX 1225
BEAUFORT, SC 29901

Payment: _____

74

0126

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF BEAUFORT)

C/A # 04-CP-07-633

ROBERT L. CULLEN, ANDREW)
A. CORRIVEAU, JOHN)
CALDWELL, ANDREA HUCKS,)
JAMIE BELLAMY, MICHAEL)
PEARSON and DAVID)
MANDELL,)

Plaintiffs,)

vs.)

CERTIFICATE OF MAILING

J. BENNETT McNEAL, B.)
McNEAL PARTNERSHIP, L.P.,)
ANTHONY R. PORTER, and)
WRIGHT'S POINT HOME)
OWNERS ASSOCIATION, INC.)

Defendants.)

I, Sandra H. Bailey, of THE BAILEY LAW FIRM, P.A., attorneys for the Defendants herein, do hereby certify that on the 11 day of June, 2004, I deposited in the United States Mail, postage prepaid, a copy of the Supplemental Affidavit of Katherine D. Bundy, the same being addressed to:

John C. North, Jr., Esquire
North & Black
1103 Bay Street
Beaufort, SC 29902

THE BAILEY LAW FIRM, P.A.
1001 Bay Street, P.O. Box 1437
Beaufort, South Carolina 29901-1437
843-525-6090

By: Sandra H. Bailey
Sandra H. Bailey

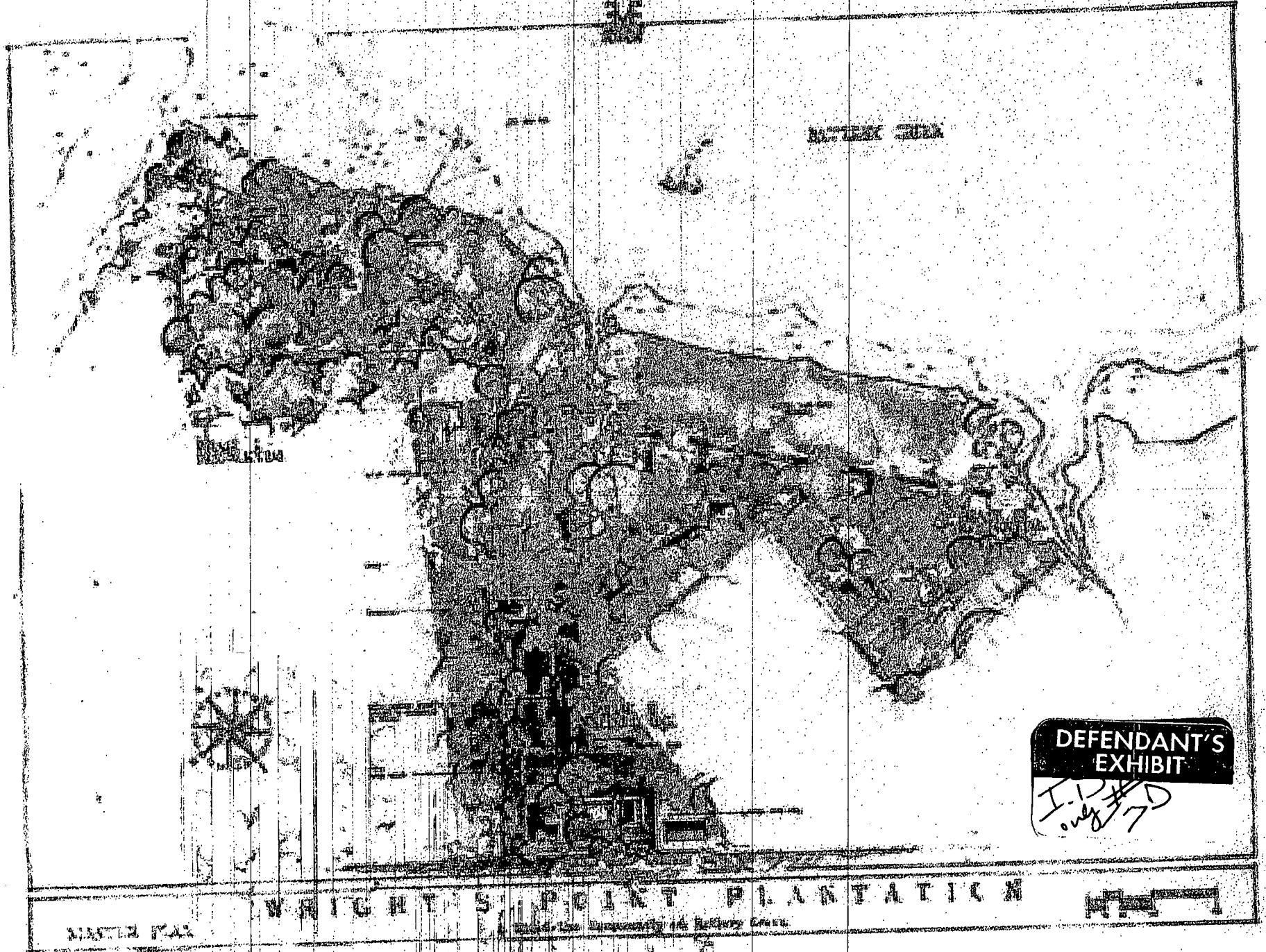
Beaufort, South Carolina

June 11, 2004

0127

Master Plan Development

0128



0129



WRIGHT'S POINT PLANTATION
PORT ROYAL, SOUTH CAROLINA
TREATISE

**DEFENDANT'S
EXHIBIT**

18

FMF ARCHITECTS/PLANNERS

MANE - I - D - C - M - N

**NO FAYRER OR FYTTER PLACE
THAN PORTE ROYALL**

0130

BORROWED FROM BEAUFORT
COUNTY'S COMPREHENSIVE PLAN

LOCALE

Wright's Point Plantation is a unique property within the Town of Port Royal, South Carolina. We are located on a main artery into the Town of Port Royal and into Beaufort Proper (Highway 802).

We are already a part of a vibrant and fast growing community, and we are located along a fast growing commercial roadway. We will strive to be a vital part of the community of Port Royal while preserving the greatest natural assets of our property for the inhabitants of Wright's Point Plantation and its visitors.

The philosophy behind the development of Wright's Point is derived not only from our relationship to our immediate neighbors and the Town of Port Royal, but also the lay of the land.

0131

LAND

There are three distinct legs to this property.

A. An entry piece along Parris Island Gateway. This roadway is a major gateway into Beaufort Proper, four lane, and slated for a lot of growth in the not too distant future. This leg of the property will be primarily a commercial center with mixed residential. (Apartments over shops with small single family residential along the west side of the entry avenue). We will allow for a profitable and marketable shopping center to happen in a contributing fashion for the residential and civic quality of the neighborhood.

B. To the south and east is a piece which is interior from the water and bordered by a mix of development: a church; a mobile home park; and a string of water front houses on large lots. This leg of the property is slated for modest sized houses, modest number of multi-family units, assisted care residences, or some other similar occupancy type.

C. Finally, there is a leg which reaches out to the water front. This leg forms a peninsula which looks to the northeast and northwest and has view to both sunrises over Port Royal Sound and sunsets over the marshes of Battery Creek. On this piece single family houses will be arranged on both water front lots and interior lots. The interior lots are developed around water front greens which will have community docks.

0132

USE

At the heart of the property, central to the three legs, is a natural feature which is unique for the lowcountry. A draw which originates in multiple fingers fed from artesian springs and ends in a tidal marsh on the water front. Because of the springs, this bit of land had never been utilized for agriculture as had the rest of the property, and so, has a number of spectacular trees and a very wild, preserved character. This natural feature will continue to be preserved; however pathways will be introduced, and we have slated public oriented uses surrounding it (a restaurant and inn) so as to add a civic element to it. It is intended to be not only the physical center of the community, but also its heart and soul, being the common link between single family, multi-family, residential over commercial, and visitors coming to the restaurant and inn.

0133

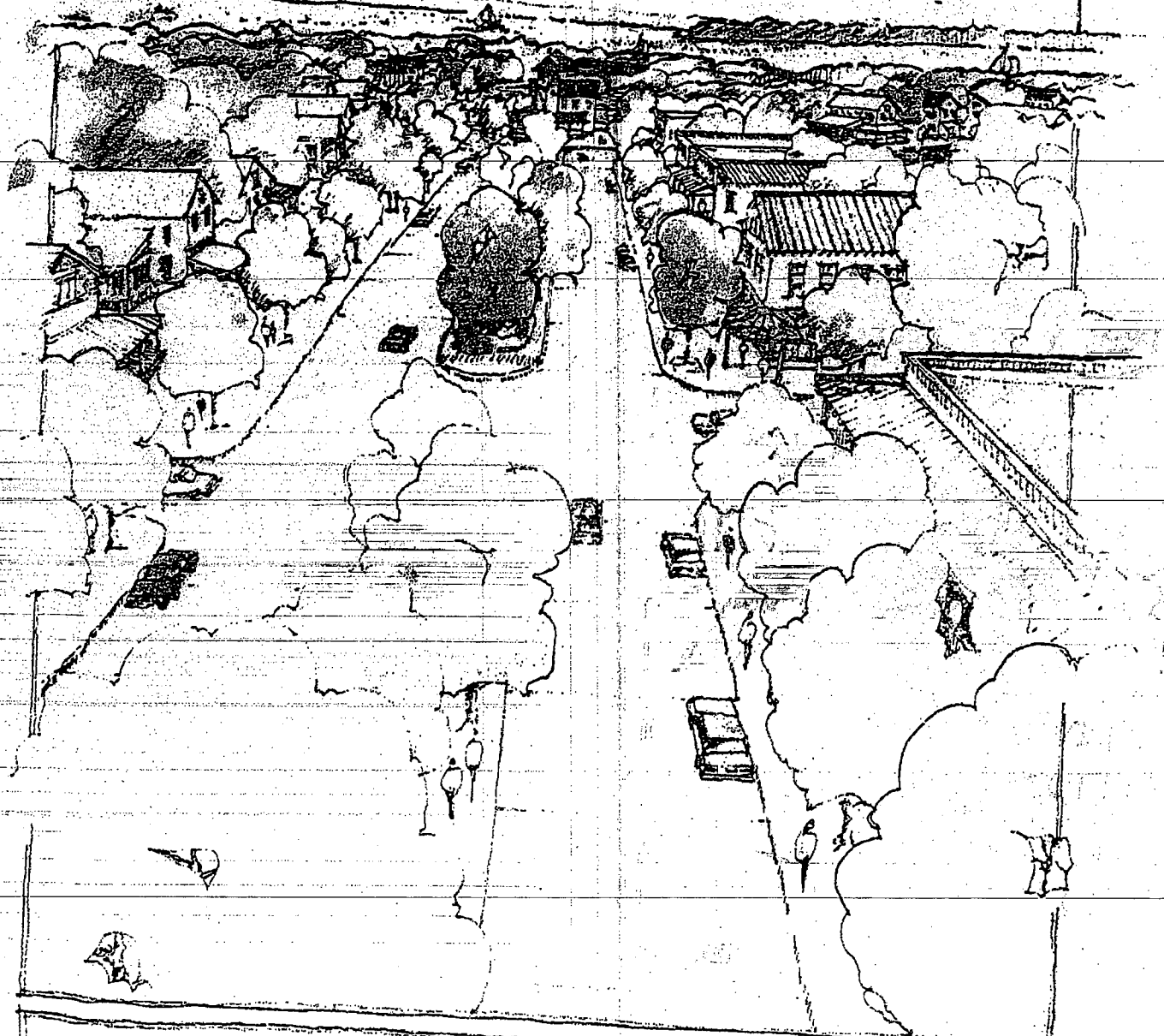
DESIGN

The overriding design philosophy for each of the three legs of Wright's Point Plantation should be one which is sensitive to the lay of the lot, sensitive to the existing tree canopy and its preservation, sensitive to neighbors (whether building or plants), and sensitive to the public realm created by the architecture.

0134

CEK

to be sensitive to the lay of the lot, sensitive to the existing tree canopy and its preservation, sensitive to neighbors (whether building or plants), and sensitive to the public realm created by the architecture.

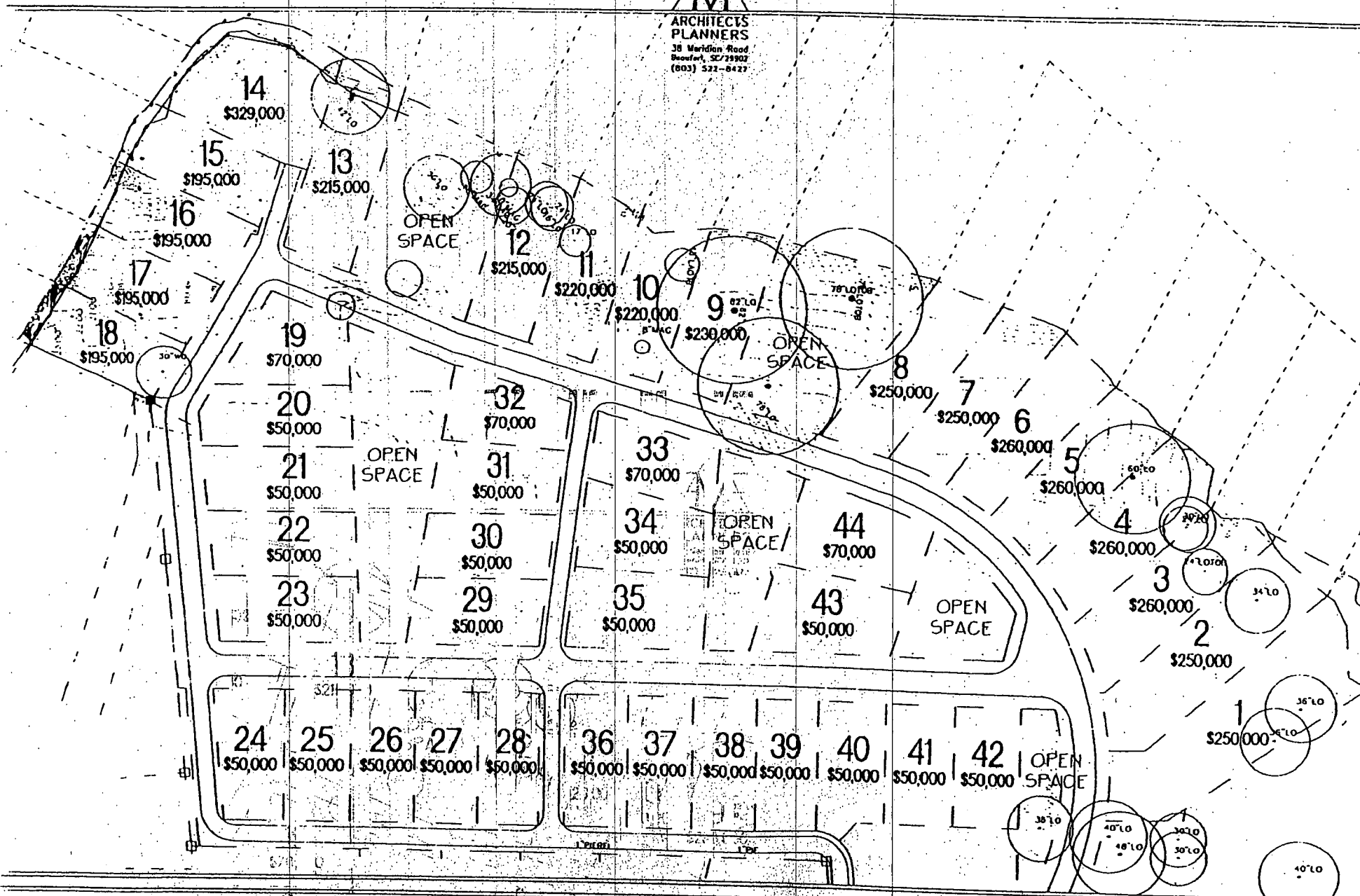


WRIGHT'S POINT
PLANTATION
A MIXED USE COMMUNITY ON BATTERY CREEK



ARCHITECTS
PLANNERS
38 Maridian Road
Beaufort, SC 29902
(803) 522-8427

0136



WRIGHT'S POINT PLANTATION

Scale: 1" = 150' - 0"

Port Royal, South Carolina

McN...

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen Tevis Mullen, Circuit Court Judge

Case No. 04-CP-07-633

Robert L. Cullen, Andrew A. Corriveau,
John Caldwell, Andrea Hucks, Jamie Bellamy,
Michael Pearson, and David Mandell, ...Plaintiffs,

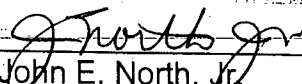
V.

J. Bennet McNeal, B. McNeal Partnership, L.P.,
Anthony R. Porter, and Wright's Point Home
Owners Association, Inc. Respondents/Appellants,

Of whom Robert L. Cullen, Andrew A. Corriveau
and Andrea Hucks are Appellants/Respondents.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Appendix to the Record on
Appeal contains all material proposed to be included by any of the parties and
not any other material.


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