

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-in-Equity

Appellate Case No. 2023-000649

Civil Action No.: 2023-CP-10-00665

Frank Holtham, as Trustee of the Holtham
SC Realty Trust, dated April 12, 2022 Appellant,

v.

Glenn F. Keyes and Glenn Keyes Architects LLC. Respondents.

APPELLANT’S RETURN TO RESPONDENT’S MOTION TO DISMISS

Appellant Frank Holtham, as Trustee of the Holtham SC Realty Trust, dated April 12, 2022 (“Holtham” or “Appellant”) respectfully submits this return to the Motion to Dismiss filed May 8, 2023 on behalf of Respondents Glenn F. Keyes and Glenn Keyes Architects LLC (collectively, “Keyes” or “Respondents”). Holtham would show this Court should deny the motion and allow this appeal to proceed for the reasons set forth below.

PROCEDURAL BACKGROUND

This is a contract interpretation case. In this appeal, Holtham seeks review, *inter alia*, of the lower court’s Order holding the payment term in his contract with Keyes was ambiguous. Holtham commenced this action upon a verified petition for a rule to show cause why Keyes’

mechanic's lien should not be dissolved pursuant to Sea Pines Co. v Kiawah Island Co., 268 S.C. 153, 232 S.E.2d 501 (1977). (Verified Petition for Rule to Show Cause, February 14, 2023, **Attachment 1.**) The circuit court issued the rule and referred the matter to Judge Mikell R. Scarborough for a hearing on March 2, 2023. (Rule to Show Cause, February 9, 2023, **Attachment 2.**) On February 28, 2023, Keyes filed a verified response. (Verified Response to Petition for Rule to Show Cause, February 28, 2023, **Attachment 3.**) The hearing proceeded on March 2, 2023 before Judge Scarborough, who was vested with "all power and authority which a circuit judge witting without a jury would have" in the matter. Rule 53(b), SCRPC. At the hearing, Keyes argued the payment term in the contract was ambiguous because limiting Keyes' earned fee to "10% of the construction costs" as stated in his engagement letter "makes no sense . . . because the nature of what Mr. Keyes does has to be done [sic] before they can start work because they've got to go to the BAR. They've got to get approval. They've got to get a building permit. And Mr. Keyes can't wait until the contractors are ready to work to start doing the plans because you know and I know and Mr. Bruner probably knows, too, that the homeowners would be screaming that the work wasn't progressing because they didn't have any plans to work from and they didn't have any approvals. And so that interpretation really stands the whole process on its head." (Transcript of Hearing, March 2, 2023, page 29, line 16 to page 30, line 4, excerpts included in **Attachment 4.**)

Following the hearing, Judge Scarborough entered an order holding the payment term in the parties' contract ambiguous, holding "there is no question of fact that [Keyes] provided services to [Holtham] in the renovation of work at the historic home," declining to make any further findings, and dismissing the proceedings. (Order, March 29, 2023, **Attachment 5.**) Holtham's motion to reconsider, alter or amend was denied, and this appeal followed. (Motion to

Reconsider, Alter, or Amend, April 7, 2023, **Attachment 6**; Form 4 Order, April 17, 2023, **Attachment 7**.)

On May 8, 2023, Keyes moved to dismiss this appeal on the grounds that Judge Scarborough's order equates to an order denying a motion for summary judgment which is not immediately appealable. Holtham opposes that motion and would show that based on the following grounds and those in his initial brief and designation of matter this appeal should be allowed to proceed for this court to correct errors of law that decided a legal issue regarding contract interpretation and other errors of law regarding factual findings and conclusions of law the trial court committed.

ARGUMENT

Judge Scarborough's order is immediately appealable both as a final order affecting the merits of the case and an order affecting a substantial right. Section 14-3-330 provides in relevant part that appeal may be had of:

(1) Any intermediate judgment, order or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions, brought there by original process or removed there from any inferior court or jurisdiction, and final judgments in such actions; provided, that if no appeal be taken until final judgment is entered the court may upon appeal from such final judgment review any intermediate order or decree necessarily affecting the judgment not before appealed from;

(2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial or (c) strikes out an answer or any part thereof or any pleading in any action[.]

S.C. Code Ann. § 14-3-330(1)–(2). “Involving the merits” means the order “must finally determine some substantial matter forming the whole or a part of some cause of action or defense.

...” Mid-State Distribs. v. Century Imps., 310 S.C. 330, 334, 426 S.E.2d 777, 780 (1993) (quoting Knowles v. Standard Savings & Loan Ass’n, 274 S.C. 58, 59, 261 S.E.2d 49, 49 (1979)). “Any judgment or decree, leaving some further act to be done by the court before the rights of the parties are determined, is interlocutory; *but if it so completely fixes the rights of the parties that the court has nothing further to do in the action, then it is final.*” Olson v. Faculty House of Carolina, Inc., 344 S.C. 194, 213, 544 S.E.2d 38, 48 (Ct. App. 2001) (quoting Adickes v. Allison & Bratton, 21 S.C. 245, 259 (1883)) (emphasis in original).

Under Section 14-3-330, a party may immediately appeal an “order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action” S.C. Code Ann. § 14-3-330(2).

In this contract interpretation case, the lower court entered an order that did more than merely deny Holtham’s request to dissolve Keyes’ mechanic’s lien. The trial court’s order decided an issue of contract ambiguity, denied the relief sought based upon that determination, and concluded the civil action. As part of the proceedings before him, Judge Scarborough was asked to determine first whether the payment term in the parties’ contract was ambiguous. That question is an issue of law for the court, not a factual issue for a jury, and Judge Scarborough ruled on the merits of it. See Ecclesiastes Prod. Ministries v. Outparcel Assocs., LLC, 374 S.C. 483, 500, 649 S.E.2d 494, 503 (Ct. App. 2007) (“Whether a contract’s language is ambiguous is a question of law. . . Once the court decides the language is ambiguous, evidence may be admitted to show the intent of the parties.”) (internal citations omitted); and HK New Plan Exch. Prop. Owner I, LLC v. Coker, 375 S.C. 18, 23, 649 S.E.2d 181, 184 (Ct. App. 2007) (“Generally, the construction of a contract is a question of law for the court. Where a motion for summary judgment presents a

question as to the construction of a written contract, if the language employed by the agreement is plain and unambiguous, the question is one of law. In such a case, summary judgment is proper and a trial unnecessary where the intention of the parties as to the legal effect of the contract may be gathered from the four corners of the instrument itself.”) (internal citations omitted). An affirmative answer would mean Keyes is only entitled to a fee of “10% of the construction costs,” as plainly stated in his engagement letter, and would effectively end his claim for more money. Judge Scarborough answered the question in the negative and held the contract ambiguous. (Order at 2.) That holding was a necessary ruling on an issue of law without which the Court could not have found a genuine issue of material fact. In addition, Judge Scarborough included a finding that suggests there is “no question” the services Keyes provided constitute “labor” as required by the mechanic’s lien statutes. (Order at 1.) Therefore, the trial court’s order was not merely an order denying summary judgment, which the court could have accomplished with a short, Form 4 order. Based on its findings and rulings, the trial court effectively granted Keyes partial summary judgment on the critical issues of contract ambiguity and whether his lien claim was for “labor” as required by S.C. Code Ann. § 29-5-10. These rulings were not made without prejudice, nor was any language included in the order allowing Holtham leave to argue the issues in subsequent litigation. As a result, were Holtham to elect not to appeal Judge Scarborough’s holdings, he would inevitably face arguments in subsequent litigation of collateral estoppel, law of the case, and other similar doctrines. See Shirley's Iron Works, Inc. v. City of Union, 403 S.C. 560, 573, 743 S.E.2d 778, 785 (2013) (“An unappealed ruling is the law of the case and requires affirmance.”); Id. (“This State has a long-standing rule that one judge of the same court cannot overrule another.”); Carolina Renewal, Inc. v. S.C. Dep't of Transp., 385 S.C. 550, 554, 684 S.E.2d 779, 782 (Ct. App. 2009) (“Collateral estoppel, also known as issue preclusion, prevents a party

from relitigating an issue that was decided in a previous action, regardless of whether the claims in the first and subsequent lawsuits are the same . . . The party asserting collateral estoppel must demonstrate that the issue in the present lawsuit was: (1) actually litigated in the prior action; (2) directly determined in the prior action; and (3) necessary to support the prior judgment.”) (internal citations omitted). Therefore, Holtham seeks review of the trial court’s order and asks this Court to correct the errors of law in it.

Keyes cites a number of cases in support of his motion to dismiss this appeal. Only three of those cases are mechanic’s lien cases, and none of them involves a decision like Judge Scarborough’s in which the lower court decided a question of law (*i.e.*, held a contract ambiguous) and made factual findings in an order that ended the civil action. See Ballenger v. Bowen, the 313 S.C. 476, 478 n.1, 443 S.E.2d 379, 380 (1994) (dismissing appeal from denial of motion for summary judgment and providing no indication of the type of case); Sea Pines Co. v. Kiawah Island Co., 268 S.C. 153, 157, 232 S.E.2d 501, 502 (1977) (holding lower court had authority to dissolve mechanic’s lien upon verified petition but reversing order vacating lien where complex factual issues existed relating to payment of a \$3.6 Million contract and where facts were disputed); Kinard v. Richardson, 407 S.C. 247, 263, 754 S.E.2d 888, 897 (Ct. App. 2014) (appeal from final judgment on real property dispute involving dispute over restrictive covenant after trial on merits); Parker Oil Co. v. Smith, 34 N.C. App. 324, 237 S.E.2d 882 (1977) (appeal from final judgment on contract dispute after trial on merits); Good v. Hartford Accident & Indemnity Co., 201 S.C. 32, 21 S.E.2d 209 (1942) (insurance bad faith case in which plaintiff sought damages for certain alleged “unwarranted and high-handed, illegal, wilful, wicked and malicious acts of the defendants pursuant to the plan, scheme and design formed and put into effect by defendants[.]”); Black v. Haile, 270 S.C. 93, 95, 240 S.E.2d 646, 647 (1978) (reversing order dissolving mechanic’s lien

where a genuine issue of fact existed as to the amount due and “[t]he record [did] not permit of any one reasonable inference as to the amount due.”); Cobb v. Maccaro, 310 S.C. 303, 304, 423 S.E.2d 156, 156 (Ct. App. 1992) (dismissing appeal of order holding genuine issues of fact exist about petitioners’ claim that contractor “wilfully and knowingly claimed more than his due.”); Ex parte Johnson, 63 S.C. 205, 208, 41 S.E. 308, 309 (1902) (holding denial of motion to intervene without prejudice was immediately appealable because it “affect[ed] a substantial right”); Shields v. Martin Marietta Corp., 303 S.C. 469, 402 S.E.2d 482 (1991) (dismissing appeal of order restoring cases to active docket).

In each of the mechanic’s lien cases Keyes cites, genuine disputes about factual issues drove the appellate courts’ analysis. None of those cases discusses the initial legal issue a court must decide of whether the parties’ contract is ambiguous. In the seminal case of Sea Pines, the lower court granted a verified petition for a rule to show cause why a contractor’s mechanic’s lien should not be dissolved. On appeal the Supreme Court noted the genuine dispute of fact surrounding the contractor’s right to payment:

As indicated hereinabove, the question of whether Sea Pines has been paid in full is as complex as the contract from which the claim arises. The judge was asked to rule upon a three million, six hundred thousand dollar claim without so much as the complaint or petition upon which the claim is based. We are of the opinion that the nature of the claim and the complexity of the contract are such that the mechanic's lien should not have been vacated on the showing made. The facts are disputed and reasonable men may disagree as to whether Sea Pines has been paid for all of the labor and material furnished and used as contemplated by the mechanic's lien statute. A prima facie case for the filing of the mechanics' lien was made to the court and we think the court erred in vacating and discharging the lien.

Sea Pines, 268 S.C. at 159-60, 232 SE.2d at 504. The opinion contains no indication that contract ambiguity was at issue in that case.

Similarly, the following year in Black, the Supreme Court held “genuine issues of material fact in dispute” in the record did not “permit of any one reasonable inference as to the amount

due.” Accordingly, the lower court “could not have properly concluded that the notice of lien filed did not state ‘a just and true account of the amount due.’ It follows, therefore, that there is no basis for the conclusion that the appellant ‘has willfully and knowingly claimed more than his due.’” Black, 270 S.C. at 95, 240 S.E.2d at 647. That opinion also contains no indication that ambiguity of the parties’ contract was at issue.

The final case, Cobb, did not involve contract ambiguity either. The sole grounds advanced to dissolve a contractor’s lien was that the contractor “wilfully and knowingly claimed more than is his due.” Cobb, 310 S.C. at 304, 423 S.E.2d at 156. The lower court “denied the Maccaros’ motion with leave to renew the issue during later proceedings.” Id. The Maccaros appealed. This Court dismissed the appeal, holding the trial court’s order did not affect a substantive right because it denied the Maccaros’ motion with leave to renew the issue during later proceedings. Furthermore, the Court noted, “Under South Carolina law, a court cannot dissolve a lien if the mechanic makes a prima facie showing for filing the lien or if the amount owed depends upon which of the parties’ allegations are to be believed.” Id. at 305-06, 423 S.E.2d at 157 (citing Sea Pines Co. v. Kiawah Island Co., 268 S.C. 153, 232 S.E.2d 501 (1977); and Black v. Haile, 270 S.C. 93, 240 S.E.2d 646 (1978)).

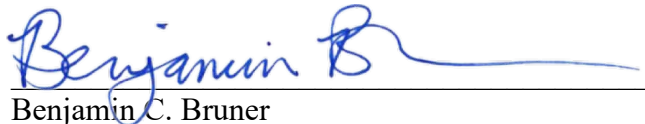
Unlike the Sea Pines, Black, and Cobb, the court in this case first was required to determine an issue of law: whether the parties’ contract is ambiguous. The trial court decided that issue and made other findings without including language in its order allowing Holtham to argue the issue of ambiguity in subsequent proceedings. Therefore, Judge Scarborough’s holding decided the merit of the contract ambiguity issue, determined a substantial right of the parties, and ended the action Holtham commenced pursuant Sea Pines. See Blakely & Copeland v. Frazier, 11 S.C. 122, 135 (1878) (“It may be concluded from the foregoing that whenever a substantial right of the party

to an action material to obtaining a judgment in such action is denied, a right of appeal lies to this court.”). If not now, then when is Holtham permitted to seek appellate review of the trial court’s holdings? Or are those holdings entirely meaningless?

CONCLUSION

For these reasons, Holtham requests that the motion to dismiss be denied and this appeal allowed to proceed. If the appeal is not permitted to proceed, then Holtham respectfully requests clarification that the findings and conclusions in the trial court’s order are without prejudice to his rights to raise the same arguments in subsequent litigation.

BRUNER POWELL WALL & MULLINS, LLC



Benjamin C. Bruner

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Bruner, Powell, Wall & Mullins, LLC

P.O. Box 61110

Columbia, South Carolina 29260

(803) 252-7693

Attorney for Appellants

May 25, 2023

Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Frank Holtham, as Trustee of the)
Holtham SC Realty Trust, dated April 12,)
2022,)

Petitioner,)

v.)

Glenn F. Keyes and Glenn Keyes)
Architects, LLC,)

Respondents.)

**VERIFIED PETITION
FOR RULE TO SHOW CAUSE**

EXHIBIT

1

COMES NOW, the above-named Petitioner, Frank Holtham, as Trustee of the Holtham SC Realty Trust, dated April 12, 2022 ("Petitioner"), by and through its undersigned attorney, who respectfully petition this Court to issue a Rule to Show Cause directing the Respondents Glenn F. Keyes and Glenn Keyes Architects, LLC ("Respondents") to appear and show cause why the Court should not find the Respondent's mechanic's liens invalid and order the return of the bond posted in connection with said lien to Petitioner upon the following grounds:

NATURE OF THE CASE

(1) This matter involves a mechanic's lien that Respondents placed on real property including a home thereon located at 89 Smith Street, Charleston, South Carolina, TMS No.: 457-03-02-077 ("the Home"). Plaintiff was the owner of the Home and subsequently posted a cash bond pursuant to statute to allow the sale of the Home to proceed.

(2) This court has authority under Sea Pines Co. v. Kiawah Island Co., Inc., 268 S.C. 153, 157, 232 S.E.2d 501, 502 (1977), to issue a Rule to Show Cause allowing the property owner

to take action to find a mechanic's lien invalid without waiting for the claimant to decide whether to prosecute a mechanic's lien claim.

(3) Through this Verified Petition, Petitioner seeks a court order directing the Respondents to appear and Show Cause why their mechanic's lien filed against the Claimant's property should not be found invalid as a matter of law; why the cash bond Petitioner posted pursuant to statute should not be returned to Petitioner; and why Petitioner should not be awarded attorneys' fees and costs as the prevailing party pursuant to S.C. Code Ann. §§ 29-5-10, *et seq.*

PARTIES AND JURISDICTION

(4) Petitioner is a citizen of a State other than South Carolina who was the owner of record of the Home. After Respondents filed their mechanic's lien, Petition then paid a cash bond pursuant to S.C. Code Ann. § 29-5-110 to allow the sale of the Home to a third-party to proceed and avoid further loss.

(5) Respondent Glenn F. Keyes ("Keyes") is a citizen of South Carolina and a resident of Charleston County, South Carolina.

(6) Respondent Glenn Keyes Architects, LLC ("the Firm") is a South Carolina limited liability company with its principal place of business in Charleston County, South Carolina.

(7) Keyes is the sole member of the Firm.

(8) The most substantial part of the facts alleged herein occurred in Charleston County, South Carolina.

(9) This dispute arises in connection with Respondents lien on real property located in Charleston County, South Carolina.

(10) Jurisdiction and Venue in this Court are proper.

FACTUAL ALLEGATIONS

(11) Petitioner purchased the Home in the Spring of 2022 with plans to rehabilitate and remodel it ("the Project").

(12) Prior to closing, Plaintiff discussed the Project with Respondents, including a visit on site, to ensure the Project was feasible.

(13) On March 31, 2022, Respondents sent an engagement letter to Petitioner stating the scope of services and the basis upon which Respondents' fee would be calculated. A true and accurate copy of the engagement letter is attached as **Exhibit A**.

(14) The engagement letter included the following with regard to the Respondents' scope of services:

We would propose the following scope of services:

- Measurement and confirmation of the existing conditions
- Photographic documentation of the existing conditions
- Preparation of Design Drawings for your review
- Submittal of plans to the Board of Architectural Review for Conceptual Approval
- Consultation with the contractor to prepare a construction budget
- Preparation of construction drawings required for a Building Permit and Final BAR approval
- Consultation with your contractor throughout construction.
- Review and approval of construction draws.

(15) With regard to the Respondents' fee, the engagement letter provided, "Our fees are based on **10% of the construction costs.**" (emphasis added).

(16) Respondents recommended a specific contractor for the Project.

(17) Petitioner requested a cost estimate for the Project.

(18) On April 1, 2022, Petitioner wrote Respondents,

It was a pleasure meeting you last week as well. Thank you for your scope of services. No problem with the 10% of construction costs. **We need to know the basic estimate of all costs before we begin to give us a rough idea of how much money we need for the project. We do not want to start the project unless we have all funds in place.**

(E-Mail from Holtham to Keyes, April 1, 2022, attached as **Exhibit B.**)

(19) Petitioner closed on the Home on April 11, 2022. A true and accurate copy of the deed is attached as **Exhibit C.**

(20) The contractor began demolition on the Home before any agreement was in place between the contractor and Petitioner.

(21) Petitioner is informed and believes the Respondents knew there was no agreement in place between the contractor and Petitioner.

(22) On July 21, 2022, Petitioner met on site with the contractor to walk through the Home and discuss the Project in person.

(23) At the July 21st meeting, Petitioner told contractor that he did not want the Project exceeding \$1 Million.

(24) On August 11, 2022, the contractor sent its first invoice for demolition. The invoice requested payment for \$41,595.24.

(25) Upon receiving the contractor's invoice, Petitioner inquired about the contractor's calculation of costs.

(26) On August 22, 2022, the contractor sent Petitioner an updated budget totaling \$2,152,792.00.

(27) After receiving the updated budget, which included only allowances for some items, Petitioner expressed concern about the Project doubling in price and requested more detail from the contractor and Respondents.

(28) Petitioner also expressed concern about the contractor's calculation of costs.

(29) On August 21, 2022, Respondents were notified in writing that Petitioner wanted an estimate of the Project cost prior to work proceeding. A true and accurate copy of that e-mail is attached as **Exhibit D**.

(30) All work stopped when Respondents received the August 21, 2022 written notice.

(31) On August 29, 2022, Respondents notified Petitioner by e-mail, "I understand. All work for me and Jim stopped when we received your letter of August 21." A true and accurate copy of that e-mail is attached as **Exhibit E**.

(32) The Respondents intended to send Petitioner their final invoice August but did not once they learned the Project would not be proceeding.

(33) On September 2, 2022, the contractor submitted its final invoice in the amount of \$9,933.10. True and accurate copies of the contractor's invoices are attached as **Exhibit F** and incorporated herein.

(34) The total construction costs the contractor claimed for the Project were \$51,528.34.

(35) Petitioner disputed the accuracy of the cost accounting in those invoices and eventually reached an agreement to resolve the contractor's claim for a total of \$41,595.24.

(36) Petitioner would therefore show the total construction costs on the Project were \$41,595.24.

(37) During the Project, Respondents submitted invoices totaling \$30,000 that Petitioner paid. True and accurate copies of those invoices are attached as **Exhibit G**.

(38) After being advised the Project would not proceed, Respondents demanded payment of \$94,402 in a September 9, 2022 letter. A true and accurate copy of the letter is attached as **Exhibit H**.

(39) When added to the \$30,000 the Petitioner had already paid Respondents, the \$94,402 would result in a total fee to Respondents of \$124,402.

(40) Respondents did not base their demand on 10% of the construction costs.

(41) Respondents did not base their total fee requested on 10% of the construction costs.

(42) Respondents based their demand on their own estimation of the value of the work they performed.

(43) Respondents did not base their demand on contemporaneous records they kept while performing the work for which they sought payment so as to show how much time was spent on each task.

(44) Respondents did not obtain approval from the Board of Architectural Review, provided no stamped plans, did not prepare final plans intended for construction, did not prepare construction drawings required for a Building Permit and Final Board of Architectural Review approval; and otherwise did not provide the services outlined in the Respondents' engagement letter for the Project.

(45) During the Project, Respondents charged the Petitioner between 58% and 72% of the construction costs.

(46) On or about November 14, 2022, Respondents filed a mechanic's lien against the Home in the amount of \$94,402.00. The lien is attached hereto as **Exhibit I**.

(47) When added to the sums the Respondents have been paid already, the total fee Respondents seek for the Project is \$124,402.

(48) The amount the Respondents seek is between 241% and 299% of the construction costs.

(49) Petitioner has requested records from the Respondents detailing the work performed, time expended per task, and other details which professionals typically maintain in the course and scope of their business.

(50) Respondents have not provided contemporaneous timekeeping or task records supporting their work because they kept no contemporaneous records of the tasks performed and time spent per task.

(51) On November 29, 2022, Petitioner posted a cash bond to prevent the Respondents' lien from spoiling the sale of the Home. A true and accurate copy of the bond is attached as **Exhibit J.**

(52) Respondents have taken no action to foreclose on their lien.

(53) Petitioner would show the mechanic's lien should be found invalid for the following reasons:

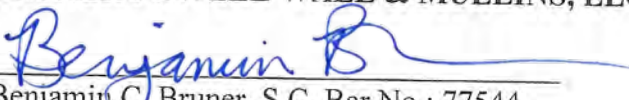
- i. Respondents were paid in full for all labor performed or furnished in the erection, alteration, or repair of the Home;
- ii. Respondents have no right to a mechanic's lien for sums they claim which are not for labor performed or furnished and actually used in the erection, alteration, or repair of the Home;
- iii. Respondents have failed to commence suit within six months of the date they ceased labor on or furnish labor or material for the Home; and
- iv. When filing the lien Respondents willfully and knowingly claimed more than their due knowing the Home was being sold and thereby directly, naturally and foreseeably caused Petitioner to post a cash bond he should have not been required to post to allow the sale to proceed.

WHEREFORE, Petitioner prays for the following relief:

- I. That pursuant to Sea Pines the Court issue a Rule to Show Cause directing the Respondents to appear and show the mechanic's lien should not be found invalid and set this matter for a hearing to inquire into the matters hereinabove alleged; and

- II. That the Court inquire into these matters, find Respondent's lien invalid, order the release of the cash bond Petitioner posted and those funds remitted to Petitioner, and
- III. That the Court award attorney's fees and costs to Petitioner as the prevailing party pursuant to S.C. Code Ann. §§ 29-5-10, *et seq.*; and
- IV. That the Court provide such other relief as it deems just and proper.

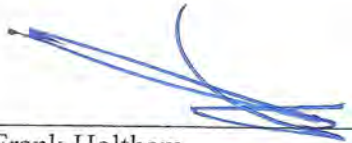
BRUNER POWELL WALL & MULLINS, LLC


Benjamin C. Bruner, S.C. Bar No.: 77544
Post Office Box 61110 (29260)
1735 St. Julian Place, Suite 200 (29204)
Columbia, South Carolina
803-252-7693
bbruner@brunerpowell.com
Attorney for the Petitioner

February 9, 2023
Columbia, South Carolina

VERIFICATION

PERSONALLY appeared before me, Frank Holtham, who first being duly sworn, deposes and says that he has read the foregoing Verified Petition and knows the contents thereof and to be true of his own personal knowledge except to matters alleged therein on information and belief, and as to these, he believes it to be true.



Frank Holtham

SWORN, ACKNOWLEDGED, AND SUBSCRIBED
BEFORE ME THIS 9th DAY OF FEBRUARY, 2023



Notary Public for New Jersey (L.S.)
Notary Printed Name: Sara Dahnoun
My Commission Expires: February 18, 2027



Sara Dahnoun
NOTARY PUBLIC
State of New Jersey
ID # 50186186
My Commission Expires
February 18, 2027

Glenn Keyes Architects

March 31, 2022

Frank Holtham Jr.
89 Smith Street
Charleston, SC 29401



Dear Frank and Shelley

It was a pleasure to meet you both and to get a tour of your house. I look forward to working with you on the rehabilitation of this very interesting house. The house has been through many modifications, but the bones of the house are very good. I am confident that we can make this a great place for you to live.

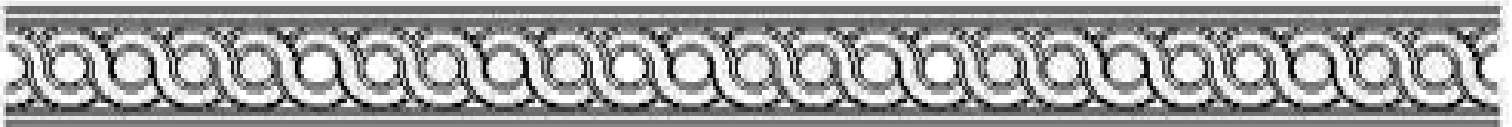
We would propose the following scope of services:

- Measurement and confirmation of the existing conditions
- Photographic documentation of the existing conditions
- Preparation of Design Drawings for your review
- Submittal of plans to the Board of Architectural Review for Conceptual Approval
- Consultation with the contractor to prepare a construction budget
- Preparation of construction drawings required for a Building Permit and Final BAR approval
- Consultation with your contractor throughout construction.
- Review and approval of construction draws.

Our fees are based on 10% of the construction costs. Please let me know if you need any additional information. If this is acceptable to you, we will schedule the work. We can develop a demolition plan quickly which would allow Jim to begin work while we work through the design details with you. Jim and I have worked together on many projects over the last 30 years. We make a good team that makes things work very smoothly. Please let me know if I can provide you with any additional information.

Best Regards,

Glenn F. Keyes FAIA



----- Forwarded message -----

From: **Frank Holtham** <frankh@toyotaofhackensack.com>

Date: Fri, Apr 1, 2022 at 1:45 PM

Subject: RE: 89 Smith Street

To: Glenn Keyes <gk@glennkeyesarchitects.com>

Cc: Shelly <sfuller7@gmail.com>



Hi Glenn,

It was a pleasure meeting you last week as well. Thank you for your scope of services. No problem with the 10% of construction costs. We need to know the basic estimate of all costs before we begin to give us a rough idea of how much money we need for the project. We do not want to start the project unless we have all funds in place. Shelley and I are excited to work with you and Jim. Thank you for your understanding.

All the best,

Frank and Shelley

From: Glenn Keyes <gk@glennkeyesarchitects.com>

Sent: Friday, April 1, 2022 1:02 PM

To: Frank Holtham <frankh@toyotaofhackensack.com>

Cc: Glenn F Keyes <gk@glennkeyesarchitects.com>

Subject: 89 Smith Street

RETURN TO:
Krawcheck & Davidson
9 State Street
Charleston, SC 29401
22/10



PGS:
5



STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, THAT, WE, **WILLIAM W. STRUTHERS**
and KATHLEEN M. STRUTHERS (hereinafter, **GRANTORS**) of the State aforesaid, for and
in consideration of the sum of **ONE MILLION SIX HUNDRED TWENTY-FIVE**
THOUSAND AND NO/100 Dollars (\$1,625,000.00) to us in hand paid at and before the sealing
of these presents by **FRANK HOLTHAM, AS TRUSTEE OF THE HOLTHAM SC REALTY**
TRUST, DATED APRIL 12, 2022, in the State aforesaid, County 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 **FRANK HOLTHAM, AS TRUSTEE OF THE**
HOLTHAM SC REALTY TRUST, DATED APRIL 12, 2022, (hereinafter, **GRANTEE**), its
successors and assigns forever, the following described property, to-wit:

ALL that lot, piece or parcel of land with the buildings and improvements thereon, situate, lying and being in
the City of Charleston, in the State aforesaid, located at 89 Smith Street; more particularly shown as Lot 77 on
a plat entitled, "Resurvey and Property Line Adjustments for Harleston Green, City of Charleston, Charleston
County, South Carolina," prepared by Forsberg Engineering & Surveying Inc, dated July 12, 1988 and recorded
in Plat Book BT, at Page 193.

Being the same parcel conveyed to William W. Struthers and Kathleen M Struthers from Ellen C. Reilly, by
virtue of a deed dated 11/21/1996, recorded 12/13/1996, in Deed Book S277, Page 009, County of Charleston,
State of South Carolina.

TMS No.: 457-03-02-077

Grantee's Address: 278 River Street, Hackensack NJ 07601

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

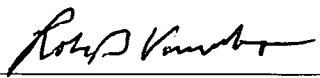
TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said **GRANTEE**, its successors and assigns forever.

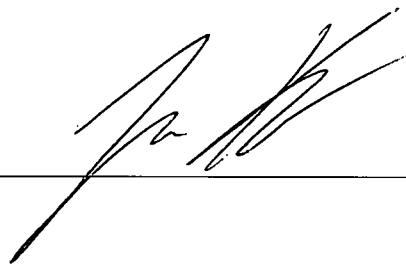
AND WE do hereby bind ourselves and our heirs and assigns, to warrant and forever defend, all and singular, the said Premises unto the said **GRANTEE**, its successors and assigns, against ourselves and our heirs, and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

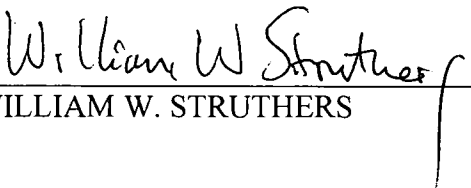
WITNESS our Hands and Seals this 14TH day of April, in the year of our Lord two thousand and twenty-two and in the two hundred and forty-fifth year of the Sovereignty and Independence of the United States of America.

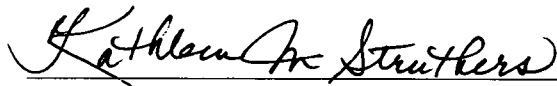
SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF






WILLIAM W. STRUTHERS

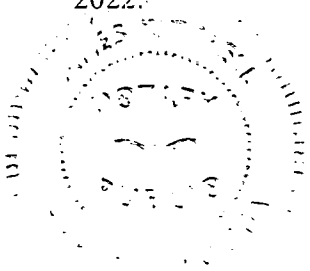

KATHLEEN M. STRUTHERS

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

BEFORE ME, the undersigned, personally appeared William W. Struthers, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same and as his act and deed, for the purposes and consideration expressed therein and in the capacity stated therein.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 14 DAY OF APRIL
 2022.




 Notary Public for South Carolina
 My Comm Exp: 6/26/28

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

BEFORE ME, the undersigned, personally appeared Kathleen M. Struthers, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same and as her act and deed, for the purposes and consideration expressed therein and in the capacity stated therein.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 14th DAY OF APRIL
 2022.




 Notary Public for South Carolina
 My Comm Exp: 6/26/28

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.

2 The property being transferred is located at 89 Smith Street, Charleston, SC County Tax Map Number 457-03-02-077 was transferred by William W. Struthers and Kathleen M. Struthers to Frank Holtham, as Trustee of the Holtham SC Realty Trust, dated April 12, 2022 transferred on April 14, 2022.

3. Check one of the following: The deed is

- (a) ☒ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
(b) ☐ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
(c) ☐ exempt from the deed recording fee because (See Information section of affidavit): _____
(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes ☐ or No ☐

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):

- (a) The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$ 1,625,000.00.
(b) The fee is computed on the fair market value of the realty which is _____.
(c) The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes ☐ or No ☒ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. (This includes, pursuant to Code Section 12-59-140(E)(6), any lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer.) If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____.

6. The deed recording fee is computed as follows:

- (a) Place the amount listed in item 4 above here: \$1,625,000.00.
(b) Place the amount listed in item 5 above here: _____
(If no amount is listed, place zero here.)
(c) Subtract Line 6(b) from Line 6(a) and place result here: \$1,625,000.00.

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is:
\$ 6,012.50.

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney.

9. ☐ DEED OF DISTRIBUTION-ATTORNEY'S AFFIDAVIT: Estate of _____ Deceased CASE NUMBER _____. Personally appeared before me the undersigned attorney who, being duly sworn, certified that (s)he is licensed to practice law in the State of South Carolina; that (s)he has prepared the Deed of Distribution for the Personal Representative in the Estate of _____ Deceased and that the grantee(s) therein are correct and conform to the estate file for the above named decedent.

10. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Responsible Person Connected with the Transaction

Print or Type Name Here

SWORN to and subscribed before me this

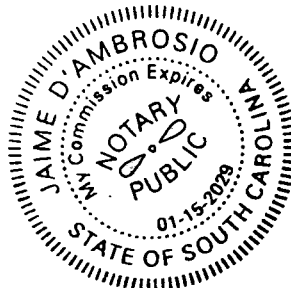
18 day of April 2022

Notary Public for SC

My Commission Expires: 11/15/2029

Notary (L.S.): Jaime D'Ambrosio

Notary (printed name): Jaime D'Ambrosio



RECORDER'S PAGE

NOTE: This page **MUST** remain
with the original document



Filed By:

KRAWCHECK & DAVIDSON

9 STATE STREET

CHARLESTON SC 29401 (BOX)

RECORDED

Date: April 19, 2022

Time: 1:23:28 PM

Book

1101

Page

557

DocType

Deed

Michael Miller, Register
Charleston County, SC

MAKER:

STRUTHERS WILLIAM W AL

RECIPIENT:

HOLTHAM FRANK TR AL

Note:

of Pages: 5

Recording Fee \$ 15.00

State Fee \$ 4,225.00

County Fee \$ 1,787.50

Extra Pages \$ -

Postage \$ -

Chattel \$ -

TOTAL \$ 6,027.50

Original Book:

Original Page:

AUDITOR STAMP HERE

RECEIVED From ROD

Jun 23, 2022

Peter J. Tecklenburg

Charleston County Auditor

PID VERIFIED BY ASSESSOR

REP JBA

DATE 06/24/2022

DRAWER Drawer 2
CLERK SLW



1101

Book



557

Page



04/19/2022

Recorded Date



5

Pgs



Original Book



Original Page



D

Doc Type



13:23:28

Recorded Time

----- Forwarded message -----

From: **Frank Holtham** <frankh@toyotaofhackensack.com>

Date: Sun, Aug 21, 2022 at 3:56 PM

Subject: 89 Smith Street

To: Glenn Keyes <gk@glennkeyesarchitects.com>, rhodeinc@knolgy.net <rhodeinc@knolgy.net>

Cc: Shelley Fuller <sfuller7@gmail.com>



Hello gentlemen,

To say the least, frustrated doesn't even express how I'm feeling. We arrive in town Monday night and we must have a talk. We have all this work going on in our house that we did not approve. We were never provided a demolition plan as Glenn states in his scope of services. We have said from day one we must have an estimate of all costs that we agree upon before we begin work. We have been asking this since April and still do not have any numbers. Jim just of last week absolutely promised we would have rough numbers by this past Friday and here we are on Sunday with nothing. Again, we must have numbers to proceed or we are going to move forward with another contractor that can provide us with this information as this is not that complicated. Are you available Tuesday at 11:00 AM to meet at the house?

Thank you,

Frank and Shelley

----- Forwarded message -----

From: **Glenn Keyes** <gk@glennkeyesarchitects.com>
Date: Mon, Aug 29, 2022 at 4:24 PM
Subject: Re: Plans for 89 Smith St
To: Shelley Fuller <sfuller7@gmail.com>
Cc: Frank Holtham <frankh@toyotaofhackensack.com>



I understand. All work for me and Jim stopped when we received your letter of August 21

Glenn F. Keyes. FAIA
Glenn Keyes Architects. LLC
843-722-4100

On Aug 29, 2022, at 4:08 PM, Shelley Fuller <sfuller7@gmail.com> wrote:

Hi Glenn,

If it's not clear, please cease and desist all work in the house. As of today we still do not have a signed contract.

Thank you,
Shelley & Frank

On Mon, Aug 29, 2022 at 3:44 PM Shelley Fuller <sfuller7@gmail.com> wrote:

Hi Glenn,

Thank you for your time this afternoon on the phone. I feel confident we can work together to move forward with the best plan to sell the house. Can you please send Kris all your plans/drawings to the house, thank you.

Warmest,
Shelley & Frank

RHODE CONSTRUCTION CO., INC.

General Contractors

September 9, 2022

Mr. and Mrs. Holtham
c/o
Glenn Keyes Architects LLC
12 Vanderhorst Street
Charleston, SC. 29403



Re: 89 Smith

Mr. and Mrs. Holtham:

I am responding to your email of August 18, 2022. As requested, I am providing you with all the invoices from the subcontractors, suppliers, materials, labor, permits and fees. Please see those invoices attached. You will see that in B & F Construction's invoices, other jobs have been included on the invoice, however, you are charged only for the work done on your house. There has never been a charge for any crewmember that did not work due to Covid or any other sickness. They get paid hourly only when they work and do not have a sick pay benefit.

The 35% labor charge is standard for the industry and was included as an attachment in the "Sample Cost Plus Pay App, Worksheet and Job Costs Detail" sent in a 6/28/22 email. This 35% is shown on the Worksheet to show how we calculate costs.

Sadly, since it is my understanding that plans have changed about the renovation and you have decided to sell, there will be a CONTRACTOR'S FINAL RELEASE AND WAIVER OF LIEN forthcoming that will release any future obligations from Rhode Construction Co., Inc. The attached invoices #446-1 and #446-2 are our final invoices.

If you have any questions, please do not hesitate to call.

Thanks,

A handwritten signature in black ink, appearing to read "Jim Rhode".

Jim Rhode

Statement

Date
9/2/22

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

To:

Frank & Shelley Holtham
89 Smith St.
Charleston, SC 29401

						Amount Due	Amount Enc.
						\$51,528.34	
Date	Transaction					Amount	Balance
08/10/22	Balance forward						41,595.24
09/02/22	INV #446-2.					9,933.10	51,528.34
	CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	Amount Due	
	9,933.10	41,595.24	0.00	0.00	0.00	\$51,528.34	

RHODE CONSTRUCTION CO., INC.
General Contractors

INVOICE # 446-1

August 17, 2022

Frank Holtham Toyota Hackensack

Re: 89 Smith

Construction Draw	\$41,595.24
-------------------	-------------

Total Due	\$41,595.24
------------------	--------------------

Thank you for your business !

INVOICE WORKSHEET
July 10, 2022 to August 10, 2022

JOB 89 Smith St.

JOB #446

INVOICE # 1

INV DATE 8/17/2022

TOTAL COMPLETED	\$	41,595.24
PREVIOUSLY PAID	\$	-
BALANCE DUE	\$	41,595.24

MONTHLY SUMMARY

LABOR	\$3,102.00
-------	------------

TAX & INSURANCE 35% ON LABOR	\$1,085.70
------------------------------	------------

MATERIALS

SUBCONTRACTORS	\$30,475.00
----------------	-------------

SUBTOTAL	\$34,662.70
----------	-------------

PROFIT & OVERHEAD 20%	\$ 6,932.54
-----------------------	-------------

TOTAL	\$41,595.24
-------	-------------

1:18 PM
08/10/22
Accrual Basis

Rhode Construction Co., Inc.
89 Smith
July 10 through August 10, 2022

Source Name	Date	Memo	Amount
Service			
Div 01- Gen Req			
Gen Req Labor			
William M Peritte	07/15/22		-638.00
William M Peritte	07/22/22		-704.00
William M Peritte	07/29/22		-880.00
William M Peritte	08/05/22		-880.00
Total Gen Req Labor			-3,102.00
Gen Req Subs			
B & F Const	07/15/22	Inv # 1884	-4,170.00
JR's Handyman Service	07/15/22		-6,825.00
B & F Const	07/22/22	Inv # 1885	-3,390.00
JR's Handyman Service	07/22/22		-2,520.00
B & F Const	07/29/22	Inv # 1886	-3,045.00
George Huggins	07/29/22		-1,625.00
JR's Handyman Service	08/03/22	Inv # 1438	-2,800.00
JR's Handyman Service	08/05/22	Inv # 1439	-2,800.00
B & F Const	08/05/22	Inv # 1887	-3,300.00
Total Gen Req Subs			-30,475.00
Total Div 01- Gen Req			-33,577.00
Total Service			-33,577.00
TOTAL			-33,577.00
Tax & Insurance on Labor 35%			<u>\$1,085.70</u>
Subtotal			\$34,662.70
Overhead & Profit 20%			<u>\$6,932.54</u>
Total			\$41,595.24

RHODE CONSTRUCTION CO., INC.

B & F Construction

7/15/22

24185

4,170.00

Wells Fargo

Inv # 1884

4,170.00

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR. IF UNKNOWN, CALL 800-523-2422

CC55S40010000 B115F026299

CB447F STKDK57 06/20/2021 19:52 -1

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

B & F Construction LLC.

To: RHode Construction

Date: 7/14/22

Invoice #1884

<u>89 Smith</u>	<u>7/8</u> F	<u>7/11</u> M	<u>7/12</u> T	<u>7/13</u> W	<u>7/14</u> Th	
Cory	8	8	8	8	8	40
Kevin	~~8~~	8	8	8	8	40
Justin	6	6	6	~~6.5~~	6.5	31
Glenn	8	8	~~4~~	8	0	28
Hrs = 139						
x 30						
= \$4170 ⁰⁰						

DATE REC'D 7-14-22

JOB 89 Smith

CODE 446

APP. BY JR \$4170⁰⁰

Total = \$4170⁰⁰

RHODE CONSTRUCTION CO., INC.

JR's Handyman Service

7/15/22

24184

6,825.00
980.00

Wells Fargo

7,805.00

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR, IF UNKNOWN, CALL 800-523-2422

CC65540010000 B115F026299

08447F STK007 08/20/2021 19:52:15

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

Jr's Handyman

109 East 2nd South st
Summerville, SC 29483
843-826-7531
jrshandyman3@gmail.com



INVOICE

BILL TO
jim rhodes

INVOICE # 1436
DATE 07/15/2022
DUE DATE 07/15/2022

ACTIVITY	QTY	RATE	AMOUNT
Hours			
6-24-22 through 6-30-22 80 hrs	1	1,820.00	2,800.00
7-01-22 through 7-07-22 63 hrs	1	2,205.00	2,205.00
7-08-22 through 7-15-22 80 hrs	1	2,800.00	2,800.00

BALANCE DUE

\$7,805.00

DATE REC'D 7-15-22
JOB 89 Smith
CODE 446
APP. BY [Signature]

\$ 6825⁰⁰

DATE REC'D 7-15-22
JOB 25 E Battery
CODE 447
APP. BY [Signature]

\$ 980⁰⁰

JR	F	M	T	W	TH	F	S
25	8	6					
26	8	6					
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[illegible][illegible]

RHODE CONSTRUCTION CO., INC.

B & F Construction

7/22/22

24193

3,390.00

Wells Fargo

Inv # 1885

3,390.00

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR, IF UNKNOWN, CALL 800-523-2422

CC6SS40010000 B11SF026299

03447F STKDK07 08/20/2021 19 52 -9-

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

B&F Construction LLC

To: Rhode Construction

Date: 7/21/22

Invoice # 1885

	7/15 F	7/18 M	7/19 T	7/20 W	7/21 Th	
89 Smith						
Cory	8	8	8	0	8	32
Kevin	0	8	8	8	8	32
Justin	6	6	7	7	7	33
Glenn	0	8	8	8	0	16
Hrs = 113						
x 30						
= \$3390 ⁰⁰						

DATE REC'D 7-21-22

JOB 89 Smith

CODE 446

APP. BY [Signature]

Total = \$3390⁰⁰

JR's Handyman Service

7/22/22

24192

2,520.00

Wells Fargo

2,520.00

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR, IF UNKNOWN, CALL 800-523-2422

CC6SS40010000 B11SF026299

C9447F STKDK07 08/20/2021 19:52 -10

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

Jr's Handyman
109 East 2nd South st
Summerville, SC 29483
843-826-7531
jrshandyman3@gmail.com



INVOICE

BILL TO
jim rhodes

INVOICE # 1437
DATE 07/22/2022
DUE DATE 07/22/2022

ACTIVITY	QTY	RATE	AMOUNT
Hours			
7-15-22 through 7-21-22 72 hrs	1	2,520.00	2,520.00

BALANCE DUE

\$2,520.00

DATE REC'D 7-22-22

JOB 89 Smith

CODE 446

APP BY [Signature]

\$2520⁰⁰

JP	15	19	19	21	21	July
89 Smith	F	M	T	W	T	
Kenny	8	8	8	8	8	40
Jensen	8	0	8	8	8	32
5		72	4	35	=	\$2520

RHODE CONSTRUCTION CO., INC.

B & F Construction

7/29/22

24200

3,045.00

240.00

Wells Fargo

Inv # 1886

3,285.00

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR, IF UNKNOWN, CALL 800-523-2422

CC6SS40010000 B11SF026299

09447F STKDK07 08/20/2021 19:52 -502

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

B4F Construction LLC

To: R Hode Construction

Date: 7/29/22

Invoice #1886

	7/22	7/25	7/26	7/27	7/28	
~~#89 Smith~~	F	M	T	W	Th	
Cory	8	8	8	8	8	32
Kevin	4	0	0	8	8	20
Justin	7	7	7	7	6	34
Glenn			8	8	7.5	15.5 = 10.5 hrs

X 30 = \$3045⁰⁰

~~#29 Legare~~
Cory
Kevin
Justin
Glenn

8 hrs
X 30
= \$240⁰⁰

DATE REC'D 7-29-22

JOB 89 Smith

CODE 446

APP. BY [Signature] \$3045⁰⁰

DATE REC'D 7-29-22

JOB 29 Legare

CODE 438

APP. BY [Signature] \$240⁰⁰

Total = \$3285⁰⁰

RHODE CONSTRUCTION CO., INC.

George Huggins

7/29/22

24198

1,625.00

Wells Fargo

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR, IF UNKNOWN, CALL 800-523-2422

CC6SS40010000 B11SF026299

09447F STKDR07 08/20/2021 19:52 .4.

1,625.00

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

060699

Hue Goin's Hauling and Cleaning
(843) 709-6852

CUSTOMER'S ORDER NO.	DEPARTMENT	DATE
		July 2022
NAME Rhode Construction		
ADDRESS		
CITY, STATE, ZIP		

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE. RETD.	PAID OUT
QUANTITY	DESCRIPTION					PRICE
1	7/18	89 Smith St.				\$325.00
2		Concrete and sheetrock				\$325.00
3	7/19	89 Smith St.				\$325.00
4		Concrete and sheetrock				\$325.00
5	7/20	89 Smith St.				\$325.00
6		Concrete and sheetrock				\$325.00
7	7/25	89 Smith St.				\$325.00
8		Concrete and sheetrock				\$325.00
9	7/29	89 Smith St.				\$325.00
10		Concrete and sheetrock				\$325.00
11						
12						
13						
14		Landfill went up				
15						
16						
17						
18						
RECEIVED BY						\$1625.00

adams RDC-805

KEEP THIS SLIP FOR REFERENCE

01-11

DATE REC'D 7-28-22

JOB 89 Smith

CODE 446

APP. BY [Signature] \$1625.00

RHODE CONSTRUCTION CO., INC.

JR's Handyman Service

8/3/22

24176

2,800.00

Wells Fargo

Inv # 1438

2,800.00

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR, IF UNKNOWN, CALL 800-523-2422

CC6SS40010000 B11SF026299

CB447F STKDK07 08/20/2021 19:52 -26-

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

Jr's Handyman
109 East 2nd South st
Summerville, SC 29483
843-826-7531
jrshandyman3@gmail.com



INVOICE

BILL TO
jim rhodes

INVOICE # 1438
DATE 08/02/2022
DUE DATE 08/02/2022

ACTIVITY	QTY	RATE	AMOUNT
Hours 7-22-22 through 7-28-22 80 hrs	1	2,800.00	2,800.00

BALANCE DUE **\$2,800.00**

DATE REC'D 8-2-22
JOB 89 Smith
CODE 446
APP. BY [Signature] \$2800⁰⁰

89 Smith

PLEASE

$$80 \times 35 = 2800$$

JR's Handyman Service

8/5/22

24212

2,800.00

Wells Fargo

Inv # 1439

2,800.00

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR, IF UNKNOWN, CALL 800-523-2422

CC65540010000 811SF026299

09447F STDK07 08/20/2021 19:52 -49

ELECTRONICALLY FILED - 2023 Feb 09 4:15 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

Jr's Handyman
109 East 2nd South st
Summerville, SC 29483
843-826-7531
jrshandyman3@gmail.com



INVOICE

BILL TO
jim rhodes

INVOICE # 1439
DATE 08/04/2022
DUE DATE 08/04/2022

ACTIVITY	QTY	RATE	AMOUNT
Hours Pay week of 7-29-22 through 8-4-22 total hrs of 80	1	2,800.00	2,800.00

BALANCE DUE

\$2,800.00

DATE REC'D 8-4-22
JOB 89 Smith
CODE 446
APP. BY JR \$2800⁰⁰

JR	29	1	2	3	4	
89 Smith	F	M	T	W	T	
Kenny	8	8	8	8	8	40
JENSE	8	8	8	8	8	40
		80 X 35 = \$2,800				

B & F Construction

8/5/22

24211

3,300.00

Wells Fargo

Inv # 1887

3,300.00

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR, IF UNKNOWN, CALL 800-523-2422

CC6SS40010000 B11SF026299

09447F STNDP07 08/20/2021 19:52 -49

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

BAT Construction LLC,

Date: 8/4/22

To: RHode Construction

Invoice # 1887

89 Smith	7/29	8/1	8/2	8/3	8/4	
	F	M	T	W	Th	
Cory	8	0	6	8	8	30
Kevin	0	8	8	8	0	24
Justin	7	~~7~~	6	6	6	32
Glenn	8	0	8	8	0	24

Hrs = 110
x 30

= \$3,300⁰⁰

DATE REC'D 8-4-22

JOB 89 Smith

CODE 446

APP. BY [Signature] \$ 3300.⁰⁰

Total = \$3,300⁰⁰

RHODE CONSTRUCTION CO., INC.
General Contractors

INVOICE # 446-2

September 2, 2022

Frank Holtham
Toyota of Hackensack

Re: 89 Smith

Construction Draw	\$9,933.10
-------------------	------------

Total Due	\$9,933.10
------------------	-------------------

Thank you for your business!

INVOICE WORKSHEET

August 11, 2022 to August 31, 2022

JOB 89 Smith St.

JOB #446

INVOICE # 2

INV DATE 9/2/2022

TOTAL COMPLETED	\$	51,528.34
PREVIOUSLY PAID	\$	-
BALANCE DUE	\$	9,933.10

MONTHLY SUMMARY

LABOR	\$814.00
TAX & INSURANCE 35% ON LABOR	\$285.00
MATERIALS	\$698.58
SUBCONTRACTORS	\$6,480.00

SUBTOTAL	\$8,277.58
----------	------------

PROFIT & OVERHEAD 20%	\$ 1,655.52
-----------------------	-------------

TOTAL	\$9,933.10
-------	------------

9:43 AM
09/02/22
Accrual Basis

Rhode Construction Co., Inc.
89 Smith
August 11 - 31, 2022

Source Name	Date	Memo	Amount
Service			
Div 01- Gen Req			
Gen Req Labor			
William M Perritte	08/12/22		-726.00
William M Perritte	08/26/22		-88.00
Total Gen Req Labor			-814.00
Gen Req Material			
Southern Lumber	08/31/22	Inv # 584757	-698.58
Total Gen Req Material			-698.58
Gen Req Subs			
B & F Const	08/12/22	Inv # 1891	-2,760.00
JR's Handyman Service	08/12/22	Inv # 1442	-525.00
B & F Const	08/19/22	Inv # 1892	-2,805.00
JR's Handyman Service	08/26/22	Inv # 1450	-140.00
Geno Kollar Locksmith	08/31/22		-250.00
Total Gen Req Subs			-6,480.00
Total Div 01- Gen Req			-7,992.58
Total Service			-7,992.58
TOTAL			-7,992.58

Tax & Insurance on Labor 35%	<u>\$285.00</u>
Subtotal	\$8,277.58
Overhead & Profit 20%	<u>\$1,655.52</u>
Total	\$9,933.10

RHODE

JCTION CO. INC.

B & F Construction

8/12/22

2421

1,005.00

2,760.00

Wells Fargo

3,765.00

SF5001H0

 Safeguard

REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR IF UNKNOWN CALL 800.523.2622

0065540010000 B11SF026299



ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

B+F Construction LLC

To: Rhode Construction

Date: 8/11/22

Invoice # 1891

89 Smith

	8/5	8/6	8/7	8/10	8/11	
	M	T	W	Th	F	
Cory	8	8	8	8	8	40
Justin	7	6.5	6	6	6	31.5
Glenn	8	0	2	7.5	3	20.5

Hrs = 92 x 30 =

\$2760⁰⁰

29 Legare

29 Legare

Glenn	0	0	4.5	0	5	9.5
Kenia	8	8	0	0	8	24

Hrs = 33.5 x 30 =

\$1005⁰⁰

Total = \$3765⁰⁰

DATE REC'D 8-11-22

JOB 446 89 Smith

CODE 446

APP BY JK \$2760⁰⁰

DATE REC'D 8-11-22

JOB 29 Legare

CODE 438

APP BY JK \$1005⁰⁰

RHODE CONSTRUCTION CO., INC.

JR's Handyman Service

8/12/22

24220

525.00
2,240.00

Wells Fargo

2,765.00

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR, IF UNKNOWN, CALL 800-523-2422

CC85S40010000 B11SF026299

CS447F STKDK07 08/20/2021 19:52 -482-

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CPI1000665

Jr's Handyman
109 East 2nd South st
Summerville, SC 29483
843-826-7531
jrshandyman3@gmail.com



INVOICE

BILL TO
jim rhodes

INVOICE # 1442
DATE 08/16/2022
DUE DATE 08/16/2022

ACTIVITY	QTY	RATE	AMOUNT
Hours Pay week of Aug 5th - Aug 11th total hours of 80	1	2,800.00	2,800.00

BALANCE DUE

~~\$2,800.00~~

79

79 hrs x 35
\$2,765

446 89 Smith \$ 525

448 106 Line \$ 2240

DATE REC'D 8-16-22

J.B. 89 Smith

CODE 446

APP. BY je \$525⁰⁰

DATE REC'D 8-16-22

JOB 106 Line

CODE 448

APP. BY je \$2240⁰⁰

Aug

5	-	11
---	---	----

F

M

T

W

I

Smith

Кенгу

၁၃

$$15 \times 35 =$$
June

7

525

104 line
church

Кенгу

8

8

8

8

June

8

8

8

70

64	x	35
----	---	----

2240

B & F Construction

8/19/22

24229

420.00
2,805.00

Wells Fargo

Inv # 1892

3,225.00

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR. IF UNKNOWN, CALL 800-523-2422

CC6SS40010000 B11SF026295

034477 STRDK07 08 10 2021 19 52 -47

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

B & F Construction LLC,

To: Rhode Construction

Date: 8/20/22

Invoice #1892

	8/12	8/15	8/16	8/17	8/18	
	F	M	T	W	Th	
89 Smith	8	8	8	8	8	32
Cory	8	8	8	8	8	8
Kevin	0	0	0	0	8	8
Justin	6.5	0	6	6.5	6.5	25.5
Glenn	8	8	8	8	4	28

Hrs = $93.5 \times 30 = \$2805$

29 Legare

Kevin

Hrs = $14 \times 30 = \$420$

DATE REC'D 8-20-22

JOB 89 Smith

CODE 446

APP. BY [Signature]

\$2805⁰⁰

Total = \$3225⁰⁰

DATE REC'D 8-20-22

JOB 29 Legare

CODE 438

APP. BY [Signature]

\$420⁰⁰

JR's Handyman Service

8/26/22

24231

2,450.00
140.00
210.00

Wells Fargo

2,800.00

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR, IF UNKNOWN, CALL 800-523-2422

CC6SS40010000 811SF026299

09447F STDN07 08/20/2021 10:52:47

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

Jr's Handyman
109 East 2nd South st
Summerville, SC 29483
843-826-7531
jrshandyman3@gmail.com



INVOICE

BILL TO
jim rhodes

INVOICE # 1450
DATE 08/26/2022
DUE DATE 08/26/2022

ACTIVITY	QTY	RATE	AMOUNT
Hours Pay week of 8-19-22 through 8-25-22	1	2,730.00	2,730.00

80 hrs X \$35

BALANCE DUE

~~\$2,730.00~~

2800

438 29 Legare \$2450

446 89 Smith \$ 140

448 106 Fine \$ 210

DATE REC'D 8-26-22

JOB 29 Legare

CODE 438

APP. BY JR \$2450⁰⁰

DATE REC'D 8-26-22

JOB 89 Smith

CODE 446

APP. BY JR \$140⁰⁰

DATE REC'D 8-26-22

JOB 106 Fine

CODE 448

APP. BY JR \$210⁰⁰

JR						
29	F	M	T	W	T	7x35
Kenny	5	8	6	8	8	7x35
Jesse	5	8	6	8	8	7x35
89 Smith						
Kenny			2			4x35
Jesse			2			4x35
104 church						
Kenny	3					6x35 = \$210
Jesse	3					

ELECTRONICALLY FILED FEB 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

Southern Lumber

8/31/22

24241

698.58

Wells Fargo

Inv # 584757

698.58

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR, IF UNKNOWN, CALL 800-523-2422

CC6SS40010000 B11SF026299

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

INVOICE

Southern Lumber & Millwork Corp.
PO Box 20039
Charleston, SC 29413-0039
Phone: (843) 744-6281
Fax: (843) 747-4154



Inv #: 584757
Route: NONE
Page: 2 of 2
Order: 08/05/22
Sched: 08/05/22
Invc: 08/05/22

To: RHO100

RHODE CONST CO INC
1705 ASHLEY RIVER ROAD
CHARLESTON SC 29407

Ship To:

89 SMITH

FOB: DLVD	Entd By: MRG	Via: Customer Pick Up	Our Order: 884927			
Type: WHSE	In: 32 / Out: 32	Terms: 2% 10TH PROX	Your Order: 89 SMITH			
Item / Description	Qty Orderd	Qty Shippd	Qty Bckord	U/M	Net Price	Net Extended
Item: SL72T ELITE 2-1/4 BED MLDG TREATED AND PRIMED...	24.00	24.00		LFT	2.00	48.00
Item: SL207T ELITE 2-1/2 SHINGLE MOULD TREATED AND PRIMED ...	24.00	24.00		LFT	1.48	35.52
Item: SL106T 3/4 QUARTER ROUND TREATED .	12.00	12.00		LFT	0.85	10.20
				Merchandise...	640.90	
				Tax.....	57.68	
				Misc Charges...	0.00	
				Order Total...	698.58	
				Less Pmts/Dep..	0.00	
				Balance Due...	698.58	

* A discount of \$13.97 may be deducted *

* If payment is received by: 09/10/22 *

1 - CHARLESTON COMMON PLEAS - CASE#2023CPI000665

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON COMMON PLEAS - CASE#2023CP1000665

* A discount of \$13.97 may be deducted *
* If payment is received by: 09/10/22 *

Geno Kollar Locksmith

8/31/22

24243

250.00

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

250.00

Wells Fargo

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR. IF UNKNOWN, CALL 800-523-2422

CC65540010000 B11SF026299

Geno Kollar Locksmith
Architectural Hardware Specialist

POB 22143 Charleston, SC 29413

843 873 8354 Geno@Gekolocks.com

Invoice

Customer: Rhode Construction

Date: August 30, 2022

Project: 89 Smith

<u>Qty/UM</u>	<u>Item</u>	<u>Unit cost</u>	<u>Extended</u>
5 hr.	Locksmith apprentice	50.00	250.00

Subtotal

Tax

Total \$250.00

Note: Work includes removing and surveying existing hardware from above project.

Thank you!

DATE REC'D 8-30-22

JOB 89 Smith

CODE 446

APP. BY JK \$250.00

Southern Lumber

8/31/22

24241

698.58

Wells Fargo

Inv # 584757

698.58

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR, IF UNKNOWN, CALL 800-523-2422

CC6SS40010000 B11SF026299

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

INVOICE

Southern Lumber & Millwork Corp.
PO Box 20039
Charleston, SC 29413-0039
Phone: (843) 744-6281
Fax: (843) 747-4154



Inv #: 584757
Route: NONE
Page: 2 of 2
Order: 08/05/22
Sched: 08/05/22
Invc: 08/05/22

To: RHO100

RHODE CONST CO INC
1705 ASHLEY RIVER ROAD
CHARLESTON SC 29407

Ship To:

89 SMITH

FOB: DLVD	Entd By: MRG	Via: Customer Pick Up	Our Order: 884927			
Type: WHSE	In: 32 / Out: 32	Terms: 2% 10TH PROX	Your Order: 89 SMITH			
Item / Description	Qty Orderd	Qty Shippd	Qty Bckord	U/M	Net Price	Net Extended
Item: SL72T ELITE 2-1/4 BED MLDG TREATED AND PRIMED...	24.00	24.00		LFT	2.00	48.00
Item: SL207T ELITE 2-1/2 SHINGLE MOULD TREATED AND PRIMED ...	24.00	24.00		LFT	1.48	35.52
Item: SL106T 3/4 QUARTER ROUND TREATED .	12.00	12.00		LFT	0.85	10.20
				Merchandise...	640.90	
				Tax.....	57.68	
				Misc Charges...	0.00	
				Order Total...	698.58	
				Less Pmts/Dep.:	0.00	
				Balance Due...	698.58	

* A discount of \$13.97 may be deducted *

* If payment is received by: 09/10/22 *

1 - CHARLESTON COMMON PLEAS - CASE#2023CPI000665

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON COMMON PLEAS - CASE#2023CP1000665

* A discount of \$13.97 may be deducted *
* If payment is received by: 09/10/22 *

Geno Kollar Locksmith

8/31/22

24243

250.00

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

250.00

Wells Fargo

SF5001HG-1



REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR. IF UNKNOWN, CALL 800-523-2422

CC65540010000 B11SF026299

Geno Kollar Locksmith
Architectural Hardware Specialist

POB 22143 Charleston, SC 29413

843 873 8354 Geno@Gekolocks.com

Invoice

Customer: Rhode Construction

Date: August 30, 2022

Project: 89 Smith

<u>Qty/UM</u>	<u>Item</u>	<u>Unit cost</u>	<u>Extended</u>
5 hr.	Locksmith apprentice	50.00	250.00

Subtotal

Tax

Total \$250.00

Note: Work includes removing and surveying existing hardware from above project.

Thank you!

DATE REC'D 8-30-22

JOB 89 Smith

CODE 446

APP. BY JK \$250.00

Glenn Keyes Architects

5/12/22

Invoice # 1

Frank Holtham, Jr. and Shelley Fuller-Holtham

RE: 89 Smith Street
Job # 2208



For Professional Services Rendered through April 30,
2022:

Fees: 10% of Construction costs	TBD
Previously paid:	\$0.00

Retainer:	\$5,000.00
Intermediate Draw:	\$5,000.00

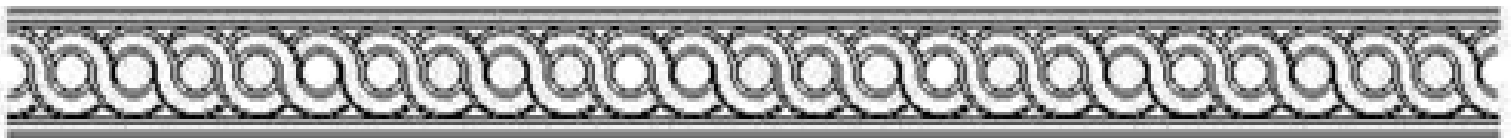
Reimbursable Expenses:

Total Reimbursables: \$0.00

Total this invoice: \$10,000.00

Invoices due and payable upon receipt. Invoices unpaid after ten days are subject to a 1.5% per month service charge. Thank you for your prompt attention.

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CPI1000665



Glenn Keyes Architects

7/25/22

Invoice # 2

Frank Holtham, Jr. and Shelley Fuller-Holtham

RE: 89 Smith Street
Job # 2208

For Professional Services Rendered May 1 through July 15, 2022:

Fees: 10% of Construction costs	TBD
Previously paid:	(\$10,000.00)

Intermediate Draw:	\$20,000.00
--------------------	-------------

Reimbursable Expenses:

Total Reimbursables:	\$0.00
----------------------	--------

Total this invoice:	\$20,000.00
----------------------------	--------------------

Invoices due and payable upon receipt. Invoices unpaid after ten days are subject to a 1.5% per month service charge. Thank you for your prompt attention.

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CPI1000665



Glenn Keyes Architects

September 8, 2022

Frank Holtham, Jr. and Shelley Fuller-Holtham
Re: 89 Smith Street
Charleston, SC

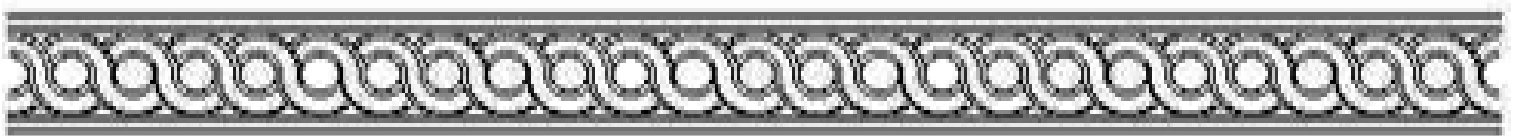


Dear Frank and Shelley,

I am sorry to hear that you have decided to sell 89 Smith Street, but I understand. I understand from your note that you want a breakdown on my fees to date and a number to complete our construction drawings to obtain final approval from the Board of Architectural Review.

Per our conversation last week, I know that we do not remember the events exactly the same way. I will recap our history with the project as I remember them to be:

- At our initial meeting at the house on 3/25/22, before I was retained, we walked through the house and discussed your ideas for the project. Your ideas were consistent with our typical projects. You asked me then about the construction costs and I told you that our projects like this typically run \$300-\$400 per SF. Kristopher King was there and remembers this conversation.
- I submitted a contract to you on 4/15/22. Our fees are based on 10% of the construction costs
- We began work on measuring the house to document the as-built conditions. We also developed a demolition plan so that Jim Rhode could move forward and prepare the house for the new design.
- Next, we prepared our proposed design for the interior floor plan modifications. We presented those plans to you at our meeting on May 12. You reviewed our plans and sent us your comments which included the addition of an elevator. We modified our plans and sent them to you. We met on site on June 17. You were very pleased with the design and asked Jim to proceed as quickly as possible. You also said you did not care how much it cost and to just get moving. Jim was already well into the demolition work at that point. That day you offered to send Jim \$100K to move forward. Jim declined the offer and said he would invoice you monthly as he does



on all his projects. You indicated that you did not remember that conversation but four other people on site heard it.

- To expedite the project, we then prepared an application to the Board of Architectural Review for exterior repairs with no changes. This would allow Jim to make the exterior repairs indicated in the Inspection Report you secured before closing. This would also allow Jim to work on the extensive wood rot and carpentry issues that were uncovered. Jim proceeded with this work while we continued our design work and our construction drawings. We need complete construction drawings to submit for the building permit and final BAR approval. We have completed 75% of our work on the project. Once we receive BAR approval we can complete our drawings and proceed with the exterior modifications.

You asked me to clarify the work included in my first two invoices. They included the work above for the as-built drawings and the demolition plans as well as the preliminary design drawings. Since invoice #2, which went through June 15, we have been working on our construction drawings and our BAR applications. We had planned to send you invoice #3 on 8/25 which covers the two-month period from 6/16-8/15 but held it after we received your letter. It is a substantial invoice as we have been working steadily on your project. I sent you pdf copies of all our drawings last week when I sent them to Kristopher King. They are attached below including our construction drawings to date. I can send you hard copies if desired.

Since our contract is based on a percentage of construction costs, my fee for this work is as follows based on the lower end construction cost number I gave to you.

The house is 4,486 SF and the porches are 1391 SF. We calculate porches at 75% of the heated space so the total adjusted SF is 5,529.

5,529 SF x \$300/ SF = \$1,658,700

10% fee = \$165,870

75% complete = \$124,402 fee to date.

Paid to date - \$30,000

Amount Due - \$94,402

In the spirit of cooperation, I will cap my fee at \$100,000 meaning \$70,000 is due. Once paid, I will complete the final BAR required construction drawings and push the project through the BAR for Final Approval. You can then market the house with an approved set of plans that is ready for a building permit. If you decide not to proceed with the BAR approval, I will deduct \$10K from the amount due.

.

Please let me know if you need any additional information. Jim will respond to you about the breakdown of his invoice.

Regards,
Glenn

A handwritten signature in black ink, appearing to read "Glenn F. Keyes". The signature is written in a cursive, flowing style with a prominent "G" and "K".

Glenn F. Keyes FAIA



BP1147118

PGS:

5

ELECTRONICALLY FILED - 2023 Feb 09 4:18 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1000665

STATE OF SOUTH CAROLINA) IN THE ROD OFFICE

COUNTY OF CHARLESTON)

Glenn F. Keyes and)
Glenn Keyes Architects LLC,)
(License Nos. AR .3185 and ARF.02083))

Petitioners,)

v.)

Frank Holtham, as Trustee of the Holtham)
SC Realty Trust, dated April 12, 2022,)

Respondent.)

**NOTICE AND CERTIFICATION
OF MECHANIC'S LIEN****TO: THE RESPONDENT ABOVE NAMED:**

PLEASE TAKE NOTICE that Petitioners, Glenn F. Keyes and Glenn Keyes Architects LLC ("Petitioners"), by virtue of the attached Statement of Account, hereby claim and hold a Mechanic's Lien upon the residence at 89 Smith Street Charleston, South Carolina 29401 and upon the owner Frank Holtham, as Trustee of the Holtham SC Realty Trust, dated April 12, 2022 ("Respondent" or "Owner") for labor performed and furnished, in connection with architectural services, with the express consent of the Owner. This lien is in the amount of Ninety-Four Thousand, Four Hundred Two and 00/100 US Dollars (\$94,402.00), plus interest, lien filing costs, attorneys' fees, and any other costs, which amount is justly due and owed to Petitioners for labor performed and furnished in the renovations of 89 Smith Street Charleston, South Carolina 29401 more fully described as follows:

All that lot, piece or parcel of land with the buildings and improvements thereon, situate, lying and being in the City of Charleston, in the State aforesaid, located at 89

Smith Street; more particularly shown as Lot 77 on a plat entitled, "Resurvey and Property Line Adjustments for Harleston Green, City of Charleston County, South Carolina," prepared by Forsberg Engineering & Surveying Inc., dated July 12, 1988 and recorded in Plat Book BT, at Page 193.

Being the same parcel conveyed to Frank Holtham, as Trustee of the Holtham SC Realty Trust, dated April 12, 2022, by William W. Struthers and Kathleen M. Struthers by virtue of a deed dated April 14, 2022 recorded on April 19, 2022 in Deed Book 1101, Page 557, County of Charleston, State of South Carolina.

TAX MAP NUMBER: 457-03-02-077

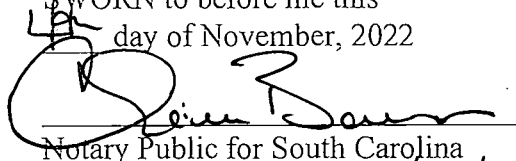
FURTHER NOTICE IS HEREBY GIVEN that the labor was last furnished within ninety (90) days of the date hereof; that Petitioners have and claim a lien on the stated premises, structures, buildings and tract of land pursuant to § 29-5-10, *et seq.* of the Code of Laws of South Carolina, 1976, as amended, to secure payment of the debt (a Statement of Account of which is attached hereto and incorporated herein by reference). Furthermore, said Petitioners have a claim on said premises, structures, buildings and said tract of land to secure payments of an additional sum to cover the costs and disbursements of any action to foreclose the aforementioned lien, including reasonable attorneys' fees, all pursuant to the provisions of the statutes applicable to such cases.



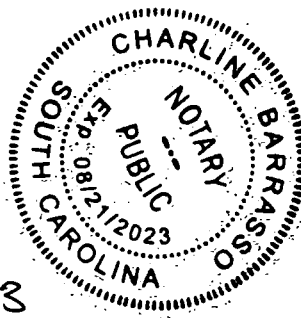
John A. Massalon (SC Bar #10279)
Carissa J. Steichen (SC Bar #104264)
WILLS MASSALON & ALLEN LLC
Post Office Box 859
Charleston, South Carolina 29402
(843) 727-1144
jmassalon@wmalawfirm.net
csteichen@wmalawfirm.net

ATTORNEYS FOR PETITIONERS

SWORN to before me this
4th day of November, 2022


Notary Public for South Carolina

My commission expires: 8/21/2023



2023 FEB 9 4:18 PM

STATE OF SOUTH CAROLINA) IN THE ROD OFFICE
)
COUNTY OF CHARLESTON)

I hereby certify that on this 2 day of November, 2022, personally appeared before me Glenn F. Keyes who, being duly sworn, deposes and states the following Statement of Account is true:

Statement of Account

Estimate for services	\$165,870
-----------------------	-----------

TOTAL	\$165,870
--------------	------------------

Services completed (75% of estimate)	\$124,402
--------------------------------------	-----------

Payments/Credits:	\$ 30,000
-------------------	-----------

BALANCE DUE	\$ 94,402
--------------------	------------------

Collection costs/fees	TBD
-----------------------	-----

[Signature]

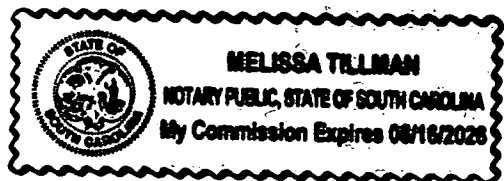
Glenn F. Keyes FAIA
Glenn Keyes Architects

SWORN TO AND SUBSCRIBED before
me this 2 day of November 2022

Melin Tullin

Notary Public for South Carolina

My Commission Expires: 8/16/26



RECORDER'S PAGE

NOTE: This page **MUST** remain
with the original document

**Filed By:**

WILLS & MASSALON & ALLEN LLC
97 BROAD ST

CHARLESTON SC 29402

RECORDED

Date: November 4, 2022

Time: 12:30:37 PM

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Mech/Lien

Michael Miller, Register
Charleston County, SC

MAKER:

HOLTHAM FRANK TR AL

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of Pages:

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of References:

RECIPIENT:

KEYES GLENN F AL

Note:

Recording Fee \$ 25.00

Extra Reference Cost \$ -

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TOTAL \$ 25.00

DRAWER

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Glenn F. Keyes and Glenn Keyes)
 Architects, LLC,)
)
 Petitioners,)
)
 v.)
)
 Frank Holtham, as Trustee of the Holtham)
 SC Realty Trust, dated April 12, 2022,)
)
 Respondent.)
 _____)

IN THE REGISTER OF DEEDS OFFICE



**BOND IN RELEASE
 OF
 MECHANIC'S LIEN**
 (Book 1147, Page 118)

WHEREAS, the Petitioners, Rhode Construction Company, Inc. and Glenn Keyes Architects, LLC ("Claimants"), have served a notice and Certificate of Mechanic's Lien recorded November 14, 2022, in the Office of the Register of Deeds for Charleston County at **Book 1147, Page 118**, with respect to the certain real property commonly referred to as **89 Smith Street, Charleston, South Carolina, TMS No.: 457-03-02-077**, a true and accurate copy of the lien being attached hereto; and

WHEREAS, Frank Holtham, as Trustee of The Holtham SC Realty Trust dated April 12, 2022, purchased the subject property on or about April 14, 2022; and

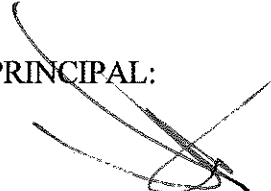
WHEREAS, the above-referenced Petitioner, Glenn Keyes Architects, LLC ("Petitioner"), alleges he provided labor in connection with architectural services in the amount of \$94,402.00 for which Petitioner has not been paid and filed the above-referenced lien seeking that amount, plus interest, lien filing costs, attorney's fees, and any other costs; and

WHEREAS, the undersigned Respondent is providing this cash bond in the amount of one and one-third times the amount claimed in Petitioners' mechanic's lien as substitute security for the real property and in lieu thereof pursuant to the provisions of S.C. Code Ann. § 29-5-110 (Law Co-op 1976, as amended), with a full reservation of rights to defend against the validity of Petitioners' lien pursuant to S.C. Code Ann. §§ 29-5-10, *et seq.* and applicable law;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the undersigned Respondent hereby tenders the sum of One Hundred*Thousand, Eight Hundred Sixty-Nine and 30/100 *Twenty-Five (\$125,869.30) Dollars to the Register of Deeds for Charleston County, South Carolina for said cash sum to be deposited to discharge the above-referenced property from Claimants' mechanic's lien pursuant to S.C. Code Ann. § 29-5-110. This written undertaking and the cash deposited contemporaneously herewith is given as substitute security to take the place of the real property against which Petitioners have filed their mechanic's lien. Nothing contained in this instrument shall be deemed an admission of any liability on the part of the Respondent or a waiver or release of any right by any interested party to dispute the validity of the mechanic's lien, the sum which Petitioners claim they are owed, or to raise such defenses and claims as such party may have at law or in equity, the sole exception being Petitioners' right to recover from the cash sum deposited, or any portion of it, to the extent Petitioners are adjudicated entitled to payment on their mechanic's lien claim.

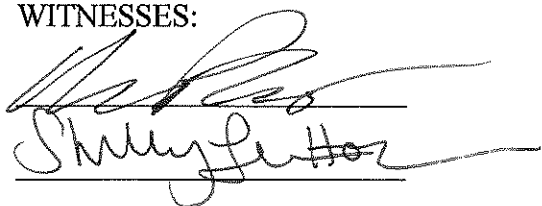
IN WITNESS WHEREOF, the foregoing Bond in Release of Mechanic's Lien has been executed and delivered by the principal this 23rd day of November 2022.

PRINCIPAL:



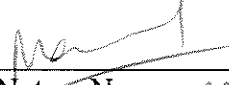
Frank Holtham, as Trustee of the
Holtham SC Realty Trust, dated April 12, 2022

WITNESSES:



Maunil Patel

SWORN TO AND ACKNOWLEDGED BEFORE ME
THIS 23rd DAY OF NOVEMBER 2022.

 (L.S.)
Printed Notary Name: MAUNIL PATEL
Notary Public for the State of California
My Commission Expires: 10/25/2025



PROPERTY DESCRIPTION

ALL that lot, piece or parcel of land with the buildings and improvements thereon, situate, lying and being in the City of Charleston, in the State aforesaid, located at 89 Smith Street; more particularly shown as Lot 77 on a plat entitled, "Resurvey and Property Line Adjustments for Harleston Green, City of Charleston, Charleston County, South Carolina," prepared by Forsberg Engineering & Surveying Inc, dated July 12, 1988 and recorded in Plat Book BT, at Page 193.

Being the same parcel conveyed to William W. Struthers and Kathleen M Struthers from Ellen C. Reilly, by virtue of a deed dated 11/21/1996, recorded 12/13/1996, in Deed Book S277, Page 009, County of Charleston, State of South Carolina.

TMS No.: 457-03-02-077

Grantee's Address: 278 River Street, Hackensack NJ 07601

EXHIBIT

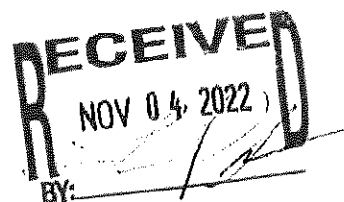
Bk 1147 / 118

STATE OF SOUTH CAROLINA	)	IN THE ROD OFFICE
	)	
COUNTY OF CHARLESTON	)	
	)	
Glenn F. Keyes and	)	
Glenn Keyes Architects LLC,	)	
(License Nos. AR .3185 and ARF.02083)	)	
	)	
Petitioners,	)	
	)	
v.	)	NOTICE AND CERTIFICATION
	)	OF MECHANIC'S LIEN
Frank Holtham, as Trustee of the Holtham	)	
SC Realty Trust, dated April 12, 2022,	)	
	)	
Respondent.	)	
	)	

TO: THE RESPONDENT ABOVE NAMED:

PLEASE TAKE NOTICE that Petitioners, Glenn F. Keyes and Glenn Keyes Architects LLC ("Petitioners"), by virtue of the attached Statement of Account, hereby claim and hold a Mechanic's Lien upon the residence at 89 Smith Street Charleston, South Carolina 29401 and upon the owner Frank Holtham, as Trustee of the Holtham SC Realty Trust, dated April 12, 2022 ("Respondent" or "Owner") for labor performed and furnished, in connection with architectural services, with the express consent of the Owner. This lien is in the amount of Ninety-Four Thousand, Four Hundred Two and 00/100 US Dollars (\$94,402.00), plus interest, lien filing costs, attorneys' fees, and any other costs, which amount is justly due and owed to Petitioners for labor performed and furnished in the renovations of 89 Smith Street Charleston, South Carolina 29401 more fully described as follows:

All that lot, piece or parcel of land with the buildings and improvements thereon, situate, lying and being in the City of Charleston, in the State aforesaid, located at 89



Smith Street; more particularly shown as Lot 77 on a plat entitled, "Resurvey and Property Line Adjustments for Harleston Green, City of Charleston County, South Carolina," prepared by Forsberg Engineering & Surveying Inc., dated July 12, 1988 and recorded in Plat Book BT, at Page 193.

Being the same parcel conveyed to Frank Holtham, as Trustee of the Holtham SC Realty Trust, dated April 12, 2022, by William W. Struthers and Kathleen M. Struthers by virtue of a deed dated April 14, 2022 recorded on April 19, 2022 in Deed Book 1101, Page 557, County of Charleston, State of South Carolina.

TAX MAP NUMBER: 457-03-02-077

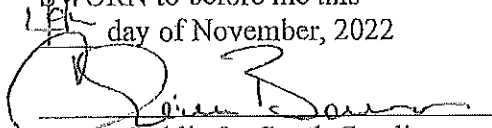
FURTHER NOTICE IS HEREBY GIVEN that the labor was last furnished within ninety (90) days of the date hereof; that Petitioners have and claim a lien on the stated premises, structures, buildings and tract of land pursuant to § 29-5-10, *et seq.* of the Code of Laws of South Carolina, 1976, as amended, to secure payment of the debt (a Statement of Account of which is attached hereto and incorporated herein by reference). Furthermore, said Petitioners have a claim on said premises, structures, buildings and said tract of land to secure payments of an additional sum to cover the costs and disbursements of any action to foreclose the aforementioned lien, including reasonable attorneys' fees, all pursuant to the provisions of the statutes applicable to such cases.



John A. Massalon (SC Bar #10279)
 Carissa J. Steichen (SC Bar #104264)
 WILLS MASSALON & ALLEN LLC
 Post Office Box 859
 Charleston, South Carolina 29402
 (843) 727-1144
jmassalon@wmalawfirm.net
csteichen@wmalawfirm.net

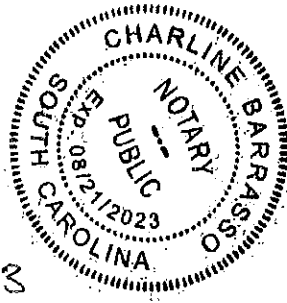
ATTORNEYS FOR PETITIONERS

SWORN to before me this
1st day of November, 2022



Notary Public for South Carolina

My commission expires: 8/21/2028



STATE OF SOUTH CAROLINA) IN THE ROD OFFICE
)
COUNTY OF CHARLESTON)

I hereby certify that on this 2 day of November, 2022, personally appeared before me Glenn F. Keyes who, being duly sworn, deposes and states the following Statement of Account is true:

Statement of Account

Estimate for services	\$165,870
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TOTAL	\$165,870
--------------	------------------

Services completed (75% of estimate)	\$124,402
--------------------------------------	-----------

Payments/Credits:	\$ 30,000
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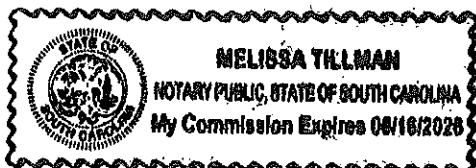
BALANCE DUE	\$ 94,402
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Collection costs/fees	TBD
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Glenn F. Keyes FAIA
Glenn Keyes Architects

SWORN TO AND SUBSCRIBED before
me this 2 day of November 2022

Melvin Tullin
Notary Public for South Carolina
My Commission Expires: 8/16/26



RECORDER'S PAGE

NOTE: This page **MUST** remain
with the original document

**Filed By:**

BRUNER POWELL ROBBINS WALL & MULLINS
ATTENTION: BEN BRUNER
PO BOX 61110
COLUMBIA, SC 29260-1110

RECORDED

Date: November 29, 2022

Time: 8:30:27 AM

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Cash/Bond

Michael Miller, Register
Charleston County, SC

MAKER:

HOLTHAM FRANK TR AL

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of Pages: 8

of References: Note: **RECIPIENT:**

GLENN KEYES ARCHITECTS AL

Recording Fee \$ 10.00

Extra Reference Cost \$ -

Extra Pages \$ -

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TOTAL \$ 10.00

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
 COUNTY OF CHARLESTON)

Frank Holtham, as Trustee of the Holtham) C/A No.: 2023-CP-10-00665
 SC Realty Trust, dated April 12, 2022,)
)

Petitioner,)

RULE TO SHOW CAUSE

v.)

Glenn F. Keyes and Glenn Keyes)
 Architects, LLC,)
)

Respondents.)
)



THIS MATTER is before the undersigned by way of a Verified Petition submitted by the Petitioner, above-named, along with exhibits, for this Court to issue a result to show cause why the Respondents' mechanic's lien should not be dissolved, and the cash bond posted should not be returned to the Petitioner. Having carefully considered the verified petition and supporting documents submitted therewith, I find it proper to grant the petition, to issue this rule to show cause, and to schedule this matter for a hearing for the Court to inquire into the matters pending herein;

IT IS THEREFORE ORDERED that the verified petition is granted and further that Respondent Glenn F. Keyes and Respondent Glenn Keyes Architects, LLC, by and through an authorized representative, do hereby appear before the **Honorable Mikell Scarborough in Courtroom 2A at 100 Broad Street, Charleston, South Carolina on Thursday, March 2 at 3:00** to show cause why the Respondents' mechanic's lien should not be dissolved and the cash bond posted should not be returned to the Petitioner.

AND IT IS SO ORDERED.

-Judge's Electronic Signature Page Follows-



Charleston Common Pleas

Case Caption: Frank Holtham , plaintiff, et al VS Glenn F Keyes , defendant, et al

Case Number: 2023CP1000665

Type: Order/Rule To Show Cause

It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) IN THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2023-CP-10-00665

Frank Holtham, as Trustee of the Holtham)
SC Realty Trust, dated April 12, 2022,)

Petitioner,)

v.)

Glenn F. Keyes and)
Glenn Keyes Architects LLC,)

Respondents.)

**VERIFIED RESPONSE
TO PETITION FOR RULE
TO SHOW CAUSE**



Glenn F. Keyes and Glenn Keyes Architects LLC (“Respondents”) hereby submit the following Response to the Petition filed on February 9, 2023 by Petitioner Frank Holtham, as Trustee of the Holtham SC Realty Trust, dated April 12, 2022 (“Petitioner”).

RESPONSE TO FACTUAL ALLEGATIONS

FOR A FIRST DEFENSE

1. Paragraphs 1 through 3 are conclusions of law to which no responsive pleading is required.
2. Respondents admit Paragraphs 4 through 7.
3. Paragraphs 8 through 10 are conclusions of law to which no responsive pleadings are required.
4. Respondents admit, upon information and belief, Paragraph 11.
5. Respondents admit Paragraph 12.
6. Respondents crave reference to the Engagement Letter referenced by Paragraphs 13 through 15 and deny any allegations that contradict or vary from the terms of same.

7. Respondents deny Paragraph 16.
8. Respondents admit Paragraph 17.
9. Respondents crave reference to the Email referenced by Paragraph 18 and deny any allegations that contradict or vary from the terms of same.
10. Respondents crave reference to the Deed referenced by Paragraph 19 and deny any allegations that contradict or vary from the terms of same.
11. Answering Paragraph 20, Respondents deny that no agreement was in place and state that upon information and belief, the parties had a verbal contract that demolition would start.
12. Respondents deny Paragraph 21.
13. Respondents admit Paragraph 22.
14. Respondents deny Paragraph 23. Further answering this paragraph, Respondents state that at the first meeting between Respondents and Petitioner, Respondents informed Petitioner that the construction costs would cost about \$300-\$400 per square foot. The house is about 5,000 square feet. Petitioner did not express any issue with this estimate and did not inquire about total cost of the project.
15. Respondents crave reference to the Invoice referenced by Paragraph 24 and deny any allegations that contradict or vary from the terms of same.
16. Respondents are without information sufficient to admit or deny Paragraphs 25 and 26.
17. Respondents admit so much of Paragraph 27 as alleges at some point Petitioner requested more detail about the project. Respondents deny the remaining allegations of this paragraph.
18. Respondents are without information sufficient to admit or deny the allegations of Paragraph 28.

19. Respondents crave reference to the Email referenced by Paragraph 29 and deny any allegations that contradict or vary from the terms of same.
20. Respondents deny Paragraph 30. Further answering this paragraph, Respondents state that after receiving the email referenced in this paragraph, Respondents continued working on the project, including through communications with Petitioner about the project and answering questions regarding their work. Construction administration services are a type of labor for which a mechanic's lien may be filed under the mechanic's lien statute. Spriggs Grp., P.C. v. Slivka, No. 2013-UP-497, 2013 S.C. App. Unpub. LEXIS 617 (Ct. App. Feb. 6, 2013) (citing Williamson v. Hotel Melrose, 110 S.C. 1, 96 S.E. 407 (1918)). The Court of Appeals has recognized that discussions about construction and/or architectural services and responding to questions about such work constitutes “labor” under S.C. Code Ann. § 29-5-10. Id. Emails representing additional labor performed by Respondents are attached hereto as Exhibit A. In addition, Respondents submitted the application for exterior modifications to the Board of Architectural Review (“BAR”) on August 29, 2022. See Exhibit B.
21. Respondents crave reference to the Email referenced by Paragraph 31 and deny any allegations that contradict or vary from the terms of same. However, the work did not stop at this date because Petitioner continued to email Respondents and ask questions about the project, which required Respondents to do more work that constitutes “labor” under S.C. Code Ann. § 29-5-10.
22. Respondents admit only so much of Paragraph 32 as alleges Respondents did not send an invoice at this time. Respondents deny the remaining allegations of this paragraph.
23. Respondents crave reference to the Invoice referenced by Paragraph 33 and deny any

allegations that contradict or vary from the terms of same.

24. Respondents are without information sufficient to admit or deny Paragraphs 34, 35, and 36.

25. Respondents crave reference to the Invoices referenced by Paragraph 37 and deny any allegations that contradict or vary from the terms of same.

26. Respondents crave reference to the Letter referenced by Paragraph 38 and deny any allegations that contradict or vary from the terms of same.

27. Respondents admit Paragraph 39.

28. Respondents deny Paragraphs 40 through 43.

29. Answering Paragraph 44, Respondents deny the allegations that state they “did not prepare final plans intended for construction, did not prepare construction drawings required for a Building Permit and Final Board of Architectural Review approval; and otherwise did not provide the services outlined in the Respondents’ engagement letter.” Respondents admit so much of this paragraph as alleges they did not obtain BAR approval for the August 29, 2022 exterior modification plans and further state they did not obtain BAR approval for these plans because Petitioner stopped the project. Respondents submitted a BAR application for exterior modification plans but withdrew the submittal when the project stopped. See BAR Application and Drawings attached as Exhibit B. Respondents prepared construction drawings as part of the submittal to the BAR but did not obtain stamped plans due to the fact they withdrew the submittal when Petitioner stopped the project.

30. Respondents deny Paragraph 45.

31. Respondents crave reference to the Mechanic’s Lien referenced by Paragraph 46 and deny any allegations that contradict or vary from the terms of same.

32. Respondents admit Paragraph 47.

33. Respondents deny Paragraph 48

34. Respondents admit Paragraph 49. Further answering this paragraph, Respondents state they provided Petitioner with four different sets of drawings for all phases of the project because Petitioner told Respondents he wanted to expedite the project.

35. Respondents deny Paragraph 50.

36. Respondents crave reference to the Bond referenced by Paragraph 51 and deny any allegations that contradict or vary from the terms of same.

37. Respondents deny Paragraphs 52 and 53.

FOR A SECOND DEFENSE

38. The Petition fails to state a claim upon which relief may be granted and therefore it should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE

39. The Petition should be dismissed pursuant to Rules 12(b)(1) and 12(b)(2) of the South Carolina Rules of Civil Procedure as the Court lacks subject matter and personal jurisdiction over this matter.

FOR A FOURTH DEFENSE

40. The Petition should be dismissed pursuant to Rule 12(b)(8) as another action is pending between the same parties regarding this Mechanic's Lien in Case No. 2023-CP-10-00706 in the Charleston County Court of Common Pleas.

ARGUMENT

In their Petition for Rule to Show Cause, Petitioner asks the Court to find the Mechanic's Lien is invalid and order the release of the cash bond Petitioner posted and remit the funds to

Petitioner. “The authority to vacate a mechanic's lien may be somewhat likened to the judge's authority to grant a summary judgment if there is no genuine issue of material fact to be determined, or his authority to direct a verdict when the evidence is susceptible of only one reasonable inference. However, the judge to whom application for relief if made may not try disputed facts. These are reserved, under Code § 45-273, for the jury.” Sea Pines Co. v. Kiawah Island Co., 268 S.C. 153, 157, 232 S.E.2d 501, 502 (1977). Summary judgment is appropriate where there is no genuine issue of material fact and it is clear the moving party is entitled to a judgment as a matter of law. S.C. R. Civ. P. 56(c). In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party. Hancock v. Mid-South Mgmt. Co., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009). The non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment. Id. Therefore, to vacate the Lien, the Court must find there are no genuine issues of disputed fact. As demonstrated herein, Petitioner has failed to meet this standard.

Petitioner is not entitled to an order vacating the Lien pursuant to the Sea Pines case and such request, as well as the request to release the cash bond posted by Petitioner, should be denied. As an initial matter, the Mechanic’s Lien filed by Respondents meets the statutory requirements of S.C. Code Ann. 29-5-10 et seq. and therefore constitutes a valid lien on the property. Petitioner is the former owner of the property at issue in this case located at 89 Smith Street, Charleston, South Carolina 29401 (the “Property”). In 2022, Respondents performed architectural services for renovations at the Property. Respondents initially met with Petitioner at the Property on March 25, 2022. At this meeting, Respondents informed Petitioner that the construction costs would be about \$300-\$400 per square foot. The house is about 5,000 square feet. Petitioner did not express any

issue with this estimate and did not inquire about total cost of the project. Respondents submitted an engagement letter outlining the scope of work to Petitioner on April 15, 2022, which Petitioner accepted. Pursuant to the agreement, the fees for Respondents' work are based on 10-percent of the construction costs. Petitioner hired Rhode Construction to perform the construction work on the Property. Respondents proceeded to furnish architectural services to Petitioner, including the preparation of plans and drawings as further detailed below, in the subsequent months. In fall of 2022, the Petitioner terminated Respondents and Rhode Construction who in turn ceased work on the Property before it was complete. After Petitioner failed to pay Respondents in the amount of \$94,402.00, Respondents filed a Mechanic's Lien on November 4, 2022 in accordance with South Carolina law. It is not disputed that the Lien was timely and properly served on Petitioner.

1. The Lien and suit to enforce it were timely filed and therefore the Petitioner's request to find the Lien invalid and release the cash bond on this basis should be denied.

Petitioner wrongly argues that Respondents failed to commence suit within six months of the date they ceased labor on or furnished labor or material for the home and assert this as a basis for finding the Lien invalid and releasing Petitioner's cash bond. S.C. Code Ann. 29-5-120(B)(1) states "A mechanics' lien and associated bonds may be released by a court order, a written affidavit of the bond holder's attorney, or by a written affidavit from the defendant's attorney stating: six months has passed since the lien was attached and no suit or notice of pendency has been filed..." Respondents filed suit to enforce their rights under the Lien statute on February 13, 2023. Petitioner argues that the last date of work was August 21, 2022 based upon an email attached to the Petition as Exhibit E. However, Respondents were still working on construction administration services for Petitioner as of September 6, 2022, as demonstrated by the emails attached to this Response as Exhibit A. Even if the Court finds the last date of "labor" was August 21, 2022, which Respondents deny, Respondents still filed their lawsuit within six months of the last date of work

as required by S.C. Code Ann. 29-5-120. Six months after August 21, 2022 is February 21, 2023. Respondents filed suit on February 13, 2023 and service was accepted by Mr. Holtham's counsel on February 17, 2023. See Exhibit C, Complaint and Acceptance of Service. Therefore, the Petitioner's request to find the Lien invalid and release the cash bond on this basis should be denied.

2. The amount claimed by Respondents in the Lien accurately reflects the amount due to Respondents for architectural services performed for renovations of the Property.

Petitioner incorrectly argues that Respondents willfully and knowingly claimed more than they are due in an effort to invalidate the Lien under S.C. Code Ann. 29-5-100. This section states “[n]o inaccuracy in such statement relating to the property to be covered by the lien, if the property can be reasonably recognized, or in stating the amount due for labor or materials shall invalidate the proceedings, unless it appears that the person filing the certificate has willfully and knowingly claimed more than is his due.” S.C. Code Ann. 29-5-100. Petitioner has presented no evidence Respondents have willfully or knowingly claimed more than they are due.

The amount Respondents claim is based on their agreement with Petitioner and accurately reflects what they are owed for architectural services performed. The services provided by Respondents are not billed based on completed construction, which is the approach on which Petitioner bases his petition. Instead, these services are billed as a percentage of the estimated cost of construction provided to Respondents prior to the actual commencement of the construction work. Respondents typically base their fee on construction cost per square foot, which is typically \$300-\$400 per square foot. In this situation, the house is 4,486 square feet. The porches are 1,391 square feet. Respondents calculate porches at 75-percent of heated space, so the total adjusted square footage of this Property is 5,529. Correspondence between Respondents and Petitioner demonstrates that Respondents communicated with Petitioner about the status of the project, that

Petitioner did not express concerns with the fee arrangement, and that Petitioner requested that Respondents expedite the project. See Exhibit D. A budget of construction costs is attached as Exhibit E. The amount Respondents claim in their Lien is calculated as follows:

5,529 square feet x \$300/square foot	\$1,658,700
10% fee	\$165,870
75% of work complete	\$124,402 total fee as of September 8, 2022
Paid to date	\$30,000
Amount due to Respondents	\$94,402

Respondents' September 8, 2022 letter to Petitioner, attached to the Petition as Exhibit H, provides detail of the architectural services Respondents performed. For example, Respondents took measurements of the entire Property, prepared sets of drawings revised multiple times (attached as Exhibit F), prepared demolition plans (attached as Exhibit G) so that Rhode Construction could begin work as soon as possible as requested by Petitioner while Respondents continued work on the design plans, prepared and revised a set of designs for interior floor modifications (attached as Exhibit H), prepared an application to the Board of Architectural Review for exterior repairs with no changes (attached as Exhibit I), and prepared an application to the BAR for exterior modifications (attached as Exhibit B), which Respondents withdrew when Petitioner stopped the project. Respondents completed approximately 90-percent of construction drawings for the Property (attached as Exhibit J). Of note, the Zillow listing for Petitioner's sale of this Property advertises that "The hard work is done. Preliminary plans and demolition are complete..." See Exhibit K.

Respondents performed substantially all of the architectural services outlined in the

Engagement Letter. However, Respondents were unable to complete some of these services when Petitioner stopped the project. In particular, Respondents were unable to fully perform services described in the Engagement Letter as “consultation with [the] contractor throughout construction” and “review and approval of construction draws” due to Petitioner stopping the project. Such services typically include the architect overseeing construction and authorizing invoices throughout the life of a project.

There is no evidence the Statement of Account filed with the Lien is not a “just and true account of the amount due” under S.C. Code Ann. 29-5-90. Respondents’ fees are based on 10-percent of construction costs as this is explicitly noted in the March 31, 2022 engagement letter accepted by Petitioner. Petitioner argues that Respondents were compensated for work performed because they were paid more than 10-percent of the costs expended. However, Petitioner stopped work after the demolition. Any work done to accomplish demolition and prepare the Property for renovation cannot accurately or fairly represent the value of work Respondents performed to design the renovations to be completed after demolition. Due to the nature of architectural work, Respondents must complete their work before the actual construction work begins since the architectural plans are a roadmap to the renovation. In the present case, on the other hand, Respondents did not work on a contingency based on the value of work actually performed, but instead the reasonable value of Respondents’ design services is reflected in the value of work to be performed.

This is different than the situation in the Sea Pines case, in which the trial court found the mechanic’s lien can only be filed for the reasonable value of labor and materials furnished to the project, not for contract expectation damages. Sea Pines, 268 S.C. 153, 156, 232 S.E.2d 501, 502. The Supreme Court in that case reversed the trial court’s order vacating the mechanic’s lien,

finding that “the complexity of the contract are such that the mechanic's lien should not have been vacated on the showing made. The facts are disputed and reasonable men may disagree as to whether Sea Pines has been paid for all of the labor and material furnished and used as contemplated by the mechanic's lien statute.” Sea Pines Co., 268 S.C. 153, 159-60, 232 S.E.2d 501, 504.

In addition, there is no indication that Respondents willfully or knowingly overestimated the amount due to them, as required in order to invalidate the Lien under S.C. Code Ann. 29-5-100. If anything, Petitioner’s argument only shows that the amount due is disputed. See e.g. Black v. Haile, 270 S.C. 93, 95, 240 S.E.2d 646, 647 (1978) (finding it “readily apparent that there are genuine issues of material fact in dispute” where the amount owed depended upon which of the allegations of the respective parties are to be believed). In the Black case, the Supreme Court found the lower court erred in dissolving the lien under the Sea Pines framework. Black, 270 S.C. 93, 96, 240 S.E.2d 646, 647. In the present case, any such disputed fact is a question for the jury and Petitioner is not entitled to an order invalidating the Lien on these grounds.

Petitioner also argues Respondents have no rights to a Mechanic’s Lien for sums they claim which are not for labor performed or furnished and actually used in the erection, alteration, or repair of the home. However, “[t]he legislature has expanded the scope of the mechanic's lien statute to cover persons performing a component of the labor necessary to complete construction and development projects, even though ‘the labor performed [did not] go into something which has attached to and become a part of the real estate.’” Greens of Rock Hill, LLC v. Rizon Commer. Contracting, Inc., 411 S.C. 152, 158, 766 S.E.2d 876, 879 (Ct. App. 2014). Preparing and modifying drawings and proposed plans for the renovations are “labor” under the Mechanic’s Lien statute. For purposes of Respondents’ claim under the Lien statute, it is

immaterial that the construction itself was not completed. Respondents' architectural services constitute a component of labor necessary to complete the project, even if it was not actually used in the erection, alteration, or repair of the home, due to the Project being terminated by the Holthams.

Furthermore, any work not completed by Respondents was due to the Petitioner's direction to stop work on the Project. In Mozingo & Wallace Architects, L.L.P. v. Patricia Grand, Ltd. P'ship, 379 S.C. 478, 666 S.E.2d 267 (Ct. App. 2008), the Court in this action to enforce a mechanic's lien rejected a client's argument that the architect's failure to perform certain services barred recovery where an architect never made six revisions requested by the client, but the architect testified that all of the changes were to be addressed in the second phase of the base contract. Similar to the present case, since the client ordered the architect to stop work before the second phase, the client's own acts prevented the architect from completing the revisions. Mozingo, 379 S.C. 478, 484, 666 S.E.2d 267, 270; see also Moon v. Jordan, 301 S.C. 161, 164, 390 S.E.2d 488, 490 (Ct. App. 1990) ("Generally, if a party by his contract charges himself with an obligation possible to be performed, he must make it good unless its performance is rendered impossible by an act of God, the law, *or other party*." (emphasis in original)). The client argued that the architect did not complete all tasks required by the contract because the architect did not submit plans to the respective review board. Mozingo, 379 S.C. 478, 484, 666 S.E.2d 267, 270. The architect testified he was ready to take the schematics for the exterior renovation to board for review, but he was never given the directive to do such because of the indecision with the project. Id. The Court found that any failure to complete this aspect of the contract was due to the client's acts. Id. Similarly in the present case, Petitioner complains that Respondents failed to perform services outlined in the engagement letter such as obtaining approval from BAR and preparing

final plans. See Petition, Para 44. Like in the Mozingo case, any failure to complete these services is due to the fact that the Petitioner terminated the project before Respondents were able to complete these services. Therefore, Respondents fulfilled their duties under the agreement with Petitioner. Petitioner's arguments as to these issues do not provide a basis to invalidate the Respondents' Lien.

CONCLUSION

There are genuine issues of material fact as to all arguments Petitioner relies on in support of his request that the Court invalidate the Lien and release the cash bond pursuant to the Sea Pines case. Therefore, this request should be denied.

s/John A. Massalon
John A. Massalon (SC Bar #10279)
Carissa Steichen Land, Esquire (SC Bar #104264)
WILLS MASSALON & ALLEN LLC
Post Office Box 859
Charleston, South Carolina 29402
(843) 727-1144
jmassalon@wmalawfirm.net
csteichen@wmalawfirm.net

ATTORNEYS FOR RESPONDENTS

CHARLESTON, SC

February 27, 2023

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
IN THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2023-CP-10-00665

Frank Holtham, as Trustee of the Holtham
SC Realty Trust, dated April 12, 2022,)

Petitioner,)

v.)

Glenn F. Keyes and
Glenn Keyes Architects LLC,)

Respondents.)

VERIFICATION

I, Glenn F. Keyes, being duly sworn, depose and state as follows:

I am a Respondent in the above-captioned action. I have read the foregoing Verified Response to Petition for Rule to Show Cause and the matters therein set forth are true of my own knowledge except such matters as are stated upon information and belief, and as to those, I believe them to be true.

This 27th day of February, 2023.


Glenn F. Keyes

SWORN TO BEFORE ME THIS

27th day of February, 2023


Notary Public for South Carolina
My Commission Expires: 8/16/26



Exhibit “A”

From: Glenn Keyes gk@glennkeyesarchitects.com
 Subject: Re: 89 Smith invoice #1
 Date: August 22, 2022 at 4:40 PM
 To: Shelley Fuller sfuller7@gmail.com, Frank Holtham frankh@toyotaofhackensack.com
 Cc: Glenn F Keyes gk@glennkeyesarchitects.com



Shelley and Frank,

Sorry for the delay getting back to you . I have been out of town since Thursday.

We can go through all this tomorrow at our meeting. Jim can certainly provide all the backup documentation from his sub contractors. The men work hourly so you only pay them when they are working on your project.

The 35% labor burden is a typical charge. All contractors add that to their bills as that is a direct cost for the work. You are seeing that because this is a cost plus contract. If this were a fixed price contract, the burden would still be in the cost of construction, you just would not see all that back up documentation. With this type of contract, the contractor passes along all their project costs and then add their margin for overhead and profit. It is a very transparent system because you can see the actual invoices for every sub and material supplier. Some clients want to see all the back up documentation and some do not. It is not a problem for Jim to provide that with each invoice.

I know you received Jim's breakdown this morning. He was planing to send it on Friday but he wanted to talk to Shelley first and they were unable to connect on Friday.

As we discussed at our first meeting, the cost for these type projects typically run between \$300 and \$400 per square foot. We have calculated the total SF (which includes the porches not just the heated SF) at 5,892 SF which translates to \$373/SF.

We'll go through all your concerns in the morning and, hopefully, resolve everything and be able to move forward.

Thanks,
 Glenn

Glenn F. Keyes, FAIA
 Glenn Keyes Architects LLC
 12 Vanderhorst Street
 Charleston, SC 29403
 843-722-4100
www.glennkeyesarchitects.com

On Aug 18, 2022, at 11:27 AM, Shelley Fuller <sfuller7@gmail.com> wrote:

Good morning Glenn,

Thank you for the updated invoice that is now readable and printable :)

Question can the invoices of all Gen Reg Labor and Gen Reg Subs please be included/attached?

Question, can the invoices of an Gen Key Labor and Gen Key Sub please be included/attached. We would like to know what we are specifically being charged for. Additionally, this is the information that our accountant is asking for. Jim mentioned that the crew had COVID - did we pay their salary for the week of no work?

Frank has an issue with paying the Tax & Insurance on Labor 35% as this is not his employee. This was never previously disclosed to us. That is Jim's employee not Frank's.

Jim said he would have some rough numbers to us by the end of this week. We must see numbers before we can agree to moving forward. For example, the demo budget was never approved by us. Our accountant is asking for the signed off work order for the demo that doesn't exist.

We really would like to start off on the right foot, however we have learned from past experience we must be upfront and transparent with everything as we do not want to have any hard feelings whatsoever. We are looking forward to seeing the numbers so we can determine the next steps.

Thank you,
Shelley & Frank

On Wed, Aug 17, 2022 at 4:48 PM Glenn Keyes <gk@glennkeyesarchitects.com> wrote:

I am sending this again as I understand that my previously email was not readable.

Please confirm that this one works.

Thanks,
Glenn

Glenn F. Keyes FAIA
Glenn Keyes Architects LLC
12 Vanderhorst Street
Charleston, SC. 29403
GlennKeyesArchitects.com



From: Glenn Keyes gk@glennkeyesarchitects.com
Subject: 89 Smith Architectural Plans
Date: August 30, 2022 at 9:57 AM
To: King, Kristopher kking@carriageprop.com
Cc: Frank Holtham frankh@toyotaofhackensack.com, Shelley Fuller sfuller7@gmail.com, Glenn F Keyes gk@glennkeyesarchitects.com

Kristopher,

Attached are our plans for 89 Smith. I have included all the work we have done to date.

- Measured drawings of the as-built conditions
- Demolition Plans
- Plans for the exterior repairs (no changes) for which we have BAR approval and a building permit. This also includes all the items listed in the inspection report
- Final plans for the new design including interior elevations and an electrical plan. These have submitted these to the BAR for approval but it has not been heard yet. I have now removed these plans from the BAR agenda which was scheduled for next week.
- We commissioned a survey for the property and an elevation certificate which I will send under separate cover. Shelley met with Cindy Cline at Wertimer/Cline about the garden design but I do not know the status of any garden design work.

Our work is approximately 75% complete. We would have finalized the construction details for the porch enclosure and the elevator once we had final BAR approval so that work still needs to be done.

Please review and let me know if you need any additional Information.

Glenn F. Keyes, FAIA
Glenn Keyes Architects LLC
12 Vanderhorst Street
Charleston, SC 29403
843-722-4100
www.glennkeyesarchitects.com

|

89 Smith-
demo.pdf

89 Smith-
existin...ns.pdf

|

89 Smith-
exterio...irs.pdf

|

89 Smith-
propos...ork.pdf

SF

From: Shelley Fuller sfuller7@gmail.com
 Subject: Re: Plans for 89 Smith St
 Date: September 6, 2022 at 11:32 AM
 To: Glenn Keyes gk@glennkeyesarchitects.com
 Cc: Frank Holtham frankh@toyotaofhackensack.com

Hi Glenn,

Can you also please provide a breakdown of Jim's Invoice #1 that we previously asked for.

Thank you,
 Shelley & Frank

On Tue, Sep 6, 2022 at 10:34 AM Shelley Fuller <sfuller7@gmail.com> wrote:

Sounds great, thank you.

Warmest,
 Shelley

On Tue, Sep 6, 2022 at 9:58 AM Glenn Keyes <gk@glennkeyesarchitects.com> wrote:

I will have you a breakdown this week.

Thanks,

Glenn F. Keyes, FAIA

Glenn Keyes Architects LLC

12 Vanderhorst Street

Charleston, SC 29403

843-722-4100

www.glennkeyesarchitects.com

On Sep 5, 2022, at 11:18 PM, Shelley Fuller <sfuller7@gmail.com> wrote:

Hi Glenn,

We hope you enjoyed a relaxing weekend. Just a quick reminder, can we please get a breakdown of your Invoice #1 and #2?

Thank you,
 Shelley & Frank

On Tue, Aug 30, 2022 at 11:26 AM Shelley Fuller <sfuller7@gmail.com> wrote:

Good morning Glenn,

Can you please provide us a breakdown of what we've paid you for the 30,000 so far?
 What remaining work do you have to complete the plans and how much would it cost?

Thank you,
 Shelley & Frank

On Mon, Aug 29, 2022 at 4:24 PM Glenn Keyes <gk@glennkeyesarchitects.com> wrote:

I understand All work for me and lim stopped when we received your letter of August

I understand. I'll work for me and just stopped when we received your letter on August 21

Glenn F. Keyes. FAIA
Glenn Keyes Architects. LLC
843-722-4100

On Aug 29, 2022, at 4:08 PM, Shelley Fuller <sfuller7@gmail.com> wrote:

Hi Glenn,

If it's not clear, please cease and desist all work in the house. As of today we still do not have a signed contract.

Thank you,
Shelley & Frank

On Mon, Aug 29, 2022 at 3:44 PM Shelley Fuller <sfuller7@gmail.com> wrote:

Hi Glenn,

Thank you for your time this afternoon on the phone. I feel confident we can work together to move forward with the best plan to sell the house. Can you please send Kris all your plans/drawings to the house, thank you.

Warmest,
Shelley & Frank

From: Glenn Keyes <gk@glennkeyesarchitects.com>
Date: September 6, 2022 at 9:58:23 AM EDT
To: Shelley Fuller <sfuller7@gmail.com>
Cc: Frank Holtham <frankh@toyotaofhackensack.com>
Subject: Re: Plans for 89 Smith St

I will have you a breakdown this week.
Thanks,

Glenn F. Keyes, FAIA
Glenn Keyes Architects LLC
12 Vanderhorst Street
Charleston, SC 29403
843-722-4100
www.glennkeyesarchitects.com

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Shelley & Frank

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Glenn F. Keyes. FAIA
Glenn Keyes Architects. LLC
843-722-4100

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Shelley & Frank

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Warmest,
Shelley & Frank

Exhibit “B”



BOARD OF ARCHITECTURAL REVIEW

APPLICATION / CERTIFICATE OF APPROPRIATENESS

CITY OF CHARLESTON DEPARTMENT OF PLANNING, PRESERVATION AND SUSTAINABILITY
 1 George Street Charleston, South Carolina 29401 843-724-3781 Fax: 843-724-3772 www.charleston-sc.gov/BAR

Property Address: 89 Smith Street		TMS No.: 457-03-02-077	
Review request:	For:	Meeting date requested: Sept. 8	
☐ Conceptual ☐ Preliminary ☐ Final	☐ New Construction ☒ Alterations / Additions ☐ Repairs or repaint with no changes	☐ Color Change ☐ Demolition ☐ Appeal Decision of Urban Design Staff	
Property Owner: Frank & Shelley Holtham		Daytime phone:	
Applicant: Glenn Keyes Architects		Daytime phone: 722-4100	
Applicant's mailing address: 12B Vanderhorst Street		City: Charleston	State: SC Zip: 29403
Applicant's e-mail address: gk@glennkeyesarchitects.com			
Applicant's relationship: ☐ Owner ☒ Design Professional ☐ Contractor ☐ Real Estate Agent/Broker ☐ Other			
Project Valuation:		Description or Scope of Work:	
\$50k-\$500k, \$500 fee		Modifications to existing rear porch addition, modifications to second floor porch mtl; removal of existing modern rear stair, construction of new exterior stair on south side of porch, installation of new hood over north door to new elevator.	
Submittal Requirements: Found here www.charleston-sc.gov/BAR. This document must supplement all Board level packages with appropriate boxes checked and signed. Zoning / Courtesy TRC approval required prior to making application for review. INCOMPLETE APPLICATIONS OR UNPAID INVOICES WILL NOT BE INCLUDED ON A BOARD AGENDA. I hereby acknowledge by my signature below that this application and submittal is complete and accurate and that I am the owner of the subject property or an authorized representative. I authorize the subject property to be posted and inspected, and the application to be heard by the Board of Architectural Review of the City of Charleston on the date specified. Applicant's signature: <i>Glenn F. Keyes</i> Date: 8/29/22 Print name legibly: Glenn F. Keyes, FAIA			

For Office Use Only Below this Point

☐ The Board of Architectural Review has reviewed this request. Its findings are as follows:			
☐ The Urban Design and Preservation Staff has reviewed this request. Its findings are as follows:			
☐ Approval ☐ Denial ☐ Deferral ☐ Approved with the following conditions:			
☐ Final Approval is granted upon fulfillment of the abovespecified conditions and is referred to the Preservation Staff for further action.			
Chairman's or Staff's Signature:			Date:
Arch. Rating:	Comm. Date:	☐ Old and Historic Dist. ☐ Old City Dist. ☐ Landmark Dist. ☐ North of Line St.	
Date received:	Fee amount:	Family/Plan Number:	Staff person:

1. An appeal of a Board decision stays all further action on applications.
2. This approval does not constitute approval by other City boards or departments. Prior to construction, all plans and specifications must be reviewed and approved by the Building Inspections Division and a building permit must be obtained and posted on the property.
3. This approval expires two years from approval date.

89 SMITH STREET

THE THOMAS BENNETT HOUSE

TMS: 457-02-03-0TI
FLOOD ZONE: AE-II

CONCEPTUAL BAR SUBMITTAL FOR
REAR & SIDE MODIFICATIONS

NO ZONING APPROVAL REQUIRED

HOUSE HISTORY:

BUILT IN THE LATE 1840s BY W. JEFFERSON BENNETT, DESIGNED BY HIM OR HIS FATHER, GOV. THOMAS BENNETT, LISTED IN THE CITY ARCHITECTURAL INVENTORY AS CATEGORY 2. LOCALLY RENOWNED ARCHITECT EDWARD C. JONES OWNED THE HOME AND ADDED THE DECORATIVE GOTHIC REVIVAL BAYS AT THE NORTH AND SOUTH FACADES SUBSEQUENT TO HIS PURCHASE OF THE PROPERTY IN 1859. THE HOUSE OCCUPIES ONE OF THE ORIGINAL LOTS OF THE HARLESTON VILLAGE SUBURB.



DRAWING LIST

A1000	TITLE SHEET
A1001	PROPOSED SITE PLAN
F1	SITE PHOTOS
F2	SITE PHOTOS
F3	SITE PHOTOS
F4	SITE PHOTOS
A100	EXISTING & PROPOSED GROUND FLOOR PLAN
A101	EXISTING & PROPOSED FIRST FLOOR PLAN
A102	EXISTING & PROPOSED SECOND FLOOR PLAN
A201	EXISTING EAST ELEVATION
A202	EXISTING & PROPOSED NORTH ELEVATION
A203	EXISTING & PROPOSED WEST ELEVATION
A204	EXISTING & PROPOSED SOUTH ELEVATION

OLINERs

FRANK & SHELLEY HOLTHAM
89 QUEEN STREET
CHARLESTON, SC 29401

BAR Submitted for ~~Exterior~~ Modifications

Glenn Kayes
Architects

2:25 PM **CHAF**

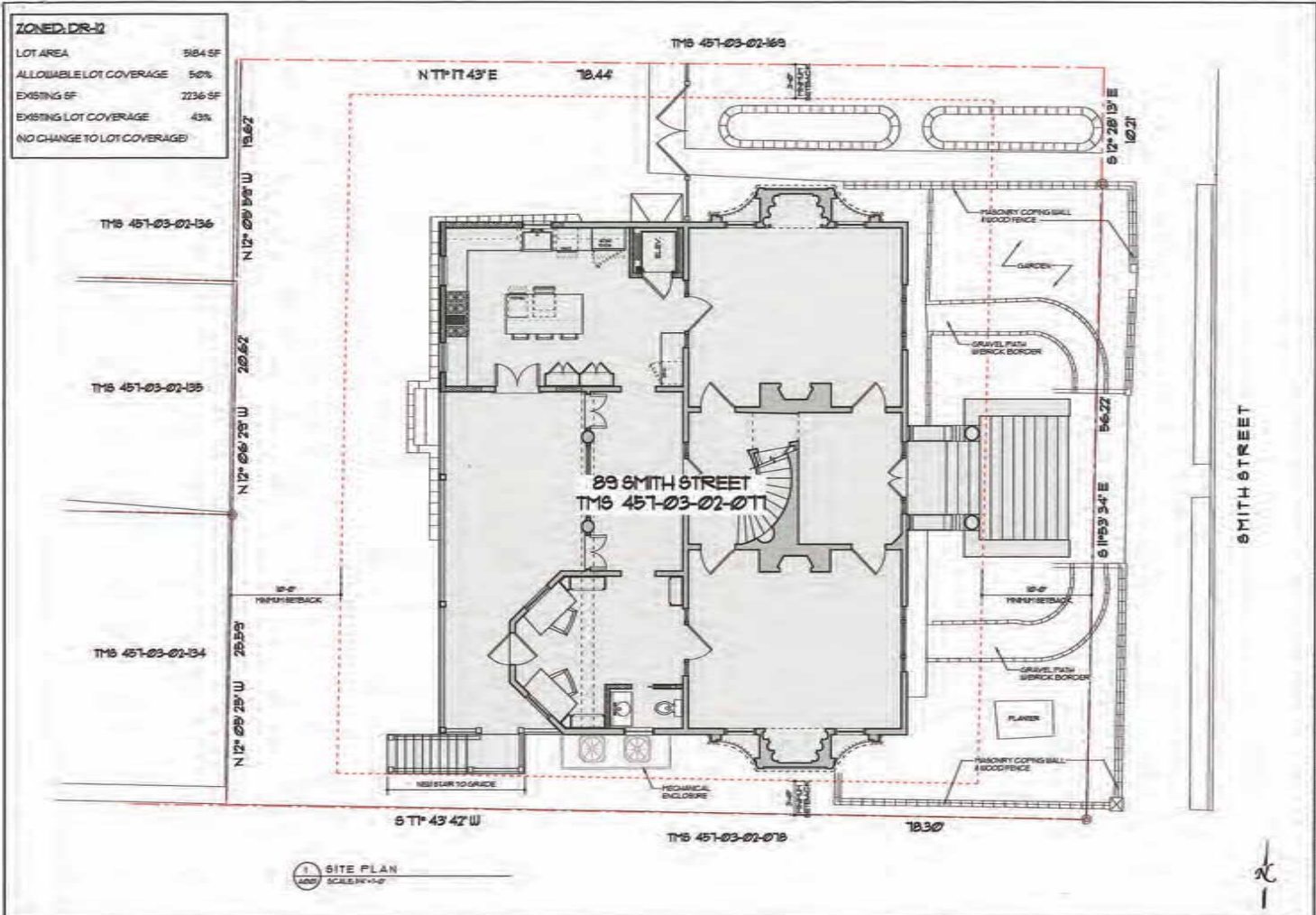
12 Vandenberg Street
Charleston, SC 29403
(843) 732-1100
www.glennkayesarchitects.com

ARLESTON - CC

Thomas Bennett House
68 Smith Street
Charleston, SC

MEMBERSHIP

DATE	5/5/11
PROJECT NUMBER	2208
ISSUE DATE	5/23/11
ISSUE NUMBER	A000



Glenn Koyas
Architect
www.glennkoyas.com

CHARLESTON - COMMON

Thomas Bennett House
148 1/2 W. 68th St
Charleston, SC

PHOTOS
CASE #2023CP1000655

PROJECT NUMBER 2208
DRAWING DATE 8/29/22
PI



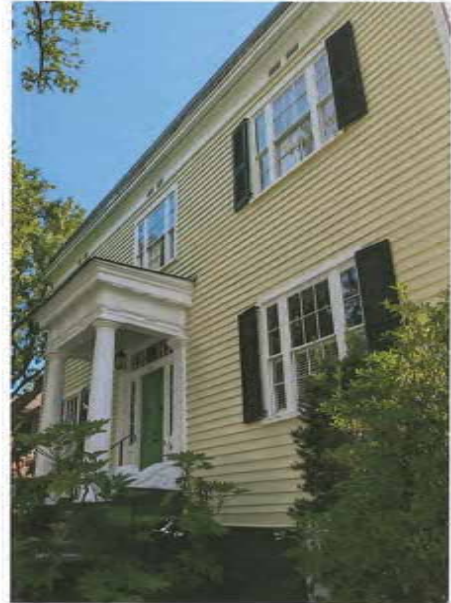
1 EAST/STREET ELEVATION
PI NO SCALE



2 SCROLL * ENTRY
PI NO SCALE



3 DOOR * GROUND FLOOR
PI NO SCALE



4 FRONT OBLIQUE
PI NO SCALE

Glenn Koyen
Architect
www.glennkoyenarchitect.com

CHARLESTON - COMMON

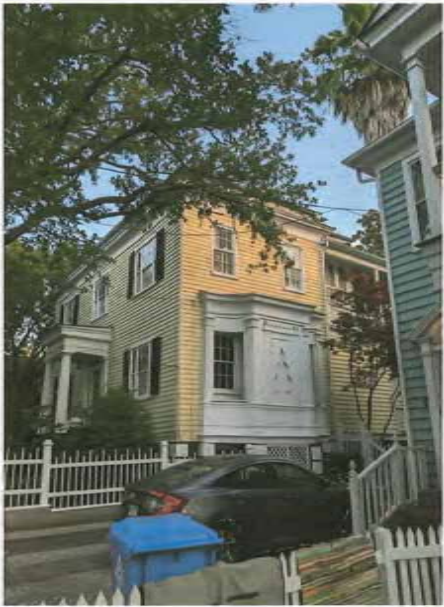
Thomas Bennett House
1444 14th St
Charleston, SC

CASE #2023CP1000655

PHOTOS

REV	DATE

PROJECT NUMBER 2208
ISSUED DATE 8/29/22
SHEET NUMBER P-2



1 NORTHEAST ELEVATION
P-2 NOSCALE



2 NORTHWEST ELEVATION
P-2 NOSCALE

Client: Koyes
Architect
www.garykoyes.com

CHARLESTON - COMMON

Thomas Bennett House
1413 1/2 W. 14th St.
Charleston, SC

CASE #2023CP1000655

PHOTOS
REV. DATE
PROJECT NUMBER
2208
DRAWING DATE
8/25/22
DRAWING NUMBER
P-3



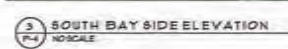
1 REAR STAIR TO BE REMOVED
P-3 NO SCALE

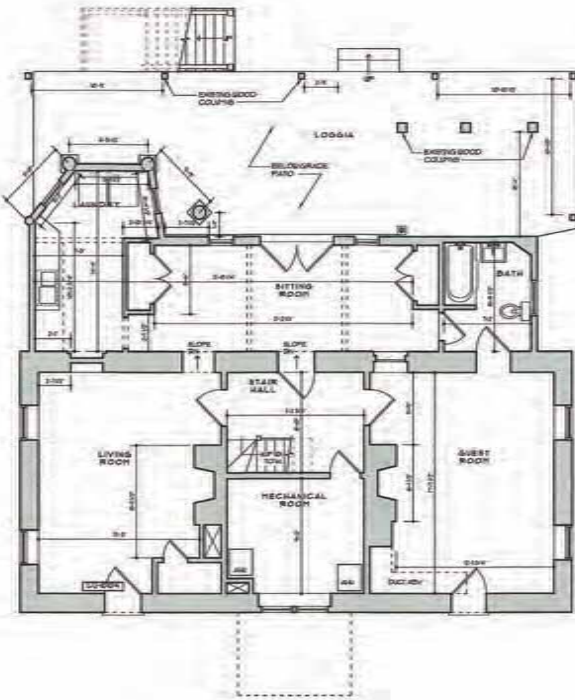


2 REAR/WEST OVERALL
P-3 NO SCALE

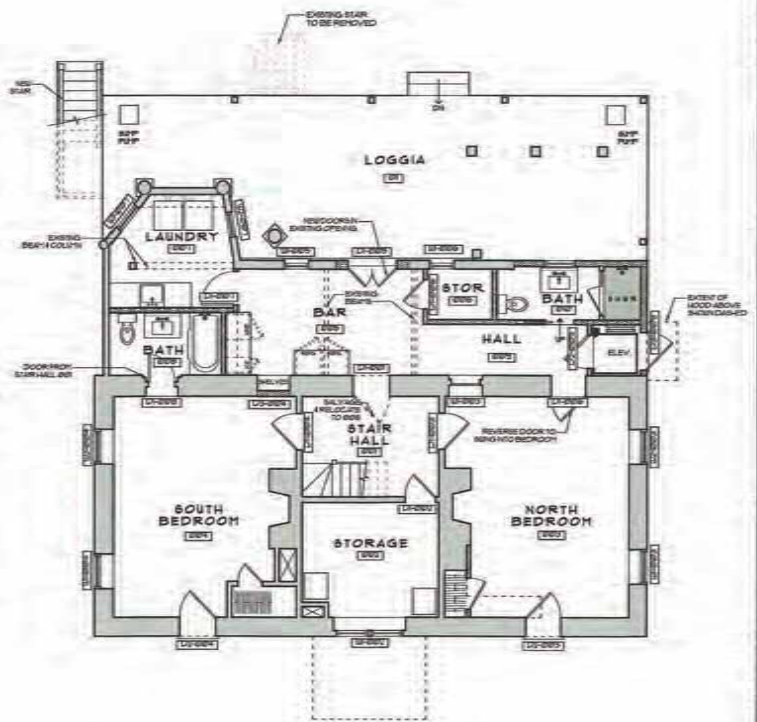


3 SECOND FLOOR PORCH DETAILS
P-3 NO SCALE





1 EXISTING GROUND FLOOR PLAN
SCALE 1/4" = 1'-0"

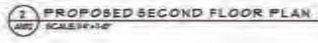


2 PROPOSED GROUND FLOOR PLAN
SCALE 1/4" = 1'-0"

—N—



— 26 —



— ୨୮ —



1 EXISTING EAST ELEVATION
ASB SCALE 1/4" = 1'-0"

NOTE: NO CHANGES TO FRONT/EAST ELEVATION

Thomas Bennett House
Charleston, SC

CHARLESTON - COMMON

Thomas Bennett House
Charleston, SC

CASE #2023CP1000665

PROJECT NUMBER
2208
PROJECT DATE
8/29/22
PROJECT NUMBER
A202

SOUTH ELEVATION

REV

DATE

DESCRIPTION

BY

DATE

DESCRIPTION

BY

DATE

DESCRIPTION

BY

DATE

DESCRIPTION

BY

DATE

DESCRIPTION

BY

DATE





Exhibit “C”

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2023-CP-10-
Glenn F. Keyes and	)	
Glenn Keyes Architects LLC,	)	
(License Nos. AR .3185 and ARF.02083)	)	
	)	
Plaintiffs,	)	
	)	
v.	)	SUMMONS
	)	(Jury Trial Demanded)
	)	
Frank Holtham, as Trustee of the Holtham	)	
SC Realty Trust, dated April 12, 2022,	)	
	)	
Defendant.	)	
	)	

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer to said Complaint on the below subscribed attorney at his office at 97 Broad Street, Charleston, South Carolina 29401 within thirty (30) days after the service hereof exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiffs in this action will apply to the Court for the relief demanded in this action.

s/John A. Massalon
John A. Massalon (SC Bar #10279)
Carissa Steichen Land, Esquire (SC Bar #104264)
WILLS MASSALON & ALLEN LLC
Post Office Box 859
Charleston, South Carolina 29402
(843) 727-1144
jmassalon@wmalawfirm.net
csteichen@wmalawfirm.net
ATTORNEYS FOR PLAINTIFFS

CHARLESTON, SC
February 13, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2023-CP-10-
Glenn F. Keyes and	)	
Glenn Keyes Architects LLC,	)	
(License Nos. AR .3185 and ARF.02083)	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
Frank Holtham, as Trustee of the Holtham	)	
SC Realty Trust, dated April 12, 2022,	)	
	)	
Defendant.	)	
	)	

COMPLAINT
(Jury Trial Demanded)

Plaintiffs Glenn F. Keyes and Glenn Keyes Architects LLC (“Plaintiffs”), complaining of the Defendant Frank Holtham, as Trustee of the Holtham SC Realty Trust, dated April 12, 2022 (“Defendant”), hereby allege and state as follows:

BACKGROUND

1. Plaintiff Glenn F. Keyes is a citizen and resident of Charleston County, South Carolina. Mr. Keyes is licensed by the State of South Carolina Department of Labor, Licensing, and Regulation, with the Architectural Board, License No. AR .3185.
2. Plaintiff Glenn Keyes Architects LLC is a South Carolina limited liability company organized and existing pursuant to the laws of the state of South Carolina with its principal place of business in Charleston County, South Carolina. The LLC is licensed by the State of South Carolina Department of Labor, Licensing, and Regulation, with the Architectural Board License No. ARF.02083.
3. Upon information and belief, Defendant is a citizen and resident of a state other than South

Carolina.

4. Upon information and belief, Defendant formerly owned the property located at 89 Smith Street Charleston, South Carolina 29401, which is the subject of this action (the “Property”). The property is described as follows:

All that lot, piece or parcel of land with the buildings and improvements thereon, situate, lying and being in the City of Charleston, in the State aforesaid, located at 89 Smith Street; more particularly shown as Lot 77 on a plat entitled, “Resurvey and Property Line Adjustments for Harleston Green, City of Charleston County, South Carolina,” prepared by Forsberg Engineering & Surveying Inc., dated July 12, 1988 and recorded in Plat Book BT, at Page 193.

Being the same property conveyed to Mark A. Maresca and Melissa K. Maresca by Frank Holtham, as Trustee of the Holtham SC Realty Trust, dated April 12, 2022, by virtue of a deed dated November 29, 2022, recorded on December 2, 2022 in Deed Book 1151, Page 346, County of Charleston, State of South Carolina.

TAX MAP NUMBER: 457-03-02-077

5. Plaintiffs performed and furnished labor for renovations at the Property in connection with architectural services at the request of and with the knowledge and express consent of the Defendant.
6. Plaintiffs have performed all requirements associated with these architectural services.
7. Defendant has failed to pay Plaintiffs in full and owes Plaintiffs an outstanding balance of Ninety-Four Thousand, Four Hundred Two and 00/100 US Dollars (\$94,402.00), plus interest, lien filing costs, attorneys’ fees, and any other costs, which amount is justly due and owed to Plaintiffs for labor performed and furnished in the renovations.
8. Plaintiffs filed a Mechanic’s Lien in connection with this matter in accordance with S.C. Code Ann. 29-5-10 et seq. on November 4, 2022.
9. Thereafter, Defendant filed a Bond in Release of Mechanic’s Lien on November 23, 2022

pursuant to S.C. Code Ann. 29-5-110 in the amount of \$125,869.30.

10. Upon information and belief, Defendant then sold the Property to Mark A. Maresca and Melissa K. Maresca by virtue of a deed dated November 29, 2022, recorded on December 2, 2022 in Deed Book 1151, Page 346, County of Charleston, State of South Carolina.

FOR A FIRST CAUSE OF ACTION
(Foreclosure of Mechanic's Lien)

11. Plaintiffs repeat and reiterate the foregoing paragraphs as if fully stated herein.
12. Plaintiffs performed and furnished labor for renovations at the Property in connection with architectural services with the knowledge and express consent of the Defendant.
13. Defendant has wrongfully failed and refused to pay Plaintiffs for labor performed and furnished and accepted by Defendants in the amount of Ninety-Four Thousand, Four Hundred Two and 00/100 US Dollars (\$94,402.00).
14. Plaintiffs' Lien, duly recorded in the Register of Deeds Office for Charleston County, constitutes a valid lien against Defendant's Property.
15. Upon information and belief, by virtue of their duly perfected Lien, Plaintiffs are entitled to foreclose on the lien and are entitled to be awarded a judgment against Defendant for the amounts owed as a result of the Lien in accordance with the laws of the State of South Carolina, together with interest and attorneys' fees.

FOR A SECOND CAUSE OF ACTION
(Suit on Bond/Enforcement of Claim of Lien on Real Property)

16. Plaintiffs repeat and reiterate the foregoing paragraphs as if fully stated herein.
17. Defendant filed a Bond in Release of Mechanic's Lien on November 23, 2022 ("Bond") pursuant to S.C. Code Ann. 29-5-110 in the amount of \$125,869.30 in connection with the Mechanic's Lien filed by Plaintiffs.

18. Pursuant to the terms of the Bonds and the South Carolina lien statute, the Bond stands in place of the Property with respect to the obligations of the Mechanic's Lien.
19. Pursuant to the terms of the Bond, Defendant binds itself to ensure payment of the amount finally determined to be due in satisfaction of the Lien.
20. Pursuant to the terms of the Bond, Plaintiffs have the right to recover in this action from the cash sum deposited by Defendant.
21. Plaintiffs' Lien, duly recorded in the Register of Deeds Office for Charleston County, constitutes a valid lien against Defendant's Property.
22. Plaintiffs timely filed the Lien within 90 days of its last furnishing of labor to the Property in accordance with Section 29-5-120 of the South Carolina Code of Laws.
23. Defendant is obligated to Plaintiffs for all amounts determined to be due and owing Plaintiffs under the Bond pursuant to the terms of same.
24. Plaintiffs are entitled to recover under the Bond prejudgment and post-judgment interest at the highest rate allowed by the law.
25. Plaintiffs are further entitled to recover reasonable attorneys' fees incurred in pursuing their claims under the Bond.
26. Based on the foregoing, Plaintiffs seek and are entitled to judgment in at least the principal amount of the Bond, plus reasonable attorneys' fees, together with costs, pre and post-judgment interest, and all other damages for which this court deems proper.

FOR A THIRD CAUSE OF ACTION
(Breach of Contract)

27. Plaintiffs repeat and reiterate the foregoing paragraphs as if fully stated herein.
28. Plaintiffs performed and furnished labor for renovations at the Property in connection with architectural services at the request of and with the knowledge and express consent of the

Defendant.

29. Defendant has wrongfully failed and refused to pay Plaintiffs for labor performed and furnished and accepted by Defendant in the amount of Ninety-Four Thousand, Four Hundred Two and 00/100 US Dollars (\$94,402.00).
30. Defendant's failure to pay constitutes a breach of contract.
31. Plaintiffs are therefore entitled to a judgment against Defendant for damages due to Defendant's breach of contract, in an amount to be determined at trial, including the outstanding payment of Ninety-Four Thousand, Four Hundred Two and 00/100 US Dollars (\$94,402.00), plus interest, lien filing costs, attorneys' fees, and any other costs.

FOR A FOURTH CAUSE OF ACTION
(Unjust Enrichment)

32. Plaintiffs repeat and reiterate the foregoing paragraphs as if fully stated herein.
33. Plaintiffs performed and furnished labor for renovations at the Property in connection with architectural services with the knowledge and express consent of the Defendant.
34. Defendant has wrongfully failed and refused to pay Plaintiffs for labor performed and furnished and accepted by Defendants in the amount of Ninety-Four Thousand, Four Hundred Two and 00/100 US Dollars (\$94,402.00).
35. Defendant's failure to pay Plaintiffs for these services constitutes unjust enrichment to the Defendant.
36. Defendant has been unjustly enriched in the amount of Ninety-Four Thousand, Four Hundred Two and 00/100 US Dollars (\$94,402.00), representing the outstanding balance owed to Plaintiffs.
37. As a direct and proximate result of Defendant's unjust enrichment as described above, Plaintiffs have suffered pecuniary losses and are entitled to recover from Defendant in

quantum meruit actual damages, plus the incidental, consequential, and special damages resulting therefrom, including the costs and attorneys' fees associated with this cause of action.

WHEREFORE, Plaintiffs request a judgment against Defendants as set forth herein as well as any additional, different, and/or further relief as this Court deems just and proper.

s/John A. Massalon
John A. Massalon (SC Bar #10279)
Carissa Steichen Land, Esquire (SC Bar #104264)
WILLS MASSALON & ALLEN LLC
Post Office Box 859
Charleston, South Carolina 29402
(843) 727-1144
jmassalon@wmalawfirm.net
csteichen@wmalawfirm.net

ATTORNEYS FOR PLAINTIFFS

CHARLESTON, SC

February 13, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
Glenn F. Keyes and Glenn Keyes	)	C/A No.: 2023-CP-10-00706
Architects LLC, (License Nos. AR .3185	)	
and ARF.02083)	)	
	)	
Plaintiffs,	)	
	)	ACCEPTANCE OF SERVICE
v.	)	
	)	
Frank Holtham, as Trustee of the Holtham	)	
SC Realty Trust, dated April 12, 2022,	)	
	)	
Defendant.	)	
	)	

I, Benjamin C. Bruner, Esquire, as the duly authorized attorney for and on behalf of the Defendants, Frank Holtham, as Trustee of the Holtham SC Realty Trust, dated April 12, 2022, in the above referenced matter, do hereby acknowledge and accept service of the **Summons and Complaint** in the above referenced action on this 17th day of February, 2023.

BRUNER POWELL WALL & MULLINS, LLC

/s/ Benjamin C. Bruner
Benjamin C. Bruner, S.C. Bar No.: 77544
Post Office Box 61110 (29260)
1735 St. Julian Place, Suite 200 (29204)
Columbia, South Carolina
803-252-7693
bbruner@brunerpowell.com
Attorney for the Defendants

Exhibit “D”

Glenn Keyes Architects

March 31, 2022

Frank Holtham Jr.
89 Smith Street
Charleston, SC 29401

Dear Frank and Shelley

It was a pleasure to meet you both and to get a tour of your house. I look forward to working with you on the rehabilitation of this very interesting house. The house has been through many modifications, but the bones of the house are very good. I am confident that we can make this a great place for you to live.

We would propose the following scope of services:

- Measurement and confirmation of the existing conditions
- Photographic documentation of the existing conditions
- Preparation of Design Drawings for your review
- Submittal of plans to the Board of Architectural Review for Conceptual Approval
- Consultation with the contractor to prepare a construction budget
- Preparation of construction drawings required for a Building Permit and Final BAR approval
- Consultation with your contractor throughout construction.
- Review and approval of construction draws.

Our fees are based on 10% of the construction costs. Please let me know if you need any additional information. If this is acceptable to you, we will schedule the work. We can develop a demolition plan quickly which would allow Jim to begin work while we work through the design details with you. Jim and I have worked together on many projects over the last 30 years. We make a good team that makes things work very smoothly. Please let me know if I can provide you with any additional information.

Best Regards,



Glenn F. Keyes FAIA



FH

From: Frank Holtham frankh@toyotaofhackensack.com
Subject: RE: 89 Smith Street
Date: April 1, 2022 at 1:45 PM
To: Glenn Keyes gk@glennkeyesarchitects.com
Cc: Shelly sfuller7@gmail.com

Hi Glenn,

It was a pleasure meeting you last week as well. Thank you for your scope of services. No problem with the 10% of construction costs. We need to know the basic estimate of all costs before we begin to give us a rough idea of how much money we need for the project. We do not want to start the project unless we have all funds in place. Shelley and I are excited to work with you and Jim. Thank you for your understanding.

All the best,
Frank and Shelley

From: Glenn Keyes <gk@glennkeyesarchitects.com>
Sent: Friday, April 1, 2022 1:02 PM
To: Frank Holtham <frankh@toyotaofhackensack.com>
Cc: Glenn F Keyes <gk@glennkeyesarchitects.com>
Subject: 89 Smith Street

Glenn F. Keyes, FAIA
Glenn Keyes Architects LLC
12 Vanderhorst Street
Charleston, SC 29403
843-722-4100
www.glennkeyesarchitects.com

From: Glenn Keyes gk@glennkeyesarchitects.com 
Subject: 89 Smith revisions.

Date: June 2, 2022 at 4:25 PM

To: Shelley Fuller sfuller7@gmail.com, Frank Holtham frankh@toyotaofhackensack.com

Cc: Jim Rhode rhodeinc@knology.net, Solar Rueben solar@glennkeyesarchitects.com, Glenn F Keyes gk@glennkeyesarchitects.com



Shelly and Frank,

We have received your comments and made the following revisions on the attached floor plans.

-Ground Floor

- revised the toilet location in the North Guest Bath
- Added a counter with under counter refrigerators in the Hall
- Removed the sink and added a wine refrigerator next to the Laundry

-First Floor

Kitchen

- removed the east door from the kitchen to the porch
- Added a double depth trash drawer next to the sink
- Added a countertop with a wine refrigerator on the east wall next to the Dining Room door
- Added a shallow pantry on the south wall of the kitchen. The available depth here would not accommodate the wine ref on this wall

Office

- Changed the Library into your office with two built in desks. Enlarged the Powder Room to eliminate the corner plumbing fixtures.

Second Floor

Guest Bath

- Reworked the doors to eliminate the swing conflict. This is a nice improvement as it better separates the powder room from the Guest Room suite.
- That is a closet on the porch that backs up to the shower

Guest Bedroom

- The closet is now built in

Master Bath

- There is not enough depth to install a door in front of the water closet. We can add pocket doors that will separate the water closet and shower from the vanity/tub area. This will provide privacy between the two spaces.

We are continuing on with our drawings. Let me know if you have any additional thoughts or comments.

Thanks,
Glenn

2208-
ARCH-...22.pdf

Glenn F. Keyes, FAIA
Glenn Keyes Architects LLC
12 Vanderhorst Street
Charleston, SC 29403
843-722-4100
www.glennkeyesarchitects.com

From: Glenn Keyes <gk@glennkeyesarchitects.com>
Subject: 89 Smith
Date: September 29, 2022 at 3:11 PM
To: John A. Massalon <jmassalon@wmalawfirm.net>
Cc: Glenn F Keyes <gk@glennkeyesarchitects.com>



Subject: Re: 89 Smith revisions.

From: Shelley Fuller <sfuller7@gmail.com>

Date: 6/10/2022, 11:53 AM

To: Glenn Keyes <gk@glennkeyesarchitects.com>

CC: Frank Holtham <frankh@toyotaofhackensack.com>, Jim Rhode <rhodeinc@knology.net>, Solar Rueben <solar@glennkeyesarchitects.com>

Hi Glenn,

Hope all is well. Frank and I had a chance to review the plans. For the office, Frank and I do not want built in desks. Frank and I will be in town on the 16th or 17th this upcoming week. We'd like to walk through the house with you with the plans so we can fine-tune the details and lock them in so we can get Jim started immediately. Will you be in town?

Thank you,
Shelley & Frank

Sent from my iPhone

On Jun 2, 2022, at 4:25 PM, Glenn Keyes <gk@glennkeyesarchitects.com> wrote:

Glenn F. Keyes, FAIA
Glenn Keyes Architects LLC
12 Vanderhorst Street
Charleston, SC 29403
843-722-4100
www.glennkeyesarchitects.com

Subject: Follow Up

From: Shelley Fuller <sfuller7@gmail.com>

Date: 7/25/2022, 10:41 PM

To: Glenn Keyes <gk@glennkeyesarchitects.com>, Adrienne Jacobsen <ajacobsen@glennkeyesarchitects.com>, Rhode Construction <rhodeinc@knology.net>

CC: Frank Holtham <frankh@toyotaofhackensack.com>

Good evening,

Thank you all for your time last week that resulted in very productive meetings!! :) Seeing the house under demo was really exciting!! We had a chance to look over the plans and digest for functionality and we just have a few minor changes/additions:

1) (First Floor) Kitchen: please move the dishwasher to the right side of the sink and move the trash to the island (right side of the microwave drawer). Additionally, on the left side of the microwave, we would like to put cabinets and/or drawers. We are thinking that a small TV would work well above the wine fridge on the wall.

2) (First Floor) Office: The 2 built-in bookshelves by the desks - we would like to keep the shelves on top but put a countertop with cabinets below for storage. Additionally, the back built-in bookshelf - we would like to take out and just put a countertop with a cabinet below (thinking to put a printer on top). We need a spot for our printer and storage for files, paper, materials, etc.

3) (Second Floor) Sitting Room: we do not want a built-in cabinet for the TV to sit on. We will buy our own piece of furniture if need be as Frank would like the biggest TV that will fit and will hang it on the wall. In this room we would please like a spot to put a mini fridge (nothing fancy, but to keep water).

4) (Second Floor) Master Bathroom: I have yet to decide upon the linen cabinet and makeup spot if need be at all?

Just wanted to get this out there as I know you are finalizing the plans and working on sub bids, etc.

Thank you all for your time and expertise :)

Warmest,

Shelley & Frank

Exhibit “E”

89 Smith St. Budget Breakdown

8/19/22

Demolition	62,000
Concrete/Masonry	16,000
Steps	25,000
Carpentry Labor & Materials	622,240
Roofing	35,000
Windows & Doors	17,500
Millwork	45,000
Plumbing	85,000
Electrical	141,321
Built-in Fixtures	8,000
HVAC	144,320
Insulation	7,994
Drywall	28,500
Plaster	8,500
Elevator	35,000
Tile/Labor	35,000
Marble	20,000
Glazing	16,800
Wood Flooring	60,000
Hardware (allowance)	14,000
Painting Interior	66,600
Painting Exterior	74,000
Cabinets	170,000
Appliance Installation	5,000
Construction Clean	5,000
General Requirements/permits	<u>46,218</u>
Subtotal	1,793,993
Overhead & Profit 20%	<u>358,799</u>
Total	2,152,792

Exhibit “F”

Charleston, SC
2208
5/9/22
EA121

Charleston, SC
2208
5/9/22
EA121

Charleston, SC
2208
5/9/22
EA121

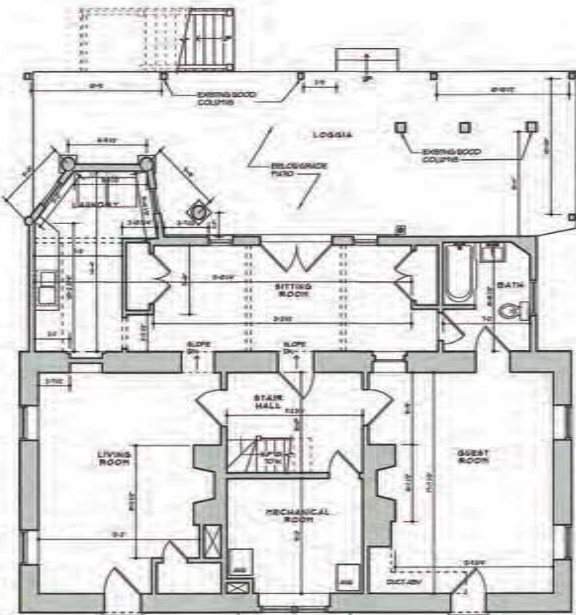
Charleston, SC
2208
5/9/22
EA121

Charleston, SC
2208
5/9/22
EA121

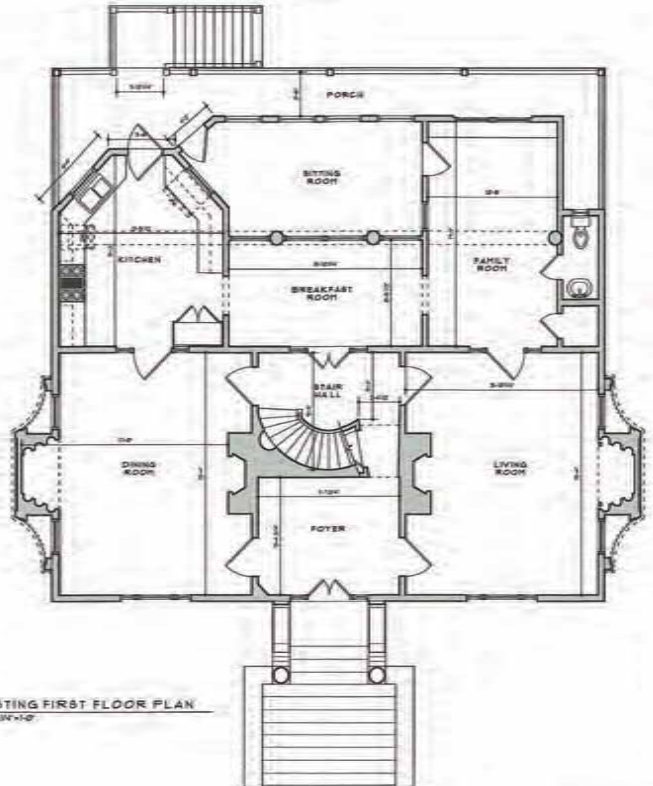
Charleston, SC
2208
5/9/22
EA121

Charleston, SC
2208
5/9/22
EA121

Charleston, SC
2208
5/9/22
EA121



1 EXISTING GROUND FLOOR PLAN
SCALE 1/8"=1'-0"



2 EXISTING FIRST FLOOR PLAN
SCALE 1/8"=1'-0"

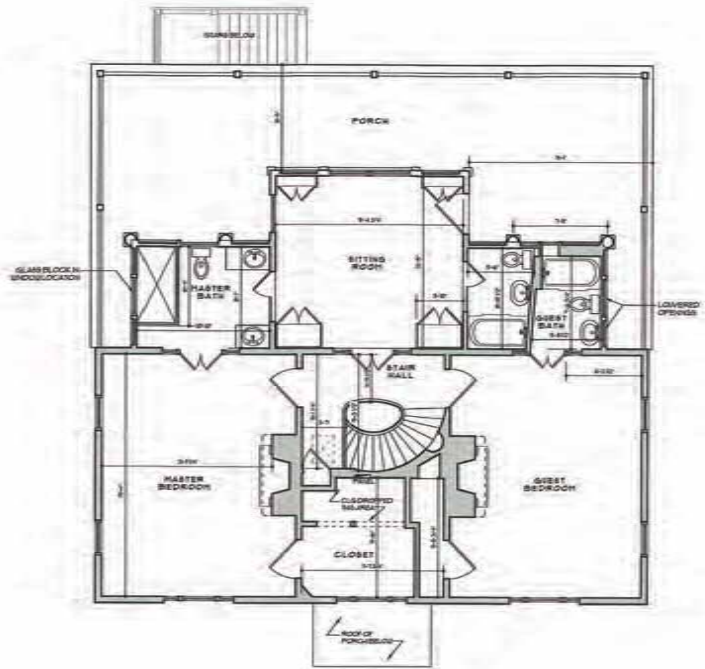
Existing As-Built Drawings

Glenn Koyne
Architect
www.glennkoyne.com

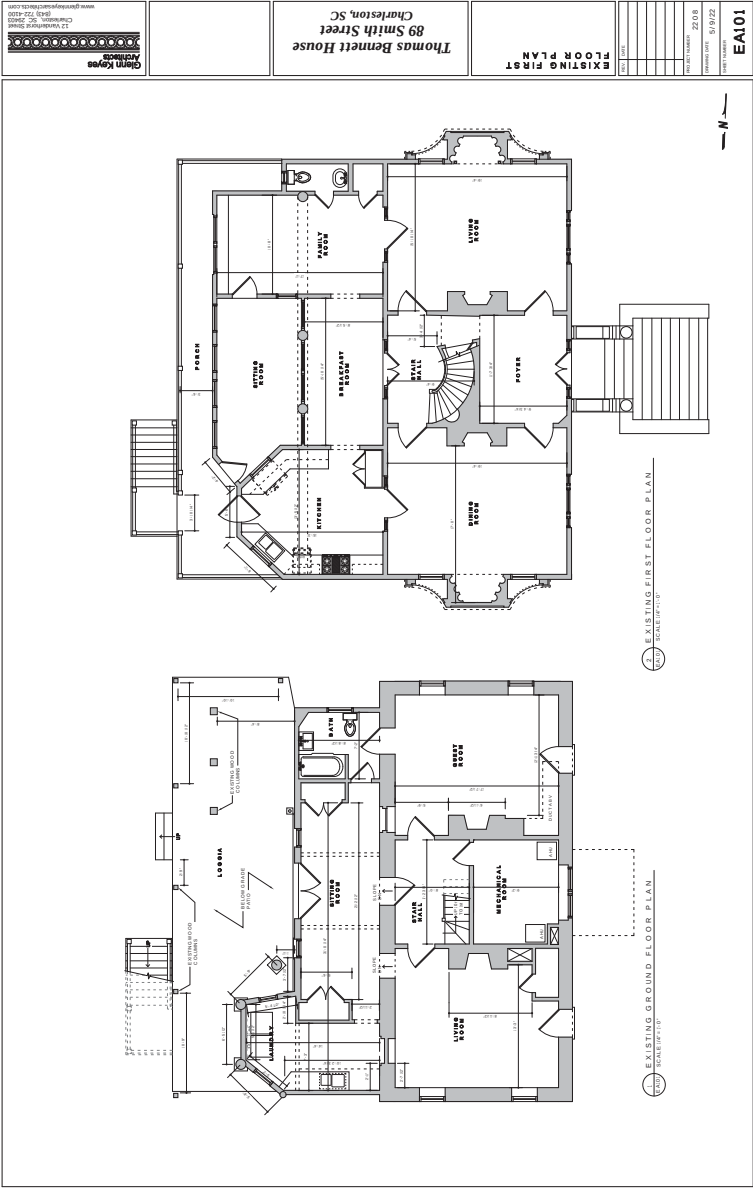
CHARLESTON - COMMON HOUSE
Thomas Bennett House
148 W. 68th St.
Charleston, SC

EXISTING SECOND FLOOR PLAN
DATE: 5/13/22

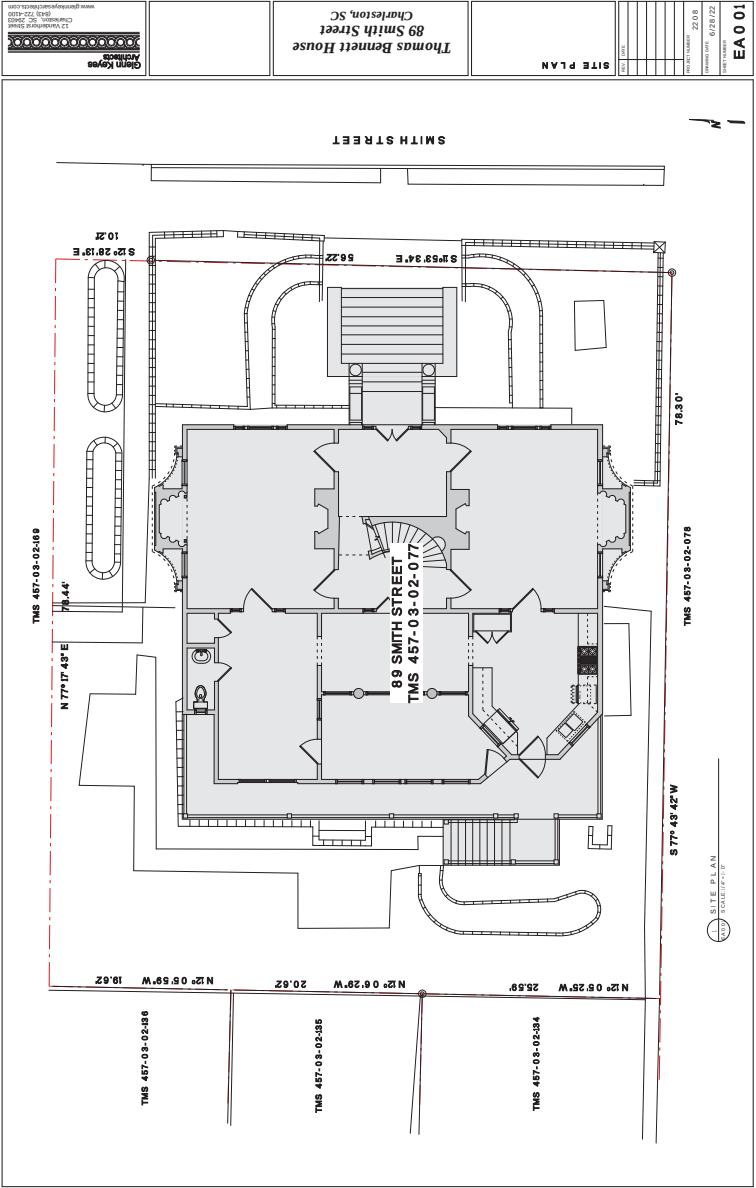
PROJECT NUMBER: 2208
DATE: 5/13/22
EAI/02

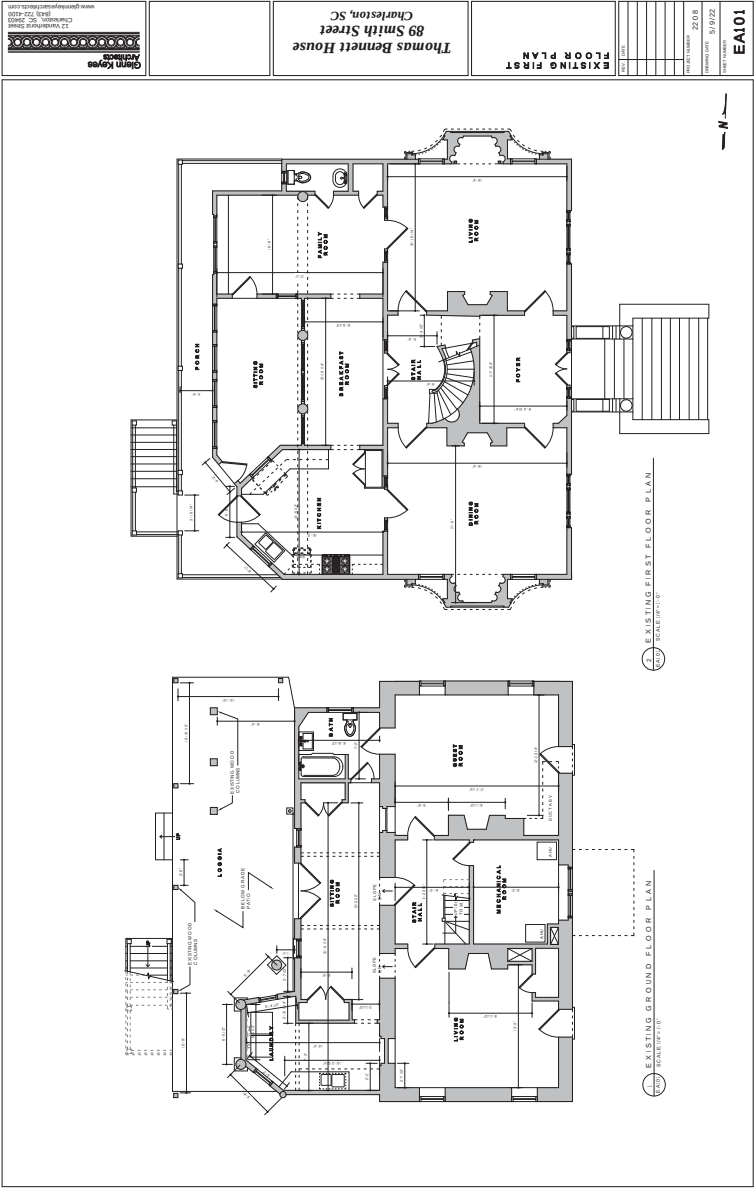


1. EXISTING SECOND FLOOR PLAN
SCALE: 1/4" = 1'-0"



[illegible]



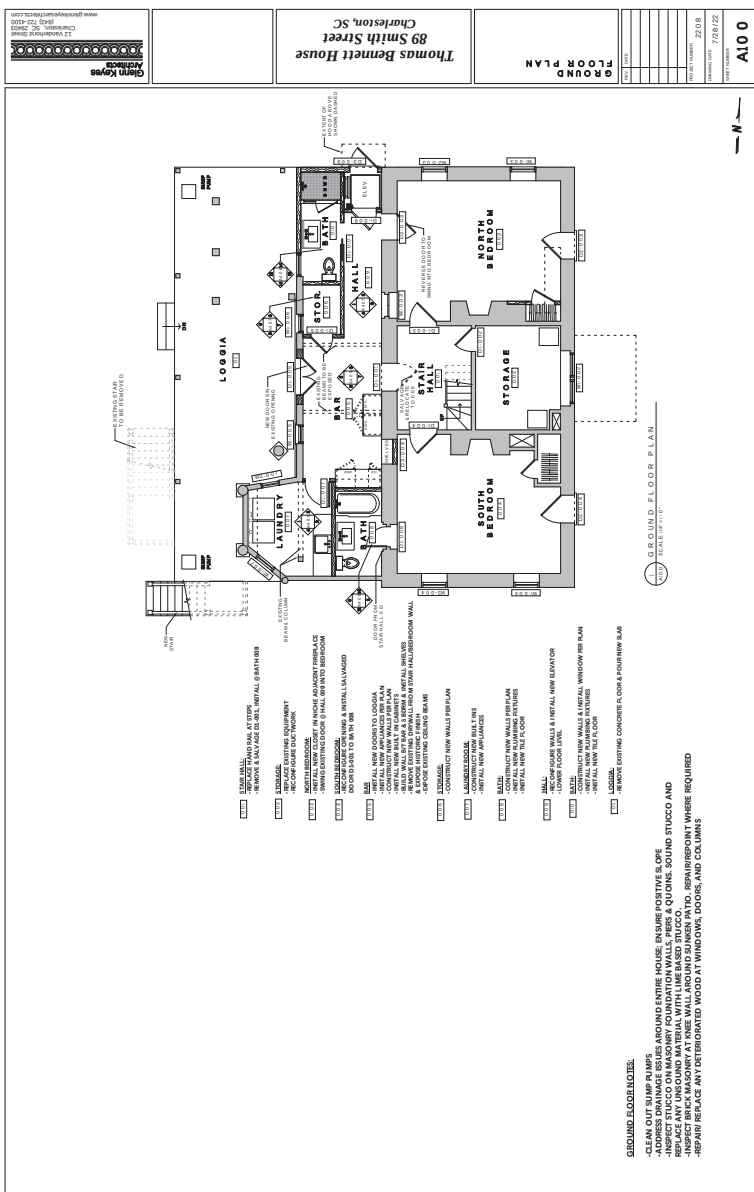


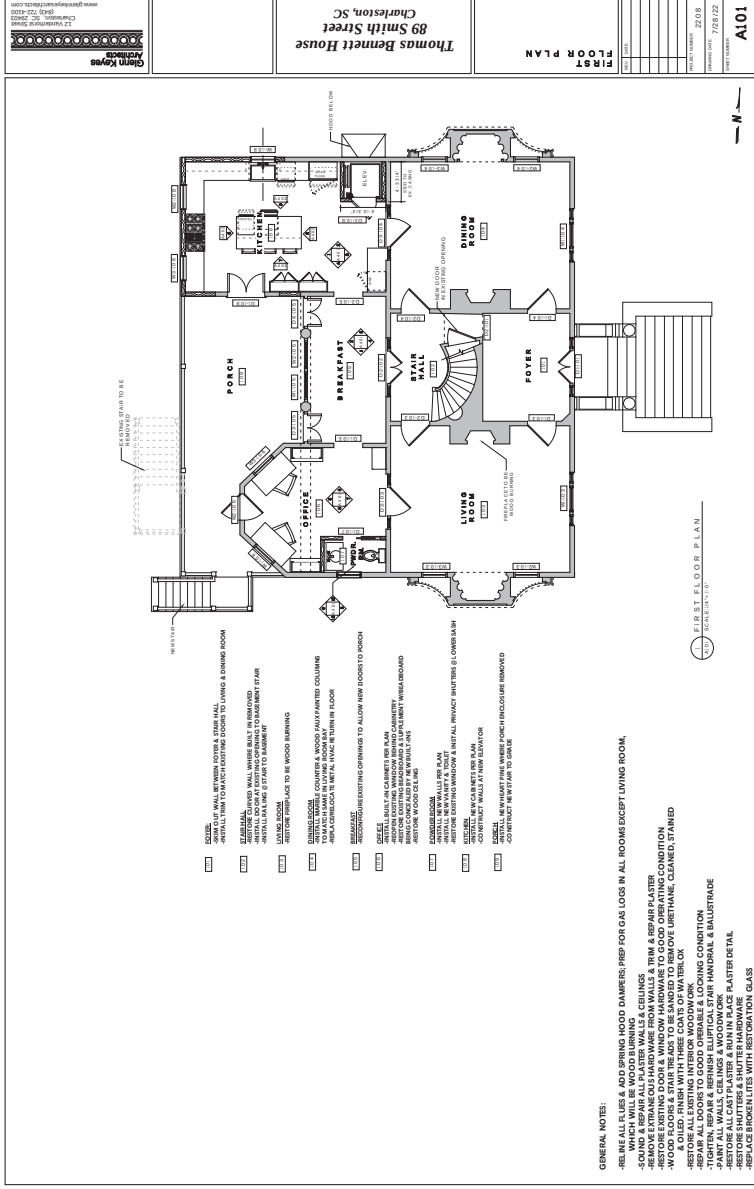
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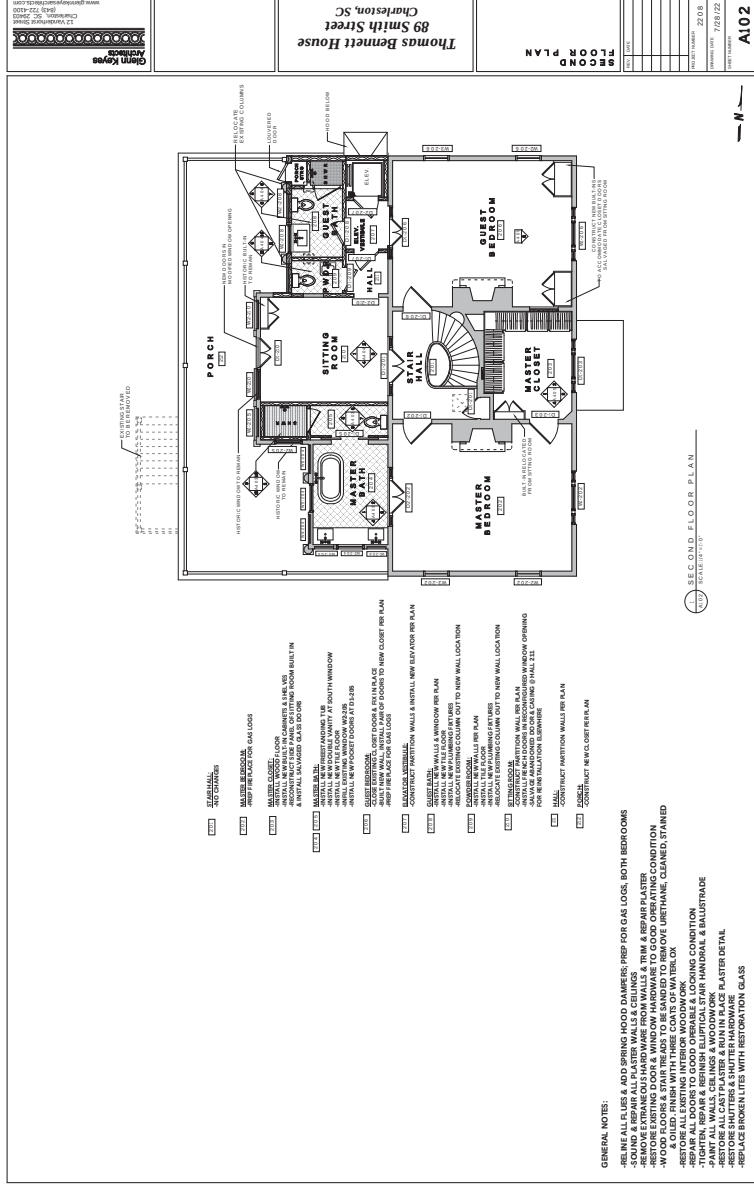
GENERAL NOTES -REPAIR OR REPLACE ROTTEN OR INTERGRAINATED WOOD -CLEAN GUTTER, DOWNPOUTS & COLLECTOR BOXES & ENSURE THEY ARE ALIGNED & SIZED PROPERLY -ADDRESS DRAINAGE ISSUES AROUND INTRUSIVE HOUSE. ENSURE POSITIVE SLOPE -INSPECT STUCCO ON MAJORITY FOUNDATION WALLS, PERS & QUAINS. SOUND STUCCO AND REPAIR AS NEEDED WITH MATCHING MATERIALS -REPAIR AS NEEDED FOR COLLATERAL DAMAGE AT WINDOW DOORS, PORCH BALUSTRADE, COLUMNS AND CORNICES. -REPAIR DAMAGED SHUTTERS TO GOOD ORIGINAL CONDITION -REPLACE MISSING OR DAMAGED SHUTTER HARDWARE & REMOVE ANY UNUSIDED DUPLICATE HOOK OR EYES -PRIME AND PAINT ALL EXTERIOR WOODWORK -REPLACE BROKEN GLASS WITH NEW FUNCTION GLASS	2ND FLOOR 2ND FLOOR 2ND FLOOR	REPLACE METAL COLUMN SURFACING ENTRY LANDING
	REPAIR OR REPLACE ROTTEN OR INTERGRAINATED WOOD	DAMAGED SHUTTER

[illegible]

[illegible]





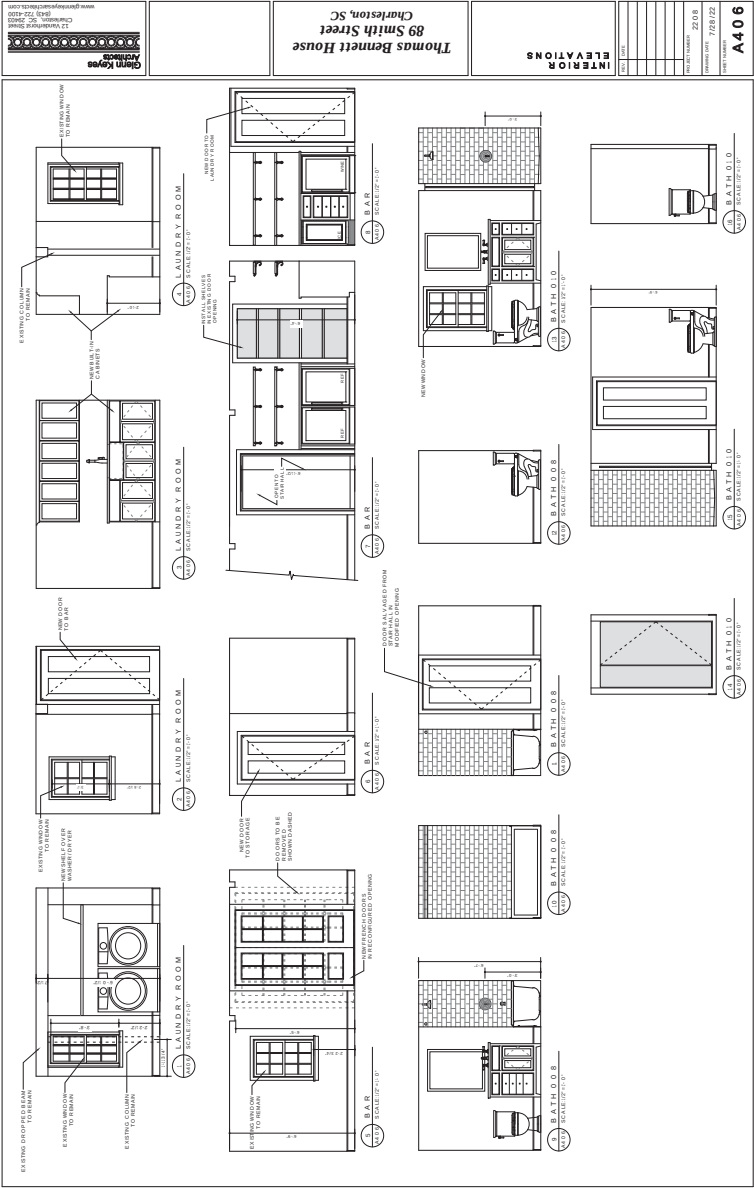


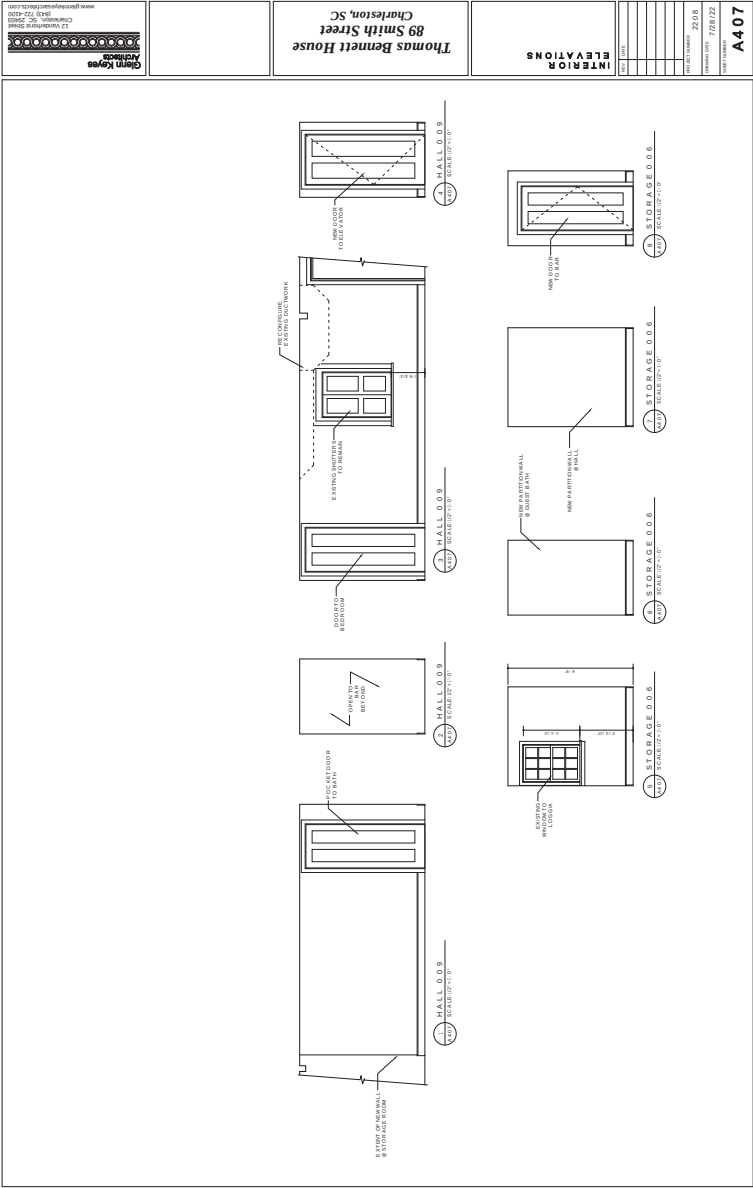
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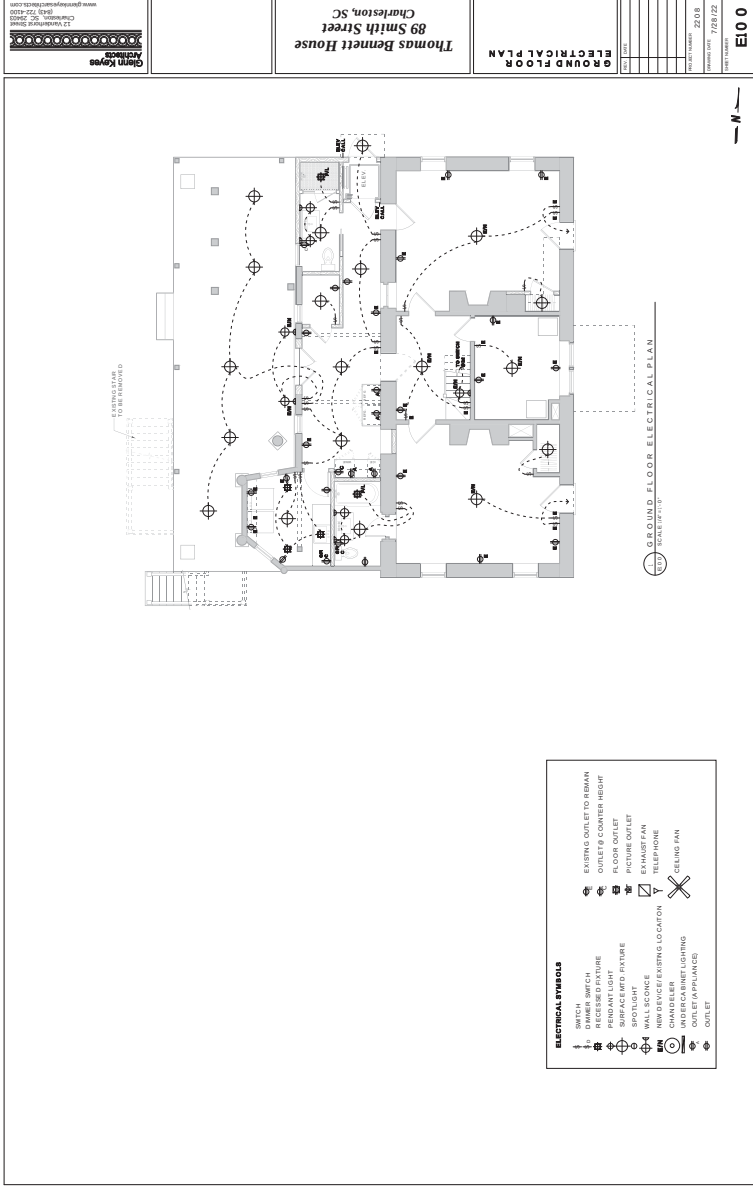
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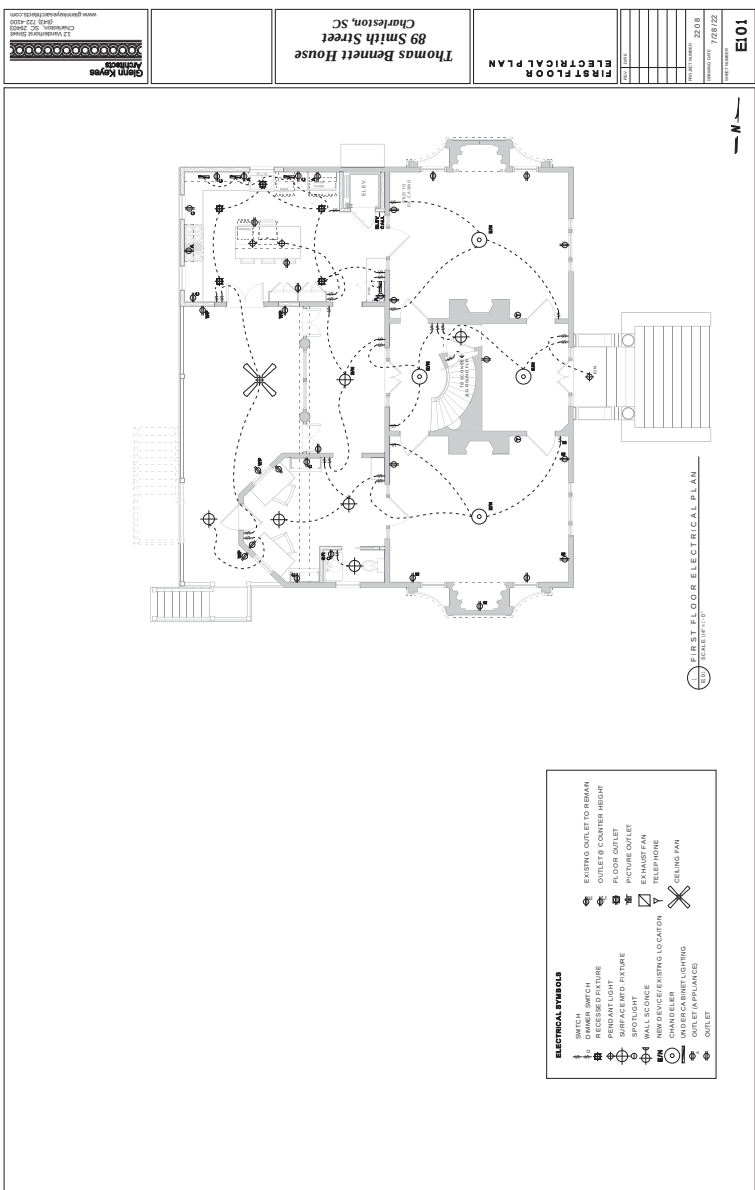
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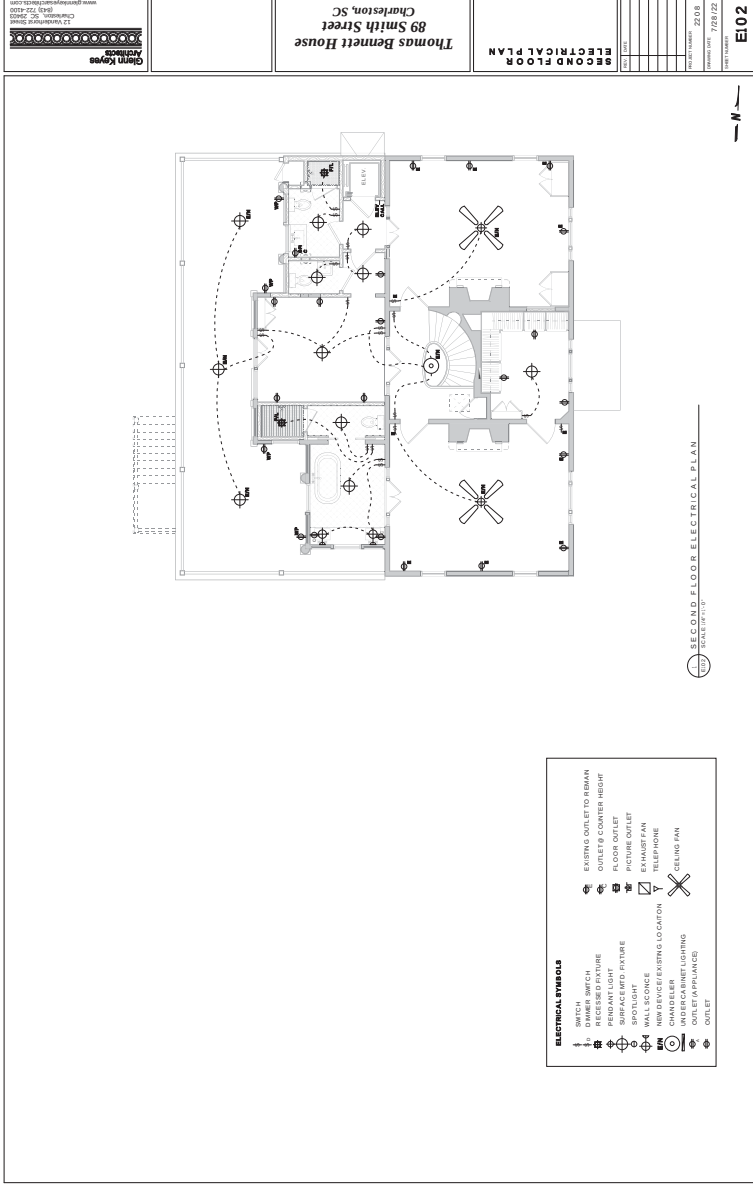
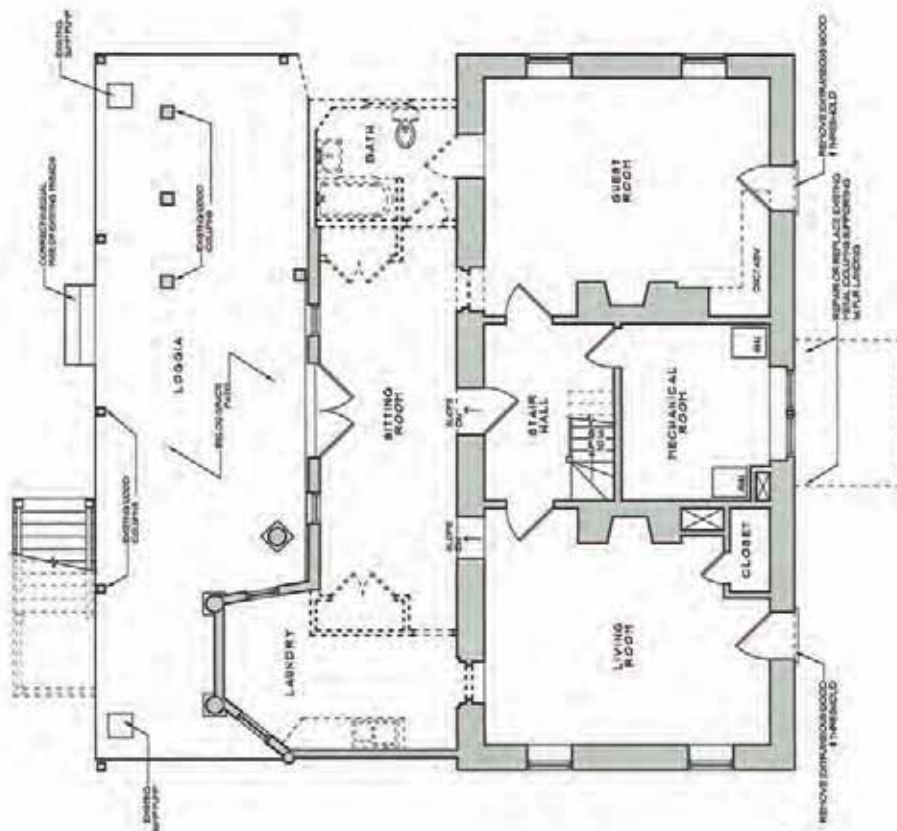
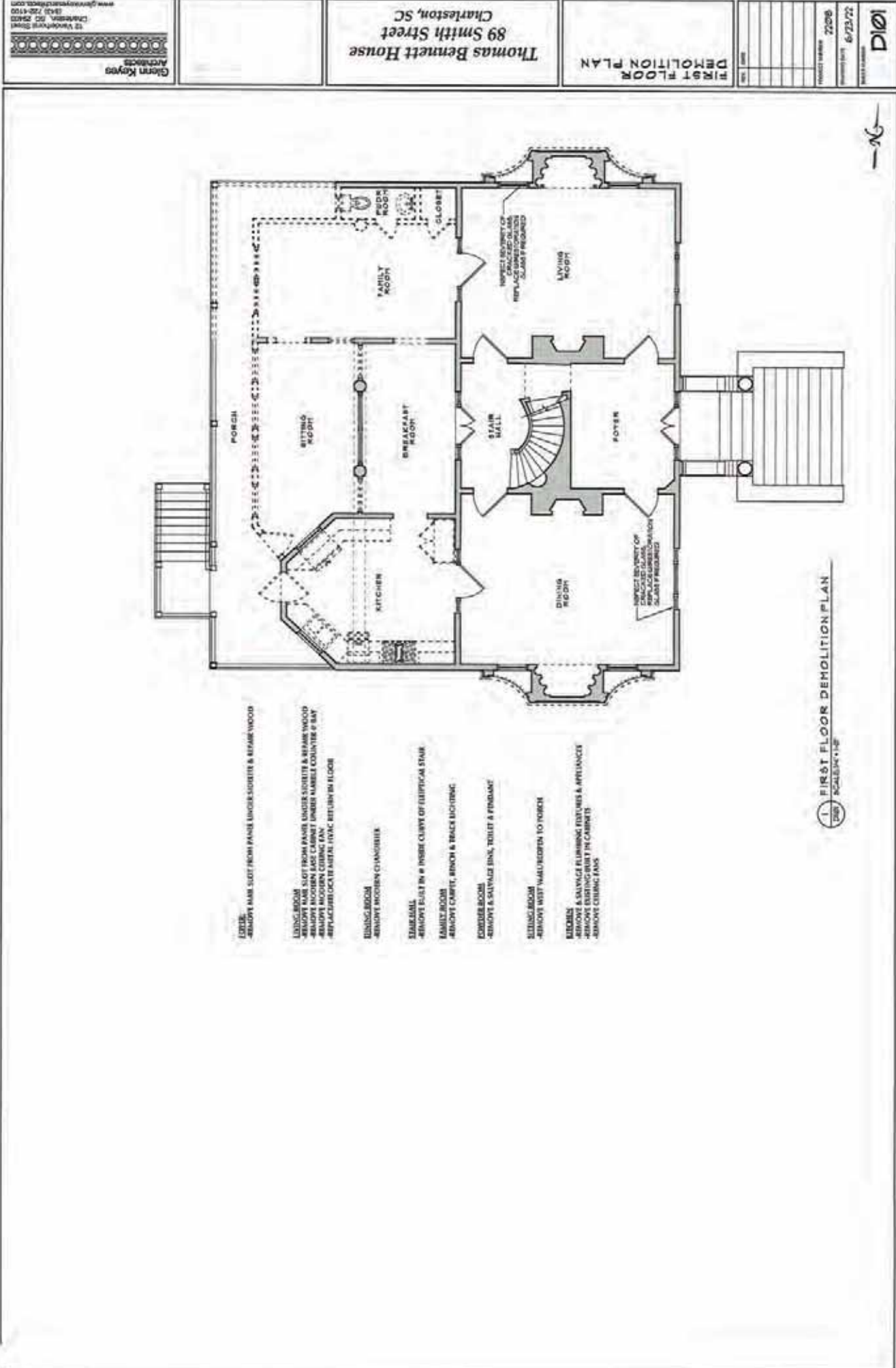


Exhibit “G”



- [illegible]



202

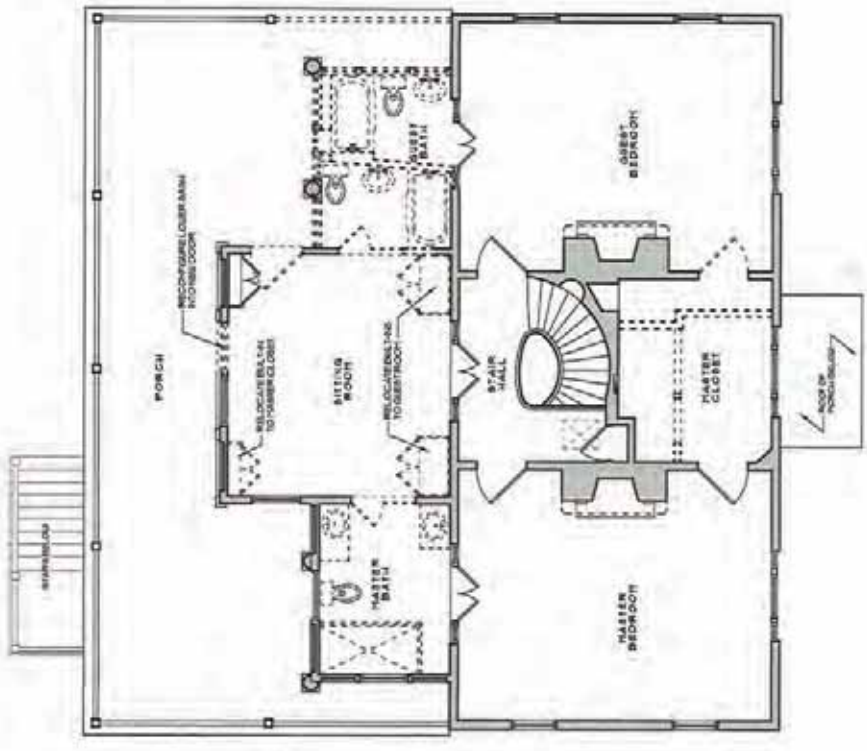
DEMOLITION PLAN

PROJECT NUMBER 70098
DATE 6/23/22
SHEET NUMBER

Thomas Bennett House
89 Smith Street
Charleston, SC

Glenn Keyes
Architects
13 Vanderhorst Street
Charleston, SC 29403
843.772.4140
www.glennkeyesarchitects.com

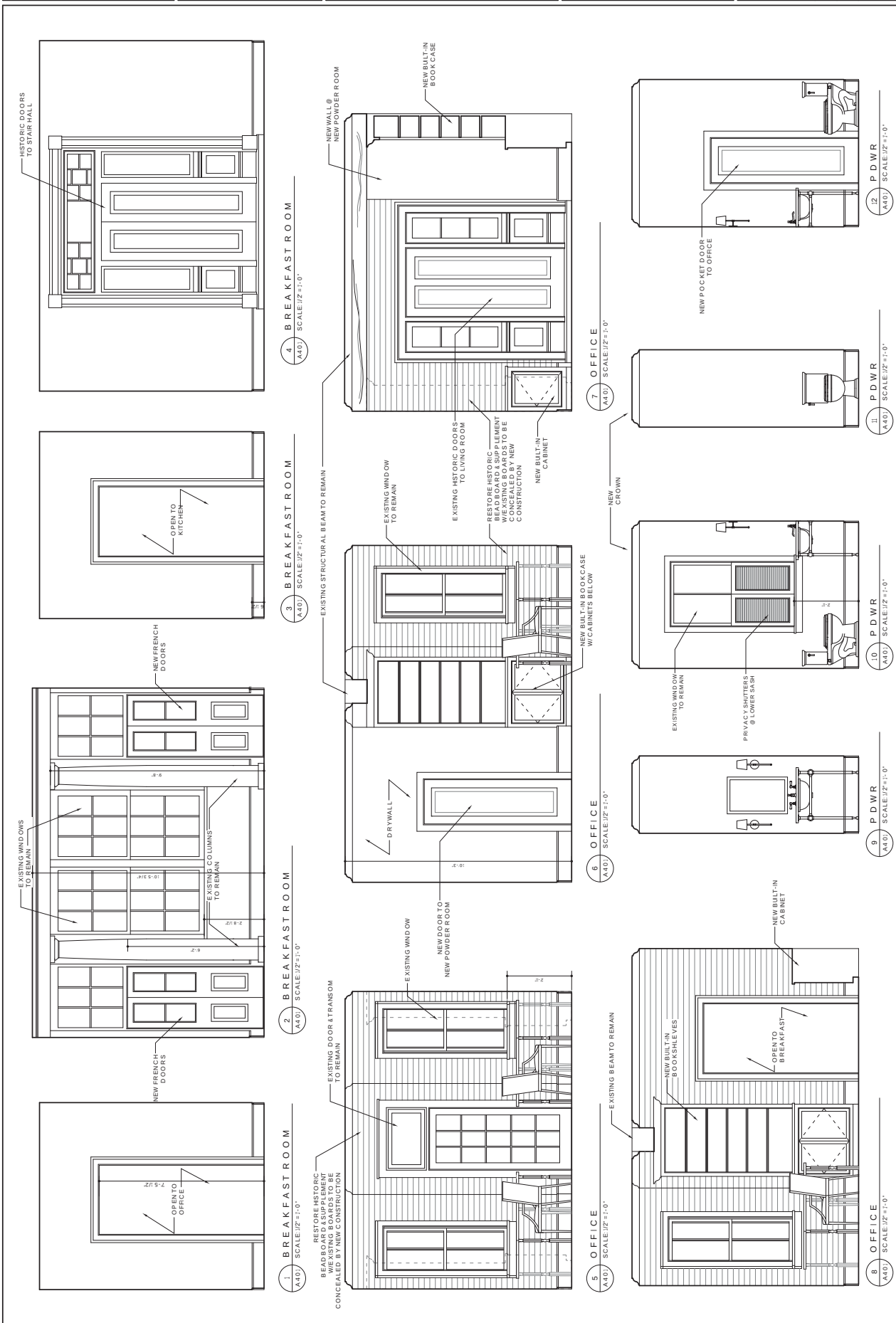
1 SECOND FLOOR DEMOLITION PLAN
1/8" = 1'-0"



- STAIRS, HALL, AND CHANGERS
-REMOVE STAIRS, HALL, AND CHANGERS
- SITTING ROOM
-REMOVE FIREPLACE
-REMOVE AND SALVAGE HISTORIC BUILT INS FOR REUSE OR RECYCLING
-REMOVE AND SALVAGE DOOR TO PORCH
- MASTER BATH
-REMOVE EXISTING FLOORING, FIXTURES, & SHOWER
-REMOVE AND SALVAGE DOORS TO SITTING ROOM AND REINSTATE WINDOW
-REMOVE AND SALVAGE DOORS
-REMOVE AND SALVAGE TILE FLOOR & GLASS BLOCK IN WINDOW
-REMOVE VANITIES
- MASTER BEDROOM
-REMOVE EXISTING FLOORING, FAN, & HOBBS, REINSTATE
-REMOVE CLOSET
-REMOVE EXISTING CLOSET BUILT INS
- GUEST BEDROOM
-REMOVE EXISTING CLOSET BUILT INS
-REMOVE FAN
- GUEST BATH
-REMOVE EXISTING FLOORING, FIXTURES
-REMOVE PARTITION WALL
-REMOVE AND SALVAGE PORCH INTERIOR
-REMOVE TILE ON WALLS & FLOOR
- SITTING ROOM
-REMOVE EXISTING FLOORING, FIXTURES
-REMOVE AND SALVAGE PORCH INTERIOR
-REMOVE AND SALVAGE DOORS
-REMOVE WALLPAPER & TILE
- KITCHEN
-REMOVE EXISTING FLOORING, FAN, & HOBBS, REINSTATE

GENERAL REMOVALS SHOWN WITH DASHED LINES

Exhibit “H”





1 SITTING ROOM
SCALE: 1/2" = 1'-0"
A403/4
EXISTING WINDOWS TO REMAIN
NEW DOORS IN RECONFIGURED WINDOW OPENING
SALVAGE EXISTING DOOR (SHOWN DASHED)
RE-INSTALL EXISTING PANEL & RECONSTRUCT CROWN
CASED DOORWAY TO HALL
SALVAGE CASING FOR REINSTALLATION
RESTORE ORIGINAL EXTERIOR SIDING
NEW BASE TO MATCH EXISTING IN BEDROOM

2 SITTING ROOM
SCALE: 1/2" = 1'-0"
A403/4
NEW CROWN
EXISTING COLUMN TO BE RELOCATED

3 SITTING ROOM
SCALE: 1/2" = 1'-0"
A403/4
EXISTING DOORS TO STAIR HALL
NEW BASE TO MATCH EXISTING IN BEDROOM

4 SITTING ROOM
SCALE: 1/2" = 1'-0"
A403/4
NEW PARTITION WALL @ MASTER BATH
NEW CROWN TO MATCH EXISTING
NEW BASE TO MATCH EXISTING IN BEDROOM

5 GUEST BATH
SCALE: 1/2" = 1'-0"
A403/4
NEW WINDOW TO MATCH EXISTING

6 GUEST BATH
SCALE: 1/2" = 1'-0"
A403/4
EXISTING COLUMN TO BE RELOCATED

7 GUEST BATH
SCALE: 1/2" = 1'-0"
A403/4
NEW DOOR TO HALL

8 GUEST BATH
SCALE: 1/2" = 1'-0"
A403/4
EXISTING COLUMN TO BE RELOCATED

9 POWDER ROOM
SCALE: 1/2" = 1'-0"
A403/4
EXISTING COLUMN TO BE RELOCATED

10 POWDER ROOM
SCALE: 1/2" = 1'-0"
A403/4
EXISTING COLUMN TO BE RELOCATED

11 POWDER ROOM
SCALE: 1/2" = 1'-0"
A403/4

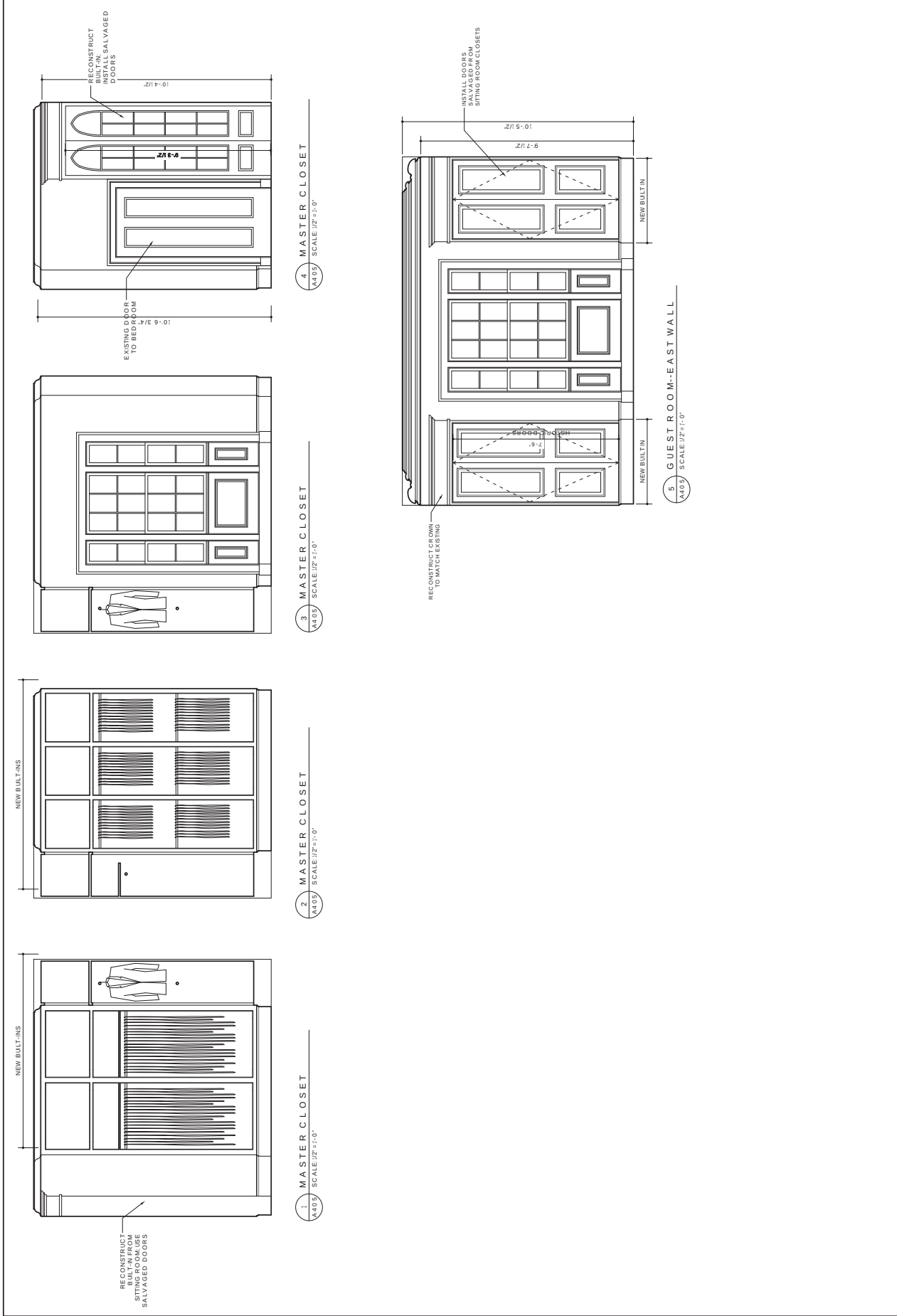
12 POWDER ROOM
SCALE: 1/2" = 1'-0"
A403/4

INTERIOR ELEVATIONS
PROJECT NUMBER 2208
DRAWING DATE 7/12/22
SHEET NUMBER
REV. DATE

Thomas Bennett House
89 Smith Street
Charleston, SC

Glenn Keyes Architects
12 Vandenberg Street
Charleston, SC 29403
www.glennkeyesarchitects.com

A404



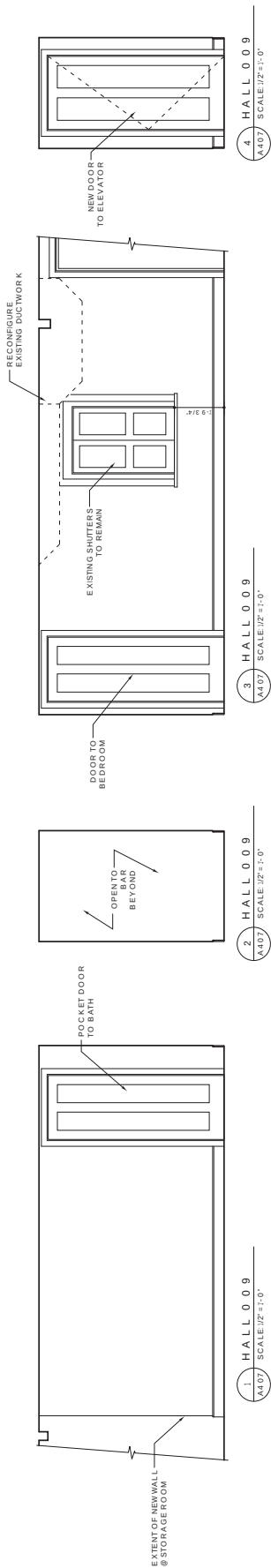
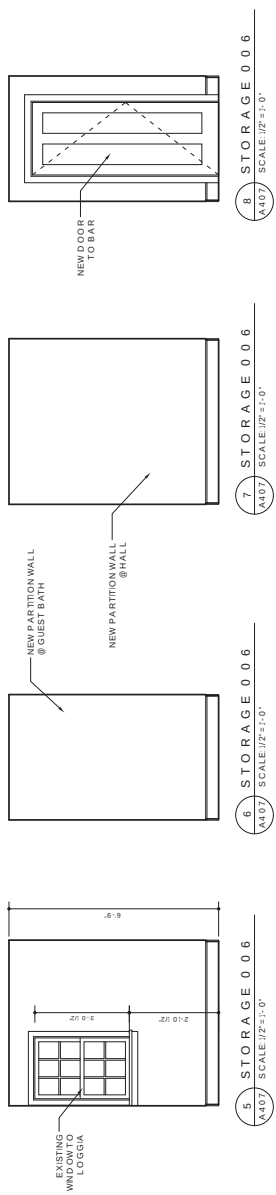
REV.	DATE	
PROJECT NUMBER		220 8
DRAWING DATE		7/28/22
SHEET NUMBER		A407

INTERIOR
ELEVATIONS

Thomas Bennett House
89 Smith Street
Charleston, SC

Glenn Keyes Architects

12 Vanderhorst Street
Charleston, SC 29403
(843) 722-4100
www.glennkeyesarchitects.com



Glenn Keyes Architects
12 Vanderhorst Street
Charleston, SC 29403
(843) 722-4100
www.glennkeyesarchitects.com

Exhibit “I”



BOARD OF ARCHITECTURAL REVIEW

APPLICATION / CERTIFICATE OF APPROPRIATENESS

CITY OF CHARLESTON
3 George Street Charleston, South Carolina 29401
DEPARTMENT OF PLANNING, PRESERVATION AND SUSTAINABILITY
843-724-3781 Fax: 843-724-3772 www.charleston-sc.gov/BAR

Property Address: 89 Smith Street		TMS No.: 457-05-02-077
Review request: ☐ Conceptual ☐ Preliminary ☒ Final	For: ☐ New Construction ☐ Alterations / Addition ☒ Repair or replacement with no changes	Meeting date requested: Staff ☐ Color Change ☐ Demolition ☐ Appeal Decision of Urban Design Staff

Property Owner: Frank & Shelley Holtham		Daytime phone:	
Applicant: Glenn Keyes Architects		Daytime phone: 722-4100	
Applicant's mailing address: 12B Vanderhorst Street		City: Charleston	State: SC Zip: 29403
Applicant's e-mail address: gk@glennkeyesarchitects.com			
Applicant's relationship: ☐ Owner ☒ Design Professional ☐ Contractor ☐ Real Estate Agent/Broker ☐ Other			
Project Vocation: Description or Scope of Work:			
Minor alteration fee: Exterior repairs			

Submittal Requirements: Found here: www.charleston-sc.gov/BAR. This document must supplement all Board level packages with appropriate boxes checked and signed.
Zoning / Courtesy IRC approval required prior to making application for review.
INCOMPLETE APPLICATIONS OR UNPAID INVOICES WILL NOT BE INCLUDED ON A BOARD AGENDA.

I hereby acknowledge by my signature below that this application and submittal is complete and accurate and that I am the owner of the subject property or an authorized representative. I authorize the subject property to be posted and inspected, and the application to be heard by the Board of Architectural Review of the City of Charleston on the date specified.

Applicant's signature: *Glenn F. Keyes* Date: 6/28/22

Print name legibly: Glenn F. Keyes, FAIA

For Office Use Only Below This Point

☐ The Board of Architectural Review has reviewed this request. Its findings are as follows:
☒ The Urban Design and Preservation Staff has reviewed this request. Its findings are as follows:
☒ Approval ☐ Denial ☐ Deferred ☒ Approval with the following conditions:
Final approval for exterior repairs as per plans submitted.

☐ Final Approval is granted upon fulfillment of the above-specified conditions and is referred to the Preservation Staff for further action.

☐ Chairman's or ☒ Staff's Signature: *Yutaka Bennett* Date: 8-8-22

Arch. Rating: 2 Const. Date: 6-28-22 Old and Historic Dist. ☒ Old City Dist. ☐ Landmark Dist. ☐ North of Line St.

Date received: 6-28-22 Fee amount: 2500 Permit/Plan Number: BAR2022 - Staff person: LCB

1. An appeal of a Board decision stays off further action on applications.
2. This approval does not constitute approval by other City boards or departments. Prior to construction, all plans and specifications must be reviewed and approved by the Building Inspection Division and a building permit must be obtained and posted on the property.
3. This approval expires two years from approval date.

EXTERIOR REPAIRS

FINAL BAR SUBMITTAL FOR
EXTERIOR REPAIRS

NO ZONING APPROVAL REQUIRED

BOARD OF ARCHITECTURAL REVIEW
APPLICATION NO. BA2022-0059 PROJECT Exterior
repairs as per plans
☒ APPROVED ☒ AS SUBMITTED ☐ NEW CONSTRUCTION
☐ DEEMED ☐ WITH CONDITIONS ☐ ALTERATION
☐ DEFERRED ☐ DISMISSED
NOTES: Final Approval as
submitted:
8-8-2022 Jessica C. Bennett
(PRINT NAME OF ARCHITECT OR ARCHITECT FIRM)
THIS APPROVAL IS VALID FOR TWO (2) YEARS UNLESS THE ARCHITECT WITHIN APPROVAL BY
OTHER CITY DEPARTMENTS OR DEPARTMENTS.

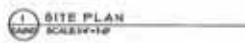
A000	TITLE SHEET
E0001	EXISTING SITE PLAN
E010	EXISTING FLOOR PLANS
E0102	EXISTING FLOOR PLANS
A201	EXTERIOR REPAIRS
A202	EXTERIOR REPAIRS
A203	EXTERIOR REPAIRS
A204	EXTERIOR REPAIRS



OWNERS:

FRANK & SHELLEY HOLTHAM
89 SMITH STREET
CHARLESTON, SC 29401

Final BAR Approval - Exterior Repairs

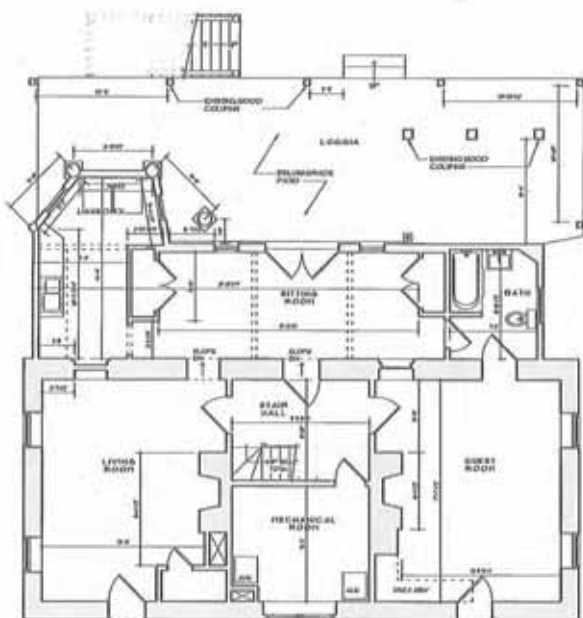


Garrett Keyes
Architect
Garrett Keyes Architects, LLC
1000 Peachtree Street, NE
Atlanta, GA 30309
404.525.1234

Thomas Bennett House
1000 Peachtree Street, NE
Atlanta, GA 30309
404.525.1234

EXISTING FIRST FLOOR PLAN

DATE: 02/27/23
PROJECT: 2023CP1000663
SHEET: 01
EAI/01



1 EXISTING GROUND FLOOR PLAN
SCALE: 1/4" = 1'-0"



2 EXISTING FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"

—N—

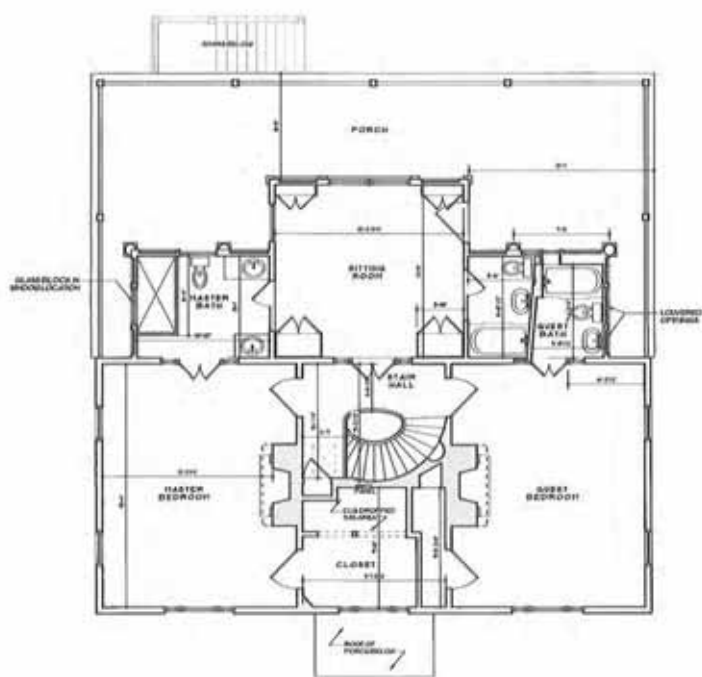
Glenn Hayes
Architect
P.C.

Thomas Bennett House
1515 S. 1st St.
Charleston, SC

EXISTING SECOND FLOOR PLAN

DATE: 1/18/23
PROJECT: 2023
SHEET: 102

EA102



1 EXISTING SECOND FLOOR PLAN
SCALE: 1/8" = 1'-0"

GENERAL NOTES:

- REPAIR OR REPLACE ROTTEN OR DETERIORATED WOOD
- CLEAN GUTTERS, DOWNSPOUTS & COLLECTOR BOXES & ENSURE THEY ARE ALIGNED & SIZED PROPERLY
- ADDRESS DRAINAGE ISSUES AROUND ENTIRE HOUSE; ENSURE POSITIVE SLOPE
- INSPECT FLASHING AT DORMERS, PARAPETS AND CHIMNEYS
- INSPECT STUCCO ON MASONRY FOUNDATION WALLS, PIERS & QUOINS, SOUND STUCCO AND REPLACE ANY UNSOUND MATERIAL WITH LIME BASED STUCCO
- REPAIR/ REPLACE ANY DETERIORATED WOOD AT WINDOWS, DOORS, PORCH BALUSTRADE, COLUMNS AND CROWN
- REFURN ALL WOOD WINDOWS, DOORS AND SHUTTERS TO GOOD OPERATING CONDITION
- REPLACE MISSING OR DAMAGED SHUTTER HARDWARE & REMOVE ANY UNUSED/ DUPLICATE HOOK OR EYES
- PREP AND PAINT ALL EXTERIOR WOODWORK
- REPLACE BROKEN LITES WITH RESTORATION GLASS

REPAIR EXISTING PORCH RAIL



- FRONT WALKWAY TO STEPS:**
- CLEAN EXISTING PAVING
 - SECURE LOOSE PAVING & INSTALL REPLACEMENT STONES WHERE MISSING

- FRONT STEPS & HANDRAIL:**
- REMOVE PAINT FROM MASONRY TREADS, REPAIR STONE WITH JAHN MORTAR SYSTEM
 - CLEAN, REPAIR & REPAINT IRON HANDRAIL
 - TOP LANDING HAS A NEGATIVE SLOPE, REPAIR MASONRY SO WATER SHEDS AWAY FROM HOUSE

- EAST ELEVATION:**
- REMOVE SCONCES AT DOORS TO GROUND FLOOR
 - REMOVE ABANDONED CABLE AT JUNCTION OF WOOD SIDING & MASONRY FOUNDATION
 - REMOVE PENDANT @ ENTRY PORCH
 - REMOVE FLAG HARDWARE FROM FLUTED COLUMN & REPAIR SHAFT



REPAIR STONE TREADS TO MAKE SURFACE CONSISTENT

REPAIR MASONRY OVER WALL & BRACKET EXISTING WOOD FENCE

REMOVE EXPOSED BRACK



REMOVE TO CORRELATE WITH PORCH HANDRAILS

REMOVE PLCE HANDRAILS REPAIR PERIOD APPROPRIATE KNOB & LOCK



REMOVE PLCE HANDRAILS REPAIR PERIOD APPROPRIATE KNOB & LOCK

Glenn Keyes
Architect

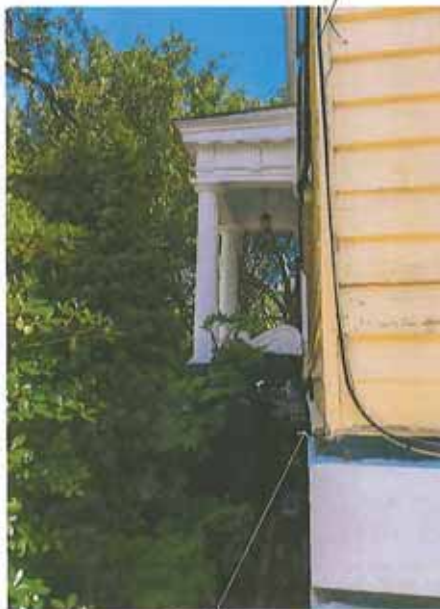
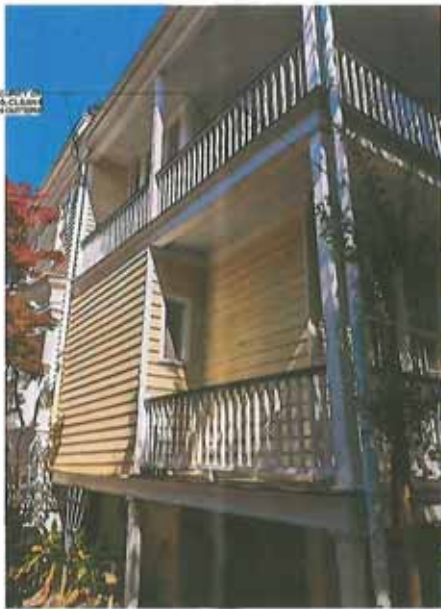
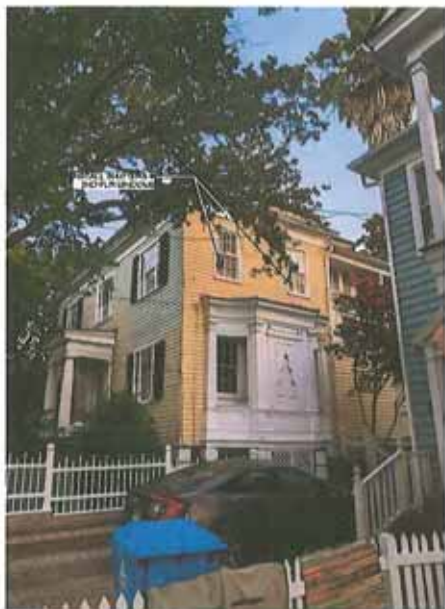
Thomas Bennett House
1800 S. 1st St.
Charleston, SC

NORTH ELEVATION
NEP-11-1-1

DATE: 02/28/23
PROJECT: 2023
DRAWING: 001
R-A202

GENERAL NOTES:

- REPAIR OR REPLACE ROTTEN OR DETERIORATED WOOD
- CLEAN GUTTERS, DOWNSPOUTS & COLLECTION BOXES & ENSURE THEY ARE ALIGNED & SIZED PROPERLY
- ADDRESS DRAINAGE ISSUES AROUND ENTIRE HOUSE; ENSURE POSITIVE SLOPE
- INSPECT FLASHING AT DORMERS, PARAPETS AND CHIMNEYS
- INSPECT STUCCO ON MASONRY FOUNDATION WALLS, PIERS & QUOINS. SOUND STUCCO AND REPLACE ANY UNSOUND MATERIAL WITH LIME BASED STUCCO.
- REPAIR/ REPLACE ANY DETERIORATED WOOD AT WINDOWS, DOORS, PORCH BALUSTRADE, COLUMNS AND CROWN
- RETURN ALL WOOD WINDOWS, DOORS AND SHUTTERS TO GOOD OPERATING CONDITION
- REPLACE MISSING OR DAMAGED SHUTTER HARDWARE & REMOVE ANY UNUSUED/DUPLICATE HOOK OR EYES
- PREP AND PAINT ALL EXTERIOR WOODWORK
- REPLACE BROKEN LITES WITH RESTORATION GLASS



CURVED SIDE BAY:

- INSPECT ALL DECORATIVE WOODWORK; CHECK SECURITY OF ALL ELEMENTS & REPAIR/REPLACE ANY MISSING OR DAMAGED ITEMS
- ENSURE TOP OF PLASTER DRAIN PROPERLY & FILL ANY CRACKS TO PREVENT MOISTURE INFILTRATION
- INSPECT SECURITY OF METAL ROOF & REPLACE FLASHING AS REQUIRED
- REROUTE EXPOSED WIRING

REPLACE METAL COLUMN SUPPORTING BENT LANTERN

GENERAL NOTES:

- REPAIR OR REPLACE ROTTEN OR DETERIORATED WOOD
- CLEAN GUTTERS, DOWNSPOUTS & COLLECTOR BOXES & ENSURE THEY ARE ALIGNED & SIZED PROPERLY
- ADDRESS DRAINAGE ISSUES AROUND ENTIRE HOUSE; ENSURE POSITIVE SLOPE
- INSPECT FLASHING AT DORMERS, PARAPETS AND CHIMNEYS
- INSPECT STUCCO ON MASONRY FOUNDATION WALLS, PIERS & QUOINS, SOUND STUCCO AND REPLACE ANY UNBOUND MATERIAL WITH LIME BASED STUCCO
- REPAIR/REPLACE ANY DETERIORATED WOOD AT WINDOWS, DOORS, PORCH BALUSTRADE, COLUMNS AND CROWN
- RETURN ALL WOOD WINDOWS, DOORS AND SHUTTERS TO GOOD OPERATING CONDITION
- REPLACE MISSING OR DAMAGED SHUTTER HARDWARE & REMOVE ANY UNUSED/DUPPLICATE HOOK OR EYES
- PREF AND PAINT ALL EXTERIOR WOODWORK
- REPLACE BROKEN GLASS WITH RESTORATION GLASS



SAVE ALL SHUTTERS
CORRECT PROTRUSION &
FALING/REPAIR/REPLACE
EYES



INSPECT CORNER OF
ROOF AT BRICK BATH
REPAIR OR REPLACE
BLINDS BY BRICK
NORTH SIDE

REMOVE EXPOSED BRICK
ON EXTERIOR OF BATH

REMOVE EXPOSED
FLUING LINES

REMOVE EXPOSED
FLUING LINES



2nd FLOOR PORCH

INSPECT CONDITION OF MASONRY
REPAIR & POINT AS REQUIRED
INSPECT SECURITY OF FLASHING
REPAIR OR REPLACE



NORTHWEST ELEVATION



WEST ELEVATION
SCALE 1/4" = 1'-0"

REMOVE SATINITE IRON

INSPECT BALUSTRADE FOR DISTORTION,
REPAIR OR REPLACE AS REQUIRED

CHECK SECURITY OF FLASHING BATH
BATH ROOF FEELS BATH, REPLACE AS REQUIRED

REPAIR CRACKS IN CONCRETE SLAB
REAL CONCRETE OR COVER WITH
SCORED SLAB

REPAIR CRACKS IN CONCRETE SLAB
REAL CONCRETE OR COVER WITH
SCORED SLAB

Client Name James Chandler	Case Number 2023CP100063
Property Address 1000 S. 10th St., Chandler, AZ 85226	County Maricopa
Property Owner James Chandler	City Chandler
Property Type Single-Family Home	Neighborhood South Chandler
Project Name Thomas Bennett House	Project Description REPAIRS TO PORCH & CURVED SIDE BAY
Project Start Date 02/28/23	Project End Date 03/22/23
Inspector Name R-204	Inspector Title Inspector

GENERAL NOTES:

- REPAIR OR REPLACE ROTTEN OR DEGRADATED WOOD
- CLEAN GUTTERS, DOWNSPOUTS & COLLECTOR BOXES & ENSURE THEY ARE ALIGNED & SEED PROPERLY
- ADDRESS DRAINAGE ISSUES AROUND ENTIRE HOUSE, ENSURE POSITIVE SLOPE
- INSPECT FLASHING AT DORMERS, PARAPETS AND CHIMNEYS
- INSPECT STUCCO ON MASONRY FOUNDATION WALLS, PIERS & QUOINS. SOUND STUCCO AND REPLACE ANY UNSOUND MATERIAL WITH LIME BASED STUCCO.
- REPAIR/ REPLACE ANY DEGRADATED WOOD AT WINDOWS, DOORS, PORCH BALUSTRADE, COLUMNS AND CROWN
- RETURN ALL WOOD WINDOWS, DOORS AND SHUTTERS TO GOOD OPERATING CONDITION
- REPLACE MISSING OR DAMAGED SHUTTER HARDWARE & REMOVE ANY UNUSED/DUPLICATE HOOK OR EYES
- PREP AND PAINT ALL EXTERIOR WOODWORK
- REPLACE BROKEN LITES WITH RESTORATION GLASS

REMOVE AND/OR TO EXPOSE TRAILERS THAT CAN BE PROJECT AWAY FROM HOUSE

RECALL NEIGHBORHOOD & EXISTING STRUCTURE

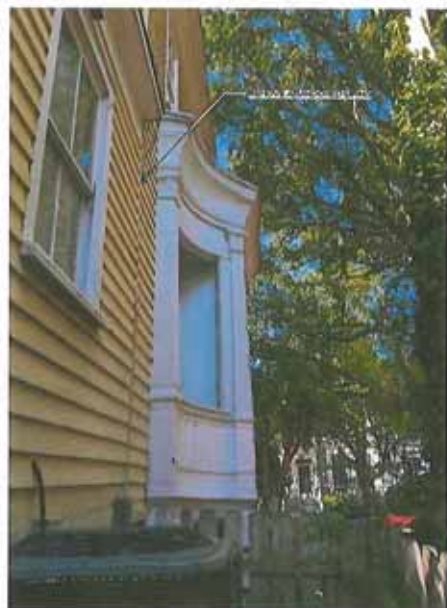


REMOVE EXISTING METAL COVERING ON PORCH/REPAIR/REPLACE WOOD/GRADE OR INSTALL NEW WOOD FLOOR



- CURVED SIDE BAY:
- INSPECT ALL DECORATIVE WOODWORK, CHECK SECURITY OF ALL ELEMENTS & REPAIR/REPLACE ANY MISSING OR DAMAGED ITEMS
 - ENSURE TOP OF PILASTERS DRAIN PROPERLY & FILL ANY CRACKS TO PREVENT MOISTURE INFILTRATION
 - INSPECT SECURITY OF METAL ROOF & REPLACE FLASHING AS REQUIRED
 - ROUT EXPOSED WIRING

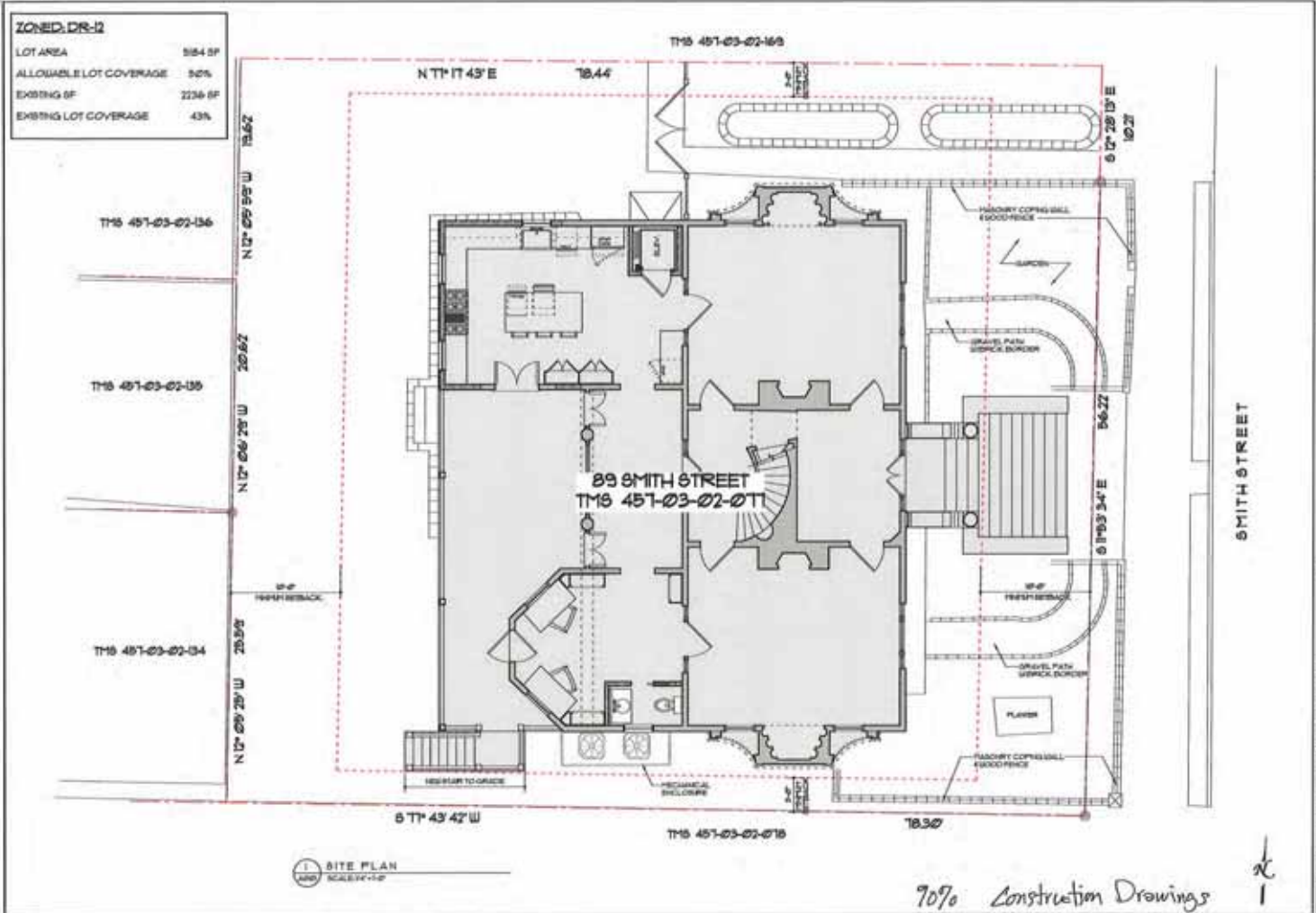
REPAIR STUCCO/REPAIR/REPLACE ROOF DRAINAGE DATA



REPLACE ROOF & HVAC ENCLOSURE

Exhibit “J”

Client Name Address City, State, Zip	
Thomas Bennett House 230 Smith Street Charleston, SC 29401	
SITE PLAN	
REV	DATE
1	1/20/22
DRAWN BY CHECKED BY APPROVED BY	
A001	



DATE	
TIME	
LOCATION	
PROJECT	
DESCRIPTION	
REMARKS	
BY	
CHECKED	
APPROVED	

A100

CLEAN OUT SUMP PUMPS
ADDRESS DRAINAGE ISSUES AROUND ENTIRE HOUSE; ENSURE POSITIVE SLOPE
INSPECT STUCCO ON MASONRY FOUNDATION WALLS, PIERS & QUAINS. SOUND STUCCO AND
REPLACE ANY UNSOUND MATERIAL WITH LIME BASED STUCCO.
INSPECT BRICK MASONRY AT KNEE WALL AROUND SUNKEN PATIO. REPAIR/REPOINT WHERE REQUIRED
REPAIR/ REPLACE ANY DETERIORATED WOOD AT WINDOWS, DOORS, AND COLUMNS

Client: Keyes
Address: 1000
City: Charleston
State: SC
Zip: 29401

Thomas Bennett House
1000
Charleston, SC 29401

FIRST FLOOR PLAN

DATE: 1/10/22
DRAWN BY: J. H. H. H.
CHECKED BY: J. H. H. H.
PROJECT NUMBER: 1000

ALDI

1. **ENTRY**
REMOVE WALL BETWEEN ENTRY & STAIR HALL
INSTALL DOOR TO MATCH EXISTING DOORS TO LIVING & DINING ROOM
2. **STAIR HALL**
RESTORE CLAUDED WALL WHERE BUILT IN REINFORCED
INSTALL DOOR AT EXISTING OPENING TO EXISTING STAIR
INSTALL RAILING & STAIR TO BASEMENT
3. **LIVING ROOM**
RESTORE FIREPLACE TO BE WOOD BURNING
4. **DINING ROOM**
INSTALL MARBLE COUNTER & WOOD PAINTED COLUMNS
TO MATCH SAME IN LIVING ROOM BUT
REPLACE/LOCATE ARTS HVAC RETURN IN FLOOR
5. **KITCHEN**
RECONSTRUCT EXISTING OPENING TO ALLOW NEW DOORS TO PORCH
6. **OFFICE**
INSTALL BUILT IN CABINETS PER PLAN
REMOVE EXISTING WINDOW BEHIND CABINETS
RESTORE EXISTING BATHROOM & SUPPLEMENT WIRING/STAIR
BEING CONCURRED BY NEW BLUE FIBER
RESTORE WOOD CEILING
7. **BEDROOM**
INSTALL NEW WALLS PER PLAN
INSTALL NEW WARDROBE & CLOSET
RESTORE EXISTING WINDOW & INSTALL PRIVITY SHUTTERS & LOWER SASH
8. **BATH**
INSTALL NEW CABINETS PER PLAN
CONSTRUCT WALLS AT NEW ELEVATOR
9. **PORCH**
INSTALL NEW HEART PINE WOOD PORCH ENCLOSURE BATHED
CONSTRUCT NEW STAIR TO GRADE



1. FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"

GENERAL NOTES:

- RELINE ALL FLUITS & ADD SPRING HOOD DAMPERS; PREP FOR GAS LOGS IN ALL ROOMS EXCEPT LIVING ROOM, WHICH WILL BE WOOD BURNING
- SOUND & REPAIR ALL PLASTER WALLS & CEILINGS
- REMOVE EXTRANEOUS HARDWARE FROM WALLS & TRIM & REPAIR PLASTER
- RESTORE EXISTING DOOR & WINDOW HARDWARE TO GOOD OPERATING CONDITION
- WOOD FLOORS & STAIR TREADS TO BE SANDED TO REMOVE URETHANE, CLEANED, STAINED & OILED. FINISH WITH THREE COATS OF WATERLOX
- RESTORE ALL EXISTING INTERIOR WOODWORK
- REPAIR ALL DOORS TO GOOD OPERABLE & LOCKING CONDITION
- TIGHTEN, REPAIR & REFINISH ELLIPTICAL STAIR HANDRAIL & BALLSTRADE
- PAINT ALL WALLS, CEILINGS & WOODWORK
- RESTORE ALL CAST PLASTER & RUN IN PLACE PLASTER DETAIL
- RESTORE SHUTTERS & SHUTTER HARDWARE
- REPLACE BROKEN LITES WITH RESTORATION GLASS

—NG—



- REMOVE ALL FLIES & ADD SPRING HOOD DAMPERS; PREP FOR GAS LOCK, BOTH BEDROOMS
- SOUND & REPAIR ALL PLASTER WALLS & CEILINGS
- REMOVE EXTRANEOUS HARDWARE FROM WALLS & TRIM & REPAIR PLASTER
- RESTORE EXISTING DOOR & WINDOW HARDWARE TO GOOD OPERATING CONDITION
- WOOD FLOORS & STAIR TREADS TO BE Sanded TO REMOVE URETHANE, CLEANED, STAINED & OILED. FINISH WITH THREE COATS OF WATERLOCK
- RESTORE ALL EXISTING INTERIOR WOODWORK
- REPAIR ALL DOORS TO GOOD OPERABLE & LOCKING CONDITION
- TIGHTEN, REPAIR & REFINISH ELLIPTICAL STAIR HANDRAIL & RAILSTRADE
- JOINT ALL WALLS, CEILINGS & WOODWORK
- RESTORE ALL CAST PLASTER & RUN IN-PLACE PLASTER DETAIL
- RESTORE SHUTTERS & SHUTTER HARDWARE
- REPLACE BROKEN LITES WITH RESTORATION GLASS



Thomas Bennett House
1500 Spring Street
Charleston, SC 29403

EAST & NORTH
ELEVATION

REV	DATE	DESCRIPTION
1	02/28/23	ISSUED FOR PERMIT
2	02/28/23	ISSUED FOR PERMIT
3	02/28/23	ISSUED FOR PERMIT
4	02/28/23	ISSUED FOR PERMIT
5	02/28/23	ISSUED FOR PERMIT
6	02/28/23	ISSUED FOR PERMIT
7	02/28/23	ISSUED FOR PERMIT
8	02/28/23	ISSUED FOR PERMIT
9	02/28/23	ISSUED FOR PERMIT
10	02/28/23	ISSUED FOR PERMIT

A201



NOTE: NO CHANGES TO FRONT/EAST ELEVATION

1 EXISTING EAST ELEVATION
SCALE: 1/4" = 1'-0"



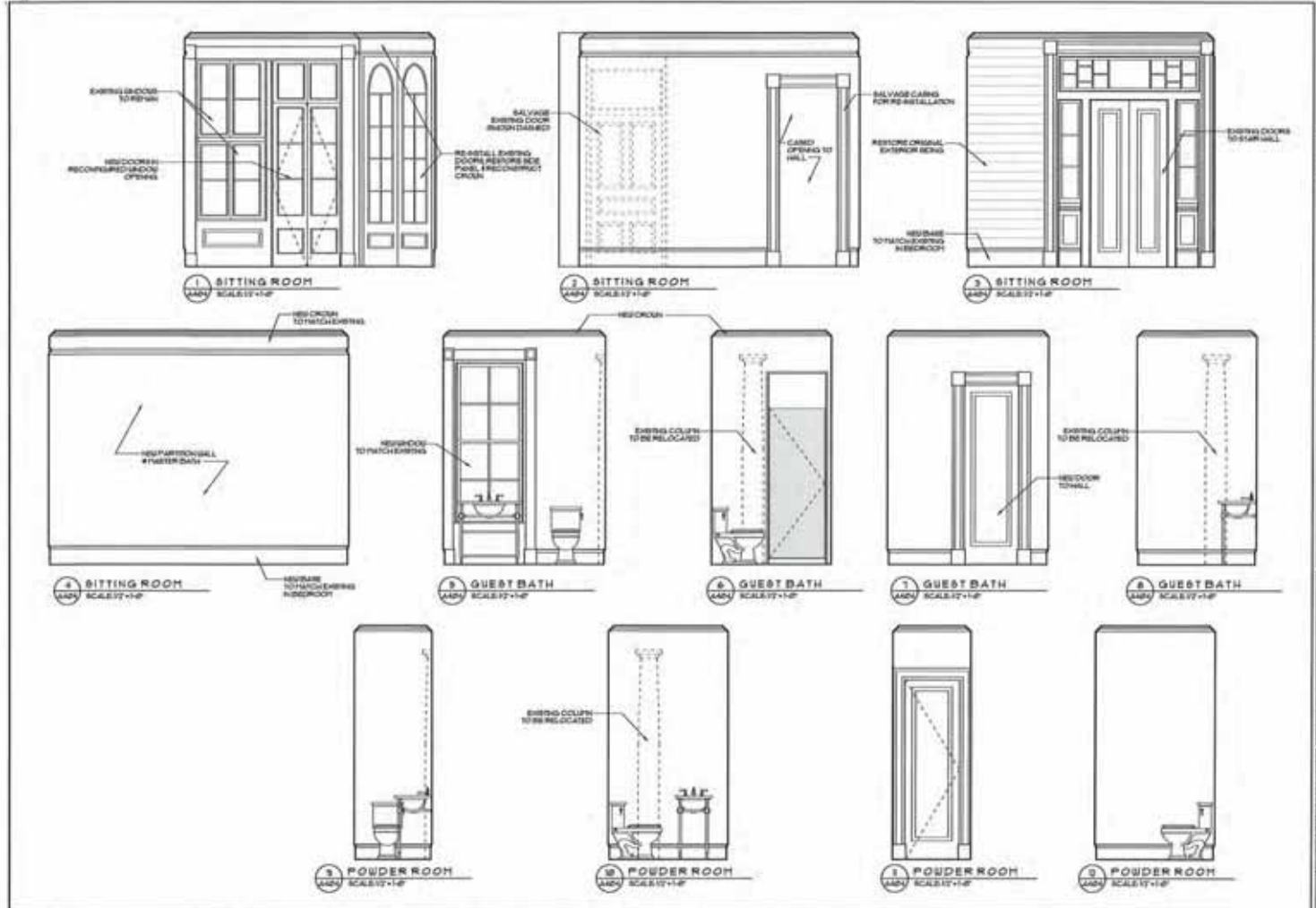
2 PROPOSED PARTIAL NORTH ELEVATION
SCALE: 1/4" = 1'-0"











Client Name
Address
City
State
Zip

Thomas Bennett House
252 Smith Street
Charleston, SC 29403

INTERIOR ELEVATIONS

NO.	DATE
1	
2	
3	
4	
5	

PROJECT NUMBER
1002

DATE
1/1/22

BY
A405



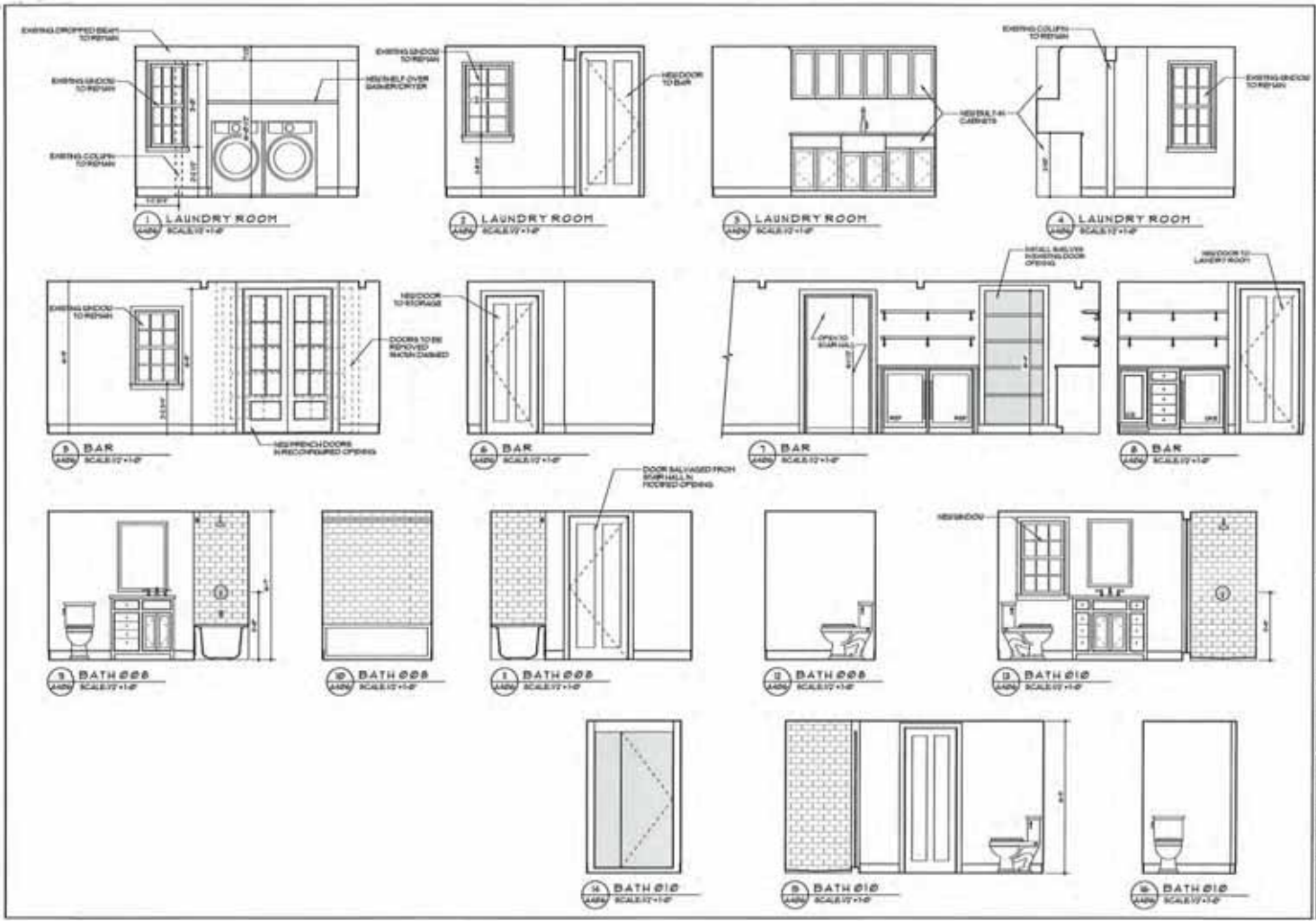
Client Keyset
A400B

Thomas Bennett House
25 North 7th Street
Smith, Charles J. Jr.
83

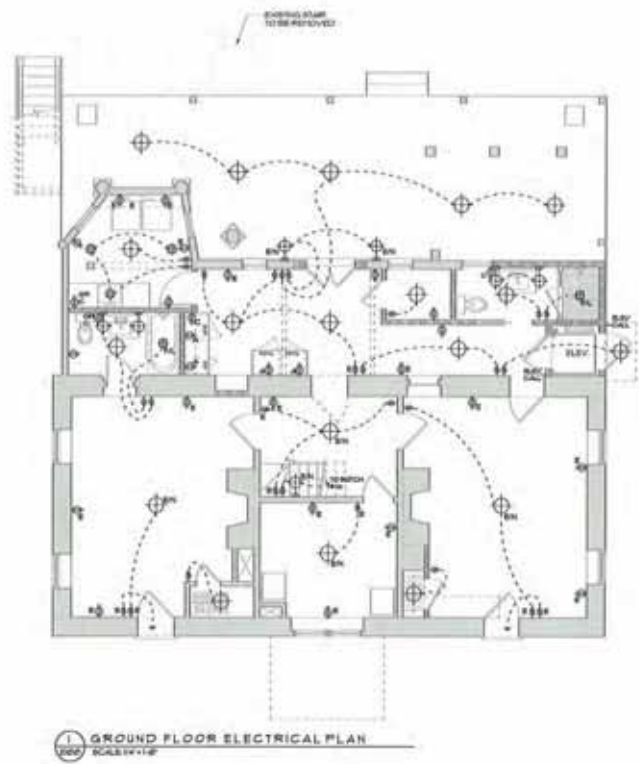
INTERIOR ELEVATIONS

REV
DATE
BY
DATE
BY
DATE
BY

A4006



A407

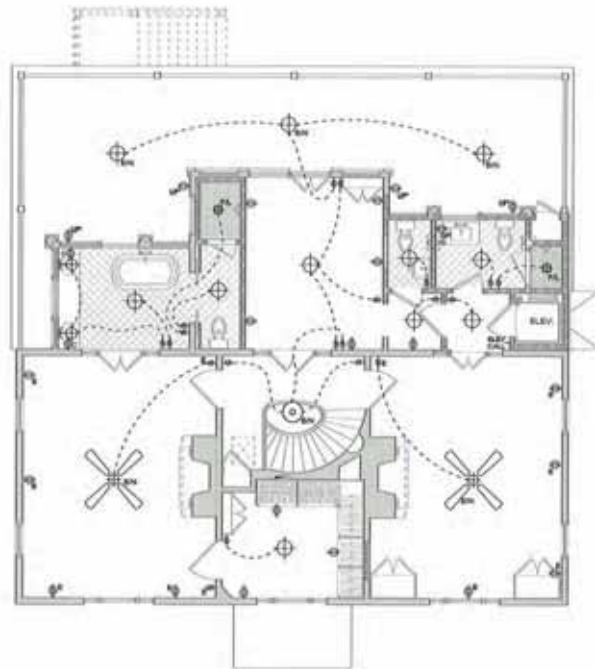


ELECTRICAL SYMBOLS			
	SWITCH		EXISTING OUTLET TO REMAIN
	DIMMER SWITCH		OUTLET @ COUNTER HEIGHT
	RECESSED FIXTURE		FLOOR OUTLET
	PENDANT LIGHT		PICTURE OUTLET
	SURFACE MOUNTED FIXTURE		EXHAUST FAN
	SPOTLIGHT		TELEPHONE
	WALL SCONCE		CEILING FAN
	HVAC DEVICE/EXISTING LOCATION		
	CHANDELIER		
	UNDER-CABINET LIGHTING		
	OUTLET (UNSWITCHED)		
	OUTLET		



ELECTRICAL SYMBOLS

	SWITCH		EXISTING OUTLET TO REMAIN
	DIMMER SWITCH		OUTLET AT COUNTER HEIGHT
	RECESSED FIXTURE		FLOOR OUTLET
	PENDULUM LIGHT		PICTURE OUTLET
	SURFACE MOUNTED FIXTURE		EXHAUST FAN
	SPOTLIGHT		TELEPHONE
	WALL SCONCE		CEILING FAN
	NEW DEVICE EXISTING LOCATION		
	CHANDIELIER		
	UNDERCABINET LIGHTING		
	OUTLET APPLIANCE		
	OUTLET		



1 SECOND FLOOR ELECTRICAL PLAN
DATE: 06/18/14

ELECTRICAL SYMBOLS

	SWITCH		EXISTING OUTLET TO REMAIN
	DIMMER SWITCH		OUTLET @ COUNTER HEIGHT
	RECESSED PICTURE		FLOOR OUTLET
	PENDANT LIGHT		PICTURE OUTLET
	SURFACE MTD. PICTURE		EXHAUST FAN
	SPOTLIGHT		TELEPHONE
	WALL SCONCE		CEILING FAN
	NEW DEVICE/EXISTING LOCATION		
	CHANDLIER		
	UNDERCABINET LIGHTING		
	OUTLET APPLIANCE		
	OUTLET		

Exhibit “K”

2/28/23, 11:29 AM

89 Smith St, Charleston, SC 29401 | Zillow

Overview

The Bennett-Jones house is a stunning antebellum house awaiting your touch. The hard work is done. Preliminary plans and demolition are complete, the space is ready for your renovation. This is a rare opportunity to personalize and complete the restoration of one of Charleston's finest houses. A truly great opportunity as few houses can match the architectural quality of Bennett-Jones house. "This Greek Revival residence is one of the most significant, architecturally, in the city" according to Robert Stockton, historian and professor of Architecture at the College of Charleston. Built in 1840 by Jefferson Bennett, son of Governor Bennett, 89 Smith Street was built in the grand Greek Revival style and overlooked the family's extensive mill ponds. The Bennetts were a family of mansion builders and amateur architects. The residence is also notable as it was home of Edward C. Jones, one of Charleston's and South Carolina's most famous architects of the antebellum period. Jones added the Doric columned portico on Smith Street and displayed his signature eclectic style with the addition of polygonal bay windows with a mix of Gothic, Roman, and Egyptian detailing.

Not only will you be hard pressed to find a better house architecturally, but it would be harder yet to find one as intact. There is so much original detail. Mahogany doors with original hardware, pristine heart pine floors, Belgian Marble mantels, plaster walls and decorative moldings are all intact. An elegant Greek Revival double door with sidelights and a transom sets the tone on entry. Flanking the spacious entry hall are two grand rooms, each 16' x 19'. The high ceilings are adorned with impressive plaster moldings and ceiling medallions and each room has an exquisite Belgian marble mantel. All of these have special designs for each room. The second owner, architect Edward C. Jones, added the unique niches in each of these rooms.

Directly behind the entry hall is a beautiful curving staircase that springs from a stunning Greek Lyre inspired newel post. The elegant stair curves up to the second floor and includes a period correct, statuary niche.

Behind the grand stair, through the large double doors is well lit gallery space, that makes the perfect breakfast room, with access the opened-up piazza behind the commanding Greek Revival Columns.

Behind the living room is space for a unique den/family room as well as a powder room. To the rear of the dining room is the potential for a spacious modern kitchen, even with room for an elevator, all opening onto the rear piazza.

The upstairs mirrors the main floor, with two 16' x 19' grand bedrooms on either side of the stair hall. These feature more versions of elaborate plaster moldings and distinctive Belgian marble mantles. There is a spacious third room off of the back of the stair hall.

2/28/23, 11:29 AM

89 Smith St, Charleston, SC 29401 | Zillow

This room can be a sitting room or a guest room. From this room one can access to the top floor piazza.

The ground floor features 2 bedrooms and bath as well as space which can be used for everything from a mud room, laundry, lots of storage, and a tool room/workshop. From this level large glass doors access a covered outdoor space with a cement floor. There is a small garden behind. A side driveway can accommodate two cars. The house has a potential of 4 to 5 bedrooms, 4 ½ baths, and 4586 square feet* (see below).

The house is rated as "EXCELLENT" in the Historic Architecture Inventory of the City of Charleston. "High style regional architecture, fine 'Charleston Style', well designed and proportioned, with good detail. These are spirited, dignified, frequently innovative, rare, and always attractive and interesting. Of irreplaceable importance, to be preserved in situ at all costs." It was awarded the prestigious Carolopolis Award for rehabilitation in 1989 and is now ready for another award winning renovation.

*According to measurements by Charleston Measuring the two main levels have living areas of 3,177 sf. The ground floor was also measured with an additional 1,409 sf but with a ceiling height just under 7'. The total for the house is 4,586 sf.

Please note that images of the house furnished are from the previous listing (Feb 2022) with permission. Renderings also provided of potential kitchen and master bath.

1 STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

2 COUNTY OF CHARLESTON

3 FRANK HOLTHAM, AS TRUSTEE OF THE HOLTHAM
4 SC REALTY TRUST, DATED APRIL 12, 2022,

Petitioner,

5 vs. CASE NO. 2023-CP-10-00665

6 GLENN F. KEYES AND GLENN KEYES

7 ARCHITECTS, LLC,

8 Respondents.

9
10 RULE TO SHOW CAUSE

11 BEFORE THE

12 HONORABLE: MIKELL R. SCARBOROUGH

13 DATE: March 2, 2023

14 TIME: 2:51 PM

15 LOCATION: CHARLESTON COUNTY JUDICIAL CENTER
16 100 Broad Street
17 Courtroom 2A
Charleston, SC

18 REPORTED BY: MICHAEL DAVID ROBERTS,
Court Reporter

1 APPEARANCES OF COUNSEL:

2 ATTORNEYS FOR PETITIONER

3 FRANK HOLTHAM, AS TRUSTEE OF THE
4 HOLTHAM SC REALTY TRUST, DATED APRIL
5 12, 2022:

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19 Charleston, SC 29401
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21 jmassalon@wmalawfirm.net

22 (INDEX AT REAR OF TRANSCRIPT)
23
24
25

1 with no changes. That is exhibit I. Then he sent
2 an invoice in July paid without objection.

3 Then Mr. Rhode provided the budget
4 breakdown that was referenced earlier, and even
5 though that was squarely within the range that
6 Mr. Keyes had predicted back in March, at that
7 point the Holthams decided that they wanted to sell
8 the house instead of renovate it. But they're
9 still asking Mr. Keyes to do work.

10 And if you take a look at the
11 materials, exhibit B, there's a BAR application
12 that was filed with the final -- well, with the
13 preliminary plans. August the 28th were the plan
14 dates, and the 29th was the BAR application.

15 Then the Holthams asked Mr. Keyes if
16 they would send the plans to their realtor. And
17 then they started asking for cost breakdowns, you
18 know, about the 30 that they had paid to Mr. Keyes
19 and the amount that was being charged by Mr. Rhode.
20 And all of those materials are in the packet.

21 And so as I understand the argument, it
22 comes from a couple of places. Again, we're here
23 on summary judgment. As the nonmoving party, we're
24 entitled to the benefit of all the inferences, as
25 you well know, Judge, and that scintilla of

1 evidence gets us to the next level.

2 And so the arguments that we're here
3 about today are first that the contract only
4 allowed for Mr. Keyes to get paid if the Holthams
5 decided in the -- apparently according to their
6 petition -- unilateral exercise of their discretion
7 to do it or not. And you have Mr. Keyes here who's
8 being pushed and asked to do all this work quickly,
9 which he does. By my count I believe he prepared
10 four sets of plans.

11 So in the scope of the work that he
12 did -- and you see this in the September 8th
13 letter -- he did about 75 percent of what he told
14 them he was going to be doing back in March. And
15 the reason that the contract interpretation urged
16 by Mr. Bruner makes no sense is because the nature
17 of what Mr. Keyes does has to be done before they
18 can start work because they've got to go to the
19 BAR. They've got to get approval. They've got to
20 get a building permit.

21 And Mr. Keyes can't wait until the
22 contractors are ready to work to start doing the
23 plans because you know and I know and Mr. Bruner
24 probably knows, too, that the homeowners would be
25 screaming that the work wasn't progressing because

1 they didn't have any plans to work from and they
2 didn't have any approvals. And so that
3 interpretation really stands the whole process on
4 its head.

5 Now, as far as cases go, Your Honor,
6 I -- the case that Mr. Bruner mentioned I didn't
7 see cited in the petition, so I haven't read it. I
8 will be happy to read it and respond. But one case
9 I would urge Your Honor to take a look at is
10 Mazingo & Wallace Architects case which we cite in
11 our response at 666 S.E.2d 267.

12 And, again, I smiled when I read this
13 one because this is a case where an architect was
14 hired to do some work, and before they finished
15 doing the work they were hired to do, the owner
16 decided to cut them off. And so the architect
17 filed a suit for damages, filed a mechanics lien.
18 And the court of appeals held in that case that
19 basically the fact that the owner prevented them
20 from completing the work does not mean that they
21 can't recover on this basis because the reason the
22 work wasn't completed was not the architect's
23 fault; it was the owner's fault.

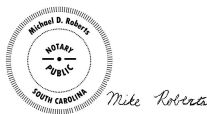
24 And that's just what we've got here,
25 Your Honor. We have a situation where for whatever

CERTIFICATE OF REPORTER

I, Michael David Roberts, Court Reporter and
Notary Public for the State of South Carolina at
Large, do hereby certify that the foregoing
transcript is a true, accurate, and complete
record.

I further certify that I am neither related
to nor counsel for any party to the cause pending
or interested in the events thereof.

Witness my hand, I have hereunto affixed my
official seal this 20th day of March, 2023 at
Charleston, Charleston County, South Carolina.



Michael David Roberts
Court Reporter
My Commission expires
June 20th, 2028

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT

Frank Holtham, as Trustee of the Holtham
 SC Realty Trust, dated April 12, 2022,

C/A No.: 2023-CP-10-00665

Petitioner,

v.

ORDER

Glenn F. Keyes and Glenn Keyes
 Architects LLC,

Respondents.



THIS MATTER is before the Court on a Verified Petition for a Rule to Show Cause why this Court should not dissolve the Respondent's Mechanic's Lien, filed November 4, 2022, and order the return of the Petitioner's bond posted on November 23, 2022. The matter came before the Court on March 2, 2023 and was taken under advisement for the parties to submit proposed orders. The Court, upon review of the authority cited, herein enters its ruling.

Under the authority of Sea Pines Co. v Kiawah Island Co., 268 S.C. 153, 232 S.E.2d 501 (1977), this Court has the authority to rescind a lien of record if there is no legal basis for the lien. This can be done prior to discovery and the Rule is treated similar to a motion for summary judgment, i.e., granted if there is no genuine issue of material fact.

The Court looks to the Mechanic's Lien statute which allows for the filing of a lien by "a person to whom a debt is due where . . . labor is performed in the alteration of a building . . . by virtue of an agreement with the owner." S.C. Code Section 29-5-10. Here, there is no question of fact that the Respondent Architect Glenn Keyes and his firm provided services to Petitioners in the renovation of work at the historic home purchased at 89 Smith Street, Charleston, SC.

There is a significant amount of disagreement over the meaning of “10% of construction costs” which forms the basis for payment for the services performed for the owner. Keyes contends the basis for the fee is the amount of square footage of the structure (over 5,000 feet) multiplied by a square foot price of \$300-\$400 per foot. Petitioner contends the contract price is 10% of actual construction costs paid, which amounted to just under \$42,000.00 -- despite the fact Petitioner had already paid Keyes \$30,000.00. Furthermore, while Respondent claims to have performed a majority of the architectural work contemplated by the parties, Petitioner halted the construction project after receiving an estimate of over two million dollars for renovation costs.

I find, based upon this, that the contract is ambiguous in terms of how the fee was to be determined and, accordingly, deny the petition for the Rule to Show Cause. *See Bluestein v. Town of Sullivan’s Island*, 429 S.C. 458, 839 S.E.2d 879 (2020).

Accordingly, rather than make specific findings of fact in this contested matter, the Court concludes that the Petition should be, and hereby is, respectfully DENIED and the Rule dismissed.

AND IT IS SO ORDERED.

[JUDGE’S ELECTRONIC SIGNATURE ON FOLLOWING PAGE]



Charleston Common Pleas

Case Caption: Frank Holtham , plaintiff, et al VS Glenn F Keyes , defendant, et al

Case Number: 2023CP1000665

Type: Master/Order/Other

So Ordered

s/Mikell R Scarborough

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Frank Holtham, as Trustee of the
Holtham SC Realty Trust, dated April
12, 2022,
Petitioner,

CASE NO.: 2023-CP-10-00665

v.

**MOTION TO RECONSIDER,
ALTER OR AMEND**

Glenn F. Keyes and Glenn Keyes
Architects LLC,
Respondents.



NOW COMES Petitioner Frank Holtham, as Trustee of the Holtham SC Realty Trust, dated April 12, 2022 (“Petitioner” or “Holtham”), who moves this Court pursuant to Rules 52 and 59, SCRCF, to reconsider, alter, or amend the Order entered March 29, 2023 (“Order”) declining Petitioner’s request to dissolve the mechanic’s lien filed by Respondents Glenn F. Keyes and Glenn Keyes Architects LLC (“Respondents” or “Keyes”), finding the parties’ contract ambiguous, and dismissing the above-referenced action. Petitioner submits this motion requesting that the Court reconsider for the reasons stated below and to ensure these issues are preserved for purposes of appeal.

I. The Court Erred in Finding the Payment Term in the Parties’ Contract is Ambiguous.

Petitioner respectfully submits the Court erred in finding the pricing term in the parties’ contract is ambiguous because that finding is contrary to the contract language and to the applicable rules of contract interpretation. “The cardinal rule of contract interpretation is to ascertain and give legal effect to the parties’ intentions as determined by the contract language.” McGill v. Moore, 381 S.C. 179, 185, 672 S.E.2d 571, 574 (2009) (citing Schulmeyer v. State Farm

Fire and Cas. Co., 353 S.C. 491, 495, 579 S.E.2d 132, 134 (2003). “A contract is read as a whole document so that one may not create an ambiguity by pointing out a single sentence or clause . . . It is a question of law for the court whether the language of a contract is ambiguous.” Id. (citing S.C. Dep't of Natural Res. v. Town of McClellanville, 345 S.C. 617, 623, 550 S.E.2d 299, 302–03 (2001). “When the language of a contract is clear, explicit, and unambiguous, the language of the contract alone determines the contract's force and effect and the court must construe it according to its plain, ordinary, and popular meaning.” Baugh v. Columbia Heart Clinic, P.A., 402 S.C. 1, 22, 738 S.E.2d 480, 492 (Ct. App. 2013). “A court must enforce an unambiguous contract according to its terms regardless of its wisdom or folly, apparent unreasonableness, or the parties' failure to guard their rights carefully.” Laser Supply & Servs. v. Orchard Park Assocs., 382 S.C. 326, 334, 676 S.E.2d 139, 144 (Ct. App. 2009). It is not for the court to determine whether the parties' agreement was reasonable or wise, or whether they carefully guarded their rights. Sphere Drake Ins. Co. v. Litchfield, 313 S.C. 471, 473, 438 S.E.2d 275, 277 (Ct. App. 1993). See also 7 S.C. Jur. Architects and Engineers § 34 (“As in any contract action, a design professional must prove the terms of the contract, his own performance, and failure of payment by the owner.”).

Here, the contract provided that Keyes’ fee would be “10% of the construction costs.” There is no ambiguity in that term. It is capable of only one reasonable interpretation, to wit, Keyes’ fee would be 10% of the costs and expenses incurred for the construction of the project. Bardsley v. Gov't Emps. Ins. Co., 405 S.C. 68, 76, 747 S.E.2d 436, 440 (2013) (“It is a well-settled principle of contract interpretation that absent a contractual definition to the contrary, contract language is given its ordinary and plain meaning.”); 56 Leinbach Invs., LLC v. Magnolia Paradigm, Inc., 411 S.C. 466, 472, 769 S.E.2d 242, 246 (Ct. App. 2014) (“When [a] contract's language is unambiguous it must be given its plain and ordinary meaning and the court may not

look to extrinsic evidence to interpret its provisions.”); Black's Law Dictionary (11th ed. 2019) (defining “cost” as “The amount paid or charged for something; price or expenditure.”).

In construing and determining the effect of a written contract, the intention of the parties and the meaning are gathered primarily from the contents of the writing itself, or, as otherwise stated, from the four corners of the instrument, and when such contract is clear and unequivocal, its meaning must be determined by its contents alone; and a meaning cannot be given it other than that expressed. Hence words cannot be read into a contract which import an intent wholly unexpressed when the contract was executed.

McPherson v. J.E. Sirrine & Co., 206 S.C. 183, 204, 33 S.E.2d 501, 509 (1945). See also Silver v. Aabstract Pools & Spas, Inc., 376 S.C. 585, 591, 658 S.E.2d 539, 542 (Ct. App. 2008) (citing McPherson and holding party “cannot create ambiguity when it does not exist within the four corners.”).

In its Order, the Court accurately notes that there is a dispute between the parties about the meaning of the payment terms in the contract. The Court erred, however, by concluding the the existence of that dispute proves an ambiguity. A finding of ambiguity requires more; it requires that the contract term be capable of more than one *reasonable* interpretation. Id. Here, the contract term is capable of only one reasonable interpretation. Keyes contends the term “construction costs” does not mean expenses incurred in the construction of the project. Instead, he argues, the intent of the parties was to calculate his fee based on the total project estimate (which was not provided until months after the contract was entered), a blended square footage calculation,¹ and price of \$300-\$400 per square foot. Keyes calculates his fee based on a blended square footage calculation, a price of \$300 per square foot, and his claim that he performed 75% of his scope of work. The specific formula he uses is: 5,529 sq. ft. (square footage of the house,

¹ Keyes’ lien is based on a total fee earned that he calculated using 4,486 square feet for the home, plus 75% of the square footage of the porches, and a price per square foot of \$300.

including 75% of the porches) x \$300/sq. ft. x 10% = \$165,870 x 75% = \$124,402 - \$30,000 (already paid to Keyes) = \$94,402). Where is that in the parties' contract? The contract contains no reference to square footage of the home, to a price per square foot, or to Keys earning 75% of his fee before plans have been approved by the board of architectural review. The contract says "10% of the construction costs." Keyes' argument, therefore, is not rooted in the four corners of the parties' contract but rather on averments in his verified pleading. Those averments cannot create an ambiguity where none exists, nor can they nullify the effect of the clear and unambiguous terms of the contract language Keyes drafted. Bluffton Towne Ctr., LLC v. Gilleland-Prince, 412 S.C. 554, 571, 772 S.E.2d 882, 891 (Ct. App. 2015) ("The parol evidence rule prevents the introduction of extrinsic evidence of agreements or understandings contemporaneous with or prior to execution of a written instrument when the extrinsic evidence is to be used to contradict, vary[,], or explain the written instrument . . . Where a written instrument is unambiguous, parol evidence is inadmissible to ascertain the true intent and meaning of the parties . . . Under the parol evidence rule, the terms of the writing are controlling, even if extrinsic evidence is admitted without objection or admitted over appropriate objection.") (internal quotations and citations omitted). Had Keyes intended to be paid a fee based on 10% of the project budget and a price per square foot rather than construction costs, he could have included that term in the fee agreement. Had he intended to earn 75% of his total fee before a building permit was issued, he could have written that into the fee agreement, too. He did neither. The law does not allow him to now add terms to the agreement that were not there when he was hired. The pricing term in the contract is capable only of one reason interpretation, and the Court is required to enforce the agreement as written.

The Court therefore committed an error of law by finding the contract ambiguous.

Aabstract Pools, 376 S.C. at 592–93, 658 S.E.2d at 543 (“Because we find this contract is clear, explicit, unambiguous, and capable of only one reasonable interpretation, the court does not look beyond the four corners to discern the parties intentions . . . Therefore, we reverse the masters finding that the contracts payment terms were ambiguous.”) (internal citations omitted).

Accordingly, Petitioner respectfully moves this Court to reconsider, alter and amend its Order, to find the payment term in the contract unambiguous, and to find the Respondents failed to show cause why their mechanic’s lien should not be dissolved because there is no genuine dispute of fact that Respondents are not entitled to any further payment from Petitioner.

II. The Court Erred by Not Construing the Ambiguity in the Contract in Favor of the Petitioner.

Petitioner further contends the Court erred when, after finding the parties’ contract ambiguous, it did not construe that ambiguity in favor of Petitioner as the non-drafting party. Applying that rule of contract interpretation would render the conclusion that there is no genuine dispute that Keyes’ lien should be dissolved because he is not entitled to any further payment from Petitioner.

It is uncontested in this matter that Keyes drafted the fee agreement that forms the parties’ contract. After finding the payment term in the contract ambiguous, the Court should have taken the next step in the analysis to apply the rule of law construing the ambiguity in favor of Holtham as the non-drafting party. See McGill v. Moore, 381 S.C. 179, 186, 672 S.E.2d 571, 575 (2009) (“However, even if the contract was ambiguous, any ambiguity will be construed in favor of . . . the non-drafting party.”) (citing S. Atl. Fin. Servs., Inc. v. Middleton, 356 S.C. 444, 447, 590 S.E.2d 27, 29 (2003) (holding that ambiguous language in a contract should be interpreted strongly in favor of the non-drafting party)). Applying that rule would have led to the conclusion that “10% of the construction costs” means Keyes’ fee was 10% of the actual costs and expenses

incurred in the construction of the project and, therefore, that there is no genuine dispute of fact that Respondents earned a fee of at most \$5,152.83. Rather than apply that rule, the Court stopped its analysis after finding the term ambiguous and dismissed the action. Petitioner would show the Court erred when it dismissed the action without construing the ambiguity in favor of Petitioner.

Therefore, in the event the Court declines to reconsider and find the payment term in the contract unambiguous, as discussed above, Petitioner asks that the Court apply the rule of construction construing the ambiguity in favor of Petitioner and consequently find Keyes' mechanic's lien should be dissolved because there is no genuine dispute of fact that Respondents are not entitled to any further payment from Petitioner.

III. The Court Erred by Finding a Genuine Issue of Fact Exists about the Amount of Construction Costs.

Petitioner also moves the Court to reconsider whether a triable issue exists about the construction costs on the project. After finding an ambiguity in the parties' contract, the Court declined to make any further findings and dismissed this action. By doing so, the Court impliedly ruled a genuine dispute of fact exists about the amount of the total construction costs for the Petitioner's project. Petitioner respectfully contends that ruling constitutes reversible error because there is no genuine dispute that the total construction costs were at most \$51,528.34. Consequently, even if the Court declines to find the payment term unambiguous, and even if the Court declines to construe the ambiguity in the contract in favor of Holtham, the record demonstrates nonetheless that there is no genuine dispute that "the construction costs" were at most \$51,528.34, which fact entitles Keyes to a fee of at most \$5,152.83 and compels dissolution of the mechanic's lien.

For purposes of Rule 56, SCRCP, the pleadings and other documents in the record before the Court consist of the verified petition and exhibits and the verified response and exhibits. The

averments in those pleadings leave no genuine dispute of fact that the total construction costs were at most the \$51,528.34, or the total of the invoices the contractor submitted for the project. See Verified Petition ¶ 34 (attesting, “The total construction costs the contractor claimed for the Project were \$51,528.34”) ¶ 35 (attesting, “Petitioner disputed the accuracy of the cost accounting in those invoices and eventually reached an agreement to resolve the contractor's claim for a total of \$41,595.24.”), ¶ (attesting, “Petitioner would therefore show the total construction costs on the Project were \$41,595.24.”), and Verified Response ¶ 24 (“Respondents are without information sufficient to admit or deny Paragraphs 34, 35, and 36.”). Petitioner has presented evidence that the total construction costs were at most \$51,528.34 based on total invoices from the contractor. Keyes has come forth with no evidence or argument to the contrary. Instead, in his verified response, Keyes claimed to have insufficient knowledge to admit or deny the allegation. Id. Keyes’ entire case rests not on an allegation that the construction costs incurred exceeded \$51,528.34 but rather on an interpretation of “construction costs” to mean the total project budget based on square footage of the home and \$300-\$400 per square foot. Because the record presents no genuine dispute that the total construction costs on the project were at most \$51,528.34, the Court should have noted that in the Order. Doing so would have rendered the conclusion that the Respondents’ lien must be dissolve because they are not entitled to any further payment from the Petitioner.

IV. The Court Erred in Not Dissolving the Respondents’ Lien based on S.C. Code Ann. § 29-5-100.

By statute, a claimant who knowingly and willfully claims more than he is due stands the risk of his lien being dissolved. S.C. Code Ann. § 29-5-100 (“No inaccuracy in such statement relating to the property to be covered by the lien, if the property can be reasonably recognized, or in stating the amount due for labor or materials shall invalidate the proceedings, *unless it appear*

that the person filing the certificate has wilfully and knowingly claimed more than is his due.”) (emphasis added). South Carolina appellate courts have affirmed the dissolution of a mechanic’s liens where there was overwhelming evidence that the claimant inflated the amount of the lien. See, e.g., Terlizzi Home Improvement, LLC v. Boheler, No. 2014-002540, 2017 WL 4786434, at *1 (S.C. Ct. App. July 5, 2017) (unpublished) (holding no error in the trial court’s dissolving a mechanic’s lien where the case presented “overwhelming evidence . . . that Appellants willfully and knowingly inflated the lien.”). Here, the Respondents have no conceivable claim under the terms of the agreement to recover a total fee of \$124,402.00. The fee is limited to 10% of the construction costs, and the Respondents’ lien represents a claimed fee of over 240% of the construction costs. Respondents have presented no task billing records or other internal records showing the hours spent, the identity of the individuals who performed the design work, the work performed, the man hours required for that work, and otherwise supporting the fee claimed. While the mechanic’s lien statutes are enacted to be remedial in nature and do not require perfection in the statement of account, a claimant may not willfully and knowingly claim more than his due. Id. Respondents drafted the contract and know they are only entitled to 10% of the construction costs. Their claim in this case does not follow the contract language but instead employs an entirely different formula. Having already received all sums which they are due, the Respondents willfully and knowingly claimed more than their due when they signed the verified statement claiming to be owed an additional \$94,402.00. Id. (“A lien holder cannot be allowed to grossly inflate the amount of a mechanic's lien, hold a property owner hostage in litigation for two years, and subsequently avoid dismissal pursuant to section 29–5–100 simply by later stipulating to a reduced lien amount.”). See also Zepso Const., Inc v. Randazzo, 357 S.C. 32, 37–38, 591 S.E.2d 29, 31–32 (Ct. App. 2004) (holding overhead and lost profits are not lienable unless

specifically provided in contract); Id. (“Additionally, the account statement of the contract does not list overhead and profit as terms, but instead indicates the \$61,000.00 is an additional amount that represents 10% of the \$610,000.00 contract price. Furthermore, the construction in Sentry was substantially completed whereas only \$10,000.00 of the \$610,000.00 Zepa project had been completed.”); see also S. Indus. Contractors, LLC v. O'Brien & Gere, Inc. of N. Am., No. 2:19-cv-1691-RMG, 2021 WL 1381120, at *7 (D.S.C. Apr. 12, 2021) (“Thus, the Amended Lien is overstated in that it seeks \$2,205,102.00 for work which Plaintiff admittedly did not perform) (citing Terlizzi Home Improvement as discharging mechanic's lien where plaintiff testified ‘he did not use the actual costs of materials and labor involved in the construction of Respondents' home to calculate the sum of the lien’ and could only account for a sum less than the value of the lien.”)). The Court erred by not including a finding to that effect in its order and invalidating the lien accordingly.

V. The Court Erred in Finding No Genuine Issue of Fact Exists that Respondents Provided Services if the Finding is Those Services Constitute “Labor” as Required by the Mechanic’s Lien Statute.

Petitioner raises a final point in an abundance of caution. The third paragraph of the Order reads,

The Court looks to the Mechanic’s Lien statute which allows for the filing of a lien by “a person to whom a debt is due where . . . labor is performed in the alteration of a building . . . by virtue of an agreement with the owner.” S.C. Code Section 29-5-10. Here, there is no question of fact that the Respondent Architect Glenn Keyes and his firm provided services to Petitioners in the renovation of work at the historic home purchased at 89 Smith Street, Charleston, SC.

While it is true that the Petitioner hired Keyes and Keyes did provide services in the generic sense, Petitioner would show those services do not constitute “labor” as required by the mechanic’s lien statute and, therefore, the services cannot form the basis of a mechanic’s lien. The Court’s Order does not expressly state Respondents’ services constitute “labor” as required by the

mechanic's lien statutes, but it may be construed to so find. At a minimum, a genuine dispute of fact exists about whether the services provided by Keyes constituted "labor" as required by statute. Petitioner therefore includes this point in this motion in an abundance of caution and only to the extent the Court intended its finding to mean Keyes' services constituted "labor" for purposes of the Respondents' mechanic's lien.

There must be some nexus between the "labor" that gives rise to the debt that forms the basis for the mechanic's lien and the real property subject to the lien. In George A.Z. Johnson, Jr., Inc. v. Barnhill, the Supreme Court of South Carolina clarified that rule is limited to services provided in connection with the "actual construction" of an improvement to the real estate:

[R]espondent cites Williamson v. Hotel Melrose, 110 S.C. 1, 96 S.E. 407, which construed our statutes as extending the lien to the work of architects, and to Sea Pines Co. v. Kiawah Island Co., Inc., 268 S.C. 153, 232 S.E.2d 501, which extended the lien of our statutes to cover the supervision of the planning and development of the project. It is argued that our Court had thus effectively liberalized the mechanic's lien statute to such extent that the 1978 amendment (Section 29-5-21) was merely a codification of the existing law.

We do not think the cases cited by respondent are decisive of the present question. In Williamson, the architect furnished the plans and specifications **and supervised the construction of the building**. Certainly, the architect furnished labor in the erection of the structure. In the case of Sea Pines, Co., the agreement was also "to furnish plans **and supervision of construction**." These cases deal with labor performed in the **actual construction of the buildings on the property** and are thus distinguished from the present case where no labor was performed in making an improvement which became a part of the real estate.

George A.Z. Johnson, Jr., Inc. v. Barnhill, 279 S.C. 242, 244-45, 306 S.E.2d 216, 217-18 (1983) (emphasis added). Compare Spriggs Grp., P.C. v. Slivka, No. 2013-UP-497, 2013 WL 10343401, at *1 (S.C. Ct. App. Feb. 6, 2013) (holding the construction administration services furnished by architect during actual construction of the project constituted "labor" under section 29-5-10.).

In this case, Keyes' claim is based on design work he contends was necessary to prepare plans in anticipation for the actual construction of the renovation project. It is undisputed that the

board of architectural review never approved the plans, or that the project never advanced beyond demolition, so Keyes' labor was not performed "in the actual construction" of the project. See id. Petitioner would therefore show that to the extent the Court intended its ruling to mean no genuine issue of fact exists that the Respondents' services constitute "labor" under the mechanic's lien statutes, that finding constitutes error.

WHEREFORE, Petitioner respectfully moves this Court pursuant to Rules 52 and 59, SCRCF to reconsider, alter or amend its Order and to enter an order finding the payment term in the fee agreement is unambiguous, finding no genuine dispute that Respondents are not entitled to any further payment from Petitioner, and therefore finding the mechanic's lien should be dissolved and the cash bond refunded to Petitioner.

Respectfully submitted,

/s/ Benjamin C. Bruner
BBruner@brunerpowell.com
Bruner, Powell, Wall & Mullins, LLC
P.O. Box 61110
Columbia, South Carolina 29260
(803) 252-7693
Attorney for Petitioner

April 7, 2023
Columbia, South Carolina

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2023CP1000665

Frank Holtham et al
PLAINTIFF(S)

Glenn F Keyes et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Upon careful consideration of the Petitioner's Motion to Reconsider, Alter Or Amend, filed April 7, 2023, this Court respectfully DENIES the Motion.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 04/17/2023 .



NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Charleston Common Pleas

Case Caption: Frank Holtham , plaintiff, et al VS Glenn F Keyes , defendant, et al

Case Number: 2023CP1000665

Type: Order/Electronic Form 4

So Ordered

s/Mikell R. Scarborough 3062

RECEIVED

May 25 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-in-Equity

Civil Action No.: 2023-CP-10-00665

Frank Holtham, as Trustee of the Holtham
SC Realty Trust, dated April 12, 2022 Appellant,

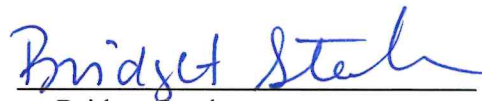
v.

Glenn F. Keyes and Glenn Keyes Architects LLC. Respondents.

PROOF OF SERVICE

I, the undersigned attorney for Appellant, certify that I served a copy of the attached **Appellant's Return to Respondent's Motion to Dismiss** by depositing a copy of it in the U.S. Mail, postage prepaid, on May 25th 2023, addressed to John A. Massalon, Esquire and Carissa Steichen Land, Esquire, Wills Massalon & Allen, LLC, P.O. Box 859, Charleston, SC 29402 and by e-mail to jmassalon@wmalawfirm.net and csteichen@wmalawfirm.net.

May 25, 2023


Bridget Steele

BRUNER, POWELL, WALL & MULLINS, LLC

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BENJAMIN C. BRUNER, P.A.
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JAMES L. BRUNER (RETIRED)

J. COLE HANCOCK
J. KEANE MOSSMAN*

AUTHOR'S E-MAIL: BSTEELE@BRUNERPOWELL.COM

* ALSO ADMITTED IN DISTRICT OF COLUMBIA

May 25, 2023

VIA EMAIL ONLY

Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1120 Senate Street
Columbia, SC 29201
Ctappfilings@sccourts.org

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May 25 2023

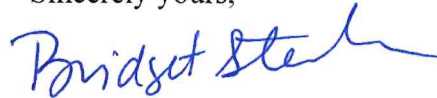
SC Court of Appeals

Re: *Frank Holtham, as Trustee of the Holtham SC Realty Trust, dated April 12, 2022 v. Glenn F. Keyes and Glenn Keyes Architects, LLC*
C/A No.: 2023-000649
BPWM File No. 113527.100

Dear Ms. Kitchings:

Enclosed herewith for filing, please find the Appellant's Return to Respondents' Motion to Dismiss, Initial Brief and Designation of Matter in the above referenced matter.

Sincerely yours,



Bridget S. Steele
Legal Assistant to Benjamin C. Bruner

/bss

cc: John A. Massalon, Esquire
Carissa Steichen Land, Esquire
Mr. Frank Holtham