

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	C.A. No.: 2022-CP-27-00115
T.C. REALTY OF THE LOWCOUNTRY, INC.,	)	
	)	
Plaintiff,	)	
vs.	)	
	)	ORDER FOR PERMANENT
TERESA BRINK, STEVEN BRINK, and	)	INJUNCTION
FRANK SWARTZ,	)	
	)	
Defendants.	)	
	)	

RECEIVED**Jul 26 2023****SC Court of Appeals**

This matter came before the Court upon Plaintiff's Motion for an Order of Default Judgment and Damages, which was filed with the Court on March 30, 2023. Prior to this matter, two orders were filed in this case: (1) Order Establishing Easement, which was filed on July 19, 2022, and (2) Order of Default Judgment, which was filed on May 23, 2023.

On June 8, 2023, the Court began a damages hearing. Plaintiff was represented by attorney Russ Keep. Defendants were all present and appeared Pro Se. The Court began the damages hearing by taking testimony from two of the Plaintiff's witnesses, Richard Young and Darnell Williams, who have both visited the property but do not live there or rent homes there. After cross-examination of these witnesses by the Defendants, this Court questioned the truth and veracity as to the questions asked, the answers given to the questions, and the heated arguments between the parties and the characterization of items placed in the easement. In particular, Plaintiff asserted that there were voodoo dolls in the trees and witchcraft signs and other obstructions along with driving impediments in the easement. As a result, this Court conducted a site visit to the subject property, which is located on Firetower Road, Ridgeland, South Carolina. Upon visiting the site on June 8, 2023, with my court reporter, my law clerk, all parties to this case, and Russ Keep, the

Court witnessed the condition of the subject property, the photographs of which are labeled Exhibits 1 through 8 and attached to this order.

LAW AND FACTS

“A servient estate may limit access across an easement if the limitation: 1) does not unreasonably interfere with the right of passage of the dominant estate; 2) is necessary for the preservation of the servient estate; and 3) is necessary for the use of the servient estate.” *Davis v. Epting*, 317 S.C. 315, 318, 454 S.E.2d 325, 327 (Ct. App. 1994) (citing *Brown v. Gaskins*, 284 S.C. 30, 324 S.E.2d 639 (Ct. App. 1984)). In *Davis v. Epting*, the Court ordered Epting to remove barricades from the easement because the “obstructions eliminate [the] right to vehicular access, and impede the right to access on foot.” 317 S.C. at 319, 454 S.E.2d at 327. In the present matter, the Court directly observed the conditions of the easement and witnessed the obstructions in the subject easement, including but not limited to, steel rebar stakes, wooden limbs, yard debris, cement blocks or brick, and fencing which clearly obstruct vehicular access and the right to access on foot through the easement. This is not only a concern for the private individuals who have a right to access the easement, but also for the emergency services vehicles who may need to access the easement to respond to emergency service calls. Further, there is no evidence that the steel rebar stakes, fencing, gates, and other ground materials and figures are otherwise necessary despite the resulting unnecessary interference with the easement. See *Davis* at 319, 454 S.E.2d at 327-28.

Based upon the witness testimony, the arguments of counsel and pro se Defendants, the site visit, and the case record, this Court orders the following:

All parties to this action are permanently enjoined from placing any objects in the roadways or easement at the subject property so as to obstruct the traffic of property owners, tenants, invitees, and emergency services vehicles, unless otherwise permitted by this Court.

All parties are prohibited from harassing, intimidating, or otherwise threatening any individual that has a right to use the easement, including owners of real property, tenants, landlords, and invitees.

The Defendants are ordered to remove, within thirty (30) days of the entry of this order, all items and related materials as pictured in the attached Exhibits 1 through 8, which include, but are not limited to: the wooden structure containing multiple custom signs at the roadway; all items nailed or otherwise attached to trees and plants within the easement; all rebar steel posts, spikes, and fencing within the easement; and all yard waste and debris blocking access to the easement.

If the Defendants fail to remove the items within thirty days as ordered by this Court, the Plaintiff is permitted to remove the items at its own cost.

Failure of any party to comply with any term of this order will result in the party being brought before this Court to show cause why they should not be held in civil contempt for violating the Court's order.

As to monetary damages the Plaintiff may be requesting, this determination will be held in abeyance for six months.

AND IT IS SO ORDERED.



Carmen T. Mullen
Fourteenth Judicial Circuit

Ridgeland, South Carolina
June 12, 2023