THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Perry H. Gravely, Circuit Court Judge

Circuit Court Case No. 2019-CP-23-02476

Appellate Case No. 2020-001051

RECEIVED
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SC Court of Appeals

Thomas C. Skelton..... Appellant,

v.

First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation ..... Respondent.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Thomas C. Skelton, Plaintiff, vs. First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation, Defendant.	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT C.A. No.: 2019-CP-23-02476 **ORDER ON SUMMARY JUDGEMENT**

HEARING DATE:	June 11, 2020
JUDGE:	Perry H. Gravely
ATTORNEY FOR PLAINTIFF:	Robert C. Wilson, Jr.
ATTORNEY FOR DEFENDANT:	O. W. Bannister, Jr.
COURT REPORTER:	April Herron

THIS MATTER came before the Court on June 11, 2020, upon the Motion for Summary Judgement pursuant to Rule 56, South Carolina Rules of Civil Procedure filed by the Defendant, First Baptist Church of Travelers Rest, South Carolina, a Non-Profit Corporation (hereinafter "Church"). The matter was heard on June 11, 2020 and was conducted pursuant to the Order of the South Carolina Supreme Court for the "Operation of the Trial Courts During the Coronavirus Emergency" issued on April 3, 2020 (as amended) (hereinafter "Emergency Order"). The parties consented to holding the hearing via videoconference with a Court Reporter.

The Plaintiff, Thomas C. Skelton, (hereinafter "Skelton") resisted the Motion.

The Church filed a Memorandum in Support of Summary Judgement with excerpts from the deposition of Skelton along with exhibits from that deposition. Skelton filed a Memorandum in Opposition to Defendant's Motion for Summary Judgment, the entire transcript of the deposition

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of Gary Batson, the Church's representative, and the deposition of Skelton himself, along with an Affidavit.

After reviewing the pleadings, the Memorandum of the parties along with the transcripts, Skelton's affidavit, exhibits, and the arguments of counsel, the Court concludes the Church is entitled to Summary Judgement on the causes of action set forth in Skelton's Complaint.

LEGAL ISSUES

Skelton's Complaint alleges four causes of action against the Church. He seeks a prescriptive easement across property of the Church, title to the Church's vacant lot by adverse possession, a permanent easement by necessity and an easement due to the breach of a *de facto* lease. Skelton also prayed for actual and punitive damages. The Church denied Skelton's causes of action and prayed for attorney fees and costs pursuant to SC Code §15-36-10.

FACTS

The following facts were established by the pleadings, affidavits, sworn testimony in the respective depositions submitted by the parties, and exhibits.

The parties own adjoining lots on McElhany Road in Travelers Rest. Skelton purchased his lot which contained a residence in March, 1992. He was a police officer at the time. The Church acquired the adjoining lot in 1993. The two lots have one common Grantor.

Skelton left the police force in 1994 and began a landscaping business which used various equipment to include trucks. Skelton has a work shop on the rear of his lot which he uses to park or repair his landscaping equipment. Due to improvements Skelton made on his lot, he does not have easy access to the rear of his lot by the trucks or other equipment. Skelton requested permission from the Church to use a strip of its land to access the rear of his property. The Church

granted that permission and Skelton has used a strip of the Church's land adjoining his for that purpose for over twenty years.

Skelton's two causes of action based on adverse possession involve activities the Church permitted and some it did not. The Church permitted Skelton to use a strip of its adjoining lot for ingress and egress to the rear of his lot. Skelton wrote a letter to the Church dated February 28, 2019, acknowledging he had the Church's permission for ingress and egress on the Church's lot to reach the lower portion of his lot. He also acknowledged writing the letter in his deposition and that the statement was true. Additionally, Skelton was aware that the Church prepared an agreement for him to use the strip necessary for ingress and egress with its permission which could be renewed on a yearly basis. The agreement, however, was never signed by either party.

Skelton admittedly was allowed to mow portions of the Church's lot in order to keep down mice which could attract snakes. Skelton also claimed this beneficial arrangement created a de facto lease which was never reduced to writing or signed by either party.

The unpermitted uses of the Church's property by Skelton were the building of a berm along the property line of the Church to funnel surface water away from Skelton's lot and placing an electric dog fence across a portion of the Church's lot to keep his dogs confined. He also planted a tree on the Church's property and cut down a dead tree on the property line.

LEGAL ANALYSIS

The Supreme Court recently considered the requirements of a prescriptive easement in Simmons v. Berkeley Elec. Coop., Inc., 419 S.C. 223, 797 S.E.2d 387 (2016). The Court in Simmons quoted with approval the requirements for a prescriptive easement set out in County of Darlington v. Perkins, 269 S.C. 572, 239 S.E.2d 69 (1977):

> To establish a prescriptive easement, the claimant must prove by clear and convincing evidence: '1) the continued and uninterrupted use or

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> engagement of the right for a period of 20 years; 2) the identity of the thing enjoyed; and 3) the use [was] adverse under claim of right.'

Simmons also stated the long-established rule in South Carolina that permissive use defeats the establishment of a prescriptive easement because use that is permissive cannot also be adverse. Bundy v. Shirley, 412 S.C. 292, 310, 772 S.E.2d 163, 173 (2016).

Skelton acknowledged writing a letter dated February 28, 2019, in which he stated, "My wife and I have spoken with several pastors and deacons over the past 20 plus years and we were told by all of them that it was fine for us to use the lower portion of the field so that we could have ingress and egress to the rear of our property."

Skelton was asked about the unsigned agreement to use a strip of the Church's property:

> Q. So, it (the unsigned agreement) granted you permission to use this strip of property, Church property?
>
> A. That's what I recall. But, again, that was a.
>
> Q. Ok.
>
> A. a long time ago and we don't have it.

Because Skelton's testimony and own letter makes it clear he used the Church's strip with the Church's permission, Skelton is not entitled to a prescriptive easement.

Skelton's Second Cause of Action alleges he had a de facto lease arrangement whereby he was allowed to use, occupy and exercise other rights on the Church's property in exchange for his maintenance and upkeep of the Church's vacant lot. He alleges the Church seeks to terminate the de facto lease and evict him. Based on the alleged de facto lease, Skelton seeks injunctive relief in the form of an easement for ingress and egress or damages for breach of the de facto lease accompanied by deceit, fraud and misleading statements.

The Church denied there was a de facto lease and also pled any de facto lease violated the

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Statute of Frauds which prohibits the enforcement of certain alleged agreements concerning land.

The Statute of Frauds, S.C. Code §32-3-10, states in part:

> (4) To charge any person upon any contract or sale of lands, tenements, or hereditaments or any interest in or concerning them; or
>
> (5) To charge any person upon any agreement that is not to be performed within the space of one year from the making thereof;
>
> Unless the agreement upon which such action shall be brought or some memorandum or note thereof shall be in writing and signed by the party to be charged therewith or some person thereunder by him lawfully authorized.

In his deposition, Skelton was asked:

> Q. And it's alleged that you had a de facto lease agreement in exchange for your maintenance and up-keep. You were allowed to use – occupy and other rights to the vacant lot. What other right are you speaking of?
>
> A. Those would be, again, the, the purview, of, of Mr. Wilson. I'm not an attorney. I – you know, I gave him the facts and I let him apply the law, I guess, if you want to – best we can.
>
> Q. In the lease agreement, you agree – and I'm, I'm repeating myself – is not in writing anywhere?
>
> A. We don't have anything in writing; no, sir.

Admittedly, there is no writing signed by the parties. The relief prayed for, breach of a de facto lease, asks for use of the Church's land beyond a year. The Statute of Frauds applies. Springob v. University of South Carolina, 407 S.C. 490, 757 S.E.2d 384 (2014). The unsigned agreement offers no relief to Skelton on the claim of a de facto lease. By its terms the agreement is for one year although it is renewable. Skelton's Complaint asks for relief forbidden by the Statute of Frauds.

The Plaintiff's Third Cause of Action claims an easement of necessity. The elements of a claim for easement of necessity are 1) unity of title, 2) severance of title and 3) necessity. Boyd

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v. Bellsouth Tel. Tel. Co., 369 S.C. 410, 418-19, 633 S.E.2d 136, 140-41 (2006).

The Court in Paine Gayle Props., LLC v. CSX Transp., Inc., 400 S.C. 568, 735 S.E.2d 528 (Ct. App. 2012) elaborated on the meaning of "necessity" (p. 590):

> 'The necessity required for easement by necessity must be actual, real, and reasonable as distinguished from convenient, but need not be absolute and irresistible.' Boyd, 369 S.C. at 420, 633 S.E.2d at 141. 'South Carolina requires only 'reasonable necessity' to imply an easement: while the owner of the servient estate must prove more than convenience, he need not show the [easement] is absolutely necessary.' Graham v. Causey, 284 S.C. 339, 341, 326 S.E.2d 412, 414 (Ct. App. 1985), *disapproved of on other grounds by Jowers v. Hornsby*, 292 S.C. 549, 357 S.E.2d 710 (1987) (citations omitted). 'The necessity element of easement by necessity **must exist at the time of the severance** and the party claiming the right to an easement **must not create the necessity when it would not otherwise exist**.' Boyd, 369 S.C. at 420, 633 S.E.2d at 141 (citations omitted) (emphasis added). This is so because it is the severance that creates the necessity for an easement and, thus, allows the law to impute to a landowner a right to cross an adjacent parcel. *See Turnbull*, 14 S.C.L. at 139 ('The necessity by which a person derives a right of way, is when one person sells another land enclosed on all sides by other lands. Here[,] the law imposes an obligation on the seller to allow the purchaser a right of way over his adjacent land.').

Skelton received his property by Deed in March, 1992. His lot fronts on McElhaney Road and he has access from that road to his property. At the time of purchase Skelton was a police officer who left the force in 1994 and formed his current landscaping business. He stated the problem with access involves his business.

> Q. And, and the problem with the ingress and egress that you're referring to is that you have big trucks or trucks or something, trailers, that you need – or it's desirable for you to have room to turn them around?
>
> A. Yes, sir. And, and to, and to be able to come and go in a safe manner, as well. Because McElhaney Road has gotten so busy, it would be extremely difficult to back a trailer in there, for example, or anything like that. I just – we try to avoid that at all costs. So, we turn out and come down the property line where this gravel area is here and we enter out into the road (pointing to document).

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Skelton's claim of necessity must fail because it did not exist when Skelton purchased his lot but came about when he formed his landscaping business and the use of the Church's lot is simply a matter of convenience.

In his Fourth Cause of Action, Skelton seeks title to the Church's lot from his adverse possession under S.C. Code §15-67-210, et. seq.

Adverse possession requires possession, the possession must be continuous, hostile, open, actual, notorious, and exclusive for at least ten years. Davis v. Monteith, 289 S.C. 176, 345 S.E.2d 724 (1986). In Taylor v. Heirs of Taylor, 419 S.E. 639, 799 S.E.2d 919 (2017) (the Court cited Knot v. Bogan, 322 S.C. 64, 472 S.E.2d 43 (Ct. App. 1996) page 70 which restates the law that possession must be without the consent of the owner.)

Specifically, the Court in Taylor said, "There was no evidence in the record indicating Appellants possessed parcel five with Respondent's permission or consent. Thus, Appellants met their burden with regard to hostility." P. 654.

Skelton's cause of action for adverse possession is fatally flawed because he had the Church's permission for his use of the strip of the Church's lot for ingress and egress to the rear of his own lot and to mow the grass. The placement of a berm on the property line to fight off surface water and the placement of an electronic fence to control pet dogs does not rise to the level of possession that will support adverse possession.

CONCLUSION

In Catawba Indian Nation vs. State of South Carolina, et. al. 407 SC 526, 673 SE2d 900 (S. Ct. 2014) the Supreme Court restated the general rules that govern the granting or denial of summary judgment under Rule 56 SCRCP. Based on permissible evidence at the summary judgement hearing, the moving party must show that there is no genuine issue as to any material

fact after viewing the evidence and all reasonable inferences from that evidence in light most favorable to the nonmoving party. The Court finds that the Defendant has done so.

IT IS ORDERED that the Defendant by and hereby is granted summary judgment as to the Four Causes of Action set out in Plaintiff's Complaint and the action is dismissed with prejudice.

IT IS SO ORDERED.

Judge Gravely's E-signature on following page

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Greenville Common Pleas

Case Caption: Thomas C Skelton vs. First Baptist Church Of Travelers Rest South Carolina

Case Number: 2019CP2302476

Type: Order/Summary Judgment

So Ordered

s/ Honorable Perry H. Gravely, #2755

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP2302476

Thomas C Skelton
PLAINTIFF(S)

First Baptist Church Of Travelers Rest South Carolina
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), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ 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:

See page 2.

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 07/13/2020 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

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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.

This matter comes before the Court on the Plaintiff's Motion to Alter or Amend the Court's Order pursuant to South Carolina Rules of Civil Procedure 52(b) and 59(e). The Court's Order granting the Defendants' Motions for Summary Judgment was submitted on June 18, 2020. This subsequent motion by the Plaintiff was filed on June 26, 2020. The Court has reviewed the Plaintiff's Motion with the included legal argument and finds that it is not necessary to set a hearing to determine this matter.

After review of all arguments presented by the parties, the Court denies the Plaintiff's Motion. The Court finds no basis to reverse its previous decisions, specifically under the Plaintiff's assertions of adverse possession and easement by necessity. Therefore, the Motion is denied and the previous decisions of this Court in this matter are affirmed.

It is so ordered.

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Greenville Common Pleas

Case Caption: Thomas C Skelton vs. First Baptist Church Of Travelers Rest South Carolina

Case Number: 2019CP2302476

Type: Order/Electronic Form 4

So Ordered

s/ Honorable Perry H. Gravely, #2755

ELECTRONICALLY FILED - 2019 May 01 12:19 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2019-CP-23
Thomas C. Skelton,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	**SUMMONS**
First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation,	)	
	)	
Defendant.	)	
	)	

TO THE DEFENDANT(S), ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in the above-entitled action, a copy of which is hereby served upon you, and to serve a copy of your answer upon the undersigned at his office at 201 Whitsett Street, Greenville, SC 29601, within thirty (30) days after service hereof upon you, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

Dated: 5/1/19

/s/ Robert C. Wilson, Jr.
Robert C. Wilson, Jr.
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Attorneys for Plaintiff

ELECTRONICALLY FILED - 2019 May 01 12:19 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2019-CP-23
Thomas C. Skelton,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**COMPLAINT**
	)	
First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation,	)	***(Jury Trial Demanded)***
	)	
Defendant.	)	
	)	

Plaintiff, subject to his demand for a jury trial for the within action, alleges the following:

(PARTIES, JURISDICTION, VENUE)

I

Plaintiff is a citizen and a resident of Greenville County, South Carolina; Plaintiff is the owner, in fee simple absolute, of a parcel of real estate located in Travelers Rest, South Carolina, (herein, "SkeltonProp"); SkeltonProp is located at 108 McElhaney Road Travelers Rest, South Carolina, as described in Deed Book 1468, at Page 415 in the Office of Register of Deeds, Greenville County, South Carolina; SkeltonProp is occupied for residential purposes and serves as a base for the business of Plaintiff.

II

Defendant is a non-profit corporation duly organized and existing under the laws of the State of South Carolina. Defendant's principal place of business is in Travelers Rest, Greenville

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County, South Carolina. Defendant is the owner of record of a parcel of real estate (herein, "VacantLot"), which abuts SkeltonProp on McElhaney Road, Travelers Rest South Carolina; VacantLot is more particularly described at Deed Book 2017, Page 438, in the Office of Register of Deeds, Greenville County, South Carolina. VacantLot has been subject to the use and occupancy by Plaintiff for ingress and egress to SkeltonProp, under lease with Plaintiff and under open and notorious use and occupancy by Plaintiff.

III

Recently, Defendant has directed Plaintiff to cease and desist his use and occupancy of VacantLot for ingress and for egress. Plaintiff has unsuccessfully sought negotiation with Defendant to resolve the controversy which has arisen over the ownership, occupancy, and/or use of VacantLot. Defendant has failed, refused, and neglected to respond to Plaintiff's efforts to reach a settlement of the parties' respective rights to the use, occupancy, ownership of VacantLot. Accordingly, Plaintiff brings this action as a Declaratory Judgment Action, pursuant to §§15-53-10, *et seqq*., of the SC Code of Laws, 1976, as amended, seeking that this Court declare the rights of the parties to the use, occupancy, or ownership of the VacantLot.

IV

Plaintiff alleges that the parties and the issues presented by this action are properly before this Court.

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**(FOR A FIRST CAUSE OF ACTION:
PRESCRIPTIVE EASEMENT)**

V

Plaintiff hereby realleges all allegations set forth above as are not inconsistent herewith.

VI

Plaintiff alleges that he has engaged in regular, open, and notorious use of VacantLot since 1992, for ingress and egress to SkeltonProp. Plaintiff further alleges that he has, since 1992, provided landscaping services for the maintenance and upkeep of VacantLot, as a part of his exercise of dominion and control over VacantLot. Plaintiff alleges that his caretaking of VacantLot has benefitted Defendant by shielding Defendant from regulatory exposure for failure to maintain VacantLot.

VII

As a result of Plaintiff's longstanding open and notorious use of VacantLot for ingress and egress, along with Plaintiff's maintenance and upkeep of VacantLot, Plaintiff alleges that Plaintiff is the equitable owner of a prescriptive easement across VacantLot for which Plaintiff seeks this Court's declaration of legal recognition his ownership.

**(FOR A SECOND CAUSE OF ACTION:
ANTICIPATORY BREACH OF LEASEHOLD AGREEMENT)**

VIII

Plaintiff hereby realleges all allegations set forth above as are not inconsistent herewith.

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IX

Plaintiff and Defendant entered into a *de facto* lease arrangement by which Plaintiff, in exchange for his maintenance and upkeep of VacantLot, was allowed use, occupancy, and other rights to VacantLot. Plaintiff has faithfully met his obligations under the parties *de facto* lease agreement until the present. In turn, Plaintiff has used, occupied, and managed VacantLot as a longstanding lessee, without interruption. Recently, without any justification, Defendant has determined to terminate the parties' *de facto* lease, seeking to evict Plaintiff from VacantLot. Plaintiff will suffer damages as a result of Defendant's wrongful ejectment of Plaintiff. Plaintiff has no adequate remedy at law and will suffer irreparable harm if Defendant wrongfully ejects Plaintiff from VacantLot. Accordingly, Plaintiff seeks permanent injunctive relief, *i.e.* an easement for ingress and egress, to protect Plaintiff's leasehold rights to use and occupancy of VacantLot, or, as alternative relief, to grant Plaintiff damages, actual and punitive, for Defendant's breach of the *de facto* lease and for accompanying the breach with deceit, fraud, and misleading statements.

(FOR A THIRD CAUSE OF ACTION:
EASEMENT OF NECESSITY)

X

Plaintiff hereby realleges all allegations set forth above as are not inconsistent herewith.

XI

Plaintiff alleges that SkeltonProp and VacantLot were conveyed out of a common parcel of land, formerly enjoying unity of title, which conveyance severed the title to the two parcels of land. Plaintiff further alleges that it is necessary to the ownership, enjoyment, and use of

SkeltonProp that there be an easement for ingress and egress in favor of Plaintiff, upon and across VacantLot. Accordingly, Plaintiff seeks that this Court declare that Plaintiff shall hereafter enjoy an easement of necessity over and across VacantLot for ingress and egress.

(FOR A FOURTH CAUSE OF ACTION:
ADVERSE POSSESSION)

XII

Plaintiff hereby realleges all allegations set forth above as are not inconsistent herewith.

XIII

Plaintiff alleges that he has had open and notorious occupancy of VacantLot for the requisite period required under §§15-67-210, *et seqq*., of the SC Code of Laws, 1976, as amended. Accordingly, Plaintiff seeks that this Court declare that fee simple absolute title to VacantLot has vested in Plaintiff, his heirs, successors, assigns forever, thus conveying title to VacantLot to Plaintiff based upon Plaintiff's adverse possession thereof.

(FOR A FIFTH CAUSE OF ACTION:
INJUNCTIVE RELIEF *PENDENTE LITE*)

XIV

Plaintiff hereby realleges all allegations set forth above as are not inconsistent herewith.

XV

Plaintiff is informed and believes that the ejectment of Plaintiff by Defendant, during the pendency of this action, will work a manifest injustice on Plaintiff. Plaintiff further alleges that he has meritorious claims, with reasonable chances of prevailing on one or more of said claims. Accordingly, Plaintiff seeks that this Court order the parties to this action to maintain the *status*

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quo, pending a final resolution of the issues presented by this action

WHEREFORE, Plaintiff prays that he have judgment against Defendant for a declaration by this Court that Plaintiff has a prescriptive easement on and across VacantLot, which easement will run with Plaintiff's title to SkeltonProp, and/or Plaintiff prays that he have judgment that he is the owner in fee simple absolute of VacantLot by adverse possession thereof; and/or Plaintiff prays that this Court declare that Plaintiff enjoy a permanent easement of necessity on and across VacantLot, which easement will run with Plaintiff's title to SkeltonProp; and/or, Plaintiff prays that he have judgment that Defendant has breached the parties *de facto* lease and award a permanent easement for ingress and egress; and/or, Plaintiff prays that he have judgment for damages, actual and punitive, against Defendant in such amount as this Court may award; and/or, Plaintiff prays that the parties to this action be ordered to maintain the *status quo* until resolution of this action; and/or, Plaintiff prays for such other and further relief as this Court may deem just and proper.

Dated: 5/1/19

/s/ Robert C. Wilson, Jr.
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Attorneys for Plaintiff

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ELECTRONICALLY FILED - 2019 May 22 2:02 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Thomas C. Skelton, Plaintiff, vs. First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation, Defendant.	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT C.A. No.: 2019-CP-23-02476 **ANSWER AND COUNTERCLAIM**

The Defendant, answering the Complaint of the Plaintiff, would respectfully show as follows:

1. All allegations not admitted are denied.

2. So much of Paragraph 1 is admitted which alleges the Plaintiff is a citizen and resident of Greenville County, South Carolina, and owns real estate located in Travelers Rest at 108 McElhaney Road. Upon information and believe, the property is occupied for residential purposes. To the extent the Plaintiff operates a business in the residence, the Defendant is informed and believes and therefore alleges that the Plaintiff's property is not zoned for a business and he does not have a business license to operate a business at that location.

3. In answering the allegations of Paragraph 2, the Defendant admits that it is a non-profit organization duly organized and existing under the laws of the State of South Carolina and is a church aforesaid. Defendant admits that it is the owner of record of a parcel of real estate which abuts Plaintiff's property on McElhaney Road. Said lot is described in Deed Book 217 at Page 438 in the Office of the Register of Deeds for Greenville County, South Carolina. Defendant further admits that it granted permission for a limited use of a portion of its property

ELECTRONICALLY FILED - 2019 May 22 2:02 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

in the said lot. Upon information and belief the Defendant proposed a lease to the Plaintiff but the said lease was never executed.

4. So much of Paragraph 3 is admitted which alleges the Defendant directed the Plaintiff to cease and desist his use and occupancy of its lands for ingress or egress or for other purposes. Defendant further admits Plaintiff attempted to negotiate the continued use of the land but denies the remaining portion of the allegation concerning any right Plaintiff has to occupy or own the lands of the Defendant. The remaining portion of Paragraph 3 is admitted.

5. Paragraph 4 is admitted.

FOR A DEFENSE TO THE FIRST CAUSE OF ACTION
(Prescriptive Easement)

6. All prior allegations are alleged.

7. In response to Paragraph 6, the Defendant denies that the Plaintiff has engaged in the regular, open and notorious use of vacant lands. That such use was with the permission of the Defendant. Defendant admits Plaintiff has used a portion of its land since 1992 but not for ingress or egress to his residential lot, but rather for the parking and storing of equipment. Defendant denies Plaintiff furnished landscaping services or maintenance and upkeep on the said lot or that such services, if any, have benefited the Defendant.

8. Paragraph 7 is denied as any use by the Plaintiff of Defendant's land was permissive.

FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION
(Anticipatory Breach of Leasehold Agreement)

9. All prior allegations are alleged.

10. In answering Paragraph 9, Defendant denies it entered into a de facto lease agreement with Plaintiff. Defendant further denies the remaining portion of Paragraph 9.

ELECTRONICALLY FILED - 2019 May 22 2:02 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

FOR A SECOND DEFENSE TO THE SECOND CAUSE OF ACTION

11. All prior allegations are alleged.

12. The allegations of de facto lease violate the South Carolina Statute of Frauds.

FOR A DEFENSE TO THE THIRD CAUSE OF ACTION
(Easement of Necessity)

13. All prior allegations are alleged.

14. So much of Paragraph 11 is admitted which alleges the Plaintiff's property and the Defendant's property were conveyed out of a common parcel or land formerly enjoying unity of title and that such conveyance severed the two parcels. The remaining portion of the paragraph is denied.

FOR A DEFENSE TO THE FOURTH CAUSE OF ACTION
(Adverse Possession)

15. All prior allegations are alleged.

16. In answering Paragraph 13, the Defendant denies said paragraph.

FOR A DEFENSE TO THE FIFTH CAUSE OF ACTION
(Injunctive Relief *Pendente lite*)

17. All prior allegations are alleged.

18. Paragraph 15 is denied.

BY WAY OF COUNTERCLAIM

19. All prior allegations are realleged where not inconsistent herewith.

20. Defendant is informed and believes and therefore alleges that it is entitled to attorney fees and costs pursuant to S.C. Code §15-36-10.

WHEREFORE, having answered the Complaint of the Plaintiff, the Defendant prays:

1. That said causes of action be dismissed;

2. That the Plaintiff have costs and attorney fees; and

3. For such other and further relief as the Court may deem just and proper.

BANNISTER, WYATT & STALVEY, LLC

s/ O. W. Bannister

O. W. Bannister (SC Bar No. 506)
401 Pettigru Street (29601)
P. O. Box 10007 (29603)
Greenville, South Carolina
Phone: (864) 298-0084; Fax: (864) 298-0146
owbannister@bannisterwyatt.com
Attorney for Defendant

May 22, 2019

ELECTRONICALLY FILED - 2019 May 22 2:02 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

ELECTRONICALLY FILED - 2019 May 30 9:30 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2019-CP-23-02476
Thomas C. Skelton,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**REPLY**
	)	
First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation,,	)	
	)	
Defendant.	)	
	)	

Plaintiff, by way of Reply to the Counterclaim of Defendant, alleges as follows:

(FOR A FIRST DEFENSE:
GENERAL DENIAL)

I

Plaintiff hereby expressly denies the allegations of Paragraphs 19 and 20 of the Answer and Counterclaim of Defendant.

(FOR A SECOND DEFENSE:
FAILURE TO STATE A CAUSE OF ACTION
FOR WHICH RELIEF MAY BE GRANTED)

II

Plaintiff hereby realleges all allegations set forth above in this Reply as are not inconsistent herewith.

III

Plaintiff hereby alleges that Paragraphs 19 and 20 of the Answer and Counterclaim of

Defendant, comprising the Counterclaim of Defendants, fail to state a cause of action for which relief can be granted, in this action.

**(FOR A THIRD DEFENSE:
DEFENDANT SEEKS UNCONSTITUTIONAL CHILLING
AND DEPRIVATION OF PLAINTIFF'S CONSTITUTIONAL
RIGHTS TO DUE PROESS AND TO EQUAL PROTECTION OF LAWS)**

IV

Plaintiff hereby realleges all allegations set forth above in this Reply as are not inconsistent herewith.

V

Plaintiff alleges that Defendants wrongful, inapposite assertion of the application of§15-36-10, South Carolina Laws, 1976, as amended, to this case operates as an unconstitutional chilling and denial of Plaintiff's rights to due process and equal protection under the laws, as provided in the US and SC Constitutions; Plaintiff, therefore, alleges that application of said statute must be denied.

WHEREFORE, having fully replied to the Counterclaim of Plaintiff, Defendant prays that said Counterclaim be dismissed forever with prejudice and Defendant prays for such other and further relief as this Court may deem just and proper.

Dated: 05/30/19

/s/ Robert C. Wilson, Jr.
Robert C. Wilson, Jr.
201 Whitsett Street
Greenville, SC 29601
SC ID 6178
(864) 242-9488
Email: rcwjrlaw@gmail.com

Attorney for Plaintiff

ELECTRONICALLY FILED - 2019 May 30 9:30 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

ELECTRONICALLY FILED - 2019 Jun 11 2:49 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Thomas C. Skelton, Plaintiff, vs. First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation, Defendant.	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT C.A. No.: 2019-CP-23-02476 **AMENDED** **ANSWER AND COUNTERCLAIM**

The Defendant, amending its answer to the Complaint of the Plaintiff, would respectfully show as follows:

1. All allegations not admitted are denied.

2. So much of Paragraph 1 is admitted which alleges the Plaintiff is a citizen and resident of Greenville County, South Carolina, and owns real estate located in Travelers Rest at 108 McElhaney Road. Upon information and believe, the property is occupied for residential purposes. To the extent the Plaintiff operates a business in the residence, the Defendant is informed and believes and therefore alleges that the Plaintiff's property is not zoned for a business and he does not have a business license to operate a business at that location.

3. In answering the allegations of Paragraph 2, the Defendant admits that it is a non-profit organization duly organized and existing under the laws of the State of South Carolina and is a church aforesaid. Defendant admits that it is the owner of record of a parcel of real estate which abuts Plaintiff's property on McElhaney Road. Said lot is described in Deed Book 217 at Page 438 in the Office of the Register of Deeds for Greenville County, South Carolina. Defendant further admits that it granted permission for a limited use of a portion of its property

ELECTRONICALLY FILED - 2019 Jun 11 2:49 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

in the said lot. Upon information and belief the Defendant proposed a lease to the Plaintiff but the said lease was never executed.

4. So much of Paragraph 3 is admitted which alleges the Defendant directed the Plaintiff to cease and desist his use and occupancy of its lands for ingress or egress or for other purposes. Defendant further admits Plaintiff attempted to negotiate the continued use of the land but denies the remaining portion of the allegation concerning any right Plaintiff has to occupy or own the lands of the Defendant. The remaining portion of Paragraph 3 is admitted.

5. Paragraph 4 is admitted.

FOR A DEFENSE TO THE FIRST CAUSE OF ACTION
(Prescriptive Easement)

6. All prior allegations are alleged.

7. In response to Paragraph 6, the Defendant denies that the Plaintiff has engaged in the regular, open and notorious use of vacant lands. That such use was with the permission of the Defendant. Defendant denies Plaintiff has used a portion of its land since 1992 but not for ingress or egress to his residential lot, but rather for the parking and storing of equipment. Defendant denies Plaintiff furnished landscaping services or maintenance and upkeep on the said lot or that such services, if any, have benefited the Defendant.

8. Paragraph 7 is denied as any use by the Plaintiff of Defendant's land was permissive.

FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION
(Anticipatory Breach of Leasehold Agreement)

9. All prior allegations are alleged.

10. In answering Paragraph 9, Defendant denies it entered into a de facto lease agreement with Plaintiff. Defendant further denies the remaining portion of Paragraph 9.

ELECTRONICALLY FILED - 2019 Jun 11 2:49 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

FOR A SECOND DEFENSE TO THE SECOND CAUSE OF ACTION

11. All prior allegations are alleged.

12. The allegations of de facto lease violate the South Carolina Statute of Frauds.

FOR A DEFENSE TO THE THIRD CAUSE OF ACTION
(Easement of Necessity)

13. All prior allegations are alleged.

14. So much of Paragraph 11 is admitted which alleges the Plaintiff's property and the Defendant's property were conveyed out of a common parcel or land formerly enjoying unity of title and that such conveyance severed the two parcels. The remaining portion of the paragraph is denied.

FOR A DEFENSE TO THE FOURTH CAUSE OF ACTION
(Adverse Possession)

15. All prior allegations are alleged.

16. In answering Paragraph 13, the Defendant denies said paragraph.

FOR A DEFENSE TO THE FIFTH CAUSE OF ACTION
(Injunctive Relief *Pendente lite*)

17. All prior allegations are alleged.

18. Paragraph 15 is denied.

BY WAY OF COUNTERCLAIM

19. All prior allegations are realleged where not inconsistent herewith.

20. Defendant is informed and believes and therefore alleges that it is entitled to attorney fees and costs pursuant to S.C. Code §15-36-10.

WHEREFORE, having answered the Complaint of the Plaintiff, the Defendant prays:

1. That said causes of action be dismissed;

2. That the Plaintiff have costs and attorney fees; and

3. For such other and further relief as the Court may deem just and proper.

BANNISTER, WYATT & STALVEY, LLC

s/ O. W. Bannister

O. W. Bannister (SC Bar No. 506)
401 Pettigru Street (29601)
P. O. Box 10007 (29603)
Greenville, South Carolina
Phone: (864) 298-0084; Fax: (864) 298-0146
owbannister@bannisterwyatt.com
Attorney for Defendant

June 11, 2019

ELECTRONICALLY FILED - 2019 Jun 11 2:49 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

ELECTRONICALLY FILED - 2020 Apr 14 12:31 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Thomas C. Skelton, Plaintiff, vs. First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation, Defendant.	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT C.A. No.: 2019-CP-23-02476 **MOTION FOR SUMMARY JUDGMENT**

YOU WILL PLEASE TAKE NOTICE that Defendant, First Baptist Church of Travelers Rest, by and through their undersigned attorney, will move before the presiding Judge of the Court of Common Pleas for Greenville County, Greenville County Courthouse on the tenth day of service hereof, or as soon thereafter as Counsel may be heard, for an Order granting Summary Judgment pursuant to Rule 56(a), SCRCP, in favor of Defendant on the ground that there are no genuine issues as to any controverted fact and Defendant is entitled to judgment as a matter of law.

WHEREFORE, Defendant prays the Court grant summary judgment as requested by the pleadings and for such other relief as the Court may deem just and proper.

Respectfully submitted,

BANNISTER, WYATT & STALVEY, LLC

s/ O. W. Bannister

O. W. Bannister
SC Bar No. 506; Fed. ID No. 1184
401 Pettigru Street (29601)
P. O. Box 10007 (29603)
Greenville, South Carolina
Phone: (864) 298-0084; Fax: (864) 298-0146
Attorney for Defendant

April 14, 2020

ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2019-CP-23-02476
Thomas C. Skelton,	)	
	)	
Plaintiff,	)	**AFFIDAVIT OF THOMAS C. SKELTON**
	)	
vs.	)	
	)	
First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation,,	)	
	)	
Defendant.	)	
	)	

Plaintiff, Thomas C. Skelton, (herein "Affiant"), being first duly sworn, deposes and states the following:

1. Affiant is a citizen and a resident of Greenville County, South Carolina, who resides on McElhaney Road, in Travelers Rest, South Carolina, on real property which he owns. (Exhibit 1, made a part hereof).

2. Next door to Affiant's home and realty is a parcel of real estate owned by Defendant. (Exhibit 1, made a part hereof).

3. Recently, Defendant sent a letter to Affiant declaring that Affiant must cease and desist, (herein"Cease/Desist Letter"), from Affiant's use of Defendant's real property for ingress and egress to the back of Affiant's property. (Exhibit 2).

4. Affiant responded to Defendant's Cease/Desist Letter with a letter (Exhibit 3, attached hereto and made a part hereof) inviting Defendant to discussing the Cease/Desist Letter with an eye toward reaching an amicable solution to the problem.

5. Affiant retained counsel who followed up with other letters (Exhibit 4,5, attached hereto and made a part hereof) which invited Defendant to seek a business-like, neighborly solution to the issues raised by Defendant's Cease/Desist Letter.

6. Defendant responded with a letter, (Exhibit 6, attached hereto and made a part hereof), declaring that Defendant did not wish to participate in any effort to reach a business-like,

neighborly solution to the issues raised by Defendant's Cease/Desist Letter.

7. In light of Defendant's rejection of Affiant's efforts to resolve the Cease/Desist Letter issues, Defendant engaged his attorney to bring an action to assert Defendant's rights arising from Plaintiff's long-term, open and notorious use of Defendant's property for ingress and egress.

8. Counsel for Plaintiff prepared, filed, and served a Complaint (Exhibit 7, attached hereto and made a part hereof), which asserted Plaintiff's rights arising from adverse possession, prescriptive easement, and other claims.

9. Affiant hereby swears, avers, and affirms that the allegations in his Complaint are true and accurate to the best of Affiant's knowledge; my his affirmation and oath, Affiant hereby verifies his Complaint and makes its contents a part of the record of this case.

10. Affiant further swears, avers, and affirms that a representative from Defendant lodged a complaint with the City of Travelers Rest for Plaintiff's use of his homeplace as termporary and occasional parking for Plaintiff's business equipment.

11. Affiant affirms that the City of Travelers Rest has settled the Complaint lodged by Defendant; Affiant affirms that Defendant wrongfully lodged the Complaint with the City of Travelers Rest to coerce Plaintiff into ceasing his efforts to secure justice in this case.

12. Affiant hereby swears that his principal business is landscaping and installation of irrigation systems.

13. As evidence that Defendant's complaint with the City of Travelers Rest was made in bad faith and for the purpose of gaining advantage in the within action, Plaintiff affirms, swears, and avers that Defendant allows the regular use of its property for temporary parking for a landscaper's business equipment, which indisputably demonstrates the bad faith of the complaint against Affiant lodged by Defendant with the City of Travelers Rest.

14. Affiant swears, avows, avers, and affirms that Church's property which abuts Affaint's homeplace lacks any way divert Church's regulalry gathered and cast surface waters, after even modest rainstorms, onto Affiant's homeplace.

15. .Affiant further swears, avows, and avers that Affiant has been forced to install bulwarks, swales, and other measures to protect his homeplace from the surface waters cast upon Affiant's property; Affiant further swears that he has planted three trees and numerous shrubs on the berm installed for protection against Defendant's surface waters which have been gathered and cast upon Affiant's lot; Affiant has routinely cultivated, maintained, and improved the area of Church's lot which Affiant claims, since 1992.

16. Affiant swears, avows, and avers that Defendant's failure to observe reasonable measures to protect Plaintiff from Affiant's surface water amounts to actionable negligence and to allowing the existence of an ongoing nuisance, which damage Affiant's property.

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ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

17. Counsel for Affiant sent an Electronic Warning Letter to counsel for Church on February 16, 2020, to which Church has not responded. (Exhibit 8).

18. The parties to this action declared an intention to formalize Affiant's use of Church property, but Affiant swears that there is no extant, executed agreement between the parties; Church, however, disingenuously produced a document which does not bear Affiant's signature.. (Exhibits 9, 10, 11, 12, made a part hereof).

19, Affirant swears to the reasonable accuracy of the following chronology:

3/24/92	Affiant acquires property
1992	Church acquires adjacent, abutting property
1992-3	Church property suffers erosion problems, field not maintained, forcing Affiant to install protective french drains, plants, mow and cultivate Church property to protect Affiant's property from surface waters thrown upon Affiant's property
1995	Affiant has to hire exterminator to rid the adjacent area of Affiant and Church property of pests; Affiant must mow field to protect his children from rats, snakes, and other pests on Church property
1997-98	Church moves house from adjacent property to back of property where there had been a driveway which was dedicated to public use by former owner
1995-2020	Drainage from Church property onto Affiant's property forces Affiant to take further protective measures against drainage
2000	Affiant installs electric dog fence on Church property closing in ca. 41,300 square feet of Church Property to contain Affiant's guard Dogs. Electronic fence is still in place.
2009	Affiant adds to his home, doubling size; Affiant stores construction materials for home addition on Church's property;
2011	Affiant erects pole barn on back of his property-only access is along old dedicated driveway on Church Property; storage building located on Church Property; Affiant's Conduit for electric power crosses Church property;

2019 Affiant removes Basswood Tree which was located on Church Property, Basswood Tree had been losing limbs onto Affiant's Home.

.

AND FURTHER AFFIANT SWEARETH NOT.

Sworn to before me this 3rd day of June, 2020

Robert C. Wilson, Jr.
Notary Public for South Carolina
My comm'n expires: 2/20/25

Thomas C. Skelton

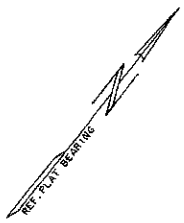
ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

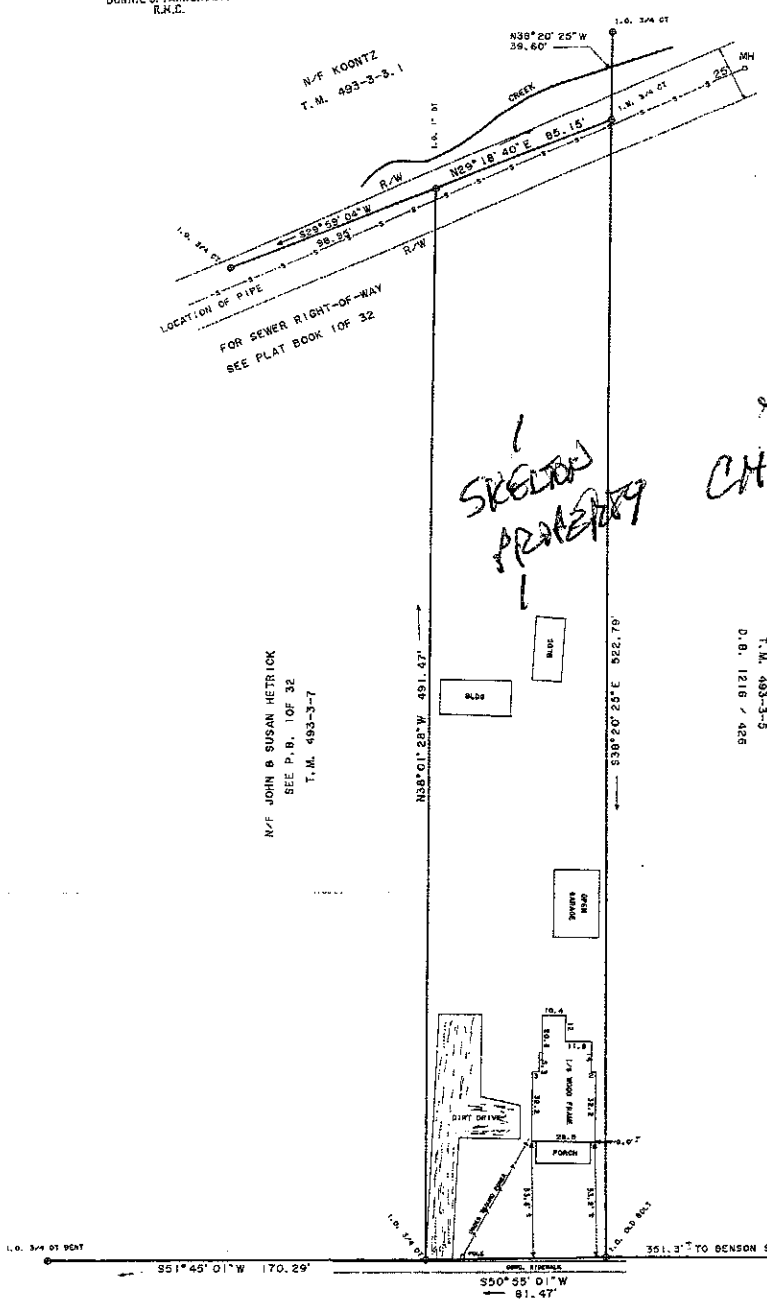
EXHIBIT 1

MICROFILMED

ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

FILED
GREENVILLE CO., S.C.
MAR 25 2 06 PM '92
DONNIE S. TANKERSLEY
R.M.C.





22-F-23

18199

MAR 25 1992

RECORDABLE PLAT

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

THIS PROPERTY DOES NOT LIE IN A FLOOD HAZARD ZONE.

THIS PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, ZONING ORDINANCES AND RIGHTS OF WAYS, OF RECORD OR NOT OF RECORD.

SOUTH CAROLINA REGISTERED 4678 LAND SURVEYOR RICHARD D. WOOTEN, JR.

Richard D. Wooten, Jr.
S.C.R.L.S. No. 4678

STATE OF SOUTH CAROLINA
GREENVILLE COUNTY

D.E. SMITH PROPERTY
LOT 3
HOUSE #108

CLOSING SURVEY FOR

THOMAS C. SKELTON

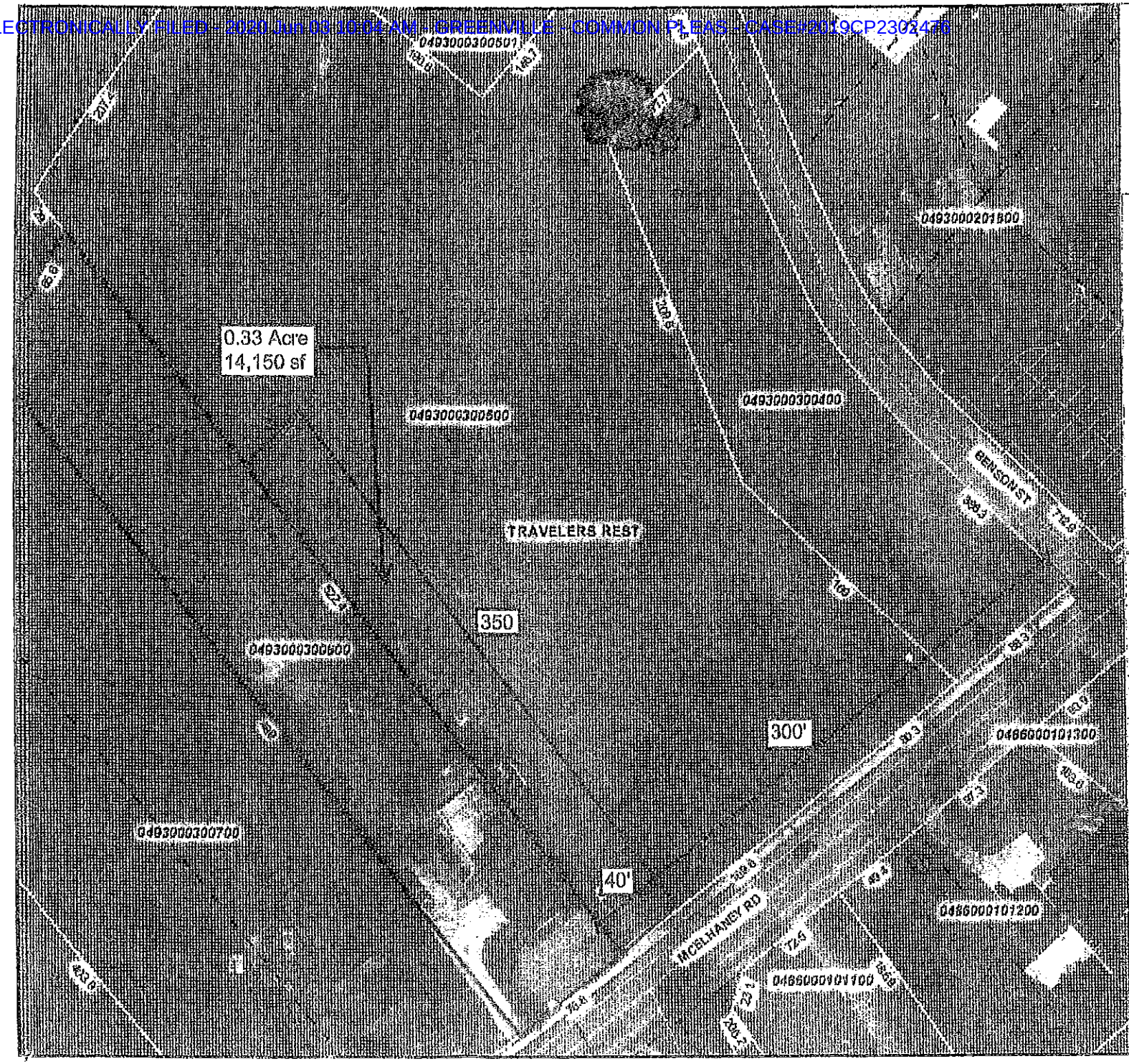
JAMES-WOOTEN & ASSOCIATES, Inc.
1004 EAST PERRY RD. Ext.
GREENVILLE, S.C. 29609
PH :(803)232-1345
PH :(803)232-2062

SCALE	1"=40'
PLAT BK:	NONE
DEED BK:	82 / 4
TAX M:	493-3-6
PARTY CHIEF:	CCJ
DRAWN:	CCJ
DATE:	MARCH 24, 1992
DWG. NO.	L26646
JOB NO.	92269

3-26 5187 5 1000

ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302475

EXHIBIT 1A



Greenville County, SC

Map Scale
1 inch = 67 feet

Overview

Disclaimer: This map is not a LAND SURVEY and is for reference purposes only. Data contained in this map are prepared for the inventory of Real Property found within this jurisdiction, and are compiled from recorded deeds, plats, and other public records. Users of this map are hereby notified aforementioned public primary information sources should be consulted for verification of the information contained in this map. Greenville County assumes no legal responsibility for the information contained in this map.

EXHIBIT 2

ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

First Baptist Church of Travelers Rest
20 McElhaney Road
Travelers Rest, SC 29690
Phone (864) 834-9076

February 6, 2019
Via US Certified Mail

Thomas Craig Skelton
108 McElhaney Road
Travelers Rest, SC 29690

P.O. Box 25636
Greenville, SC 29616

RE: First Baptist Church of Travelers Rest property

Dear Mr. Skelton:

I am writing to inform you that we are having the church property re-surveyed. The church is informed that you have been using a portion of its property for personal use. On February 4, 2019 the Deacons voted to terminate your use of the property. Although we previously allowed you to use this property, we cannot continue to do so, because of the current needs of the church. At this time we ask that you remove all of your personal property from the church property. We will give you 30 days from the date of this letter to remove your personal property.

If you have questions concerning the property line, please contact us and we can provide you with a copy of the survey. In the event the personal property is not removed, we will move forward in hiring legal counsel. Our hope is that we could work together to resolve this situation in a positive manner, please feel free to contact us with any questions.

Sincerely,

Gary E. Batson
Chairman of Deacons TRFBC

Roger Bishop, Trustee of TRFBC

Charles Styles, Trustee of TREBC

1ST Letter Response
EXHIBIT 3

ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

2/28/2019

First Baptist Church of Travelers Rest
20 McElhaney Rd.
Travelers Rest SC 29690

Dear Sirs,

I received your letter Friday, 15 February 2019. My wife contacted Mr. Batson shortly thereafter and requested a meeting with the deacons which your letter had indicated you were open to. In addition, my wife, also called the office in an attempt to set a meeting with the pastor and he declined that opportunity. Once Cindy, my wife, spoke with Mr. Batson she was informed that the church had said all it had to say and no further discussion was desired. After speaking with her, he did ultimately agree to bring this back up at the deacon's meeting this Sunday. The purpose of this letter is to ensure that all of the deacons understand the situation we are facing.

In 1992, within a few months of moving into my home I discovered serious drainage issues from the adjacent property, in addition to a severe rodent problem. I was advised by an exterminator to mow a minimum of 30' into the field to stop the mice from entering my home because at that time no one was maintaining the field. I was also forced to install a swale, berm, foundation drain and landscaping to solve the water issues at my own expense.

My wife and I have spoken with several pastors and deacons over the past 20 plus years and we were told by all of them that it was fine for us to use the lower portion of the field so that we could have ingress and egress to the rear of our property. In addition, a written agreement was also put into effect to codify this in writing. During the period I have lived here, I have mowed and bush hogged, grassed and fertilized the field at my expense. I have done this because the failure to do so would cause serious damage to my home and property.

I also want the deacons to understand that the access to the rear of my property cannot be gained in any other way but to go through the field due to the way the house is situated and the property line drawn. Even if I destroyed the tens of thousands of dollars' worth of irrigation, landscape lighting, zoysia sod, deck and plant material to build a road through it all, there would still not be enough room to use my shed and outbuildings as they were constructed. Based on the long-standing agreement with the church, along with having been assured several times that I would be given the opportunity to purchase the portion I need, I spent a great deal of money erecting structures to house all of my equipment and provide for shop space. In addition to this, please keep in mind that there is no way to reasonably conduct repairs or maintenance to that side of the house without crossing the property line. The 5' I do have is taken up with a berm and landscaping to keep said berm from eroding due to runoff. This berm is critical in keeping water from entering my crawl space. Prior to the berm's construction the crawl space and foundation piers were being greatly undermined by the influx of water.

I would also ask you to consider that under the current zoning and building codes no construction within 20' from my home would be permitted, meaning that, this area is largely a "dead zone" to any builder or developer. I looked at the tax maps this weekend and consulted with an attorney and a real estate agent

to see what options we might have available to satisfy the needs of the church and me so that this issue is permanently resolved for all of us without conflict.

While we are working on a permanent solution to this issue, we will make every good faith effort to comply with your request by keeping our footprint to a minimum. With that being said however, we have no choice but to use the field, as we have for many years, as an ingress and egress and to load equipment as it is the only safe way to do it.

I would be happy to meet with the deacons and church officers at your convenience. I have several options in mind to resolve this for both parties and I hope we can work together in good faith as Christians to find a resolution as the Bible teaches us. Please respond within seven days so we can resolve this issue promptly.

Sincerely,
Thomas C. Skelton
Phone: 864-430-0117

ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

Exhibit 4

ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

Robert C. Wilson, Jr.
Attorney at Law

201 Whitsett Street
Greenville, South Carolina 29601

Telephone 864/ 242-9488

Fax 864/ 242-6251
E-Mail: rcwjrlaw@gmail.com

March 1, 2019

First Baptist Church of Travelers Rest
20 McElhaney Road
Travelers Rest, SC 29690

Re: *Skelton* v. *1st Baptist Church of Travelers Rest*

Dear First Baptist Church:

This is to advise that I have been contacted by Mr. and Mrs. Craig Skelton concerning a brewing controversy with the First Baptist Church of Travelers Rest (the "Church.) . As you are aware, Mr. And Mrs. Skelton own a parcel of land adjacent to the Church. Mr. And Mrs. Skelton reside on the adjacent parcel of land; they also operate their family business from the adjacent parcel.

The reason for the Skeltons contacting me is a letter, ("Eviction Notice"), recently sent to them by folks who purport to represent the Church. By the Eviction Notice, apparently as the result of formal church action, the Eviction Notice seeks to remove the Skeltons from their use of property ("Disputed Property"), owned by the Church, located between the Church and the Skeltons' property.. It is, however, my understanding that the Skeltons have been occupying and using the Disputed Property for years, under a longstanding contractual arrangement. It is my further understanding that the Skeltons have maintained and improved the Disputed Property; the Skeltons rely upon use of the Disputed Property as a vital part of their family-owned business.

At my suggestion, the Skeltons have sought to meet with authorized representatives of Church, to explore ways to resolve the dispute which is brewing, as a result of the abrupt, unforseen attempt to dislodge the Skeltons from the Disputed Property. The Skeltons advise that their attempts to seek a mutually agreeable resolution have met with no success.

Accordingly, this is to advise that I encourage the Church to participate in discussions with an eye toward working this matter to an amicable resolution. It has long been my personal philosophy that parties to a brewing controversy should exercise their best efforts at amicable resolution of their differences to avoid the cost, animosity, and loss of productive time in

litigation.

To that end, I request that a duly authorized representative of the Church contact me to avoid the assertion of the Skeltons' contractual, and other rights in Court.

Thanking you for your attention to this matter, I am

Very Truly Yours,

Robert C. Wilson, Jr.

ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

EXHIBIT 5

Robert C. Wilson, Jr.
Attorney at Law

201 Whitsett Street
Greenville, South Carolina 29601

Telephone 864/ 242-9488

Fax 864/ 242-6251
E-Mail: rcwjrlaw@gmail.com

April 3, 2019

Roger Bishop, Trustee,
Travelers Rest First Baptist Church

Charles Styles, Trustee
Travelers Rest First Baptist Church

Gary Batson, Chairman Board of Deacons
First Baptist Church of Travelers Rest

c/o First Baptist Church of Travelers Rest
20 McElhaney Road
Travelers Rest, SC 29690

SETTLEMENT DISCUSSION - INADMISSIBLE AS EVIDENCE

Re: *Skelton* v. *1st Baptist Church of Travelers Rest*

Gentlemen:

Enclosed with this letter is a copy of my earlier letter, dated March 1st, 2019, to the Travelers Rest First Baptist Church (herein, "TRFBC"). To date, I have received no response to my March 1st invitation to discuss the evolving controversy between TRFBC and its next-door neighbors, Craig and Cindy Skelton. The controversy has arisen from the wrongful, unilateral notification, by TRFBC, to the Skeltons of the Skeltons' eviction from ownership/use of the parcel of real property located between the TRFBC and the Skeltons' home. In addition to abutting their residence, the parcel of real property is necessary to the Skeltons' operation of their family business.

As I advised in my letter of March 1st, it has long been my personal philosophy that neighbors should resolve differences without resorting to judicial intervention. To that end, I invited TRFBC to enter into discussion to find a way forward suitable and fair for both sides of the disagreement. One such way forward for TRFBC and the Skeltons might be to agree to formally recognize the *de facto* conveyance of the parcel of real estate to the Skeltons by the Skeltons' payment of fair market value for the property and by execution of a formal deed

acknowledging that the title to the property rests with the Skeltons.. Perhaps, an agreeable arbitration format might be established to arrive at a proper and fair price for the described formal conveyance of the parcel. With the current level of activity in the Greenville County real estate market, I am certain that an adequate number of sales of comparable, similar real property is available. I am also certain that there are well-recognized real estate appraisers available to assist in arriving at the fair market value of the parcel in this matter. In sum, there should be no great difficulty in engaging mutually-acceptable, responsible third-party involvement in appraising the parcel, which appraisal could be the basis for the Skeltons to pay fair market value for the parcel.

All of the foregoing is intended to emphasize what I believe to be the truth of this situation: this is a business problem between neighbors that deserves a good-faith business solution, rather than a drawn-out, acrimonious, expensive lawsuit. I, therefore, reiterate my earlier invitation to TRFBC to participate in further, meaningful settlement discussions along the lines set out above.

Thanking you for your cooperation in resolving this matter, I am

Very Truly Yours,

Robert C. Wilson, Jr.

ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

EXHIBIT 6

First Baptist Church
Travelers Rest, SC

We offer the Welcome of Friendship, the Warmth of Family, & the Worship of God

Thomas C. Skelton
108 McElhaney Road
Travelers Rest, SC 29690
PO Box 25636
Greenville, SC 29616

Dear Mr. Skelton,

We are writing to you regarding the property of First Baptist Church. Upon review of your situation and your letter, the Deacons met on Monday, March 4 and discussed this matter again. Our decision is not to reverse our decision. Due to your business situation, we are giving you an extension of ninety days from Monday, March 4 to vacate the property. The ninety day extension will end Monday, June 3, 2019.

Sincerely,

Deacons and Trustees
First Baptist Church
20 McElhaney Road
Travelers Rest, SC 29690

First Baptist Church
20 McElhaney Road
Travelers Rest, SC 29690

Phone: 864-834-9076
E-mail: office@fbctr.org

Dr. Steve Peterson, Pastor
Gary Green, Interim Music Minister
Ann Sutton, Ministry Assistant

EXHIBIT 7

ELECTRONICALLY FILED - 2019 May 01 12:04 PM - GREENVILLE COUNTY COMMON PLEAS - CASE#2019CP2302476

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2019-CP-23
Thomas C. Skelton,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	**SUMMONS**
First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation,	)	
	)	
Defendant.	)	
	)	

TO THE DEFENDANT(S), ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in the above-entitled action, a copy of which is hereby served upon you, and to serve a copy of your answer upon the undersigned at his office at 201 Whitsett Street, Greenville, SC 29601, within thirty (30) days after service hereof upon you, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

Dated: 5/1/19

/s/ Robert C. Wilson, Jr.
Robert C. Wilson, Jr.
201 Whitsett Street
Greenville, SC 29601
SC ID 6178
(864) 242-9488
Email: rcwjrlaw@gmail.com

Jacob Michael Hughes
50 Marchbanks Drive
Greenville, SC 29617
SC ID 100646
(864) 569-2498
Email: jacobmhughes@gmail.com

Attorneys for Plaintiff

ELECTRONICALLY FILED - 2020 Jan 03 04:12 PM - GREENVILLE COUNTY COMMON PLEAS - CASE# 2019CP2300476

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2019-CP-23
Thomas C. Skelton,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**COMPLAINT**
	)	
First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation,	)	***(Jury Trial Demanded)***
	)	
Defendant.	)	
	)	

Plaintiff, subject to his demand for a jury trial for the within action, alleges the following:

(PARTIES, JURISDICTION, VENUE)

I

Plaintiff is a citizen and a resident of Greenville County, South Carolina; Plaintiff is the owner, in fee simple absolute, of a parcel of real estate located in Travelers Rest, South Carolina, (herein, "SkeltonProp"); SkeltonProp is located at 108 McElhaney Road Travelers Rest, South Carolina, as described in Deed Book 1468, at Page 415 in the Office of Register of Deeds, Greenville County, South Carolina; SkeltonProp is occupied for residential purposes and serves as a base for the business of Plaintiff.

II

Defendant is a non-profit corporation duly organized and existing under the laws of the State of South Carolina. Defendant's principal place of business is in Travelers Rest, Greenville

ELECTRONICALLY FILED - 2020 May 03 10:41 AM - GREENVILLE COMMON PLEAS - CASE# 2020CP2302476

County, South Carolina. Defendant is the owner of record of a parcel of real estate (herein, "VacantLot"), which abuts SkeltonProp on McElhaney Road, Travelers Rest South Carolina; VacantLot is more particularly described at Deed Book 2017, Page 438, in the Office of Register of Deeds, Greenville County, South Carolina. VacantLot has been subject to the use and occupancy by Plaintiff for ingress and egress to SkeltonProp, under lease with Plaintiff and under open and notorious use and occupancy by Plaintiff.

III

Recently, Defendant has directed Plaintiff to cease and desist his use and occupancy of VacantLot for ingress and for egress. Plaintiff has unsuccessfully sought negotiation with Defendant to resolve the controversy which has arisen over the ownership, occupancy, and/or use of VacantLot. Defendant has failed, refused, and neglected to respond to Plaintiff's efforts to reach a settlement of the parties' respective rights to the use, occupancy, ownership of VacantLot. Accordingly, Plaintiff brings this action as a Declaratory Judgment Action, pursuant to §§15-53-10, *et seqq*., of the SC Code of Laws, 1976, as amended, seeking that this Court declare the rights of the parties to the use, occupancy, or ownership of the VacantLot.

IV

Plaintiff alleges that the parties and the issues presented by this action are properly before this Court.

ELECTRONICALLY FILED 11-Feb-2020 2019-08-00041 AM 9 CREENVILLE COMMON PLEAS CASE 2019CP2302476

**(FOR A FIRST CAUSE OF ACTION:
PRESCRIPTIVE EASEMENT)**

V

Plaintiff hereby realleges all allegations set forth above as are not inconsistent herewith.

VI

Plaintiff alleges that he has engaged in regular, open, and notorious use of VacantLot since 1992, for ingress and egress to SkeltonProp. Plaintiff further alleges that he has, since 1992, provided landscaping services for the maintenance and upkeep of VacantLot, as a part of his exercise of dominion and control over VacantLot. Plaintiff alleges that his caretaking of VacantLot has benefitted Defendant by shielding Defendant from regulatory exposure for failure to maintain VacantLot.

VII

As a result of Plaintiff's longstanding open and notorious use of VacantLot for ingress and egress, along with Plaintiff's maintenance and upkeep of VacantLot, Plaintiff alleges that Plaintiff is the equitable owner of a prescriptive easement across VacantLot for which Plaintiff seeks this Court's declaration of legal recognition his ownership.

**(FOR A SECOND CAUSE OF ACTION:
ANTICIPATORY BREACH OF LEASEHOLD AGREEMENT)**

VIII

Plaintiff hereby realleges all allegations set forth above as are not inconsistent herewith.

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IX

Plaintiff and Defendant entered into a *de facto* lease arrangement by which Plaintiff, in exchange for his maintenance and upkeep of VacantLot, was allowed use, occupancy, and other rights to VacantLot. Plaintiff has faithfully met his obligations under the parties *de facto* lease agreement until the present. In turn, Plaintiff has used, occupied, and managed VacantLot as a longstanding lessee, without interruption. Recently, without any justification, Defendant has determined to terminate the parties' *de facto* lease, seeking to evict Plaintiff from VacantLot. Plaintiff will suffer damages as a result of Defendant's wrongful ejectment of Plaintiff. Plaintiff has no adequate remedy at law and will suffer irreparable harm if Defendant wrongfully ejects Plaintiff from VacantLot. Accordingly, Plaintiff seeks permanent injunctive relief, *i.e.* an easement for ingress and egress, to protect Plaintiff's leasehold rights to use and occupancy of VacantLot, or, as alternative relief, to grant Plaintiff damages, actual and punitive, for Defendant's breach of the *de facto* lease and for accompanying the breach with deceit, fraud, and misleading statements.

(FOR A THIRD CAUSE OF ACTION:
EASEMENT OF NECESSITY)

X

Plaintiff hereby realleges all allegations set forth above as are not inconsistent herewith.

XI

Plaintiff alleges that SkeltonProp and VacantLot were conveyed out of a common parcel of land, formerly enjoying unity of title, which conveyance severed the title to the two parcels of land. Plaintiff further alleges that it is necessary to the ownership, enjoyment, and use of

SkeltonProp that there be an easement for ingress and egress in favor of Plaintiff, upon and across VacantLot. Accordingly, Plaintiff seeks that this Court declare that Plaintiff shall hereafter enjoy an easement of necessity over and across VacantLot for ingress and egress.

(FOR A FOURTH CAUSE OF ACTION:
ADVERSE POSSESSION)

XII

Plaintiff hereby realleges all allegations set forth above as are not inconsistent herewith.

XIII

Plaintiff alleges that he has had open and notorious occupancy of VacantLot for the requisite period required under §§15-67-210, *et seqq*., of the SC Code of Laws, 1976, as amended. Accordingly, Plaintiff seeks that this Court declare that fee simple absolute title to VacantLot has vested in Plaintiff, his heirs, successors, assigns forever, thus conveying title to VacantLot to Plaintiff based upon Plaintiff's adverse possession thereof.

(FOR A FIFTH CAUSE OF ACTION:
INJUNCTIVE RELIEF *PENDENTE LITE*)

XIV

Plaintiff hereby realleges all allegations set forth above as are not inconsistent herewith.

XV

Plaintiff is informed and believes that the ejectment of Plaintiff by Defendant, during the pendency of this action, will work a manifest injustice on Plaintiff. Plaintiff further alleges that he has meritorious claims, with reasonable chances of prevailing on one or more of said claims. Accordingly, Plaintiff seeks that this Court order the parties to this action to maintain the *status*

ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476
ELECTRONICALLY FILED - 2019 May 01 12:19 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

quo, pending a final resolution of the issues presented by this action

WHEREFORE, Plaintiff prays that he have judgment against Defendant for a declaration by this Court that Plaintiff has a prescriptive easement on and across VacantLot, which easement will run with Plaintiff's title to SkeltonProp, and/or Plaintiff prays that he have judgment that he is the owner in fee simple absolute of VacantLot by adverse possession thereof; and/or Plaintiff prays that this Court declare that Plaintiff enjoy a permanent easement of necessity on and across VacantLot, which easement will run with Plaintiff's title to SkeltonProp; and/or, Plaintiff prays that he have judgment that Defendant has breached the parties *de facto* lease and award a permanent easement for ingress and egress; and/or, Plaintiff prays that he have judgment for damages, actual and punitive, against Defendant in such amount as this Court may award; and/or, Plaintiff prays that the parties to this action be ordered to maintain the *status quo* until resolution of this action; and/or, Plaintiff prays for such other and further relief as this Court may deem just and proper.

Dated: 5/1/19

/s/ Robert C. Wilson, Jr.
Robert C. Wilson, Jr.
201 Whitsett Street
Greenville, SC 29601
SC ID 6178
(864) 242-9488
Email: rcwjrlaw@gmail.com

Jacob M. Hughes
50 Marchbanks Drive
Greenville, SC 29617
SC ID 100646
(804) 569-2498
Email: jacobmhughes@gmail.com

Attorneys for Plaintiff

ELECTRONICALLY FILED - 2019 May 01 12:19 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2307476

ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

Robert C. Wilson, Jr.
Attorney at Law

201 Whitsett Street
Greenville, South Carolina 29601

Telephone 864/ 242-9488 Fax 864/ 242-6251
E-Mail: rcwjrlaw@gmail.com

May 25, 2019

Oscar W. Bannister, Jr., Esq..
P.O. Box 10007
Greenville, SC 29603

BY EMAIL, ORIGINAL BY US MAIL

Re: *Skelton v. First Baptist Church of Travelers Rest*
CA No. 2019-CP-23-02476

Dear Mr. Bannister:

It has come to my attention that Defendant, First Baptist Church of Travelers Rest, has electronic data in its possession, custody or control stored in magnetic or other media that is relevant to the parties' claims and defenses in the above-referenced matter and subject to discovery. This data would, at the least, reside on the primary computer or personal electronic device of Defendant and/or its officers, members of the diaconate, or the members of the board of trustees. and may be in social media or other forms of public and/or private communication. As is appropriate, please arrange for full production of all electronic data and communications either to, or from, the Defendant its officers, members of the diaconate, or the members of the board of trustees of Defendant which has any reference to my client, Thomas C. Skelton, or reference to the issues presented by the above-captioned case..

Be advised that I consider electronic data to be a valuable and irreplaceable source of discoverable information in litigation. As you know, electronic information is subject to discovery in litigation and is admissible at trial.

Electronic data includes, but is not limited to, originals and all copies of electronic mail (e-mail); activity listings of electronic mail receipts and/or transmittals; voice-mail; audio or video recordings of any kind; computer programs (whether private, commercial or a work-in-progress); programming notes or instructions; output resulting from the use of any software program, including word processing documents, spreadsheets, database files, charts, graphs and outlines; operating systems; source code of all types; PIF files; batch files; ASCII files, and all miscellaneous electronic files and/or file fragments, regardless of the media on which they are stored and regardless of whether the data resides in an active file, deleted file or file fragment. Electronic data includes any and all information stored in hard disks, floppy disks, CD-ROM disks, Bernoulli disks and their equivalents, magnetic tapes of all kinds and computer chips (including but not limited to EPROM,

PROM, RAM and ROM). Electronic data also includes the file, folder tabs, containers or labels appended to any storage device containing electronic data.

Defendant, by and through its agents, servants, employees, officers, members of the diaconate, and/or members of the board of trustees of Defendant, who may have been directing action in the above-captioned matter, have, and have had since the beginning of this action, an affirmative obligation under the law to take immediate steps to preserve all information relevant to the parties' claims and defenses or reasonably likely to be subject to discovery. Accordingly, until a full and complete backup of all electronic data can be completed, we request that you instruct Defendant, and its agents servants, employees, officers, members of the diaconate, and/or members of Defendant's board of trustees, to refrain from:

1. Initiating any procedures which would alter any active, deleted or fragmented electronic data. Such procedures may include, but are not necessarily limited to, deleting or attempting to delete any electronic information, saving newly created files to disks that already contain information, loading new software on such disks or running data compression or de-fragmentation (optimization) routines on them.

2. Rotating, altering or destroying any media that stores electronic data where such activity could result in the alteration or loss of any electronic data.

3. Disposing of any media that contains electronic data.

I intend to pursue discovery into Defendant and the electronic information of Defendants agents, servants, employees, deacons, trestles and ascertain compliance with their obligation to preserve relevant evidence. If I discover that appropriate steps have not been taken to preserve this crucial data and that some of it has been lost as a result, I will, of course, seek the appropriate remedy from the court in which the above-captioned case is pending.

Should you have any questions concerning this matter, please do not hesitate to call me.

Thanking you for your attention to this matter, I am

Very Truly Yours,

Robert C. Wilson, Jr.

cc: Thomas C. Skelton.

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2019-CP-23-02476
Thomas C. Skelton,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**PLAINTIFF'S FIRST REQUEST TO PRODUCE**
	)	
First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation,,	)	
	)	
Defendant.	)	
	)	

TO: First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation, and its attorney, Oscar W. Bannister, Jr., Esq., P.O. Box 10007, Greenville, South Carolina, 29603

The Plaintiff, by and through his undersigned attorney, hereby requests, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, that Defendant produce and permit the Plaintiff to inspect and copy the following documents:

1. Any and all documents of any type, nature or description whatsoever in any way pertaining to any defenses asserted by Defendant in this action.

2. Any and all documents furnished to the Defendant by the Plaintiff, or by any agent, servant, employee of Plaintiff.

3. Any and all other written documents of any type, nature or description of whatsoever type not produced in response to the preceding request which the Defendant will rely upon at trial, either for the proof of its case or for impeachment purposes.

4. Any and all documents identified and described in response to Plaintiff's First

Interrogatories propounded upon Defendant in this case.

5. An and all electronic materials, emails, communications, social media postings, of any type described and referred to in Plaintiff's Electronic Warning Letter to Counsel for Defendant, dated May 23, 2019, a copy of which is attached hereto and made a part hereof.

The Plaintiff requests that these documents be made available for inspection and copying at the office of the Plaintiff's attorney at 201 Whitsett Street, Greenville, South Carolina, or at such place as may be mutually agreed upon between the parties. In lieu of production for inspection and copying at the aforesaid time and place, the Defendant, may, if it so desires, comply with this request by forwarding legible photostatic copies of these documents to the Plaintiff's attorney at 201 Whitsett Street, Greenville, South Carolina 29601.

Dated:_____

_____

Robert C. Wilson, Jr.
201 Whitsett Street
Greenville, SC 29601
SC ID 6178
(864) 242-9488
Email: rcwjrlaw@gmail.com

Attorney for Plaintiff

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EXHIBIT 8

Robert C. Wilson, Jr.
Attorney at Law

201 Whitsett Street
Greenville, South Carolina 29601

Telephone 864/ 242-9488 Fax 864/ 242-6251
E-Mail: rcwjrlaw@gmail.com

May 25, 2019

Oscar W. Bannister, Jr., Esq..
P.O. Box 10007
Greenville, SC 29603

BY EMAIL, ORIGINAL BY US MAIL

Re: *Skelton v. First Baptist Church of Travelers Rest*
CA No. 2019-CP-23-02476

Dear Mr. Bannister:

It has come to my attention that Defendant, First Baptist Church of Travelers Rest, has electronic data in its possession, custody or control stored in magnetic or other media that is relevant to the parties' claims and defenses in the above-referenced matter and subject to discovery. This data would, at the least, reside on the primary computer or personal electronic device of Defendant and/or its officers, members of the diaconate, or the members of the board of trustees. and may be in social media or other forms of public and/or private communication. As is appropriate, please arrange for full production of all electronic data and communications either to, or from, the Defendant its officers, members of the diaconate, or the members of the board of trustees of Defendant which has any reference to my client, Thomas C. Skelton, or reference to the issues presented by the above-captioned case..

Be advised that I consider electronic data to be a valuable and irreplaceable source of discoverable information in litigation. As you know, electronic information is subject to discovery in litigation and is admissible at trial.

Electronic data includes, but is not limited to, originals and all copies of electronic mail (e-mail); activity listings of electronic mail receipts and/or transmittals; voice-mail; audio or video recordings of any kind; computer programs (whether private, commercial or a work-in-progress); programming notes or instructions; output resulting from the use of any software program, including word processing documents, spreadsheets, database files, charts, graphs and outlines; operating systems; source code of all types; PIF files; batch files; ASCII files, and all miscellaneous electronic files and/or file fragments, regardless of the media on which they are stored and regardless of whether the data resides in an active file, deleted file or file fragment. Electronic data includes any and all information stored in hard disks, floppy disks, CD-ROM disks, Bernoulli disks and their equivalents, magnetic tapes of all kinds and computer chips (including but not limited to EPROM,

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PROM, RAM and ROM). Electronic data also includes the file, folder tabs, containers or labels appended to any storage device containing electronic data.

Defendant, by and through its agents, servants, employees, officers, members of the diaconate, and/or members of the board of trustees of Defendant, who may have been directing action in the above-captioned matter, have, and have had since the beginning of this action, an affirmative obligation under the law to take immediate steps to preserve all information relevant to the parties' claims and defenses or reasonably likely to be subject to discovery. Accordingly, until a full and complete backup of all electronic data can be completed, we request that you instruct Defendant, and its agents servants, employees, officers, members of the diaconate, and/or members of Defendant's board of trustees, to refrain from:

1. Initiating any procedures which would alter any active, deleted or fragmented electronic data. Such procedures may include, but are not necessarily limited to, deleting or attempting to delete any electronic information, saving newly created files to disks that already contain information, loading new software on such disks or running data compression or de-fragmentation (optimization) routines on them.

2. Rotating, altering or destroying any media that stores electronic data where such activity could result in the alteration or loss of any electronic data.

3. Disposing of any media that contains electronic data.

I intend to pursue discovery into Defendant and the electronic information of Defendants agents, servants, employees, deacons, trestles and ascertain compliance with their obligation to preserve relevant evidence. If I discover that appropriate steps have not been taken to preserve this crucial data and that some of it has been lost as a result, I will, of course, seek the appropriate remedy from the court in which the above-captioned case is pending.

Should you have any questions concerning this matter, please do not hesitate to call me.

Thanking you for your attention to this matter, I am

Very Truly Yours,

Robert C. Wilson, Jr.

cc: Thomas C. Skelton.

From: Joel Burgess <JBurgess@ssiteam.com>
To: Cindy Skelton <cskelton66@yahoo.com>
Sent: Friday, December 30, 2011 11:29 AM
Subject: RE: Church property

EXHIBIT 9

Mr. and Mrs. Skelton:

I hope your family had an excellent Christmas and I want to wish you a Happy New Year as well.

My apologies for being so late in getting back with you on this issue. Our deacons have discussed your proposal and all agree that we would certainly like to have some agreement on the topic. The church, however, does not wish to sell the land at this time. The property is a good asset to the church for activities and possible future facilities, etc. and they want to keep those options open for the future.

What we would like to do is come to an agreement for you to access the portion that you need for access to your property on some basis of periodic renewal so that each new group of leaders at the church is aware and that we are both on the same page of understanding. Some of the church's concern are always liability and insurance-related items, as well as the possibility (however remote it may be) that you sell/move sometime in the future, etc., so I'm trying to flesh some of that out now.

Please give some thought to your acceptance of this type of understanding and I will be in touch in the next couple weeks in hopes of finalizing this kind of agreement if you are interested.

Overall, we want to be good neighbors, do the right thing and would love for you and your family to be a part of our fellowship. We have excellent children's programs (children's worship) on Sunday mornings and Wednesday nights as well as many other activities and worship opportunities for the whole family. Any opportunity you have we would love to see you. We have a special worship service this Sunday morning @ 10:30 if you're available.

Feel free to contact me any time by phone or email. I look forward to discussing this with you further in the near future.

Best regards, J.J.

ELECTRONICALLY FILED - 2020 Jun 03 10:04 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

EXHIBIT 10

Church property

Cindy Skelton (cskelton66@yahoo.com)

JBurgess@ssiteam.com

Saturday, December 22, 2012, 03:27 PM EST

Hi Joel,

I hope you and your family are having a good Christmas and are well. Today an older gentleman named Ben stopped by and was looking at a log I had placed by the road. He said he was from the church and that a member had called him and told him I had cut down a tree on church property. I took him to my back yard and showed him the stump some 20' inside the property line (on my side) where I had cut down a sweet gum tree. As is my custom when I take a tree down, I cut it up into firewood lengths and placed it by the road for local people and poor people to get as free firewood.

I explained this to Ben and he seemed happy enough with the answer. I reiterated to him that I would never cut down a tree on the church's property or alter the land in any way and that I simply needed access to my back property which is not feasible due to the narrowness of my lot. I know we discussed this a year ago and I don't know if you are still in a position to handle it but I would like to get some sort of written permission from the church that makes all involved happy. I am happy to maintain the lot for no fee or consideration other than the driveway access and occasional parking. Also, I will be glad to discuss some sort of purchase arrangement for the driveway area if the church ever wants to do that. I just want to make sure that as people come and go that all involved are aware of the conditions under which y'all are allowing me access to my back property.

Thanks,

Craig Skelton

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EXHIBIT 11

First Baptist Church

Travelers Rest, SC

We offer the Welcome of Friendship, the Warmth of Family, & the Worship of God

Robert C. Wilson, Jr.
Attorney at Law
201 Whitsett Street
Greenville, South Carolina 29601

April 16, 2019

Dear Robert C. Wilson, Jr.

Re: Concerning the property of First Baptist Church

We are sorry for the hardship due to the loss of use of this property to Mr. Skelton's business. We have found no file or person that can present us a verbal or signed copy of an agreement for use of this property. We gave Mr. Skelton an extension of ninety days to vacate the property. This extension gave Mr. Skelton until Monday, June 3, 2019 to vacate the property. This property is not for sale.

Sincerely,

Deacons and Trustees
First Baptist Church
20 McElhaney Road
Travelers Rest, SC 29690

First Baptist Church
20 McElhaney Road
Travelers Rest, SC 29690

Phone: 864-834-9076
E-mail: office@fbctr.org

Dr. Steve Peterson
Pastor

Gary Green
Minister of Music

Ann Sutton
Ministry Assistant

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EXHIBIT 12

Temporary Right of Access Agreement

THIS AGREEMENT dated as May 1, 2012 between **Mr. Thomas Craig Skelton**, of 108 McElhaney Road, Travelers Rest, SC (the "Mr. Skelton") and **First Baptist Church Travelers Rest**, of 20 McElhaney Road, Travelers Rest, SC(the "FBTR").

WHEREAS:

(A) Mr. Skelton is the registered owner of the property municipally known as 108 McElhaney Road, Travelers Rest, SC and legally described as Residential Single-Family Dwelling.

(B) FBTR is the registered owner of the property municipally known as 104 McElhaney Road, Travelers Rest, SC and legally described as property of First Baptist Church Travelers Rest (House of Worship)..

(C) Mr. Skelton wishes to obtain temporary access over a portion of the FBTR's Property for the purposes of allowing occasional light vehicle access to the rear of the First Party's Property.

NOW THEREFORE in consideration of the mutual covenants and conditions hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. FBTR hereby grants to the Mr. Skelton a temporary right, during the term of this Agreement, for he and his agents, and invitees, to access the westerly forty feet by three-hundred fifty feet of FBTR's Property, immediately adjacent to Mr. Skelton's Property, specifically for the purpose of occasional light vehicle traffic access.

2. FBTR accepts no responsibility whatsoever for any losses or damages (personal or property) which Mr. Skelton or his agent(s) suffer or incur as a result of accessing the designated property. Mr. Skelton hereby agrees to indemnify FBTR against any losses suffered or claims made against FBTR by the Mr. Skelton or his agents, invitees and others who access said property pursuant to the rights given to this Agreement.

3. Mr. Skelton agrees to repair any damage caused to the FBTR Property as a result of such access and will restore the accessed area to its original condition, if requested by the FBTR, within 30 days of written request.

4. Mr. Skelton agrees to construct neither temporary nor permanent structures or fixtures, or store, discard debris or any foreign materials on said property.

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5. This Agreement is not transferable and shall be considered void if Mr. Skelton is no longer the legal owner of the property located at 108 McElhaney Road, Travelers Rest, SC.

6. This Agreement is limited to one calendar year from the stated date of this Agreement, May 1, 2012 and but is renewable yearly on the anniversary of This Agreement. FBTR reserves the right to revoke this Agreement provided the extents of this Agreement are not met or adhered to.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto as of the date first above written.

Witness

MR. THOMAS CRAIG SKELTON

Witness

FIRST BAPTIST CHURCH TRAVELERS REST, SC TRUSTEE ROY WOOD

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2019-CP-23-02476
Thomas C. Skelton,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**PLAINTIFF'S MEMORANDUM IN**
	)	**OPPOSITION TO DEFENDANT'S**
First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation,,	)	**MOTION FOR SUMMARY JUDGMENT**
	)	
Defendant.	)	
	)	

Defendant has filed its Motion for Summary Judgement, seekng dismissal of Plaintiff's action under Rule 56 of the SC Rules of Civil Procedure**.**

STANDARD OF REVIEW

Rule 56 SCRCP provides that a motion for summary judgment shall be granted "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." *Pittman* v. *Grand Strand Entm't, Inc*., 611 S.E.2d 922, 925 (2005); *Eagle Container Co., LLC* v. *County of Newberry*, 622 S.E.2d 733 (Ct. App. 2005); *B & B Liquors, Inc*. v. *O'Neil,* 603 S.E.2d 629 (Ct. App. 2004) In determining whether any triable issues of fact exist, the trial court must view the evidence and all reasonable inferences which may be drawn thereform in the light most favorable to the party opposing summary judgment. *Brockbank* v. *Best Capital Corp*,, 341 SC 372, 534 SE 2nd 688 (S.Ct. 2000);

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Hancock v. *Mid-South Mgmnt. Co., Inc*., 381 SC 326, 329-30,) 673 SE2d at 803: (S.Ct. 2009) *Catawba Indian Nation* v. *State of South Carolina, et al*., 407 SC 526,756 673 SE2d 900 (S.Ct. 2014.

Under Article 1, §14, of the S.C. Constitution and under the 7th and 14th Amendments to the U.S. Constitution, parties are constitutionally guaranteed a jury trial in civil cases such as presented in this action. In deference to this constitutional guarantee, the Court of Appeals has held:

> "At the summary judgment stage of litigation, the court does not weigh conflicting evidence with respect to a disputed material fact."
> *S.C Prop. & Cas. Guar. Assn.* v. *Yensen*, 345 SC 512, 518, 548 SE2d 880, 883, (Ct.App. 2001).

Indeed, in deference to the paramount constitutional guarantee of a jury trial, the Supreme Court has held that " in cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere **scintilla** of evidence to withstand a motion for summary judgment." *Hancock, supra*.(*emphasis added).*

In deference to Plaintiff's constitutional right to have the disputed facts of his case tried by a jury, Plaintiff, based on *Hancock*, *supra*,, therefore, must only present a mere scintilla of evidence in the record in opposition to Defendants' Motion to successfully resist Defendants' Motion for Summary Judgment.

Summary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery. *Baughman* v. *AT&T*, 410 SE2nd 537 (S.Ct. 1991).

Summary Judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. *Gadson* v. *Hembree,* 613 S.E.2d 533 (2005); *Montgomery* v.

CSX Transp., Inc., 608 S.E.2d 440 (Ct. App. 2004).

Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. *Baugus* v. *Wessinger*, 401 S.E.2d 169 (1991); *Nelson* v. *Charleston County Parks & Recreation Comm'n*, 605 S.E.2d 744 (Ct. App. 2004). When reasonable minds cannot differ on plain, palpable, and indisputable facts, summary judgment should be granted. *Ellis* v. *Davidson*, 595 S.E.2d 817 (Ct. App. 2004).

The party seeking summary judgment has the burden of **clearly** establishing the absence of a genuine issue of material fact. *McCall* v. *State Farm Mut. Auto. Ins. Co.*, 597 S.E.2d 181 (Ct. App. 2004)*(emphasis added*).

Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. *Regions Bank* v. *Schmauch*, 582 S.E.2d 432 (Ct. App. 2003). The nonmoving party must come forward with specific facts showing there is a genuine issue for trial. *Rife*, 363 S.C. at 214, 609 S.E.2d at 568.

"The purpose of summary judgment is to expedite the disposition of cases which do not require the services of a fact finder." *Dawkins* v**.** *Fields,* 69, 580 S.E.2d 433, 438 (2003**)** (quoting *George* v. *Fabri*, 452, 548 S.E.2d 868, 874 (2001)); *Rumpf* v. *Massachusetts Mut. Life Ins. Co.*, 593 S.E.2d 183 (Ct. App. 2004).

Summary judgment is a drastic remedy and should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues. *Helena Chem. Co.* v. *Allianz Underwriters Ins. Co.*, 594 S.E.2d 455 (2004); *Hawkins* v. *City of Greenville,* 594 S.E.2d 557 (Ct. App. 2004).

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THE RECORD

Some discovery has been conducted in this case. Defendant has taken the deposition of Plaintiff; Plaintiff has taken the deposition of Gary Batson who testified that he represented the Defendant. Additionally, Plaintiff has filed his affidavit with attachements made a part of his affidavit. Plaintiff's affidavit also verifies Plaintiff's complaint.

PLAINTIFF'S ARGUMENT

Plaintiff has asserted the following claims for trial in this action:

1. Plaintiff seeks a declaratory judgment that he is entitled to a prescriptive easement for ingress and egress to his land across the land of Defendant;

2. Plaintiff seeks a declaratory judgment that he is entitled to an easement of necessity for ingress and egress to his land across the land of Defendant:

3. Plaintiff seeks a declaratory judgment that he is entitled to title by adverse possession to a portion of the property of Defendant which Plaintiff has occupied and used by open and notorious possession for more than twenty (20) years;

1. Under controlling precedent, Plaintiff has established in the record of this case sufficient facts to raise material issues of fact that he is entitled to a prescriptive easement

An easement is a right given to a person to use the land of another for a specific purpose. *Murrell's Inlet Corp*. v. *Ward*, 378 SC 225, 662 SE 2nd 452 (Ct.App. 2008). An easement may arise in three ways: (1) by grant; (2) from necessity; (3) by prescription. *Kelly* v. *Snyder*, 396 SC 564, 722 SE 2nd 813 (Ct.App. 2012). A prescriptive easement, as Plaintiff seeks in this action, is not implied by law,but by the conduct of the dominant tenement owner, in this case, the Defendant Church. *Boyd* v. *BellSouth Tel. Tel. Co.*,369 SC 410, 633 SE 2nd 136 (S.Ct. 2006). To establish a prescriptive easement, Plaintiff must show: (1) continued or uninterrupted use of

the right for a period of twenty years; (2) the identity of the thing enjoyed; (3) use or enjoyment which is either adverse or under claim of right. *Pittman* v. *Lowther*, 363 SC 47; 610 SE 2nd 479 (S.Ct. 2005).[1]

By his filed affidavit, and by his Complaint (which has been verified by Plaintiff's affidavit), Plaintiff has established the following facts in the record of this case:

1. Plaintiff has been exercising dominion and control over a portion of the property of Church since 1992-1993, (Plaintiff Affidavit, #19);

2. Plaintiff has been forced to construct protective measures on property of Church to fend off invasive surface waters case upon Plaintiff's property since 1995 to the present, (Plaintiff Affidavit, #19);

3. Plaintiff has installed a protective electronic dog fence around ca. 41,300 Square Feet of Church's property in 2000, (Plaintiff Affidavit, #19);

Plaintiff's affidavit establishes that Plaintiff has been exercising open, notorious dominion and control since 1992, over the portion of Church's property necessary for ingress and egress to the rear of Plaintiff's property, as alleged in Plaintiff's Complaint. (Complaint, ¶ II). Plaintiff has established further that his use of the property of Defendant Church has been continuous and uninterrupted. *Kelly, supra*.

Under applicable precedent, Plaintiff's complaint presents an action supported by factual allegations established in the record. *Pittman, supra.* There is a genuine triable issue of fact that Plaintiff may be entitled to an easement by prescription.

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[1]The right to an easement by prescription is substantially the same in quality and characteristics as that required to acquire title to real estate by adverse possession. 25 Am. Jur. 2nd *Easements and Licenses*,§39 (2014).

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2. Under controlling precedent, Plaintiff has established in the record of this case sufficient facts to raise material issues of fact that he is entitled to an easement by necessity.

Plaintiff seeks a declaratory judgment that he is entitled to an easement by necessity for ingress and egress across Defendant's property. The legal requirements of an easement by necessity are: (1) unity of title; (2) severance of title; (3) necessity. *Brasington* v. *Williams*, 143 SC 223, 141 SE 375 (1927). The *Brasington* Court declared:

> From the earliest period of our judicial history the acquisition of an easement of right of way over another's land, by necessity, has been clearly recognized and protected. *Brasington, supra*, 238, 380.

Brasington further held that to establish unity of title, the owner of the dominant estate must show that his land and that of the owner of the servient estate once belonged to the same person *Brasington, supra*.[2]

By Plaintiff's affidavit, by Plaintiff's verified complaint, and by judicial notice to the real estate records of Greenville County, it is established fact that Plaintiff's real property and the abutting property of Church were conveyed to the parties by the same grantor who enjoyed fee simple absolute to the parcel; the paties common grantor conveyed the parcels from the same landholding. By his verified Complaint, Plaintiff has alleged, under oath, that an easement for ingress and egress is necessary for him to have access to his property.

Based on applicable precedent, and based on Plaintiff's sworn allegations, there is a genuine issue of fact whether Plaintiff is entitled to an easement of necessity across Defendant's real property.

---

[2]In *Kennedy* v. *Bedenbaugh,* 352 SC 56, 572 SE 2nd 452 (S.Ct. 2002), the Supreme Court denied an action for an easement by necessity because original owner did not have fee simple absolute title to both parcels, prior to severance, same owner but different estates defeated claim for easement by necessity. .

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.
,

3. Under controlling precedent, Plaintiff has established in the record of this case sufficient facts to raise material issues of fact that he is entitled to ownership of an easement by adverse possession.

Plaintiff has alleged a claim for a declaratory judgement granting him ownership of sufficient property to serve as a driveway/easement for ingress and egress to his property across the property of Defendant Church.

By his filed affidavit, *supra*, Plaintiff has established the following:

1. Plaintiff has been exercising dominion and control over a portion of the property of Church since 1992-1993, (Plaintiff Affidavit, #19);

2. Plaintiff has been forced to construct protective measures on property of Church to fend off invasive surface waters cast upon Plaintiff's property since 1995 to the present, (Plaintiff Affidavit, #19);

3. Plaintiff has installed a protective electronic dog fence around ca. 41,300 Square Feet of Church's property in 2000, (Plaintiff Affidavit, #19);

Further, and as noted, *supra*, Plaintiff's affidavit establishes that Plaintiff has been exercising open, notorious dominion and control since 1992, over the portion of Church's property necessary for ingress and egress to the rear of Plaintiff's property, as alleged in Plaintiff's Complaint. (Complaint, ¶ II). Plaintiff has established further that his use of the property of Defendant Church has been continuous and uninterrupted.

§15-67-240, South Carolina Code of Laws, 1976, as amended provides:

Premises held adversely but not under written instrument or judgment or decree.

> *When it shall appear that there has been an actual continued occupation of premises under a claim of tile, exclusive of any other right but not founded upon a written instrument or a judgment or decree, the premises so actually occupied, and no other shall have been deemed to have been held adversely.*

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§15-67-250, South Carolina Code of Laws, 1976, as amended, provides:

What constitutes adverse possession under claim of title not under written instrument or court judgment or decree.

> *For the purpose of constituting an adverse possession by a person claiming title not founded on a written instrument or a judgment or decreed, land shall be deemed to have been possessed in the following cases only:*
>
> *(1) When it has been protected by a substantial enclosure; and*
>
> *(2) When it has been usually cultivated or improved.*

By his affidavit, Plaintiff has factually established that he has been adversely possessing the property of the Church under either of the foregoing statutes.

As a condition to establishing adverse possession, §15-67-210, South Carolina Code of Laws, 1976, as amended requires a period of ten years to raise the presumption of cognizable adverse possession. By his affidavit, Plaintiff has established that he has met the threshold period of adverse possession under §15-67-210. Further, Plaintiff has established under either §15-67-240 or §15-67-250[3], *supra*, that Plaintiff's claim for adverse possession factually comports with the statutory requirements for a claim of adverse possession.

[3]Cf: §15-67-230, South Carolina Code of Laws, 1976, as amended, which provides for cultivation and enclosure as incidents of adverse possession, just as §15-67-240.

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CONCLUSION

Based on the foregoing, Plaintiff asks that this Court deny Defendant's Motion for Summary Judgment.

Dated: 6/8/20

/s/ Robert C. Wilson, Jr.
Robert C. Wilson, Jr.
201 Whitsett Street
Greenville, SC 29601
SC ID 6178
(864) 242-9488
Email: rcwjrlaw@gmail.com

Attorney for Plaintiff

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STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Thomas C. Skelton, Plaintiff, vs. First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation, Defendant.	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT C.A. No.: 2019-CP-23-02476 **MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

ISSUE

Plaintiff's suit seeks to establish his right to a strip of Defendant's land for ingress and egress to the rear of Plaintiff's lot by way of prescriptive easement, de facto lease, easement of necessity, and adverse possession. The Defendant maintains the Plaintiff used the strip of land with its permission so the causes of action for prescriptive easement and adverse possession must fail. The claim for de facto lease must fail under the statute of frauds because of the lack of any signed, written agreement. The cause of action for necessity must fail because the Plaintiff has access to his property from a public road, created the necessity he alleges, and the necessity is merely a more convenient way to operate his business.

FACTS

By deed filed March 25, 1992, Thomas C. Skelton ("Skelton") purchased from Mary Erline Smith Banic and Carroll Watson Smith a house and lot that fronts on McElhaney Road in Travelers Rest. (Attachment 1); Plaintiff's Ex. 2, Depo. Gary Batson. At the time he purchased the property Skelton was a police officer (Skelton Depo. p. 5, 6). He left the police in 1994 and started his current landscaping business (Skelton Depo. p. 7, ll. 2-11). He employs trucks,

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tractors and trailers in this business and uses a shop at the rear of his property to do maintenance and repairs.

Skelton realized he had a water problem soon after purchasing the McElhaney Road property so he constructed a French drain and placed a berm along the property line of the lot now owned by the Church. Some of the berm is on the Church's adjoining lot (Skelton Depo. p. 10, l. 15 – p. 11, l. 17). Skelton also realized he had a problem with mice which would attract snakes (Skelton Depo. p. 12, ll. 8-12). Skelton hired an exterminator in the mid 90's who advised the tall grass adjoining Skelton's property would attract mice.

Skelton's wife spoke with the pastor of the First Baptist Church of Travelers Rest who had purchased the adjoining lots from Carroll W. Smith and Catherine Smith by deed recorded May 5, 1993 (Attachment 2), Plaintiff's Ex. 3, Depo. Gary Batson. According to Skelton his wife received permission to mow a section of the Church's lot to keep down mice. (Skelton Depo. p. 12, l. 19 – p. 13, l. 20)

Skelton also put in a dog fence on the Church's lot (Skelton Depo. p. 15, ll. 4-19). Skelton's wife may have spoken to someone at the Church about the dog fence but he did not. Skelton planted a maple tree on the Church property as well (Skelton Depo. 16, ll. 15-19).

After Skelton began his landscaping and water control business, he began to use a strip of the Church's lot to reach the rear of his lot. (Skelton Depo. p. 27, ll. 1-15) A written agreement was prepared by the Church in about May, 2012 labeled "Temporary Right of Access Agreement," (Attachment 3), Plaintiff's Ex. 4, Depo. Gary Batson, but was never signed by either party. Nevertheless, Skelton continued to use the strip of the Church's property for his trucks or trailers to reach the rear of his lot. (Skelton Depo. p. 32, ll. 14-25)

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In 2019 the Church revoked its permission for Skelton to use a portion of its lot for access to the rear of his lot. As a result, Skelton wrote a letter to the Church. (Attachment 3)m Defendant's Ex., 2, Skelton Depo.

The Church refused to allow Skelton continued use so Skelton filed a Complaint alleging: 1) a prescriptive easement; 2) anticipatory breach of leasehold agreement; 3) easement of necessity; 4) adverse possession; and for 5) injunctive relief.

The Church denied the allegations of the Complaint and asks for attorney fees and costs for a frivolous action.

The Church now moves for summary judgment pursuant to SCRCP 56(c) as the facts are not in dispute.

LEGAL ANALYSIS

The Supreme Court recently considered the requirements of a prescriptive easement in Simmons v. Berkeley Elec. Coop., Inc., 419 S.C. 223, 797 S.E.2d 387 (2016). The Court in Simmons quoted with approval the requirements for a prescriptive easement set out in County of Darlington v. Perkins, 269 S.C. 572, 239 S.E.2d 69 (1977):

> To establish a prescriptive easement, the claimant must prove by clear and convincing evidence: '1) the continued and uninterrupted use or engagement of the right for a period of 20 years; 2) the identity of the thing enjoyed; and 3) the use [was] adverse under claim of right.'

Simmons also stated the long-established rule in South Carolina that permissive use defeats the establishment of a prescriptive easement because use that is permissive cannot also be adverse. Bundy v. Shirley, 412 S.C. 292, 310, 772 S.E.2d 163, 173 (2016).

Skelton acknowledged writing a letter dated February 28, 2019, Exhibit 2 to his deposition, page 24 line 23 through page 25 line 2, in which he stated, "My wife and I have spoken with several pastors and deacons over the past 20 plus years and we were told by all of

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them that it was fine for us to use the lower portion of the field so that we could have ingress and egress to the rear of our property."

Skelton was asked about the unsigned agreement (Attachment 3) to use a strip of the Church's property:

> Q. So, it (the unsigned agreement) granted you permission to use this strip of property, Church property?
>
> A. That's what I recall. But, again, that was a.
>
> Q. Ok.
>
> A. a long time ago and we don't have it.

Because Skelton's testimony and own letter makes it clear he used the Church's strip with the Church's permission, Skelton is not entitled to a prescriptive easement.

Skelton's Second Cause of Action alleges he had a de facto lease arrangement whereby he was allowed to use, occupy and exercise other rights on the Church's property in exchange for his maintenance and upkeep of the Church's vacant lot. He alleges the Church seeks to terminate the de facto lease and evict him. Based on the alleged de facto lease, Skelton seeks injunctive relief in the form of an easement for ingress and egress or damages for breach of the de facto lease accompanied by deceit, fraud and misleading statements.

The Church denied there was a de facto lease and also pled any de facto lease violated the Statute of Frauds which prohibits the enforcement of certain alleged agreements.

The Statute of Frauds, S.C. Code §32-3-10, states in part:

> (4) To charge any person upon any contract or sale of lands, tenements, or hereditaments or any interest in or concerning them; or
>
> (5) To charge any person upon any agreement that is not to be performed within the space of one year from the making thereof;
>
> Unless the agreement upon which such action shall be brought or some

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> memorandum or note thereof shall be in writing and signed by the party to be charged therewith or some person thereunder by him lawfully authorized.

Plaintiff's Deposition, p. 19 ll. 1-15:

> Q. And it's alleged that you had a de facto lease agreement in exchange for your maintenance and up-keep. You were allowed to use – occupy and other rights to the vacant lot. What other right are you speaking of?
>
> A. Those would be, again, the, the purview, of, of Mr. Wilson. I'm not an attorney. I – you know, I gave him the facts and I let him apply the law, I guess, if you want to – best we can.
>
> Q. In the lease agreement, you agree – and I'm, I'm repeating myself – is not in writing anywhere?
>
> A. We don't have anything in writing; no, sir.

Admittedly, there is no writing signed by the parties. The relief prayed for, breach of a de facto lease, asks for use of the Church's land beyond a year. The Statute of Frauds applies. Springob v. University of South Carolina, 407 S.C. 490, 757 S.E.2d 384 (2014). The unsigned agreement (Attachment 3) offers no relief to Skelton on the claim of a de facto lease. By its terms the agreement is for one year although it is renewable. Skelton's Complaint asks for relief forbidden by the Statute of Frauds.

The Plaintiff's Third Cause of Action claims an easement of necessity. The elements of a claim for easement of necessity are 1) unity of title, 2) severance of title and 3) necessity. Boyd v. Bellsouth Tel. Tel. Co., 369 S.C. 410, 418-19, 633 S.E.2d 136, 140-41 (2006).

The Court in Paine Gayle Props., LLC v. CSX Transp., Inc., 400 S.C. 568, 735 S.E.2d 528 (Ct. App. 2012) elaborated on the meaning of "necessity" (p. 590):

> 'The necessity required for easement by necessity must be actual, real, and reasonable as distinguished from convenient, but need not be absolute and irresistible.' Boyd, 369 S.C. at 420, 633 S.E.2d at 141. 'South Carolina requires only 'reasonable necessity' to imply an easement: while the

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> owner of the servient estate must prove more than convenience, he need not show the [easement] is absolutely necessary.' Graham v. Causey, 284 S.C. 339, 341, 326 S.E.2d 412, 414 (Ct. App. 1985), *disapproved of on other grounds by Jowers v. Hornsby*, 292 S.C. 549, 357 S.E.2d 710 (1987) (citations omitted). 'The necessity element of easement by necessity **must exist at the time of the severance** and the party claiming the right to an easement **must not create the necessity when it would not otherwise exist**.' Boyd, 369 S.C. at 420, 633 S.E.2d at 141 (citations omitted) (emphasis added). This is so because it is the severance that creates the necessity for an easement and, thus, allows the law to impute to a landowner a right to cross an adjacent parcel. *See Turnbull*, 14 S.C.L. at 139 ('The necessity by which a person derives a right of way, is when one person sells another land enclosed on all sides by other lands. Here[,] the law imposes an obligation on the seller to allow the purchaser a right of way over his adjacent land.').

Skelton received his property by Deed in March, 1992. His lot fronts on McElhaney Road and he has access from that road to his property. At the time of purchase Skelton was a police officer who left the force in 1994 (Skelton Depo. p. 6, ll. 4-9) and formed his current landscaping business. He stated the problem with access involves his business.

> Q. And, and the problem with the ingress and egress that you're referring to is that you have big trucks or trucks or something, trailers, that you need – or it's desirable for you to have room to turn them around?
>
> A. Yes, sir. And, and to, and to be able to come and go in a safe manner, as well. Because McElhaney Road has gotten so busy, it would be extremely difficult to back a trailer in there, for example, or anything like that. I just – we try to avoid that at all costs. So, we turn out and come down the property line where this gravel area is here and we enter out into the road (pointing to document).

Skelton's claim of necessity must fail because it did not exist when Skelton purchased his lot but came about when he formed his landscaping business and the use of the Church's lot is simply a matter of convenience.

In this Fourth Cause of Action, Skelton seeks title to the Church's lot from his adverse possession under S.C. Code §15-67-210, et. seq.

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Adverse possession requires possession, the possession must be continuous, hostile, open, actual, notorious, and exclusive for at least ten years. Davis v. Monteith, 289 S.C. 176, 345 S.E.2d 724 (1986). In Taylor v. Heirs of Taylor, 419 S.E. 639, 799 S.E.2d 919 (2017) the Court cited Knot v. Bogan, 322 S.C. 64, 472 S.E.2d 43 (Ct. App. 1996) page 70 which restates the law that possession must be without the consent of the owner.

Specifically, the Court in Taylor said, "There was no evidence in the record indicating Appellants possessed parcel five with Respondent's permission or consent. Thus, Appellants met their burden with regard to hostility." P. 654.

Skelton's cause of action for adverse possession is fatally flawed because he had the Church's permission for his use of the strip of the Church's lot for ingress and egress to the rear of his own lot and to mow the grass.

CONCLUSION

The claims for prescriptive easement and adverse possession lack the necessary element of "adverse" as admitted by the Plaintiff in his letter of February 28, 2019 and thus must fail. The claim of de facto lease is unsupported by any writing signed by the parties and is thus in violation of the Statute of Frauds and must fail. Finally, the claim of necessity must fail because the Plaintiff created the necessity, has access to his property, and the necessity is merely a convenience. The Defendants have met their burden of proof and are entitled to summary judgment.

BANNISTER, WYATT & STALVEY, LLC
s/ O. W. Bannister
O. W. Bannister (SC Bar No. 506)
401 Pettigru Street (29601)
P. O. Box 10007 (29603)
Greenville, South Carolina
Phone: (864) 298-0084; Fax: (864) 298-0146
owbannister@bannisterwyatt.com
Attorney for Defendant

June 8, 2020

ELECTRONICALLY FILED - 2020 JUL 08 10:08 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

GRANTEE'S MAILING ADDRESS:
108 McElhaney Road, Travelers Rest, SC 29690

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

FILED
MAR 25 2 08 PM '92
PAULINE S. TAYLOR, R.M.C.

BOOK 1468 PAGE 415

KNOW ALL MEN BY THESE PRESENTS, that Mary Earline Smith Banic and Carroll Watson Smith

in consideration of Forty-Six Thousand Nine Hundred and No/100 ($46,900.00) ---------- Dollars,

the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell and release unto Thomas C. Skelton, his heirs and assigns forever:

ALL that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Greenville, in the Town of Travelers Rest, on the northwestern side of McElhaney Road, being known as Lot No. 3 according to a plat made by W. A. Hester dated May 6, 1922, and also being shown on a more recent plat entitled "Closing Survey for Thomas C. Skelton" made by Jones-Wooten & Associates Inc., dated March 24, 1992, and recorded in the RMC Office for Greenville County, S.C., in Plat Book 22-F at Page 23, reference to the more recent plat being hereby made for the metes and bounds thereof.

DERIVATION: Deed from R. E. Benson and Bess S. Benson to D. E. Smith dated May 11, 1922, recorded June 12, 1922, in said RMC Office in Deed Book 82 at Page 4; see also the records of the Greenville County Probate Court, File 85ES2300648, for the Estate of D. E. Smith, Deceased.

(8)-366-493-3-6

This conveyance is made subject to any and all existing reservations, easements, rights of way, zoning ordinances, setback lines, and restrictions or protective covenants that may appear of public record or on the premises affecting the above-described property.

STATE OF SOUTH CAROLINA
SOUTH CAROLINA TAX COMMISSION
DOCUMENTARY STAMP TAX
3/25/92 103.40

SOUTH CAROLINA COUNTY DOCUMENTARY TAX
3/25/92 51.70

together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the grantee(s), and the grantee's(s') heirs or successors and assigns, forever. And, the grantor(s) do(es) hereby bind the grantor(s) and the grantor's (') heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the grantee(s) and the grantee's(s') heirs or successors and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the grantor's(s') hand(s) and seal(s) this 24th day of March 1992.

SIGNED, sealed and delivered in the presence of:

Olivia B. Norris
Carol C. Wilson

Mary Earline Smith Banic by Carroll Watson Smith her attorney-in-fact (SEAL)
MARY EARLINE SMITH BANIC BY CARROLL WATSON SMITH, HER ATTORNEY-IN-FACT (SEAL)

Carroll Watson Smith (SEAL)
CARROLL WATSON SMITH (SEAL)

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

PROBATE

Personally appeared the undersigned witness and made oath that (s)he saw the within named grantor(s) sign, seal and as the grantor's(s') act and deed, deliver the within written deed and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

SWORN to before me this 24th day of March, 1992.

Carol C. Wilson (SEAL)
Olivia B. Norris

Notary Public for South Carolina.
My commission expires: 4/5/92

18530

FILED FOR RECORD IN GREENVILLE
COUNTY SC RMC OFFICE AT 02:08 PM
03/25/92 RECORDED IN DEED
BOOK 1468 PAGE 0415
DOC # 92018530

19 , at 3 26 5387 M., No. 5 1800

PLAINTIFF'S EXHIBIT 2 Batson 3-2-20

FENGAD 800-631-6989

ELECTRONICALLY FILED - 2020 Jun 08 10:06 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

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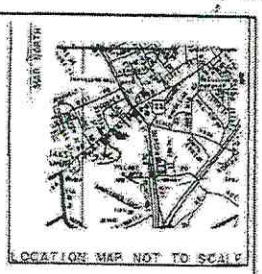
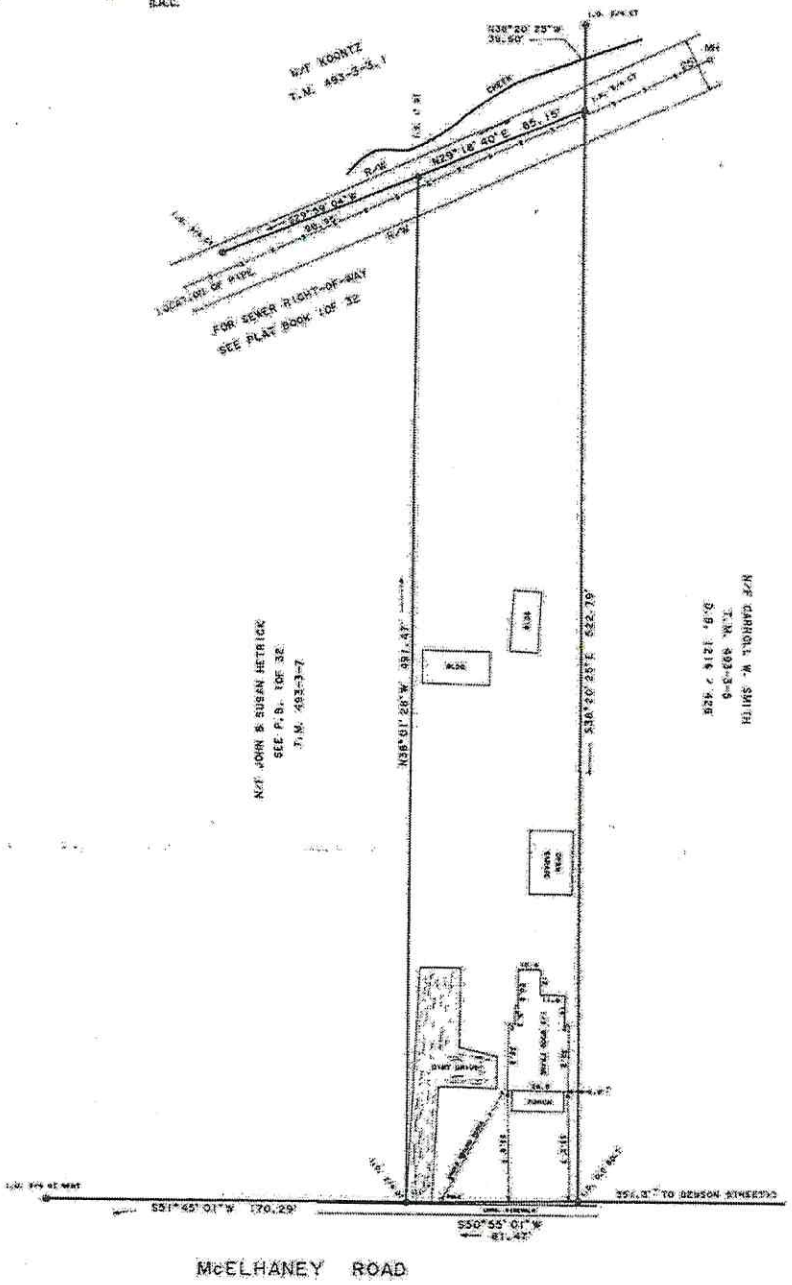
GREENVILLE CO., S.C.
MAR 25 2 06 PM '92
DONNIE S. TANKERSLEY
R.M.C.





22-F-23

1S-199

MAR 25 1992

RECORDABLE PLAT

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

THIS PROPERTY DOES NOT LIE IN A FLOOD HAZARD ZONE.

THIS PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, ZONING ORDINANCES AND RIGHTS OF WAYS, OF RECORD OR NOT OF RECORD.

SOUTH CAROLINA REGISTERED 4678 LAND SURVEYOR RICHARD D. WOOTEN

Richard D. Wooten
RICHARD D. WOOTEN, JR.
S.C.R.L.S. No. 4678

STATE OF SOUTH CAROLINA
GREENVILLE COUNTY

D.E. SMITH PROPERTY
LOT 1
HOUSE #108

CLOSING SURVEY FOR

THOMAS C. SKELTON

RICHARD D. WOOTEN & ASSOCIATES, INC.
1004 EAST PERRY RD. EXT.
GREENVILLE, S.C. 29609
PH (803)232-2062
FX (803)232-2062

SCALE 1"=40'
PLAT BK. NONE
DEED BK. 82 / 4
TAX MAP 493-3-6
PARTY INTERESTED
DRAWN BY
DATE: MARCH 24, 1992
ORD. NO. 28848
JOB NO. 92265

3-26 5389 $ 10.00

A. YES, SIR.
Q. --- TO IT. AND, AGAIN, IF YOU NEED TO TAKE A BREAK, YOU CAN'T CONSULT WITH MR. WILSON.
A. RIGHT.
Q. BUT IF YOU NEED TO TAKE A BREAK, ---
A. SURE.
Q. --- YOU KNOW, WE, WE, WE CAN DO THAT. LET ME GET A LITTLE BIT OF BACKGROUND FROM YOU. HOW OLD ARE YOU NOW?
A. FIFTY-FOUR (54).
Q. AND WHAT'S YOUR EDUCATION?
A. UH, I WAS, UH, ALLOWED BY THE GREENVILLE COUNTY SCHOOL DISTRICT TO LEAVE HIGH SCHOOL IN THE TENTH (10TH) GRADE AND ATTEND COLLEGE. AND I GRADUATED FROM GREENVILLE TECH WHEN I WAS SEVENTEEN (17) YEARS OLD WITH A CRIMINAL JUSTICE DEGREE.
Q. ALL RIGHT. AND DID YOU FOLLOW THAT VOCATION, BEING A CRIMINAL JUSTICE GRADUATE?
A. WELL, I WANTED TO SERVE IN THE MILITARY, SO I -- AFTER LOOKING AT VARIOUS OPTIONS, I ENLISTED IN THE UNITED STATES ARMY AT SEVENTEEN (17) YEARS OF AGE ON A RANGER OPTION CONTRACT. UH, SPENT, UH, ALMOST THREE (3) YEARS IN THE SEVENTY-FIFTH (75TH) RANGER REGIMENT AND THIRD (3RD) RANGER BATTALION. UH, LEFT THERE, VOLUNTEERED FOR THE HONOR GUARD IN ARLINGTON. SPENT A YEAR THERE AS A SQUAD LEADER. UH, LEFT THERE AND WAS HIRED BY THE GREENVILLE

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POLICE DEPARTMENT WHEN I GOT OUT OF THE ARMY. AND, UH, SPENT SIX (6) YEARS IN UNIFORM PATROL AND FOUR (4) OF THOSE YEARS ON THE, UH, S.W.A.T. TEAM.

Q. ALL RIGHT. WHEN DID YOU LEAVE THE POLICE DEPARTMENT?

A. IN 1994.

Q. IS THAT WHEN YOU STARTED YOUR CURRENT BUSINESS?

A. YES. YES, SIR; IT IS.

Q. ARE YOU AN L.L.C., A C-CORP OR WHAT?

A. WE HAVE A -- SKELTON GROUP, L.L.C. WE HAVE AN L.L.C. THAT'S ---

Q. WHEN, WHEN DID YOU FORM THAT?

A. THAT'S A GOOD QUESTION. I DON'T KNOW. (CHUCKLES) I, I DON'T KNOW.

BY MS. SKELTON: TWO THOUSAND (2000).

BY MR. WILSON: SHHH. SHHH.

Q. AND, AND THE NAME OF IT SKELTON, L.L.C.

A. SKELTON GROUP, L.L.C. IT'S, ---

Q. SKELTON GROUP.

A. --- IT'S, IT'S OWNED BY MY WIFE, NOT ME, SO ---

Q. SKELTON GROUP, L.L.C.?

A. L.L.C., I BELIEVE IS THE NAME OF IT; YES, SIR.

Q. OKAY. AND YOU'RE JUST AN EMPLOYEE PARTNER?

A. I SUPPOSE. I JUST WORK. I JUST GET UP AND GO TO WORK. I MEAN, YOU KNOW, I, I DON'T, I DON'T -- WE DON'T -- WE'RE, WE'RE A MOM AND POP BUSINESS, SO WE DON'T GET INTO THE

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WEEDS INTO A LOT OF THE DETAILS LIKE THAT.

Q. OKAY. EXACTLY WHAT DO YOU DO IN YOUR BUSINESS?

A. UH, WE DO -- IN THAT BUSINESS, WE DO LANDSCAPE MAINTENANCE. WE DO LANDSCAPE CONSTRUCTION. WE DO DRAINAGE WORK. WE DO A LOT OF WORK WITH WATER IRRIGATION, DRAINAGE. WELL, I'VE JUST IN ALL THE DRAINS AROUND THE GREENVILLE COUNTY ART MUSEUM. I'VE DONE WORK FOR THE COUNTY. I'M ALSO A MASTER PLUMBER. I GOT MY MASTER PLUMBER'S LICENSE, OR CERTIFICATE, IN 1999 AND I USE THAT PRIMARILY FOR THE OUTDOOR -- WE DO OUTDOOR WATER PROBLEMS A LOT, HANDLE THOSE.

Q. OKAY. LET ME ASK YOU THIS, SINCE IT'S BEEN BROUGHT UP. DO YOU HAVE A BUSINESS LICENSE IN TRAVELERS REST?

A. NO, SIR; I DON'T.

Q. HAVE YOU APPLIED FOR ONE (1)?

A. WHEN WE GET A JOB IN TRAVELERS REST, WE DO. YEAH, WE MAKE SURE WE HAVE IT.

Q. BUT, DO YOU HAVE A BUSINESS LICENSE TO OPERATE OUT OF YOUR HOME ON MCELHANEY ROAD?

A. NO.

Q. ALL RIGHT. HAVE YOU BEEN IN CONTACT WITH TRAVELERS REST ABOUT GETTING PERMISSION OR BEING PROHIBITED FROM PRACTICING ---

A. NO, SIR.

Q. --- THERE?

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DON'T KNOW. BUT WE'VE COMMUNICATED, LIKE, WITH JOEL AND NUMEROUS PEOPLE.

Q. WELL, OKAY. DO YOU CONSIDER THAT YOU HAVE A LEASE WITH THE CHURCH TO USE THAT PROPERTY?

A. WHAT I CONSIDERED AND WHAT WE ALWAYS WERE TOLD THAT IT WAS FINE. IT WAS AN AGREEMENT. YOU KNOW, THERE'S -- I GUESS YOU WOULD CALL IT A HAND-SHAKE AGREEMENT IF YOU WANTED TO, IN THAT, IN THAT SENSE. UM, WHEN I SPOKE WITH JOEL, AND IT'S INDICATED IN THE E-MAIL, HE SAID THEY WOULD SEND ME SOMETHING IN WRITING. UM, BUT I NEVER SAW THAT, THAT LEASE, OR WHATEVER IT IS, OR ANYTHING.

Q. OKAY. WHAT WAS YOUR UNDERSTANDING OF THE AGREEMENT THAT YOU HAD WITH THE CHURCH FOR THE USE OF THAT -- OF THEIR PROPERTY, THE INGRESS AND EGRESS?

A. RIGHT. UH, AS WE EXPLAINED NUMEROUS TIMES, YOU KNOW, -- AND, AND THE PROBLEM BEGAN -- AND I WAS A VERY NEW HOMEOWNER. I HAD ALWAYS LIVED IN EITHER THE BARRACKS OR, YOU KNOW, AN APARTMENT OR SOMETHING LIKE THAT. SO, UH, I, I WAS NOT AN EXPERT ON HOUSE OWNERSHIP. BUT WHEN I MOVED IN, THE FIRST PROBLEM THAT, THAT I REALIZED WAS WE WERE GETTING A LOT OF WATER. THERE'S A HAND-BUILT BASEMENT UNDER THE HOUSE. IT WAS BUILT IN THE EARLY '20S, AND IT WAS UNDERMINING ONE OF THE PIERS. SO, MY STEP-FATHER, WHO'S NOW DECEASED, WAS A COMMERCIAL LANDSCAPER IN GREENVILLE FOR ABOUT THIRTY (30) YEARS, WHO DID A LOT OF

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WORK WITH WATER, HIMSELF, CAME UP AND LOOKED AT IT. I'M STILL A POLICE OFFICER AT THIS POINT. AND HE SAID, "YOU'RE GOING TO NEED A FRENCH DRAIN ALONG THERE." AND I DIDN'T REALLY REALIZE HOW CLOSE THE PROPERTY LINE WAS. I JUST KNEW FROM WHEN I HAD PURCHASED IT THAT IT WAS TIGHT ON THIS SIDE OF THE HOUSE. SO, I WENT OUT THERE AND DUG THAT OUT BY HAND FOR A WHILE. THEN MY FATHER-IN-LAW CAME UP -- HER FATHER, THE MASTER PLUMBER, WITH HIS BACKHOE TO HELP ME OUT. 'CAUSE I THINK HE FELT SORRY FOR ME. AND WE GOT A FRENCH DRAIN INSTALLED TO STOP THE WATER FROM COMING UNDER THE HOUSE ALONG THE PROPERTY LINE. BUT A LOT OF WATER WAS STILL COMING OVER NEAR THE FOUNDATION. SO, WE THEN CONSTRUCTED A BERM, AS WELL, TO STOP THAT SITUATION AND, AND GRADED A LITTLE SWALE DOWN THROUGH THERE.

Q. CAN I ASK YOU IF -- IS THE BERM ON YOUR PROPERTY OR THE CHURCH PROPERTY?

A. WELL, IT'S ON THE CHURCH PROPERTY, MOST OF IT. UH, BASED ON THE, THE LINE THAT -- THE SURVEY THEY DID, I WENT OUT AND PULLED A STRING LINE ON IT JUST THE OTHER DAY TO SORT OF -- BECAUSE IT -- THE, THE PROPERTY LINE, AS THE SURVEY STAKES HAVE -- I DIDN'T PUT THEM IN, THE, THE SURVEYORS DID. IT ACTUALLY GOES AT AN ANGLE AND STARTS CUTTING IN TOWARDS THE WALL OF THE HOUSE. IT LOSES SIX (6) INCHES JUST OVER SIXTY (60) FEET. AND THAT PROPERTY LINE GOES BACK FIVE HUNDRED (500) FEET OR SOMETHING DOWN IN THERE.

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SO, I'M NOT SURE WHETHER IT -- I MEAN, I, I WOULD BE SHOCKED IF IT THEN TURNS AND GOES BACK OUT. SO, IF IT CONTINUES TO RUN IN THAT STRAIGHT LINE, UM, ALMOST ALL OF THAT BERM, ALL THE LANDSCAPE PLANTS THAT WE'VE PLANTED, EVERYTHING, WOULD BE ON THE CHURCH'S PROPERTY. UM, SO, TO, TO JUST -- AND, AND IT'S WHAT I'VE WRITTEN, AS WELL. WE ALSO -- I MARRIED CINDY RIGHT ABOUT THAT TIME. WE GOT, UH, -- STARTED GETTING A TON OF MICE IN THE HOUSE. THEY PROBABLY WERE ALWAYS THERE; I JUST DIDN'T KNOW IT. AND WE'RE HAVING A REAL PROBLEM WITH IT. AND, OF COURSE, WITH THE MICE, THE SNAKES COME IN BEHIND THEM BECAUSE THEY WANT TO EAT THEM. SO, WE HAD SMALL CHILDREN AND WE GOT AN EXTERMINATOR UP THERE. THIS WAS IN THE MID-NINETIES. AND HE TOLD US -- THE, THE FIELD WAS ABOUT HEAD HIGH AT THAT TIME. IT WOULD BE BUSH HOGGED MAYBE TWICE A YEAR BY THE CHURCH. I THINK THEY, BY THEN, -- WELL, YEAH, I GUESS THEY WERE THE OWNERS OF IT. SO, HE TOLD US, "IF YOU DON'T MOW THAT FIELD, YOU'RE NEVER GOING TO GET RID OF THESE RATS AND, AND THE FIELD MICE." SO, SHE WENT UP AND SPOKE TO THE PASTOR AT THE TIME, AND TOLD HIM OUR PROBLEM. AND SAID, "YOU KNOW, WE'LL MOW THAT SECTION, BUT WE, WE'VE GOT TO KEEP IT DOWN, LIKE, FINISH MOWED. YOU CAN'T -- IF YOU BUSH HOG AND IT'S STICKING UP A FOOT, FIELD MICE ARE GOING TO JUST RUN RIGHT THROUGH IT." AND HE SAID, "THAT'S FINE. Y'ALL DO WHAT YOU NEED TO DO." SO, WE STARTED THEN

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EXEMPT

MAY - 6 2003

BOOK 2037 PAGE 438

REC'D LATHAN & BARBARE, P. A.

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

2003 MAY 6 P 3:52

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, that First Baptist Church of Travelers Rest, a/k/a First Baptist Church, Travelers Rest, South Carolina and a/k/a Trustees of First Baptist Church of Travelers Rest, in consideration of One Dollar and No/100 ($1.00) and love and affection, the receipt of which is hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto:

First Baptist Church of Travelers Rest
South Carolina, a non-profit South Carolina
corporation
20 McElhaney Road
Travelers Rest, South Carolina 29690

THE property shown on Exhibit "A" attached hereto.

TMS #0493.00-02-018.00, 0493.00-03-004.00, and 0493.00-03-005.00

THIS conveyance is subject to all restrictions, setback lines, roadways, zoning ordinances, easements and rights of way appearing on the property and/or of record.

THE purpose of this deed is to transfer all property in to the proper name of First Baptist Church of Travelers Rest South Carolina.

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the Grantee, its successors and assigns, forever. And, the Grantor does hereby bind the Grantors and its successors, assigns, executors and administrators to warrant and forever defend all and singular said premises unto the Grantee, its successors or assigns and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the Grantors' Hands and Seals this 5th day of May, 2003.

52091

05-06-03 M OR7023 RECORDING FE 11.00

PLAINTIFF'S EXHIBIT 31 Batson 3-6-20

FIRST BAPTIST CHURCH OF TRAVELERS REST
A/K/A
FIRST BAPTIST CHURCH, TRAVELERS REST, SOUTH CAROLINA
A/K/A
TRUSTEES OF FIRST BAPTIST CHURCH OF TRAVELERS REST

By: Charles K Kelley
Charles K. Kelley, Trustee

By: Roy Wood
Roy Wood, Trustee

By: Brenda M Tate
Brenda M. Tate, Trustee

IN THE PRESENCE OF:

Kathy H. Rollins
WITNESS

NOTARY PUBLIC

ELECTRONICALLY FILED - 2020 Jun 08 10:06 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

BOOK 2037 PAGE 440

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

PROBATE

PERSONALLY appeared the undersigned witness and made oath that (s)he saw the within named sign, seal and as its act and deed, deliver the within written deed, and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

Kurt K. Rollins
WITNESS

SWORN to before me this 5th day of May, 2003.

(LS)
Notary Public for South Carolina

My commission expires: 10-12-09

TITLE TO REAL ESTATE
Page 3

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EXHIBIT "A" BOOK 2037 PAGE 441

PARCEL ONE:

ALL those certain pieces, parcels or lots of land together with all improvements located thereon, situate, lying and being in the County of Greenville, State of South Carolina, being shown as Lots Nos. 11, 12, 13, 14, 15, 16 and part of Lot No. 1 on a plat of the Subdivision of Carl R. Vest recorded in the Register of Deeds for Greenville County in Plat Book B at Page 184 and plat Book V at Page 7 together with three (3) lots on the plat of the Town of Travelers Rest and one-fourth (1/4) of an acre from G. W. Bridwell, and having, in the aggregate, the following metes and bounds, to-wit:

BEGINNING at an iron pin at the northeastern corner of the intersection of McElhaney Road and Cooper Sreet and running thence along Cooper Street, N.50-30 W. 210 feet to an iron pin; thence with said Street, N.23-30 W. 109.3 feet to an iron pin; thence with said Street, N. 23 W. 450 feet to an iron pin; thence continuing with Cooper Street, N.61-30 E. 190 feet to an iron pin; thence S. 23 E. 149.4 feet to an iron pin; thence S.40-10 E. 311 feet to an iron pin; thence N.40-30 E. 105 feet to an iron pin; thence along Thacker, S.49-30 E. 210 feet to an iron pin on the northwestern side of McElhaney Road; thence with said Road, S.40-30 W. 105 feet to an iron pin; thence with said Road, S.39-30 W. 315 feet to the point of beginning, and being shown on Greenville County Block Book as #0493.00-02-018.00 and being the same property conveyed to the Church in various names in Deed Book 815, page 276; Deed Book 772, page 438; Deed Book 646, page 343; Deed Book 586, page 332; Deed Book 362, page 126; Deed Book 83, page 410 and Deed Book 23, page 130.

PARCEL TWO:

ALL that certain piece, parcel or tract of land together with all improvements located thereon, situate, lying and being in the County of Greenville, State of South Carolina, in the Town of Travelers Rest and being shown as part of Lot No. 5 of the J. D. Cooper Estate and having the following metes and bounds, to-wit:

BEGINNING at an iron pin on the northwestern side of McElhaney Road at the western intersection of Cooper Street and running thence along Cooper Street, N. 49 W. 203.94 feet to an iron pin; thence with said Street, N. 24 W. 209.22 feet to an iron pin; thence with Benson, S. 41 W. 104.28 feet to an iron pin; thence S.24 E. 209.22 feet to an iron pin; thence S. 49 E. 190.08 feet to an iron pin on the northwestern side of McElhaney Road; thence with said Road, N. 51 E. 105.6 feet to an iron pin at the point of beginning and being the same property conveyed to said Church in Deed Book 41, page 209 and Deed Book 1180, page 735 and limited to use for a parsonage for a Baptist Church only and subject to a right of way for sewer to the Town of Travelers Rest in Deed Book 860, page 224, and being shown on Greenville County Block Book as #0493.00-03-004.00.

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PARCEL THREE:

ALL that certain piece, parcel or tract of land together with all improvements located thereon, situate, lying and being in the County of Greenville, State of South Carolina, containing 3.44 acres, more or less, and being shown on a plat entitled "Survey for Carroll Smith", dated July 3, 1984 prepared by W.R. Williams, Jr., RLS, recorded in the Register of Deeds for Greenville County in Plat Book 10-T at Page 4, and having, according to said plat, the following metes and bounds, to-wit:

BEGINNING at an iron pin on the northwestern side of McElhaney Road at the joint corner with First Baptist Church of Travelers Rest and running thence along said road, S.52-31 W. 246.3 feet to an old bolt; thence N.37-52 W. 562.1 feet to an iron pin at the creek; thence N.30-43 E. 198.6 feet to an old iron pin; thence S.50-52 E. 196.2 feet to an old iron pin; thence N.39-07 E. 150.0 feet to an iron pin on Cooper Street; thence with said street, S.22-30 E. 96.3 feet to an iron pin; thence S.43-00 W. 74.9 feet to an iron pin; thence S.22-00 E. 209.2 feet to an iron pin; thence S.47-00 E. 175.1 feet to an iron pin at the point of beginning.

THIS is the same property as that conveyed to First Baptist Church of Travelers Rest by deed of Travelers Rest Baptist Church, Baptist Church of Travelers Rest and Travelers Rest First Baptist Church recorded in the Register of Deeds for Greenville County in Deed Book 967 at Page 175 on February 12, 1973. Reference is also made to Deed Book 41 at Page 209 on October 12, 1916 and Deed Book 1180 at Page 735 on January 13, 1983. Reference is also made to Deed Book 23 at Page 103; Deed Book 83 at Page 410; Deed Book 362 at Page 126; Deed Book 586 at Page 332; Deed Book 772 at Page 483; Deed Book 646 at Page 343 and Deed Book 815 at Page 276. THIS the same property as that conveyed to Trustees of First Baptist Church of Travelers Rest by deed of Carroll W. Smith and Catherine M. Smith recorded in Deed Book 1496 at Page 369 on November 24, 1992.

FILED FOR RECORD IN GREENVILLE
COUNTY SC R.O.D. OFFICE AT 03:52 PM
05 06 03 RECORDED IN DEED
BOOK 2037 PAGE 0438 THRU 0442
DOC # 2003052091

Judy B. Hix

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SO, I'M NOT SURE WHETHER IT -- I MEAN, I, I WOULD BE SHOCKED IF IT THEN TURNS AND GOES BACK OUT. SO, IF IT CONTINUES TO RUN IN THAT STRAIGHT LINE, UM, ALMOST ALL OF THAT BERM, ALL THE LANDSCAPE PLANTS THAT WE'VE PLANTED, EVERYTHING, WOULD BE ON THE CHURCH'S PROPERTY. UM, SO, TO, TO JUST -- AND, AND IT'S WHAT I'VE WRITTEN, AS WELL. WE ALSO -- I MARRIED CINDY RIGHT ABOUT THAT TIME. WE GOT, UH, -- STARTED GETTING A TON OF MICE IN THE HOUSE. THEY PROBABLY WERE ALWAYS THERE; I JUST DIDN'T KNOW IT. AND WE'RE HAVING A REAL PROBLEM WITH IT. AND, OF COURSE, WITH THE MICE, THE SNAKES COME IN BEHIND THEM BECAUSE THEY WANT TO EAT THEM. SO, WE HAD SMALL CHILDREN AND WE GOT AN EXTERMINATOR UP THERE. THIS WAS IN THE MID-NINETIES. AND HE TOLD US -- THE, THE FIELD WAS ABOUT HEAD HIGH AT THAT TIME. IT WOULD BE BUSH HOGGED MAYBE TWICE A YEAR BY THE CHURCH. I THINK THEY, BY THEN, -- WELL, YEAH, I GUESS THEY WERE THE OWNERS OF IT. SO, HE TOLD US, "IF YOU DON'T MOW THAT FIELD, YOU'RE NEVER GOING TO GET RID OF THESE ~~RATS AND, AND THE FIELD MICE."~~ SO, SHE WENT UP AND SPOKE TO THE PASTOR AT THE TIME, AND TOLD HIM OUR PROBLEM. AND SAID, "YOU KNOW, WE'LL MOW THAT SECTION, BUT WE, WE'VE GOT TO KEEP IT DOWN, LIKE, FINISH MOWED. YOU CAN'T -- IF YOU BUSH HOG AND IT'S STICKING UP A FOOT, FIELD MICE ARE GOING TO JUST RUN RIGHT THROUGH IT." AND HE SAID, "THAT'S FINE. Y'ALL DO WHAT YOU NEED TO DO." SO, WE STARTED THEN

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MOWING THAT STRIP ALONG THROUGH THERE AT THAT POINT.

Q. WHEN YOU SAY "THAT STRIP," ARE YOU TALKING ABOUT FORTY (40) FEET OR ---

A. WE CURRENTLY MOW, FINISH MOW -- I THINK I MEASURED IT OFF -- ABOUT SEVENTY-FIVE (75) FEET. AND WE BUSH HOG A SECTION THAT GOES BETWEEN THAT AND THE LARGE DEAD TREE IN THE CENTER. QUARTERLY, I BUSH HOG THAT WITH MY BUSH HOG. UM, SO, THE TOTAL AREA OF OUR MAINTENANCE IS A HUNDRED AND TWENTY-TWO (122) FEET UP THAT I MEASURED THAT OTHER DAY AND GOES BACK FOR THREE HUNDRED (300) FEET, ROUGHLY.

Q. A HUNDRED AND TWENTY-TWO (122) FEET FROM YOUR LINE BACK ---

A. FROM MY -- YES, UP ---

Q. --- UP TO THE CHURCH?

A. --- TOWARDS THE CHURCH.

Q. PERPENDICULAR TO THE ---

A. THAT'S RIGHT. WE FINISH MOW IT WEEKLY. ESPECIALLY IN THE ACTIVE SEASON. WE FINISH MOW ABOUT SEVENTY-FIVE (75) FEET BY THREE HUNDRED (300) FEET AND WE HAVE DONE THAT EVER SINCE THE '90S, YOU KNOW.

Q. HAVE YOU ALSO SEEN ANYONE FROM THE CHURCH MAINTAIN THAT PROPERTY?

A. THEY, THEY STOPPED THEIR MOWING, UM, -- WHAT HE -- WHAT IT, IT APPEARS TO ME -- I MEAN, I, I SEE HIM MOW ONCE IN A BLUE MOON WHEN WE JUST HAPPEN TO BE THERE. UM, HE MOWS --

GETTING IN THE HOUSE AND LIVING THERE. THAT WAS A BIG PROBLEM WHEN I WAS A POLICE OFFICER IN THE CITY, AS WELL. AND NUMBER TWO (2), JUST THE AMOUNT OF PEOPLE COMING AND GOING. AND SO, WHAT WE DID WAS WE EXTENDED THE DOG FENCE OUT THERE INTO THE FIELD SO THAT FOLKS JUST NATURALLY, BECAUSE OF THAT, WANT TO WALK AROUND THAT AREA. SO, THEY WALK AROUND, YOU KNOW, THE -- WE HAD ONE (1) PERSON THAT -- YOU DON'T SEE MUCH OF THE TRAFFIC ANYMORE. BUT THERE WAS ONE (1) JUST THE OTHER WEEK AND IT WAS JUST SORT OF TESTING IT OUT TO SEE IF THEY COULD GET THROUGH THERE AND THEY WENT ON AROUND. BUT ---

Q. ALL RIGHT. DID YOU SPEAK TO ANYBODY AT THE CHURCH ABOUT PUTTING THE DOG FENCE ON THE CHURCH'S PROPERTY?

A. I DID NOT; NO, SIR.

Q. DO YOU KNOW OF ANYBODY ELSE THAT DID?

A. MY WIFE MAY HAVE TALKED TO ONE OF THE PASTORS. I DON'T KNOW. UH, THE DOG FENCE, I DON'T KNOW.

Q. AND PART OF IT IS ON THE CHURCH PROPERTY, THOUGH?

A. YES, SIR.

Q. OKAY. ALL RIGHT. YOU, YOU SAY -- IF YOU LOOK ON PAGE FOUR (4), ---

A. YES, SIR.

Q. --- PARAGRAPH SIX (6) YOU "PROVIDED LANDSCAPING SERVICES FOR THE MAINTAINING AND UPKEEP OF THE VACANT LOT ---

A. YES, SIR.

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Q. --- AS PART OF HIS EXERCISE OF DOMINION AND CONTROL." ALL RIGHT. OTHER THAN THE MOWING THAT YOU HAVE SPOKEN OF TO KEEP THE ---

A. UH-HUH. (AFFIRMATIVE)

Q. --- THE MICE DOWN AND THE BERM TO KEEP THE SURFACE WATER OFF, WHAT, WHAT ELSE HAVE YOU DONE WITH REGARDS TO THE PROPERTY?

A. ALL OF, UM, ALL OF THE SHRUBBERY THAT YOU SEE ON THAT BERM, ALL THE FINISH LANDSCAPING. I THINK THERE'S SOME LIGHTING IN THERE, AS WELL. ALTHOUGH WITH THOSE DOGS BACK THERE -- UM, THIS MAPLE TREE RIGHT HERE, UM, WAS PLANTED BY US IN ORDER TO -- THE, THE, THE SUN IS JUST BRUTAL ON THAT LOT BECAUSE IT ISN'T WOODED, UH, AT LEAST NOT OUT IN THAT SECTION. WE PLANTED THAT TREE, UM, ---

Q. IS THAT -- YOU'RE REFERRING A TREE SHOWN IN EXHIBIT NINE (9)?

A. YES, SIR.

Q. IS THAT TREE ON THE CHURCH PROPERTY?

A. IT IS. BASED ON, BASED ON WHERE THEY PULLED THE LINE, YOU KNOW, THIS, THIS TIME. UM, ALL OF THAT WE DID BECAUSE THE BERM -- AGAIN, TO TRY TO CONTROL EROSION AND THE AMOUNT OF WATER THAT COMES DOWN THROUGH THERE. IT'S JUST -- WATER DOES GO DOWN IN IT. I WANTED TO DO TWO (2) THINGS AS A, AS A PROFESSIONAL IN THE BUSINESS. NUMBER ONE (1), STOP IT FROM ENTERING, AND NUMBER TWO (2), GIVE IT A PLACE TO

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A. WE WENT -- I WENT ONCE, I KNOW, I THINK IN THE LATE 2000'S. I SPOKE WITH A GENTLEMAN -- I THINK THE CHURCH OFFICE USED TO BE OVER IN, IN A HOUSE THAT'S NEXT DOOR. AND I WENT IN THERE AND INTRODUCED MYSELF AND EXPLAINED THE SITUATION WHEN WE WERE BEGINNING TO STORE MORE EQUIPMENT UP THERE. THAT WAS ALWAYS DOC SMITH'S SHOP BACK THERE. I JUST HAD TO RE-DO IT AND TEAR SOME STUFF DOWN AND MOVE SOME THINGS AROUND. BUT THE, UM, -- SHE WOULD BRING IT UP OR I WOULD AND ALWAYS SAY, YOU KNOW, IF, IF THE SITUATION EVER CHANGES AND THE CHURCH -- WE, WE WOULD LIKE TO JUST OWN THAT STRIP, YOU KNOW, AT LEAST ENOUGH OF IT TO GO OUT AND BACK. WE'VE MADE NUMEROUS MENTIONS OF THAT. IT'S -- I'VE, I'VE MENTIONED IT TO MR. BURGESS, OBVIOUSLY, SO ---

Q. THIS WAS ALL ORAL?

A. YES.

Q. ON THE LAST PAGE, THE NEXT TO THE LAST PARAGRAPH, YOU MENTION "BY KEEPING OUR FOOTPRINT TO A MINIMUM."

A. UH-HUH. (AFFIRMATIVE)

Q. WHAT, WHAT, WHAT FOOTPRINT?

A. WELL, FOR EXAMPLE, UM, THE DUMP TRUCK AND TRAILER, I TRY TO ONLY HAVE IT THERE -- LIKE, RIGHT NOW I HAVE A JOB TWO (2) MILES UP THE ROAD. SO, I HAVE TO GO OUT AND BACK. WE ALSO KEEP A LOT OF OUR EQUIPMENT AT, UH, TWIN STORAGE, UH, TOM CORBIN OWNS OVER THERE, JUST DOWN THE STREET FROM US.

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Attachment "A" 4/9/12 Meeting

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Temporary Right of Access Agreement

THIS AGREEMENT dated as May 1, 2012 between **Mr. Thomas Craig Skelton**, of 108 McElhaney Road, Travelers Rest, SC (the "Mr. Skelton") and **First Baptist Church Travelers Rest**, of 20 McElhaney Road, Travelers Rest, SC(the "FBTR").

WHEREAS:

(A) Mr. Skelton is the registered owner of the property municipally known as 108 McElhaney Road, Travelers Rest, SC and legally described as Residential Single-Family Dwelling.

(B) FBTR is the registered owner of the property municipally known as 104 McElhaney Road, Travelers Rest, SC and legally described as property of First Baptist Church Travelers Rest (House of Worship)..

(C) Mr. Skelton wishes to obtain temporary access over a portion of the FBTR's Property for the purposes of allowing occasional light vehicle access to the rear of the First Party's Property.

NOW THEREFORE in consideration of the mutual covenants and conditions hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. FBTR hereby grants to the Mr. Skelton a temporary right, during the term of this Agreement, for he and his agents, and invitees, to access the westerly forty feet by three-hundred fifty feet of FBTR's Property, immediately adjacent to Mr. Skelton's Property, specifically for the purpose of occasional light vehicle traffic access.

2. FBTR accepts no responsibility whatsoever for any losses or damages (personal or property) which Mr. Skelton or his agent(s) suffer or incur as a result of accessing the designated property. Mr. Skelton hereby agrees to indemnify FBTR against any losses suffered or claims made against FBTR by the Mr. Skelton or his agents, invitees and others who access said property pursuant to the rights given to this Agreement.

3. Mr. Skelton agrees to repair any damage caused to the FBTR Property as a result of such access and will restore the accessed area to its original condition, if requested by the FBTR, within 30 days of written request.

4. Mr. Skelton agrees to construct neither temporary nor permanent structures or fixtures, or store, discard debris or any foreign materials on said property.

5. This Agreement is not transferable and shall be considered void if Mr. Skelton is no longer the legal owner of the property located at 108 McElhaney Road, Travelers Rest, SC.

6. This Agreement is limited to one calendar year from the stated date of this Agreement, May 1, 2012 and but is renewable yearly on the anniversary of This Agreement. FBTR reserves the right to revoke this Agreement provided the extents of this Agreement are not met or adhered to.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto as of the date first above written.

Witness

MR. THOMAS CRAIG SKELTON

Witness

FIRST BAPTIST CHURCH TRAVELERS REST, SC TRUSTEE ROY WOOD

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Q. HAVE YOU, HAVE YOU CONSTRUCTED ANYTHING SINCE YOU'VE OWNED THE PROPERTY THAT BLOCKS THE DIRT DRIVE?

A. UH, RIGHT HERE THERE'S A LITTLE FENCE THAT COMES ACROSS RIGHT HERE; YES, SIR. (POINTING TO DOCUMENT)

Q. AND THAT'S A FENCE ACROSS YOUR PROPERTY?

A. UH-HUH. (AFFIRMATIVE) YES, SIR.

Q. OKAY. AND THERE'S A REFERENCE SOMEWHERE THAT A DECK. HAVE YOU CONSTRUCTED A DECK OVER HERE ---

A. YES, SIR. THERE'S A DECK OVER HERE THAT SORT OF COMES -- THIS, THIS, THIS -- THE HOUSE HAS GROWN, TOO, 'CAUSE WE BASICALLY DOUBLED THE SIZE OF IT ---

Q. ALL RIGHT.

A. --- IN 2008.

Q. AND, AND THE PROBLEM WITH THE INGRESS AND EGRESS THAT YOU'RE REFERRING TO IS THAT YOU HAVE BIG TRUCKS OR TRUCKS OR SOMETHING, TRAILERS, THAT YOU NEED -- OR IT'S DESIRABLE FOR YOU TO HAVE ROOM TO TURN THEM AROUND?

A. YES, SIR. AND, AND TO, AND TO BE ABLE TO COME AND GO IN A SAFE MANNER, AS WELL. BECAUSE MCELHANEY ROAD HAS GOTTEN SO BUSY, IT WOULD BE EXTREMELY DIFFICULT TO BACK A TRAILER IN THERE, FOR EXAMPLE, OR ANYTHING LIKE THAT. I JUST -- WE TRY TO AVOID THAT AT ALL COSTS. SO, WE TURN OUT AND COME DOWN THE PROPERTY LINE HERE WHERE THIS GRAVEL AREA IS HERE AND WE ENTER OUT INTO THE ROAD. (POINTING TO DOCUMENT)

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1st Letter Reports

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2/28/2019

First Baptist Church of Travelers Rest
20 McElhaney Rd.
Travelers Rest SC 29690

Dear Sirs,

I received your letter Friday, 15 February 2019. My wife contacted Mr. Batson shortly thereafter and requested a meeting with the deacons which your letter had indicated you were open to. In addition, my wife, also called the office in an attempt to set a meeting with the pastor and he declined that opportunity. Once Cindy, my wife, spoke with Mr. Batson she was informed that the church had said all it had to say and no further discussion was desired. After speaking with her, he did ultimately agree to bring this back up at the deacon's meeting this Sunday. The purpose of this letter is to ensure that all of the deacons understand the situation we are facing.

In 1992, within a few months of moving into my home I discovered serious drainage issues from the adjacent property, in addition to a severe rodent problem. I was advised by an exterminator to mow a minimum of 30' into the field to stop the mice from entering my home because at that time no one was maintaining the field. I was also forced to install a swale, berm, foundation drain and landscaping to solve the water issues at my own expense.

My wife and I have spoken with several pastors and deacons over the past 20 plus years and we were told by all of them that it was fine for us to use the lower portion of the field so that we could have ingress and egress to the rear of our property. In addition, a written agreement was also put into effect to codify this in writing. During the period I have lived here, I have mowed and bush hogged, grassed and fertilized the field at my expense. I have done this because the failure to do so would cause serious damage to my home and property.

I also want the deacons to understand that the access to the rear of my property cannot be gained in any other way but to go through the field due to the way the house is situated and the property line drawn. Even if I destroyed the tens of thousands of dollars' worth of irrigation, landscape lighting, zoysia sod, deck and plant material to build a road through it all, there would still not be enough room to use my shed and outbuildings as they were constructed. Based on the long-standing agreement with the church, along with having been assured several times that I would be given the opportunity to purchase the portion I need, I spent a great deal of money erecting structures to house all of my equipment and provide for shop space. In addition to this, please keep in mind that there is no way to reasonably conduct repairs or maintenance to that side of the house without crossing the property line. The 5' I do have is taken up with a berm and landscaping to keep said berm from eroding due to runoff. This berm is critical in keeping water from entering my crawl space. Prior to the berm's construction the crawl space and foundation piers were being greatly undermined by the influx of water.

I would also ask you to consider that under the current zoning and building codes no construction within 20' from my home would be permitted, meaning that, this area is largely a "dead zone" to any builder or developer. I looked at the tax maps this weekend and consulted with an attorney and a real estate agent

DEFENDANT'S EXHIBIT 2 Skelton 3-6-20

to see what options we might have available to satisfy the needs of the church and me so that this issue is permanently resolved for all of us without conflict.

While we are working on a permanent solution to this issue, we will make every good faith effort to comply with your request by keeping our footprint to a minimum. With that being said however, we have no choice but to use the field, as we have for many years, as an ingress and egress and to load equipment as it is the only safe way to do it.

I would be happy to meet with the deacons and church officers at your convenience. I have several options in mind to resolve this for both parties and I hope we can work together in good faith as Christians to find a resolution as the Bible teaches us. Please respond within seven days so we can resolve this issue promptly.

Sincerely,
Thomas C. Skelton
Phone: 864-430-0117

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STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	
COUNTY OF GREENVILLE	)	**FOR THE 13th JUDICIAL CIRCUIT**
	)	
Thomas C. Skelton,	)	C.A. No. 2019-CP-23-02476
	)	
Plaintiff,	)	
vs.	)	
	)	**SUPPLEMENTAL MEMORANDUM IN OPPOSITION TO SUMMARY JUDGMENT**
First Baptist Church of Travelers Rest, South Carolina, a non-profit corporation,	)	
	)	
Defendant.	)	

Thomas C. Skelton (Craig), through his undersigned counsel,[1] files this Supplemental Memorandum in Opposition to Defendants Motion for Summary Judgment. *South Carolina Rules of Civil Procedure*, Rule 58(a) states in part: A judgment is effective only when so set forth and entered in the record. The Supreme Court of South Carolina has also noted the long-held rule that:

> No order is final until it is written and entered….(judgments in general, and in divorce decrees in particular, are not final until written and entered). Until written and entered, the trial judge retains discretion to change his mind and amend his oral ruling accordingly.

First Union v. Hitman, Inc., 306 S.C. 327, 329, 411 S.E.2d 681 (Ct. App. 1991).

Facts in the Light Most Favorable to the Non-Moving Party

Craig is a former U.S. Army Ranger, squad leader for the Honor Guard at Arlington National Cemetery, and Greenville City Police S.W.A.T. team member.[2] He purchased his home in 1992 from Smith with an existing back building formerly used as a blacksmith shop. Craig started his landscaping business on the back of the property in 1994.[3] Craig's home and business are adjacent to Defendant's vacant lot (Vacant Lot), also purchased from Smith in 1993 but never used by

[1] Craig's initial counsel has left for an extended out-of-state trip. Additional counsel has been retained to file this Supplemental Memorandum.
[2] Skelton deposition, p. 6.
[3] Skelton deposition, p. 7.

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Defendant until recently. For almost 30 years, Skelton has openly maintained a portion of the Vacant Lot as his own:[4] building a berm to prevent flooding on his property[5], landscaping and planting trees[6], and placing an outbuilding in part on the Vacant Lot. Craig also extended his dog fence onto the Vacant Lot to keep trespassers from cutting through the property.[7] This adverse use is in addition to the use of the driveway on the Vacant Lot[8] or mowing to prevent infestations of mice and snakes. Vehicular access to the rear of Craig's property is only available across the Vacant Lot, meaning Craig cannot operate his business without this access. Therefore, his very livelihood is at stake.

Easement by Necessity

"In determining whether any triable issue of fact exists, as will preclude summary judgment, the evidence and all inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the nonmoving party." *Young v. S.C. Dep't of Corr*., 333 S.C. 714, 717, 511 S.E.2d 413, 415 (Ct. App. 1999).

South Carolina has long recognized the acquisition of an easement of right of way over another's land by necessity. *See Brasington v. Williams*, 143 S.C. 223, 238, 141 S.E. 375, 380 (1927). There is no dispute that the two properties were severed from a single tract. (Batson deposition, p. 13, ll. 5-13). Defendant testified that the driveway on the Vacant Lot was not for the purpose of accessing the house that originally stood on the Lot. (Batson deposition, p. 15, ll. 7-11). The inference, taken in the light most favorable to Craig, is that the driveway was necessary

[4] Craig, a father with small children, had a significant safety problem due to the unmaintained high grass on the Vacant Lot. This encouraged mice, then snakes, which ended up in Craig's house. (Skelton deposition, p. 12) When Defendants would not keep the grass cut, Craig had to do it.
[5] Skelton deposition, p. 11.
[6] Skelton deposition, p. 12-13, 16.
[7] Skelton deposition, p. 15
[8] The driveway on the Vacant Lot was dedicated to public use by the former owners in 1997-98. (Skelton Affidavit, ¶ 19).

to access the blacksmith shop at the rear of what is now the Skelton property at the time that the property was severed. (Skelton deposition, p. 30, ll. 10-20)

The necessity to access the rear of Craig's property from the Vacant Lot existed at the time of Craig's purchase and was not created by Craig. (Skelton deposition, p. 29, l. 9 – p. 33, l. 5). The driveway on the Vacant Lot was previously used to access a blacksmith shop on Craig's property. Craig testified that a septic tank and several pre-existing buildings on the property necessitated the use of the driveway on the Vacant Lot to access the rear of the property. (Skelton deposition, p. 30, l. 21- p. 31, l. 12). This portion of the property is not accessible to vehicles from the public road.

"South Carolina requires only 'reasonable necessity' to imply an easement: while the owner of the servient estate must prove more than convenience, he need not show the [easement] is absolutely necessary." *Graham v. Causey*, 284 S.C. 339, 341, 326 S.E.2d 412, 414 (Ct.App.1985), disapproved of on other grounds by *Jowers v. Hornsby*, 292 S.C. 549, 357 S.E.2d 710 (1987) (citations omitted).

There is a reasonable necessity even when an alternative route could be constructed at an expense. In *Hayes v. Tompkins*, 287 S.C. 289, 337 S.E.2d 888 (Ct.App.1985), the South Carolina Court of Appeals affirmed an easement by necessity when a piece of property abutted a public road for several hundred feet, but the property was "80 feet above the bottom of a gully found along the public road's western side" and had "draw[s]" obstructing access to the public road. *Id.* 287 S.C. at 292, 337 S.E.2d at 890. The Court of Appeals affirmed the only reasonable access to the property was a gravel road that crossed over a neighboring piece of property that was previously part of the same larger tract of land. *Id.*

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"The necessity required for easement by necessity must be actual, real, and reasonable as distinguished from convenient, but need not be absolute and irresistible." *Boyd v. Bellsouth Tel. Tel. Co.*, 369 S.C. 410, 420, 633 S.E.2d 136, 141 (2006). A necessity may exist if a portion of the property is inaccessible.

Boyd is directly on point. In *Boyd*, BellSouth used a driveway on its property to access the rear entrance of its building. BellSouth severed the lot into two parcels and sold the western parcel with the building to the City of Denmark. Boyd purchased his parcel from the City. Upon severance of the two parcels, Boyd's parcel was bounded on two sides by public streets, however, the rear entrance and loading docks were accessible by using BellSouth's driveway. Because there was evidence the front entrance did not provide access to the basement for the delivery of large items and an alternate driveway to the building would be infeasible, impractical, and very costly, the Court found there was a genuine issue of material fact that without this particular easement, there could be no other reasonable mode of enjoying the dominant tenement at the time of severance. Craig has similarly presented evidence, taken in the light most favorable to him, that the rear of the property cannot be feasibly accessed without the use of the driveway.

Craig has presented a genuine issue of material fact that the reasonable necessity for access to the rear of his property existed at the time that the property was severed, therefore, summary judgment should be denied.

Prescriptive Easement and Adverse Possession

Defendant's argument that there was no prescriptive easement or adverse possession because Craig had permission to use the Vacant Lot for egress and ingress overlooks the fact that he did not receive permission for any other adverse uses of the property. (Skelton deposition, p. 12, ll. 2-5; p. 1l. 5-20)

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Defendant submitted Craig's testimony that he was not given permission to erect a dog fence on the Vacant Lot. (Skelton deposition, p. 15, ll. 12-14) There is also no evidence that Craig received permission for the extensive landscaping that was performed or for the installation of power conduits across the Vacant Lot (Affidavit of Thomas C. Skelton). These actions go beyond an easement for ingress and egress and constitute an adverse possession of a portion of the Vacant Lot. "[W]hen it appears that claimant has enjoyed an easement openly, notoriously, continuously, and uninterruptedly, in derogation of another's rights, for the full period of 20 years, the use will be presumed to have been adverse." *Williamson v. Abbott*, 107 S.C. 397, 400, 93 S.E. 15, 16 (1917).

Craig has presented sufficient evidence of a genuine issue of material fact that he was acting adverse to any permission of the Defendant to constitute adverse possession or a prescriptive easement and summary judgment should be denied.

WHEREFORE, the Plaintiff requests this Court deny the Motion to for Summary Judgment.

s/Bradford N. Martin
Bradford N. Martin, Esq. (SC Bar No. 3658)
Laura W. H. Teer, Esq. (SC Bar No. 16698)
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s/Robert C. Wilson, Jr.
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864.242.6251

June 18, 2020

ELECTRONICALLY FILED - 2020 Jun 26 10:50 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	
COUNTY OF GREENVILLE	)	**FOR THE 13th JUDICIAL CIRCUIT**
	)	
Thomas C. Skelton,	)	C.A. No. 2019-CP-23-02476
	)	
Plaintiff,	)	
vs.	)	
	)	**PLAINTIFF'S MOTION TO ALTER OR AMEND**
First Baptist Church of Travelers Rest, South Carolina, a non-profit corporation,	)	
	)	
Defendant.	)	

TO: DEFENDANT AND ITS ATTORNEY, O.W. BANNISTER, ESQ.:

YOU WILL PLEASE TAKE NOTICE that the undersigned, as attorneys for the Plaintiff, will move before the Honorable Perry H. Gravely, at such time and place as Judge Gravely may designate, pursuant to Rules 52(b) and 59(e) of the South Carolina Rules of Civil Procedure, for an oral hearing to reconsider, alter, amend, and/or make additional findings, to his Order filed June 18, 2020, granting Defendant's Motion for Summary Judgment. Plaintiff's Motion is based on the following:

1. The granting of Summary Judgment to the Church that does not even use the 3.44 acre lot will effectively destroy the business of a former Army Ranger, Honor Guard Squad Leader at Arlington National Cemetery, and Police S.W.A.T. Team member.

2. The Court's Order overlooks the fact that in determining whether any triable issues of fact exist, the trial court must view the evidence and all reasonable inferences which may be drawn therefrom in the light most favorable to the party opposing summary judgment. *Brockbank* v. *Best Capital Corp*., 341 S.C. 372, 534 S.E. 2nd 688 (2000).

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3. Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. *Baugus* v. *Wessinger*, 303 S.C. 412, 401 S.E.2d 169 (1991) .

4. Since it is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues. *Baughman v. Am. Tel. and Tel. Co*., 306 S.C. 101, 112, 410 S.E.2d 537, 543 (1991).

5. Evidence has been presented to the Court that Skelton purchased his home in 1992 from Smith with an existing back building formerly used as a blacksmith shop.[1] Defendant admits the adjacent vacant lot (Vacant Lot) was also purchased from Smith out of a common parcel formally enjoying unity of title.[2]

6. The rear of Skelton's property is inaccessible to vehicles except by use of the Vacant Lot's driveway which pre-existed Skelton's ownership and served the blacksmith business beforehand.

7. For almost 30 years, Skelton has openly maintained a portion of the Vacant Lot as his own: building a berm to prevent flooding on his property,[3] landscaping and planting trees,[4] and placing an outbuilding in part on the Vacant Lot. Skelton also installed a dog fence to encompass 41,300 sq. ft. in 2000 onto the Vacant Lot.[5] This adverse use is in addition to the use of the driveway on the Vacant Lot[6] or mowing to prevent infestations of mice and snakes.

---

[1] Skelton deposition p. 29 l. 9 – p. 30 l. 4
[2] Defendant's Answer, ¶14.
[3] Skelton deposition, p. 11.
[4] Skelton deposition, p. 12-13, 16.
[5] Skelton deposition, p. 15; Skelton Affidavit ¶19.
[6] The driveway on the Vacant Lot was dedicated to public use by the former owners in 1997-98. (Skelton Affidavit, ¶ 19).

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Adverse Possession

8. The Court's Order failed to address the fact that Skelton presented a genuine issue of material fact that his use of the Vacant Lot exceeds any permission for ingress or egress for his driveway and constitutes an adverse possession. 41,300 sq. ft. is a significant encroachment that Defendant admitted it knew about for years.[7]

9. Adverse possession requires possession, the possession must be continuous, hostile, open, actual, notorious, and exclusive for at least ten years. *Davis v. Monteith*, 289 S.C. 176, 345 S.E.2d 724 (1986). The 41,300 sq. ft. dog fence has been present for 20 years.

10. The parties agree that Skelton cultivated a portion of the Vacant Lot and erected a dog fence. Skelton thereby exercised open and exclusive control of these portions of the Vacant Lot. This presents a material fact, in the light most favorable to Skelton, of adverse possession.

11. The Court cites *Taylor v. Heirs of Taylor*, 419 S.E. 639, 799 S.E.2d 919 (2017) in its Order, in which the South Carolina Supreme Court states:

> For possession to be open and notorious, "the legal owner need not have actual knowledge the claimant is claiming property adversely, [but] the hostile possession should be so notorious that the legal owner by ordinary diligence should have known of it."

Using almost a quarter of the Vacant Lot for 20 years for a dog fence creates a material question of fact as to the adverse possession and the Church's knowledge and use of ordinary diligence to know of this adverse use.

[7] Batson deposition p. 65

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12. The Supreme Court further stated:

> [A]cts of ownership of open land for purposes of adverse possession need not include actual residency or occupancy. Moreover, activities that do not involve the creation of permanent structures on the land can be sufficiently open and notorious as to put the legal owner on notice that his land is being adversely possessed. *Id*. (internal citations omitted).

13. The Court's Order overlooks that Skelton presented a question of material fact that he possessed the property in question without permission when he landscaped the property, planted trees, and installed a 41,300 sq. ft. dog fence in addition to simply using the driveway for ingress and egress. These are open acts of exclusive control over the Vacant Lot, and all create a material question of fact.

14. Skelton testified that he was not given permission to erect a dog fence on the Vacant Lot[8] and Defendant presented no evidence that permission was ever given for the portion of the Vacant Lot adversely possessed.

15. There is also no evidence that Skelton received permission for the extensive landscaping that was performed or for the installation of power conduits across the Vacant Lot.[9] These actions go beyond a driveway easement for ingress and egress and constitute a material question of fact for adverse possession of a significant portion of the Vacant Lot.

16. Plaintiff therefore requests the Court to alter and amend its June 18th Order and deny summary judgment as to the adverse possession cause of action.

[8] Skelton deposition, p. 15, ll. 12-14
[9] Affidavit of Thomas C. Skelton

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Easement by Necessity

17. The elements of a claim for easement of necessity are 1) unity of title, 2) severance of title and 3) necessity. *Boyd v. Bellsouth Tel. Tel. Co.*, 369 S.C. 410, 418-19, 633 S.E.2d 136, 140-41 (2006).

18. Defendant admits there was unity of title and that the two properties were severed from a single tract.[10]

19. The Court's Order fails to address the fact that Skelton did not have to be operating his business from the rear of his property for the driveway on the Vacant Lot to be necessary to access this portion of the property.

20. Skelton testified that a blacksmith shop existed on his property prior to his purchase. Skelton is using the same building for his current business and testified that a septic tank and several pre-existing buildings on the property necessitated the use of the driveway on the Vacant Lot to access the rear of the property.[11]

21. Defendant testified that the driveway on the Vacant Lot was not for the purpose of accessing the house that originally stood on the Lot.[12] The inference, taken in the light most favorable to Skelton, is that the driveway was necessary to access the blacksmith shop at the rear of what is now the Skelton property at the time that the property was severed.[13] This is enough evidence of a material fact to defeat summary judgment as to necessity.

[10] Batson deposition, p. 13, ll. 5-13; Defendant's Answer ¶14
[11] Skelton deposition, p. 30, l. 21- p. 31, l. 12
[12] Batson deposition, p. 15, ll. 7-11
[13] Skelton deposition, p. 30, ll. 10-20

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22. Skelton presented a genuine issue of material fact that the necessity to access the rear of his property from the Vacant Lot existed at the time of his purchase.[14]

23. The Court's Order overlooks that South Carolina requires only "'reasonable necessity' to imply an easement: while the owner of the servient estate must prove more than convenience, he need not show the [easement] is absolutely necessary." *Graham v. Causey*, 284 S.C. 339, 341, 326 S.E.2d 412, 414 (Ct.App. 1985), disapproved of on other grounds by *Jowers v. Hornsby*, 292 S.C. 549, 357 S.E.2d 710 (1987) (citations omitted).

24. The Court's Order also fails to consider that a reasonable necessity exists even when an alternative route could be constructed at an expense. *Hayes v. Tompkins*, 287 S.C. 289, 337 S.E.2d 888 (Ct.App.1985) held that while the necessity required for an easement by necessity must be "actual, real, and reasonable as distinguished from convenient," it need not be "absolute and irresistible." *Boyd v. Bellsouth Tel. Tel. Co.*, 369 S.C. 410, 420, 633 S.E.2d 136, 141 (2006).

25. Plaintiff therefore requests that the Court alter and amend its June 18, 2020 Order and deny summary judgment on the easement by necessity cause of action.

THEREFORE, Plaintiff moves this Court for an Order altering, amending, and/or making additional findings of fact to his June 18, 2020 Order granting Defendant's Motion for Summary Judgment.

[14] Skelton deposition, p. 29, l. 9 – p. 33, l. 5

Respectfully Submitted,

s/Bradford N. Martin
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Laura W. H. Teer, Esq. (SC Bar No. 16698)
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June 26, 2020

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2019-CP-23-02476
	)	
	)	ORIGINAL
	)	
THOMAS C. SKELTON	)	
PLAINTIFF	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
FIRST BAPTIST CHURCH OF TRAVELERS REST	)	
	)	
DEFENDANT	)	

June 11, 2020
Greenville, South Carolina

B E F O R E:

THE HONORABLE PERRY H. GRAVELY, Judge.

A P P E A R A N C E S:

ROBERT C. WILSON, ESQ.
Attorney for the Plaintiff

OSCAR W. BANNISTER, ESQ.
Attorney for the Defendant

APRIL HERRON
Official Court Reporter

There were no witnesses.

There were no exhibits.

» > o < «

Certificate of Reporter 16

(WHEREUPON, the following proceedings were held via WebEx.)

COURT REPORTER'S NOTE: The video/audio faded in and out throughout the hearing, causing interruptions within the testimony. Those instances are denoted with -- [indiscernible] -- in the transcript.

THE COURT: All right, this is Thomas Skeleton vs. First Baptist Church of Travelers Rest. And we're going to be doing this hearing by WebEx. First of all, Mr. Wilson, if you'll identify yourself and who you represent.

MR. WILSON: Yes, sir. My name in Bob Wilson, I represent Thomas C. Skelton, who is in the room with a gentleman from the church. Mr. Skeleton is the Plaintiff. He lives on McElhaney Road, next to the church's property, which is this source of friction in this case.

THE COURT: All right, Mr. Bannister.

MR. BANNISTER: I represent First Baptist Church and Mr. Tate and Mr. Baxler are here in the room with us.

THE COURT: Okay, so I got to watch what I say, I didn't realize y'all had other people, I got to monitor myself. All right. As -- just for housekeeping matters, we also have Ryan Bondura, my

law clerk and April Herron is here as our court reporter. Both parties consent to having this by way of WebEx and waive any objections that there may be to any notice provisions?

Mr. Wilson, do you consent to that?

MR. WILSON: That's agreeable with me, Your Honor.

THE COURT: All right, Mr. Bannister?

MR. BANNISTER: We consent.

THE COURT: All right. This is a motion for summary judgment. Mr. Bannister, be glad to hear from you.

MR. BANNISTER: It is, Your Honor. And just by way of background, the parties own adjoining lots on McElhaney Road in Travelers Rest. Mr. Skeleton has been using portions of the church's property to get ingress and egress to the back of his lot. So the church decided that they kind of didn't want him using it anymore. So they brought a suit, it's got four causes of action. I'd like to take two of them together. One is he's asked for a prescriptive easement, like Mr. Skeleton has. And the other is adverse possession. Our argument on those, Judge, is both of those require the use of the property to be adverse to the church. [indiscernible] -- negates

the adverse possession. Attached to my memorandum is a letter written by Mr. Skeleton, February 28 of 2019. I'll just read one portion of it.

THE COURT: Is this the temporary agreement or is that just something separate?

MR. BANNISTER: This is a letter by Mr. Skelton to the church.

THE COURT: Oh, is it attached to your memo?

MR. BANNISTER: It is, Your Honor.

THE COURT: What is the date?

MR. BANNISTER: February 28, 2019.

Says, My wife and I have spoken with several pastors and deacons over the past 20 plus years and we were told by all of them that it was fine for us to use lower portions of the field so that we can have ingress and egress to the rear of our property. In addition, a written agreement was also put into effect codifying this in writing. During this period I lived there, I move bush hog, grass and fertilize the field at my expense. I done this because failure to do so would create a serious problem not only my property.

Judge, that is classic admission against interest. It establishes, out of the Plaintiff's own mouth, that he used the church's property with their

permission. So that negates both the prescriptive easement and the adverse possession. Because you can't have an adverse possession or adverse prescriptive easement if you use the property -- [indiscernible].

The other cause of action that he has is a de facto lease. That de facto lease has never been in writing, never been signed. There's no change in position, there's nothing to negate the statute of frauds. Which requires anything in writing over the land to last more than a year, to be in writing signed by the parties.

Finally, he has a cause of action for necessity. Necessity, Judge, cannot be created by the Plaintiff himself. In this case, the Plaintiff created the necessity by -- he was a police officer when he bought his property then became a landscaper. And then he wanted to use the back of this property which fronts on McElhaney Road. So he created the necessity that he now claims gives him a right to an easement across the church's property. Which would be a -- [indiscernible] -- change in the law of necessity. So for those reasons, we believe that we're entitled to summary judgment.

THE COURT: All right.

Mr. Wilson, will you move or move the computer around? All we see is the top your head.

MR. WILSON: Well, you didn't miss much, Your Honor. First of all, as to the prescriptive -- excuse me, as to the easement by necessity, the property that came out of Carol Smith's land, which is down below the church. There are two parcels separated out. One went to my fellow, Mr. Skelton, the balance of it went to the church. Mr. Skelton had a house. His house was there on the church property. And he has used the church's property to get back to the rear portion of his property. The necessity derives from the fact that Mr. Skeleton's property is too small, too narrow for him to get his trucks back there. He uses it for occasional parking for his landscaping and irrigation equipment. And the necessity arises from the fact that he can't get back there any other way.

Also, the property that was adjacent to my client's property had a house on it. There was a blacksmith shop back there, the church moved it. But there was a driveway along there. It's still there. The driveway is along the area. But that's where the necessity comes from. My guy can't use his property without crossing their property. And it's not on his

own creation, Your Honor.

THE COURT: Let me ask you this, the law of necessity, I thought was you had to be able to access your property. Now, if you have a -- does the law of necessity require that you have a specific type of use of your property, does that fall within necessity?

MR. WILSON: Yes, sir. His property was purchased for -- not only for residential use but for occasional parking for his business. He does not practice his business there, he's just bringing the trucks in and takes them out. And he does not have access -- he doesn't have a place to park on his property unless he uses this easement of necessity that we feel he's entitled to.

THE COURT: Do you have any authority that supports that argument?

MR. WILSON: Wilson on easements. I cited a case that sets the terms in my brief and if Your Honor will give me a second I'll look for it.

THE COURT: Okay, I can pull it up here too.

MR. WILSON: The -- The legal requirements of an easement by necessity are unity of title; which I've handed up, Your Honor. Severance of title. Are you there, Your Honor?

THE COURT: Yeah, I just got your memo pulled up.

MR. WILSON: Okay.

THE COURT: There -- all right.

MR. WILSON: And I cite the Brasington case from 1927. It's just before Bill Bannister started practicing law. It says, From the earliest period of our judicial history the acquisition of an easement of right of way over another's land, by necessity, has been clearly recognized and protected. Brasington is held to establish unity of title, the owner of the estate must show that his land and that of the owner of the servient estate once belonged to the same person.

That's the extent of the authority that I cite, Your Honor. The necessity is not -- does not necessarily have to be created or not created by the person claiming the easement of necessity.

To return to the primary thrust of Bill's argument, I'd ask Your Honor to look at Mr. Skeleton's affidavit. He put a fence, a dog fence, in there in 2000. It encompasses 41,000 square feet of the lower part of this land that abuts Mr. Skeleton's land. And it's an electronic dog fence. I think that despite the church's -- despite

him saying that the church had let him use the property for ingress and egress, the church did not let him use the property for example, for a dog fence to enclose -- to keep his dogs at hand and for other purposes. So while there may be an admission against interest, I dispute that, don't want to go into the linguistics of it. But I think that there are other uses that Mr. Skeleton's put the church's property to that is outside the scope of his so called admission against interest. And as a result, I think if he puts a fence up around that property, that's not an ingress and egress, that's outright adverse possession. It's possessing. Frankly, for the purposes of protecting his dogs.

That's in Mr. Skeleton's affidavit on the last page. At the -- at the chronology that's attached to it. It's on page -- well it doesn't have a number. It's number 19 and it was in 2000 that he installed the electric fence on the church property. He's also -- other than easements for ingress and egress, Mr. Skelton's also had -- [indiscernible] -- and so forth to reject the surface water. So the church has been gathering -- [indiscernible] -- Mr. Skeleton's land. So he has taken the property for other purposes than just a dog fence and for ingress and

egress.

So while there may have been some minimal threshold understanding about the use of the property for ingress and egress, there's certainly other uses that Mr. Skeleton is submitting the property to, other than what my dear friend, Mr. Bannister, claims is the admission against interest.

So the second point is -- and Bill's right, that prescriptive easement and adverse possession, essentially, requires the same amount of time, same amount of -- [indiscernible] possession -- regular use. But the statute says that if it's been cultivated and if it's been under dominion and control, it's adverse possession. Despite whatever else there may be in that letter -- [indiscernible] -- letter from my client. Who's trying to be neighborly, who's trying to, you know, come to some understanding with this neighbor just to use their land for ingress and egress. In essence, Your Honor, that's our argument.

THE COURT: All right.

Mr. Bannister, anything in response?

MR. BANNISTER: Yes, Your Honor. My understanding is that the electric fence is buried, the dog fences, they're there underground. That

hardly meets the description of open and notorious to bury a wire under ground then claim somebody else's property. That's open and it's not notorious.

Also, I wanted to correct an impression. Mr. Skeleton initially was a police man. He didn't have big trucks going in and out when he bought this property. He left the police force then went in the landscaping business. So this necessity arose because he went into the landscaping business. Not because he didn't have access to his property under the normal circumstances. So he has created the necessity which he now claims gives him a right to go across the church's property.

MR. WILSON: Your Honor, may I respond to that?

THE COURT: Yes.

MR. WILSON: He was -- can you see the bottom of my head now?

THE COURT: I can see you.

MR. WILSON: He was a cop. But the problem with Mr. Skeleton's use of the church's property is not just for the ingress and egress. I said a few minutes ago, he had to hire a surveyor to kill all the rodents and stuff coming over because surface water and the snakes and so forth. And he said he constructed burns -- [indiscernible] -- and swells to

protect his property. That's another form of adverse possession.

And I respect and think the world of Bill Bannister but some of the stuff he just argued, I don't know that it's in the record. Or at least I'm not aware if it and if it is, then I certainly apologize for saying it. But he's also -- also in his affidavit Mr. Skeleton adds that during the period from 1995 on, he not only had to hire an exterminator but he had to mow the field to protect his children from rats and snakes and other nuisance opposed by the church's failure to maintain the property.

And the adverse possession statute which controls, speaks of regularly cultivated and taking care of. And Mr. Skeleton has been doing that over the years. For at least 25 years. So I think that to take a conciliatory letter which tries to suppose a neighborly solution to this problem. And Mr. Skeleton needs the ingress and egress. Is, I think, there ought to be equitable estoppel that applies to it. But -- [indiscernible]--

But I think that Bill has characterized the dog fence under the ground. It's the dog fence under the ground that's keeping dogs in there. And if there's

a dog running loose on my land, I think that's a form of adverse possession in itself.

THE COURT: Not in Travelers Rest.

MR. WILSON: Well up there in Cleveland, where I live, if a dog comes on my property and I shoot him, there's going to be some trouble.

THE COURT: Much like Pickens, we have those kinds of rule that don't matter.

MR. WILSON: But that's my response to Bill's argument.

THE COURT: All right. Well, let me --

Mr. Bannister, unless you have anything else, I'm going to look at these affidavits and memos a little more carefully now that I've heard y'all's argument. And I'll let y'all know what I come up with.

MR. BANNISTER: Thank you, Your Honor.

MR. WILSON: Thank you, Your Honor.

THE COURT: All right, anything else? If not, we will end this hearing.

MR. WILSON: Your Honor, I don't know -- I'm going to ask this in front adversaries and friends alike, I'd to go home for the summer and let my heart continue to heal from the stress of practicing law. I hope that regardless of what the outcome of today's

hearing, that I can do that.

THE COURT: All right. Well, I'm not keeping you from doing that.

MR. WILSON: Thank you.

THE COURT: All right, bye.

MR. WILSON: Thank you, Judge.

(WHEREUPON, the proceedings were concluded.)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 11 day of June, 2020.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 1, 2020

April P. Herron

APRIL P. HERRON, Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT
OF COMMON PLEAS

Thomas C. Skelton,

Plaintiff,

vs.

First Baptist Church of
Travelers Rest, South Carolina,
A non-profit Corporation,

Defendant.

CA No.: 2019-CP-23-02476

COPY

DEPOSITION OF

THOMAS C. SKELTON

Pursuant to Notice of Deposition and/or agreement in the above-entitled case, a deposition was taken on the 6th of March 2020 beginning at approximately 9:58 a.m. attended by counsel as follows:

APPEARANCES:

ROBERT C. WILSON, Esquire
Wilson Law Firm
201 Whitsett Street
Greenville, South Carolina 29601
rcwjrlaw@gmail.com
Attorney for the Plaintiff

O. W. BANNISTER, Esquire
Bannister, Wyatt & Stalvey, L.L.C.
401 Pettigru Street
Greenville, South Carolina 29601
owbannister@bannisterwyatt.com
Attorney for the Defendant

ALSO PRESENT:
Gary Batson
Cindy Skelton

Deposition Reported By:
Melissa A. Hines, CR
Depositions And..., Inc.
(864) 235-3518

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Waiver: 4

Direct Examination by Mr. Bannister: 4

Certificate of Notary Public:. 34

Exhibits (Marked):

Defendant's Exhibit "1". 8

Defendant's Exhibit "2". 25

Pursuant to Notice and/or agreement to take depositions, the within deposition was taken by the above reporter, a Notary Public, as required under the South Carolina Rules of Civil Procedure, Rule 30, et al., by consent of all parties at The Wilson Law Firm, 201 Whitsett Street, Greenville, South Carolina.

The deponent and counsel agreed that both the reading over and signing of the deposition are hereby WAIVED.

** ** **

The deponent was duly sworn to tell the truth, the whole truth, and nothing but the truth concerning the matter herein.

DIRECT EXAMINATION BY MR. BANNISTER:

Q. WOULD YOU STATE YOUR NAME FOR US?

A. THOMAS CRAIG SKELTON.

Q. MR. SKELTON, HAVE YOU EVER BEEN -- HAD YOUR DEPOSITION TAKEN BEFORE?

A. I'VE BEEN IN COURT A LOT OF TIMES, BUT I DON'T THINK I'VE EVER HAD MY DEPOSITION TAKEN.

Q. WELL, THIS IS MY OPPORTUNITY TO ASK YOU SOME QUESTIONS AND, OF COURSE, YOUR ANSWERS ARE EXPECTED TO BE TRUTHFUL. IF YOU DON'T UNDERSTAND MY QUESTION, PLEASE LET ME KNOW; ---

A. UH-HUH. (AFFIRMATIVE)

Q. --- OTHERWISE, I'LL ASSUME THAT YOU UNDERSTOOD THE QUESTION AND THAT THAT'S YOUR ANSWER ---

A. YES, SIR.
Q. --- TO IT. AND, AGAIN, IF YOU NEED TO TAKE A BREAK, YOU CAN'T CONSULT WITH MR. WILSON.
A. RIGHT.
Q. BUT IF YOU NEED TO TAKE A BREAK, ---
A. SURE.
Q. --- YOU KNOW, WE, WE, WE CAN DO THAT. LET ME GET A LITTLE BIT OF BACKGROUND FROM YOU. HOW OLD ARE YOU NOW?
A. FIFTY-FOUR (54).
Q. AND WHAT'S YOUR EDUCATION?
A. UH, I WAS, UH, ALLOWED BY THE GREENVILLE COUNTY SCHOOL DISTRICT TO LEAVE HIGH SCHOOL IN THE TENTH (10TH) GRADE AND ATTEND COLLEGE. AND I GRADUATED FROM GREENVILLE TECH WHEN I WAS SEVENTEEN (17) YEARS OLD WITH A CRIMINAL JUSTICE DEGREE.
Q. ALL RIGHT. AND DID YOU FOLLOW THAT VOCATION, BEING A CRIMINAL JUSTICE GRADUATE?
A. WELL, I WANTED TO SERVE IN THE MILITARY, SO I -- AFTER LOOKING AT VARIOUS OPTIONS, I ENLISTED IN THE UNITED STATES ARMY AT SEVENTEEN (17) YEARS OF AGE ON A RANGER OPTION CONTRACT. UH, SPENT, UH, ALMOST THREE (3) YEARS IN THE SEVENTY-FIFTH (75TH) RANGER REGIMENT AND THIRD (3RD) RANGER BATTALION. UH, LEFT THERE, VOLUNTEERED FOR THE HONOR GUARD IN ARLINGTON. SPENT A YEAR THERE AS A SQUAD LEADER. UH, LEFT THERE AND WAS HIRED BY THE GREENVILLE

POLICE DEPARTMENT WHEN I GOT OUT OF THE ARMY. AND, UH, SPENT SIX (6) YEARS IN UNIFORM PATROL AND FOUR (4) OF THOSE YEARS ON THE, UH, S.W.A.T. TEAM.

Q. ALL RIGHT. WHEN DID YOU LEAVE THE POLICE DEPARTMENT?

A. IN 1994.

Q. IS THAT WHEN YOU STARTED YOUR CURRENT BUSINESS?

A. YES. YES, SIR; IT IS.

Q. ARE YOU AN L.L.C., A C-CORP OR WHAT?

A. WE HAVE A -- SKELTON GROUP, L.L.C. WE HAVE AN L.L.C. THAT'S ---

Q. WHEN, WHEN DID YOU FORM THAT?

A. THAT'S A GOOD QUESTION. I DON'T KNOW. (CHUCKLES) I, I DON'T KNOW.

BY MS. SKELTON: TWO THOUSAND (2000).

BY MR. WILSON: SHHH. SHHH.

Q. AND, AND THE NAME OF IT SKELTON, L.L.C.

A. SKELTON GROUP, L.L.C. IT'S, ---

Q. SKELTON GROUP.

A. --- IT'S, IT'S OWNED BY MY WIFE, NOT ME, SO ---

Q. SKELTON GROUP, L.L.C.?

A. L.L.C., I BELIEVE IS THE NAME OF IT; YES, SIR.

Q. OKAY. AND YOU'RE JUST AN EMPLOYEE PARTNER?

A. I SUPPOSE. I JUST WORK. I JUST GET UP AND GO TO WORK. I MEAN, YOU KNOW, I, I DON'T, I DON'T -- WE DON'T -- WE'RE, WE'RE A MOM AND POP BUSINESS, SO WE DON'T GET INTO THE

WEEDS INTO A LOT OF THE DETAILS LIKE THAT.

Q. OKAY. EXACTLY WHAT DO YOU DO IN YOUR BUSINESS?

A. UH, WE DO -- IN THAT BUSINESS, WE DO LANDSCAPE MAINTENANCE. WE DO LANDSCAPE CONSTRUCTION. WE DO DRAINAGE WORK. WE DO A LOT OF WORK WITH WATER IRRIGATION, DRAINAGE. WELL, I'VE JUST IN ALL THE DRAINS AROUND THE GREENVILLE COUNTY ART MUSEUM. I'VE DONE WORK FOR THE COUNTY. I'M ALSO A MASTER PLUMBER. I GOT MY MASTER PLUMBER'S LICENSE, OR CERTIFICATE, IN 1999 AND I USE THAT PRIMARILY FOR THE OUTDOOR -- WE DO OUTDOOR WATER PROBLEMS A LOT, HANDLE THOSE.

Q. OKAY. LET ME ASK YOU THIS, SINCE IT'S BEEN BROUGHT UP. DO YOU HAVE A BUSINESS LICENSE IN TRAVELERS REST?

A. NO, SIR; I DON'T.

Q. HAVE YOU APPLIED FOR ONE (1)?

A. WHEN WE GET A JOB IN TRAVELERS REST, WE DO. YEAH, WE MAKE SURE WE HAVE IT.

Q. BUT, DO YOU HAVE A BUSINESS LICENSE TO OPERATE OUT OF YOUR HOME ON MCELHANEY ROAD?

A. NO.

Q. ALL RIGHT. HAVE YOU BEEN IN CONTACT WITH TRAVELERS REST ABOUT GETTING PERMISSION OR BEING PROHIBITED FROM PRACTICING ---

A. NO, SIR.

Q. --- THERE?

A. THEY CONTACTED US IN JULY OF LAST YEAR. AND WE EXPLAINED THE SITUATION TO THEM AND THEY SAID, "SEND US AN E-MAIL ON IT," AND IT'S TAKEN CARE OF.
Q. ALL RIGHT. SO, YOU'RE ALLOWED BY TRAVELERS REST TO OPERATE YOUR BUSINESS ON MCELHANEY ROAD?
A. I SUPPOSE; YES, SIR. THEY DIDN'T TELL ME I COULDN'T.
Q. NO-, NOBODY'S STOPPED YOU?
A. NO, SIR.
Q. OKAY. ALL RIGHT. ARE YOU FAMILIAR WITH YOUR COMPLAINT THAT YOU FILED AGAINST THE BAPTIST CHURCH?
A. YES, SIR. I HAVE READ IT. IT'S BEEN A WHILE BACK.
Q. OKAY. I'M GOING TO ASK YOU SOME QUESTIONS ABOUT IT.
(DOCUMENT HANDED TO WITNESS)
BY MR. BANNISTER: I'M ASSUMING THAT HE HAS ONE, BUT ---
Q. JUST HAVE A LOOK AT THAT AND TELL ME IF YOU RECOGNIZE IT AS BEING THE COMPLAINT THAT YOU ---
A. YES, SIR. IT APPEARS TO BE, YEAH.
Q. --- FILED AGAINST THE BAPTIST CHURCH?
A. YES, SIR.
BY MR. BANNISTER: CAN WE MARK THAT AS EXHIBIT ONE (1).
(DEFENDANT'S EXHIBIT "1" MARKED & ENTERED)
BY MR. BANNISTER: LET HIM HAVE IT.
BY THE COURT REPORTER: (DOCUMENT HANDED TO WITNESS)
Q. NOW, IF, IF YOU WOULD, I WANT YOU TO LOOK AT PAGE THREE (3).

BY MR. WILSON: PAGE WHAT? I'M SORRY. PAGE WHAT?
BY MR. BANNISTER: PAGE THREE (3).
A. YES, SIR.
Q. AT THE TOP OF THE PAGE IN THE LAST SENTENCE BEFORE YOU COME TO PARAGRAPH THREE (3), IT SAYS, "UNDER LEASE WITH PLAINTIFF AND UNDER OPEN AND NOTORIOUS USE AND OCCUPANCY." WHAT LEASE WERE YOU REFERRING TO?
A. WELL, I WOULD HAVE TO DIRECT YOU TO MY ATTORNEY ON THAT. I DON'T -- WE DON'T HAVE A WRITTEN DOCUMENT FROM THE CHURCH. SO, I ASSUME, BASICALLY, THAT HE WAS LOOKING AT IT FROM THE STANDPOINT OF A FORCE AND EFFECT KIND OF A THING. BUT I DON'T KNOW. I'M NOT AN ATTORNEY.
Q. OKAY. HAD YOU EVER SEEN THIS TEMPORARY AGREEMENT WHICH WAS MARKED IN PLAINTIFF'S EXHIBIT AS EXHIBIT FOUR (4)?
A. NO, SIR.
Q. HAD YOU EVER SEEN THAT BEFORE?
A. NOT UNTIL IT WAS SENT BY Y'ALL; NO, SIR.
Q. OKAY. SINCE 1992, WHEN YOU BROUGHT YOUR PROPERTY, ---
A. YES, SIR.
Q. --- YOU HAVE USED THAT STRIP OF LAND THAT ADJOINS FIRST BAPTIST CHURCH WITH THEIR PERMISSION; IS THAT NOT TRUE?
A. YES, SIR. THAT'S -- WELL, DEPENDS ON, I GUESS, HOW YOU DEFINE "PERMISSION." WE'VE SPOKEN WITH SEVERAL PEOPLE UP THERE OVER THE YEARS, PASTORS AND VARIOUS PEOPLE. I MEAN, AS FAR AS HOW THEY VOTED ON IT OR SO FORTH AND SO ON, I

DON'T KNOW. BUT WE'VE COMMUNICATED, LIKE, WITH JOEL AND NUMEROUS PEOPLE.

Q. WELL, OKAY. DO YOU CONSIDER THAT YOU HAVE A LEASE WITH THE CHURCH TO USE THAT PROPERTY?

A. WHAT I CONSIDERED AND WHAT WE ALWAYS WERE TOLD THAT IT WAS FINE. IT WAS AN AGREEMENT. YOU KNOW, THERE'S -- I GUESS YOU WOULD CALL IT A HAND-SHAKE AGREEMENT IF YOU WANTED TO, IN THAT, IN THAT SENSE. UM, WHEN I SPOKE WITH JOEL, AND IT'S INDICATED IN THE E-MAIL, HE SAID THEY WOULD SEND ME SOMETHING IN WRITING. UM, BUT I NEVER SAW THAT, THAT LEASE, OR WHATEVER IT IS, OR ANYTHING.

Q. OKAY. WHAT WAS YOUR UNDERSTANDING OF THE AGREEMENT THAT YOU HAD WITH THE CHURCH FOR THE USE OF THAT -- OF THEIR PROPERTY, THE INGRESS AND EGRESS?

A. RIGHT. UH, AS WE EXPLAINED NUMEROUS TIMES, YOU KNOW, -- AND, AND THE PROBLEM BEGAN -- AND I WAS A VERY NEW HOMEOWNER. I HAD ALWAYS LIVED IN EITHER THE BARRACKS OR, YOU KNOW, AN APARTMENT OR SOMETHING LIKE THAT. SO, UH, I, I WAS NOT AN EXPERT ON HOUSE OWNERSHIP. BUT WHEN I MOVED IN, THE FIRST PROBLEM THAT, THAT I REALIZED WAS WE WERE GETTING A LOT OF WATER. THERE'S A HAND-BUILT BASEMENT UNDER THE HOUSE. IT WAS BUILT IN THE EARLY '20S, AND IT WAS UNDERMINING ONE OF THE PIERS. SO, MY STEP-FATHER, WHO'S NOW DECEASED, WAS A COMMERCIAL LANDSCAPER IN GREENVILLE FOR ABOUT THIRTY (30) YEARS, WHO DID A LOT OF

WORK WITH WATER, HIMSELF, CAME UP AND LOOKED AT IT. I'M STILL A POLICE OFFICER AT THIS POINT. AND HE SAID, "YOU'RE GOING TO NEED A FRENCH DRAIN ALONG THERE." AND I DIDN'T REALLY REALIZE HOW CLOSE THE PROPERTY LINE WAS. I JUST KNEW FROM WHEN I HAD PURCHASED IT THAT IT WAS TIGHT ON THIS SIDE OF THE HOUSE. SO, I WENT OUT THERE AND DUG THAT OUT BY HAND FOR A WHILE. THEN MY FATHER-IN-LAW CAME UP -- HER FATHER, THE MASTER PLUMBER, WITH HIS BACKHOE TO HELP ME OUT. 'CAUSE I THINK HE FELT SORRY FOR ME. AND WE GOT A FRENCH DRAIN INSTALLED TO STOP THE WATER FROM COMING UNDER THE HOUSE ALONG THE PROPERTY LINE. BUT A LOT OF WATER WAS STILL COMING OVER NEAR THE FOUNDATION. SO, WE THEN CONSTRUCTED A BERM, AS WELL, TO STOP THAT SITUATION AND, AND GRADED A LITTLE SWALE DOWN THROUGH THERE.

Q. CAN I ASK YOU IF -- IS THE BERM ON YOUR PROPERTY OR THE CHURCH PROPERTY?

A. WELL, IT'S ON THE CHURCH PROPERTY, MOST OF IT. UH, BASED ON THE, THE LINE THAT -- THE SURVEY THEY DID, I WENT OUT AND PULLED A STRING LINE ON IT JUST THE OTHER DAY TO SORT OF -- BECAUSE IT -- THE, THE PROPERTY LINE, AS THE SURVEY STAKES HAVE -- I DIDN'T PUT THEM IN, THE, THE SURVEYORS DID. IT ACTUALLY GOES AT AN ANGLE AND STARTS CUTTING IN TOWARDS THE WALL OF THE HOUSE. IT LOSES SIX (6) INCHES JUST OVER SIXTY (60) FEET. AND THAT PROPERTY LINE GOES BACK FIVE HUNDRED (500) FEET OR SOMETHING DOWN IN THERE.

SO, I'M NOT SURE WHETHER IT -- I MEAN, I, I WOULD BE SHOCKED IF IT THEN TURNS AND GOES BACK OUT. SO, IF IT CONTINUES TO RUN IN THAT STRAIGHT LINE, UM, ALMOST ALL OF THAT BERM, ALL THE LANDSCAPE PLANTS THAT WE'VE PLANTED, EVERYTHING, WOULD BE ON THE CHURCH'S PROPERTY. UM, SO, TO, TO JUST -- AND, AND IT'S WHAT I'VE WRITTEN, AS WELL. WE ALSO -- I MARRIED CINDY RIGHT ABOUT THAT TIME. WE GOT, UH, -- STARTED GETTING A TON OF MICE IN THE HOUSE. THEY PROBABLY WERE ALWAYS THERE; I JUST DIDN'T KNOW IT. AND WE'RE HAVING A REAL PROBLEM WITH IT. AND, OF COURSE, WITH THE MICE, THE SNAKES COME IN BEHIND THEM BECAUSE THEY WANT TO EAT THEM. SO, WE HAD SMALL CHILDREN AND WE GOT AN EXTERMINATOR UP THERE. THIS WAS IN THE MID-NINETIES. AND HE TOLD US -- THE, THE FIELD WAS ABOUT HEAD HIGH AT THAT TIME. IT WOULD BE BUSH HOGGED MAYBE TWICE A YEAR BY THE CHURCH. I THINK THEY, BY THEN, -- WELL, YEAH, I GUESS THEY WERE THE OWNERS OF IT. SO, HE TOLD US, "IF YOU DON'T MOW THAT FIELD, YOU'RE NEVER GOING TO GET RID OF THESE RATS AND, AND THE FIELD MICE." SO, SHE WENT UP AND SPOKE TO THE PASTOR AT THE TIME, AND TOLD HIM OUR PROBLEM. AND SAID, "YOU KNOW, WE'LL MOW THAT SECTION, BUT WE, WE'VE GOT TO KEEP IT DOWN, LIKE, FINISH MOWED. YOU CAN'T -- IF YOU BUSH HOG AND IT'S STICKING UP A FOOT, FIELD MICE ARE GOING TO JUST RUN RIGHT THROUGH IT." AND HE SAID, "THAT'S FINE. Y'ALL DO WHAT YOU NEED TO DO." SO, WE STARTED THEN

MOWING THAT STRIP ALONG THROUGH THERE AT THAT POINT.

Q. WHEN YOU SAY "THAT STRIP," ARE YOU TALKING ABOUT FORTY (40) FEET OR ---

A. WE CURRENTLY MOW, FINISH MOW -- I THINK I MEASURED IT OFF -- ABOUT SEVENTY-FIVE (75) FEET. AND WE BUSH HOG A SECTION THAT GOES BETWEEN THAT AND THE LARGE DEAD TREE IN THE CENTER. QUARTERLY, I BUSH HOG THAT WITH MY BUSH HOG. UM, SO, THE TOTAL AREA OF OUR MAINTENANCE IS A HUNDRED AND TWENTY-TWO (122) FEET UP THAT I MEASURED THAT OTHER DAY AND GOES BACK FOR THREE HUNDRED (300) FEET, ROUGHLY.

Q. A HUNDRED AND TWENTY-TWO (122) FEET FROM YOUR LINE BACK ---

A. FROM MY -- YES, UP ---

Q. --- UP TO THE CHURCH?

A. --- TOWARDS THE CHURCH.

Q. PERPENDICULAR TO THE ---

A. THAT'S RIGHT. WE FINISH MOW IT WEEKLY. ESPECIALLY IN THE ACTIVE SEASON. WE FINISH MOW ABOUT SEVENTY-FIVE (75) FEET BY THREE HUNDRED (300) FEET AND WE HAVE DONE THAT EVER SINCE THE '90S, YOU KNOW.

Q. HAVE YOU ALSO SEEN ANYONE FROM THE CHURCH MAINTAIN THAT PROPERTY?

A. THEY, THEY STOPPED THEIR MOWING, UM, -- WHAT HE -- WHAT IT, IT APPEARS TO ME -- I MEAN, I, I SEE HIM MOW ONCE IN A BLUE MOON WHEN WE JUST HAPPEN TO BE THERE. UM, HE MOWS --

I WOULD CALL IT FINISH MOWING -- DOWN -- AND I KNOW THAT USED TO BE SEVERAL LOTS. BUT HE COMES OVER MAYBE, I DON'T KNOW, SEVERAL HUNDRED FEET. AND THEN, OCCASIONALLY, WHAT HE'LL DO -- IT'S SORT OF LIKE WHAT I DO. AND WE'VE NEVER EVEN COMMUNICATED ON IT. IT JUST WORKS OUT. HE'LL BUSH HOG OR, OR HAVE TO MOW THE STUFF THAT GROWS UP THAT, THAT I DON'T GET. I SORT OF JUST STOP, GENERALLY SPEAKING, ABOUT HALF-WAY UP, IS WHAT WE DO. AND THEY HAVE ALWAYS KEPT THAT, THAT OTHER PART. SO, THEY DON'T ---

Q. OKAY.

A. NO, SIR. THEY DON'T, THEY DON'T COME DOWN THERE. AND IF THEY DID AND THEY WERE FINISH MOWING, A STRANGE PERSON IN THERE WITH, UM -- YOU KNOW, MY THREE (3) DOGS ARE, ARE SWEET, BUT TWO (2) OF THEM WERE STRAYS. IT'D, IT'D BE A, BE A BIT OF A ZOO DOWN THERE, YOU KNOW? UH, YOU, YOU'D -- THEY'D, THEY'D BE RAISING CAIN, YOU KNOW. THEY'D BE -- ANY TIME SOMEONE COMES -- WE HAD PROBLEMS WITH -- IT'S, IT'S A VERY ROUGH AREA BEHIND US BACK IN THERE. AND WHEN THE OLD HOUSE WAS THERE AND THEN EVEN AFTER THAT, PEOPLE WERE JUST CUTTING ACROSS THAT LOT ALL THE TIME, GOING UP TO THE STORE, HERE, THERE AND YONDER. A LOT OF THEM WERE VERY SKETCHY-LOOKING PEOPLE. WE HAD SMALL CHILDREN. SO, WE GOT OUR FIRST GERMAN SHEPHERD IN THE YEAR 2000. SHE'S NOW GONE AND TRUMP IS THERE, THE DOG. SO, WE, WE WERE A BIT WORRIED ABOUT THAT. NUMBER ONE (1), ABOUT THEM

GETTING IN THE HOUSE AND LIVING THERE. THAT WAS A BIG PROBLEM WHEN I WAS A POLICE OFFICER IN THE CITY, AS WELL. AND NUMBER TWO (2), JUST THE AMOUNT OF PEOPLE COMING AND GOING. AND SO, WHAT WE DID WAS WE EXTENDED THE DOG FENCE OUT THERE INTO THE FIELD SO THAT FOLKS JUST NATURALLY, BECAUSE OF THAT, WANT TO WALK AROUND THAT AREA. SO, THEY WALK AROUND, YOU KNOW, THE -- WE HAD ONE (1) PERSON THAT -- YOU DON'T SEE MUCH OF THE TRAFFIC ANYMORE. BUT THERE WAS ONE (1) JUST THE OTHER WEEK AND IT WAS JUST SORT OF TESTING IT OUT TO SEE IF THEY COULD GET THROUGH THERE AND THEY WENT ON AROUND. BUT ---

Q. ALL RIGHT. DID YOU SPEAK TO ANYBODY AT THE CHURCH ABOUT PUTTING THE DOG FENCE ON THE CHURCH'S PROPERTY?

A. I DID NOT; NO, SIR.

Q. DO YOU KNOW OF ANYBODY ELSE THAT DID?

A. MY WIFE MAY HAVE TALKED TO ONE OF THE PASTORS. I DON'T KNOW. UH, THE DOG FENCE, I DON'T KNOW.

Q. AND PART OF IT IS ON THE CHURCH PROPERTY, THOUGH?

A. YES, SIR.

Q. OKAY. ALL RIGHT. YOU, YOU SAY -- IF YOU LOOK ON PAGE FOUR (4), ---

A. YES, SIR.

Q. --- PARAGRAPH SIX (6) YOU "PROVIDED LANDSCAPING SERVICES FOR THE MAINTAINING AND UPKEEP OF THE VACANT LOT ---

A. YES, SIR.

Q. --- AS PART OF HIS EXERCISE OF DOMINION AND CONTROL." ALL RIGHT. OTHER THAN THE MOWING THAT YOU HAVE SPOKEN OF TO KEEP THE ---

A. UH-HUH. (AFFIRMATIVE)

Q. --- THE MICE DOWN AND THE BERM TO KEEP THE SURFACE WATER OFF, WHAT, WHAT ELSE HAVE YOU DONE WITH REGARDS TO THE PROPERTY?

A. ALL OF, UM, ALL OF THE SHRUBBERY THAT YOU SEE ON THAT BERM, ALL THE FINISH LANDSCAPING. I THINK THERE'S SOME LIGHTING IN THERE, AS WELL. ALTHOUGH WITH THOSE DOGS BACK THERE -- UM, THIS MAPLE TREE RIGHT HERE, UM, WAS PLANTED BY US IN ORDER TO -- THE, THE, THE SUN IS JUST BRUTAL ON THAT LOT BECAUSE IT ISN'T WOODED, UH, AT LEAST NOT OUT IN THAT SECTION. WE PLANTED THAT TREE, UM, ---

Q. IS THAT -- YOU'RE REFERRING A TREE SHOWN IN EXHIBIT NINE (9)?

A. YES, SIR.

Q. IS THAT TREE ON THE CHURCH PROPERTY?

A. IT IS. BASED ON, BASED ON WHERE THEY PULLED THE LINE, YOU KNOW, THIS, THIS TIME. UM, ALL OF THAT WE DID BECAUSE THE BERM -- AGAIN, TO TRY TO CONTROL EROSION AND THE AMOUNT OF WATER THAT COMES DOWN THROUGH THERE. IT'S JUST -- WATER DOES GO DOWN IN IT. I WANTED TO DO TWO (2) THINGS AS A, AS A PROFESSIONAL IN THE BUSINESS. NUMBER ONE (1), STOP IT FROM ENTERING, AND NUMBER TWO (2), GIVE IT A PLACE TO

GO. SO, IT NATURALLY TAILS OFF (INAUDIBLE) ---
BY MR. WILSON: (COUGHING) EXCUSE ME.
A. --- IN THE BACK. SO, WHAT I DO -- PERIODICALLY, I'LL HAVE TO RE-DO IT WITH MY SKID-LOADER ---
BY MR. WILSON: (COUGHING)
BY MR. BATSON: BLESS YOU.
A. --- AND I'LL JUST RE-GRADE THAT SWALE GENTLY. I'LL DRAG IT WITH THE TRACTOR. UH, WE GRASS WHEN NEED BE TO TRY TO KEEP AS MUCH OF THE GRASS ---
BY MR. WILSON: (COUGHING)
BY MR. BATSON: BLESS YOU.
A. --- HEALTHY. I'VE EVEN FERTILIZED OUT THERE JUST TO -- YOU KNOW, IT'S NOT IRRIGATED -- BUT JUST TO TRY TO KEEP A, A FULL STAND OF GRASS OUT THERE.
Q. ALL RIGHT. IF YOU LOOK DOWN IN PARAGRAPH SEVEN (7), YOU HAVE "ALLEGES THAT THE PLAINTIFF IS ENTITLED TO -- IS THE EQUITABLE OWNER OF THE PRESCRIPTIVE EASEMENT." WHAT ARE THE DIMENSIONS OF THE PRESCRIPTIVE EASEMENT THAT YOU ARE CLAIMING?
A. THE -- AND, AND THAT, I GUESS, IS A MATTER OF, YOU KNOW, UH, -- WE MAINTAIN THE HUNDRED AND TWENTY-TWO (122) FOOT BY THREE HUNDRED (300) FOOT AREA. UM, AS FAR AS WHAT WE DRIVE ON AND, AND USE OR WHAT -- YOU KNOW, NEED, IN ORDER TO TURN, GET OUT AND SO FORTH AND SO ON, UM, FROM THE PROPERTY LINE -- I WOULD HAVE TO GO OUT AND MEASURE IT.

BUT, IN ORDER TO DO IT, IT WOULD BE -- YOU KNOW, IT WOULD BE NECESSARY TO GO UP PROBABLY THIRTY (30) FEET.

Q. OTHER THAN -- SO, ARE YOU CLAIMING THE THIRTY (30) FEET OR THE HUNDRED AND TWENTY-TWO (122)?

A. WELL, I'M NOT GOING TO CLAIM ANYTHING RIGHT NOW. WHAT I'M GOING TO TELL YOU IS THAT'S WHAT WE MAINTAIN. I WILL LEAVE THAT UP TO MY ATTORNEY TO WORK OUT WHEN WE GO TO MEDIATION.

Q. ALL RIGHT. YOU'VE NOT HAD A SURVEY DONE OTHER THAN THE SURVEY YOU TOLD ME ABOUT THAT YOU DID ---

A. WHEN THE HOUSE WAS PURCHASED. YEAH. WHEN THE, WHEN THE HOUSE WAS PURCHASED, I GUESS, YOU KNOW, WHEN WE CLOSED. I'VE NEVER DONE A SURVEY OR HAD A SURVEY DONE OF THAT PROPERTY LINE. SOMEONE -- I GUESS THE CHURCH HAD IT DONE HERE -- I DON'T KNOW. THEY PUT UP ORANGE STAKES, UM, -- AND SO, I'VE LEFT THEM IN PLACE SO THAT ANYBODY -- THEY'VE GOT SOME FLAGS DOWN IN THE BACK. I HAVEN'T REALLY BEEN DOWN IN THE BACK DEEP YET TO, TO LOOK AT THE WHOLE THING. BUT I DID, UH, -- I LEFT EVERYTHING IN PLACE JUST LIKE THEY HAD IT.

Q. OKAY. I WANT YOU TO LOOK AT PARAGRAPH -- PAGE FIVE (5), ---

A. UH-HUH. (AFFIRMATIVE)

Q. --- PARAGRAPH NINE (9).

A. UH-HUH. (AFFIRMATIVE)

Q. AND IT'S ALLEGED THAT YOU HAD A DE FACTO LEASE AGREEMENT IN EXCHANGE FOR YOUR MAINTENANCE AND UP-KEEP. YOU WERE ALLOWED TO USE -- OCCUPY AND OTHER RIGHTS TO THE VACANT LOT. WHAT OTHER RIGHT ARE YOU SPEAKING OF?

A. THOSE WOULD BE, AGAIN, THE, THE PURVIEW OF, OF MR. WILSON. I'M NOT AN ATTORNEY. I -- YOU KNOW, I GAVE HIM THE FACTS AND I LET HIM APPLY THE LAW, I GUESS, IF YOU WANT TO -- BEST WE CAN.

Q. IN THIS LEASE AGREEMENT, YOU AGREE -- AND I'M, I'M REPEATING MYSELF -- IS NOT IN WRITING ANYWHERE?

A. WE DON'T HAVE ANYTHING IN WRITING; NO, SIR.

Q. OKAY.

A. AND THE CHURCH SAYS THAT THEY HAVE THAT AND IT'S APPARENTLY NOT BEEN EXECUTED. SO, ---

Q. AND SOME OF YOUR LABOR ON THE CHURCH'S PROPERTY IS IN EXCHANGE FOR THIS USE?

A. WHEN I TALKED TO MR. BURGESS -- HE CAME DOWN. HE WAS VERY POLITE. AND HE, HE SAID, "YOU KNOW, THE CHURCH FEELS LIKE, YOU KNOW, THAT, THAT YOU'RE, UM, OVER THE LINE OR ON -- YOU KNOW, OUT HERE ON THEIR PROPERTY." AND I TOLD HIM, I SAID, "I'M, I'M SURE I AM." I SAID, "BECAUSE I, I DON'T KNOW EXACTLY WHERE." BUT I TOLD HIM, "I KNOW FROM JUST MEMORY." AND I SHOWED HIM. WE WALKED IT. AND I EXPLAINED THE SITUATION. WE HAD GONE UP -- UH, WELL, MY WIFE HAD GONE UP IN 2008 BEFORE -- OR 2009, RIGHT IN THERE

-- BEFORE WHEN THE ECONOMY WENT DOWN, AND EXPLAINED TO THE PASTOR UP THERE, "THIS IS WHAT WE'RE GOING TO DO." AND HE SAID, "THAT'S FINE. JUST, YOU KNOW, GO -- YOU KNOW, WE'LL LET YOU KNOW IF THERE'S A PROBLEM." AND WHAT WE HAVE ALWAYS TRIED TO DO -- WE WILL PARK ALONG THERE PERIODICALLY IF WE NEED TO, IF I'VE GOT A BIG JOB OR SOMETHING LIKE THAT. UM, BUT WE HAVE USED THAT PROPERTY TO GO OUT AND BACK AND MAINTAINED IT REALLY FOR OUR OWN BENEFIT AS MUCH AS THE CHURCH'S. AND SO, I EXPLAINED ALL THE TO JOEL. I SHOWED HIM EVERYTHING. AND WHEN HE SAW THE SITUATION AND REALIZED WHAT IT WAS, HE SAID, "DON'T WORRY ABOUT IT." HE SAID, "WE'LL, WE'LL WORK SOMETHING OUT." HE SAID, "JUST, YOU KNOW, HERE'S MY CARD." AND, AND WE E-MAILED. BUT, I MEAN, WE DIDN'T TALK AT -- OR AT LEAST WE DON'T HAVE ANY OTHER E-MAILS AND -- I CAN'T REMEMBER -- FOR LIKE A YEAR TO HIM. BECAUSE WHEN THE OLDER GENTLEMAN, BEN, WHATEVER HIS NAME WAS, CAME DOWN ABOUT A TREE THAT WE HAD TAKEN DOWN ON OUR OWN PROPERTY, AS I WROTE IN THE E-MAIL, I WOULD USUALLY CUT IT UP IN FIREWOOD LENGTHS AND PUT IT OUT BY THE ROAD BECAUSE PEOPLE WOULD JUST COME GET IT. A LOT OF PEOPLE UP THERE HEAT WITH WOOD AND THEY'RE NOT WELL OFF. SO, UM, WHEN I EXPLAINED THAT TO BEN AND SHOWED HIM THE SITUATION, HE WAS FINE WITH IT. BUT IT PROMPTED ME TO COMMUNICATE WITH MR. BURGESS AGAIN AND SORT OF -- JUST, YOU KNOW, REASSERT THE

SITUATION AND, AND, UM, -- YOU KNOW, HE E-MAILED US BACK. AND AFTER THAT, I, YOU KNOW, I, I, YOU KNOW, I GUESS IT WENT DARK. I DON'T KNOW. WE JUST KEPT RIGHT ON DOING WHAT WE WERE DOING.

Q. WAS THERE ANY SPECIFIC TERM OF TIME DISCUSSED WITH ANY REPRESENTATIVE OF THE CHURCH AS TO HOW LONG YOUR USE OF THIS PROPERTY WOULD LAST?

A. NO, SIR.

Q. OKAY. ALL RIGHT. IN PARAGRAPH NINE (9) YOU HAVE ASKED THAT YOU BE GRANTED "DAMAGES, ACTUAL AND PUNITIVE, FOR BREACH OF THE DE FACTO LEASE AND THE ACCOMPANYING BREACH WITH DECEIT, FRAUD, AND MISLEADING STATEMENTS." WHAT, WHAT IS THE AMOUNT OF DAMAGES THAT YOU CLAIM?

A. I'LL HAVE TO GO BACK AND ADD IT ALL UP. BUT, I MEAN, IF IT'S GOING TO COME OUT TO A SITUATION WHERE I'M GOING TO BE DENIED THE ABILITY TO GO BACK AND FORTH, THEN IN MY OPINION, THERE HAS TO BE SOME EQUITABLE ARRANGEMENT FOR ALL THE WORK I'VE DONE. BECAUSE I HAVE, IN FACT, DONE IT. I HAVE PERSONALLY DONE MOST OF IT. THE MOWING IS USUALLY DONE BY AN EMPLOYEE OF MINE. BUT, UM, I'VE DONE THE BUSH HOGGING MANY, MANY TIMES. MY WIFE HAS. SO, YOU KNOW, IT, IT IS MY POSITION THAT -- WITH NO ABILITY TO COMMUNICATE -- AGAIN, REFERRING BACK. I, I, I'VE REALLY ASKED OVER AND OVER TO JUST MEET WITH FOLKS TO TRY TO WORK THE SITUATION OUT, AND NOBODY WOULD EVEN TALK TO ME. SO, WHEN

NO ONE WILL MEET WITH ME, AFTER TWENTY (20) YEARS AND MEETING NUMEROUS PEOPLE, I'VE NEVER HAD THE FIRST PROBLEM. NO UNDERSTANDING OF, OF EVEN WHY I'M -- WE'RE IN THIS POSITION. I HAD TO -- YOU KNOW, YOU, YOU, YOU CAN'T FILE A LAWSUIT AND SAY, "I, I FEEL, YOU KNOW, SOMEBODY'S A BIG MEANIE." SO, YOU KNOW, I CAME TO MY ATTORNEY AND HE WROTE THE LAWSUIT.

Q. SO, YOU CANNOT GIVE ME AN ACTUAL DAMAGE FIGURE TODAY?

A. NOT TODAY; NO, SIR. I'D HAVE TO SIT DOWN AND LOOK AT THAT.

BY MR. WILSON: WE'LL, WE'LL -- LET THE RECORD REFLECT WE'LL PROVIDE IT FOR YOU AT THE APPROPRIATE TIME.

Q. HAVE YOU SUFFERED ANY ACTUAL DAMAGES, THAT IS, OUT-OF-POCKET MONEY AS OF TODAY?

A. WELL, IT DEPENDS ON HOW -- AS OF TODAY, UH, BECAUSE OF THE SUIT, I'M CONTINUING TO, TO DO THE SAME THING WE'VE DONE. BUT, UH, IF THAT SITUATION STOPS, THEN, YES.

Q. YOU'RE PAYING YOUR LAWYER, BUT OTHER THAN YOUR LAWYER, HAVE YOU SPENT ANY MONEY ON THIS LAWSUIT?

A. ON THE LAWSUIT? NO, SIR.

Q. ALL RIGHT. AND YOU WANT -- YOU ASKED FOR PUNITIVE DAMAGES. WHAT, EXACTLY, HAS THE CHURCH DONE THAT YOU ALLEGE YOU'RE ENTITLED TO PUNITIVE DAMAGES?

A. WHEN -- AGAIN, WHEN I SPEAK WITH NUMEROUS PEOPLE AND I'M TOLD, "IT'S FINE. DON'T WORRY ABOUT IT," INCLUDING THEIR

SENT-DOWN REPRESENTATIVE FROM THE DEACONS AT ONE (1) POINT, WHICH WOULD BE MR. BURGESS. AND WE CONTINUE RIGHT ALONG WITH NO INDICATION OF ANY PROBLEM, WHATSOEVER, AND THAT IS THEN SUDDENLY SNATCHED AWAY WHEN I TRY TO EXPLAIN TO FOLKS THE, THE HURT IT'S GOING TO DO TO ME. THEN THAT'S UP TO MR. WILSON. AND, YOU KNOW, AGAIN, LIKE I SAY, ---

Q. OKAY.

A. --- THAT'S, THAT'S, UH, THAT'S HIS BAILIWICK, NOT MINE.

Q. WELL, YOU SAY "DECEIT." HAS ANYBODY DECEIVED YOU?

BY MR. WILSON: HAS ANYBODY WHAT?

BY MR. BANNISTER: DECEIVED YOU.

BY MR. WILSON: OH, EXCUSE ME.

A. UM, WHEN YOU'RE TALKING ABOUT A SPECIFIC PERSON, UH, NO.

Q. HAS ANYBODY DEFRAUDED YOU ---

A. A-, AS ---

Q. --- OR THE CHURCH DEFRAUDED YOU?

A. AS FAR AS A SPECIFIC PERSON, NO.

Q. AND WHAT MISLEADING STATEMENTS HAVE BEEN MADE?

A. UH, WELL, THE ONLY ONE THAT, YOU KNOW, THAT I KNOW OF IS THAT, UM, THEY SAID THERE WAS NO -- SENT A LETTER TO US AND SAID THEY COULD FIND NO PERSON OR DOCUMENT OR FILE THAT HAD ANY, UH, DOCUMENTATION OR OTHERWISE, ABOUT THIS ARRANGEMENT AND THEN Y'ALL HAVE ALL THIS.

Q. WHO, WHO DID THAT?

A. WELL, I SUPPOSE THE CHURCH. I, I DON'T KNOW. I MEAN, THEY SENT, THEY SENT AN UNSIGNED LETTER TO ME IN -- I THINK IN APRIL OF LAST YEAR, SAYING -- OR I THINK THEY SENT IT TO MR. WILSON -- THAT THEY COULD FIND NO FILE OR DOCUMENT OR PERSON WHO HAD SPOKEN TO ME.

Q. ALL RIGHT. IF YOU'LL GO TO PAGE SIX (6), LOOK AT PARAGRAPH THIRTEEN (13). YOU ASK FOR FEE SIMPLE ABSOLUTE TITLE TO THE VACANT LOT BY ADVERSE POSSESSION." ARE, ARE YOU CLAIMING THE ENTIRE LOT?

A. M- -- IT'S MY UNDERSTANDING THAT THE LAW IN THIS -- AND I'M NOT A LAWYER, SO ---

Q. I UNDERSTAND.

A. UM, THAT THAT IS THE MAXIMUM THAT WOULD BE ALLOWED. IT'S MY POSITION TO YOU THAT I DON'T WANT TO BE SITTING HERE. I DON'T UNDERSTAND WHY -- AND I'VE NEVER GOTTEN EVEN AN EXPLANATION AS TO WHY WE ARE -- WE COULDN'T WORK SOMETHING OUT. SO, IF YOU'RE GOING TO PUT MY BACK TO THE WALL AND I HAVE TO GO TO COURT, THEN I'M GOING TO FIGHT TO WIN.

Q. AND SO, YOUR ANSWER WOULD BE YES, YOU, YOU WANT THE ENTIRE LOT?

A. IF THAT'S WHAT A JURY DEEMS THAT NEEDS TO BE DONE; YES, SIR.

Q. OKAY. I'M GOING TO SHOW YOU A LETTER -- (DOCUMENT HANDED TO WITNESS) DATED 2/28/2019 THAT WAS PURPORTEDLY SIGNED BY YOU AND ASK YOU IF YOU RECOGNIZE THAT AND IS THAT YOUR

LETTER?

A. YES, SIR, I BELIEVE IT IS.

BY MR. BANNISTER: OKAY. MARK THAT AS EXHIBIT TWO (2) FOR ME, PLEASE.

(DEFENDANT'S EXHIBIT "2" MARKED & ENTERED)

Q. OKAY. I HAVE SEVERAL THINGS I WANT TO ASK YOU ABOUT IT. IF YOU WOULD LOOK DOWN ABOUT MID-WAY TO THE FIRST PAGE OF ---

A. UH-HUH. (AFFIRMATIVE)

Q. --- EXHIBIT TWO (2). IT SAYS, "MY WIFE AND I HAVE SPOKEN TO SEVERAL PASTORS AND DEACONS OVER THE PAST TWENTY (20) YEARS AND WE WERE TOLD BY ALL OF THEM FINE FOR US TO USE THE LOWER PORTION OF THE FIELD SO WE COULD HAVE INGRESS AND EGRESS TO THE REAR OF OUR PROPERTY. IN ADDITION, A WRITTEN AGREEMENT WAS PUT INTO EFFECT TO CODIFY THIS IN WRITING." WHAT WRITTEN AGREEMENT ARE YOU REFERRING TO?

A. WE HAD A MEMORY OF SOMETHING BEING SENT DOWN ON CHURCH LETTERHEAD, BUT WE DON'T HAVE IT. UH, AT THAT POINT, WE WERE -- WE HAD JUST RECEIVED THE LETTER. WE WENT THROUGH EVERYTHING. WE USUALLY BOX OUR STUFF UP BY THE YEAR. AND, UH, SEARCHED HIGH AND LOW FOR IT AND, AND NEVER COULD FIND IT. UNLESS THE CHURCH KNOWS OF ANOTHER DOCUMENT. BECAUSE I DON'T. I NEVER SAW ANYTHING LIKE THAT VERY, UH, ADVANCED DOCUMENT THAT, THAT Y'ALL HAVE IN YOUR POSSESSION. BUT, UH, THAT IS WHAT I WAS REFERRING TO.

Q. WHAT, WHAT DO YOU RECALL THAT THIS DOCUMENT SAID?
A. IT WAS A TWO (2) OR THREE (3) PARAGRAPH, MAYBE AT MOST, SIMPLE THING ON THE CHURCH LETTERHEAD THAT I RECOGNIZED FROM OTHER LETTERS THAT Y'ALL HAVE SENT ME OVER THE PAST YEAR THAT THEY SENT ME. AND, UH, IT WAS JUST A BASIC USE AGREEMENT WHERE, YOU KNOW, IT, IT EXPLAINED IN VERY SIMPLE TERMS OF GOING OUT AND BACK, UH, AND, YOU KNOW, THE USE OF THE PROPERTY FOR THAT REASON.
Q. SO, IT GRANTED YOU PERMISSION TO USE THIS STRIP OF PROPERTY, CHURCH PROPERTY?
A. THAT'S WHAT I RECALL. BUT, AGAIN, THAT WAS A ---
Q. OKAY.
A. --- LONG TIME AGO AND WE DON'T HAVE IT.
Q. ALL RIGHT.
BY MR. WILSON: (COUGHS) EXCUSE ME.
Q. LOOK DOWN AT THE FOURTH PARAGRAPH, ABOUT IN THE MIDDLE. YOU SAY, "WITH HAVING BEEN ASSURED SEVERAL TIMES THAT I WOULD BE GIVEN THE OPPORTUNITY TO PURCHASE THE PORTION I NEED, I SPENT A GREAT DEAL OF MONEY ERECTING STRUCTURES TO MY HOUSE, ALL OF MY EQUIPMENT AND TO PROVIDE FOR SHOP SPACE." WHO TOLD YOU THAT YOU WOULD BE GIVEN AN OPPORTUNITY TO PURCHASE THE PROPERTY?
A. UH, THE PASTORS THAT WE SPOKE WITH WHEN MY WIFE WENT UP THERE. AND SHE WOULD HAVE TO, UH, ---
Q. WELL, CAN YOU GIVE ME A DATE, A, A TIME PERIOD?

A. WE WENT -- I WENT ONCE, I KNOW, I THINK IN THE LATE 2000'S. I SPOKE WITH A GENTLEMAN -- I THINK THE CHURCH OFFICE USED TO BE OVER IN, IN A HOUSE THAT'S NEXT DOOR. AND I WENT IN THERE AND INTRODUCED MYSELF AND EXPLAINED THE SITUATION WHEN WE WERE BEGINNING TO STORE MORE EQUIPMENT UP THERE. THAT WAS ALWAYS DOC SMITH'S SHOP BACK THERE. I JUST HAD TO RE-DO IT AND TEAR SOME STUFF DOWN AND MOVE SOME THINGS AROUND. BUT THE, UM, -- SHE WOULD BRING IT UP OR I WOULD AND ALWAYS SAY, YOU KNOW, IF, IF THE SITUATION EVER CHANGES AND THE CHURCH -- WE, WE WOULD LIKE TO JUST OWN THAT STRIP, YOU KNOW, AT LEAST ENOUGH OF IT TO GO OUT AND BACK. WE'VE MADE NUMEROUS MENTIONS OF THAT. IT'S -- I'VE, I'VE MENTIONED IT TO MR. BURGESS, OBVIOUSLY, SO ---

Q. THIS WAS ALL ORAL?

A. YES.

Q. ON THE LAST PAGE, THE NEXT TO THE LAST PARAGRAPH, YOU MENTION "BY KEEPING OUR FOOTPRINT TO A MINIMUM."

A. UH-HUH. (AFFIRMATIVE)

Q. WHAT, WHAT, WHAT FOOTPRINT?

A. WELL, FOR EXAMPLE, UM, THE DUMP TRUCK AND TRAILER, I TRY TO ONLY HAVE IT THERE -- LIKE, RIGHT NOW I HAVE A JOB TWO (2) MILES UP THE ROAD. SO, I HAVE TO GO OUT AND BACK. WE ALSO KEEP A LOT OF OUR EQUIPMENT AT, UH, TWIN STORAGE, UH, TOM CORBIN OWNS OVER THERE, JUST DOWN THE STREET FROM US.

AND HE HAS, UH, GRACIOUSLY, ALLOWED ME TO PARK THE DUMP TRUCK AND TRAILER IN THERE. WE, WE, WE PAY HIM FOR THAT. UM, AND SO, WE MOVED THAT DOWN THERE. UH, TRY TO KEEP THE PARKING ON THE SIDE THERE TO A MINIMUM, UH, JUST MAKE IT LOOK LIKE WHAT IT LOOKS LIKE NOW, WHICH IS AN OPEN FIELD THAT IS WELL-MAINTAINED.

Q. OKAY. LET ME, LET ME TALK TO HIM.

(OFF THE RECORD @ 12:32 A.M. - 12:34 P.M.)

DIRECT EXAMINATION BY MR. BANNISTER (RESUMES):

Q. (LOOKING THROUGH DOCUMENTS) I BELIEVE YOU INTRODUCED YOUR DEED WITH A PLAT. I'M TRYING TO LAY MY HANDS ON IT.

BY MR. WILSON: IT SHOULD BE -- I THINK I'VE GOT IT RIGHT HERE. IS IT IN Y'ALL'S PILE?

BY MR. BANNISTER: HE, HE JUST INTRODUCED IT.

BY MR. SKELTON: OH, THE DEED?

BY MR. BANNISTER: YEAH.

BY MR. SKELTON: YEAH. IT'S HERE SOMEWHERE. (LOOKING THROUGH DOCUMENTS)

BY MR. BANNISTER: HE'S GOT -- I THOUGHT YOU, I THOUGHT YOU'D INTRODUCED YOUR -- YOU'VE GOT SOME OF HER EXHIBITS OVER THERE.

BY MR. WILSON: HOLD ON.

BY MR. BANNISTER: OH, OKAY.

BY MR. WILSON: THAT'S ONE OF MY FAVORITE TRICKS IS TO STEAL THE ---

BY MR. BANNISTER: COURT REPORTER'S EXHIBITS?
BY MR. WILSON: HERE'S THE EXHIBITS AND -- DID YOU WANT THE, THE PLAT, BILL?
BY MR. BANNISTER: YES. YOU, YOU HAD INTRODUCED THE DEED.
BY MR. WILSON: I THINK THE -- HERE IT IS. THERE IS IT RIGHT, THERE IT IS RIGHT -- HERE'S THE CONSOLIDATION DEED WE HAD ---
BY MR. BANNISTER: YES, SIR.
Q. OKAY. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS PLAINTIFF'S EXHIBIT TWO (2). (DOCUMENT HANDED TO WITNESS)
A. UH-HUH. (AFFIRMATIVE)
Q. AND ATTACHED TO IT IS A PLAT, 22-F-23, AND I UNDERSTAND THAT IS A PLAT OF YOUR PROPERTY WHEN YOU FIRST PURCHASED IT?
A. AS FAR AS I KNOW.
Q. OKAY.
A. WHAT'S THE DATE ON THIS THING? CLOSING SURVEY FOR THOMAS C. SKELTON. YEP, YEP, THAT'S --
Q. OKAY. WHEN YOU FIRST PURCHASED THAT PROPERTY, DO YOU KNOW HOW THE PREVIOUS -- WHAT THE PREVIOUS OWNER DID, WHAT HIS OCCUPATION WAS?
A. HE'S A BLACKSMITH; YES, SIR.
Q. ALL RIGHT. AND HE HAD SOME BLACKSMITH SHOPS, ---
A. UH-HUH. (AFFIRMATIVE)
Q. --- ACCORDING TO THE PLAT, ---

A. RIGHT.
Q. --- IN THE BACK, OR IT LOOKS LIKE IT.
A. YES, SIR.
Q. AND HE HAD ACCESS TO THAT THROUGH HIS LOT. SO, IT'S A GRAVEL DRIVE, I BELIEVE. SO, HE HAD ACCESS TO THAT THROUGH THE LOT FROM MCELHANEY ROAD?
A. THIS -- THE DIRT DRIVE-IN'S HERE IN THE PLAT. (LOOKING AT DOCUMENT) THERE WAS A GARAGE HERE. THERE WAS A WAY TO GO BACK AND FORTH HERE. A SEPTIC TANK SITS RIGHT HERE. (POINTING TO DOCUMENT) THIS AREA UP HERE, AT LEAST WHEN I ARRIVED, UH, IS A GRAVELED -- AND IT'S GOT OLD BRICK AND ROCK IN IT AND EVERYTHING. THERE'S AN ENTRANCE RIGHT HERE. (POINTING TO DOCUMENT) THAT'S BEEN THERE EVER SINCE I'VE BEEN THERE. AND THERE'S A HOUSE SITTING WAY BACK HERE. AND THE ONLY WAY TO GET TO IT WAS TO GO THIS WAY. BECAUSE I GUE- -- IF YOU CUT ACROSS THE FIELD WITH THE CHUCK HOLES AND EVERYTHING ELSE -- I DON'T KNOW HOW DOC SMITH GOT BACK THERE. HE MAY HAVE, HE MAY HAVE GONE -- THEY MAY HAVE GONE DOWN THROUGH HERE. IF THEY HAD LARGER STUFF, THERE'D BEEN NO WAY TO DO IT ANY OTHER WAY.
Q. HAVE YOU CONSTRUCTED ANYTHING ON YOUR LOT THAT WOULD BRO-- -- BLOCK YOU FROM GOING MCELHANEY ROAD ACROSS YOUR OWN PROPERTY BACK TO THE BACK AREA?
A. THERE'S A SMALL, UH, LIKE -- WE CALL IT THE BABY HOUSE RIGHT HERE. (POINTING TO DOCUMENT) AND, AGAIN, LIKE I

SAID, THERE IS AN OLD SEPTIC TANK, WHICH WE DISCOVERED, RIGHT HERE. BUT THE LOT -- THE WAY THE LOT IS SITUATION, WITH THE WIDTH OF IT, THERE'S NO WAY -- YOU WOULD HAVE TO THEN TURN AROUND AND BACK ALL THE WAY BACK OUT INTO MCELHANEY ROAD. THE WAY MCELHANEY ROAD'S GOTTEN NOW, IS YOU'D NEVER GET TURNED AROUND. THERE'S, THERE'S -- IF YOU -- IT WOULDN'T MATTER WHETHER YOU WERE A LANDSCAPER OR YOU JUST TRIED TO PARK A BOAT BACK THERE, YOU -- THE LOT JUST WON'T DO IT. BUT THOSE BUILDINGS HAVE ALWAYS -- THEY WERE THERE WHEN I ARRIVED. AND I TORE THAT ONE DOWN. AND I, I GUESS THIS ONE, BY THE WAY IT'S DEPICTED IS HIS BLACKSMITH SHOP, WHICH IS STILL THERE.

Q. OKAY. HAVE YOU INS- -- HAVE YOU CONSTRUCTED ANYTHING -- NOW, IT'S GOING TO BE HARD TO SEE ON THIS RIGHT HERE, ---

A. YES, SIR.

Q. --- I KNOW.

A. YEAH, THAT'S ALL RIGHT.

Q. BUT YOUR PLAT ON YOUR LOT ---

A. RIGHT.

Q. --- SHOWS A GRAVEL AREA.

A. UH-UH. (NEGATIVE)

Q. IS THAT ---

A. IT'S A DIRT DRIVE.

Q. A DIRT DRIVE.

A. YES, SIR. IT'S, IT'S -- YEAH.

Q. HAVE YOU, HAVE YOU CONSTRUCTED ANYTHING SINCE YOU'VE OWNED THE PROPERTY THAT BLOCKS THE DIRT DRIVE?
A. UH, RIGHT HERE THERE'S A LITTLE FENCE THAT COMES ACROSS RIGHT HERE; YES, SIR. (POINTING TO DOCUMENT)
Q. AND THAT'S A FENCE ACROSS YOUR PROPERTY?
A. UH-HUH. (AFFIRMATIVE) YES, SIR.
Q. OKAY. AND THERE'S A REFERENCE SOMEWHERE THAT A DECK. HAVE YOU CONSTRUCTED A DECK OVER HERE ---
A. YES, SIR. THERE'S A DECK OVER HERE THAT SORT OF COMES -- THIS, THIS, THIS -- THE HOUSE HAS GROWN, TOO, 'CAUSE WE BASICALLY DOUBLED THE SIZE OF IT ---
Q. ALL RIGHT.
A. --- IN 2008.
Q. AND, AND THE PROBLEM WITH THE INGRESS AND EGRESS THAT YOU'RE REFERRING TO IS THAT YOU HAVE BIG TRUCKS OR TRUCKS OR SOMETHING, TRAILERS, THAT YOU NEED -- OR IT'S DESIRABLE FOR YOU TO HAVE ROOM TO TURN THEM AROUND?
A. YES, SIR. AND, AND TO, AND TO BE ABLE TO COME AND GO IN A SAFE MANNER, AS WELL. BECAUSE MCELHANEY ROAD HAS GOTTEN SO BUSY, IT WOULD BE EXTREMELY DIFFICULT TO BACK A TRAILER IN THERE, FOR EXAMPLE, OR ANYTHING LIKE THAT. I JUST -- WE TRY TO AVOID THAT AT ALL COSTS. SO, WE TURN OUT AND COME DOWN THE PROPERTY LINE HERE WHERE THIS GRAVEL AREA IS HERE AND WE ENTER OUT INTO THE ROAD. (POINTING TO DOCUMENT)

Q. AND, AND YOU DREW WITH YOUR FINGER FROM YOUR LOT OVER INTO THE CHURCH PROPERTY ---

A. YES, SIR.

Q. --- AND THEN DOWN TO MCELHANEY ROAD?

A. YES, SIR. THAT'S RIGHT.

Q. OKAY. ALL RIGHT. THAT'S GOOD ENOUGH.

BY MR. BANNISTER: I THINK THAT'S ALL THE QUESTIONS I HAVE FOR YOU.

BY THE WITNESS: YES, SIR.

. . .. DEPOSITION CONCLUDED @ APPROXIMATELY 10:39 A.M.

CERTIFICATE

This is to certify that the foregoing deposition of THOMAS C. SKELTON was taken by the within court reporter, a Notary Public for the State of South Carolina, duly commissioned and qualified as such, on the 6th day of March, 2020 at The Wilson Law Firm, 201 Whitsett Street, Greenville, South Carolina.

That said court reporter is not a relative or employee of any of the parties or the attorneys, and further is not of-counsel or attorney for any of the parties to said action and is not in any manner interested in the cause, financial or otherwise.

That the oral deposition was duly taken and transcribed; that the foregoing 33 pages is a true, accurate and correct record of the testimony given together with such changes as said deponent may have made, if any, during the reading over and signing procedure.

That the court reporter has retained the original deposition transcript in her possession for the purpose of sealing and filing same with the proper official.

That all offered exhibits, stipulations and objections, if any, involved in this cause are duly attached or included herein.

In witness whereof, I have set my hand and official seal:

Date: 03/12/2020

Melissa A. Hines

Melissa A. Hines, Court Reporter

Notary Public for South Carolina

My Commission Expires 11/27/2022

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ELECTRONICALLY FILED - 2019 May 01 12:19 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2302476

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2019-CP-23
Thomas C. Skelton,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**COMPLAINT**
	)	
First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation,	)	***(Jury Trial Demanded)***
	)	
Defendant.	)	

Plaintiff, subject to his demand for a jury trial for the within action, alleges the following:

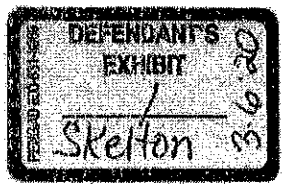
(PARTIES, JURISDICTION, VENUE)

I

Plaintiff is a citizen and a resident of Greenville County, South Carolina; Plaintiff is the owner, in fee simple absolute, of a parcel of real estate located in Travelers Rest, South Carolina, (herein, "SkeltonProp"); SkeltonProp is located at 108 McElhaney Road Travelers Rest, South Carolina, as described in Deed Book 1468, at Page 415 in the Office of Register of Deeds, Greenville County, South Carolina; SkeltonProp is occupied for residential purposes and serves as a base for the business of Plaintiff.

II

Defendant is a non-profit corporation duly organized and existing under the laws of the State of South Carolina. Defendant's principal place of business is in Travelers Rest, Greenville



County, South Carolina. Defendant is the owner of record of a parcel of real estate (herein, "VacantLot"), which abuts SkeltonProp on McElhaney Road, Travelers Rest South Carolina; VacantLot is more particularly described at Deed Book 2017, Page 438, in the Office of Register of Deeds, Greenville County, South Carolina. VacantLot has been subject to the use and occupancy by Plaintiff for ingress and egress to SkeltonProp, under lease with Plaintiff and under open and notorious use and occupancy by Plaintiff.

III

Recently, Defendant has directed Plaintiff to cease and desist his use and occupancy of VacantLot for ingress and for egress. Plaintiff has unsuccessfully sought negotiation with Defendant to resolve the controversy which has arisen over the ownership, occupancy, and/or use of VacantLot. Defendant has failed, refused, and neglected to respond to Plaintiff's efforts to reach a settlement of the parties' respective rights to the use, occupancy, ownership of VacantLot. Accordingly, Plaintiff brings this action as a Declaratory Judgment Action, pursuant to §§15-53-10, *et seqq.*, of the SC Code of Laws, 1976, as amended, seeking that this Court declare the rights of the parties to the use, occupancy, or ownership of the VacantLot.

IV

Plaintiff alleges that the parties and the issues presented by this action are properly before this Court.

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**(FOR A FIRST CAUSE OF ACTION:
PRESCRIPTIVE EASEMENT)**

V

Plaintiff hereby realleges all allegations set forth above as are not inconsistent herewith.

VI

Plaintiff alleges that he has engaged in regular, open, and notorious use of VacantLot since 1992, for ingress and egress to SkeltonProp. Plaintiff further alleges that he has, since 1992, provided landscaping services for the maintenance and upkeep of VacantLot, as a part of his exercise of dominion and control over VacantLot. Plaintiff alleges that his caretaking of VacantLot has benefitted Defendant by shielding Defendant from regulatory exposure for failure to maintain VacantLot.

VII

As a result of Plaintiff's longstanding open and notorious use of VacantLot for ingress and egress, along with Plaintiff's maintenance and upkeep of VacantLot, Plaintiff alleges that Plaintiff is the equitable owner of a prescriptive easement across VacantLot for which Plaintiff seeks this Court's declaration of legal recognition his ownership.

**(FOR A SECOND CAUSE OF ACTION:
ANTICIPATORY BREACH OF LEASEHOLD AGREEMENT)**

VIII

Plaintiff hereby realleges all allegations set forth above as are not inconsistent herewith.

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IX

Plaintiff and Defendant entered into a *de facto* lease arrangement by which Plaintiff, in exchange for his maintenance and upkeep of VacantLot, was allowed use, occupancy, and other rights to VacantLot. Plaintiff has faithfully met his obligations under the parties *de facto* lease agreement until the present. In turn, Plaintiff has used, occupied, and managed VacantLot as a longstanding lessee, without interruption. Recently, without any justification, Defendant has determined to terminate the parties' *de facto* lease, seeking to evict Plaintiff from VacantLot. Plaintiff will suffer damages as a result of Defendant's wrongful ejectment of Plaintiff. Plaintiff has no adequate remedy at law and will suffer irreparable harm if Defendant wrongfully ejects Plaintiff from VacantLot. Accordingly, Plaintiff seeks permanent injunctive relief, *i.e.* an easement for ingress and egress, to protect Plaintiff's leasehold rights to use and occupancy of VacantLot, or, as alternative relief, to grant Plaintiff damages, actual and punitive, for Defendant's breach of the *de facto* lease and for accompanying the breach with deceit, fraud, and misleading statements.

(FOR A THIRD CAUSE OF ACTION:
EASEMENT OF NECESSITY)

X

Plaintiff hereby realleges all allegations set forth above as are not inconsistent herewith.

XI

Plaintiff alleges that SkeltonProp and VacantLot were conveyed out of a common parcel of land, formerly enjoying unity of title, which conveyance severed the title to the two parcels of land. Plaintiff further alleges that it is necessary to the ownership, enjoyment, and use of

SkeltonProp that there be an easement for ingress and egress in favor of Plaintiff, upon and across VacantLot. Accordingly, Plaintiff seeks that this Court declare that Plaintiff shall hereafter enjoy an easement of necessity over and across VacantLot for ingress and egress.

**(FOR A FOURTH CAUSE OF ACTION:
ADVERSE POSSESSION)**

XII

Plaintiff hereby realleges all allegations set forth above as are not inconsistent herewith.

XIII

Plaintiff alleges that he has had open and notorious occupancy of VacantLot for the requisite period required under §§15-67-210, *et seqq.*, of the SC Code of Laws, 1976, as amended. Accordingly, Plaintiff seeks that this Court declare that fee simple absolute title to VacantLot has vested in Plaintiff, his heirs, successors, assigns forever, thus conveying title to VacantLot to Plaintiff based upon Plaintiff's adverse possession thereof.

**(FOR A FIFTH CAUSE OF ACTION:
INJUNCTIVE RELIEF *PENDENTE LITE*)**

XIV

Plaintiff hereby realleges all allegations set forth above as are not inconsistent herewith.

XV

Plaintiff is informed and believes that the ejectment of Plaintiff by Defendant, during the pendency of this action, will work a manifest injustice on Plaintiff. Plaintiff further alleges that he has meritorious claims, with reasonable chances of prevailing on one or more of said claims. Accordingly, Plaintiff seeks that this Court order the parties to this action to maintain the *status*

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quo, pending a final resolution of the issues presented by this action

WHEREFORE, Plaintiff prays that he have judgment against Defendant for a declaration by this Court that Plaintiff has a prescriptive easement on and across VacantLot, which easement will run with Plaintiff's title to SkeltonProp, and/or Plaintiff prays that he have judgment that he is the owner in fee simple absolute of VacantLot by adverse possession thereof; and/or Plaintiff prays that this Court declare that Plaintiff enjoy a permanent easement of necessity on and across VacantLot, which easement will run with Plaintiff's title to SkeltonProp; and/or, Plaintiff prays that he have judgment that Defendant has breached the parties *de facto* lease and award a permanent easement for ingress and egress; and/or, Plaintiff prays that he have judgment for damages, actual and punitive, against Defendant in such amount as this Court may award; and/or, Plaintiff prays that the parties to this action be ordered to maintain the *status quo* until resolution of this action; and/or, Plaintiff prays for such other and further relief as this Court may deem just and proper.

Dated: 5/1/19

/s/ Robert C. Wilson, Jr.
Robert C. Wilson, Jr.
201 Whitsett Street
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SC ID 6178
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Attorneys for Plaintiff

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1st Letter Reponse

2/28/2019

First Baptist Church of Travelers Rest
20 McElhaney Rd.
Travelers Rest SC 29690

Dear Sirs,

I received your letter Friday, 15 February 2019. My wife contacted Mr. Batson shortly thereafter and requested a meeting with the deacons which your letter had indicated you were open to. In addition, my wife, also called the office in an attempt to set a meeting with the pastor and he declined that opportunity. Once Cindy, my wife, spoke with Mr. Batson she was informed that the church had said all it had to say and no further discussion was desired. After speaking with her, he did ultimately agree to bring this back up at the deacon's meeting this Sunday. The purpose of this letter is to ensure that all of the deacons understand the situation we are facing.

In 1992, within a few months of moving into my home I discovered serious drainage issues from the adjacent property, in addition to a severe rodent problem. I was advised by an exterminator to mow a minimum of 30' into the field to stop the mice from entering my home because at that time no one was maintaining the field. I was also forced to install a swale, berm, foundation drain and landscaping to solve the water issues at my own expense.

My wife and I have spoken with several pastors and deacons over the past 20 plus years and we were told by all of them that it was fine for us to use the lower portion of the field so that we could have ingress and egress to the rear of our property. In addition, a written agreement was also put into effect to codify this in writing. During the period I have lived here, I have mowed and bush hogged, grassed and fertilized the field at my expense. I have done this because the failure to do so would cause serious damage to my home and property.

I also want the deacons to understand that the access to the rear of my property cannot be gained in any other way but to go through the field due to the way the house is situated and the property line drawn. Even if I destroyed the tens of thousands of dollars' worth of irrigation, landscape lighting, zoysia sod, deck and plant material to build a road through it all, there would still not be enough room to use my shed and outbuildings as they were constructed. Based on the long-standing agreement with the church, along with having been assured several times that I would be given the opportunity to purchase the portion I need, I spent a great deal of money erecting structures to house all of my equipment and provide for shop space. In addition to this, please keep in mind that there is no way to reasonably conduct repairs or maintenance to that side of the house without crossing the property line. The 5' I do have is taken up with a berm and landscaping to keep said berm from eroding due to runoff. This berm is critical in keeping water from entering my crawl space. Prior to the berm's construction the crawl space and foundation piers were being greatly undermined by the influx of water.

I would also ask you to consider that under the current zoning and building codes no construction within 20' from my home would be permitted, meaning that, this area is largely a "dead zone" to any builder or developer. I looked at the tax maps this weekend and consulted with an attorney and a real estate agent

DEFENDANT'S EXHIBIT 2 Skelton

to see what options we might have available to satisfy the needs of the church and me so that this issue is permanently resolved for all of us without conflict.

While we are working on a permanent solution to this issue, we will make every good faith effort to comply with your request by keeping our footprint to a minimum. With that being said however, we have no choice but to use the field, as we have for many years, as an ingress and egress and to load equipment as it is the only safe way to do it.

I would be happy to meet with the deacons and church officers at your convenience. I have several options in mind to resolve this for both parties and I hope we can work together in good faith as Christians to find a resolution as the Bible teaches us. Please respond within seven days so we can resolve this issue promptly.

Sincerely,
Thomas C. Skelton
Phone: 864-430-0117

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT
OF COMMON PLEAS

Thomas C. Skelton,
Plaintiff,

vs.

First Baptist Church of
Travelers Rest, South Carolina,
A non-profit Corporation,
Defendant.

CA No.: 2019-CP-23-02476

COPY

DEPOSITION OF

GARY BATSON

Pursuant to Notice of Deposition and/or agreement in the above-entitled case, a deposition was taken on the 6th of March 2020 beginning at approximately 8:25 a.m. attended by counsel as follows:

APPEARANCES:

ROBERT C. WILSON, Esquire
Wilson Law Firm
201 Whitsett Street
Greenville, South Carolina 29601
Attorney for the Plaintiff

O. W. BANNISTER, Esquire
Bannister, Wyatt & Stalvey, L.L.C.
401 Pettigru Street
Greenville, South Carolina 29601
owbannister@bannisterwyatt.com
Attorney for the Defendant

ALSO PRESENT:
Thomas C. Skelton
Cindy Skelton

Deposition Reported By:
Melissa A. Hines, CR
Depositions And..., Inc.
(864) 235-3518

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Pursuant to Notice and/or agreement to take depositions, the within deposition was taken by the above reporter, a Notary Public, as required under the South Carolina Rules of Civil Procedure, Rule 30, et al., by consent of all parties at The Wilson Law Firm, 201 Whitsett Street, Greenville, South Carolina.

The deponent and counsel agreed that both the reading over and signing of the deposition are hereby WAIVED.

** ** **

The deponent was duly sworn to tell the truth, the whole truth, and nothing but the truth concerning the matter herein.

DIRECT EXAMINATION BY MR. WILSON:

Q. WOULD YOU STATE YOUR FULL NAME, FOR THE RECORD, PLEASE, SIR.

A. GARY ELGIN BATSON.

Q. AND WHERE WERE YOU BORN, SIR.

A. GREENVILLE, SOUTH CAROLINA.

Q. WHEN WERE YOU BORN?

A. SEPTEMBER THE 3RD, 1955. VERY GOOD YEAR.

Q. (LAUGHING) I'M CALCULATING. AND BORN HERE IN GREENVILLE?

A. YEAH, GREENVILLE.

Q. WH- -- DID YOU GROW UP HERE IN GREENVILLE?

A. YES, I DID; UH-HUH. (AFFIRMATIVE)

Q. AND WHERE DO YOU LIVE NOW?

A. 2810 POINSETT HIGHWAY.
Q. W- -- CAN YOU GIVE ME A LANDMARK ON POINSETT HIGHWAY?
A. UH, YOU KNOW WHERE THE PUBLIX IS ON POINSETT?
Q. YEAH.
A. ACROSS FROM THERE.
Q. BACK THERE WHERE THE NEW APARTMENTS ARE?
A. RIGHT DOWN THE STREET.
Q. OH, OKAY. IS THAT YOUR LAKE?
A. NO. I'M UP ABOVE THE LAKE.
Q. OKAY. I'M GOING TO SHOW YOU THIS DOCUMENT. I DON'T IF YOU'VE SEEN IT BEFORE.
BY MR. WILSON: BILL, HERE'S ONE (1) FOR YOU. (DOCUMENT HANDED TO MR. BANNISTER.
Q. (DOCUMENT HANDED TO WITNESS) ARE YOU HERE THIS MORNING PURSUANT TO THE NOTICE OF DEPOSITION SUBPOENA THAT WAS SERVED?
A. YES, I AM.
Q. AND ARE YOU HERE AS A REPRESENTATIVE OF THE CHURCH AS DESCRIBED IN THE, IN THE NOTES OF THE DEPOSITION?
A. YES, I AM.
Q. YES, SIR.
BY MR. WILSON: COULD WE MARK THAT AND MAKE IT PART OF THE RECORD.
(PLAINTIFF'S EXHIBIT "1" MARKED & ENTERED)
BY MR. WILSON: LET ME HAVE IT.

AN UNFAIR -- THEY, THEY MIGHT NOT BE OBJECTIVE IN THEIR DELIBERATIONS. AND I'M SORRY TO PUT YOU TO THAT TROUBLE.

A. WELL, I'D HAVE TO GET THEM ALL TOGETHER, MAYBE, AND GIVE THEM TO YOU OR WHATEVER.

Q. OKAY. DO YOU MIND, BILL?

BY MR. BANNISTER: RENTERS.

Q. OKAY. JUST -- THANK YOU. JUST THE NAME OF THE -- NAMES OF THE TENANTS. I DON'T WANT ANY INFORMATION OR ANYTHING ELSE. DON'T WANT -- DON'T MEAN TO EMBARRASS YOU IF THERE, IF THERE'S ANYTHING THERE. AND I APOLOGIZE FOR THAT. AND DO YOU -- YOU HAVE NO OTHER CIVIC OR COMMUNITY ORGANIZATIONS OTHER THAN THE CHURCH AND YOU HAVE A BUSINESS. MARRIED?

A. YES, SIR.

Q. CHILDREN?

A. THREE (3).

Q. WHAT AGES?

A. UH, FORTY-ONE (41), THIRTY-FIVE (35) AND THIRTY-ONE (31).

Q. WOULD YOU MIND TELLING US WHAT THE NAMES OF THEM ARE?

A. UH, MY FORTY-TWO (42) YEAR OLD IS VANESSA HAMM, H-A-M-M; MY THIRTY-FIVE (35) YEAR-OLD IS CHRISTOPHER BATSON; AND MY THIRTY-ONE (31) YEAR OLD IS BRITTNEY BATSON.

Q. AND ---

A. THAT'S BRITTNEY, N-E-Y.

Q. EXCUSE ME. AND I'VE GOT TO ASK YOU, WHAT IS YOUR WIFE'S

NAME?

A. DEBRA.

Q. DEBRA?

A. UH-HUH. (AFFIRMATIVE)

Q. B-R-A?

A. UH, ---

Q. YOU BETTER GET THIS RIGHT.

A. JUST SAY "DEBBIE."

Q. (LAUGHING) DO, DO YOU HAVE -- ARE, ARE THERE ANY PEOPLE WHO WORK FOR YOUR USED CAR PLACE?

A. I'M A ONE (1) MAN SHOW.

Q. ONE (1) MAN DEAL. OKAY. SOLE PROPRIETORSHIP THEN?

A. THAT'S CORRECT.

Q. OKAY. AND DURING THE COURSE OF, OF YOUR MEMBERSHIP IN -- WERE YOU RAISED IN THAT CHURCH?

A. YEAH.

Q. DID YOUR PARENTS, PARENTS TAKE YOU TO THAT CHURCH?

A. CRADLE ROLL.

Q. OKAY. I'VE HEARD THE TERM BEFORE. THANK YOU. (CHUCKLES) AND DID THEY HAVE A YOUTH GROUP AND ALL THE STUFF THAT YOU CAME UP THROUGH? BIBLE STUDY AND ALL THAT?

A. OH, YEAH.

Q. OKAY. AND HELP ME UNDERSTAND, IF YOU WILL, HOW DOES, HOW DOES THE GOVERNING BODY OF THE CHURCH WORK? THE DEACONS -- ARE DEACONS ELECTED BY THE MEMBERSHIP?

A. UH-HUH. (AFFIRMATIVE)
Q. AND, AND DO I UNDERSTAND FROM THE MINUTES THAT I SAW -- AND THANK YOU FOR PROVIDING US WITH THOSE -- THAT THERE IS A MONTHLY MEETING OF THE DEACONS?
A. ONCE, ONCE A MONTH.
Q. ONCE A MONTH. ALL RIGHT.
A. USUALLY THE FIRST MONDAY IN EVERY MONTH.
Q. YES, SIR. AND HAVE YOU SERVED AS A DEACON?
A. YES, SIR.
Q. OKAY. HOW LONG AND HOW MANY TIMES?
A. I WAS FIRST ELECTED IN 1992.
Q. '92?
A. YEAH.
Q. OKAY. DID YOU SERVE CONTINUOUSLY SINCE THEN?
A. NO. WE HAVE THREE (3) YEAR TERMS.
Q. THREE (3) YEAR TERMS?
A. AND THEN WE ROTATE OFF.
Q. IS THERE SOME KIND OF UNDERSTANDING AMONGST THE CONGREGATION THAT IT KIND -- THAT THE MEMBERSHIP OF THE DIACONA- -- FANCY WORD THAT I LEARNED SOMEWHERE -- MEMBERSHIP OF THE DEACON GROUP -- ROTATES AROUND SO THAT EVERYBODY GETS A CHANCE TO SERVE?
A. SURE.
Q. IS THAT KIND OF THE WAY IT WORKS?
A. YEAH. WELL, YOU ROTATE OFF EVERY THREE (3) YEARS ---

Q. OKAY.
A. --- AND THEN ---
Q. SEEMS LIKE ---
A. AND WE HAVE NOMINATIONS.
Q. I BEG YOUR PARDON.
A. WE HAVE NOMINATIONS FOR, ---
Q. OKAY.
A. --- FOR THE NEXT ELECTION FROM THE CONGREGATION.
Q. AND THEN, AND THEN THEY'RE VOTED ON?
A. EXACTLY.
Q. OKAY. IN 1992, WERE YOU -- YOU WERE A DEACON IN '92?
A. I WAS FIRST ELECTED IN '92.
Q. YEAH. I THINK THAT'S WHAT YOU ---
A. THAT WAS MY FIRST YEAR I SERVED.
Q. AND, AND THAT WOULD BE THE YEAR THAT, THAT THE CHURCH ACQUIRED THAT LOWER TRACT OF LAND FROM MR. SMITH?
A. THAT'S CORRECT.
Q. THE DOWN -- CAN WE CALL IT THE DOWNHILL TRACT?
A. THE DOWNHILL TRACT.
Q. WELL, IT'S DOWNHILL FROM THE CHURCH.
A. RIGHT.
Q. AND I, I DON'T KNOW ANY OTHER CONVENIENT WAY TO DESCRIBE IT.
BY MR. WILSON: IS THAT ALL RIGHT, BILL?
BY MR. BANNISTER: FINE WITH ME.

Q. I'M NOT TRYING TO TRICK ANYBODY OR ANYTHING. I JUST WANT TO -- THE DOWNHILL TRACT, WHICH IS ABAT- -- ADJACENT TO ---

A. THAT'S CORRECT.

Q. OKAY. AND, AND DO YOU KNOW FOR A FACT THAT THE SKELTON ACQUIRED HIS PROPERTY OUT OF THE SAME TRACT THAT THE DOWNHILL TRACT FOR THE CHURCH WAS ACQUIRED? THEY WERE BOTH OWNED BY MIS- -- I CAN REPRESENT TO YOU THEY WERE BOTH OWNED BY MR. SMITH.

A. AT ONE (1) TIME THEY WERE; YEAH.

Q. YES, SIR. AND, AND HE SOLD PART OF IT TO THE CHURCH AND PART OF IT THESE KIDS?

A. THAT'S RIGHT.

Q. OKAY. SO, THEY -- AND, AND AFTER IT WAS ACQUIRED -- AT THE TIME OF THE -- THAT THE CHURCH ACQUIRED IT, DID, DID YOU WALK THE -- ARE YOU FAMILIAR WITH THE LAND DOWN THERE?

A. SOMEWHAT. UH, I WAS KIND OF INVOLVED IN THE PURCHASE OF THAT, AS FAR AS ---

Q. WERE YOU?

A. --- ARRANGING FINANCING AND STUFF ---

Q. YEAH.

A. --- LIKE THAT. SO, ---

Q. WHO -- EXCUSE ME FOR ASKING, BUT WHO, WHO LENT YOU THE MONEY TO BUY IT?

A. BANK OF TRAVELERS REST?

Q. BRUCE, BRUCE, BRUCE DID?
A. UH-HUH. (AFFIRMATIVE)
Q. AND, AND WHEN YOU, WHEN YOU WENT DOWN AND WALKED IT, DID, DID YOU HAVE SOMEBODY SURVEY IT AND HAVE SOMEBODY ASSE- -- APPRAISE IT?
A. I DON'T RECALL IT HAD AN APPRAISAL. BUT, UH, WE HAD IT SURVEYED.
Q. YEAH. WELL, MEMBERS -- THERE ARE ENOUGH -- ARE THERE NOT ENOUGH MEMBERS OF, OF YOUR CHURCH THAT ARE EXPERIENCED BUSINESS MEN, AND MAYBE EVEN WITH REAL ESTATE, WHO COULD FIGURE OUT WHAT WAS A FAIR PRICE FOR THE, FOR THE TR- -- THE DOWNHILL TRACT?
A. WELL, AT THAT TIME, PROBABLY. UH, YOU KNOW, IT -- I DON'T -- WE DIDN'T HAVE AN APPRAISAL -- I DON'T -- NOT TO MY MEMORY OF IT.
Q. IT WAS '92 AND REAL ESTATE WASN'T REAL ACTIVE BACK THEN BACK IN ---
A. THAT'S CORRECT.
Q. THEN, BACK IN TRAVELERS REST AREA.
A. AND CAROL SMITH WAS A MEMBER OF OUR CHURCH AND STILL IS.
Q. GOOD. YEAH. OKAY. AND, AND THE TIME WHEN YOU L-, LOOKED AT IT BEF-, BEFORE AND, AND AFTER, MAYBE SHORTLY AFTER, W-, WAS THERE A HOUSE ON THE DOWNHILL TRACT ON -- THAT THE CHURCH PURCHASED?
A. WELL, THERE, THERE WERE A HOU- -- THERE WAS A HOUSE ON THE

-- I THINK HE HAD ALREADY MOVED -- CAROL HAD MOVED IT TO THE BACK OF THE PROPERTY, MAYBE.

Q. OKAY.

A. THE BEST I CAN RECALL.

Q. AND, AND THAT'S, THAT'S FINE. I WANT TO ASSURE BILL AND YOU THAT I DIDN'T COME TO BEAT YOU UP ABOUT SOMETHING YOU MAY OR MAY NOT KNOW.

A. YEAH, YEAH.

Q. BUT THERE WAS A HOUSE THAT WAS MOVED SOMETIME -- OR COULD WE SAY SOMETIMES AR- -- SOMETIME AROUND THE TIME THAT IT WAS PURCHASED?

A. I CAN'T RECALL WHEN HE MOVED IT.

Q. OKAY.

A. BUT IT WAS MOVED.

Q. BUT THERE WAS A HOUSE THERE?

A. IT WAS MOVED.

Q. AND, AND WAS THERE A DRIVEWAY BACK TO THE HOUSE, EITHER WHERE IT WAS MOVED TO OR WHERE IT WAS ORIGINALLY LOCATED?

A. UH, I DON'T RECALL ONE. SEEMS LIKE HE MOVED IT TO THE BACK-CORNER BACK THERE, WHICH THERE WOULDN'T HAVE BEEN A DRIVEWAY TO, TO IT.

Q. UH-HUH. (AFFIRMATIVE) BUT, BUT WAS SOMEBODY LIVING BACK THERE?

A. NO.

Q. WAS IT A RENTAL PROPERTY?

A. NO. IT WAS JUST -- I REALLY DON'T RECALL WHAT HE'D -- I THINK HIS INTENT WAS TO BUILD A NEW HOME ON THAT PROPERTY, ---

Q. UH-HUH. (AFFIRMATIVE)

A. --- AND THEN HE CHANGED HIS MIND AND MAYBE USED THE OLD ONE (1) FOR STORAGE OR SOMETHING.

Q. (COUGHS) EXCUSE ME.

A. I DON'T -- AND I THINK IT WAS FULL OF HIS STUFF OR WHATEVER.

Q. JUNK?

A. YEAH.

Q. JUNK. AND, AND THAT -- IT -- BUT, BUT YOU WOULD AGREE WITH ME THAT THERE IS SOME KIND OF A DRIVEWAY THAT, THAT GOES ALONG THE PROPERTY LINE BETWEEN THE CHURCH'S PROPERTY AND THE, AND THE SKELTON'S PROPERTY?

A. NO. I THINK THE DRIVEWAY WAS UP MORE TOWARD THE CHURCH ---

Q. SURE.

A. --- FROM THAT HOUSE ORIGINALLY, WHERE IT SAT. I MEAN, ---

Q. BUT THERE WAS A DRIVEWAY.

A. WELL, I'M SURE THERE WAS, YEAH.

Q. YOU'D AGREE WITH THAT? YEAH. AND, AND WE CAN'T DECIDE WHETHER OR NOT IT WAS A DRIVEWAY THAT WENT ALL THE WAY BACK TO THE RELOCATED HOUSE?

A. I DON'T KNOW. I'M PRETTY SURE IT WASN'T.

Q. YOU, YOU JUST DON'T KNOW WHETHER YOU C- ---
A. IT WAS JUST SITTING BACK THERE IN THE GRASS, ---
Q. OKAY.
A. --- IN THE FIELD.
Q. OKAY. DID THE CHURCH PR- -- TEAR THAT HOUSE DOWN AT SOME POINT?
A. I THINK THEY HAD IT MO- -- I THINK WE HAD IT MOVED.
Q. WHERE DID YOU HAVE IT MOVED TO?
A. I DON'T KNOW. I, I -- YOU KNOW, I'D, I'D HAVE TO -- I CAN'T -- I WAS IN ON THE PURCHASE PART, GETTING FINANCING, BUT I WASN'T ON -- HANDS-ON ON THE ---
BY MR. WILSON: CAN WE GO OFF THE RECORD?
(OFF THE RECORD @ 8:38 A.M. - 8:39 A.M.)
DIRECT EXAMINATION BY MR. WILSON (RESUMES):
Q. THE -- IT -- BUT IT -- WAS IT MOVED TO A LOCATION SOMEWHERE ON THE DOWNHILL TRACT OR ---
A. NO. IT WAS JUST MOVED BY MR. SMITH.
Q. OKAY.
A. ONE (1) TIME.
Q. SO, ---
A. AND THEN, ---
Q. --- IT WAS ONLY MOVED ONCE.
A. --- AND THEN WE DISPOSED OF IT HOWEVER.
Q. HOWEVER YOU DID IT.
A. WE EITHER RE- OR JUST TORE IT DOWN. I CAN'T REMEMBER.

Q. DO YOU KNOW -- CAN YOU RECALL WHO MIGHT HAVE DONE THE GEE-HAWING ON THE, ON THE RELO- -- THE FINAL TEARDOWN FOR THE THING?
A. I THINK THAT WAS MR. CHARLES KELLY, WHO IS NOW DECEASED.
Q. UH-HUH. (AFFIRMATIVE)
A. HE DIED LAST YEAR.
Q. I'M SORRY.
A. THAT, THAT WAS HIS, UH, ---
Q. WAS THAT HIS B- ---
A. --- HIS BABY, SO TO SPEAK.
Q. HIS BAILIWICK?
A. YEP.
Q. YEAH. ALL RIGHT. THE -- NOW, WHEN, WHEN YOU -- AND, AND YOU DID NOT SERVE CONTINUOUSLY AS A DEACON, BUT YOU WERE A DEACON AT THE TIME OF ACQUISITION; HAVE I GOT THAT RIGHT?
A. THAT'S CORRECT.
Q. OKAY. NOW, ROUGHLY THREE (3) YEARS, IN '95 OR SO, YOU WENT OFF THE, THE -- WHAT'S THE, WHAT'S THE TERM Y'ALL USE FOR THE DEACONS? DEACO- -- DIACONATE? DO I -- IS THAT ---
A. DEACON BOARD.
Q. DEACON BOARD?
A. UH-HUH. (AFFIRMATIVE)
Q. OKAY. DID, DID -- AND YOU WENT OFF PROBABLY ABOUT '95?
A. YEAH, IN '95.

Q. OKAY. WERE YOU RE-ELECTED?
A. YEAH. BUT NOT THE NEXT YEAR. I CAN'T RECALL WHEN I WENT BACK ON.
Q. OKAY.
A. BUT I'VE SERVED LIKE THREE (3) OR FOUR (4) TERMS.
Q. OFF AND ON, GENERALLY, ---
A. YES, SIR.
Q. --- FOR A THREE (3) YEAR TERM.
A. YEAH.
Q. AND UP UNTIL -- ARE YOU ON THE -- YOU'RE NOT ON THE DEACON BOARD NOW?
A. NO. I ROTATED OFF LAST YEAR.
Q. LAST YEAR?
A. LAST FALL.
Q. OKAY. NOW, WHEN, WHEN YOU BOUGHT THAT -- WHEN, WHEN THAT -- WHEN I SAY YOU, I MEAN THE CHURCH.
A. CORRECT.
Q. I DON'T MEAN TO PUT IT ON YOU. WHEN Y'ALL BOUGHT THAT, BOUGHT THAT LAND, WAS, WAS THERE -- WHAT WAS THE CONDITION OF THE LAND? WAS IT MAINTAINED? DID IT -- HAD IT BEEN TAKEN CARE OF? WAS IT ---
A. UH, AS, AS LONG AS WE'VE OWNED IT, WE'VE PAID SOMEONE TO MOW THE FIELD.
Q. OKAY. COULD YOU SEE OVER THE -- I'M JOKING WITH YOU. I SHOULDN'T DO THAT.

A. OKAY.
Q. COULD, COULD -- HOW, HOW MUCH -- HOW DEEP WAS THE VEGETATION BACK THERE ON THE DOWNHILL SIDE?
A. YOU TALKING ABOUT IN '92 OR ---
Q. YES, SIR; AT THE BEGINNING.
A. WELL, I, I COULDN'T TELL YOU THAT.
Q. OKAY.
A. BUT, YOU KNOW, IT'S NEVER -- YOU KNOW, IT MIGHT HAVE A LITTLE LATE ---
Q. COULD YOU SEE OVER IT?
A. OH, SURE.
Q. THAT'S A PROVOCATIVE QUESTION.
A. YEAH, YEAH.
Q. AND I'M SORRY FOR IT. BUT AFTER YOU BOUGHT IT, COULD YOU SEE THE -- FROM THE FRONT, COULD YOU SEE THE RELOCATED HOUSE ALL THE WAY IN THE BACK?
A. OH, YEAH.
Q. OKAY. AND, AND DID, DID YOU HAVE DISCUSSIONS WITH THE SKELTONS DURING YOUR FIRST -- AND, AND I'M SORRY, BUT LET ME GO BACK, IF I MAY. THAT '92 TO '95 TERM THAT YOU SERVED AS A DEACON, WAS THAT YOUR FIRST TERM AS A DEACON?
A. THAT'S CORRECT.
Q. OKAY. DURING YOUR FIRST TERM AS DEACON, DID YOU HAVE DISCUSSIONS ON BEHALF OF THE CHURCH WITH THE SKELTONS ABOUT THE CONDITION OF THE L-, LOWER TRACT?

A. NO, SIR. I'VE NEVER TALKED TO MR. SKELTON. NEVER MET HIM TILL TODAY.
Q. TILL TODAY? HOW ABOUT MS. SKELTON?
A. NEVER MET HER. TALKED TO HER ON THE PHONE ONE (1) TIME.
Q. OKAY. WAS SHE POLITE?
A. SURE.
Q. OKAY. I'M SORRY, CINDY. WHEN, WHEN -- WHO IS IT THAT SPOKE WITH THE SKELTONS ABOUT THE, THE VARIOUS ISSUES THAT MAY HAVE COME UP OVER THE YEARS ABOUT THE TRACT OF LANE?
A. UH, I THINK, UH, LATELY -- AND I'M SAY "LATELY" IS LIKE 2011 -- WOULD HAVE BEEN, UH, J.J. BURGESS.
Q. YES, SIR.
A. HE WAS CHAIRMAN OF THE DEACONS AT THAT TIME.
Q. YES, SIR.
A. AND HE'S, AS FAR AS I KNOW, HE'S THE ONLY ONE THAT'S HAD A CONVERSATION WITH MR. SKELTON.
Q. OKAY. AND THAT'S ABOUT 2011?
A. YEAH. I'VE GOT THE MINUT- -- WELL, YOU'VE GOT THEM, TOO.
Q. YEAH, AND I'M ---
A. MINUTES FROM 2011.
Q. YEAH, WE'RE, WE'RE GOING TO, WE'RE GOING TO READ THEM TOGETHER, ---
A. UH-HUH. (AFFIRMATIVE)
Q. --- YEAH, IN A LITTLE BIT. THE -- BUT HE WAS THE, HE WAS THE CONTACT PERSON WITH THE SKELTONS DURING ---

A. TO ---
Q. AND TO YOUR KNOWLEDGE, WAS THERE ANYBODY AFTER 2011, 2012 BESIDES MR. BURGESS WHO, ---
A. TO MY KNOWLEDGE, NOT THAT I KNOW OF.
Q. --- WHO DID -- OKAY. OKAY. OKAY. WAS THERE -- HAD THERE BEEN ISSUES RAISED, EITHER BY THE SKELTONS OR BY -- NOT BY Y'ALL, BY THE CHURCH -- ABOUT THE, THE MAINTENANCE ON THE, ON THE LOWER TRACT?
A. I'VE NEVER HEARD ANY.
Q. OKAY. DID, DID BUDDY HICE OR ANY OF THEM ASK ABOUT THE USE OF THE, THE USE OF THE LOWER TRACT?
A. I DIDN'T COMPLETELY UNDERSTAND ---
Q. DURING THE COURSE FROM '92 WHEN Y'ALL -- BOTH Y'ALL AND THE SKELTONS BOUGHT MR. SMITH OUT, ---
A. UH-HUH. (AFFIRMATIVE)
Q. --- WERE, WERE THEIR DISCUSSIONS INSIDE THE CHURCH, NOT WITH THE SKELTONS, ABOUT THE USE OF THE LOWER TRACT BY THE SKELTONS?
A. UH, YES. BUDDY HICE WAS CHAIRMAN OF THE DEACONS A COUPLE OF TIMES.
Q. YES, SIR.
A. AND I THINK HE -- HIM AND MR. SKELTON HAD TALKED, ---
Q. RIGHT.
A. --- AS I UNDERSTAND. AND, UH, UH, ---
Q. AND, CAN YOU RECALL, MR. BATSON, WHAT THE ISSUES WERE

THAT, THAT PROMPTED THOSE DISCUSSIONS?

A. NOT REALLY. NOT REALLY.

Q. I'M SORRY. WOULD -- AND IF I -- I'M GOING TO SUGGEST SOME THINGS TO YOU. BILL BANNISTER MAY KICK ME UNDER THE TABLE, BUT THAT'S ALL RIGHT. COULD IT HAVE BEEN THAT THE, THE, THE SKELTONS WEREN'T TAKING CARE OF THE, THE LOWER TRACT OR THAT THEY WERE DUMPING REFUSE ON THE TRACT OR PARKING THEIR TRUCKS ON THE TRACT OR WHATEVER?

A. THEY COULD HAVE BEEN.

Q. COULD HAVE BEEN?

A. SURE.

Q. AND -- BUT THERE WAS NO -- YOU DON'T HAVE ANY DIRECT KNOWLEDGE ABOUT IT?

A. WELL, I WASN'T DIRECTLY INVOLVED IN, IN ANY TALKS.

Q. YES, SIR.

A. THIS, THIS IS THE FIRST TIME I'VE EVER LAID EYES ON MR. SKELTON THIS MORNING.

Q. ALL RIGHT. RIGHT. BUT, I MEAN, BY PHONE OR BY LETTER OR E-MAIL OR ANYTHING LIKE THAT?

A. I, I DON'T THINK SO, ---

Q. OKAY.

A. --- TO THE BEST OF MY KNOWLEDGE.

Q. DURING THE 2011 PERIOD, FOLLOWING THE 2011 PERIOD, WHEN MR. BURGESS WAS DEALING WITH, WITH MR. SKELTON, WERE THERE ANY UNDERSTANDINGS, AGREEMENTS, REACHED BETWEEN THE CHURCH

AND THE SKELTONS?

A. UH, THERE WAS AN AGREEMENT DRAWN UP BY MR. BURGESS.

Q. YES, SIR.

A. BUT, AS FAR AS WE KNOW, IT NEVER WAS EXECUTED. NEVER WAS SIGNED.

Q. ALL RIGHT.

A. WE CAN'T FIND ANY SIGNED COPY IN THE RECORDS.

Q. ALL RIGHT. WE'LL GET TO THAT IN A FEW MINUTES. AND WAS THAT -- DID MR. BURGESS HAVE HE HELP OF ONE OF THOSE PEOPLE CALLED LAWYERS?

A. I DON'T KNOW HOW HE DREW THAT UP. I HAVE NO KNOWLEDGE OF HOW ---

Q. OKAY.

A. --- WHERE HE GOT IT OR HOW HE GOT IT.

Q. OKAY. SO, THERE -- IS, IS THERE -- ASIDE FROM THE EST- -- MY FRIEND, MR. BANNISTER, IS THERE A LAWYER THAT THE CHURCH LOOKS TO, GENERALLY, FOR COUNSEL FOR THESE KINDS OF THINGS?

A. NO. I DON'T THINK WE'VE EVER HAD ANY ISSUES THAT I CAN RECALL LIKE THIS, SO ---

Q. GOOD. IN 2002, THE CHURCH, THE CHURCH HIRED RAY LATHAN AND RON BARBARE. I DON'T KNOW IF YOU KNOW THOSE TWO (2) CHARACTERS.

A. I KNOW RAY.

Q. YEAH, I DO, TOO.

A. AND RON.

BY MR. WILSON: IS RAY AS OLD AS WE ARE?

BY MR. BANNISTER: HE IS.

Q. AND, AND Y'ALL CONSOLIDATED THE TITLE TO ALL THE CHURCH'S PROPERTY. ARE YOU FAMILIAR WITH WHEN THAT HAPPENED? IT'S ROUGHLY ABOUT 2002. AND I'VE GOT A COPY OF IT HERE IF YOU WANT TO LOOK AT IT.

A. NO, I DON'T, I DON'T RECALL.

Q. DID YOU HAVE ANYTHING TO DO WITH, WITH THAT?

A. NO.

Q. DO YOU KNOW WHY IT WAS DONE?

A. NO.

Q. OKAY. AND, AND, AND THAT DEED CON- -- OF CONSOLIDATION, IF YOU'LL LET ME REPRESENT IT TO YOU, SHOWS THAT MR. SMITH -- THAT THE DOWNHILL TRACT WAS MOVED INTO -- DIRECTLY INTO THE NAME OF THE CHURCH, WHICH, I GUESS, IS FIRST BAPTIST CHURCH OF TRAVELERS REST, ---

A. UH-HUH. (AFFIRMATIVE)

Q. --- DA-DA-DA-DA-DA. OKAY. AFTER, AFTER MR., MR. BURGESS PREPARED THE, THE UN- -- THE, THE WRITTEN AGREEMENT, WHICH APPARENTLY WAS NEVER SIGNED, WAS THERE ANY, WAS THERE ANY DISCUSSION BETWEEN MR. BURGESS AND MR. SKELTON OR WITH MR. SKELTON AT ALL?

A. I THINK, UH, MR. BURGESS MET WITH MR. SKELTON.

Q. YES, SIR.

A. AND DISCUSSED IT.
Q. OKAY.
A. I MEAN, I, I CAN'T PROVE THAT. BUT I -- IT'S JUST HEARSAY. I THINK THAT WHAT I'VE HEARD IS ---
Q. ALL I'VE TO ASK IS WHAT'S THE BEST YOU CAN RECALL.
A. YES, SIR.
Q. AND THAT'S, THAT'S -- IF THAT'S WHAT YOU'VE GOT, THAT'S WHAT YOU'VE GOT.
A. 'CAUSE I WASN'T SERVING ON THE DEACON BOARD AT THAT TIME, SO, I, ---
Q. OKAY.
A. --- I WASN'T IN THE LOOP. SO, ---
Q. SO, DURING THE, THE TEENS, TWO THOUSAND TEENS, WAS THERE -- TO YOUR KNOWLEDGE, WAS THERE ANY FURTHER DISCUSSIONS HELD? HERE COMES YOUR NEW CAT.
BY MR. WILSON: I'M SORRY. I -- YOU WANT ME TO PUT HER OUT? IS ANYBODY ALLERGIC TO CATS?
A. NAH, I'M ALL RIGHT.
Q. DURING THE PERIOD OF TWO THOUSAND TEENS, WAS THERE ANY FURTHER DISCUSSIONS HELD BETWEEN THE CHURCH OR REPRESENTATIVES OF THE CHURCH AND THE SKELTONS THAT YOU'RE AWARE OF? AND I ---
A. NOT THAT, NOT THAT I'M AWARE OF.
Q. OKAY, OKAY. WERE THERE DISCUSSIONS HELD INSIDE THE CHURCH AT DEACON MEETINGS, OR OTHERWISE, THAT YOU'RE AWARE OF,

THAT DISCUSSED THE RELATIONSHIP BETWEEN THE CHURCH AND THE SKELTONS AS IT PERTAINED TO THE TWO (2) TRACTS OF LAND?

A. SINCE IN THE TWO THOUSAND TEENS?

Q. YEAH. FROM ---

A. OKAY.

Q. --- AFTER MR. BURGESS QUIT DEALING WITH ---

A. RIGHT.

Q. --- STICK, DID IT ---

A. NOT THAT I'M AWARE OF.

Q. OKAY. AND WOULD THERE BE ANY -- AND I'VE -- TO YOUR KNOWLEDGE, ARE THERE ANY E-MAILS -- I ASKED YOU TO BRING E-MAILS AND STUFF. AND I DON'T WANT TO ---

BY MR. WILSON: LET'S GO OFF THE RECORD A SECOND.

(OFF THE RECORD @ 8:48 A.M. - 8:49 A.M.)

DIRECT EXAMINATION BY MR. WILSON (RESUMES):

Q. OKAY. SO, LET ME SHOW YOU A FEW THINGS. (LOOKING THROUGH DOCUMENTS) OKAY. JUST FOR THE RECORD, I'M GOING TO SHOW YOU THIS DEED MARKED -- IT'S 1468-415. BILL BANNISTER AND BOB WILSON STARTED OUT THE SAME WAY. WE STARTED OUT SEARCHING REAL ESTATE AND THEN THEY LET US DO OTHER THINGS.

A. UH-HUH. (AFFIRMATIVE)

Q. SO, YOU KNOW, WE LIVE AND DIE BY THE REGISTRAR OF DEEDS.

A. THERE YOU GO.

Q. (DOCUMENT HANDED TO WITNESS) WOULD YOU IDENTIFY THAT --

AND, AND I'LL TELL YOU WHAT IT IS. IT'S THE DEED BY WHICH THE SKELTONS BOUGHT THEIR PROPERTY, AND THEN THERE'S A PLAT ATTACHED TO IT THAT SHOWS THE PROPERTY.

A. YEAH. WE, ---

Q. AND WOULD YOU ---

A. --- WE HAVE COPIES OF THIS.

Q. YEAH. WOULD YOU AGREE THAT THAT'S THE PROPERTY AND THAT'S THE PLAT FOR THE PROPERTY?

A. IT SURE IT.

Q. YEAH.

BY MR. WILSON: WOULD YOU, WOULD YOU MARK THAT AND MAKE IT A PART OF THE RECORD, PLEASE?

(PLAINTIFF'S EXHIBIT "2" MARKED & ENTERED)

BY MR. WILSON: I'M SUPPOSED TO BE GIVING HIM -- THANK YOU.

BY THE COURT REPORTER: UH-HUH. (AFFIRMATIVE)

BY MR. WILSON: AND THERE IS NO TRICK THERE, BILL. I'M ---

BY MR. BANNISTER: YEAH.

BY MR. WILSON: I JUST WANT TO ESTABLISH THAT -- OKAY. HOLD ON.

Q. NOW, I'M GOING TO SHOW YOU THIS OTHER DOCUMENT -- I ONLY HAVE ONE (1) COPY OF IT. I'M SORRY. (DOCUMENT HANDED TO WITNESS) THAT'S THE DEED THAT I REFERRED TO A FEW MINUTES AGO THAT RAY LATHAN AND THEM PREPARED THAT CONSOLIDATES IN ONE (1) NAME ALL THE VARIOUS PARCELS OF LAND THAT, THAT THE CHURCH OWNED.

BY MR. WILSON: AND I WANT TO PUT THAT IN THE RECORD. NO, NO OBJECTION?
BY MR. BANNISTER: NO OBJECTION.
BY MR. WILSON: WOULD YOU MARK THAT AND MAKE IT A PART OF THE RECORD?
BY THE COURT REPORTER: YES, SIR.
(PLAINTIFF'S EXHIBIT "3" MARKED & ENTERED)
Q. AND, AND BASED UPON THOSE TWO (2) EXHIBITS, ONCE AGAIN, YOU'D AGREE THAT THE SKELTONS' LAND AND THE LOWER, THE LOWER TRACT OF THE CHURCH CAME OUT OF THE SAME LARGER PARCEL, WHICH ---
A. MR. SMITH'S PARCEL.
Q. OKAY. THANK YOU. HERE WE GO, BILL. (DOCUMENT HANDED TO MR. BANNISTER) OKAY. WOULD YOU RIFFLE -- RUFFLE THROUGH -- I'M GOING TO REPRESENT TO YOU THAT THESE ARE THE MINUTES, THE DEACON'S MINUTES, THAT WERE PROVIDED TO US BY MR. BANNISTER ON BEHALF OF THE CHURCH. WOULD YOU TAKE A LOOK AT THAT AND IDENTIFY THEM FOR ME, PLEASE? (DOCUMENT HANDED TO WITNESS)
A. (PAUSE - REVIEWING DOCUMENT)
BY MR. BANNISTER: YOU GOING TO MARK THIS AS A BATCH?
BY MR. WILSON: I'M SORRY?
BY MR. BANNISTER: ARE YOU GOING TO MARK THEM AS A BATCH?
BY MR. WILSON: YEAH, IF THAT'S OKAY.
BY MR. BANNISTER: OKAY. OKAY. LET'S LET HER MARK IT AS A

BATCH. AND LET THE RECORD REFLECT THAT EXHIBIT NUMBER FOUR (4) IS A BATCH OF DEACON'S MINUTE MEETINGS -- (COUNTING) ONE (1), TWO (2), THREE (3), FOUR (4), FIVE (5), SIX (6), SEVEN (7), EIGHT (8), NINE (9), TEN (10), ELEVEN (11), TWELVE (12), THIRTEEN (13), FOURTEEN (14), FIFTEEN (15), SIXTEEN (16), SEVENTEEN (17); SEVENTEEN (17) PAGES -- CONSISTING OF SEVENTEEN (17) PAGES. IS THAT -- I HOPE I GOT THE NUMBER RIGHT, WILLIAM.

(PLAINTIFF'S EXHIBIT "4" MARKED & ENTERED)

Q. OKAY. CAN WE LOOK -- CAN WE WALK THROUGH THEM?

A. SURE.

Q. AND I'M SORRY TO PUT YOU THROUGH THIS, BUT HERE'S THE DEACON'S MEETING MINUTES FROM JUNE 21ST, '99. IT SAYS, "ADJOINING CHURCH PROPERTY. IN REFERENCE TO EARLIER DISCUSSIONS ON WHAT TO DO WITH THE HOUSE ON ADJOINING PROPERTY, PASTOR REPORTED THAT OUR NEIGHBOR HAS CONCERNS WITH CONDITION OF HOUSE AND PROPERTY. NEIGHBOR'S SON, HAVING LANDSCAPING BUSINESS, HAS VOLUNTEERED TO MOW PROPERTY AND HAVE HOUSE TORN DOWN AND HAULED AWAY. IT WAS DISCUSSED THAT IF WE ALLOWED SOMEONE TO DO THIS THAT AN AGREEMENT BE OBTAINED STATING THEY ARE RESPONSIBLE FOR TOTAL REMOVAL OF BUILDING AND THE IMPORTANCE OF VERIFYING PERSONS HAVING ADEQUATE INSURANCE COVERAGE. THIS ISSUE WAS PASSED TO BE ON TO THE PROPERTY COMMITTEE FOR ACTION." AND, AND THIS WASN'T TO TRY TO TRICK YOU, GARY. THIS WAS

-- DOES, DOES THIS SHOW THAT IT WAS LAT- -- A LITTLE LATER ON THAN YOU RECALL THAT THE, THAT THE HOUSE WAS REMOVED AND TORN DOWN?

A. WELL, I, I SAID I DIDN'T RECALL WHEN IT WAS TORN DOWN.

Q. YEAH. AND I'M NOT, I'M NOT TRYING TO TRICK YOU.

A. I MEAN, YOU KNOW, IT WAS JUST -- YEAH.

Q. DOES THIS CLARIFY FOR YOU WHAT ---

A. RIGHT.

Q. YEAH. OKAY.

A. I KNEW THAT CHARLES, UH, KELLY WAS -- HE WAS THE CHAIRMAN, I THINK, OF THE PROPERTIES COMMITTEE.

Q. YEAH. AND THAT HAPPENED ABOUT NINETY- -- NINETY-NINE ('99).

A. HE -- THAT FALLS UNDER THEIR CATEGORY TO DO WHATEVER WITH THE, THE CHURCH, CHURCH PROPERTY, YOU KNOW?

Q. SURE. AND IT, IT HAPPENED ABOUT '99 FROM THIS -- WHAT YOU ---

A. EVIDENTLY, YEAH.

Q. YES, SIR. AND TO YOUR KNOWLEDGE, WAS -- THERE IS NO -- THERE ARE NO OTHER REFERENCES TO THE SKELTON CHURCH SITUATION ON, ON THE JUNE 21ST '99 ISSUES?

A. DON'T LOOK LIKE IT.

Q. OKAY. IF WE COULD, THEN, GO TO JULY OF '99.

A. UH-HUH. (AFFIRMATIVE)

Q. AND AT NUMBER ONE (1), IT SAYS, "MR. KELLY, REPRESENTING

THE PROPERTY COMMITTEE, SHARED THAT QUOTES ARE BEING SECURED FOR REMOVAL OF TWO (2) BUILDING ON ADJOINING PROPERTIES. PLANS ARE TO PROCEED ONCE THE SECOND QUOTE IS SECURED."

A. YEAH.

Q. DID, DID -- WHY -- WHAT -- WERE THERE TWO (2) BUILDINGS?

A. WELL, ---

Q. AND I -- AND, SINCERELY, I'M NOT TRYING TO TRICK YOU. I, I ---

A. YEAH. THERE WAS JUST ONE (1) HOUSE AND THERE MAY HAVE BEEN A ---

Q. SOMETHING?

A. --- SOME KIND OF ---

Q. SHED OR SOMETHING?

A. --- SHED OR BARN OR SOMETHING. I DON'T ---

Q. OKAY.

A. --- REALLY RECALL.

Q. OKAY. ALL RIGHT. OKAY. AND I DON'T SEE -- AND THEN WE GO TO AUGUST. IF YOU'LL GO TO AUGUST OF '99, IT SHOWS, AGAIN, AT NUMBER ONE (1), "ADJOINING CHURCH PROPERTY." AND I'LL READ. "ALL QUOTES RECEIVED FOR CLEARING OF PROPERTY, INCLUDING BUILDING REMOVAL, CLEARING, LEVELING AND SEWING." (CHUCKLES) S-E- -- EXCUSE ME. SOW- -- INSTEAD OF S-O-W, IT'S ---

A. YEAH.

Q. --- S-E-W. (CHUCKLES) -- TO ALLOW FOR UPKEEP. (LOW BID WAS SEVENTY-TWO HUNDRED ($7,200.00), HIGH, NINETY-FIVE HUNDRED ($9,500.00)) AFTER DISCUSSION WITH NO OPPOSITION, IT WAS AGREED TO ADVISE PROPERTY COMMITTEE TO PROCEED HIRING CONTRACTOR TO CLEAR THE PROPERTY." THAT'S AUGUST OF '99.

A. UH-HUH. (AFFIRMATIVE)

Q. AND DOES THAT, ONCE AGAIN, HELP REFRESH YOUR -- AND I UNDERSTAND. YOU'RE REPRESENTING THE CHURCH AND YOU MAY NOT KNOW ALL THE DETAILS OF THE CHURCH. YOU'RE HERE TO THE EXTENT THAT YOU KNOW, OR THAT THESE THINGS CLARIFY FOR YOU.

A. EXACTLY.

Q. I CERTAINLY WANT TO GIVE YOU, YOU KNOW, THE BENEFIT OF -- I DON'T WANT YOU TO -- BUT DOES THAT, DOES THAT HELP RECALL YOU -- HELP YOU RECALL YOUR ---

A. UH, YEAH, SOMEWHAT, YEAH. UH-HUH. (AFFIRMATIVE)

Q. OKAY. SO, THE CHURCH HIRED SOMEBODY TO TAKE THAT BUILDING OUT OF THERE?

A. YES, SIR.

Q. AND, AND TO GRASS IT AND ALL, ALL THE STUFF THAT MIGHT HAPPEN.

A. SURE.

Q. OKAY. THEN WE GO TO SEPTEMBER 20. AND NOW WE'VE BECOME "OLD BUSINESS." IT'S NUMBER FIVE (5). IF YOU WOULD LOOK

AT NUMBER FIVE (5).

A. UH-HUH. (AFFIRMATIVE)

Q. "ADJOINING CHURCH PROPERTY WORK. CHARLES KELLY REPORTED FROM PROPERTY COMMITTEE THE CLEARING HAD BEGUN AS PLANNED. COMPLETION OF THE PROJECT WILL INCLUDE SEWING -- S-E-W-I-N-G -- PROPERTY AND GRASS SO SITE CAN BE KEPT UP AND BE AVAILABLE FOR CHURCH USE." AT THAT POINT, WHAT, WHAT USE DID THE CHURCH HAVE IN MIND FOR THE, FOR THE LOWER TRACT?

A. I DON'T THINK THERE WAS A USE AT THAT TIME. UH, WE JUST BOUGHT IT BECAUSE IT ---

Q. IT WAS THERE?

A. --- IT WAS THERE AND, ---

Q. YEAH.

A. --- AND IT DIDN'T -- IT WAS NEXT DOOR TO US.

Q. UH-HUH. (AFFIRMATIVE)

A. AND, UH, CAROL WAS A MEMBER OF THE CHURCH AND HE OFFERED IT TO US FIRST.

Q. UH-HUH. (AFFIRMATIVE)

A. UH, FIRST REFUSAL.

Q. ALL RIGHT.

A. WE THOUGHT IT'D BE A GOOD INVESTMENT FOR THE FUTURE, ---

Q. UH-HUH. (AFFIRMATIVE)

A. --- IN CASE WE WANTED TO EVER BUILD A NEW SANCTUARY, ET CETERA. SO, ---

Q. UH-HUH. (AFFIRMATIVE) BUT NOBODY HAD A -- ANY GRAND PLAN FOR IT?
A. NOTHING SPECIFIC, NO.
Q. OKAY. AND THAT'S SEPTEMBER OF '99. WE CAN LEAVE -- NOW, HERE'S -- AND, AND GARY, THIS, THIS CONFUSES ME. ALL OF A SUDDEN, THE FONTS -- YOU SEE HOW THIS DEACON'S MEETING FOR 2 JUNE, 2003, ---
A. UH-HUH. (AFFIRMATIVE)
Q. --- IS IN A DIFFERENT TYPE, DIFFERENT FONT, THAN, THAN THE REST OF THEM? WHAT'S -- THEY'VE GOT A NEW TYPEWRITER AT THE CHURCH?
A. I COULDN'T TELL YOU. MIGHT HAVE BEEN WHEN WE GOT A COMPUTER.
Q. OKAY. THESE OLD -- THESE -- THE PREVIOUS ONES WE LOOKED AT WERE WHAT'S IN THE CHURCH'S RECORDS. I MEAN, SOMEBODY WENT TO A FILE AND PULLED IT OUT?
A. UH-HUH. (AFFIRMATIVE)
Q. AND THAT'S, THAT'S THE, THE FIRST FEW PAGES WE LOOKED AT?
A. UH-HUH. (AFFIRMATIVE)
Q. OKAY. NOW WE'VE GOT ONE (1) ON THE DIFFERENT FONT. WE DON'T KNOW -- THERE'S OLE' CAREY HICE. IS THIS CHARLES ---

BY MR. WILSON: CAN WE GO OFF THE RECORD?

(OFF THE RECORD @ 8:59 A.M. - 9:00 A.M.)

DIRECT EXAMINATION BY MR. WILSON (RESUMES):

Q. ALL RIGHT. 2 JUNE, 2003, "BUDDY REPORTED THAT OUR NEIGHBOR -- AND, AGAIN, THIS WASN'T A, AN ATTEMPT TO TRICK YOU OR TRAP YOU. IT'S, IT'S NOT ---

A. UH-HUH. (AFFIRMATIVE)

Q. "BUDDY REPORTED THAT OUR NEIGHBOR AT THE VACANT LOT IS PUTTING TRASH ON OUR LOT AND ALSO HAS HIS TRUCK PARKED THERE FOR SALE. BUDDY WILL CONFER WITH THE PROPERTY COMMITTEE IN REGARDS TO SHOOTING THE LINE BETWEEN THE PROPERTIES." OKAY. SO, IN 2003, THERE WAS A LITTLE BIT OF A CONCERN ABOUT -- INSIDE THE CHURCH -- ABOUT TRASH BEING LEFT ON THE LAND. OKAY. THEN WE JUMP UP TO 2011. AND THIS ONE'S IN A DIFFERENT FONT, TOO. AND I'M UNDERSTANDING, AGAIN, THIS -- IS THERE A DIFFERENT, DIFFERENT COMPUTER, DIFFERENT PRINTER AT THE -- DIFFERENT ---

A. I COULDN'T SPEAK TO THAT.

Q. WELL, I MEAN, IF, IF, IF -- YOU KNOW, IF IT WERE A, A -- I DON'T THINK THERE'S ANY TRICKERY GOING ON, BUT I'M JUST CURIOUS ABOUT WHY ---

A. ALL THESE WERE PULLED OUT OF THE NOTES OF THE CHURCH. I MEAN, THERE WASN'T NOTHING TYPED UP ---

Q. YEAH.

A. --- BACKDATED IF THAT'S WHAT YOU'RE GETTING AT.

Q. NOTHING, NOTHING WAS -- WELL, LET ME ASK YOU DIRECTLY. I MEAN, THESE THINGS WEREN'T CREATED AFTER THE FACT --

A. NO, SIR.
Q. --- TO TRY AND ---
A. NO, SIR.
Q. --- TAKE CARE OF THIS LAWSUIT?
A. NO, SIR. NO, SIR.
Q. OKAY. SO, THEY'RE JUST PULLED OUT OF THE FILES FROM THE CHURCH?
A. PULLED OUT OF THE FILES; THAT'S RIGHT.
Q. ALL RIGHT. HERE IS DECEMBER 5TH, 2011. J.J., WHO I ASSUME IS MR. ---
A. BURGESS.
Q. --- BURGESS, ---
A. UH-HUH. (AFFIRMATIVE)
Q. --- ISSUED HANDOUT OF AERIAL PHOTO." AND I GUESS THAT'S THE PICTURE IMMEDIATELY TO THE BACK OF THIS?
A. UH-HUH. (AFFIRMATIVE)
Q. IS THAT, IS THAT RIGHT? "POST A SIGN, A FENCE, A LEGAL DOC- -- HERE ARE THE OPTIONS OR THE CONCERNS. "POST A SIGN, A FENCE AND A LEGAL DOCUMENT." ALLOW -- UH, DURN -- "ALLOW OCCUPANT TO PURCHASE A THIRD ACRE STRIP OF PROPERTY FROM THE CHURCH. PERMISSION TO USE THE PROPERTY WITH LIMITATIONS. IS IT LEGAL TO OPEN HIS BUSINESS OUT OF HIS HOME WITHIN THE T.R. CITY LIMITS? UNSURE. QUESTION, IS YARD DEBRIS STILL BEING DUMPED ON CHURCH -- NO. LIMITATIONS TO BE STATED IN THE FORM OF A LEASE. NO

DUMPING, NO LAW SUITES (CHUCKLES) INJURIES OF HIS EMPLOYEES, ACTIONS OR CONSEQUENCES FOR ANY FAILURE TO COMPLY." OKAY. SO, AT -- IN -- ON DECEMBER THE 5TH, MR. BURGESS WAS PROPOSING OPTIONS TO THE CHURCH FOR RESOLVING THE -- WHATEVER THE ISSUES THAT MAY EXIST WITH THE NEIGHBOR?

A. IT APPEARS THAT WAY.

Q. OKAY.

A. I WASN'T ON THE BOARD THEN.

Q. WERE YOU -- YOU WEREN'T ON THE BOARD ---

A. NO, SIR.

Q. --- AT THAT TIME? OKAY. AND WE SETTLED THAT -- WHAT THAT AERIAL PIC-, AERIAL PICTURE IS ON THE BACK PART OF IT. AND, AGAIN, THIS -- ON JANUARY THE 2ND -- IF YOU'LL GO TO JANUARY THE 2ND OF 2012. WE GET DOWN TO "E." IT SAYS, "PROPERTY LINE ISSUE. LETTER BEING WRITTEN BY ATTORNEY." AND, AGAIN, I AM NOT -- I DIDN'T TRY TO TRICK YOU BY ASKING YOU BEFORE AND THEN BRINGING THIS UP. BUT DO YOU HAVE ANY IDEA WHO THAT ATTORNEY MIGHT HAVE BEEN?

A. NO. I, I SURE DON'T. THAT WAS -- LIKE I SAY, I WASN'T ON THE DEACON BOARD AT THAT TIME.

Q. OKAY.

A. I HAVE NEVER SEEN THAT TILL NOW.

Q. OKAY. AND THEN WE MOVE ON TO FEBRUARY THE 8TH, 2012.

A. FEBRUARY THE 6TH?

Q. I'M SORRY. YEAH, FEBRUARY THE 6TH.
A. OKAY. (CHUCKLES)
Q. THANK YOU. (REVIEWING DOCUMENT) I DON'T SEE ANY REFERENCE TO THE SKELTON.
A. UH-UH. (NEGATIVE)
Q. OKAY. WE'LL MOVE ON TO MARCH THE 5TH, 2012. DOWN THERE AT, AT THE BULLET POINT, UNDER "NEW AND EXISTING BUSINESS," IT SAYS, "STATUS OF PROPERTY/LAWYER LETTER. STILL TO BE SUBMITTED WRITTEN." AND, AGAIN, YOU WEREN'T ON THE BOARD AT THE TIME. BUT, TO YOUR KNOWLEDGE, YOU DON'T KNOW WHO THE LAWYER WAS. AND THE LAWYER, APPARENTLY, LIKE SOME, SOME LAWYERS, HAS PROCRASTINATED ON THE, ON THE JOB.
A. UH-HUH. (AFFIRMATIVE) I HAVE NO IDEA.
Q. OKAY. ALL RIGHT. WE MOVE ON TO APRIL THE 9TH, 2012. AND HERE WE ARE. IT SAYS, "FIVE (5) YEAR AND BEYOND BE RECOGNIZED WITH CERTIFICATE AND TWO HUNDRED AND FIFTY DOLLARS ($250.00)." IMMEDIATELY BEF- -- BELOW THAT, IT SAYS, "J.J. PRESENTED DRAFT OF A LEGAL DOCUMENT (ATTACHMENT A). ---
A. OKAY.
Q. --- FOR TEMPORARY ACCESS TO IN REGARDS TO CHURCH PROPERTY TO THE ADJACENT PROPERTY HOLDER, MR. SKELTON. THE DOCUMENTS STATED THE CHURCH AS THE OWNER OF THE PROPERTY. THAT MR. SKELTON WOULD BE RESPONSIBLE -- WOULD BE

RESPONSIBILITY FOR DAMAGE, DEBRIS ON THE PROPERTY AND PROHIBITING ANY FIXTURES OR STRUCTURES FROM BEING PLACED ON THE PROPERTY. BEFORE PRESENTING THE COPY OF THE DRAFT, J.J. WANTED APPROVAL FROM ALL THE DEACONS (RON AND BILL)." OKAY. NOW, I'M GOING TO SHOW YOU SOMETHING THAT WAS ATTACHED TO THE THINGS THAT MR. BANNISTER SENT ME. (RETRIEVING DOCUMENTS) HERE IT IS. I KNOW YOU'VE BOTH GOT A COPY OF THIS. (DOCUMENT HANDED TO WITNESS)

A. UH-HUH. (AFFIRMATIVE)

Q. COULD YOU TAKE A LOOK AT WHAT I JUST HANDED YOU, "TEMPORARY RIGHT OF ACCESS AGREEMENT."

A. OKAY.

Q. IS THAT SOMETHING YOU'VE SEEN BEFORE?

A. UH, YES, SIR.

Q. WHEN DID YOU SEE IT BEFORE?

A. (PAUSE) THE FIRST TIME I EVER SEEN IT PROBABLY WAS A YEAR AND A HALF AGO OR SO.

Q. IT -- WHEN, WHEN ALL THIS ---

A. UH-HUH. (AFFIRMATIVE)

Q. --- BEGAN?

A. UH-HUH. (AFFIRMATIVE)

Q. COULD YOU TELL ME THE C-, CIRCUMSTANCES SURROUNDING YOUR FIRST SEEING IT?

A. WELL, WHEN WE, UH, TALKED ABOUT ASKING MR. SKELTON TO CEASE USE OF THE PROPERTY, THEN WE STARTED LOOKING AT ---

Q. WENT TO THE FILE.
A. WENT TO THE FILE TO SEE WHAT WE HAD ---
Q. EXCUSE ME ---
A. --- IN THE FILE ON MR. SKELTON.
Q. SURE.
A. AND THIS WAS IN IT. SO, ---
Q. OKAY. HAS THIS EVER BEEN SIGNED?
A. TO MY KNOWLEDGE, IT HAS NOT.
Q. OKAY. WAS THERE ANYTHING ELSE IN THE FILE -- AND I DON'T MEAN TO ACCUSE OR MR. -- SINCERELY, I DON'T MEAN TO ACCUSE ANYBODY OF ANYTHING. BUT WAS THERE ANOTHER DRAFT OF THIS OR ANY OTHER SAMPLE OR ANYTHING LIKE THAT?
A. I THINK THIS IS THE ONLY THING THAT WAS IN THERE.
Q. THAT'S ALL THERE WAS?
A. UH-HUH. (AFFIRMATIVE)
Q. OKAY. DO YOU KNOW WHO DID THIS? J.J.?
A. MR. J.J. BURGESS DID IT.
Q. MR., MR. -- I SHOULD CALL HIM MR. BURGESS. AND YOU DON'T KNOW WHETHER OR NOT MR. BURGESS HAD ATTORNEY HELP AND IF -- DON'T KNOW WHO THE ATTORNEY WAS?
A. I HAVE, I HAVE NO IDEA HOW, HOW HE DRAWED IT UP.
BY MR. WILSON: OKAY. COULD WE MARK THAT AS PLAINTIFF'S EXHIBIT WHATEVER IS IT.
BY THE COURT REPORTER: FIVE (5).
BY MR. WILSON: OKAY. FIVE (5).

(PLAINTIFF'S EXHIBIT "5" MARKED & ENTERED)

BY MR. WILSON: GIVE IT RIGHT TO HIM.

BY THE COURT REPORTER: (DOCUMENT HANDED TO WITNESS)

Q. ALL RIGHT. NOW, TO, TO YOUR KNOWLEDGE, WAS THE CHURCH WORKING UNDER THE IMPRESSION OR AS IF -- OR THAT THAT WAS A GOVERNING-ENFORCEABLE DOCUMENT? AND THAT'S A LITTLE BIT OF A MOUTHFUL, BUT, I MEAN, DO YOU -- DID Y'ALL THINK THAT WAS WHAT WAS IN -- WAS GOVERNING THE RELATIONSHIP?

A. WELL, WE KNEW ABOUT -- WE HAD THIS SOMEWHERE. BUT I GUESS THE ANSWER TO YOUR QUESTION WOULD BE YES. BUT TURNS OUT IT WASN'T EVER EXECUTED.

Q. WASN'T SIGNED?

A. YEAH.

Q. YEAH. BUT YOU -- BUT IN, IN THE BACK OF EVERYBODY'S MIND WAS THAT THERE WAS A RELATIONSHIP AND THAT, THAT THERE WAS A DOC- ---

A. OH, YEAH. WE KNEW THAT. UH-HUH. (AFFIRMATIVE)

Q. OKAY. AND, AND YOU, YOU WOULD AGREE -- AND WE DON'T KNOW BECAUSE MR. BURGESS ISN'T HERE TO CLEAR US UP ON IT -- BUT MR. BURGESS HAD S- -- AT LEAST TWO (2) OR THREE (3) DISCUSSIONS WITH MR. SKELTON ABOUT WHAT WAS GOING TO GO IN THE DOCUMENT?

A. I, I THINK THAT'S CORRECT.

Q. I MEAN, IF, IF YOU KNOW, GARY. I DON'T WANT TO TRY TO ---

A. YEAH. MR. BURGESS HAD SEVERAL DISCUSSIONS WITH MR.

SKELTON.

Q. OKAY. AND THAT, YOU DO KNOW? OKAY.

A. CORRECT.

Q. OKAY. NOW, MOVING ALONG. (LOOKING THROUGH DOCUMENTS) I GOT APRIL 9TH. CAN YOU LOOK AT MAY 7, 2012?

A. OKAY.

Q. HERE IT IS. MAY 7TH, 2012. "G. PROPERTY LINE LETTER HAS BEEN APPROVED BY THE DEACONS AND IS READY TO SUBMIT TO MR. SKELTON." OKAY. WERE YOU BACK ON THE BOARD BY, BY THEN?

A. NO. THE LIST OF THE DEACONS IS AT THE TOP.

Q. YEAH. I, I SAW THAT. I JUST -- OKAY. SO, WE'VE GOT -- IN MAY OF 2012, WE'VE GOT THE DOCUMENT READY TO BE SI-, SIGNED.

A. UH-HUH. (AFFIRMATIVE)

Q. MOVE ALONG, IF YOU WOULD, TO JANE -- JUNE -- JANE 4TH -- JUNE 4TH, 2012. I DON'T SEE ANYTHING ON THERE ABOUT -- GARY, IT'S -- AT MY AGE, I'M SHAMELESS. I DON'T SEE ANYTHING ON JUNE -- THE JUNE 4TH MINUTE MEETING -- MINUTES OF THE MEETING ABOUT THE SKELTON MATTER.

A. HMM.

Q. HUH?

A. I DON'T EITHER.

Q. OKAY. WELL, WE AGREE. OKAY. AND THE LAST THING IN THERE IS ANOTHER COPY OF THAT UNSIGNED ACCESS AGREEMENT. WELL -- AND THERE IS ONE LAST THING. EXCUSE ME.

(OFF THE RECORD @ 9:11 A.M. - 9:12 A.M.)

DIRECT EXAMINATION BY MR. WILSON (RESUMES):

Q. GARY, WOULD YOU -- MR. BATSON, WOULD YOU LOOK AT THE LAST PAGE OF THAT EXHIBIT. I'M SORRY ---

A. THE TEMPORARY PAPER?

Q. YE- -- WELL, YEAH. WELL, THE LAST PAGE OF THE BA-, OF THE BATCH.

A. OKAY.

Q. IT'S NUMBER -- IT'S A, IT'S A SURVEY FROM WILLIAMS.

A. W.R. WILLIAMS?

Q. YEAH. AND IT'S DATED '03.

A. UH-HUH. (AFFIRMATIVE)

Q. AND IS, IS THAT A PART OF THAT EARLIER NOTE IN THE MINUTES THAT B-, BUDDY SAID HE WAS GOING TO SHOOT THE LINE AND THAT HE -- THAT THEY WERE WORRIED ABOUT THE, THE REFUSE NEAR THE PROPERTY?

A. EVIDENTLY.

Q. YEAH.

A. UH-HUH. (AFFIRMATIVE)

Q. OKAY. IS THAT, IS THAT WHAT THAT DOCUMENTS?

A. EVIDENTLY.

Q. OKAY. ALL RIGHT.

A. SAME YEAR. SO, THAT'S ALL I KNOW.

Q. OKAY. ALL RIGHT. NOW, GARY ---

BY MR. WILSON: BILL BANNISTER, I'VE GOT TO ASK YOU AND

EVERYBODY'S PERMISSION TO GO TO THE BATHROOM.
BY MR. BATSON: I'M GOOD.
BY MR. BANNISTER: GRANTED.
(OFF THE RECORD @ 9:12 A.M. - 9:21 A.M.)
DIRECT EXAMINATION BY MR. WILSON (RESUMES):
Q. ALL RIGHT.
BY MR. WILSON: AND, AND CAN WE GO OFF THE RECORD FOR ONE (1) SECOND.
(OFF THE RECORD @ 9:21 A.M. - 9:21 A.M.)
DIRECT EXAMINATION BY MR. WILSON (RESUMES):
Q. (DOCUMENTS HANDED TO WITNESS) DO YOU WANT TO TAKE A MINUTE TO LOOK AT IT, MI- ---
A. YEAH, YOU CAN GO AHEAD. I'M JUST KIND OF SCANNING IT HERE.
Q. WELL, I HATE TO TELL YOU THIS, BUT I'M TRYING TO PLAY FAIR HERE. ALL RIGHT?
A. (PAUSE - REVIEWING DOCUMENTS)
BY MR. WILSON: OKAY. CAN WE MARK THAT EXHIBIT NUMBER SIX (6) AS A BATCH, CONSISTING OF THREE (3) PAGES? AND TO CHARACTERIZE IT, IT'S AN INTERNET EXCHANGE, E-MAIL EXCHANGE, BETWEEN, E-MAIL EXCHANGE BETWEEN BILL BURGESS AND MR. SKELTON, MY CLIENT.
(PLAINTIFF'S EXHIBIT "6" MARKED & ENTERED)
Q. (DOCUMENT HANDED TO WITNESS) DO YOU -- CAN -- DO YOU RECOGNIZE THAT?

A. FIRST TIME I'VE EVER SEEN IT.
Q. NEVER SEEN IT BEFORE? YOU, YOU WOULDN'T -- AND, AND I'VE, I'VE GOT TO ASK YOU -- YOU WOULDN'T HAVE -- WAS THIS COMMUNICATION PRESENTED TO THE CHURCH?
A. AS I JUST SAID, I'VE NEVER SEEN IT BEFORE.
Q. (COUGHS) EXCUSE ME. OKAY.
A. IT'S MY FIRST TIME.
Q. AND, AND IN 2011 YOU WERE NOT SERVING ON THE, ---
A. NO, SIR.
Q. --- ON THE DEACON BOARD, AND SO YOU WOULD NOT HAVE SEEN IT IF IT WERE -- IF IT HAD BEEN PRESENTED.
A. THAT'S CORRECT.
Q. SO -- BUT, BUT WERE YOU BE- -- WAS -- AS A MEMBER OF THE CHURCH, WERE YOU BEING KEPT APPRISED OF THE DISCUSSIONS GOING ON BETWEEN ---
A. DON'T RECALL ANY.
Q. DON'T RECALL?
A. UH-UH. (NEGATIVE)
Q. OKAY. IN 2012, THE LAST PAGE OF THIS EXHIBIT, BY THEN, HAD YOU BEEN REINSTATED -- NOW, THAT'S A BAD WORD -- RE-ELECTED TO THE ---
A. I DON'T THINK I WAS ON 2012 EITHER. I JUST -- LIKE I SAY, THE FIRST TIME I'VE EVER SEEN ---
Q. OKAY.
A. --- ANY OF THESE THREE (3) PAGES HERE.

Q. AND, AND THIS -- THESE -- THIS EXHIBIT CONSISTING OF THREE (3) PAGES IS NOT A PART OF THE CHURCH RECORDS?

A. AS I SAY, FIRST TIME I'D EVER SEEN IT.

Q. OKAY.

A. SO, I, I HAVEN'T EVER SEEN IT BEFORE.

Q. WHO KE- -- WHO, WHO, WHO'S THE CHIEF ARCHIVIST, RECORD-KEEPER, FOR THE CHURCH?

A. WELL, THE CHURCH SECRETARY KEEPS ALL THE ---

Q. WHO IS THAT?

A. UH, ANN SUTTON.

Q. OKAY. DOES SHE WORK FULL TIME OVER THERE?

A. SHE JUST WORKS THREE (3) DAYS A WEEK.

Q. FULL TIME. THERE'S NO SUCH THING AS ---

A. FULL TIME, ---

Q. --- NO SUCH THING AS A PART-TIME JOB.

A. IT'S FULL TIME/PART TIME.

Q. YEAH. AND, AND COULD YOU ---

A. THIS COULD HAVE BEEN JUST BEEN JOEL AND MR. SKELTON.

Q. YEAH. I MEAN -- AND, FRANKLY, I SUSPECT ---

A. YEAH.

Q. --- THAT'S WHAT IT IS. BUT COULD I ASK YOU AS A REPRESENTATIVE OF THE CHURCH AND MR. BANNISTER AS ATTORNEY OF THE CHURCH, TO CHECK AND SEE IF THIS EXCHANGE IS NOT IN THE, IN THE, IN THE CHURCH'S RECORDS?

A. WOULD WE CHECK AND SEE?

Q. YEAH, PLEASE.
A. YEAH, WE COULD.
Q. OKAY. THANK YOU. OKAY. AND THIS -- IF YOU'LL LOOK AT THIS THING, WITHOUT VERIFYING THAT YOU KNOW ABOUT IT OR ANYTHING ELSE, IT SEEMS TO SPEAK TO A GOOD BIT OF, OF TR-, TRAFFIC. MAYBE THAT'S THE WRONG WORD. BUT A GOOD BIT OF TRUCKS COMING AND GOING FROM THE SKELTONS. HAVE, HAVE YOU BEEN DOWN THERE? DO YOU KNOW THE WAY IT'S, THE WAY IT'S SET UP?
A. YEAH.
Q. OKAY. AND, AND YOU'D AGREE WITH ME THAT THERE'S A, A, A SWALE -- WELL, THERE'S A, THERE'S A HUMP THAT RUNS ALONG THE SIDE OF THE SKELTON'S HOUSE THAT'S MADE OUT OF BARK OR SOMETHING. I DON'T KNOW -- YOU PROBABLY KNOW BETTER THAN I DO.
A. A BERM?
Q. WELL, IT -- THANK YOU. A, A BERM ---
A. UH-HUH. (AFFIRMATIVE)
Q. --- THAT RUNS ALONG PASSED THE, THE SKELTON'S HOUSE, BACK TOWARDS WHERE THE, THE TRUCK AREA -- TRUCKING PARKING AREA IS. AND THEN THERE'S A, THERE'S A SWALE THAT, THAT LEADS TO THE UPHILL TRACT OF LAND OWNED BY THE CHURCH THAT RUNS PARALLEL TO THE BERM -- AND THANK YOU FOR THE TERM -- THAT RUNS ALSO BACK TOWARDS THE BACK OF THE HOU- -- OF THE, OF THE UPHILL TRACT THAT THE CHURCH OWNS. WOULD YOU AGREE

WITH THAT CHARACTERIZATION OF THE, OF THE PROPERTY?

A. YEAH, PRETTY MUCH.

Q. OKAY. AND, AND WAS THERE A GREAT BIG TREE BACK THERE AT SOME POINT?

A. I HAD HEARD THERE WAS. I HAVE, I HAVE NO PERSONAL KNOWLEDGE OF IT.

Q. DO YOU KNOW WHAT BASSWOOD IS?

A. NOT REALLY.

Q. ANYWAY, THE -- I WAS GOING TO ASK YOU IF YOU WERE AWARE THAT THERE HAD BEEN A BASSWOOD TREE THAT HAD TO BE TAKEN DOWN AND THE SKELTONS PAID FOR IT AND HAD IT MOVED TO THE BACK OF THE, OF THE CHURCH LAND BACK THERE.

A. IS THAT THE ONE (1) THAT'S LAYING ON OUR PROPERTY AT THIS TIME?

Q. YEAH, IT WAS ON YOUR PROPERTY, WAS, WAS CUT DOWN.

A. IT'S LAYING THERE. STILL THERE.

Q. YEAH, IT'S STILL THERE.

A. YEAH.

Q. YEAH. AND, AND YOU DON'T KNOW -- AND YOU CAN'T TELL ME WHETHER OR NOT THE SWALE WHICH IS ON THE CHURCH SIDE OF THE BERM THAT MIGHT PROTECT -- BE THERE TO PROTECT THE SKELTON'S HOUSE FROM WA-, WATER COMING DOWN THE HILL, YOU CAN'T TELL ME HOW FAR BACK THAT SWALE MIGHT GO?

A. NO, I CAN'T.

Q. OKAY. AND, AND ARE YOU, ARE YOU AWARE THAT -- WELL, LET

ME -- CAN I SHOW YOU SOME PICTURES?

A. UH-HUH. (AFFIRMATIVE)

BY MR. WILSON: WE'RE GOING TO DO PICTURES, BILL.

Q. (RETRIEVING DOCUMENTS)

BY MR. WILSON: I -- WE BETTER MARK THEM INDIVIDUALLY BECAUSE I'M, I'M -- CAN WE START WITH NUMBER SEVEN (7)? MARK THE FIRST ONE (1).

A. THAT'S THE FIRST ONE (1)? (DOCUMENT HANDED TO COURT REPORTER)

Q. YES, SIR. YES, SIR.

(PLAINTIFF'S EXHIBIT "7" MARKED & ENTERED)

BY MR. WILSON: LEAVE THEM OVER THERE. NUMBER EIGHT (8). THIS WILL BE NUMBER NINE (9).

(PLAINTIFF'S EXHIBIT "8" MARKED & ENTERED)

BY MR. WILSON: THIS WILL BE NUMBER TEN (10).

BY THE COURT REPORTER: I DIDN'T GET NUMBER NINE (9).

BY THE WITNESS: (DOCUMENT HANDED TO COURT REPORTER)

BY THE COURT REPORTER: THANK YOU.

(PLAINTIFF'S EXHIBIT "9" MARKED & ENTERED)

BY MR. WILSON: AND WE'LL DO, DO THIS BATCH AS, AS NUMBER TEN (10) BECAUSE IT'S A VIEW FROM THE SKELTON'S WINDOW.

(PLAINTIFF'S EXHIBIT "10" MARKED & ENTERED)

BY MR. WILSON: WHAT IS THAT? ELEVEN (11)? OKAY.

(PLAINTIFF'S EXHIBIT "11" MARKED & ENTERED)

BY THE COURT REPORTER: (DOCUMENTS HANDED TO WITNESS)

A. (PAUSE - REVIEWING DOCUMENTS)
Q. MR. BATSON, HAVE YOU HAD A CHANCE TO REVIEW EXHIBITS SEVEN (7) THROUGH ELEVEN (11)?
A. YES, SIR.
Q. AND WOULD YOU AGREE THAT THOSE ARE PICTURES OF THE LOWER TRACT OWNED BY THE -- YOUR CH- -- THE CHURCH THAT ABUTS THE SKELTON'S PROPERTY?
A. YES, SIR.
Q. OKAY. AND YOU'D AGREE THAT THEY ARE PICTURES THAT SHOW THE CONDITION OF THE PROPERTY WHEN THERE'S BEEN RAIN?
A. (NO AUDIBLE RESPONSE)
Q. YOU GOT TO ---
A. OKAY.
Q. AND, AND YOU'D AGREE THAT THERE IS A, A -- OBVIOUSLY -- WELL, I SHOULDN'T SAY OBVIOUSLY. BUT THERE -- FROM THE DOWNHILL PART, THERE MAY BE A NEED TO CONSTRUCT A BERM TO PROTECT THEIR HOUSE FROM SURFACE WATERS COMING AND GOING?
A. WELL, WATER RUNS DOWNHILL, ENOUGH OF IT.
Q. (CHUCKLES) IT DOES INDEED. ALL RIGHT. HERE'S ANOTHER STORY. OFF THE RECORD.

(OFF THE RECORD @ 9:32 A.M. - 9:32 A.M.)

DIRECT EXAMINATION BY MR. WILSON (RESUMES):

Q. ALL RIGHT. SO, YOU'D AGREE THAT THERE'S A SURFACE WATER PROBLEM, BECAUSE WATER RUNS DOWNHILL, ALONG THE, THE DOWNHILL TRACT OF THE CHURCH AND IT RUNS TOWARDS THE, THE

SKELTON'S PROPERTY?

A. WELL, I WOULD AGREE THAT HERE LATELY, THERE'S A LOT OF WATER RUNNING A LOT OF PLACES WITH ALL THE RAINFALL WE'VE HAD THAT WE'VE NEVER SEEN BEFORE.

Q. ARE YOU RESPONSIBLE FOR PUTTING THAT SIDE UP AT THE GEM STORE ABOUT "HONK IF IT -- IF YOU DON'T LIKE RAIN?" IS THAT ---

A. NO, NO. I S-, I SAW THAT, THOUGH.

Q. ALL RIGHT. ALL RIGHT. SO, WHETHER OR NOT THERE IS A DROUGHT OR WHETHER OR NOT THERE'S A LOT OF RAIN. REGARDLESS, IF THERE IS A RAIN STORM, IT FLOWS DOWNHILL TO THE -- AND, AND, AND IT GETS INTO THAT SWALE AND IS, IS BLOCKED FROM GETTING ONTO THE SKELTON'S LAND BY THE BERM THAT, THAT THEY'VE MADE OUT OF WHATEVER, TREE BARK OR WHATEVER. OKAY. AND YOU'D AGREE THAT THAT POSES A, A PROBLEM FOR THE SKELTON'S?

A. WELL, I DON'T KNOW THAT IT DOES. BUT, YOU KNOW, LIKE I SAY, IF ENOUGH WATER FALLS, IT'S GOING TO GO SOMEWHERE. SO -- THERE'S A CREEK DOWN, ---

Q. YES, SIR.

A. --- DOWN BELOW THERE SO, ---

Q. ALL RIGHT.

A. --- IT ALL GOES BACK TO THERE, I GUESS.

Q. OKAY. AND, AND TO -- YOU'D, YOU'D AGREE THAT, THAT IT WOULD NOT BE UNREASONABLE TO TAKE MEASURES TO, TO PROTECT

THEIR LAND FROM SURFACE WATER FLOW?

A. WELL, I COULDN'T SPEAK TO THAT, YOU KNOW?

Q. OKAY. WELL, WHETHER ---

A. EVERYBODY'S GOT TO DO WHAT THEY HAVE TO DO.

Q. GOT TO DO -- THANK YOU. OKAY. I TAKE THAT -- I'M -- FORGIVE ME. I'M GOING TO TAKE THAT AS A "YES." WHEN, WHEN -- YOU DON'T KNOW HOW MUCH TRAFFIC ACTIVITY THERE WAS FROM 1992 UNTIL TODAY ALONG THE, THE DRIVEWAY THAT RUNS ON THE CHURCH PROPERTY AND GOES BACK TO THE BACK SIDE OF THE SKELTON'S PROPERTY? I MEAN, ARE YOU FAMILIAR WITH IT? DO, DO YOU SEE IT? DO YOU ---

A. NOT ANYMORE. I USED TO LIVE -- I USED TO DRIVE MCELHANEY ROAD FROM -- I S- -- LIVED ON FOOTHILLS ROAD, WHICH IS BACK, UH, OUT AT GREEN VALLEY THERE, FROM 1996 TO 2007. AND I USED TO DRIVE -- TAKE THAT WAY ---

Q. --- TO GET OVER TO THE ---

A. --- TO, TO COME TO CHURCH AND BACK.

Q. SURE.

A. AND I, I WOULD NOTICE THEN. BUT, YOU KNOW, I -- SINCE THEN, I DON'T -- I'M NOT UP THERE THAT MUCH.

Q. DID, DID YOU SEE TRUCKS PARKED ON THE -- I'M SORRY. I WANT TO TALK ABOUT BRADFORD PEARS. THAT'LL BE MY NEXT LECTURE. DO YOU SEE THE, THE -- DID YOU SEE PARKING -- THAT, THAT THE SKELTON FOLKS HAD PARKED ON THE CHURCH PROPERTY?

A. I DID NOTICE TRUCKS FROM TIME TO TIME AND ---
Q. AND DID YOU -- AND ARE YOU ---
A. AND I REMEMBER A CITY POLICE CAR SITTING THERE. I GUESS WHEN YOU WERE ON THE CITY POLICE FORCE, CITY OF GREENVILLE, WAS IT? (TO MR. SKELTON)
BY MR. SKELTON: YEAH. YEAH, WE DID HAVE -- I REMEMBER THE CARS BACK THEN.
BY THE WITNESS: RIGHT. I REMEMBER THE CITY POLICE -- GREENVILLE CITY POLICE WAS KIND OF OUT OF PLACE UP THERE, YOU KNOW?
Q. MADE YOU SLOW DOWN, DIDN'T IT?
A. YEAH, YEAH. OF COURSE, IT WASN'T ON THE SIDE OF THE ROAD; IT WAS IN THE DRIVEWAY.
Q. (LAUGHING) ALL RIGHT. BUT YOU DON'T HAVE ANY DIRECT PERSONAL EYEBALL-KNOWLEDGE ABOUT THE, THE, THE DAILY USE OF THE, OF THE CHURCH PROPERTY FOR INGRESS AND EGRESS?
A. NOT THE DAILY USE, PERSONALLY, JUST, ---
Q. HOURLY?
A. --- JUST WHAT I HEAR.
Q. HOURLY.
A. I'M NOT, I'M NOT UP THAT WAY MUCH IN THE DAYTIME. SO, ---
Q. WHO, WHO KNOWS? WHO KNOWS? WHO'S -- WHO CAN SPEAK KNOWLEDGEABLY ABOUT THIS?
A. WELL, RON COOKE IS A MEMBER OF OUR CHURCH AND WAS ON -- FORMER DEACON.

Q. OKAY. DOES HE HANG AROUND OVER THERE? DOES HE LIVE THERE?
A. HE CUTS OUR GRASS.
Q. I'M SORRY?
A. HE MOWED OUR, OUR GRASS AND THE FIELD.
Q. OKAY. WHO WAS MOWING THE, WHO WAS MOWING THE GRASS FOR THE DOWNHILL TRACT, AS I'VE BEEN CALLING IT, OVER THERE? HAVE THE SKELTONS BEEN TAKING CARE OF THAT?
A. NOT TO MY KNOWLEDGE.
Q. OKAY. IS, IS THERE SOMEBODY WHO COULD SPEAK TO THAT, WHETHER OR NOT THEY'VE BEEN TAKING CARE OF IT?
A. RON COOKE HAS BEEN DOING IT SINCE 2001.
Q. OKAY. AND WHO BEFORE HIM?
A. BRUCE FOX.
Q. BRUCE FOX. IS HE STILL AROUND?
A. HE'S STILL AROUND.
Q. OKAY. AND, AND ---
A. HE, HE WAS THE HEAD OF MAINTENANCE AT FURMAN. HE RETIRED LAST YEAR.
Q. EVERY- ---
A. BRUCE FOX.
Q. EVERYBODY'S RETIRING FROM FURMAN.
A. YEP.
Q. I'M SERIOUS. SO THOSE ---
A. I THINK WE FURNISHED 1099S BACK TO '92 -- I MEAN -- EXCUSE

ME ---
Q. OKAY.
A. --- '92 OR '99 FOR MR. FOX.
Q. DO, DO THEY SHOW THAT MR. FOX WAS DOING THE, ---
A. THAT ---
Q. --- THE, ---
A. THE MOWING.
Q. --- DOWNHILL TRACT?
A. THE -- ALL OF OUR PROPERTY.
Q. OKAY. HE -- BUT THEY DON'T, THEY DON'T ---
A. SPECIFY. THEY DON'T ---
Q. YEAH, THEY DON'T BREAK, BREAK IT DOWN? OKAY. NOW, WHEN YOU WALK B-, BACK THERE NO- -- RECENTLY OR BACK WHEN, YOU'RE AWARE THAT THE, THAT THE SKELTONS HAVE NO OTHER WAY TO PARK THEIR TRUCKS OR VEHICLES BACK THERE IN THE BACK OF THEIR THING, EXCEPT BY USING THAT DRIVEWAY TO GET BACK THERE.
BY MR. BANNISTER: OBJECT TO THE FORM.
Q. THAT'S -- YOU, YOU CAN ANSWER IT ANYWAY.
A. (NO AUDIBLE RESPONSE)
Q. YOU GOT TO, YOU GOT TO SAY SOMETHING.
A. YOU KNOW, UH, ---
Q. SHAKING HEAD -- SHE CAN'T TAKE THE SHAKING ---
A. YEAH, SHE CAN'T WRITE THAT DOWN. I UNDERSTAND.
Q. RIGHT.

A. UH, YOU KNOW, AS THINGS ARE NOW, I, I DON'T THINK THEY COULD GET BACK THERE.

Q. YEAH. AND, AND YOU'D AGREE THAT, THAT IF THE CHURCH DEPRIVES THEM OF THE USE OF, OF THIS THING, WHICH I'M GOING TO CHARACTERIZE AS SOMETHING THEY'VE BEEN DOING FOR A LONG TIME, THAT THEY WOULD BE -- THEY'D HAVE A REAL PROBLEM?

A. WELL, I SUPPOSE THEY WOULD.

Q. OKAY. AND, AND THE REAL PROBLEM WOULD STEM FROM THE FACT THAT THEY'VE BEEN USING THAT AS THE BACK OF THEIR PROPERTY, AS A PARKING AREA, MOBILIZING A STORAGE AREA FOR THEIR -- AS A BASE FOR THEIR MOM AND POP BUSINESS THAT THEY HAVE?

A. THEY HAVE BEEN. YES, UH-HUH. (AFFIRMATIVE)

Q. OKAY. AND, AND AS A RESULT, DID YOU, AT SOME POINT, GO TO THE CITY OF TRAVELERS REST TO TALK TO THEM ABOUT SOME KIND OF NUISANCE THAT THE SKELTON'S POSED?

A. I MADE A PHONE CALL AND ASKED A QUESTION ---

Q. OKAY.

A. --- TO THE CITY ---

Q. OKAY.

A. --- AFTER WE WERE SUED BY THE SKELTONS.

Q. OKAY. AND, AND WHAT -- CAN YOU TELL ME WHAT YOU SAID TO THE CITY?

A. I JUST MERELY ASKED THE QUESTION DID THEY HAVE A LICENSE

TO OPERATE, A BUSINESS LICENSE, ---

Q. OKAY.

A. --- IN A RESIDENTIAL AREA.

Q. OKAY. AND DID YOU CALL MORE THAN ONCE?

A. I CALLED MORE THAN ONCE BECAUSE I GOT A VOICE MAIL THREE (3) OR FOUR (4) TIMES. BUT THEY FINALLY CALLED ME BACK.

Q. SO ---

A. I SPOKE TO A PERSON THE FIRST TIME I CALLED AND THEN THEY PUT ME TO THE PERSON IN CHARGE.

Q. SURE.

A. AND HE ---

Q. I'M, I'M SORRY.

A. I KEPT GETTING VOICE MAILS UNTIL ---

Q. OKAY.

A. --- I HAD TO CALL HIM BACK THREE (3) OR FOUR (4) TIMES. BUT I ACTUALLY JUST SPOKE TO HIM ABOUT MAYBE ONCE.

Q. WHAT WAS THE PURPOSE OF CALLING THE CITY OF TRAVELERS REST?

A. TO SEE IF THEY WERE OPERATING A BUSINESS LEGALLY.

Q. RIGHT. AND -- BUT WHY WOULD YOU WANT TO ---

A. WELL, THEY'D JUST SUED US FOR THE USE OF OUR PROPERTY.

Q. RIGHT.

A. AND IF THEY WERE OPERATING ILLEGALLY, THEN I THINK WE NEEDED TO KNOW, TO KNOW THAT.

Q. SO, THE PHONE CALL WAS TO, WAS TO AID IN THE DEFENSE OF

THE LAWSUIT THAT THE SKELTONS HAD BROUGHT?
BY MR. BANNISTER: OBJECT TO THE FORM OF THAT QUESTION.
Q. OKAY.
BY MR. BANNISTER: YOU CAN ANSWER.
BY MR. WILSON: THANK YOU.
A. NO. IT WAS JUST MERELY TO ASK A QUESTION.
Q. OKAY. AND, AND CAN YOU RECALL THE NAME OF THE TRAVELERS REST CITY OFFICIAL THAT YOU DEALT WITH?
A. THE GUY THAT I SPOKE WITH HAS -- HE WAS WORKING A TWO (2) WEEK NOTICE WHEN I TALKED WITH HIM AND HE'S SINCE LEFT. SO, I, I WROTE HIS NAME DOWN AT THE TIME. I'VE LOOKED FOR IT. I MUST HAVE THROWN IT AWAY.
Q. (COUGHS) EXCUSE ME. CAN YOU FIND THAT NAME FOR US AND LET ME -- GIVE IT TO MR. BANNISTER SO I CAN HAVE IT?
A. WELL, I'LL TRY; YEAH.
Q. PLEASE. OKAY. AND AS -- WHAT, WHAT WAS THE UPSHOT OF THAT INQUIRY?
A. THAT HE DID NOT HAVE A LICENSE TO OPERATE A BUSINESS.
Q. OKAY. AND AFTER THAT, WHAT WAS THE FOLLOW-THROUGH ON THAT?
A. NOTHING.
Q. NOTHING?
A. FROM US.
Q. OKAY. WHETHER OR NOT HE HAD A LICENSE OR NOT DIDN'T AFFECT THE CHURCH'S POSITION WITH RESPECT TO THE PARKING

THAT WAS GOING ON BACK THERE IN THE BACK?

A. WELL, UH, ASK THAT QUESTION AGAIN.

Q. I'M NOT SURE I CAN. (LAUGHING) IT'S TERRIBLE, TO BE HONEST. MY POINT WAS THERE WAS NO FOLLOW THROUGH, NO -- NOTHING DONE BY THE CITY AS A RESULT OF YOUR INQUIRY. WE -- DO WE AGREE ABOUT THAT?

A. THEY TOLD ME THAT A LETTER WAS SENT ---

Q. OKAY.

A. --- TO MR. SKELTON.

Q. OKAY. AND THAT THERE WAS NOTHING FURTHER AFTER THAT? NO, NO FURTHER ACTION BY THE CITY?

A. NOT TO MY KNOWLEDGE.

Q. NOR, NOR ---

A. NOT BY US; NO.

Q. YEAH. NOR BY Y'ALL.

A. NO.

Q. OKAY.

A. WE MERELY JUST ASKED A QUESTION.

Q. THANK YOU.

A. AND WHAT THE CITY DID WAS UP TO THEM.

Q. RIGHT. OKAY.

A. WE HAVE NO BEARING ON THE CITY, OF COURSE, YOU KNOW, I MEAN ---

Q. OKAY.

A. --- WE JUST MERELY ASKED A QUESTION. BECAUSE IF YOU LOOK

BACK IN THE MINUTES IN 2011, IT, IT, UH, MENTIONED THAT, YOU KNOW -- ONE OF THE OPTIONS -- AND THE QUESTION WAS DID HE HAVE A LICENSE TO OPERATE A BUSINESS.

Q. YEAH. AND THAT GO- ---

A. IT WAS QUESTIONED BACK IN 2011.

Q. THE QUESTION HAD BEEN ---

A. WELL, NOTHING HAD JUST COME UP ---

Q. --- HAD BEEN RAISED BEFORE, BEFORE?

A. RIGHT. EXACTLY. OLD NEWS.

Q. ALL RIGHT.

(PLAINTIFF'S EXHIBIT "12" MARKED & ENTERED)

BY MR. WILSON: THANK YOU.

Q. AND THIS IS -- CONFIRMS, AT LEAST IN WRITING, IN 2019 THAT THERE'D N- -- THERE WAS NOT, NOR COULD YOU -- THERE WAS NEVER A SIGNED AGREEMENT, WAS THERE?

A. A WHAT?

Q. THERE WAS NEVER A SIGNED AGREEMENT FOR THE USE OF THE LAND?

A. CAN'T FIND ONE.

Q. OKAY. BUT, BUT MR. -- (COUGHS) I'M SORRY -- MR. SKELTON AND THE SKELTON FAMILY BUSINESS CONTINUED TO USE THAT LAND FOR SOME TIME, DRIVING TO AND FRO AND PARKING THEIR TRUCKS. AND YOU HAVE NO KNOWLEDGE ABOUT THEIR MAINTAINING THE PROPERTY?

A. NO.

Q. OKAY. CAN WE GO BACK AND LOOK AT THAT -- THE PICTURE? I WANT TO SHOW ONE (1) THING BEFORE I -- (DOCUMENT HANDED TO WITNESS AND TO MR. BANNISTER) OKAY. OKAY. COULD WE LOOK AT NUMBER NINE (9)? (DOCUMENT HANDED TO WITNESS) DO YOU HAVE DOGS, MR. GIBSON?

A. NO, SIR.

Q. DO YOU ---

A. I USED TO.

Q. DO YOU KNOW ABOUT DOG FENCES?

A. VERY LITTLE.

Q. MR. GIBSON, C- -- IF I REPRESENT TO YOU THAT THAT'S A DOG FENCE ---

BY MR. BANNISTER: BATSON.

A. MR. BATSON.

Q. I'M SORRY.

A. MR. GIBSON LEFT A WHILE AGO.

Q. I AM SORRY. I REALLY AM SORRY.

A. THAT'S OKAY.

Q. OH, WAIT. JUST WAIT. YOU'LL -- YOU'RE NOT OLD ENOUGH. BUT IT GETS WORSE.

A. IT'S COMING?

Q. YEAH. MR. BATSON, IF I REPRESENT TO YOU THAT'S A DOG FENCE THERE THAT RUNS UP, ---

A. YEAH, YEAH, I SAW IT.

Q. --- IT RUNS UP AROUND THE LAND?

A. UH-HUH. (AFFIRMATIVE)
Q. WHEN YOU WALK THE LANE OR WHEN ANYBODY FROM THE CHURCH WALKS THE LANE, ARE THEY AWARE THAT THERE'S BEEN A DOG FENCE TO KEEP THOSE SKELTON DOGS AND -- EXCUSE ME -- UNDER CONTROL?
A. WELL, I SAW IT PERSONALLY, MYSELF, THE FIRST TIME I WALKED DOWN THERE.
Q. YES, SIR.
A. AND OUR GRASS GUY, RON COOKE, IS AWARE OF IT.
Q. YES, SIR.
A. I DON'T KNOW IF ANYBODY ELSE IS, THOUGH.
Q. YEAH. BUT Y'ALL ARE -- WHEN WOULD Y'ALL HAVE BECOME AT LEAST AWARE OF IT THAT WAY?
A. I THINK MR. COOKE'S BEEN AWARE OF IT A LONG TIME. BUT THE FIRST TIME I EVER SAW IT WAS AS SOON AS THIS STARTED HEATING UP. I WALKED DOWN THERE ---
Q. SURE.
A. --- AND LOOKED ONE (1) DAY.
Q. WENT DOWN THERE TO DO YOUR DUE ---
A. I MET, I MET THE GERMAN SHEPHERD.
Q. DO YOU KNOW WHAT HIS NAME IS?
A. NO. I DIDN'T HANG AROUND TO ASK.
Q. (LAUGHTER) IT WAS A SHORT MEETING? HIS NAME IS "TRUMP."
A. OH, REALLY? THAT'S GOOD. I MIGHT HAVE, I MIGHT HAVE STUCK AROUND AND TALKED TO HIM IF I KNEW THAT.

BY MR. WILSON: WE'RE ALL GONNA VOTE FOR TRUMP. THAT'S ALL THERE IS TO IT.

BY MS. SKELTON: HE'S BAD TO TWEET AT THREE (3:00) A.M.

BY THE WITNESS: IS HE? ARE YOU MS. SKELTON?

BY MS. SKELTON: I AM.

BY THE WITNESS: OKAY.

BY MR. WILSON: YEAH. I'M SORRY.

BY THE WITNESS: I DIDN'T KNOW IF THAT WAS ANOTHER REPORTER OR WHAT.

BY MR. WILSON: NO, NO. I'M SORRY. I THOUGHT I INTRODUCED YOU.

BY THE WITNESS: I KIND OF FIGURED YOU MIGHT BE HER.

Q. OKAY. (LOOKING THROUGH DOCUMENTS) OKAY. I'LL PUT THAT BY YOU, AND THANK YOU. (DOCUMENTS HANDED TO COURT REPORTER) OKAY. CONSISTENT WITH THE MINUTES THAT WE LOOKED AT, THE, THE -- YOU'D AGREE THAT IT WAS ABOUT '94 OR '95 THAT THE SKELTONS BEC-, BECAME CONCERNED ABOUT THE MICE AND THE SNAKES AND THE REST OF IT COMING -- THEY HAD KIDS AND THIS -- THE MICE AND THE REST OR IT WERE COMING OUT OF THAT FIELD ONTO THEIR PROPERTY AND THEY WERE CONCERNED FOR THEIR CHILDREN. I THINK THAT'S SHOWN IN THOSE MINUTES THAT THE CHURCH -- THE CHURCH ---

A. YES.

Q. --- WAS AWARE OF THAT. AND THAT WAS PART OF THE -- I, I THINK -- I HOPE YOU'LL CONFIRM THAT THAT WAS PART OF THE

MOTIVATION FOR TEARING DOWN THE CHURCH -- EXCUSE ME, TEARING DOWN THE CHURCH -- TAKING -- TEARING DOWN THE, THE HOUSE AND GETTING IT HAULED OFF?

A. I SUPPOSE. LIKE I SAY, I WASN'T IN ---

Q. TAKE CARE OF THE ---

A. --- PART OF THAT THEN.

Q. YEAH.

A. ALL I KNOW IS WHAT I'VE READ.

Q. BEING, BEING, BEING NEIGHBORLY?

A. UH-HUH. (AFFIRMATIVE)

Q. AND YOU DON'T KNOW OR -- WHO, WHO WOULD KNOW THAT THE DOG FENCE MIGHT HAVE BEEN INSTALLED ABOUT 2000?

A. IF ANYBODY, IT'D BE RON COOKE, THE ---

Q. OKAY.

A. --- GUY THAT CUTS -- MOWS THE FIELD.

Q. OKAY.

A. 'CAUSE HE WOULD BE THE ONLY WOULD THAT HAD BEEN ON IT, YOU KNOW?

Q. AND YOU'RE AWARE, ALSO -- OR IS SOMEBODY AT THE CHURCH AWARE THAT WHEN MR. SKELTON, DUE TO THE RECESSION, HAD TO BUILD HIS POLE BARN BACK THERE AND SET IT UP SO HE COULD PUT HIS TRUCKS AND THE REST OF IT BACK THERE, THAT HE RAN A POWER LINE THAT'S ON THE CHURCH'S PROPERTY TO GET TO BACK THERE?

A. NO.

Q. WERE Y'ALL AWARE OF THAT?
A. I WASN'T AWARE OF THAT.
Q. OKAY.
A. I DON'T THINK ---
Q. THAT WAS ROUGHLY ABOUT 2008 WHEN EVERYTHING FELL APART.
A. I DON'T THINK ANYBODY IS AWARE OF THAT.
Q. YEAH.
A. NEVER, NEVER HEARD THAT BEFORE.
Q. OKAY.
A. IS IT UNDERGROUND?
Q. WELL, YEAH.
A. I DIDN'T, I DIDN'T -- THAT'S THE FIRST I'D HEARD ABOUT IT.
Q. I DIDN'T STEP ON IT. SO -- I DON'T KNOW.
A. OKAY.
BY MR. WILSON: MR. BATSON, CAN I TAKE A MOMENT TO SPEAK TO MY CLIENTS?
BY THE WITNESS: YES.
(OFF THE RECORD @ 9:49 A.M. - 9:54 A.M.)
BY MR. WILSON: THAT'S ALL I WANT.
. . .. DEPOSITION CONCLUDED @ APPROXIMATELY 9:54 A.M.

CERTIFICATE

This is to certify that the foregoing deposition of GARY BATSON was taken by the within court reporter, a Notary Public for the State of South Carolina, duly commissioned and qualified as such, on the 6th day of March, 2020 at The Wilson Law Firm, 201 Whitsett Street, Greenville, South Carolina.

That said court reporter is not a relative or employee of any of the parties or the attorneys, and further is not of-counsel or attorney for any of the parties to said action and is not in any manner interested in the cause, financial or otherwise.

That the oral deposition was duly taken and transcribed; that the foregoing 67 pages is a true, accurate and correct record of the testimony given together with such changes as said deponent may have made, if any, during the reading over and signing procedure.

That the court reporter has retained the original deposition transcript in her possession for the purpose of sealing and filing same with the proper official.

That all offered exhibits, stipulations and objections, if any, involved in this cause are duly attached or included herein.

In witness whereof, I have set my hand and official seal:

Date: 03/11/2020

Melissa A. Hines

Melissa A. Hines, Court Reporter

Notary Public for South Carolina

My Commission Expires 11/27/2022

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2019-CP-23-02476
Thomas C. Skelton,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	**NOTICE OF DEPOSITION**
First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation,,	)	
	)	
Defendant.	)	
	)	

TO: First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation, and its attorney, Oscar W. Bannister, Jr., Esq., P.O. Box 10007, Greenville, South Carolina, 29603

YOU WILL PLEASE TAKE NOTICE that, pursuant to Rule 30 of the South Carolina Rules of Civil Procedure, at 0830 hrs., on March 6, 2020,, at the offices of Robert C. Wilson, Jr., 201 Whitsett Street, Greenville, South Carolina, 29601, counsel for Plaintiff will take the deposition of Gary Batson, as representative of Defendant, upon oral examination before a Court Reporter or before some other officer authorized by law to administer oaths, at which time you are notified to appear and to take such part in the examination as you may be advised and shall deem fit and proper.

AND YOU WILL PLEASE TAKE FURTHER NOTICE that, pursuant to Rule 30(b)(5) and to Rule 34 of the South Carolina Rules of Civil Procedure, this Notice constitutes a request to a party deponent to produce the following documents and/or tangible things at the taking of the deposition of which you are hereby notified:

STATE OF SOUTH CAROLINA

ISSUED BY THE CIRCUIT COURT IN THE COUNTY OF GREENVILLE

Thomas C. Skelton, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

First Baptist Church of Travelers Rest, South Carolina, a non-profit corporation, Defendant

Case Number: 2019-CP-23-02476

Pending in Greenville County

TO: Gary Batson, as representative of Defendant,

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

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

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

PLACE OF DEPOSITION	DATE AND TIME
201 Whitsett Street, Greenville, SC 29601	March 6, 2020 @0830 hrs.

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

See Exhibit A, appended hereto

PLACE	DATE AND TIME
201 Whitsett Street,, Greenville, SC 29601	March 6, 2020 at 0830 hrs.

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

PREMISES	DATE AND TIME
	,

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

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

Attorney/Issuing Officer's Signature | Date | Print Name

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number :
Robert C. Wilson, Jr.
201 Whitsett Street, Greenville, SC 29601

Clerk of Court/Issuing Officer's Signature | Date | Print Name

Pro Se Litigant's Name, Address and Telephone Number :

PROOF OF SERVICE

SERVED D PLACE	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐YES ☐ NO AMOUNT $
SERVED ON	MANNER OF SERVICE
SERVED BY	TITLE

DECLARATION OF SERVER

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

Executed on___

SIGNATURE OF SERVER

ADDRESS OF SERVER

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

(c) Protection of Persons Subject to Subpoenas.

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

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

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

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

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A)A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.
(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.
(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.
(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.
(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

GRANTEE'S MAILING ADDRESS:
108 McElhaney Road, Travelers Rest, SC 29690

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

BOOK 1468 PAGE 415

KNOW ALL MEN BY THESE PRESENTS, that Mary Earline Smith Banic and Carroll Watson Smith

in consideration of Forty-Six Thousand Nine Hundred and No/100 ($46,900.00) ---------- Dollars,

the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell and release unto Thomas C. Skelton, his heirs and assigns forever:

All that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Greenville, in the Town of Travelers Rest, on the northwestern side of McElhaney Road, being known as Lot No. 3 according to a plat made by W. A. Hester dated May 6, 1922, and also being shown on a more recent plat entitled "Closing Survey for Thomas C. Skelton" made by Jones-Wooten & Associates Inc., dated March 24, 1992, and recorded in the RMC Office for Greenville County, S.C., in Plat Book 22-F at Page 23, reference to the more recent plat being hereby made for the metes and bounds thereof.

DERIVATION: Deed from R. E. Benson and Bess S. Benson to D. E. Smith dated May 11, 1922, recorded June 12, 1922, in said RMC Office in Deed Book 82 at Page 4; see also the records of the Greenville County Probate Court, File 85ES2300648, for the Estate of D. E. Smith, Deceased.

(8)-366-493-3-6

This conveyance is made subject to any and all existing reservations, easements, rights of way, zoning ordinances, setback lines, and restrictions or protective covenants that may appear of public record or on the premises affecting the above-described property.

STATE OF SOUTH CAROLINA
SOUTH CAROLINA TAX COMMISSION
DOCUMENTARY STAMP TAX
MAR 25 92 103.40

SOUTH CAROLINA COUNTY DOCUMENTARY TAX
MAR 25 92 51.70

together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the grantee(s), and the grantee's(s') heirs or successors and assigns, forever. And, the grantor(s) do(es) hereby bind the grantor(s) and the grantor's(s') heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the grantee(s) and the grantee's(s') heirs or successors and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the grantor's(s') hand(s) and seal(s) this 24th day of March, 1992.

SIGNED, sealed and delivered in the presence of:

Olivia B. Norris

Mary Earline Smith Banic by Carroll Watson Smith, Her Attorney-in-Fact (SEAL)
MARY EARLINE SMITH BANIC BY CARROLL WATSON SMITH, HER ATTORNEY-IN-FACT (SEAL)

Carroll Watson Smith (SEAL)
CARROLL WATSON SMITH (SEAL)

PROBATE

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Personally appeared the undersigned witness and made oath that (s)he saw the within named grantor(s) sign, seal and as the grantor's(s') act and deed, deliver the within written deed and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

SWORN to before me this 24th day of March, 1992.

Olivia B. Norris

Notary Public for South Carolina. (SEAL)

My commission expires: 7/5/92

18530

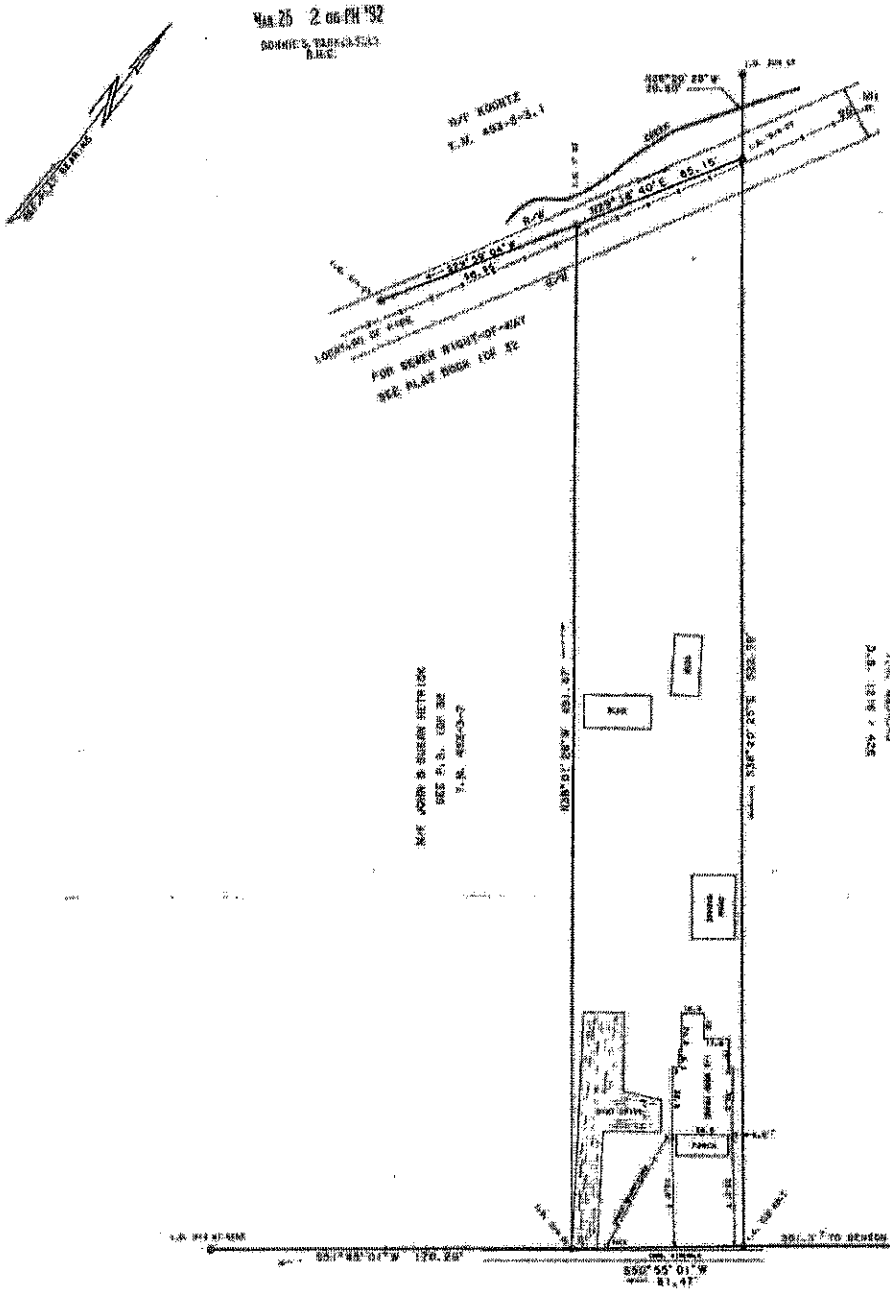
FILED FOR RECORD IN GREENVILLE COUNTY SC RMC OFFICE AT 02:08 PM 03/25/92 RECORDED IN DEED BOOK 1468 PAGE 0415 DOC # 92018530

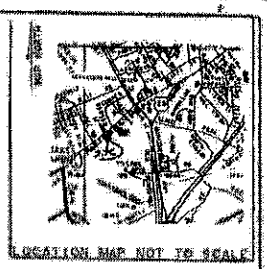
19 at 3:26 53.07 M. No. 5 1800

PLAINTIFF'S EXHIBIT 2 Watson

MICROFILMED

FILED
GREENVILLE CO. S.C.
MAR 25 2 06 PM '92
DONNIE S. TANKERSLEY
R.M.C.





22-F-23

18-193

MAR 25 1992

RECORDABLE PLAT

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

THIS PROPERTY DOES NOT LIE IN A FLOOD HAZARD ZONE.

THIS PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, ZONING ORDINANCES AND RIGHTS OF WAYS, OF RECORD OR NOT OF RECORD.

SOUTH CAROLINA REGISTERED LAND SURVEYOR 4670

Richard D. Wooten
R. RICHARD D. WOOTEN, JR. REG. NO. 4670

STATE OF SOUTH CAROLINA
GREENVILLE COUNTY

D.L. SMITH PROPERTY
LOT 3
HOBBS MOOR

CLOSING SURVEY FOR

THOMAS C. SKELTON

RICHARD D. WOOTEN, JR. REG. L.S.
1304 EAST PERRY RD. (29)
GREENVILLE, S.C. 29609
PH (803)288-1343
PH (803)288-2062

SCALE 1" = 50'
PLAT BK. 50 PG. 82
DEED BK. 93-Z PG. 6
TAX MAP NO. 493-8-6
PLAT REFERENCE
DRAWN BY
DATE MARCH 24, 1992
JOB NO. 92165

3-25-92 5187 $ 10.00

EXEMPT

MAY - 6 2003

BOOK 2037 PAGE 438

LATHAN & BARBARE, P. A.

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

2003 MAY 15 3:52

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, that First Baptist Church of Travelers Rest, a/k/a First Baptist Church, Travelers Rest, South Carolina and a/k/a Trustees of First Baptist Church of Travelers Rest, in consideration of One Dollar and No/100 ($1.00) and love and affection, the receipt of which is hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto:

First Baptist Church of Travelers Rest
South Carolina, a non-profit South Carolina
corporation
20 McElhaney Road
Travelers Rest, South Carolina 29690

THE property shown on Exhibit "A" attached hereto.

TMS #0493.00-02-018.00, 0493.00-03-004.00, and 0493.00-03-005.00

THIS conveyance is subject to all restrictions, setback lines, roadways, zoning ordinances, easements and rights of way appearing on the property and/or of record.

THE purpose of this deed is to transfer all property in to the proper name of First Baptist Church of Travelers Rest South Carolina.

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the Grantee, its successors and assigns, forever. And, the Grantor does hereby bind the Grantors and its successors, assigns, executors and administrators to warrant and forever defend all and singular said premises unto the Grantee, its successors or assigns and against every person whomsowever lawfully claiming or to claim the same or any part thereof.

WITNESS the Grantors' Hands and Seals this 5th day of May, 2003.

52091

05-06-03 # 08/023 RECORDING FE 11.00

PLAINTIFF'S EXHIBIT 3 Batson

FIRST BAPTIST CHURCH OF TRAVELERS REST
A/K/A
FIRST BAPTIST CHURCH, TRAVELERS REST, SOUTH CAROLINA
A/K/A
TRUSTEES OF FIRST BAPTIST CHURCH OF TRAVELERS REST

By: Charles K. Kelley
Charles K. Kelley, Trustee

By: Roy Wood
Roy Wood, Trustee

By: Brenda M. Tate
Brenda M. Tate, Trustee

IN THE PRESENCE OF:

Kathy H. Rollins
WITNESS

NOTARY PUBLIC

TITLE TO REAL ESTATE
Page 2

BOOK 2037 PAGE 440

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

PROBATE

PERSONALLY appeared the undersigned witness and made oath that (s)he saw the within named sign, seal and as its act and deed, deliver the within written deed, and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

Kurt K. Rollins
WITNESS

SWORN to before me this 5th day of May, 2003.

(LS)
Notary Public for South Carolina
My commission expires: 10-12-09

TITLE TO REAL ESTATE
Page 3

EXHIBIT "A" BOOK 2037 PAGE 441

PARCEL ONE:

ALL those certain pieces, parcels or lots of land together with all improvements located thereon, situate, lying and being in the County of Greenville, State of South Carolina, being shown as Lots Nos. 11, 12, 13, 14, 15, 16 and part of Lot No. 1 on a plat of the Subdivision of Carl R. Vest recorded in the Register of Deeds for Greenville County in Plat Book B at Page 184 and plat Book V at Page 7 together with three (3) lots on the plat of the Town of Travelers Rest and one-fourth (1/4) of an acre from G. W. Bridwell, and having, in the aggregate, the following metes and bounds, to-wit:

BEGINNING at an iron pin at the northeastern corner of the intersection of McElhaney Road and Cooper Sreet and running thence along Cooper Street, N.50-30 W. 210 feet to an iron pin; thence with said Street, N.23-30 W. 109.3 feet to an iron pin; thence with said Street, N. 23 W. 450 feet to an iron pin; thence continuing with Cooper Street, N.61-30 E. 190 feet to an iron pin; thence S. 23 E. 149.4 feet to an iron pin; thence S.40-10 E. 311 feet to an iron pin; thence N.40-30 E. 105 feet to an iron pin; thence along Thacker, S.49-30 E. 210 feet to an iron pin on the northwestern side of McElhaney Road; thence with said Road, S.40-30 W. 105 feet to an iron pin; thence with said Road, S.39-30 W. 315 feet to the point of beginning, and being shown on Greenville County Block Book as #0493.00-02-018.00 and being the same property conveyed to the Church in various names in Deed Book 815, page 276; Deed Book 772, page 438; Deed Book 546, page 343; Deed Book 586, page 332; Deed Book 362, page 126; Deed Book 83, page 410 and Deed Book 23, page 130.

PARCEL TWO:

ALL that certain piece, parcel or tract of land together with all improvements located thereon, situate, lying and being in the County of Greenville, State of South Carolina, in the Town of Travelers Rest and being shown as part of Lot No. 5 of the J. D. Cooper Estate and having the following metes and bounds, to-wit:

BEGINNING at an iron pin on the northwestern side of McElhaney Road at the western intersection of Cooper Street and running thence along Cooper Street, N. 49 W. 203.94 feet to an iron pin; thence with said Street, N. 24 W. 209.22 feet to an iron pin; thence with Benson, S. 41 W. 104.28 feet to an iron pin; thence S.24 E. 209.22 feet to an iron pin; thence S. 49 E. 190.08 feet to an iron pin on the northwestern side of McElhaney Road; thence with said Road, N. 51 E. 105.6 feet to an iron pin at the point of beginning and being the same property conveyed to said Church in Deed Book 41, page 209 and Deed Book 1180, page 735 and limited to use for a parsonage for a Baptist Church only and subject to a right of way for sewer to the Town of Travelers Rest in Deed Book 860, page 224, and being shown on Greenville County Block Book as #0493.00-03-004.00.

PARCEL THREE:

ALL that certain piece, parcel or tract of land together with all improvements located thereon, situate, lying and being in the County of Greenville, State of South Carolina, containing 3.44 acres, more or less, and being shown on a plat entitled "Survey for Carroll Smith", dated July 3, 1984 prepared by W.R. Williams, Jr., RLS, recorded in the Register of Deeds for Greenville County in Plat Book 10-T at Page 4, and having, according to said plat, the following metes and bounds, to-wit:

BEGINNING at an iron pin on the northwestern side of McElhaney Road at the joint corner with First Baptist Church of Travelers Rest and running thence along said road, S.52-31 W. 246.3 feet to an old bolt; thence N.37-52 W. 562.1 feet to an iron pin at the creek; thence N.30-43 E. 198.6 feet to an old iron pin; thence S.50-52 E. 196.2 feet to an old iron pin; thence N.39-07 E. 150.0 feet to an iron pin on Cooper Street; thence with said street, S.22-30 E. 96.3 feet to an iron pin; thence S.43-00 W. 74.9 feet to an iron pin; thence S.22-00 E. 209.2 feet to an iron pin; thence S.47-00 E. 175.1 feet to an iron pin at the point of beginning.

THIS is the same property as that conveyed to First Baptist Church of Travelers Rest by deed of Travelers Rest Baptist Church, Baptist Church of Travelers Rest and Travelers Rest First Baptist Church recorded in the Register of Deeds for Greenville County in Deed Book 967 at Page 175 on February 12, 1973. Reference is also made to Deed Book 41 at Page 209 on October 12, 1916 and Deed Book 1180 at Page 735 on January 13, 1983. Reference is also made to Deed Book 23 at Page 103; Deed Book 83 at Page 410; Deed Book 362 at Page 126; Deed Book 586 at Page 332; Deed Book 772 at Page 483; Deed Book 646 at Page 343 and Deed Book 815 at Page 276. THIS the same property as that conveyed to Trustees of First Baptist Church of Travelers Rest by deed of Carroll W. Smith and Catherine M. Smith recorded in Deed Book 1496 at Page 369 on November 24, 1992.

FILED FOR RECORD IN GREENVILLE
COUNTY SC R.O.D. OFFICE AT 03:52 PM
05 06 03 RECORDED IN DEED
BOOK 2037 PAGE 0438 THRU 0442
DOC # 2003052091

2119

Deacon's Meeting Minutes
June 21, 1999

Subject: Monthly Meeting

Attendees: David Taylor, Bill Burgess, Gary Batson, Roger Arledge, Charles Tate, Michael Sheehan, Jack Sanderson, David Taylor, J. J. Burgess

Meeting was opened in prayer by Charles Kelly and following items of business were transacted:

1. Adjoining Church Property - In reference to earlier discussions on what to do with the house on adjoining property, pastor reported that our neighbor has concerns with condition of house and property. Neighbor's son, having landscaping business, has volunteered to mow property and have house torn down and hauled away. It was discussed that if we allow someone to do this that an agreement be obtained stating they are responsible for total removal of building and the importance of verifying person's have adequate insurance coverage. This issue was to be passed on to property committee for action.

2. Sunday Morning Offering - Some discussion as to when Sunday morning offering should be received to allow adequate time for counters to complete their duties by 12:00pm. No changes proposed. Mr. Bill Burgess was to talk with Usher Chairman concerning this issue.

3. Church Staff/Deacons Picture - Mr. Bill Burgess suggested that he would check into securing a photographer to take pictures of deacons, staff, and their families for placement near education building entrance. It was suggested to have these pictures taken wearing Sunday clothing. Mr. Bill Burgess was to notify deacons and staff when these pictures would be taken.

4. Love Offerings Received - Mr. Charles Tate suggested that the amount of love offering should be announced to church body. Mr. Bill Burgess was to instruct Church Secretary to place special love offering amounts in messenger in future.

5. Tape Ministry - There were only two responses to interest in receiving service tapes on a weekly basis including Ms. Ruth Cox and Ms. Ruth Coleman. Assignments were made to insure the tapes are delivered and picked up for recycling.

6. Summer Mission Project - Deacons were encouraged to get involved in completing the summer mission projects identified by Ms. Diane Martin. Mr. Charles Kelly had volunteered to help in building some shelves for Myers Center. It was

6/19

Deacon's Meeting Minutes
July 19, 1999

Subject: Monthly Meeting

Attendees:

David Taylor	Michael Sheehan
Jack Sanderson	Edwin White
Gary Batson	David Taylor
Roger Arledge	J. J. Burgess
Charles Tate	

Meeting was opened in prayer by Gary Batson and following items of business were transacted:

1. Adjoining Church Property - Mr. Charles Kelly, representing property committee, shared that quotes are being secured for removal of two buildings on adjoining properties. Plans are to proceed once 2nd quote is secured.

2. Matt Martin's Appointment - A letter from Matt was shared with deacons stating that he and Marcy feel God has called them to continue their ministry as 1st Baptist Church. Pastor shared his support and excitement with their decision and has and will encourage Matt to pursue going to seminary and being ordained into the ministry at some point in the future. Mr. Edwin White made motion and Charles Tate seconded in favor of personnel committee's recommendation to place Matt on staff as a permanent full time position. All deacons voted in support of recommendation.

3. Church Staff/Deacons Picture - It was decided to delay having pictures made until newly elected deacons are elected.

4. Pastoral/Deacon Ministry Suggestions - Pastor shared a document that he would like to share with church body for the purpose of helping the pastor, staff, and deacons minister to the congregation and promote Christian ministry in our church family. It was decided to make this document available to each member through the weekly messenger.

5. Discussion Of Serving Upcoming Lord's Supper - Organization of distributing the Lord's Supper was discussed. Mr. Bill Burgess and Mr. JJ Burgess were to meet to draw up plan for serving positions. Deacons were to meet before morning service to review plan.

6. Association Tent Crusade - Some discussion as to our churches participation in crusade. Pastor shared that crusade was discussed in church council meeting and decision made to not participate this year. This was tabled for future discussion.

7. Deacon's Election For 1999 Year - Four deacons are to be elected for coming year. Mr. Charles Tate, Mr. JJ Burgess, Mr. Jim Brown, and Mr. David Taylor will be

Deacon's Meeting Minutes
July 19, 1999

rotating off. A list of church members will be sent out week of August 4th to all members for consideration of names for recommendation. On Sunday, August 11th, eight names will be secured during AM service to electing four new deacons. Election of deacons will be completed on September 12th.

8. Church Renovation Progress - Mr. Charles Tate shared that property committee was to meet with Architect on July 20th. to review plans. Once approved by committee, a special joint property/deacon's committee meeting would be held for presentation and discussion as how to proceed.

~~7.~~ 9. Blood Donations - After discussing blood donations as a ministry of church, Mr. JJ Burgess was to secure information as to procedures for having a blood drive a TR First. Tabled until next meeting.

~~8.~~ 10. Contacts for month of May/June included 55 visits/phone calls/cards, etc..

Meeting was closed in prayer by Mr. Gary Batson.

6/1/99

Deacon's Meeting Minutes
August 23, 1999

Subject: Monthly Meeting

Attendees		
	Michael Sheehan	
	Jack Sanderson	Bill Burgess
	Gary Batson	David Taylor
	Roger Arledge	J. J. Burgess
	Charles Tate	
	Charles Kelly	

Meeting was opened in prayer by Jack Sanderson and following items of business were transacted:

1. Adjoining Church Property - All quotes received for clearing of property including building removal, clearing, leveling, and sewing to allow for upkeep. (low bid was $7,200 - high bid $9,500). After discussion with no opposition, it was agreed to advise property committee to proceed hiring contractor to clear property.

2. Deacon's Picture - Mr. Bill Burgess shared that he would like to go ahead with having deacons/families pictures made and placed on wall in education building once new deacons are on board. Item tabled until October.

3. Deacon Of Week - Mr. Bill Burgess suggested that church secretary contact both assigned deacon and deacon of week when church member requests contact to insure timely contact is made. Time frame for deacon of week service runs from Sunday to Saturday after deacon of week is involved in Sunday morning service. Also suggested that deacons contact the office daily when serving in deacon of week capacity to determine contact needs.

4. Associational Tent Crusade - Decision was made to table business as to our future involvement in crusade until November deacon's meeting. This would give us time to bring before church our recommendation during 4th quarter business meeting and include fund needs in year 2000 budget.

5. Church Renovation Progress - A document was shared from Bob Landers containing cost estimates of renovation project as provided by architect. This was for information purposes only. Everyone agreed that much prayer is needed so we can determine God's will as to how we should proceed concerning renovations.

6. Blood Donations Drive - Mr. JJ Burgess shared information secured from the Carolina/Georgia Blood Center regarding church programs they have available. Mr. Bill Burgess was to draft a form to route through Sunday School in order to find out those that would be willing to participate. If a favorable response is received, then not

Deacon's Meeting Minutes
September 20, 1999

Subject: Monthly Meeting

Attendees	Ben Cunningham	Ron Turnipseed	Jim Brown
	Jack Sanderson	Bill Burgess	J. J. Burgess
	Charles Tate	Mike Martin	Roger Arledge
	Charles Kelly	Edwin White	Gary Batson
	David Taylor		

Meeting was opened in prayer by Mike Martin and following items of business were transacted:

1. Election of Deacon officers 1999-2000 Church Year - New officers elected for coming church year included Mr. Bill Burgess, Chairman, Mr. Jack Sanderson, Vice-Chairman, and Mr. Roger Arledge, Secretary.

2. Deacon Meeting Schedule For Coming Year - It was agreed that the 3rd Monday night each month would continue to be the time of our monthly meetings.

3. Personal Evangelistic Training (PET) - Mr. Mike Martin encouraged deacons to consider being involved in the training program to be offered on Sunday nights starting 9/26.

4. Deacon Ordination Service For Ron Turnipseed - Sunday night October ~~3rd~~ 24th was selected for Ron's ordination service.

Old Business

5. Adjoining Church Property Work - Mr. Charles Kelly reported from Property Committee the clearing had begun as planned. Completion of the project will include sewing property in grass so site can be kept up and be available for church use.

6. Church Renovation Report - It was reported the finance committee had not met to discuss plan of action as to how we should proceed in raising needed funds should plans be approved by church for renovation work.

7. Blood Drive - Mr. Bill Burgess is planning to send a letter to Sunday School classes in order to pole and determine interest in establishing a blood drive program at First Baptist. Further discussion of ministry during next deacon's meeting.

Deacon's Meeting
2 June 2003

Present:	Bill Burgess	Carey Hice	Woody Woodard
	J.J. Burgess	Charles Styles	Pastor Sheehan
	Buddy Hice(Chm)	Charles Tate	

Our meeting was opened in prayer by Buddy. After sharing prayer needs, Buddy led in our prayer time.

The minutes of our previous meeting were read and approved.

Buddy reported that our neighbor at the vacant lot is putting trash on our lot, and also has his truck parked there for sale. Buddy will confer with the the Property Committee in regards to "shooting the line" between the properties.

The Pastor mentioned the following items:

a. Access to the Family Life Center will be by keyless entry only. Codes will be changed periodically.

b. He would like a memorandum from the Pastor and Deacons that ALL coaches be active members of THIS church.

c. ALL ACTIVITIES will be listed on the Family Life Center calendar. NO SCHEDULING - NO ENTRY!!

The Deacons concurred with all of the above items.

Pastor Sheehan stated that Walt is going to West Virginia this week-end to glean info regarding the mission trip. He will be gone Friday thru Sunday. A motion was made by Bill, seconded by Woody, to debit the Community Missions Fund for Walt's expenses - no discussion - the motion carried.

Pastor Sheehan stated that he would coordinate with Woody and David King to schedule speakers regarding the AWANA program, which will be a Sunday afternoon activity.

Carey gave a brief update on the renovations.

There being no further business, Buddy led in the closing prayer and we adjourned.

Respectfully submitted:

Bill Burgess

Bill Burgess, Secretary

APPROVED:

Buddy Hice, Chairman

Deacon's Meeting: Monday December 5th, 2011

Attending: J.J. Burgess, Ron Cooke, Tim Ballenger, Charles Tate, Roger Bishop, Ben Cunningham, Bill Walker, Bill Tolbert and Greg Wood (Arriving late)

* Finance Committee - Visit ideas on how to use contributions designated to the building fund. NOTE: TRFBC is a non profit cooperation.

A. Status of Putting a Search Committee Together for a new Pastor -
* Timing may be too soon.
* Consult w/Randy at Association office for how and when guidance:
  ** Putting a Team together.
  ** When to start Looking.
* Continue prayer for God's direction and intervention for the needs of the church.

B. Dr. Roe will be out of the are visiting his Family Dec. 20th to the 30th.
* Ashley will be conduction Christmas eve services.
* Christmas Day, no Sunday School, Services only at 10:30 am. (Undetermined at this time who would lead the service.)

C. Christmas Offering Goal undetermined, to be set at an obtainable amount in keeping with current and previous goals and weekly/monthly receipts. ($7000.00)

D. Property Line update: J.J. issued handout of aerial photo and results of his initial meeting.
* Property line is located 5' off the side of the house. Occupant understands the property line location and the concerns of the church leaders.
Option 1: Post a sign, a fence, legal document?
Option 2: Allow occupant to purchase a .33 acre strip of property form the church?
Option 3: Permission to use the property with limitations?
Question: Is it legal to open his business, out of his home, within the TR city limits? (Unsure.)
Question: Is yard debris still being dumped on church properties? (No.)
* Limitations to be stated in the form or Lease:
  ** No Dumping (Lawn Debris)
  ** No Law suites (injuries of his employees or damage to his automobiles or equipment.)
  ** Actions or consequences for any failures to comply with legal agreement.

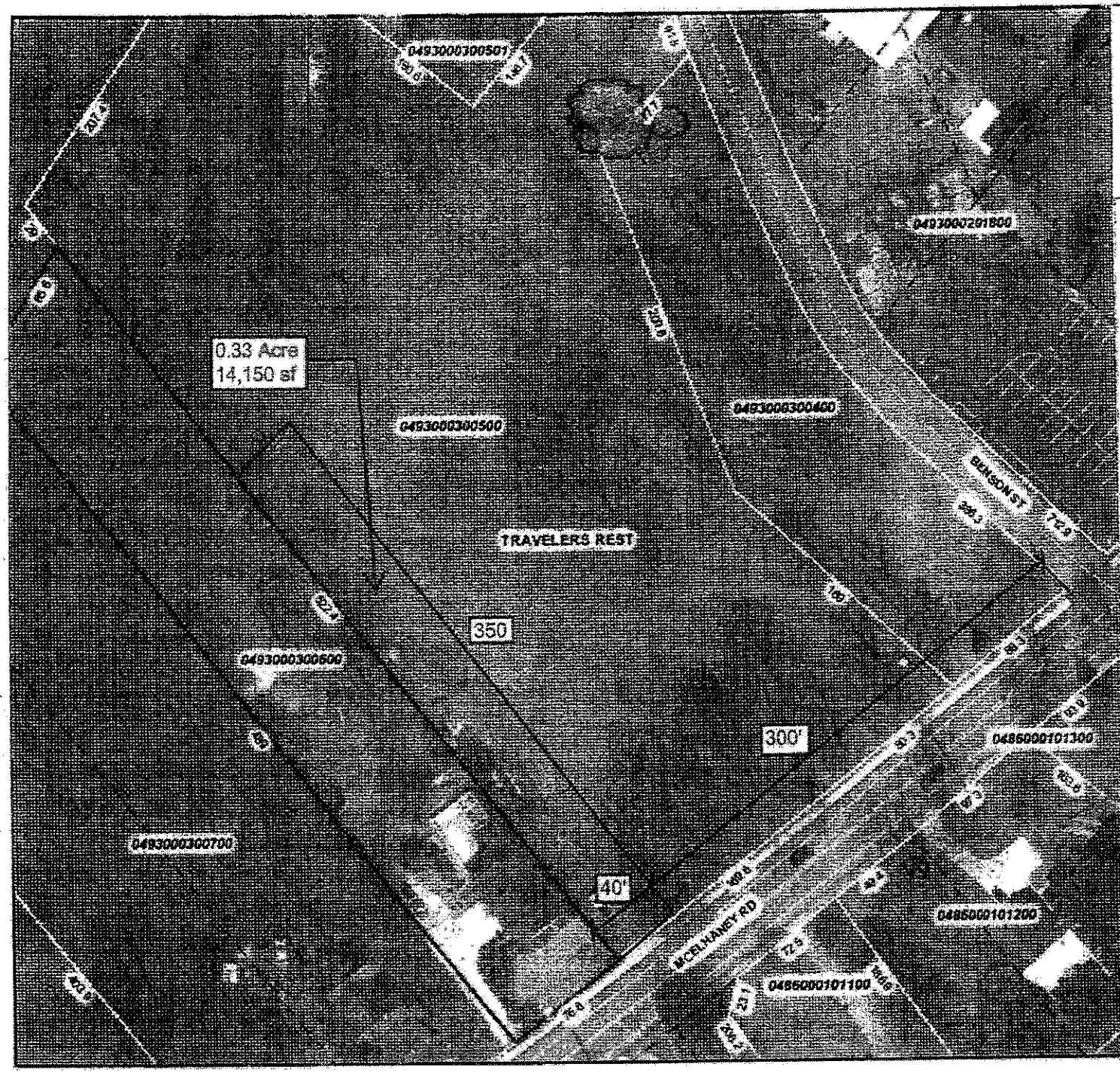
E. Approved by the Deacons to turn over to the trustees, the sale of the "unused" trailer to Bill Walker. Motion made by Roger Bishop, and seconded by G. Wood.

F. Decided by the Deacons to loan piano, if approached cautiously to avoid any misunderstandings and or hard feelings by any member of the congregation.

G. Church Cleaning - TB - To avoid rodent or bug infestation all garbage is to be bagged and removed form the building after any and all events. (Use of the social hall or Family Life center.)

H. Christmas Gifts to staff to be determined and announced.

I. Closing Prayer



Greenville County, SC

Map Scale
1 inch = 87 feet

Overview

Disclaimer: This map is not a LAND SURVEY and is for reference purpose only. Data contained in this map are prepared for the inventory of Real Property found within this jurisdiction, and are compiled from recorded deeds, plats, and other public records. Users of this map are hereby notified aforementioned public primary information sources should be consulted for verification of the information contained in this map. Greenville County assumes no legal responsibility for the information contained in this map.

Deacon's Meeting: Monday January 2, 2012

Attending: J.J. Burgess, Tim Ballenger, Charles Tate, Bill Tolbert, Ron Cooke, Greg Wood and Dr. Gerald Roe. (Absent: Ben Cunningham and Roger Bishop)

a. **Prayer Request:** Margaret McNeely, Ida Lee Buchanan, Sue Farnham, Mary France Hogan, Jimmie Kay, Andy & Ruth King.

b. **Opening Prayer:** J.J. Burgess

c. **Reviewed Minutes** for Dec. 5th Meeting; Greg Wood

d. New Item: Phone system damaged "Mother Board Fried" New phones were purchased to keep us up and running.
*Q: Will Insurance assist in replacement system? - Properties Committee
*Q: AT&T Responsibility? - J.J. will be looking into this.
*Q: Was the Phone tree affected? - No

e. Property Line issue: Letter being written by attorney.

f. Properties Committee will be looking into the sale of unused trailer.

g. Youth Director: Will Snipes, Dr. Roe and Tim still looking for possible candidates for youth Director. Personnel Committee will be putting a plan together for possible interim position.

h. Properties/Building and Grounds Committee has listing of "Critical items" to be addressed, Bell tower windows, social hall roof, etc. Recommendation to gather committee members and delegate duties on as many items as possible. Report findings and results.

Dr. Roe Reports:

* Time to put a search Committee together
* By rules of North Greenville Univ. Dr. Roe is availably for 12 months
(The church can ask for an extension, if close to finding pastor, approximately 3 months.)
* Begin 8 step Process - a Spiritual Preparation Process.
* Wednesday Nights Prayer Meetings,
* Sunday Morning Sermon Series "Where would Jesus go to Church".
* Putting the Search Committee together, Target Date the end of February 2012.
Let the church have a voice. Vote for their committee.
Allow the Committee gel, to come together working with Dr. Roe. (30 day period)
* Survey the Church - 1st Survey by Mid April. 2nd survey should have a bigger response, late April.
* April 8th, Sunday Night, Core group Training. Working to put together from scratch, a new Church. How do we meet the needs of the church, the needs of the community, what are the ministries needed in our area. Put this request out in the Bulletin, Pray, pray, pray for Gods Direction, help us fall in love with our new pastor, we don't know who he is or when he will be Here, but let us love him.

Deacon's Meeting: Monday February 6, 2012 @ 7:00 PM

Attending: J.J. Burgess, Greg Wood, Bill Walker, Ben Cunningham, Charles Tate & Roger Bishop, absent Bill Tolbert and Rev. Gerald Roe

Opening Prayer: Bill Walker

New Special Prayer Request: (Joe Lupo - Hospice care) Continue to make Family Contacts.

*R. Bishop - Visitation of prospective members, Status of Visitation Cards filled out during services, is there any follow up cards, letters, phone calls etc. To be determined.

* Properties Committee 1. Bell tower repairs complete.
2. Est. $1200 cost to repair roof is social hall. To be scheduled.
3. OK to sell trailer by Deacons and transportation committee. Find title if available and secure approval of Trustees.

NOTE Plan B - Parents Aren't Back to Find More Quotes

* Lock Box Safe Deposit Box - Status, who is approved, contents of box? - C. Tate

* Finance Team - See attachment Handout A - attention called to budget lines that have been retired/ made inactive and other items moved to reconcile budget items. The front side is the updated detailed budget items list to present to the church at the next Business Meeting. Approved by the Deacons.

"Progress"

NOTE: Finance Issue is to determine the Disposition of Stock in Progressive Energy, given as a tithe. It was agreed to look into the stock value and discuss further at the next meeting. Pray for Gods direction of the distribution of these 150 shares of stock. $54.38/sh.

* Tim Ballenger Personnel/Youth Committee - Handouts B and C submitted to the Deacons letter/mission statement from the candidate and interview summary from Dr. Roe for Interim Youth Pastor Candidate Rick Huber. Approval pending background check. To be presented to the church.

* Review of ballots for search committee. Deacons submitted vote, continue praying for a follow meeting to be scheduled. To determine final committee member choices.

* Closing Prayer

Approved

Deacon's Meeting: Monday March 5, 2012 @ 7:00 PM

Attending: J.J. Burgess, Bill Walker, Bill Tolbert, Tim Ballenger, Ron Cooke, Charles Tate, Roger Bishop, Ben Cunningham, Greg Wood and Dr. G. Roe.

* Moved the meeting to the Sanctuary for opening prayer.

Prayer Request:
* Larue Bishop following knee surgery.
* Gaynell McAlister following rotator cup surgery.
* Ms. Jimmie Kay - The Kay Family request prayers
* Chuck Pulcine - Alzheimer's
* Sherry Cunningham
* Virginia Witmire

Reading, Approval of the minutes form the Feb. Deacon's Meeting

New and Existing Business
* Energy stock value dropped .80 cents per share. Final disposition of the stock remains undecided. (To hold or sell.)
* Lock Box/Safe Deposit Box is under the names of 2 Trustees, Charles Kelly and Nancy Spearman.
* To show appreciation to Will Snipes a Motion was made by C. Tate and second by R. Bishop to provide a financial gift to Will, for filling in on Wed. nights while without a youth director.
* Will is approved a as a Bus Driver, having a CDL to drive the bus, and will be taking a group to Atlanta for a weekend/4 day trip. Will need to add Will to the approved insurance list.
* Search Committee: Charles Tate, David Taylor, Carole Looper, H. Johnson & D. Ballenger. Once approved by the church, the group will be prepared with assistance from Dr, Roe.
* Senior Adult Day, Sunday May 6th. A meal will be catered Sunday after the morning service, conducted by the seniors of the church. (Sr. testimonies, choir, etc.)
* Staff Recognition: The Personnel and Finance will be reviewing policy for staff recognition in regards to a bonus or pay adjustment for Laura, church secretary after Personnel committee meets with Laura to discuss her needs.
* Five names are to be submitted to J.J. for the nominating committee. Names will be reviewed, discussed and approved in following meetings.
* Status of property/Lawyer letter. Still to be submitted written.
* Dr. Roe follow up comments: God is at work by making the Devil Mad. We, the Deacons keep Comments of indifference off the church grounds. Make sure it taken off the church grounds. We must strive to remain positive in the eyes of God, by being a agent of Gods peace & unity.
* Prayer Request for Dr. Roe as he completes the series of "Where would Jesus go to Church", With the last service addressing how you know it's time to leave the church.

Closing Prayer: Dr. Roe

Deacon's Meeting: Monday April 9th 2012 @ 7:00 pm

Attending: J.J. Burgess, Greg Wood, Tim Ballenger, Charles Tate, Bill Walker, Roger Bishop and Ben Cunningham (Absent: Ron Cooke and Bill Tolbert)

Open Prayer in the Sanctuary.

Reading of the minutes from previous meeting.

Update/Current Activities:

* C. Tate on Search Committee reported that meeting with Dr. Roe and Randy Bradley recommend alternates be selected. To attend meetings, without voting rights. make visits in the event a sitting member is unable. (Alternates: Bill Walker & Gracie Cochran.) To be covered in the next church Business Meeting.
* Search Committee - Church Surveys are scheduled to be issue, completed and returned to determine what the church thinks, what they want.
* C. Tate, Lock box contents to be checked and reported on. Need to determine what's in it and report findings.
* Sr. Lunch is scheduled for May 19th to be catered by Mutts BBQ.
R. Bishop will be looking into program activities or a guess speaker.
* J.J. presented Staff Recognition suggestions. Based on church policy recognition for:
1 Year Verbal Recognition
3 Year $100 and Certificate
5 Year and beyond be recognized w/Certificate and $250
* J.J. presented draft of a legal document (attachment A) for Temporary access to in regards to church property to the adjacent property holder Mr. Skelton. The document stated the church as the owner of the property. That Mr. Skelton would be responsibility for damage, debris on the property and prohibiting any fixtures or structures form being placed on the property. Before presenting the a copy of the draft, J.J. wanted approval from all Deacons, (Ron and Bill.)
* Use of the Church Parking Lot for a Wedding held on McElhaney was requested and approved by the Deacons. (April 9th, 2012)
* T. Ballenger - Concerns over the church playground. Children are coming and playing on the equipment. Creating concerns of church liability in the event of injury. Should consider fencing in the area for security reasons.
* T. B. also mentioned finding a foundation for a swing set that could be had for no cost.
* J.J. - reported that the Nominating committee not consist of any members form the search Committee or it's alternates. Names recommended were Kristi Hornsby, Jean Johnson, Terri Wood, Tim Ballenger and J.J. Burgess. Approved by the Deacons, will be covered on Sunday 4/15/12 on the Morning Service.
* Personnel Committee - Ashely desires to reach all demographics, try new things, music that attacks and appeals to all, but that interest new/younger families. Remind all members that Gods will must be accomplished in all the phases of the church services. That we are responsibly for removing negativity away form Gods church. Support and prayer request for Ashely and Choir as the pursues

Closing In Prayer

Note: Will Snipes reported his appreciation to church for the use of the Bus for his trip to Atlanta, GA.

Deacon's Meeting: Monday May 7th 2012

PRESENT: J.J Burgess, Greg Wood, Tim Ballenger, Bill Walker, Roger Bishop, Charles Tate, Ben Cunningham and Dr. Gerald Roe

ABSENT: Bill Tolbert and Ron Cooke

A) Group Prayer in the Sanctuary.

B) Prayer Needs/Request: Kayla, and the Andy King Family and Deacon families.

C) Charles Tate/Dr. Roe discussed search committee's Financial concerns options as we look at the Budget requirements for a full time minister. 1. The Obvious "God Will" should provide for the growth of the church that will increase the income opportunities. 2nd Option would be a by-vocation candidate, supplementing is own income and 3. an older candidate with fewer financial concerns, student loans etc.

D) Sr. and staff Dinner on May 20th catered by Mutts BBQ in the Fellowship Hall.

E) The next Church Business Meeting scheduled for June 3rd, Sunday evening.

F) Deacon Nominations scheduled for early June. Dr. Roe to review the role and qualifications of the Deacon with the congregation. Four Deacons will be rotating off this year, our goal would be to maintain a total of nine Deacons after the church nominations.

G) Property Line Letter has been approved by the Deacons and is ready to submit to Mr. Skelton.

H) Request was made to hoist a Home School Foundation, one day a week form 9:00 am to 3:00 pm for 24 weeks.
Pros: A way to connect with the community.
Cons: Cost, Liability, Extra Church Supervision
Further discussion required, if possible with school representatives to resolve concerns and make a united informed decision. Unresolved at meetings end. Need more information

I) Dr. Roe will by out of the Sunday May 20th and 27th . Traveling to Italy for vacation. Will Snipes to fill in possibly both Sunday services.

J) Closing Prayer: Tim Ballenger.

Deacon's Meeting: Monday June 4th 2012 7:00 PM

Present: J.J. Burgess, Greg Wood, Bill Walker, C. Tate, R. Cooke and Tim Ballenger.
Absent: B. Tolbert, B. Cunningham, R. Bishop and Dr. Roe

Opening Prayer: Tim Ballenger

Meeting Minutes: Greg Wood

* J.J. Reports the attendance and offering receipts from the previous Sunday.
The Deacons, w/o a full time Pastor are to
A. Pray - To change or develop positive attitudes among church goers.
B. Visit - Members who have stopped or who have declining attendance.
C. Call : Deacon Families, Shut Ins and New Prospects.

* Building Upgrades to the "Fellowship Hall" and other areas in need.
1. Start by making a list of upgrades needed.
2. How, when and where to get started.
3. Tim will be working with Building Grounds Committee putting project plan together. Derrick, Tolbert
   * Flooring
   * Kitchen Cabinets
   * Lighting, Ceilings and Windows - (Improve Safety and energy efficiency.)

* Sunday Nights - Something New After the 24th of June.

* Deacon Nominations next Sunday. Pastor Roe to communicate Qualifications.

* Nominating Committee to deliver church wide form for listing areas of interest to serve.

* NGA -Emergency Preparedness Training June 9th for anyone interested.

* Home School Issue - With a total of 75 people, one day a week for 24 weeks, ages 4 to 12 years of age. With no full time Pastor, limited budget funds available, the Deacons all agreed this would be too much to manage at this time.

* PGN Stock - The Deacons defer the handling of this stock to the Finance Committee to sell or hold.

* CLOSEING PRAYER - Meeting adjourned.

Attachment "A" 4/9/12 Meeting

Temporary Right of Access Agreement

THIS AGREEMENT dated as May 1, 2012 between **Mr. Thomas Craig Skelton**, of 108 McElhaney Road, Travelers Rest, SC (the "Mr. Skelton") and **First Baptist Church Travelers Rest**, of 20 McElhaney Road, Travelers Rest, SC(the "FBTR").

WHEREAS:

(A) Mr. Skelton is the registered owner of the property municipally known as 108 McElhaney Road, Travelers Rest, SC and legally described as Residential Single-Family Dwelling.

(B) FBTR is the registered owner of the property municipally known as 104 McElhaney Road, Travelers Rest, SC and legally described as property of First Baptist Church Travelers Rest (House of Worship)..

(C) Mr. Skelton wishes to obtain temporary access over a portion of the FBTR's Property for the purposes of allowing occasional light vehicle access to the rear of the First Party's Property.

NOW THEREFORE in consideration of the mutual covenants and conditions hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. FBTR hereby grants to the Mr. Skelton a temporary right, during the term of this Agreement, for he and his agents, and invitees, to access the westerly forty feet by three-hundred fifty feet of FBTR's Property, immediately adjacent to Mr. Skelton's Property, specifically for the purpose of occasional light vehicle traffic access.

2. FBTR accepts no responsibility whatsoever for any losses or damages (personal or property) which Mr. Skelton or his agent(s) suffer or incur as a result of accessing the designated property. Mr. Skelton hereby agrees to indemnify FBTR against any losses suffered or claims made against FBTR by the Mr. Skelton or his agents, invitees and others who access said property pursuant to the rights given to this Agreement.

3. Mr. Skelton agrees to repair any damage caused to the FBTR Property as a result of such access and will restore the accessed area to its original condition, if requested by the FBTR, within 30 days of written request.

4. Mr. Skelton agrees to construct neither temporary nor permanent structures or fixtures, or store, discard debris or any foreign materials on said property.

5. This Agreement is not transferable and shall be considered void if Mr. Skelton is no longer the legal owner of the property located at 108 McElhaney Road, Travelers Rest, SC.

6. This Agreement is limited to one calendar year from the stated date of this Agreement, May 1, 2012 and but is renewable yearly on the anniversary of This Agreement. FBTR reserves the right to revoke this Agreement provided the extents of this Agreement are not met or adhered to.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto as of the date first above written.

Witness

MR. THOMAS CRAIG SKELTON

Witness

FIRST BAPTIST CHURCH TRAVELERS REST, SC TRUSTEE ROY WOOD

WRW

W.R. WILLIAMS, JR. P.E.& L.S.
ENGINEER / SURVEYOR, INC.
15 S. MAIN ST. TRAVELERS REST, SC 29690
TELE: (864)834-7955 FAX: (864)834-1195

To: **Travelers Rest First Baptist Church**
McElhaney Rd
Travelers Rest, S.C.

DATE: *7-22-03*

INVOICE NO.: 030002

RE: Attn: Mr. CC Hice

JOB DESCRIPTION: For services rendered in survey of western property line of church property adjoining old Doc Smith home place.

Ok to pay 1/27/03

TOTAL DUE: **$200.00**

A late fee of 1 1/2%, per 30 days, will be charged on all past due accounts.

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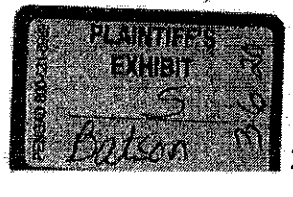

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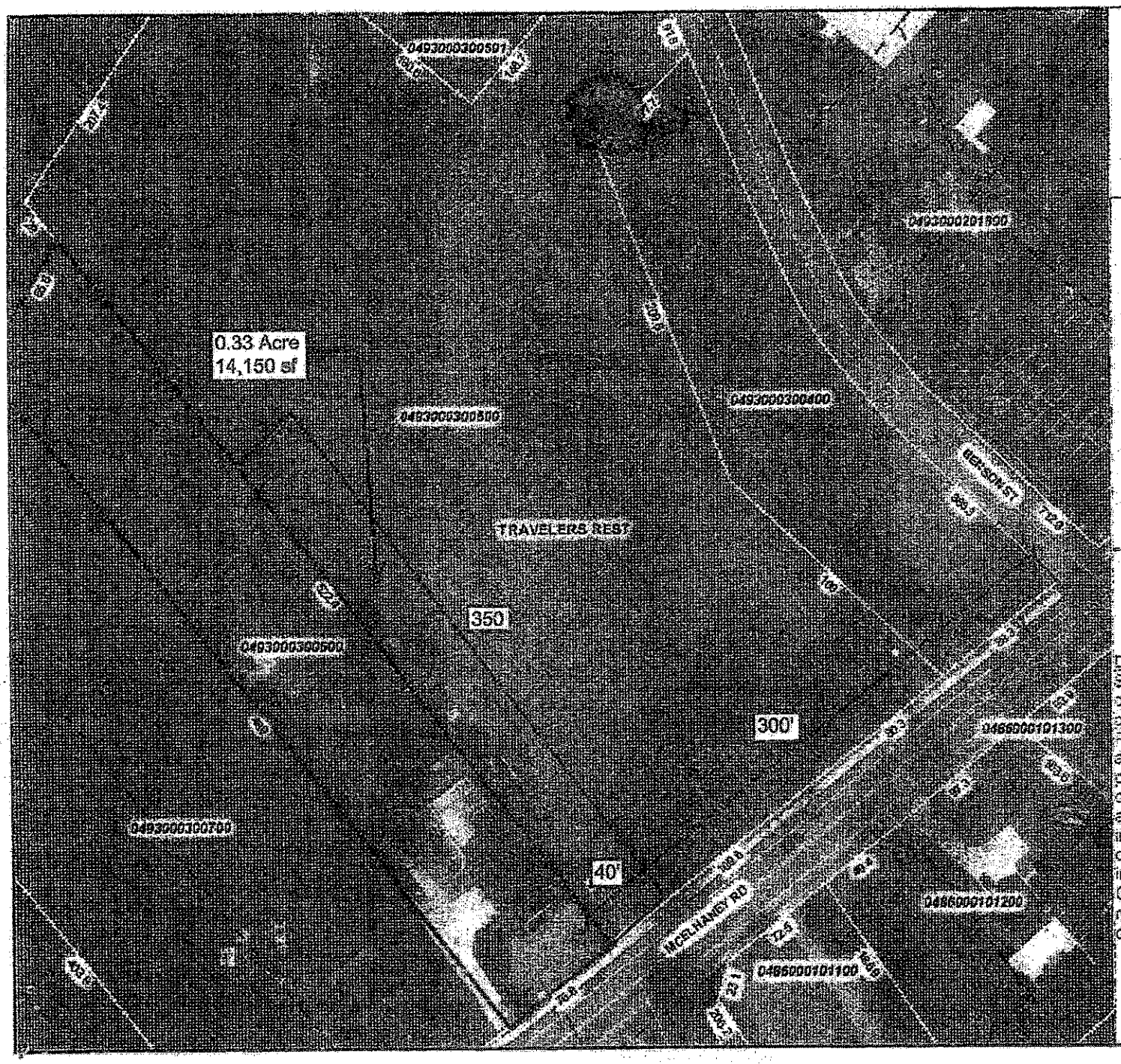
Witness

MR. THOMAS CRAIG SKELTON

Witness

FIRST BAPTIST CHURCH
TRAVELERS REST, SC TRUSTEE
ROY WOOD



Greenville County, SC

Map Scale
1 inch = 87 feet

Overview

Disclaimer: This map is not a LAND SURVEY and is for reference purposes only. Data contained in this map are prepared for the inventory of Real Property found within this jurisdiction, and are compiled from recorded deeds, plats, and other public records. Users of this map are hereby notified aforementioned public primary information sources should be consulted for verification of the information contained in this map. Greenville County assumes no legal responsibility for the information contained in this map.

From: Cindy Skelton [mailto:cskelton66@yahoo.com]
Sent: Monday, November 28, 2011 11:02 AM
To: Joel Burgess
Subject: Church property

Hi Joel,

After our discussion last week about use of the property next to my house I wanted to clarify for everyone involved on the deacon board or in the church itself the arrangement we had worked out with prior pastors to use the driveway access. Several years ago we developed a problem with field mice and rats and the pest control company we used said we needed to keep the field bush hogged on a regular basis as the mice do not like to run across an open field. At that time the field was being mowed approximately twice a year by the church. My wife met with the pastor and told him of the problem and suggested that since we run a landscape company we would be happy to do it ourselves at no cost to the church. He said that would be fine. I purchased the home from Mr. Smith in '92 and started the landscape business in '94. I kept it located off site due to the nature of our lot and the fact that we have children who needed a back yard to play in. Due to the economic decline over the past few years we have been forced to move the business to the house to cut operating cost. We have located some of our trucks and equipment offsite to minimize the impact to the church and our other neighbors along with improving the appearance of the existing blacksmith building and trying to make the new buildings as attractive as possible. The biggest challenge we face is that there is no access to the back of our property except by extending our driveway into the backyard. We would still face limitations however in our ability to turn a truck and trailer rig around. Doing this would eliminate the useable backyard space and cause the removal of the playground equipment that the children still use. Around May of this year we met with the previous pastor and showed him the situation and told him that once we had gotten over the expense of the move and things "settled down" we would like to meet with him again and discuss making an offer to purchase the driveway access. He said that sounded fine and just to get back in touch when we were ready.

After looking at the property and what we would need (without a survey) I am estimating that to give us adequate room to turn around in approximately 40 feet from our property line toward the church would be necessary. This would extend back to the wood line approximately 350'. We will be glad to pay for a survey to identify the property line in question so that you and I can meet and work out final measurements. Using these numbers as a guide we would be able to pay $2.500.00 for this driveway access. If possible we would like to pay $1,000.00 down with 3 payments of $500.00 a month.

In closing I would like to state for the record that it has been our pleasure to maintain the field for the church as we know that this would be an expense the church would have to incur. As I have assured you and previous pastors we have no thought of trying to claim any "squatters rights" on the property and that this mowing we are freely donating to the church. If you would like a written arrangement for the field on our letterhead we would be happy to provide that to you.

I look forward to hearing back from you on this matter and once again thank you for your patience.

Craig Skelton

From: Joel Burgess <JBurgess@ssiteam.com>
To: Cindy Skelton <cskelton66@yahoo.com>
Sent: Friday, December 30, 2011 11:29 AM
Subject: RE: Church property

Mr. and Mrs. Skelton:

I hope your family had an excellent Christmas and I want to wish you a Happy New Year as well.

My apologies for being so late in getting back with you on this issue. Our deacons have discussed your proposal and all agree that we would certainly like to have some agreement on the topic. The church, however, does not wish to sell the land at this time. The property is a good asset to the church for activities and possible future facilities, etc. and they want to keep those options open for the future.

What we would like to do is come to an agreement for you to access the portion that you need for access to your property on some basis of periodic renewal so that each new group of leaders at the church is aware and that we are both on the same page of understanding. Some of the church's concern are always liability and insurance-related items, as well as the possibility (however remote it may be) that you sell/move sometime in the future, etc., so I'm trying to flesh some of that out now.

Please give some thought to your acceptance of this type of understanding and I will be in touch in the next couple weeks in hopes of finalizing this kind of agreement if you are interested.

Overall, we want to be good neighbors, do the right thing and would love for you and your family to be a part of our fellowship. We have excellent children's programs (children's worship) on Sunday mornings and Wednesday nights as well as many other activities and worship opportunities for the whole family. Any opportunity you have we would love to see you. We have a special worship service this Sunday morning @ 10:30 if you're available.

Feel free to contact me any time by phone or email. I look forward to discussing this with you further in the near future.

Best regards, J.J.

Church property

From: Cindy Skelton (cskelton66@yahoo.com)

To: JBurgess@ssiteam.com

Date: Saturday, December 22, 2012, 03:27 PM EST

Hi Joel,

I hope you and your family are having a good Christmas and are well. Today an older gentleman named Ben stopped by and was looking at a log I had placed by the road. He said he was from the church and that a member had called him and told him I had cut down a tree on church property. I took him to my back yard and showed him the stump some 20' inside the property line (on my side) where I had cut down a sweet gum tree. As is my custom when I take a tree down, I cut it up into firewood lengths and placed it by the road for local people and poor people to get as free firewood.

I explained this to Ben and he seemed happy enough with the answer. I reiterated to him that I would never cut down a tree on the church's property or alter the land in any way and that I simply needed access to my back property which is not feasible due to the narrowness of my lot. I know we discussed this a year ago and I don't know if you are still in a position to handle it but I would like to get some sort of written permission from the church that makes all involved happy. I am happy to maintain the lot for no fee or consideration other than the driveway access and occasional parking. Also, I will be glad to discuss some sort of purchase arrangement for the driveway area if the church ever wants to do that. I just want to make sure that as people come and go that all involved are aware of the conditions under which y'all are allowing me access to my back property.

Thanks,

Craig Skelton

PENGAD 800-631-6989
PLAINTIFF'S
EXHIBIT
Batson
36.20

PENGAD 800-631-6989
PLAINTIFF'S
EXHIBIT
8
Burton
3.6.20

PENGAD 800-631-6989
PLAINTIFF'S
EXHIBIT
Burton
9
3-6-20

PENGAD 800-631-6989
PLAINTIFF'S EXHIBIT
10
Batson 3-6-20

Sent from Yahoo Mail for iPad

Mail body: Skelton photos

PENGAD 800-631-6989
PLAINTIFF'S
EXHIBIT
11
Batson
36.20

First Baptist Church

Travelers Rest, SC

We offer the Welcome of Friendship, the Warmth of Family, & the Worship of God

Robert C. Wilson, Jr.
Attorney at Law
201 Whitsett Street
Greenville, South Carolina 29601

April 16, 2019

Dear Robert C. Wilson, Jr.

Re: Concerning the property of First Baptist Church

We are sorry for the hardship due to the loss of use of this property to Mr. Skelton's business. We have found no file or person that can present us a verbal or signed copy of an agreement for use of this property. We gave Mr. Skelton an extension of ninety days to vacate the property. This extension gave Mr. Skelton until Monday, June 3, 2019 to vacate the property. This property is not for sale.

Sincerely,

Deacons and Trustees
First Baptist Church
20 McElhaney Road
Travelers Rest, SC 29690

First Baptist Church
20 McElhaney Road
Travelers Rest, SC 29690
Phone: 864-834-9076
E-mail: office@fbctr.org

Dr. Steve Peterson
Pastor

Gary Green
Minister of Music

Ann Sutton
Ministry Assistant

RECEIVED
Feb 04 2021
SC Court of Appeals

Certificate of Counsel

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

February 4, 2021

Laura W.H. Teer
Bradford Neal Martin & Associates, PA
Post Office Box 10410
Greenville, SC 29603
864.552.9990
Attorneys for Appellant