

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
In the Court of Common Pleas for the Ninth Judicial Circuit

The Honorable Mikell R. Scarborough, Master-in-Equity

Appellate Case No. 2023-000773

Dustin Grotzke, Christine Grotzke, Leo Cornejo, Steve Falciani,
Nancy Falciani, Robert St. Louis, Lindsay Layton, Roger Woolf,
Roberta Woolf, Nancy Zaj, Meg White, Joey Winchester, Kelly
Hill, Mary Thaler, Ed Thaler, Lisa Essig, Brianna Stello, Jennifer
Sellars, Dominique Powell, Jennifer Mayo and James Hardy..... Respondents,

v.

Mariner's Cay Racquet & Yacht Club Homeowners' Association,
Inc.Appellant.

FINAL REPLY BRIEF OF APPELLANT

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ARGUMENT

Appellant Mariner's Cay Racquet & Yacht Club Homeowners' Association, Inc. ("Mariner's Cay") incorporates by reference, as if set forth at length herein, its Brief of Appellant. Mariner's Cay submits this Reply to address certain issues argued in the Brief of Respondents.

A. The Mariner's Cay Board of Directors Is Permitted to Regulate Short-Term Rentals Under the Governing Documents and Law.

The Brief of Respondents asserts that the Temporary Moratorium is improper because Mariner's Cay's governing documents expressly allow leasing of Units. The crux of this argument seems to be that — because the Master Deed does not explicitly restrict leasing — the Master Deed *does not allow* Mariner's Cay's Board of Directors to regulate short-term (or other) leases. This argument is without merit, as Mariner's Cay's Temporary Moratorium is consistent with its governing documents and South Carolina law.

Respondents rely on language in the Master Deed stating that Units may be "conveyed, transferred, [and] leased[.]" (*See* R. p. 210 ¶ III.2). Plaintiffs also cite to Section IX.7 of the Master Deed (discussed below) which restricts the renting of Units, but argue that it only regulates leasing of Units to limit occupancy to the lessee and his immediate family. (*See* R. p. 229 ¶ IX.7). Respondents argue that "[b]oth of these sections in the Master Deed are inherently directed at the leasing of Units, and show not only that at the time of formation the parties intended to allow for leasing of Units, but also that they did not intend to include a minimum duration restriction on the leasing of Units, as the governing documents do not mention such a limitation in any way." (*See* Resps.' Br., at 9). In other words, Plaintiffs' argument is that the Master Deed's recognition of a right to lease property grants owners *carte blanche* to engage in short term rentals without any regulation.

Plaintiffs' argument misses the mark for several reasons. First, there is no suggestion in the language of the Master Deed itself that its general authorization of renting property was intended to prohibit the Board of Directors from regulating rentals. In fact, as Mariner's Cay has argued throughout this case, the plain language of Section IX.7 of the Master Deed — which

Respondents heavily rely upon in their Brief — expressly *authorizes* the Mariner’s Cay Board of Directors to regulate the leasing of Units. Specifically, under the Master Deed, a whole Unit "may be rented provided the occupancy is only by the lessee and his immediate family *unless otherwise provided by the Association's Board of Directors.*" (See R. p. 229 ¶ IX.7(emphasis added)). Respondents misconstrue this provision as *a limitation* on the Mariner’s Cay Board of Directors’ authority to regulate leases, rather than a grant of authority. Specifically, Respondents read the highlighted language (“unless otherwise provided by the Association's Board of Directors”) to apply only to whether occupancy of a leased Unit may extend beyond the lessee’s immediate family. Under Respondents’ interpretation of the Master Deed, the only role for Mariner’s Cay’s Board of Directors in connection with leases is to decide whether to allow people other than the lessee’s immediate family to occupy the leased Unit.

However, as argued in Mariner’s Cay’s Brief of Appellant, the more appropriate reading of Section IX.7 is that leases (with occupancy limited to the lessee’s immediate family) are allowed “unless otherwise provided by the Association's Board of Directors.” See *Cyan, Inc. v. Beaver Cnty. Emps. Ret. Fund*, 138 S. Ct. 1061, 1077 (2018) (refusing to apply last antecedent rule where “when the modifier directly follows a concise and ‘integrated’ clause”). Far from being a limitation, Section IX.7 is a broad grant of authority to the Board of Directors to regulate leasing in the community. The plain meaning of Section IX.7 is clear that the Mariner’s Cay Board of Directors is granted the right to “otherwise provide[]” for the lease of Units. Section IX.7 allows the Board of Directors to do more than make exceptions to the rule that occupancy of a leased Unit is limited to the lessee’s immediate family. It allows the Board to exercise its judgment in the interests of its membership to decide whether to permit such leases (and under what conditions). This is also consistent with Section IX.9 of the Master Deed, which allows the Mariner’s Cay Board of Directors to void any lease that is not specifically authorized in the Master Deed:

Any . . . lease which is not authorized pursuant to the terms of this Master Deed shall be voidable at the option of any Owner or the Board of Directors until such time as same shall be approved by the Board of Directors.

(See R. p. 229 ¶ IX.9).

Respondents' arguments are premised on a very restrictive interpretation of Mariner's Cay's corporate powers and the powers of its Board of Directors. Their view of the Nonprofit Corporation Act is that, unless the Master Deed or other document expressly grants a power to Mariner's Cay or its Board, such power does not exist. However, this is not consistent with the language of the Act itself. A nonprofit corporation may exercise all "powers granted to it by law, its charter or articles of incorporation, and any bylaws made pursuant thereto." See *Fisher v. Shipyard Vill. Council of Co.-Owners, Inc.*, 415 S.C. 256, 271, 781 S.E.2d 903, 911 (2016). South Carolina law broadly enumerates the powers of a nonprofit corporation, including (but not limited to):

(11) to elect or appoint directors, officers, employees, and agents of the corporation, define their duties, and fix their compensation; . . .

(15) to impose dues, assessments, and admission and transfer fees upon its members;

(16) to establish conditions for admission of members, admit members, and issue memberships;

(17) to carry on a business;

(18) to *do all things necessary or convenient, not inconsistent with law, to further the activities and affairs of the corporation.*

See S.C. Code § 33-31-302 (emphasis added). "The purpose of item (18) is to ensure that all of the powers granted in this section are broadly interpreted and that there be **no limitation imposed on the powers of any nonprofit corporation.**" See *id.* (S.C. Reporter's Comments) (emphasis added).¹ Mariner's Cay's extremely broad statutory corporate powers are to "be exercised by or under the authority of and the affairs of the corporation managed under the direction of its board."

¹ Moreover, the South Carolina Reporter's Comments note that Section 33-31-302 represents the General Assembly's expressly rejection of and modification to the Courts' prior narrow view of the scope of nonprofit corporate powers. (See *id.* (citing *Lovering v. Seabrook Island Property Owners Assoc.*, 289 S.C. 77, 344 S.E. 2d 862 (Ct. App. 1986), *aff'd. & mod.*, 291 S.C. 201, 352 S.E.2d 707 (1987)).

See S.C. Code § 33-31-801(b). In other words, the Nonprofit Corporation Act does not require that all powers of Mariner's Cay (or its Board of Directors) be expressly spelled out.

Respondents try to avoid the broad grant of power in Section 33-31-302(18), by referring to the Reporter's Comment that "a distinction should be drawn between the power of the corporation to do all things necessary or convenient to carry out its activities and the question of whether corporate acts are reasonable or otherwise prohibited." (See Resps.' Br., at 16 (quoting S.C. Code § 33-31-302 (Reporter's Comment))).

However, Respondents' arguments (and the Circuit Court's Order) are not based on a finding that the Temporary Moratorium is "unreasonable or otherwise prohibited." To the contrary, there is no evidence or finding whatsoever that the decision to limit short-term rentals that impacted the quality of life at Mariner's Cay was "unreasonable." Moreover, there is no language in South Carolina law or the Mariner's Cay governing documents that "prohibited" the Temporary Moratorium. The most that Respondents can argue is Mariner's Cay's governing documents do not expressly use words such as Temporary Moratorium or "short term rentals." However, this does not make the Temporary Moratorium *ultra vires* or improper, in light of the extremely broad grant of power to Mariner's Cay's Board of Directors. Plainly, regulating property usage to maintain the collectively agreed-upon community standards goes to the very heart and purpose of Mariner's Cay and its Board of Directors. There is no evidence or finding that the Mariner's Cay Board did not follow proper procedures in promulgating the Temporary Moratorium. There is no evidence or finding that the Temporary Moratorium was not a valid action of the Board or was not an action in furtherance of the interests of Mariner's Cay and its members. This is insufficient to support the Circuit Court's interference with the internal operation of Mariner's Cay's Board of Directors acting within its statutory authority.

Consistent with the Nonprofit Corporation Act, Mariner's Cay's By-Laws provide for and grant the following broad powers to its Board of Directors:

The Board of Directors *shall manage and direct the affairs of the Association* and, subject to any restrictions imposed by law, by the Master Deed, or these By-Laws,

may exercise all the powers of the Association. The Board of Directors shall *exercise such duties and responsibility as shall be incumbent (sic) upon it by law, the Master Deed, or these By-Laws as it may deem necessary or appropriate in the exercise of its powers*, including, without limitation, the collection of assessments and charges from the owners, the establishment and amendment from time to time of reasonable regulations governing the use of the Common Area and Facilities and the Limited Common Area and Facilities, and the employment and dismissal of personnel necessary for the maintenance and operation of the Common Area and Facilities and Limited Common Area and Facilities.

(See R. p. 259 ¶ V.2 (emphasis added)). Additionally, the Master Deed expressly authorizes the Mariner's Cay Board of Directors to "promulgate rules and regulations limiting the use of the General Common Area and Facilities to Unit owners and their guests as well as to provide for the exclusive use of a part of the General Common Area and Facilities by a Unit owner and his guests for special occasions which exclusive use may be conditioned, among other things, upon the payment of a fee." (See R. p. 213 ¶ III.3.e). Moreover, all "tenants, and each and every occupant of each Apartment Unit shall at all times observe the published rules of conduct which may be established from time to time by the Association or its Board of Directors." (See R. p. 263 ¶ VII.4).

This grant of power — congruent with the Nonprofit Corporation Act — is more than sufficient to authorize the Board of Directors to regulate the short-term leasing of property. While the By-Laws may not specifically discuss regulation of short-term rentals, they make clear that the Board of Directors may take any action that may be necessary or appropriate for it to manage the affairs of Mariner's Cay.

Finally, Mariner's Cay notes that, to date, Respondents have not cited anything in its governing documents (including the Master Deed and By-Laws) that would prohibit its Board of Directors from regulating short-term rentals. While an amendment to the Master was an *option* for Mariner's Cay, it was not *required*. Nothing in the governing documents of Mariner's Cay limits such restrictions to formal amendments of the Master Deed.

For the foregoing reasons, the Court should reverse the Circuit Court's Order because the Mariner's Cay Board of Directors — by virtue of the Nonprofit Corporation Act, the Master Deed, and the By-Laws — had the broad power to enact the Temporary Moratorium.

B. The Court Should Follow the Better-Reasoned Line of Cases That Respects the Intentions of Homeowners Who Wish to Maintain the Residential Nature of Their Community.

In the alternative (and as Mariner’s Cay argued in its Brief of Appellant), the Circuit Court’s Order is in error because the Temporary Moratorium is appropriate, since the short-term renting of property to transient vacationers and other travelers violates the express language of the Master Deed. In particular, the Master Deed plainly provides that “[n]o business activities of any kind whatever shall be conducted in any building or in any portion of the property.” (See R. p. 228 ¶ IX.4).² Additionally, “[b]uildings and all Units contemplated in the development shall be, and the same hereby are, **restricted exclusively to residential use.**” (See R. p. 227 ¶ IX.1 (emphasis added)). As a result, short-term rentals to transient visitors are forbidden under the Master Deed. Because the Master Deed already prohibits short-term rentals, Mariner’s Cay’s enactment of the Temporary Moratorium is proper as a confirmation of the what the Master Deed already prevents.

The law is not clear — in South Carolina or in the United States in general — as to how the Court should construe these provisions of the Master Deed. This appeal requires that the Court choose which school of thought South Carolina should follow concerning short-term rentals that operate like businesses in residential communities. On one hand, the practical, common sense approach that Mariner’s Cay urges views short term rentals for what they really are: businesses. This line of cases — illustrated by, *inter alia*, *Hensley v. Gadd*, 560 S.W.3d 516, 525 (Ky. 2018) (“The Court of Appeals’ and Gadd’s emphasis on residential uses - eating, sleeping, reading a book, watching TV - misses the point of the restrictions.”) — is consistent with the Master Deed’s plain intent to preserve the residential nature of Mariner’s Cay.

On the other hand, Respondents’ strained and illogical approach contorts reality and views short-term rentals to transients as a wholly residential use, not a business and or commercial activity. This non-practical approach, which the Circuit Court unfortunately adopted, ignores the

² This provision of the Master Deed also explicitly prohibits “nuisances” that “may . . . unreasonably disturb the Owner of any Unit or any resident thereof.”

Master Deed’s express prohibition of commercial/business activity. It ignores the purpose of the Master Deed’s residential use requirement. It ignores the reality of property owners’ associations and the neighborhoods they represent. It ignores the impact of businesses in residential areas on homeowners. It ignores that Folly Beach has enacted ordinances treating short-term rentals like businesses (going so far as to require business licenses and capping short-term rentals). Instead, this approach focuses on whether the business being operated in a residential community happens to involve the provision of services that can be characterized as “residential.” Although more courts in the past have followed this approach, Mariner’s Cay respectfully submits that those cases are not consistent with the Master Deed language and the intent of the members to maintain the residential character of Mariner’s Cay.

Respondents ask the Court to ignore the obvious fact that short-term rentals are lucrative businesses that are essentially the internet age’s replacement for hotels. These businesses operate at the expense of the entire community, which must shoulder their burden and inconvenience. Appellant’s governing documents make clear that the community does not want to become a hotel resort. While short-term rentals might be lucrative for their owners, other owners at Mariner’s Cay — who expressly expressed their intention not to live in a business community — suffer the consequences. Appellant asks the Court to adopt a practical, common sense approach that recognizes the obvious fact that short term rentals are essentially hotels catering to transients and are commercial activity. These internet-era hotels violate Appellant’s governing documents and are fundamentally unfair to all of the other members of the community.

Under Respondents’ argument, for-profit entities such as prisons, halfway houses, hotels, college dormitories, hostels, memory care facilities, nursing homes, and similar undertakings could be “residential” or non-business, because they involve using premises for eating, sleeping, and related activities of daily life. This misses the point of the Master Deed’s requirement that properties be used exclusively for residential purposes. Irrespective of what short-term renters do once they are inside rented Units, they are clearly there as part of a “business,” just as a guest at a hotel would be. The residential nature of Mariner’s Cay suffers from the constant flow of strangers

with no connections to the community onto the property for the profit of a few Unit owners who do not share the majority's desire to maintain its residential nature. Mariner's Cay's residential nature suffers when management companies, marketing entities, cleaning contractors, and others are consistently on the property to service businesses operated by short-term lessors. Whether renters go to a Unit to get their taxes done or to sleep, the impact on the community is the same. The presence of a stream of customers clearly detracts from the "residential" nature of Mariner's Cay. Members of the community did not sign up to live in a hotel resort, with a constantly changing cast of characters (with no connection to that community) constantly tracking in and out. They bought into an ideal of a "residential" community.

At a minimum, the question of whether short-term rentals rise to the level of business or commercial use is a mixed issue of fact and law that the trial court should not have decided as a matter of law without allowing Mariner's Cay a fair opportunity to conduct discovery. The trial judge allowed Respondents to submit last-second Affidavits, but prevented Mariner's Cay from even deposing the affiants or any other Respondents (including some who were not joined until the trial court's final order). The trial judge granted summary judgment against Mariner's Cay in the abstract, without affording it the right to conduct complete discovery and develop an appropriate record. At a bare minimum, this Court should remand this matter to allow Mariner's Cay to conduct discovery to determine whether an owner's short-term rental activities rise to the level of business/commercial activity. It is likely that discovery would disclose that some short-term renters' actions are so pervasive that they cross the threshold to be considered commercial/business activity. The trial judge improperly stripped Appellants of the ability to conduct discovery to obtain such evidence to prove its case.

C. The Business Judgment Rule Plainly Applies.

Respondents argue in their Brief that the business judgment rule does not apply here, because "nowhere in the governing documents is the Board granted power to limit an Owner's use and leasing of his or her unit." (*See Resps.' Br.*, at 15). As discussed above, the language of the

Nonprofit Corporation Act, the Master Deed, and the By Laws all authorize the Mariner's Cay Board of Directors to regulate short-term rentals in the interest of the community. Respondents do not argue that a conflict of interest or other improper motive precipitated the corporate decision. Respondents have presented no evidence that the Board of Directors of Mariner's Cay did not act exercising its judgment and discretion in the best interests of the community. Respondents bring this action simply because they disagree with the Board of Directors' business judgment. The Circuit Court erred by interfering with that business judgment and overruling a corporate decision. This Court should reverse the Circuit Court and allow the Mariner's Cay Board of Directors to operate using its business judgment about what is best for the community.

D. The Trial Court Erred in Concluding that Respondent Owners Who Purchased Their Units Before the Enactment of the Temporary Moratorium Possessed Standing Because They Are Allowed to Engage in Short-Term Leasing and Have Not Carried Their Heavy Burden of Showing That the Temporary Moratorium Decreased Their Property Values.

As Mariner's Cay has argued, the Temporary Moratorium does not restrict most³ of Respondents' use of their property. It does not outright prohibit the short-term rental of property. Rather, it allowed *existing owners* to lease out their properties on a short-term basis. It merely provided that — on a temporary basis — *new purchasers* would not be able to engage in short-term leasing. For the vast majority of Respondents, there is no claimed harm to their property rights in their Units. They have always been allowed to engage in short-term rental of their Units.

Respondents counter this argument by noting that “[o]ne Plaintiff asserted via a filed affidavit that he sold one of his units subsequent to the moratorium and was forced to reduce the sale price substantially after the purchaser became aware they would not be able to rent the unit short-term.” (*See Resps.’ Br.*, at 18). This owner, Leonardo Cornejo, submitted a vague, ambiguous affidavit that did not explain or show — beyond any genuine issue of material fact —

³ Respondents’ Amended Complaint alleges that Jennifer Sellars and Dominique Powell “purchased their units after July 1, 2019 and as such, have been prevented from renting their units on a short-term basis” under the Temporary Moratorium. (*See R. p. 342 ¶ 6*). These are the only Respondents who arguably have standing.

that the Temporary Moratorium reduced the value of his Unit. He recites an anecdotal story (without even identifying the potential purchaser) about a potential purchaser who allegedly lost interest in his Unit after learning of the Temporary Moratorium and claims that he had to reduce the price of his property and give incentives to sell it. He does not provide any details concerning the nature of his Unit, its condition and location, the substance of actual negotiations with any potential buyer, or anything else that might have been relevant to the sale of his Unit.

Mr. Cornejo's affidavit does not support standing in this case. First, it does not have any bearing on any of the other Respondents in this matter. *None* of the other Respondents have presented any evidence that they: (a) attempted to sell their Units; (b) had difficulty selling their Units; (c) had to adjust their sale price as a result of the Temporary Moratorium; or (d) experienced a decrease in the sale price or value of their Units because of the Temporary Moratorium. As a result, (if it granted it any value) the trial court should have limited Mr. Cornejo's affidavit to *his* claims.

Second, Mr. Cornejo's affidavit does not support the Circuit Court's conclusion that he (or any pre-Temporary Moratorium Unit owner) may have standing. His affidavit is comprised entirely of inadmissible hearsay, speculation, and statements about unidentified third-parties. This is plainly not sufficient to carry Respondents' heavy burden of showing — beyond a genuine issue of material fact — that standing exists because of an injury to Unit owners. Moreover, Mariner's Cay was denied any opportunity to conduct discovery as to this mysterious and vague affidavit, which was presented at the eleventh hour. Mariner's Cay anticipates that discovery may lead to evidence undermining Mr. Cornejo's affidavit, as his claimed reduced sales price coincided with a pending building repair special assessment vote that could have impacted the sales price.

Finally, the evidence contradicts Mr. Cornejo's statements that the Temporary Moratorium negatively impacted the value of his Unit. To the contrary, the evidence shows that — after the effective date of the Temporary Moratorium — Units at Mariner's Cay sold for substantially more than their original purchase price. (*See* R. pp. 195-200). For example, at one of the Mariner's Cay

buildings, every Unit sold after July 19, 2019 had a selling price far in excess of the purchase price (most at least more than \$100,000 than the purchase price):

	Unit #	Selling Price	Date Sold	Purchased Price	Date Purchased
Building 1					
	5	\$ 550,000	3/23/2022	\$ 219,000	3/7/2013
	11	\$ 225,000	5/22/2020	\$ 77,000	3/17/1997
	13	\$ 533,081	2/22/2022	\$ 435,000	12/4/2020
	15	\$ 335,000	6/4/2021	\$ 249,900	11/20/2015
	19	\$ 398,000	7/15/2019	\$ 285,000	8/21/2009
	20	\$ 454,000	5/4/2022	\$ 210,000	8/27/2010
	22	\$ 429,999	12/28/2021	\$ 153,000	3/8/1999

(See R. p. 200).

As a result of the foregoing, the Circuit Court erred in finding that pre-Temporary Moratorium owners of Units possess standing to prosecute this lawsuit.

E. The Trial Court Erred in Concluding that Respondent Owners Who Purchased Their Units After the Enactment of the Temporary Moratorium Could Obtain Equitable Relief, Because They Purchased Their Units With Constructive Knowledge of the Temporary Moratorium.

The *only* named Respondents who purchased their Units after the Temporary Moratorium (and who would have been restricted from engaging in short-term rentals) were Plaintiffs Jennifer Sellars and Dominique Powell. The Circuit Court erred in granting relief to these Respondents.

Initially, Mariner's Cay notes that Respondents Sellars and Powell were not formally named as Plaintiffs until the entry of the Order that is the subject of this appeal. As a result, Mariner's Cay did not even have the opportunity to file an answer as to those Respondents until *after entry of the appealed Order*. Mariner's Cay has *never* had the opportunity to conduct *any* discovery as to those Respondents (even though the Circuit Court premised its grant of relief on an affidavit from Respondent Sellars that was filed at the last minute). This alone is a basis for reversing the trial court's grant of relief to Respondents Sellars and Powell.

Even if the Circuit Court could have considered the claims of Respondents Sellars and Powell, it erred in granting them equitable relief. It is undisputed that Mariner's Cay recorded the

various iterations of the Temporary Moratorium, which alerted “all future grantees of the rights of the recorder because the law assumes the grantee will search the index and discover the interest or claim.” *Spence v. Spence*, 368 S.C. 106, 119, 628 S.E.2d 869, 876 (2006); accord S.C. Code § 30-9-40 (“The entries in the indexes required to be made are notice to all persons sufficient to put them upon inquiry as to the purport and effect of the deed, mortgage, or other written instrument so filed for record.”). In other words, Respondents Sellars and Powell purchased their Units with actual or constructive record knowledge that the Temporary Moratorium was in place. Their purchase of their Units was an unequivocal waiver of any right to complain about the Temporary Moratorium, which was in place before they purchased property. See *Janasik v. Fairway Oaks Villas Horizontal Prop. Regime*, 307 S.C. 339, 344, 415 S.E.2d 384, 387-88 (1992) (“[T]he party claiming waiver must show that the party against whom waiver is asserted possessed, at the time, actual or constructive knowledge of his rights or of all the material facts upon which they depended.”).

This matter was before the Master in Equity in the Circuit Court. As a result, Respondents were only entitled to such relief as would be equitable under the circumstances. For example, a Respondent could not obtain equitable relief if he or she came to the trial court with unclean hands:

However, if a party has unclean hands, the party is precluded from recovering in equity. A party will have unclean hands where the party behaves "unfairly in a matter that is the subject of the litigation to the prejudice of the defendant." *Ingram v. Kasey's Assocs.*, 340 S.C. 98, 107, 531 S.E.2d 287, 292 (2000).

See *Anderson v. Buonforte*, 365 S.C. 482, 493, 617 S.E.2d 750, 756 (Ct. App. 2005). If a Respondent purchased a Unit with record notice of the Temporary Moratorium, he or she certainly does not have clean hands warranting injunctive relief.

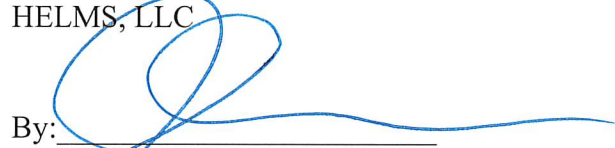
For the foregoing reasons, which Respondents do not (and cannot) dispute, any Respondent who purchased their Unit with record notice of the Temporary Moratorium should be barred from challenging that moratorium under the doctrine of waiver.

CONCLUSION

For the reasons set forth above and in the Brief of Appellant, the Court should reverse and vacate the Circuit Court's: (a) March 29, 2023 Order granting Respondents' Motion for Summary Judgment and Motion to Amend Complaint and denying Appellant's Motion for Partial Summary Judgment; and (b) April 17, 2023 Form 4 Order denying Appellants' Motion to Alter or Amend. The Court should direct the Circuit Court to enter partial summary judgment in favor of Appellant as to all equitable and declaratory judgment claims.

December 19, 2023

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SC Court of Appeals

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APPEAL FROM CHARLESTON COUNTY
In the Court of Common Pleas for the Ninth Judicial Circuit

The Honorable Mikell R. Scarborough, Master-in-Equity

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CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Final Reply Brief of Appellant complies with Rule 211(b), SCACR.

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