

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

THE HONORABLE MAITE MURPHY
CASE NUMBER: 2020-CP-07-00829
APPELLATE CASE NUMBER: 2023-001278

RECEIVED
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SC Court of Appeals

CAROL JENKINS JACKSON AND
JUDY SHARON JENKINS WATKINS.....Appellants.

v.

MICHAEL F. RIVERS, R.M. LAPP, TRUSTEE FOR THE ST. HELENA ASSETT TRUST, HEIRS OF HARRISON RIVERS, HEIRS OF OPHELIA RIVERS, HEIRS OF HAROLD W. RIVERS, HEIRSO F RACHAEL CHISHOLM, HEIRS OF FLORENCE C. PARKER, HEIRS AT LAW OF REUBEN M. CHISHOLM, AND ALSO VERNELL I. SMASHUM, BARBARA MCCLARKING, BEVERLY J. SCOTT, AMOS WILLIAMS, CLIFFORD HUFF, SANDRA MACK-HUFF, TRUSTEE FOR THE MARGARET LOYD SUMPTER TRUST DATED AUGUST 30, 2002, JOSEPH A. MOORE ALL OF WHOM ARE BELIEVED TO BE ADJACENT LANDOWNERS AND ARE MADE DEFENDANTS IN THIS ACTION, AND ALSO ALL OTHER PERSONS UNKNOWN HAVING OR CLAIMING TO HAVE ANY RIGHT, TITLE, ESTATE, INTEREST IN OR LIEN UPON THE REAL PROPERTY OR ANY PART THEREOF DESCRIBED IN THE COMPLAINT HEREIN, AS JOHN DOE AND MARY ROE, INCLUDING ALL PERSONS WHO MAY BE DECEASED, MINORS, IN THE MILITARY SERVICE OF THE UNITED STATES WITH THE MEANING OF TITLE 50 UNITED STATES CODE, REFERRED TO AS THE SERVICEMEMBERS CIVIL RELIIVE ACT, AS AMENDED, PERSONS ON COMPOS MENTIS AND UNDER ANY OTHER DISABILITY.

OF WHOM MICHAEL F. RIVERS IS THE.....RESPONDENT.

RECORD ON APPEAL

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CAROL JENKINS JACKSON, et al. v. MICHAEL F. RIVERS, et al.
APPELLATE CASE NUMBER: 2023-001278

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- 3. Final Judgment Quieting Title filed May 6, 2022.
- 21. Order denying Motion for Reconsideration, filed July 18, 2023.

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- 25. Summons and Complaint, filed April 6, 2020.
- 32. Answer of Michael Rivers filed June 4, 2020.
- 37. Motion for Reconsideration filed May 13, 2022.
- 40. Defendant's Memorandum in Opposition to Plaintiff's Motion for Reconsideration filed July 15, 2022.
- 44. Notice of Appeal filed August 9, 2023.

OTHER:

- 48. Transcript of Trial:

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Testimony of Judy Watkins (trial transcript) Pages 166 through 167

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TRIAL EXHIBITS:

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Appellants' (Plaintiffs') trial exhibits as follows:

360. Exhibit 17
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This is an action to quiet and confirm title to real estate located on St. Helena Island, in Beaufort County, South Carolina. The fundamental issue in this case is the location of the boundary line between real estate belonging to the Plaintiffs and adjoining real estate belonging to the Defendant Michael F. Rivers. For the reasons hereinafter set forth I find and conclude that the boundary line is that line delineated as a chain link fence marked "Fence Encroachment" on Exhibit A attached hereto.

I. PROCEDURAL HISTORY

This action was commenced by the filing of a Summons and Complaint in the Beaufort County Court of Common Pleas on April 6, 2020. In his Complaint the original Plaintiff Benjamin Jenkins¹ alleges that he is the owner of a 4.3 acre tract of unimproved land and that the Defendant Michael Rivers, who owns adjoining real estate, had recently attempted to alter the boundary between their two properties by planting small trees on Jenkins' property and erecting fences that encroached onto Jenkins' 4.3 acres. In his first cause of action, Jenkins prays for a judgment against Michael Rivers for the actual damages he has sustained, and in his second cause of action Jenkins prays for a declaration that he is the owner of the entire 4.3 acre parcel.

Contemporaneously with the filing of the Summons and Complaint, Jenkins also filed a Lis Pendens regarding the subject action.

On May 8, 2020 the Defendant Michael Rivers, through his attorney H. Fred Kuhn, Jr., Esquire, accepted service of the Summons, Complaint, and Lis Pendens.

On June 4, 2020 Michael Rivers filed his Answer to the Complaint, denying the material allegations thereof and requesting, among other things, an Order directing Jenkins not to interfere with Michael F. Rivers' peaceful enjoyment of his property.

¹ During the pendency of this action Benjamin Jenkins passed away and the current Plaintiffs, who are the beneficiaries of his Estate and his successors in title, were substituted as Plaintiffs.

On September 8, 2020 an Order appointing Frampton L. Harper, II, Esquire as Guardian *ad Litem* for unknown party defendants, resident or non-resident, minors, defendants in the Armed Forces of the United States, and defendants who are *non compos mentis* or under any other disability, was filed. The Answer of the Guardian *ad Litem*, which neither admits nor denies the allegations of the Complaint, was filed on February 23, 2022.

An Order authorizing service by publication was filed on September 8, 2020 and the pleadings were subsequently published in the Beaufort Gazette, a local newspaper, once a week for three (3) consecutive weeks.

Other than Michael Rivers, all other Defendants are in default.

On October 23, 2020 an Order referring this action to the Beaufort County Master in Equity was filed, but on October 27, 2020 the Master in Equity, *sua sponte*, due to a conflict, recused himself from the case.

On August 5, 2021 a Consent Order was issued substituting Jenkins, who passed away on November 2, 2020 with his daughters, Carol Jenkins Jackson and Judy Sharon Jenkins Watkins who had been appointed by the Beaufort County Probate Court as the Personal Representatives of his Estate and who are the beneficiaries of his Estate.

On February 22, 2022 this matter came to be heard before me without a jury in the Beaufort County Court of Common Pleas. Present and appearing on behalf of the Plaintiffs was their attorney, C. Scott Graber, Esquire. Present and appearing on behalf of the Defendant Michael Rivers, was his attorney, H. Fred Kuhn, Jr., Esquire. No other Defendant appeared, nor did anyone appear on their behalf.

At the trial, the Plaintiffs and Michael Rivers testified, and they each called various witnesses in support of their respective positions.

After careful consideration of the record in this matter, the arguments of counsel, the testimony of the witnesses, and the various documents entered into evidence, I make the following findings of fact.

II. FINDINGS OF FACT

1. The real estate which is the subject of this action is located in Beaufort County, South Carolina. Benjamin Jenkins, prior to his passing, was a citizen and resident of Beaufort County, South Carolina. His Estate is currently being probated by the Beaufort County, South Carolina Probate Court. Michael Rivers is currently a citizen and resident of Beaufort County, South Carolina.

2. On March 11, 1913 Ruben Chisolm acquired a ten (10) acre parcel of land pursuant to a Deed recorded in Deed Book 33 at Page 29 in the Office of the Register of Deeds for Beaufort County, South Carolina.² This 10 acre parcel is simply described as being bounded on the North by lands belonging to John Ford, on the East by lands of Joseph Logan, on the South by lands of William Wallace, and on the West by lands of Butler Mitchell. Each of these surrounding properties, as well as the property conveyed to Ruben Chisolm, is a ten (10) acre square lot of land.

3. Ruben Chisolm retained ownership of the entire ten (10) acre square lot of land until March 13, 1933, when he sold and deeded sold a portion of this land to Harrison Rivers, who is the father of Michael Rivers. This Deed, which is recorded in Deed Book 51 at Page 213, describes the property being conveyed as follows:

A certain part of a ten acre tract described as follows: - bounded on the North by lands now or formerly of John Ford, on the East by lands now or formerly of Joseph Logan, on the South by lands now or formerly of William Wallace and on the West by lands now or formerly of Butler Mitchell, it being a part of what is known as the Frogmore Plantation and purchased by me from N. Christensen by deed dated February 10, 1913, the road leading from Club Bridge to Coffins Point running

² All Deeds referenced hereinafter are Deeds recorded in the Office of the Register of Deeds for Beaufort County, South Carolina.

through this lot in a southwest to northeast direction: Beginning at the point where the said highway intersects with the southern line of said ten acre lot and running in a westerly directing (sic, direction) along the boundary two hundred and ten feet, thence in a northerly direction two hundred and ten feet, thence in an easterly direction two hundred and (sic) feet to the said highway, thence along the said highway in a southerly direction to the point of starting, said lot containing one (1) acre, more or less.

4. Attached hereto as Exhibit A is portion of a plat dated April 23, 2019 entitled "Boundary Survey Prepared for Benjamin Jenkins," by David S. Youmans, Registered Land Surveyor. North is directly to the top of this plat. On this plat there is depicted the location of a chain link fence which is labeled "Fence Encroachment." It is not disputed by any of the parties that the Plaintiffs own that portion of the 4.31 acres located to the north of the "Fence Encroachment." Also on this plat is a 1.24 acre parcel on which the location of a house, among other things, is depicted. It is undisputed by the parties that this 1.24 acres is owned by Michael Rivers.

5. The Plaintiffs contend that the boundary line between their property and the property of Michael Rivers are those two solid straight lines, shown on Exhibit A, one running S00-14°24" West for a distance of 300.94 feet, which then takes a right turn in the direction S89 46°53" E for a distance of 210.60 feet.

6. Michael Rivers, on the other hand, contends that the location of the boundary line between his property and that of the Plaintiffs' is the chain link fence labeled "Fence Encroachment."

7. Accordingly, there is a dispute between these parties as to owns the roughly rectangular shaped parcel of property immediately to the west of the 1.24 acre parcel (hereinafter the "Disputed Rectangle") and the triangular shaped parcel located immediately to the north of the 1.24 acre parcel (hereinafter the "Disputed Triangle").

8. The legal description of the property conveyed by Ruben Chisolm to Harrison Rivers in the 1933 Deed is ambiguous and, as the Plaintiffs' own expert title researcher put it, "vague". It is not possible for the conveyed property to be bounded on all four sides by the lands of John Ford, Joseph Logan, William Wallace and Butler Mitchell, and yet be only one acre in size, since "bounded by," means the properties share a common boundary. Additionally, none of the conveyed parcel's property lines can run "along the said highway in a southerly direction," since the highway does not run in a southerly direction. As the legal description itself recites, the road runs in a "southwest and northeast direction."

9. Most significantly, the metes and bounds expressly set out in the 1933 Deed begin "at the point where the said highway intersects with the southern line of the said ten (10) acre lot and running in a westerly direction along the boundary two hundred and ten feet." This boundary line coincides with the southern boundary line of the Disputed Rectangle. If the metes and bounds are then followed, going north, then east, then due south for two hundred and ten feet each, the property expressly conveyed by this deed encompasses nearly all of the Disputed Rectangle.

10. The aforesaid ambiguity, however, begins to make sense when one recognizes that at the time of this conveyance there was a house on the 1.24 acre parcel that was located immediately to the east of the current house that is depicted on the 1.24 acre parcel on Exhibit A. Benjamin Jenkins testified that this old house was in existence when Ruben Chisolm sold this property to Harrison Rivers. Jenkins Deposition, pg. 12, line 25 to page 12, line 1. Ruben Chisolm was Benjamin Jenkins' grandfather, and Benjamin Jenkins was Ruben Chisolm's ultimate heir. Benjamin Jenkins testified repeatedly that his grandfather, Ruben Chisolm, sold one acre and the house to Harrison Rivers. *Id.*, pg. 13, lines 23 – 24; pg. 14, line 23, pg. 23, line 12, pg. 40, lines 2

- 3 ("he . . . sold the house and that acre of land to Harrison Rivers"). It was clearly the intent of the parties in the 1933 Deed to convey both the house **and** the acre of land described in the deed.

11. By its express terms, the 1933 Deed conveyed most of the Disputed Rectangle to Harrison Rivers.

12. Upon execution of the 1933 Deed, Harrison Rivers, together with his wife Ophelia, moved into and occupied as their home the then existing house and the property which now comprises the 1.24 acre parcel. This is effectively admitted by the Plaintiffs in their Complaint, in which they allege:

"When Harrison Rivers acquired his acre from Ruben Chisolm in 1933, he and his wife Ophelia went into possession of a dwelling house that was not within the description of the one acre that he was conveyed by Ruben Chisolm."

Complaint, ¶6.

13. Ruben Chisolm passed away on January 31, 1944. Complaint, ¶8. During his lifetime, the only property that he conveyed out of the ten (10) acre parcel which he acquired in 1913 is that property that he conveyed to Harrison Rivers in 1933.

14. Ruben Chisolm left as his sole heirs his wife Rachel Chisolm and a daughter Florence C. Parker. On January 20, 1960 Rachel Chisolm died, leaving her daughter Florence C. Parker as her only heir. Complaint, ¶¶8 and 11.

15. In 2000, Florence C. Parker died intestate, leaving her son Benjamin Jenkins, the original Plaintiff to this action, as her sole heir. Complaint, ¶11.

16. Following the death of Ruben Chisolm his heirs conveyed out of the original ten (10) acre parcel a piece of property Amos Williams. The Amos Williams property is shown on as Exhibit A as lying immediately to the west of the Disputed Rectangle.

17. Following the death of Ruben Chisolm, his heirs conveyed out of the original ten (10) acre parcel a piece of property to Margaret Loyd Sumpter. The Sumpter property lies immediately to the east of the 1.24 acre parcel and the Disputed Triangle shown on Exhibit A.

18. Shortly after the execution and filing of the 1933 Deed, Harrison and Ophelia Rivers occupied, used, and began exercising dominion and control over not just the 1.24 acre parcel, but also the Disputed Rectangle and the Disputed Triangle. The land in this area is heavily wooded, and the Disputed Rectangle and Disputed Triangle were cleared up to the Fence Encroachment line as shown on Exhibit A. To the south of that line the land is cleared. Immediately to the north of that line the land is heavily wooded. There was a wire fence in the location of the Fence Encroachment line, remnants of which are still visible today.

19. After moving onto the property in 1933, Harrison and Ophelia Rivers utilized the Disputed Rectangle as if it were their own property. Primarily, they used the Disputed Rectangle for farming and growing various crops such as corn, beans, peas, squash, and watermelon. They tilled the land with a horse and plow. The Disputed Rectangle is easily observable from Seaside Road, a public road, and this use of the Disputed Rectangle was open, obvious, and apparent to anyone passing by.

20. After moving onto the property in 1933 Harrison and Ophelia Rivers used the Disputed Triangle as if it were their own property. On the Disputed Triangle, since the ground was a little higher, they grew peanuts. In this area they also built a stable to house the horses which they used in farming. They also raised hogs and constructed a hog pen on the Disputed Triangle. For a while Ophelia Rivers raised turkeys in this area. Once their son, the Defendant Michael Rivers, was born, they built a tree house on the Disputed Triangle for him.

21. In 1958 Michael Rivers was born and was raised as an only child by Harrison and Ophelia Rivers in the house on the property. His earliest memories as an infant are of his father and mother farming the Disputed Rectangle with the horse and plow, as well as the horses and hogs maintained in the stable and pen. He recalls the wire fence that ran along a line of the Fence Encroachment, and his parents treated the land south of the wire fence as their property, and recognized the heavily wooded land to the north of the wire fence as belonging to the Jenkins family.

22. In 1970 Harrison and Ophelia Rivers built a new house immediately to the west of their existing house. The footprint of this new house is shown on Exhibit A within the 1.24 acre parcel, labelled "House." At that time, they moved into the new house and razed the old house. Harrison and Ophelia Rivers, together with the help of Michael Rivers, continued their use and dominion of the Disputed Triangle and the Disputed Rectangle until the death of Harrison Rivers in 1980. Ophelia Rivers continued the farming and other activities on the Disputed Rectangle and Disputed Triangle following the death of her husband, albeit on a smaller scale, until shortly before her passing in 1991.

23. Following the passing of her husband, Ophelia Rivers erected a chain link fence for security purposes around three (3) sides of the residence, since at that time she was residing there alone, and her son Michael Rivers was serving a tour of duty in the military.

24. Upon her death in 1991, Ophelia Rivers passed her interest in the property to her son Michael Rivers. Michael Rivers lost the property in a foreclosure to Wells Fargo Bank. Michael Rivers arranged for his aunts, Shirley B. Mack and Arabelle Bonds, to be the successful bidders at the foreclosure sale, and he continued to occupy the property pursuant to an agreement with them where they were to serve as "placeholders" until he could regain title. This was in 2006.

In 2012, the property was again lost at a foreclosure sale and Calvin Scott was the successful bidder. Michael Rivers continued to reside in the property pursuant to an agreement with Calvin Scott. Mr. Scott subsequently sold the property to R.M. Lapp, Trustee, and once again, Michael Rivers continued to reside on the property, except for about six (6) months, pursuant to an agreement with Mr. Lapp. In 2020, Mr. Lapp deeded the property to Michael Rivers, who continued to reside in his parents' former house.

25. Each of the deeds of conveyance in the foregoing chain of title to Michael Rivers utilizes the same legal description in the original Deed from Ruben Chisolm to Harrison Rivers that references the property as being bounded on all four sides (i.e., north, south, east and west) by the ten (10) acre parcels formerly belonging to Ford, Logan, Wallace, and Mitchell. Each of these deeds also expressly recite that this is the same property acquired by the Grantor in the Deed from that Grantor's previous Grantor. In 2006, however, the deeds began referencing a plat prepared by Surveyor Zyad Kahlil which was recorded in Book 81 at Page 77 on June 26, 2001. This plat was prepared for Benjamin Jenkins and is the plat upon which the 2019 Youmans' plat is based. This plat shows, for the first time, the boundary line between the Jenkins and the Rivers property that is now claimed by the Plaintiffs. I do not give this plat much weight. The Plaintiffs did not call Surveyor Kahlil as a witness. There is no evidence explaining how he arrived at the boundary line shown on this plat. This plat is in direct conflict with the express language of the 1933 Deed which, as previously noted, expressly conveys most of the Disputed Rectangle to Harrison Rivers.

26. Since 1933 the 1.24 acre parcel, as well as the Disputed Rectangle and the Disputed Triangle, have been exclusively occupied, used, and controlled by Harrison and Ophelia Rivers, and following their passing, by their son Michael Rivers. Since 1933 they are the only ones who have occupied these properties or exercised any dominion or control over these properties. The

only time these properties were not being occupied or used by either Harrison Rivers, Ophelia Rivers, or Michael Rivers, was for a few months during the second foreclosure, at which time they were vacant until Michael Rivers resumed residing on the property.

27. Since 1933, no one in the Plaintiffs' chain of title has exercised any dominion, control, use or occupation of the Disputed Rectangle or the Disputed Triangle. The only time anyone in their chain of title has stepped foot on this property is when the Plaintiffs, as children, visited the Rivers family at their residence.

28. Since 1933, the use of this property by the Plaintiff and his predecessors in title, has been continuous, hostile, open, adverse, notorious, and exclusive to all others.

29. Over the years the original wire fence located on the Fence Encroachment line has fallen into an extreme state of disrepair. In approximately 2019 Michael Rivers erected a new chain link fence in the same area as the old wire fence. This is the fence that is currently shown on Exhibit A in the area of the Fence Encroachment.

30. Until shortly prior to this filing of this lawsuit, no one, including the Plaintiffs and all those in the Plaintiffs chain of title, objected to or contested Michael Rivers' and his family's use and occupation of the Disputed Rectangle or the Disputed Triangle.

31. Following his mother's passing, Michael Rivers continued to reside on the property, where he now resides with his wife. He continued to farm the property although on a much smaller scale inasmuch as, unlike his parents, he was not dependent upon farming for his sustenance. He has extensively landscaped the property with trees, azaleas, and crepe myrtles, has cleared old stumps, and mows and keeps the property cleared, landscaped and maintained. He had to replace the septic tank and drain field to his house, and this extends well into the Disputed

Rectangle. Until shortly prior to the filing of his lawsuit, none of these actions were contested or objected to by the Plaintiffs or their predecessors in title.

Pursuant to the foregoing findings of fact I make the following conclusions of law.

CONCLUSIONS OF LAW

1. This Court has jurisdiction over this matter and venue properly lies with the Beaufort County Court of Common Pleas.

2. Michael Rivers is claiming ownership of the disputed parcels partly by virtue of the express language in the 1933 Deed and partly by adverse possession under color of title. The color of title is the 1933 Deed.

3. Section 15-67-230 of the South Carolina Code of Laws sets forth what constitutes adverse possession under a written instrument, such as a 1933 Deed, as follows:

“For the purpose of constituting an adverse possession by any person claiming a title founded upon a written instrument or a judgment or decree, land shall be deemed to have been possessed and occupied in the following cases:

(1) When it has been usually cultivated or improved;

(2) When it has been protected by a substantial enclosure;

(3) When, although not enclosed, it has been used for the supply of fuel or the fencing timber, for the purposes of husbandry or for the ordinary use of the occupant; and

(4) When a known farm or a single lot has been partly improved the portion of such farm or lot that may have been left not cleared or not enclosed, according to the usual course and custom of the adjoining country, shall be deemed to have been occupied for the same length of time as the part improved and cultivated.

S.C. Code Ann §15-67-230. See also, *Woods v. Bivens*, 292 S.C. 76, 354 S.E.2d 909 (1987) and *Butler v. Lindsey*, 293 S.C. 466, 361 S.E.2d 621 (Ct.App. 1987).

4. The Disputed Rectangle and the Disputed Triangle were “usually cultivated or improved” by Harrison and Ophelia Rivers from 1933 up until the time of their deaths in 1980 and 1991, respectively, within the meaning of Subsection (1) of §15-67-230.

5. The Disputed Rectangle and the Disputed Triangle were both “protected by substantial enclosure” by Harrison and Ophelia Rivers from 1933 up until the time of their deaths in 1980 and 1991, respectively, within the meaning of Subsection (2) of §15-67-230.

6. The Disputed Rectangle and the Dispute Triangle were utilized for “purposes of husbandry or for the ordinary use of the occupant” by Harrison Rivers and Ophelia Rivers until the time of their deaths in 1980 and 1991, respectively, within the meaning of Subsection (3) of §15-67-230.

7. During the timeframe when Harrison Rivers and Ophelia Rivers were utilizing the Disputed Rectangle and the Disputed Triangle for farming and husbandry, particularly during the earlier decades, these activities were not engaged in not as a hobby, but for needed sustenance, and accordingly Subsection (4) of §15-67-230 applies to the facts of this case.

8. Even if there were no claim under color of title or under a written instrument such as the 1933 Deed, ¶15-67-250 of the South Carolina Code of Laws includes fencing, cultivation, and improvements within the definition of adverse possession. These are circumstances that are present within this case. See S.C. Code Ann. §15-67-250; *Miller v. Learid*, 307 S.C. 56, 413 S.E.2d 841 (1992); *Woods v. Bivens*, 292 S.C. 76, 354 S.E.2d 909 (1987).

9. In South Carolina, adverse possession may be established under a ten (10) year statute of limitation.

10. In addition to the ten (10) year statute of limitation for adverse possession, South Carolina Common Law also recognizes the twenty (20) year presumption of a grant.

11. In this case, Michael Rivers claims that his predecessors in title, Harrison Rivers and Ophelia Rivers, obtained title to the premises in dispute by virtue of both the ten (10) year statute of limitation as well as the twenty (20) presumption of a grant.

12. For Michael Rivers to establish title by ten (10) years adverse possession, he must show that either he himself had been in the actual, open, notorious, continuous, hostile and exclusive possession for ten (10) full years, or alternatively, that one of his predecessors in title had been in actual, open, notorious, continuous, hostile and exclusive possession for ten (10) full years. In order for Michael Rivers to prevail on ten (10) years adverse possession, he must show ten (10) full years of adverse possession by only one (1) person in his chain of title. Harrison and Ophelia Rivers, from the time they moved onto and took possession of the disputed property in 1933 until they passed away in 1980 and 1991, respectively, were in actual, open, notorious, continuous, hostile and exclusive possession of the disputed premises for the full ten (10) year period and accordingly obtained title by adverse possession at the end of the ten (10) year period and such title would accrue to the benefit of those in the subsequent chain of title, including Michael Rivers.

13. Additionally, with respect to the twenty (20) year presumption of a grant, Harrison and Ophelia Rivers were in actual, open, notorious, continuous, hostile and exclusive possession of the disputed premises, claiming the property as their own, for well in excess of the required twenty (20) years. Since Michael Rivers' predecessors in title continuously held the disputed premises adversely for a period of twenty (20) years, he now holds title as a result of the twenty (20) year presumption of a grant. See, *Terwilliger v. White*, 222 S.C. 176, 72 S.E.2d 169 (1952); *Terwilliger v. Daniels*, 222 S.C. 191, 72 S.E.2d 167 (1952); *Weston v. Morgan*, 152 S.C. 177, 160

S.E. 436 (1931); and *Getsinger v. Midlands Orthopaedic Profit Sharing Plan*, 327 S.C. 424, 489 S.E.2d 223 (Ct. App. 1997).

14. Pursuant to the clear and express terms of the 1933 Deed to his father, Michael Rivers holds title to the square shaped parcel of land that begins at the point where the southern line of the original ten acre lot intersects with Seaside Road and then runs for 210 feet each west, then north, then east and, south to the point of beginning, finally.

15. Michael Rivers has established title to the remainder of the disputed property by the adverse possession of his predecessors in title, Harrison and Ophelia Rivers, pursuant to both the ten (10) year statute of limitations and the twenty (20) year presumption of a grant. Once Harrison and Ophelia Rivers acquired title by adverse possession to the disputed properties, in either 1943 pursuant to the ten year statute or 1953 pursuant to the twenty (20) year presumption, this title was successively passed down to each of Michael Rivers' predecessors in title, and ultimately to Michael Rivers.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

a. Michael Rivers holds fee simple absolute title in and to the Disputed Rectangle and the Disputed Triangle as shown on Exhibit A hereto and the boundary line between the property of the Plaintiffs to the north and the property of Michael Rivers to the south is that fence line marked "Fence Encroachment" on Exhibit A; and

b. That this Order, together with that plat dated April 23, 2019 entitled "Boundary Survey Prepared for Benjamin Jenkins" by David S. Youmans, R.L.S. 9765, from which Exhibit A is excerpted, shall be recorded in the Office of the Register of Deeds for Beaufort County, South Carolina.

AND IT IS SO ORDERED.

Honorable Maite Murphy
Beaufort County Court of Common Pleas

Beaufort, South Carolina

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2020 CP-07-00829

CAROL JENKINS JACKSON AND

MICHAEL F. RIVERS, ET AL.

JUDY SHARON JENKINS WATKINS

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: H. Fred Kuhn, Jr.

Attorney for : ☐ Plaintiff ☒ Defendant
or
☐ Self-Represented Litigant

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. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCF; ☐ Rule 41(a), SCRCF (Vol. Nonsuit); ☐ Rule 43(k), SCRCF (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCF; ☐ 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:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
Michael F. Rivers	Carol Jenkins Jackson and Judy Sharon Jenkins Watkins	\$n/a
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

R300-024-000-0063-0000

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, 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 judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

CAROL JENKINS JACKSON AND
JUDY SHARON JENKINS WATKINS,

Plaintiffs,

vs.

MICHAEL F. RIVERS, R.M. LAPP, TRUSTEE
FOR THE ST. HELENA ASSET TRUST, HEIRS
OF HARRISON RIVERS, HEIRS OF OPHELIA
RIVERS, HEIRS OF HAROLD W. RIVERS,
HEIRS OF RACHAEL CHISHOLM, HEIRS OF
FLORENCE C. PARKER, HEIRS AT LAW OF
REUBEN M. CHISHOLM, AND ALSO
VERNELL I. SMASHUM, BARBARA
MCCLARKING, BEVERLY J. SCOTT, AMOS
WILLIAMS, CLIFFORD HUFF, SANDRA
MACK-HUFF, TRUSTEE FOR THE
MARGARET LOYD SUMPTER TRUST DATED
AUGUST 30, 2002, JOSEPH A. MOORE ALL OF
WHOM ARE BELIEVED TO BE ADJACENT
LANDOWNERS AND ARE MADE
DEFENDANTS IN THIS ACTION, AND ALSO,
ALL OTHER PERSONS UNKNOWN HAVING
OR CLAIMING TO HAVE ANY RIGHT, TITLE,
ESTATE, INTEREST IN OR LIEN UPON THE
REAL PROPERTY OR ANY PART THEREOF
DESCRIBED IN THE COMPLAINT HEREIN, AS
JOHN DOE AND MARY ROE, INCLUDING
ALL PERSONS WHO MAY BE DECEASED,
MINORS, IN THE MILITARY SERVICE OF THE
UNITED STATES WITHIN THE MEANING OF
TITLE 50, UNITED STATES CODE, REFERRED
TO AS THE SERVICEMEMBERS CIVIL
RELIEVE ACT, AS AMENDED, PERSONS NON
COMPOS MENTIS AND UNDER ANY OTHER
DISABILITY,

Defendants.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO.: 2020-CP-07-00829

ORDER DENYING MOTION
FOR RECONSIDERATION

This matter came to be heard before me via WebEx in the Beaufort County Court of Common Pleas on May 31, 2023 for the purpose of hearing the Motion for Reconsideration filed on behalf of the Plaintiffs on May 13, 2022, requesting that I reconsider my Order filed on May 6, 2022.

After careful consideration of the Motion to Reconsider, the record in this matter, and the arguments of counsel, I am unable to discover any material fact or principle of law that has been either overlooked or disregarded, and the Motion for Reconsideration is accordingly denied.

In their Motion for Reconsideration, the Plaintiffs put forth two (2) grounds for reconsideration. Each of these grounds is addressed in turn below.

First, the Plaintiffs note that "it is not disputed by any of the parties that the Plaintiffs owned the portion of the 4.31 acres located north to the fence encroachment." The Plaintiffs complain that the foregoing "is not the finding of the court and is not included in the Order." Motion for Reconsideration, pg. 2.

This assertion by the Plaintiffs is incorrect. The foregoing language is an express finding of the Court and is explicitly set forth in the Order in Finding of Fact Number 4 on page 5 of the Order.

The second "ground" advanced by the Plaintiffs is based upon the fact that a portion of the premises was mortgaged and subsequently foreclosed upon in 2005. The Plaintiffs argue that the Defendant Rivers, by issuing the mortgage, "gave up all claim of any sort to the premises to the bank." This is clearly not the law. Motion for Reconsideration, pg. 2. It's elementary that a landowner, by obtaining a mortgage, does not "give up all claim of any sort to the premises to the bank." The landowner is simply giving the bank a security interest in the event that the underlying loan is not paid.

The Plaintiffs also argue that the 2005 mortgage resulted in the “surrender of any accrued (*sic.* title) by adverse possession.” *Id.*

Taking a mortgage out on property, however, does not magically erase vested title, whether that title was obtained by adverse possession or by deed.

Title vesting by adverse possession is the same as if title vested by an express grant or deed. “A title by adverse possession, being ordinarily regarded as equivalent to that derived by a grant or conveyance, may be lost or divested only in the same matter.” 2 C.J.S. Adverse Possession §276.

“Because the completion of a period of adverse possession, accompanied by the other essentials imposed by statute, is ordinarily regarded as vesting a perfect legal title in the adverse claimant equivalent in legal effect to one acquired by a formal grant or conveyance, after title by adverse possession has been perfected, it cannot be divested by acts other than those which would be required in a case where title was by deed. In other words, a title acquired by adverse possession can be divested in the manner, and only in the manner that a title acquired by formal conveyance made be divested, such as, by a conveyance, or by another adverse possession.”

Id. Accord, *Taylor v. Bell*, 87 So. 3d 1134 (Miss. Ct. App. 2012); *Schultz v. Dew*, 1997 SD 72, 564 N.W.2d 320 (S.D. 1997); *Gorman v. City of Woodinville*, 175 Wash. 2d 68, 283 P.3d 1082 (2012); *Beard v. Henn*, 28 Ill. 2d 11, 190 N.E.2d 345 (1963); *Barry v. Thomas*, 273 Ala. 527, 142 So. 2d 918 (1962); *Porter v. Posey*, 592 S.W.2d 844 (Mo. Ct. App. E.D. 1979); *Converse v. Kenyon*, 178 Neb. 151, 132 N.W.2d 334 (1965); *Carlson v. C & C Coal Co.*, 115 F. Supp. 666 (E.D. Ky. 1953), judgment aff’d, 218 F.2d 384 (6th Cir. 1954); *Noble v. Cooke*, 253 S.W.2d 911 (Tex. Civ. App. Texarkana 1952, writ refused n.r.e.

In this case, Defendant Rivers’ predecessors in title acquired good title to the disputed premises in 1953 (at the latest) and that title was just as good as if they had been granted a general warranty deed. A subsequent mortgage and foreclosure several years later does not negate that title.

Accordingly, once title vested in Defendant Rivers' family in 1953 the chain of title continued thereafter uninterrupted the same as if a deed has been issued to the disputed property on that date.

Additionally, even if title by adverse possession had not already vested many years earlier, the mortgage and foreclosure does not prevent the continued accrual of adverse possession. This is because tacking of adverse possessors is permitted as long as there is privity between the adverse possessors. Privity exists where there has been a transfer of possession by some act or by operation of law. Privity for purposes of adverse possession exists between a mortgagor and a mortgagee. 2 C.J.S. Adverse Possession, §164. See also, *Lively v. Wick*, 122 Colo. 156, 221 P2d 374 (1950) ("Acquisition of title by mortgagee through foreclosure did not break chain of privity of possession between defendants and their earlier predecessors in interest for purpose of determining whether period of adverse use by defendants and their predecessors was sufficient to establish title in the defendants." Headnote 4); *Durden v. Groce*, 159 S.W.2d 941 (Tex. Ct App. 1941).

In summary, the subject Order correctly notes that it is not disputed by any of parties that the Plaintiffs own the portion of the 4.31 acres located to the north of the fence encroachment and this is expressly included in the Order as an explicit finding of fact. Additionally, the subsequent mortgage and foreclosure of the subject premises did not act to erase title to the disputed premises which had vested in the Defendant Rivers' predecessors in title decades earlier.

IT IS, THEREFORE, ORDERED that the Plaintiff's Motion for Reconsideration shall be and is hereby denied.

AND IT IS SO ORDERED.

The Honorable Maite Murphy
Beaufort County Court of Common Pleas

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Benjamin Jenkins,

Plaintiff,

-VERSUS-

Michael F. Rivers, R. M. Lapp, Trustee for the St. Helena Asset Trust, Heirs of Harrison Rivers, Heirs of Ophelia Rivers, Heirs of Harold W. Rivers, Heirs of Rachael Chisholm, Heirs of Florence C. Parker, Heirs at Law of Reuben M. Chisholm, AND ALSO Vernell I. Smashum, Barbara McClarking, Beverly J. Scott, Amos Williams, Clifford Huff, Sandra Mack-Huff, Trustee for the Margaret Loyd Sumpter Trust dated August 30, 2002, Joseph A. Moore all of whom are believed to be adjacent landowners and are made defendants in this action, AND ALSO, all other persons unknown having or claiming to have any right, title, estate, interest in or lien upon the real property or any part thereof described in the Complaint herein, as JOHN DOE and MARY ROE, including all persons who may be deceased, minors, in the military service of the United States within the meaning of Title 50, United States Code, referred to as the Servicemembers Civil Relief Act, as amended, persons non compos mentis and under any other disability,

Defendants.

) IN THE COURT FO COMMON PLEAS
) FOURTEENTH JUDICIAL CIRCUIT
) CASE NO. 2020-CP-07-

SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the Plaintiff or their undersigned Attorney at 605 Carteret Street, Beaufort, South Carolina, within thirty (30) days after service hereof, exclusive of the day of such service, and if

you fail to answer the Complaint with the time aforesaid, judgment by default will be rendered against you for the relief demanded in said Complaint.

RESPECTFULLY SUBMITTED,

s/ C. Scott Graber
C. Scott Graber, Esquire
SC Bar No. 2193
605 Carteret Street
Beaufort, SC 29902
843-524-8204
cscottgraber@gmail.com

April 6, 2020
Beaufort, South Carolina

He

1. This action is brought pursuant Code Section 15-67-10, et. seq. as well as other relevant statutes in South Carolina Code of Laws.

2. This action concerns 4.33 acres of land located on St. Helena Island, Beaufort County, South Carolina, being located in Lot 35, Section 28, 1S1E, St. Helena Island, South Carolina. This 4.33 acres is better shown on a plat prepared by Ziad Kahlil, RLS, dated April 17, 2001, entitled "Prepared for Benjamin Jenkins", a copy of said plat may be found recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 81 at Page 77.

3. R. M. Lapp, Trustee, St Helena Asset Trust; Amos Williams; Cliff Huff and Mack Huff; Beverly J Scott; Barbara McClarking; Vernell Smashum; Trustee of the Margaret Loyd Sumpter Trust dated August 30, 2002 and Joseph A. Moore are believed to be abutting or adjacent landowners and as such they are necessary defendants in this action to confirm the boundaries of the 4.33 acres and to quiet title in the Plaintiff.

4. Upon information and belief the Lot 35, Section 28, 1S1E, St. Helena Island, SC (300-0024-0000-0064) was originally purchased by Reuben M Chisholm from Neils and Frederick Christensen on February 10, 1913. The property was then described as being ten (10) acres and was described as being bounded by John Ford on the North, Joseph Logan on the East, William Wallace on the South and the Estate of Butler Mitchell on the West.

5 Thereafter Reuben Chisholm sold various properties out of the ten (10) acres to include one (1) acre to Harrison Rivers; then .25 acres to Margaret and John Sumpter; then he sold a parcel to James and Bernice Wright; then he sold a parcel to Florence Inabinet; then he sold to a parcel Amos Williams, and then he sold a parcel to Isiah and Christiana Sumpter.

6. When Harrison Rivers acquired his acre from Reuben Chisholm in 1933, he and his wife Ophelia Rivers went into possession of a dwelling house that was not within the description of the one (1) acre that he was conveyed by Reuben Chisholm.

7. While Harrison Rivers was living in the said house, the property immediately to the West of the house was farmed by Reuben Chisholm. Chisholm planted crops in this area until his death in 1944, a period in excess of ten (10) years.

8. After Reuben Chisholm's death in January 31, 1944, he left as his sole heirs his wife, Rachael Chisholm and a daughter, Florence C Parker. His wife and daughter used the land described in Paragraph 7 for access and for other activities and they paid taxes on the property.

9. Harrison Rivers, and the various owners who came after Rivers, observed the Western boundary of 300 0024 000 0063 as depicted on plats prepared by Zayad Khali in April 17, 2001 and also platted on August 30, 2006, both plats thereafter recorded in Plat Book 81 at Page 77 and Plat Book 2463 at Page 2072.

10. Those owners include Calvin Scott, R.M. Lapp, Trustee, of the St Helena Asset Trust, Shirley B. Mack and Arabelle Bonds.

11. Rachel Chisholm died on January 20, 1960, leaving as her only heir, her daughter, Florence C Parker. Thereafter Florence C Parker died intestate in 2000 leaving the 4.33 acres to her son, Benjamin Jenkins, as her sole heir.

12. Benjamin Jenkins took possession of the said 4.33 acres by having the property surveyed by Zyad Khalil in 2001; he also utilized an access road across the property; he also paid the taxes each and every year, and he utilized different parts of the land for different uses.

13. Beaufort County recognized Benjamin Jenkins' ownership, showing him as the exclusive owner of the 4.33 acres on its tax maps and sending a tax notice to him each and every year from 2001 to the present.

14. The boundary between Plaintiff and Defendant Michael Rivers, Lapp and others, depicted by the April 17, 2001 Khalil plat, recorded in the Office of the Register of Deeds in Plat Book 81 at page 77, became the actual boundary between the properties based upon the Acquiescence of Harrison Rivers, Ophelia Rivers and at least four other owners over a period of eighty (80) years or more.

15. Upon information and belief Defendant Michael Rivers has recently tried to alter this boundary as well as the boundary to the North by planting small trees on Plaintiff's property and erecting fences that encroach into Plaintiff's 4.3 acres.

16. Defendant Michael Rivers no longer has a fee interest in 300-0024-0000-0063 and yet he has attempted to extend the boundaries of 300-0024-000-0063 (now owned by the St. Helena Asset Trust) to the North and West.

17. Plaintiff verily believes that these plantings, encroachments and fences by Defendant Michael F. Rivers, or Defendant's agent, constitute trespass inasmuch as the Plaintiff has been in peaceable possession of the 4.3 acres since his acquisition in 2001. Furthermore, Defendant's entry was voluntary. Finally, these entries and encroachments were without the plaintiff's permission.

18. Plaintiff has suffered actual damages in that he has lost his peaceable possession; has been unable to utilize parts of his yard, and has suffered annoyance, anguish and sleeplessness.

FOR A SECOND CAUSE OF ACTION

19. This action is also brought pursuant South Carolina's Uniform Declaratory Judgment Act; also known as §15-53-10 et. seq. of the Code of Laws of South Carolina, 1976, as

amended. This Second Cause of Action incorporates the factual allegations as stated in Paragraphs 1 through 18 into this Cause of Action.

20. Plaintiff asserts that he enjoys exclusive fee simple ownership by virtue of his grandfather's acquisition of the acreage in 1933; by virtue of his succession to those interests acquired by his grandfather in 1933, by virtue of his personal adverse possession of the 4.33 acres for more than nineteen (19) years, and by virtue of the acquiescence of the Heirs of Harrison Rivers and their successors who have acknowledged Plaintiff's ownership as defined in the Kahlil plat dated April 27, 2001, and recorded in Plat Book 81 at Page 77, and by a plat prepared for Mack and Bonds (2006) and by plats referenced by Calvin Scott and the Federal National Mortgage Association.

WHEREFORE, Plaintiff prays that this Court inquire into these matters and confirm the boundary line (between 300-024-000-0063 and 300-024-000-0064) as platted by Zyad Kahlil, RLS as recorded in Plat Book 81 at Page 77; that this Court further find that Defendant has repeatedly trespassed over the boundary line as established by Zyad Kahlil, R.L.S.; that this Court award actual damages to the Plaintiff to be proved by the Plaintiff in the trial of this matter; that this Court issue an Order enjoining any further encroachment over the boundary lines as established by Zyad Kahlil, R.L.S.; and, further for an Order confirming Plaintiff's ownership to the entire 4.33 acres as depicted on the Kahlil plat dated April 27, 2001 and recorded in Plat Book 81 at Page 77.

RESPECTFULLY SUBMITTED,

by: s/ C. Scott Graber
C. Scott Graber, Esquire
Attorney for the Plaintiff
605 Carteret Street
Beaufort, South Carolina 29902
(843) 524-8204

April 6, 2020
Beaufort, South Carolina

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The Defendant, Michael F. Rivers, answering the Complaint of the Plaintiff, and by way of Counterclaim thereto, would respectfully show unto this Honorable Court as follows:

ANSWER

1. All allegations of the Complaint which are not expressly admitted are denied and strict proof demanded thereof.
2. The allegations of Paragraph 1 of the Complaint are admitted.
3. With respect to the allegations of Paragraph 2 of the Complaint it is admitted that upon information and belief, a copy of the referenced plat is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, and that this plat depicts property which is the subject of this lawsuit. The remaining allegations of this paragraph are denied, and the accuracy of this plat is denied for lack of information and belief and strict proof demanded thereof.
4. The allegations of Paragraph 3 of the Complaint are admitted inasmuch as the individuals and entities named are necessary Defendants to this action inasmuch as they may claim to have an interest in or adjoining the subject real property, and the remaining allegations of said paragraph are denied.
5. This Defendant lacks sufficient information to form an opinion or belief regarding the allegations of Paragraph 4 of the Complaint and the same are accordingly denied and strict proof demanded thereof.
6. With respect to the allegations of Paragraph 5 of the Complaint it is admitted that the referenced transactions, in general, took place, but whether the transactions were proper and how much property, and where said property was located, is denied for lack of information and belief, and strict proof demanded thereof.

CLERK OF COMMON PLEAS
JUDICIAL CIRCUIT
20-CP-07-00829

7. With respect to the allegations of Paragraph 6 of the Complaint it is admitted that Harrison Rivers acquired ownership of real property and that he and his wife Ophelia went into possession of a dwelling house located on this property and made it their home and their residence, and the remaining allegations of said paragraph are denied and strict proof demanded thereof.

8. With respect to the allegations of Paragraph 7 of the Complaint this Defendant is uncertain as to precisely what location is meant by "this area" and the allegations of this paragraph are accordingly denied and strict proof demanded thereof.

9. With respect to the allegations of Paragraph 8 of the Complaint it cannot be determined with precision the location of the property referenced as the "land described in Paragraph 7" and the allegations of this paragraph are accordingly denied and strict proof demanded thereof.

10. The allegations of Paragraph 9 of the Complaint are denied and strict proof demanded thereof.

11. The allegations of Paragraph 10 of the Complaint are denied and strict proof demanded thereof.

12. With respect to the allegations of Paragraph 11 of the Complaint it is admitted, upon information and belief, that Rachel Chisholm died on or about January 20, 1960 and Florence C. Parker died in or around 2000, and the remaining allegations of said paragraph are denied and strict proof demanded thereof.

13. The allegations of Paragraph 12 of the Complaint are denied and strict proof demanded thereof.

14. The allegations of Paragraph 13 of the Complaint are denied and strict proof demanded thereof.

15. The allegations of Paragraph 14 of the Complaint are denied and strict proof demanded thereof.

16. The allegations of Paragraph 15 of the Complaint are denied and strict proof demanded thereof.

17. The allegations of Paragraph 16 of the Complaint are denied and strict proof demanded thereof.

18. The allegations of Paragraph 17 of the Complaint are denied and strict proof demanded thereof.

19. The allegations of Paragraph 18 of the Complaint are denied and strict proof demanded thereof.

FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION

20. The allegations of Paragraph 19 of the Complaint are admitted.

21. The allegations of Paragraph 20 of the Complaint are denied and strict proof demanded thereof.

WHEREFORE, the Defendant, Michael F. Rivers, prays that the Court inquire into the matters set forth herein, dismiss the Complaint, deny to the Plaintiff the relief which he requests, order the Plaintiff not to interfere with the Defendant Michael F. Rivers' the peaceful enjoyment of his property, together with such other and further relief as this Honorable Court may deem to be just and proper.

[signature on following page]

FROM
Michael F. Rivers

MOSS, KUHN & FLEMING, P.A.

By: s/ H. Fred Kuhn, Jr.

H. Fred Kuhn, Jr.

1501 North Street

Post Office Drawer 507

Beaufort, South Carolina 29901

(843)524-3373 - Telephone

(843)524-1302 - Facsimile

Email: fred@mossandkuhn.com

Attorneys for Defendant Michael F. Rivers

Beaufort, South Carolina
May 29, 2020

FILED - 2020 Jun 04 9:13 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700829

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STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEASE
CASE NO.: 2020-CP-07-00829

CAROL JENKINS JACKSON and)
JUDY SHARON JENKINS WATKINS,)
Plaintiffs,)

v.)

**MOTION FOR
RECONSIDERATION**

MICHAEL F. RIVERS, R. M. LAPP,)
Trustee for the St. Helena Asset Trust,)
Heirs of Harrison Rivers, Heirs of Ophelia)
Rivers, Heirs of Harold W. Rivers, Heirs)
Of Rachael Chisholm, Heirs of Florence C.)
Parker, Heirs at Law of Reuben M.)
Chisholm, AND ALSO Vernell L.)
Smashum, Barbara McClarking, Beverly)
J. Scott, Amos Williams, Clifford Huff,)
Sandra Mack-Huff, Trustee for the)
Margaret Loyd Sumpter Trust dated)
August 30, 1002, Joseph A. Moore all of)
Whom are believed to be adjacent land-)
Owners and are made defendants in this)
Action, AND ALSO, all other persons)
Unknown having or claiming to have any)
Right, title, estate, interest in or lien upon)
The real property or any part thereof)
Described in the Complaint herein, as JOHN)
DOE and MARY ROE, including all persons)
Who may be deceased, minors, in the)
Military service of the United States)
Within meaning of Title 50, United States)
Code, referred to as the Servicemembers)
Civil Relief Act, as amended, persons non)
Compos mentis and under any other)
Disability,)
Defendants.)

TO: H. FRED KUHN, JR. Attorney for the Defendant, Michael Rivers.

You will please take notice that the Plaintiffs, by and through their attorney, R. Thayer Rivers, Jr., will move before the Honorable Maite Murphy, on the tenth day after the service hereof, or as soon thereafter as this matter may be heard, for reconsideration of her Order which

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was recorded May 6, 2022 in the Court of Common Pleas for Beaufort County, South Carolina. The Motion is based upon the following:

1. The Plaintiff brought an action to quiet title to 4.31 acres. The Order gives title to 1.24 acres which is inside the 4.31 acres. While noting that "it is not disputed by any of the parties that the Plaintiffs own the portion of the 4.31 acres located north of the fence encroachment" such is not the finding of the court and is not included in the Order. Pursuant to South Carolina Law, Section 15-67-20, the Plaintiffs get only one opportunity to establish ownership of the premises. As this matter is not addressed by the courts and Plaintiffs are foreclosed from pursuing a second action, this matter will most likely be remanded by the Appellate Court for this to be dealt with.

2. It is undisputed that the Defendant Rivers and his predecessors in title lost the premises to a foreclosure in 2005. Such loss of control and ownership of the premises would have then destroyed any built up adverse possession up to that point. Any basic South Carolina mortgage contains the following clauses:

- a. Borrower does hereby mortgage, grant and convey to Lender and Lender's successors and assigns the following described property located in Jasper County, South Carolina.
- b. BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

Thus the Defendant Rivers, by issuing the mortgage in question, gave up all claim of any sort to the premises to the bank. Under South Carolina Law, the foreclosure would have placed all indices of ownership into the bank and out of the Defendant Rivers. Any such new rights would thereafter start from 2005.

Thus, the Defendant would have surrendered any accrued by adverse possession or any other method to the bank to the premises. The mortgage premises description is exactly the same

as the Court has found has blossomed into the 1.24 acres which the Court has found is owned by the Defendant Rivers.

After the foreclosure, the Defendant Rivers never re-acquired title to the premises until shortly before suit was filed in 2020. In 2012, the property was again lost at a foreclosure sale and Calvin Scott was the successful bidder. Michael Rivers continued to reside on the property pursuant to an agreement with Calvin Scott.

He admitted having never paid taxes on the property and further that he rented it. Thus each and every time he wrote a rent check to the landlord, he ratified the ownership into the landlord of the premises. This would stop any new basis for a quiet title action, based on adverse possession, after having lost the property. His actions of planting a few trees and putting up a fence in 2019 would not come close to meeting the requisites of the statute or be timely. The Court does not even address the effect of his having lost the premises to foreclosure and its impact on any claim of adverse possession.

The chain of title to the premises was given in an elaborate presentation by the abstractor for the Plaintiffs and shows that the premises were clearly under the ownership of Mr. Jenkins, the original Plaintiff, and the present Plaintiffs' father.

Based on the foregoing, the Plaintiffs respectfully requests that the Court revisit this Order and reconsider it in light of the points raised in this Motion.

Respectfully submitted,

/s/ R. Thayer Rivers, Jr.
R. THAYER RIVERS, JR.
Post Office Box 668
Ridgeland, SC 29936
843-726-8136

Attorney for the Plaintiffs

May 13, 2022

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

CAROL JENKINS JACKSON AND
JUDY SHARON JENKINS WATKINS,

Plaintiffs,

vs.

MICHAEL F. RIVERS, R.M. LAPP, TRUSTEE
FOR THE ST. HELENA ASSET TRUST, HEIRS
OF HARRISON RIVERS, HEIRS OF OPHELIA
RIVERS, HEIRS OF HAROLD W. RIVERS,
HEIRS OF RACHAEL CHISHOLM, HEIRS OF
FLORENCE C. PARKER, HEIRS AT LAW OF
REUBEN M. CHISHOLM, AND ALSO
VERNELL I. SMASHUM, BARBARA
MCCLARKING, BEVERLY J. SCOTT, AMOS
WILLIAMS, CLIFFORD HUFF, SANDRA
MACK-HUFF, TRUSTEE FOR THE
MARGARET LOYD SUMPTER TRUST DATED
AUGUST 30, 2002, JOSEPH A. MOORE ALL OF
WHOM ARE BELIEVED TO BE ADJACENT
LANDOWNERS AND ARE MADE
DEFENDANTS IN THIS ACTION, AND ALSO,
ALL OTHER PERSONS UNKNOWN HAVING
OR CLAIMING TO HAVE ANY RIGHT, TITLE,
ESTATE, INTEREST IN OR LIEN UPON THE
REAL PROPERTY OR ANY PART THEREOF
DESCRIBED IN THE COMPLAINT HEREIN, AS
JOHN DOE AND MARY ROE, INCLUDING
ALL PERSONS WHO MAY BE DECEASED,
MINORS, IN THE MILITARY SERVICE OF THE
UNITED STATES WITHIN THE MEANING OF
TITLE 50, UNITED STATES CODE, REFERRED
TO AS THE SERVICEMEMBERS CIVIL
RELIEVE ACT, AS AMENDED, PERSONS NON
COMPOS MENTIS AND UNDER ANY OTHER
DISABILITY,

Defendants.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO.: 2020-CP-07-00829

MEMORANDUM IN OPPOSITION
TO MOTION FOR
RECONSIDERATION

The Plaintiffs have filed a Motion for Reconsideration, requesting that the Honorable Maite Murphy reconsider her Final Order filed on May 6, 2022. This Memorandum is respectfully submitted in opposition to said motion.

In their motion, the Plaintiffs put forth two (2) grounds for reconsideration. Each of these grounds is addressed in turn below.

First, the Plaintiffs note that "it is not disputed by any of the parties that the Plaintiffs owned the portion of the 4.31 acres located north to the fence encroachment." The Plaintiffs complain that the foregoing "is not the finding of the court and is not included in the Order." Motion for Reconsideration, pg. 2.

This assertion by the Plaintiffs is incorrect. The foregoing language is an express finding of the Court and is explicitly set forth in the Order. This is expressly set forth in Finding of Fact Number 4 on page 5 of the Order.

The second "ground" advanced by the Plaintiffs is based upon the fact that a portion of the premises was mortgaged and subsequently foreclosed upon in 2005. The Plaintiffs argue that the Defendant Rivers, by issuing the mortgage, "gave up all claim of any sort to the premises to the bank." This is clearly not the law. Motion for Reconsideration, pg. 2. It's elementary that a landowner, by obtaining a mortgage, does not "give up all claim of any sort to the premises to the bank." The landowner is simply giving the bank a security interest in the event that the underlying loan is not paid.

The Plaintiffs also argue that the 2005 mortgage resulted in the "surrender of any accrued (title) by adverse possession." *Id.*

Taking a mortgage out on property, however, does not magically erase vested title, whether that title was obtained by adverse possession or by deed.

Title vesting by adverse possession is the same as if title vested by an express grant or deed.

"A title by adverse possession, being ordinarily regarded as equivalent to that derived by a grant or conveyance, may be lost or divested only in the same manner." 2 C.J.S. Adverse Possession §276.

"Because the completion of a period of adverse possession, accompanied by the other essentials imposed by statute, is ordinarily regarded as vesting a perfect legal title in the adverse claimant equivalent in legal effect to one acquired by a formal grant or conveyance, after title by adverse possession has been perfected, it cannot be divested by acts other than those which would be required in a case where title was by deed. In other words, a title acquired by adverse possession can be divested in the manner, and only in the manner that a title acquired by formal conveyance made be divested, such as, by a conveyance, or by another adverse possession."

Id. Accord, *Taylor v. Bell*, 87 So. 3d 1134 (Miss. Ct. App. 2012); *Schultz v. Dew*, 1997 SD 72, 564 N.W.2d 320 (S.D. 1997); *Gorman v. City of Woodinville*, 175 Wash. 2d 68, 283 P.3d 1082 (2012); *Beard v. Henn*, 28 Ill. 2d 11, 190 N.E.2d 345 (1963); *Barry v. Thomas*, 273 Ala. 527, 142 So. 2d 918 (1962); *Porter v. Posey*, 592 S.W.2d 844 (Mo. Ct. App. E.D. 1979); *Converse v. Kenyon*, 178 Neb. 151, 132 N.W.2d 334 (1965); *Carlson v. C & C Coal Co.*, 115 F. Supp. 666 (E.D. Ky. 1953), judgment aff'd, 218 F.2d 384 (6th Cir. 1954); *Noble v. Cooke*, 253 S.W.2d 911 (Tex. Civ. App. Texarkana 1952, writ refused n.r.e.

In this case, Defendant Rivers' predecessors in title acquired good title to the disputed premises in 1953 (at the latest) and that title was just as good as if they had been granted a general warranty deed. A subsequent mortgage and foreclosure several years later does not negate that title.

Accordingly, once title vested in Defendant Rivers' family in 1953 the chain of title continued thereafter uninterrupted the same as if a deed has been issued to the disputed property on that date.

Additionally, even if title by adverse possession had not already vested many years earlier, the mortgage and foreclosure does not prevent the continued accrual of adverse possession. This is because tacking of adverse possessors is permitted as long as there is privity between the adverse possessors. Privity exists where there has been a transfer of possession by some act or by operation of law. Privity for purposes of adverse possession exists between a mortgagor and a mortgagee. 2 C.J.S. Adverse Possession, §164. See also, *Lively v. Wick*, 122 Colo. 156, 221 P2d 374 (1950) ("Acquisition of title by mortgagee through foreclosure did not break chain of privity of possession between defendants and their earlier predecessors in interest for purpose of determining whether period of adverse use by defendants and their predecessors was sufficient to establish title in the defendants." Headnote 4); *Durden v. Groce*, 159 S.W.2d 941 (Tex. Ct App. 1941).

CONCLUSION

The Order of the Court correctly notes that it is not disputed by any of parties that the Plaintiffs own the portion of the 4.31 acres located to the north of the fence encroachment and this is expressly included in the Order as an explicit finding of fact.

The subsequent mortgage and foreclosure of the subject premises did not act to magically erase title to the disputed premises which had vested in the Defendant Rivers' predecessors in title decades earlier.

It is, accordingly, respectfully requested that the Motion for Reconsideration be denied.

MOSS, KUHN & FLEMING, P.A.

By: s/ H. Fred Kuhn, Jr.

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Attorneys for Defendant Michael F. Rivers

Beaufort, South Carolina
July 15, 2022

RECEIVED

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

AUG 09 2023

SC Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

THE HONORABLE MAITE MURPHY

Case Number 2020-CP-07-00829

CAROL JENKINS JACKSON AND
JUDY SHARON JENKINS WATSON.....Appellants.

v.

MICHAEL F. RIVERS, R.M. LAPP,
TRUSTEE FOR THE ST. HELENA
ASSETT TRUST, HEIRS OF HARRISON
RIVERS, HEIRS OF OPHELIA RIVERS,
HEIRS OF HAROLD W. RIVERS, HEIRS
OF RACHAEL CHISHOLM, HEIRS OF
FLORENCE C. PARKER, HEIRS AT LAW
OF REUBEN M. CHISHOLM, AND ALSO
VERNELL I. SMASHUM, BARBARA
MCCLARKING, BEVERLY J. SCOTT,
AMOS WILLIAMS, CLIFFORD HUFF,
SANDRA MACK-HUFF, TRUSTEE FOR THE
MARGARET LOYD SUMPTER TRUST
DATED AUGUST 30, 2002, JOSEPH A.
MOORE ALL OF WHOM ARE BELIEVED
TO BE ADJACENT LANDOWNERS AND
ARE MADE DEFENDANTS IN THIS ACTION,
AND ALSO ALL OTHER PERSONS UNKNOWN
HAVING OR CLAIMING TO HAVE ANY
RIGHT, TITLE, ESTATE, INTEREST IN
OR LIEN UPON THE REAL PROPERTY OR
ANY PART THEREOF DESCRIBED IN THE
COMPLAINT HEREIN, AS JOHN DOE AND
MARY ROE, INCLUDING ALL PERSONS
WHO MAY BE DECEASED, MINORS, IN
THE MILITARY SERVICE OF THE UNITED
STATES WITH THE MEANING OF TITLE 50
UNITED STATES CODE, REFERRED TO AS
THE SERVICEMEMBERS CIVIL RELIEF
ACT, AS AMENDED, PERSONS ON COMPO-
SMENTIS AND UNDER ANY OTHER DISABILITY.

OF WHOM MICHAEL F. RIVERS IS THE.....RESPONDENT.

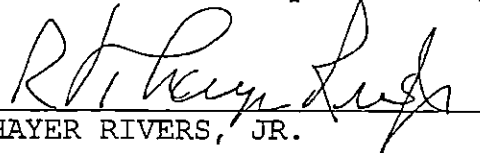
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NOTICE OF APPEAL

The Appellants, CAROL JENKINS JACKSON and JUDY SHARON JENKINS WATKINS, appeals Judge Maite Murphy's Final Order dated May 6, 2022 and Judge Murphy's Order denying our Motion for Reconsideration dated May 13, 2023. Appellant received written notice of the entry of the Final Order on July 18, 2023.

August 4, 2023.

Law Office of R. Thayer Rivers, Jr.



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Ridgeland, South Carolina 29936
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Attorney for the Appellants

Other Counsel of Record:

H. Fred Kuhn, Jr., Esquire
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Beaufort, SC 29901

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

THE HONORABLE MAITE MURPHY

Case Number 2020-CP-07-00829

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AUG 09 2023
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CAROL JENKINS JACKSON AND
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v.

MICHAEL F. RIVERS, R.M. LAPP,
TRUSTEE FOR THE ST. HELENA
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RIVERS, HEIRS OF OPHELIA RIVERS,
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OF RACHAEL CHISHOLM, HEIRS OF
FLORENCE C. PARKER, HEIRS AT LAW
OF REUBEN M. CHISHOLM, AND ALSO
VERNELL I. SMASHUM, BARBARA
MCCLARKING, BEVERLY J. SCOTT,
AMOS WILLIAMS, CLIFFORD HUFF,
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COMPLAINT HEREIN, AS JOHN DOE AND
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ACT, AS AMENDED, PERSONS ON COMPO-
MENTIS AND UNDER ANY OTHER DISABILITY.

OF WHOM MICHAEL F. RIVERS IS THE.....RESPONDENT.

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PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the Respondent, Michael F. Rivers, by mailing a copy of same in the United States Mail, postage prepaid, on August 4, 2023, addressed to his attorney of record, H. Fred Kuhn, Jr., Post Office Drawer 507, Beaufort, SC 29901.

August 4, 2023.

Law Office of R. Thayer Rivers, Jr.



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Attorney for the Appellants

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
2 COUNTY OF BEAUFORT) TRANSCRIPT OF RECORD

3 -----x
4 CAROL JACKSON, et al.,)
5 Plaintiff,)
6 vs.) Case No. 2020-CP-0700829
7 MICHAEL F. RIVERS, et al.,)
8 Defendant.)
9 -----x

February 22, 2022

10 B E F O R E:

11 The Honorable Maite Murphy, Presiding Judge

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

13 C. Scott Graber, Esq.
14 Attorney for the Plaintiff

15 H. Fred Kuhn, Jr., Esq.
16 Attorney for the Defendant

17
18
19
20
21
22 Recorded by: DCRP/Loraine Victoria

23 Transcribed by: Bobbi Fisher
24 SC Official Court Reporter III
25

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David Youmans

Direct Examination By Mr. Graber

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EXHIBITS

(Exhibits on file in Clerk of Court's Office.)

Plaintiff's Exhibit

No.	Description	ID.	REC'D
1	Deed	17	17
2	Deed	18	18
3	Deed	20	20
4	Deed	21	21
5	Deed and Plat	23	23
6	Deed of Distribution	25	25
7	First Mortgage Deed	26	26
8	Second Mortgage Deed	28	28
9	Master in Equity Deed	29	29
10	Plat	30	30
11	Deed	32	32
12	Mortgage Deed and Plat	33	33
13	Quitclaim Deed	34	34
14	Deed Recorded 3/7/2014	39	39
15	Deed from Lapp to Rivers	39	39
16	Deed Recorded 9/20/16	39	39
17	Deed Recorded 8/17/2020	41	41
18	Deed Recorded 9/17/2001	43	43
19	Plat Dated 4/22/09	44	44
20	Plat	61	61
21	Plat	67	67

1	22	Proposed Subdivision	69	69
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3

4 Defendant's Exhibit

5	No.	Description	ID.	REC'D
6	1	Photograph	198	198
7	2	Photograph	216	216
8	3	Photograph	218	218
9	4	Plat	222	222

10

11

12

13

14

COURT REPORTER LEGEND

15

Dash (--) Indicates an interruption in speech

16

Ellipses (...) Indicates trailing off in speech

17

(ph) Indicates phonetic word

18

[Verbatim] Indicates the word is said as written

19

(Indiscernible) [Transcription] Indicates word(s) is
not known due to audio recording
quality

20

21

22

23

24

25

P R O C E E D I N G S

(The following proceedings started at 9:59 a.m.:)

THE COURT: All right. I understand that this is the matter of Benjamin Jenkins versus Michael Rivers; is that correct?

MR. GRABER: Your Honor, it is but the caption has been amended.

THE COURT: Okay.

MR. GRABER: Benjamin Jenkins is deceased, Your Honor, and the personal representatives of his estate are here in court.

THE COURT: All right, sir. Thank you.

And are the parties ready to proceed? Would you care to make an opening statement? I know it's a bench trial, but that way, you can educate me a little about the facts of the case.

MR. GRABER: Thank you, Your Honor.

Yes, Your Honor. I am Scott Graber. I'm a lawyer here in Beaufort, and I have been practicing for a long time, probably much too long. I'm happy to be here with Judy Watkins and Carol Jackson. They are friends -- they are the daughters of Benjamin Jenkins, who was the plaintiff in this case until he died I think about a year ago.

I have the great honor of being in court with my

1 friend, Fred Kuhn, and our representative in legislature,
2 Mr. Rivers.

3 Your Honor, there's going to be a lot of plats put
4 into play here, and I just thought maybe the best thing to
5 do is to start off with an illustration. I will tell the
6 Court that all of the documents, all of the plats will be
7 formally put into evidence by our title abstractor, Kathy
8 Hawkins. So, Your Honor, nothing I show you this morning
9 won't be subsequently put into evidence in the evidence
10 [indiscernible].

11 We are dealing with parcels of land that's located
12 on Seaside Road on St. Helena Island. Actually, it's
13 located near the intersection of Seaside Road and Ballpark
14 Road. I have got an aerial photograph that probably
15 doesn't help the Court very much, but if -- Seaside Road
16 runs along here, and Seaside Road goes from,
17 fundamentally, Coffin Point Plantation on the northern
18 side of St. Helena all the way down to Land's End. It's a
19 straight -- it's a straight shot.

20 Along Seaside Road is Ball Park Road and that runs
21 generally, I would say, east and west, although my
22 directions may be slightly wrong.

23 This is the GIS rendition of this. And, again,
24 these will be made available to the Court so that you can
25 kind of see them up close.

1 THE COURT: My eyes aren't what they used to be.

2 MR. GRABER: I realize it's kind of hard to see
3 there.

4 But back in 1913, a gentleman named Reuben Chisholm
5 bought a 10-acre parcel of land. I know Your Honor is
6 probably aware of this, but right after the Civil War,
7 parts of Saint Helena were divided into 10-acre land lots,
8 and many of those land lots were sold to the newly freed
9 freemen. Reuben Chisholm got this 10-acre of land -- 10
10 acres of land in 2013. He began farming it and did farm
11 it until 1933 when he sold an acre to a Mr. Harrison
12 Rivers. Now, that acre is represented on this GIS survey
13 with this parcel of property right here or this piece of
14 property right here.

15 Now, the -- as time -- and I need to point out to
16 the Court, there was a description back in 1933, you know,
17 a 210-feet-by-210-feet acre description that put the
18 properties slightly to the west of where Mr. Harrison
19 Rivers subsequently built his house. He built his house
20 here, but I will inform that Court that if you look --
21 look at the deed -- and we'll put the deed into
22 evidence -- the actual location of the deed is slightly to
23 the left.

24 Mr. Harrison Rivers, again, he occupied the land --
25 he and his wife lived on the land from 1933 until his

55

1 death in 1980. During that period of time, Mr. Chisholm,
2 who is the predecessor entitled to my folks, sold off
3 various parts. And you can see here, he sold off this to
4 Rivers, he sold this off to Williams, he sold this off to
5 Sumter, and he sold this off to Inabinett. But as it went
6 along, he did -- he did sell pieces of property off of it.

7 About 1996, Mrs. Ophelia Rivers died, and when she
8 died, she left a deed of distribution that named
9 Mr. Michael Rivers as her [indiscernible].

10 And Mr. Michael Rivers went into possession of the
11 house, began living at the house.

12 Does this help the Court?

13 THE COURT: Sure. And it might make you a little
14 more comfortable not holding it.

15 (Pause in the proceedings.)

16 MR. GRABER: So Mr. Michael Rivers begins to occupy
17 the house. About five years later, Mr. Michael Rivers
18 loses the property in a mortgage foreclosure, and it goes
19 to -- it goes out of his ownership, and it goes to other
20 parties, but at some point -- and I'm not quite sure
21 when -- he moves back into the house, renting it --
22 renting it to -- from the owners.

23 And then, about, I would say 2018 or 2019, he erects
24 a fence, and that fence basically runs -- this is another
25 plat that will be put into evidence. That fence runs from

1 this point to this point, basically cutting the 4.3 acres
2 that belonged to my client in half -- not quite in half
3 but in half. And that's what happens in 2019.

4 And, again, I know I'm beginning to sound like a
5 broken record. We have lots of plats showing that fence.

6 At that point, my client, Mr. Ben Jenkins, comes to
7 me, and I file a garden variety quiet title action, where
8 we notified the surrounding landowners. And just so the
9 Court knows, I did serve the surrounding landowners, and
10 those affidavits of service are filed with the Court. So
11 I'm not going to hand those in, because I think those
12 affidavits are already with the Court.

13 To make a long story short, none of the surrounding
14 landowners complained about the boundaries except
15 Mr. Rivers. Mr. Rivers said, "That doesn't represent what
16 I own. I actually own property to the west, and I own
17 property to the north because my father farmed it."
18 Harrison Rivers farmed it between 1933 and 1980.

19 He also indicated that he also was claiming this
20 property or at least parts of the property by adverse
21 possession -- his adverse possession. This is a little
22 bit puzzling to me because, in his answer, he does not
23 mention -- there is no mention at all of adverse
24 possession, so I don't, frankly, know what theory they're
25 going to proceed under, but his pleadings do not indicate

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1 that he's claiming by adverse possession. But I assume
2 that's what it is. I just assume that's where we're going
3 with it.

4 I guess I'll look at my notes here.

5 What I think this is going to -- what I believe
6 we're going to hear this morning is -- from my
7 distinguished colleague is adverse possession that perhaps
8 occurred when Mr. Rivers's father owned it between 1933
9 and 1980 and when he owned it. We will have witnesses who
10 will contest that adverse possession.

11 But I would point out to the Court that, in 2005,
12 Mr. Rivers lost this property to Wells Fargo. He had
13 leased it. He lost it to Wells Fargo. And we believe
14 that, at that point, the property, including any
15 appurtenances or property acquired adversely was lost. So
16 we kind of started over -- he lost it in 2005. So he sort
17 of started over with this adverse possession in 2018 when
18 he put up the fence, and we just do not believe that the
19 putting up of that fence constitutes adverse possession,
20 as adverse possession is recognized in South Carolina.

21 That's the extent -- that's an overarching -- and,
22 you know, when you work on a case for a long time, it's a
23 gross oversimplification, so I wouldn't ask the Court just
24 to sit back and enjoy this journey that we're about to go
25 on.

1 THE COURT: Thank you, Counsel.

2 Mr. Kuhn?

3 MR. GRABER: Your Honor, can I just say one other --
4 Fred, forgive me. Mr. Rivers -- Mr. Benjamin Rivers
5 died -- Jenkins; I said Rivers. Forgive me.

6 Mr. Benjamin Jenkins died during the course of this
7 action. I took Mr. Jenkins's deposition with Fred, and I
8 intend to read that deposition into the record at the end
9 of our case. I don't know if I made that clear in my
10 pretrial brief, but I wanted to be clear.

11 THE COURT: All right, sir. Thank you.

12 MR. KUHN: May it please the Court, Your Honor?

13 THE COURT: Yes, sir.

14 MR. KUHN: I'm Fred Kuhn. I'm here on behalf of
15 Mr. Rivers. The issue in this case, stated as succinctly
16 as I can, is who owns this little triangular piece of
17 property right here and who owns this rectangular piece of
18 property right here. This is the house in which
19 Mr. Rivers resides, the house in which he grew up. There
20 are some structures on the property that are placed here,
21 and this yellow line is a fence. And we are claiming
22 title to this property by adverse possession under color
23 of title. We expect to show that, ever since day one when
24 Mr. Harrison Rivers, Michael Rivers' father, acquired this
25 property, they used it as their own from the very

1 beginning.

2 And parts of the reason for that, that the deeds
3 will show, is, as Mr. Graber has noted, from day one, the
4 deed description was ignored. The house was actually to
5 the west of the property described in the deed, and that's
6 probably in turn because the deed itself is inherently
7 vague. It describes three boundaries around the property,
8 one of which makes no sense. The description, in effect,
9 makes no sense. It's an inherently vague and incorrect
10 description. I think that's how this problem originated
11 is Mr. Harrison Rivers and Mr. Jenkins thought they were
12 conveying the properties that Mr. Harrison Rivers actually
13 built the house on and actually used and has been in use
14 by Mr. Michael Rivers and his predecessors in title since
15 1933, almost a century.

16 THE COURT: Thank you, sir.

17 You may call your first witness.

18 MR. GRABER: Your Honor, I would call Ms. Cathy
19 Aughtman to the stand.

20 CATHERINE AUGHTMAN,

21 after having been duly sworn, was examined and
22 testified to as follows:

23 THE CLERK: Please state your first and last name
24 for the Court.

25 THE WITNESS: My first name is Catherine with a C.

1 My last name is Aughtman. That's A-u-g-h-t-m-a-n.

2 THE CLERK: Put your microphone [indiscernible].

3 THE WITNESS: That's all right. Gotten used to it.

4 THE COURT: Your witness.

5 MR. GRABER: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MR. GRABER:

8 Q Cathy, could you tell the Court your full name.

9 A Catherine Aughtman.

10 Q And your age, please?

11 A 67.

12 Q And where do you reside?

13 A In Beaufort County.

14 Q And would you tell the Court what you do for a
15 living?

16 A I research real estate title.

17 Q And what does that involve? Where do you go to
18 research abstract title?

19 A Well, in the beginning, we did all of our work in
20 the Register of Deeds office. And as time processed, we
21 are able to do it online now. But it involved going to
22 many departments within the county, recording office, the
23 auditor's office, the assessor's office, the probate
24 court, and the clerk of court.

25 Q And how long have you been doing this?

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1 A 43 years.

2 MR. KUHN: I will stipulate, Your Honor, she has
3 qualified as an expert in the field of title research, and
4 I have known Ms. Aughtman since I had hair.

5 THE COURT: All right, sir. Thank you.

6 MR. GRABER: I would offer her as an expert in title
7 research.

8 THE COURT: Based on the stipulation, I'll confirm
9 her as an expert.

10 BY MR. GRABER:

11 Q Cathy, did I employ you to do a job for me?

12 A You did.

13 Q And what did I ask you to do?

14 A You asked me to run the chain of title on two
15 properties situated on St. Helena Island.

16 Q And have you done that?

17 A I did.

18 Q I'm going to direct you first to the chain of title
19 that was basically the Reuben Chisholm chain of title.
20 Would you tell the Court what was the first deed you found
21 in that title?

22 A The first deed of record for the Reuben Chisholm
23 property, it was recorded in 1913 from Neils Christensen
24 and Frederick Christensen to Reuben N. Chisholm. It
25 describes a ten-acre piece -- tract of land with a

1 boundary owner description.

2 MR. GRABER: Your Honor, may I ask Ms. Aughtman to
3 come off the stand and maybe illustrate where this
4 property is for the Court's information?

5 THE COURT: Certainly.

6 Any objections, Mr. Kuhn?

7 MR. KUHN: No objection, Your Honor.

8 THE COURT: You may step down, ma'am.

9 THE WITNESS: Do you have the deed or do you want me
10 to bring it?

11 BY MR. GRABER:

12 Q Well, if you could just bring it.

13 A It's got [indiscernible]. It's basically that. It
14 just has my notes added to it.

15 Q Again, referring to the Chisholm deed, what is the
16 date on it?

17 A The deed was recorded March 11, 1913.

18 Q And is it recorded in the Beaufort County
19 Courthouse?

20 A Yes, it is.

21 Q Okay. Would you show on the illustration that's on
22 display [indiscernible], please show the Court the acreage
23 that was conveyed in that deed or purported to be conveyed
24 in that deed.

25 A The ten-acre tract that Reuben Chisholm acquired in

1 [indiscernible] entire block is a ten-acre tract.

2 Q And where is this recorded in the -- or could it
3 [indiscernible]?

4 A It's in Deed Book 33 at page 29.

5 Q And do you have at certified copy?

6 A I do.

7 MR. GRABER: Your Honor, at this point, I'd like to
8 put this into evidence, if I could.

9 THE COURT: Any objection?

10 (Plaintiff's Exhibit No. 1, Deed, was marked for
11 identification and received into evidence.)

12 BY MR. GRABER:

13 Q Cathy, let's move on to the next deed, which is --

14 A Do you want [indiscernible]?

15 Q So, you can just -- it might be easier for the Court
16 [indiscernible]. Is there a conveyance from Mr. Reuben
17 Chisholm -- is there subsequent conveyance from Reuben
18 Chisholm to a Mr. Harrison Rivers?

19 A Yes, sir.

20 Q Okay. And what is the date of that?

21 A This deed was recorded on March the 13th, 1933, in
22 Deed Book 51 at page 213.

23 Q And do you have a certified copy of that?

24 A I do.

25 MR. GRABER: And, Your Honor, I'm going to ask that

1 that be put into evidence.

2 THE COURT: And what year was that? What year was
3 that one?

4 THE WITNESS: 1933.

5 (Plaintiff's Exhibit No. 2, Deed, was marked for
6 identification and received into evidence.)

7 BY MR. GRABER:

8 Q And, Cathy, would you show the Court where that deed
9 or where that land is and what it purports to be?

10 A Well, [indiscernible] describe the property. It
11 describes an acre of land but [indiscernible] of these
12 actually refers to the adjacent land lot, to the adjacent
13 ten-acre land lot. These properties were acquired -- the
14 value of [indiscernible] he actually acquired this
15 property through the [indiscernible]. It was valued
16 [indiscernible] acquired [indiscernible] in 1855.

17 Q Is there also an effort to further define the acre
18 in that deed?

19 A You can read the description and speculate as to the
20 location of the property. Now, a surveyor could probably
21 give you a really good idea about it. [Indiscernible].
22 But it describes [indiscernible] Road, which is probably
23 not where this road is located today. [Indiscernible]
24 this is a 66-foot right-of-way today. In 1913 or 1933, it
25 was probably not 66 feet. But as far as the -- at the

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1 southern boundary of the land lock and the road where it
2 intersects. And then it goes 210 feet, 210 feet, 210
3 feet, and then a long road. So somewhere along the road
4 is what was conveyed.

5 Q Cathy, would you move on, please, to the conveyance
6 of -- from Chisolm into Sumpter? And this would be Isaiah
7 Sumpter.

8 A Isaiah and Christiana?

9 Q Correct.

10 A That deed was recorded in 1967. And it was at
11 [indiscernible] 1950.

12 Q Would you show the Court where that land is located?

13 A This deed actually has a plat attached to it.
14 There's no mistake about where it is. The plat recorded
15 illustrates the entire ten-acre plat acquired by
16 Mr. Chisholm. And this piece of property was
17 [indiscernible] here today.

18 Q Is that the little triangle?

19 A Little triangle [indiscernible].

20 Q Again with my colleagues' permission --

21 A Now, this piece of property was not from Rueben
22 Chisholm; it was from the heirs of Rueben Chisholm.

23 Q Okay. Would you read the preamble on that for the
24 Court?

25 A [Indiscernible] Rueben M. Chisholm died intestate,

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1 leaving his sole and only heirs at law Benjamin Jenkins
2 and [indiscernible] conveyed to Isaiah and Christiana
3 Sumpter.

4 Q And Benjamin Jenkins is what in this case?

5 A Well, it doesn't [indiscernible]. It only specifies
6 that he's an heir.

7 MR. GRABER: [Indiscernible].

8 THE COURT: Any objection to No. 3?

9 (Plaintiff's Exhibit No. 3, Deed, was marked for
10 identification and received into evidence.)

11 BY MR. GRABER:

12 Q Cathy, would you move on to the conveyance from
13 Chisholm into John Sumpter.

14 A John Sumpter and Margaret Sumpter. It also
15 [indiscernible] that deed was recorded in 1972 -- January
16 the 5th, 1972, in Deed Book 194 at page [indiscernible].
17 This deed is executed by Florence Parker as the sole heir;
18 however, [indiscernible] the other surviving heir
19 [indiscernible].

20 Q And who were those other surviving heirs?

21 A His daughter, Florence, and his wife Rachel. And it
22 says that Rachel died around 1950 [indiscernible].

23 Q And is Florence the signatory on that deed?

24 A Yes.

25 Q And would you show the Court where that conveyance

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1 or where the land that is the subject of that conveyance
2 is on the plat on the screen?

3 A Well, this -- I need to get something under here.
4 This deed is a boundary description with reference to a
5 survey that was not recorded. And I can tell you where
6 it's located by the county. I can show you where they put
7 it.

8 [Indiscernible] Right here. Right here
9 [indiscernible] that description [indiscernible] located
10 that property right there according to that deed.

11 MR. GRABER: Again, we would move that into
12 evidence.

13 MR. KUHN: No objection.

14 THE COURT: All right. It's in.

15 (Plaintiff's Exhibit No. 4, Deed, was marked for
16 identification and received into evidence.)

17 BY MR. GRABER:

18 Q Cathy, would you move on to the Florence Parker to
19 Amos Williams [indiscernible].

20 A Yes. That deed was also executed by Florence
21 Chisolm -- Parker. And it was recorded in the
22 [indiscernible]. That deed was recorded on January the
23 29th, 1980, in Deed Book 295 at page 1675.

24 Q Would you -- would you show the Court what piece of
25 property that purports to convey?

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1 A The plat [indiscernible] piece of property.

2 Q Now, you made reference to a plat. I'm going to
3 hand you a copy of a plat that purports -- oh, you have
4 got it.

5 A This is a certified copy.

6 Q Okay. Would you perhaps put that plat under the
7 microscope there?

8 A Is that good?

9 Q Would you point out to the Court -- could you point
10 out to the Court the property that is being conveyed to
11 Amos Williams by Florence Parker?

12 A This piece of property [indiscernible].

13 Q Would you show the Court the property -- the piece
14 of property that is designated as belonging to Harrison
15 Rivers?

16 A Right here along the [indiscernible].

17 Q And in terms of that plat, who is designated to own
18 the property immediately to the west of Harrison Rivers?

19 A It's showing as being owned by Florence Parker.

20 Q And, again, who was Florence Parker?

21 A [Indiscernible].

22 Q And where is that recorded, Cathy?

23 A [Indiscernible] the conveyance [indiscernible].

24 Q So that's in the [indiscernible].

25 A Right.

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1 MR. GRABER: Your Honor, again, we would move that
2 into evidence.

3 THE COURT: Any objection?

4 THE WITNESS: That will be right here.

5 THE COURT: Thank you.

6 (Plaintiff's Exhibit No. 5, Deed and Plat, was
7 marked for identification and received into evidence.)

8 THE WITNESS: Do you need to look at this?

9 THE COURT: And what year was that one?

10 THE WITNESS: This deed was recorded January 29th,
11 1980.

12 THE COURT: Thank you.

13 BY MR. GRABER:

14 Q Now, let's go over to the Harrison Rivers chain.
15 And specifically, I'd like you to go over to the
16 conveyance that conveyed the property that was shown on
17 that plat in to Michael Rivers, which is the deed of
18 distribution. Could you go to that, please?

19 A Going to be Deed Book 888, page 1168, a deed of
20 distribution in the Estate of Ophelia Rivers.

21 Q And who is acquiring the property through the
22 probate process?

23 A What was that question again?

24 Q Who was actually getting this property in this deed
25 of distribution?

1 A Michael F. Rivers.

2 Q And is Mr. Rivers here in the courtroom today?

3 A I don't know Mr. Rivers.

4 THE WITNESS: Are you Mr. Rivers?

5 MR. RIVERS: Most of the time.

6 A If he is, then he is today.

7 BY MR. GRABER:

8 Q All right. And, Cathy, would you tell -- inform the
9 Court, what is the description on that deed of
10 distribution in to Mr. Rivers?

11 A The deed description is the [indiscernible] as
12 described [indiscernible] as one acre with an 1865
13 [indiscernible].

14 Q Is there any specific description of the acre that's
15 supposed to be conveyed by that? In other words, is there
16 a metes and bounds [indiscernible]?

17 A No. It describes one acre. It's the same old
18 boundary [indiscernible] in the original 1933
19 [indiscernible].

20 Q Okay. So could that acre be anywhere in that
21 ten-acre parcel?

22 A Well, if you read this description, [indiscernible].

23 Q Would this be the [indiscernible] for Mr. Rivers'
24 ownership of that property?

25 A Yes, it is.

1 Q Okay. Would you move on now, Cathy, to --

2 A Did you want this into evidence?

3 Q Yes, please. Thank you.

4 THE COURT: Thank you.

5 MR. KUHN: [Indiscernible].

6 THE COURT: Yes, sir.

7 (Plaintiff's Exhibit No. 6, Deed of Distribution,
8 was marked for identification and received into evidence.)

9 BY MR. GRABER:

10 Q Was there any evidence in your search of the records
11 that Mr. Rivers mortgaged that same property?

12 A Yes, he mortgaged it several times.

13 Q Would you tell the Court when and where he mortgaged
14 the property?

15 A I have those documents up here. [Indiscernible] or
16 do I need to stay down here?

17 Q Yeah, I'd like you to stay down here, if you would.
18 Cathy, I apologize to you.

19 A That's all right. There's a lot of documents
20 [indiscernible].

21 All right. Michael Rivers mortgages. The first
22 mortgage was recorded in 1998 with First Carolina National
23 Group. And the records [indiscernible] 1074, page 2455,
24 on August 12th, 1998.

25 Q And what is described -- how is the land described

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1 in that mortgage?

2 A The land described in this mortgage is the same as
3 it was in the deed of distribution. One acre or less,
4 again, with the 1865 boundary [indiscernible] which was
5 acquired by [indiscernible].

6 Q And when you say the "land lot owners," would you
7 point out to the Court again where those land lot owners
8 are located.

9 A Right here. This is land lot 30, the Certificate
10 No. 2132 to John Ford, 10 acres. Land lot 366028,
11 Certificate No. 458 to Butler Mitchell. Land lot 46,
12 Certificate No. 1356 to William Wallace. And land lot 34,
13 Certificate No. 1244 to Joseph Logan. All ten-acre
14 tracts.

15 Q Now, was there a second mortgage that was taken out
16 by Mr. Rivers?

17 A Do you want this into evidence?

18 Q Please. I'm sorry. [Indiscernible].

19 MR. KUHN: No objection.

20 THE COURT: First mortgage, Exhibit No. 7.

21 (Plaintiff's Exhibit No. 7, First Mortgage Deed was
22 marked for identification and received into evidence.)

23 A The second mortgage was recorded September 19, 2001,
24 from Michael F. Rivers, also known as Michael Frank
25 Rivers, to Option One Mortgage [indiscernible]. It was

1 reported in record book 1473 at page 964.

2 BY MR. GRABER:

3 Q Okay. And when -- what land -- how was the land
4 described in that mortgage?

5 A The same way as the previous mortgage. One acre,
6 more or less, with the old 1865 boundary on it.

7 Q Was there any reference to a plat that would
8 specific locate that acre?

9 A No, there was not.

10 Q Was there any reference to metes and bounds that
11 would tell us where that one acre is located in that
12 ten-acre till?

13 A No.

14 Q And the date on that mortgage is when?

15 A The mortgage is dated September 13th, 2001, and
16 recorded September 19th, 2001.

17 Q So a mortgage recorded in 2001, and no plat telling
18 us where the land -- the acre --

19 A No reference in the mortgage.

20 Q Not referenced. Okay.

21 Cathy, would you put that into evidence, please. Or
22 I need to move --

23 THE COURT: Any objection?

24 MR. KUHN: No objection.

25 MR. GRABER: Or sorry.

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1 [Laughter]

2 MR. KUHN: That's the judge's role, to put it in the
3 evidence.

4 MR. GRABER: Yeah.

5 THE COURT: So that would be No. 8, without
6 objection.

7 (Plaintiffs Exhibit No. 8, Second Mortgage Deed, was
8 marked for identification and received into evidence.)

9 BY MR. GRABER:

10 Q Were either of those -- were either of those
11 mortgages foreclosed on?

12 A Yes. The mortgage -- the Option One mortgage was
13 foreclosed on in 2005.

14 Q And who foreclosed on that mortgage?

15 A Wells Fargo as trustee for Option One.

16 Q And who was the foreclosed-upon person?

17 A Michael F. Rivers, also known as Michael Frank
18 Rivers.

19 Q And what is the description of the property that
20 is -- that was foreclosed on in 2005?

21 A [Indiscernible]. The deed was recorded April 27th,
22 2006, in Record Book 2363, page 1523. And the description
23 is also as to be one acre more or less with the 1865
24 boundary owners. No plat reference. No measurements.

25 Q Okay. Why don't I put that into evidence.

1 MR. KUHN: No objection.

2 THE COURT: It's in.

3 (Plaintiff's Exhibit No. 9, Master in Equity Deed,
4 was marked for identification and received into evidence.)

5 BY MR. GRABER:

6 Q Cathy, I would now ask you if you know or did you
7 find out who was the successful bidder of -- on that -- at
8 that foreclosure. Who acquired the property?

9 A [Indiscernible].

10 Q All right. And what -- and what year was that?

11 A 2006.

12 Q Okay. Was there a plat done that is of record prior
13 to that? Was there -- in particular, was there a plat
14 done in 2001?

15 A Not for Rivers.

16 Q I know not for Rivers, but was there a plat done
17 that shows this particular property?

18 A There is a plat recorded in 2001. It got
19 re-surveyed from Benjamin Jenkins.

20 Q Do you have a copy of that? If you don't, I do,
21 but....

22 A I have a certified copy of it.

23 Q Okay. Would you put the -- that copy under the
24 enlarger?

25 And, again, if you'd tell the Court the date of that

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1 plat.

2 A April 17th, 2001.

3 Q Would you point out to the Court the property that
4 is designated by that surveyor in that plat as belonging
5 to Rivers?

6 A This property right here.

7 Q And the property to the west, who is shown to be
8 owning that property?

9 A That is included within the 4.331 acres survey from
10 Benjamin Jenkins.

11 Q And is that consistent with the earlier plat -- the
12 earlier 1980 plat which you put into evidence a few
13 minutes ago?

14 A Yes, it is.

15 Q Cathy, what is -- in terms of your research, who
16 acquired the property from Wells Fargo?

17 A [Indiscernible]?

18 Q Oh, yes, yes.

19 THE COURT: Did you move in No. 10, the plat?

20 Any objection?

21 MR. KUHN: No objection, Your Honor.

22 (Plaintiff's Exhibit No. 10, Plat, was marked for
23 identification and received into evidence.)

24 BY MR. GRABER:

25 Q Again, I'm interested in who acquired the property

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1 that was lost at foreclosure by Mr. Rivers? Who acquired
2 that property at the -- who got the deed to the property
3 through the foreclosure?

4 A [Indiscernible] Wells Fargo.

5 Q After Wells Fargo had it, who did they, thereafter,
6 convey it to?

7 A Wells Fargo then conveyed to Shirley Mack and
8 Arabelle Bonds.

9 Q And where is that recorded?

10 A That deed was recorded October 24th, 2006,
11 [indiscernible].

12 Q And do you need to a moment to find it?

13 Would you tell the Court and show the Court the --
14 again, the description of that deed from Wells Fargo into
15 Shirley Mack and Arabelle Bonds.

16 A Well, the deed describes one acre [indiscernible]
17 with the same 1865 boundary owners. No plat reference.
18 No [indiscernible].

19 Q Okay. So just the whole -- the whole ten-acre --
20 ten-acre thing is described?

21 A Right. The County had decided to take a parcel of
22 their own [indiscernible].

23 Q Okay. And what did -- what was -- what did the
24 County decide?

25 A Parcel 53, which is the existing [indiscernible].

1 Q After that -- can we put that into evidence?

2 MR. KUHN: No objection.

3 THE COURT: Okay.

4 (Plaintiff's Exhibit No. 11, Deed, was marked for
5 identification and received into evidence.)

6 BY MR. GRABER:

7 Q Cathy, thereafter, did you find a plat that was done
8 by Shirley Mack and Arabelle Bonds?

9 A I did. It was recorded in 2006.

10 Q Do you have a copy of that?

11 Well, let me do this; let me speed this up. Let me
12 hand you this and ask you if this is the plat that was
13 recorded.

14 A [Indiscernible]. This is the mortgage that was
15 recorded in 2463, page 2053, on October 24, 2006.

16 Q Okay.

17 A And this is the plat [indiscernible].

18 Q And would you, again, put the plat under the
19 enlarger. Is this the first plat of record that describes
20 the acre that we have been hearing about for the last 20
21 or 30 or 40 years? Was there another --

22 A That is the first and only plat I could find to
23 represent the property tax on parcel 63 by Michael Rivers.

24 Q And so this is dated when?

25 A August 30th, 2006.

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1 MR. GRABER: Your Honor, I'd like to move that into
2 the record if I could.

3 MR. KUHN: No objection.

4 THE COURT: Thank you.

5 (Plaintiff's Exhibit No. 12, Mortgage Deed and Plat,
6 was marked for identification.)

7 BY MR. GRABER:

8 Q Cathy, in your search, did you find a quitclaim deed
9 for Mr. Rivers regarding that particular piece of
10 property?

11 A I did. Shirley Mack and Arabelle Mack
12 [indiscernible] closing and that [indiscernible] and when
13 the property was sold [indiscernible] Shirley Mack and
14 Arabelle Bonds to another foreclosure [indiscernible],
15 [indiscernible].

16 Q Actually, I'm making reference to a -- if you find a
17 quitclaim deed for Mr. Rivers to Sidney Mack -- Shirley
18 Mack and Arabelle Bonds after the foreclosure.

19 A Yeah, that deed was recorded also in 2006 between
20 Shirley and Arabelle -- Shirley Mack and Arabelle Bonds
21 [indiscernible].

22 Q Okay. So let me understand this. They acquired it
23 at a foreclosure but then, after the foreclosure, he
24 conveyed quitclaim deed to them; is that correct?

25 A That's correct.

1 Q Okay. Have you got a copy of that --

2 A I do.

3 Q And where is the quitclaim deed [indiscernible]? Is
4 the answer yes?

5 A It is recorded from October 24th, 2006, in Record
6 Book 2463, page 2046.

7 MR. GRABER: [Indiscernible] have any problem
8 putting this into evidence?

9 MR. KUHN: No objection.

10 THE COURT: Okay. So that would be 13.

11 (Plaintiff's Exhibit No. 13, Quitclaim Deed, was
12 marked for identification and received into evidence.)

13 BY MR. GRABER:

14 Q Now, what is the date on the quitclaim -- well, on
15 the [indiscernible]?

16 A October 20th, two thousand and [indiscernible]. The
17 date's [indiscernible].

18 Q Okay. And that comes before or after the plat that
19 was done by Shirley Mack of the plat that's shown or the
20 plat that was shown?

21 A It might be recorded the same day with the mortgage.

22 Q Okay. And the mortgage was when?

23 A [Indiscernible].

24 Q Okay. And the quitclaim deed was what date?

25 A Recorded 10/24/2006.

1 Q So everything was recorded on the same day?

2 A Yes.

3 Q Okay. What -- how did the quitclaim deed from
4 Michael Rivers into Shirley Mack and to Arabelle, how did
5 it describe the property?

6 A It described the property as one acre, more or less,
7 [indiscernible] 1865 [indiscernible]. There's no
8 reference to a plat on this.

9 Q Okay. So there was no reference to the then-plat
10 that Shirley Mack had done on --

11 A Not on the quitclaim deed.

12 Q Not on the quitclaim. All right.

13 Cathy, did you -- what did you find next? What's
14 next on the -- in your search?

15 A The River exchange?

16 Q Yeah, the River exchange.

17 A All right. Do you want to start with the
18 [indiscernible] Shirley Mack and Arabelle Bonds?

19 Q Yes.

20 A That deed was recorded on October 24, 2006, in Wells
21 Fargo [indiscernible] foreclosure.

22 Q And did Ms. Mack and Ms. Bonds hold onto the
23 property?

24 A They also [indiscernible] foreclosure.

25 Q And when did that happen?

1 A That happened in 2012.

2 Q Do you have a copy of that?

3 A [Indiscernible].

4 No, I did not get a certified copy of that deed.

5 Q All right. Who owned the property based on your
6 research after Arabelle and Shirley Mack?

7 A Federal National Mortgage Association acquired it
8 against Shirley and Arabelle and deeded it to a Calvin
9 Scott in 2014.

10 Q And when they deeded it in 2014, what did they
11 describe?

12 A They described one acre [indiscernible] as the
13 previous deeds at 1865 Boundary [indiscernible]. But they
14 also referenced the plat, the plat that's [indiscernible],
15 which is in Record Book 2463 at page 2072.

16 Q Okay. So they're now using that plat -- that 2006
17 plat to better describe the [indiscernible]?

18 A Right.

19 Q Okay. And what do your notes reflect in terms of
20 Calvin Scott? Does he still own the property?

21 A No. Calvin Scott sold the property.

22 Q And who did he sell it to?

23 A Calvin Scott sold the property to R.M. Lapp,
24 Trustee, for St. Helena Asset Trust in 2016.

25 Q Okay. And do you have the description of the

1 property when Mr. Lapp, the trustee, acquired it?

2 A It was acquired [indiscernible] one acre, more or
3 less, St. Helena. It was the same boundary owners
4 description, the 1865 property owners, but also gave
5 reference to the plat report and mortgage in Record Book
6 2453, page 2073.

7 Q All right. And does Mr. Lapp continue -- or does
8 the trustee continue to own the property today?

9 A No. The trustee conveyed it to Mike Rivers, Sr., in
10 2020.

11 Q And do you have a copy of that plat or that deed?

12 A I don't.

13 Q And, again, would you tell the Court what that
14 document purports to be?

15 A This is a limited warranty deed from R.M. Lapp,
16 Trustee, St. Helena Asset Trust, to Michael Frank Rivers,
17 Sr. Property describes one acre, more or less, with the
18 old 1865 boundary owners but gives reference to a 2006
19 survey recorded in Record Book 2463, page 2070
20 [indiscernible].

21 Q So I'm confused. Does that refer back to the plat
22 done by Bonds and Mack in 2006?

23 A Yes.

24 Q Okay. So they're going back to that 2006
25 [indiscernible]?

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1 A Yes.

2 MR. GRABER: Would you -- Fred, would you have a
3 problem putting this in?

4 MR. KUHN: No. And I don't know if you put the deed
5 in to Calvin Scott, the deed to R.M. Lapp, if those were
6 put in. If not, I have no objection, if they weren't.

7 MR. GRABER: I have gotten -- have you got those,
8 Cathy? If you don't, I do.

9 MR. KUHN: You talked about them, but I don't know
10 if they are put into evidence.

11 THE COURT: The last one was No. 13 from Rivers to
12 Mark and Bonds. And 14, I don't believe you had the
13 original.

14 MR. GRABER: [Indiscernible]. The last -- we
15 haven't done this one yet?

16 THE COURT: Correct.

17 THE WITNESS: Now, you want the deed from Calvin
18 Scott to R.M. Lapp recorded 4516, 1450?

19 MR. KUHN: Not that I do but I think Scott does. I
20 have no objection.

21 THE WITNESS: And 3307, 2093? That would be the
22 deed in to Calvin Scott.

23 MR. GRABER: Yes.

24 THE COURT: All right. So let's backtrack for a
25 minute. I just want to make sure I have got my exhibits

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1 straight. So this would be No. 14. The first one is
2 Scott to --

3 THE WITNESS: It would probably be the Calvin Scott
4 deed.

5 MR. KUHN: From Scott to Lapp to Rivers, so...

6 THE COURT: Okay.

7 MR. KUHN: If we mark them in that order.

8 MR. GRABER: This is 2014.

9 THE WITNESS: That would be the deed recorded from
10 the Federal National Mortgage Association to Calvin Scott.
11 It was recorded 3/7/2014 in record book 3307, page 2093.

12 THE COURT: So that's No. 14?

13 THE WITNESS: Correct.

14 (Plaintiff's Exhibit No. 14, Deed Recorded 3/7/14,
15 was marked for identification and received into evidence.)

16 THE COURT: And then 15 would be Lapp to Rivers?

17 (Plaintiff's Exhibit No. 15, Deed from Lapp to
18 Rivers, was marked for identification and received into
19 evidence.)

20 THE WITNESS: Then we have a conveyance from Calvin
21 Scott to R.M. Lapp, Trustee, St. Helena Trust. That deed
22 was recorded September 20 of 2016 in Record Book 3515,
23 page 1415.

24 (Plaintiff's Exhibit No. 16, Deed Recorded 9/20/16,
25 was marked for identification and received into evidence.)

1 THE WITNESS: And then we have the deed out of R.M.
2 Lapp, Trustee, St. Helena Asset Trust, to Michael Frank
3 Rivers, Sr. That deed was recorded August 17th, 2020, in
4 Record Book 3897, page [indiscernible].

5 BY MR. GRABER:

6 Q Insofar as the conveyance exists in terms of the
7 Rivers chain, is that the last deed in the Rivers chain
8 that you found or is there something beyond that?

9 A That is the last deed of record in that
10 [indiscernible].

11 Q Is there a mortgage in that -- a remaining -- an
12 outstanding mortgage in that chain?

13 A There is a current mortgage on the property, yes.

14 Q Okay. Do you want to read your notes into the
15 record? Or do you have a copy of that mortgage?

16 A I do have a copy of that mortgage. That mortgage is
17 from Michael Frank Rivers to Quicken Loans Incorporated,
18 and it was recorded August 17th, 2020, in Record Book
19 3897, page 1148.

20 MR. GRABER: Any problem?

21 MR. KUHN: No objection.

22 MR. GRABER: Your Honor, we would move...

23 THE COURT: All right. So that would be 17. And
24 what date was that?

25 THE WITNESS: August 17th, 2020.

1 (Plaintiff's Exhibit No. 17, Deed Recorded
2 8/17/2020, was marked for identification and received into
3 evidence.)

4 BY MR. GRABER:

5 Q Cathy, I want you to go back, if you would, to the
6 Chisholm chain of title, the Jenkins chain of title. And
7 do you have documents indicating a deed of distribution
8 into Benjamin Jenkins?

9 A I do have that deed.

10 Q And would you read that into the record, please?

11 A That deed was recorded September 17, 2001, in Record
12 Book 1473, page 236, with the date of distribution from
13 the Estate of Florence D. Parker [indiscernible] to
14 Benjamin Jenkins [indiscernible].

15 Q Okay. And what property is described in that deed
16 of distribution?

17 A The deed of distribution applied what remained from
18 the Rivers/Chisolm property containing 7-1/4 acres more or
19 less. [Indiscernible] reference to the plat
20 [indiscernible] Christensen-Kahlil dated April 17, 2001.
21 No book and page, just the date [indiscernible].

22 Q The Kahlil plat, is there -- is there a date on that
23 Kahlil plat?

24 A [Indiscernible] references a Christensen-Kahlil
25 surveying company by plat dated April 17th, 2001, prepared

1 for Benjamin Jenkins.

2 Q Would that be this plat?

3 A This is a boundary survey for Benjamin Jenkins, and
4 it's by the correct surveyor, Christensen-Kahlil, and it
5 is dated April 17th, 2001. I would say this is in
6 reference to the deed.

7 Q Okay. And that plat references 81 at 77?

8 A That's where that plat was [indiscernible].

9 THE COURT: Are you moving that in as an exhibit?

10 MR. GRABER: Yes, Your Honor.

11 THE WITNESS: I believe it already is.

12 MR. GRABER: I think it may be in already, but let's
13 go ahead and mark it then.

14 THE WITNESS: Do we need it again?

15 MR. GRABER: Oh, is it already in?

16 THE WITNESS: I believe so.

17 THE COURT: Oh, what number is that?

18 THE WITNESS: This is the Exhibit 10. Already in.

19 THE COURT: I see. Okay.

20 MR. GRABER: I'd like to put that into evidence. Do
21 you want the deed of distribution into Ben Jenkins?

22 UNIDENTIFIED SPEAKER: The Estate of Florence
23 Parker.

24 MR. KUHN: No objection.

25 THE COURT: All right, sir.

1 MR. GRABER: Your Honor, if you'd give me just a
2 second; that may be extent of my examination of
3 Ms. Aughtman.

4 THE COURT: No. 18 was the deed of distribution to
5 Parker; is that correct?

6 THE WITNESS: That's correct.

7 THE COURT: And what date was that?

8 THE WITNESS: It was recorded September 17th, 2001.

9 THE COURT: Thank you.

10 (Plaintiff's Exhibit No. 18, Deed Recorded
11 9/17/2001, was marked for identification and received into
12 evidence.)

13 BY MR. GRABER:

14 Q Cathy, let me just ask you -- just in terms of
15 plats. Did we put into evidence the plat of Youmans dated
16 2009 that is in plat book 134 at page 116?

17 A We did not. I have a certified copy of that plat as
18 well.

19 Q Oh, you do. Okay.

20 A That plat is recorded in plat book 134, page 116,
21 5/3/2012. It was a boundary survey by Youmans dated
22 April 22nd, 2009, for Benjamin Jenkins.

23 Q Would you put that under the microscope, please.
24 Would you show the Court the acre that was claimed by
25 Rivers, the acre that is in between Williams and Rivers

1 and also the Williams' property?

2 A Right here is the boundary of the property owned by
3 Rivers. [Indiscernible]. This is the boundary of the
4 property owned by [indiscernible] Benjamin Jenkins.

5 Q And Williams [indiscernible]?

6 A [Indiscernible].

7 Q And what is the date of that plat?

8 A This was dated April 22, 2009.

9 Q Okay. Is there any fence on there that subdivides
10 the property of Jenkins and/or Park (ph)?

11 A There is [indiscernible].

12 MR. GRABER: Your Honor, again, I'd like -- Fred,
13 I'd like to move this in.

14 MR. KUHN: No objection.

15 THE COURT: All right, sir. Thank you.

16 (Plaintiff's Exhibit No. 19, Plat Dated 4/22/09, was
17 marked for identification and received into evidence.)

18 MR. GRABER: Your Honor, I believe that is my
19 examination of Ms. Aughtman.

20 BY MR. GRABER:

21 Q I have no further questions. If you would answer
22 anything Fred has.

23 THE COURT: Cross-examination?

24 THE WITNESS: Your Honor, you want me to step down?

25 THE COURT: That will be up to Mr. Kuhn, see if he

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1 needs you up there or not.

2 MR. KUHN: You can have a seat, ma'am.

3 THE WITNESS: Thank you. I'm going to pick these up
4 before they fall. [Indiscernible].

5 THE COURT: Your witness?

6 MR. KUHN: If it please the Court, Your Honor?

7 CROSS-EXAMINATION

8 BY MR. KUHN:

9 Q So, as I understand it, Reuben Chisholm acquired
10 this entire 10-acre parcel from Christensen in 1913; is
11 that correct?

12 A That's correct.

13 Q And, twenty years later, in 1933, he sold a parcel
14 of land out of those ten acres to Harrison Rivers; is that
15 correct?

16 A That's correct.

17 Q And he passed away -- Reuben Chisholm passed away in
18 1944, according to the deeds you researched?

19 A That's correct.

20 Q And then, in 1967, his heirs [indiscernible]
21 assignments. Is that the first conveyance after the
22 conveyance to Harrison Rivers?

23 A It is.

24 Q So, from the time Mr. Reuben Chisholm acquired this
25 property in 1913 until 1967, the only piece sold or

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1 conveyed out of this ten acres was the piece to Harrison
2 Rivers?

3 A That's correct.

4 Q And that deed, I believe you have agreed, is,
5 apparently, vague?

6 A Yes, it is.

7 Q And just an example, if you would look at the deed
8 from Regions Bank to Shirley Mack, Arabelle Bonds, et al.,
9 which I believe is Exhibit 11?

10 A Are we talking about the mortgage or the deed?

11 Q I think either one. The description would be the
12 same.

13 A All right. The deed into Shirley Mack and Arabelle
14 Bonds is from Wells Fargo, recorded 2463, page 2049. Is
15 that what you're referring to?

16 Q Which number is that? Do you [indiscernible]?

17 A No, I don't.

18 THE COURT: I would have it as 11, if my notes are
19 correct.

20 BY MR. KUHN:

21 Q If you look at the description, it goes,
22 [indiscernible] parcel, lot of land [indiscernible] and
23 being on St. Helena Island, County of Beaufort, State of
24 South Carolina, consisting of one acre, more or less,
25 boundary on the north by lands now formally of John Ford;

1 on the east, by lands now formally of Joseph Logan; on the
2 south, by lands now formally of William Wallace; and on
3 the west, by lands now formally of Butler Mitchell.

4 As I understand your testimony, that description is
5 impossible.

6 A That description to me describes ten acres being
7 land lot 35, Section 28. It's not impossible to me
8 because I have located the adjacent, but it describes the
9 whole ten-acre land lot.

10 Q So that one acre cannot be bounded on all four sides
11 by those four people. It's got to be land --

12 A It's got to be within land lot 35 somewhere.

13 Q Yeah. But it cannot be bounded. Bounded means it
14 adjoins; correct?

15 A Well, most people believe that's what it means --

16 Q Generally speaking.

17 A -- but it's been my experience to read descriptions
18 that lead you to believe otherwise.

19 Q Well --

20 A But, yes, that's what it's supposed to mean.

21 Q Obviously, it cannot mean that in this case.

22 A No, it cannot.

23 Q So this deed is also inherently vague; would you
24 agree with that?

25 A Say that again.

1 Q This deed is also vague?

2 A Yes, it is. That description in general is vague,
3 whatever deed it's in.

4 Q And then we see there's a paragraph underneath that,
5 and I believe that is generally referred to as the
6 derivation clause?

7 A Yes.

8 Q And the purpose of that clause is to say where this
9 property came from, where --

10 A Where the grantor --

11 Q Where the grantor --

12 A -- acquired the property.

13 Q -- derived grant from.

14 And this says it's the same property that this
15 particular grantor acquired earlier?

16 A Mm-hmm.

17 Q Is that pretty much true of this entire chain of
18 title? They all say this is the same property that I
19 got --

20 A They all gave derivations?

21 Q They all had derivations, and they all say this is
22 the same property that either grantor acquired from my
23 grantor.

24 Going back to the deed into Harrison Rivers --

25 A Yes, they all have derivations in them. Every

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1 single deed in the chain.

2 Q And do they all say it's [indiscernible] same
3 property [indiscernible] grantor this deed
4 [indiscernible]?

5 A They gave a proper derivation, yes.

6 Q Then looking at Plaintiff's 16, again,
7 [indiscernible], the legal description starts off with the
8 same description we saw before, but then it adds a
9 sentence: "For a more complete description of this
10 property, look at an individual plat." That's the 2006
11 plat. And I'm referring to Exhibit 16 --

12 A That was recorded with the mortgage, yes.

13 Q Okay. Again, if we look at that plat, we see the
14 piece of property depicted as not bounded on the north by
15 John Ford's ten acres, on the east by Joseph Logan's ten
16 acre, on the south by William Wallace's ten acres, or on
17 the west by Butler Mitchell's ten acres; is that correct?

18 A Well, one of the boundaries would be correct but the
19 others are not.

20 Q Okay.

21 MR. KUHN: That's all the questions I have, Your
22 Honor.

23 THE COURT: Any redirect?

24 MR. GRABER: Nothing further, Your Honor.

25 THE COURT: You may step down, ma'am. Thank you.

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1 THE COURT: Your witness.

2 MR. GRABER: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. GRABER:

5 Q David, would you tell the Court your full name,
6 please.

7 A David Samuel Youmans.

8 Q And your age?

9 A 76.

10 Q And where do you live?

11 A On St. Helena District (ph) of Warsaw Island.

12 Q And what do you do for a living?

13 A I'm a land surveyor.

14 Q And how long have you been doing land surveying?

15 A Fifty years thereabouts.

16 Q Would you tell the Court what you -- what
17 educational qualifications or what educational
18 requirements you have completed in order to become a
19 surveyor?

20 A When I got licensed, excuse me, it was under
21 apprenticeship program --

22 MR. KUHN: I'll stipulate he's a registered land
23 surveyor and has appropriate expertise in that field, Your
24 Honor.

25 THE COURT: All right, sir. He's qualified then.

1 Thank you.

2 BY MR. GRABER:

3 Q David, you have been here in the courtroom and I
4 think you probably heard some of the discussion that was
5 going on, and I guess I would ask -- I'll take that off.
6 Your -- this is a -- I'm going to assert to you or
7 represent to you that this is a plat that bears your name
8 and the date. I'm going to hand it to you and ask if you
9 recognize this.

10 A Yes, sir. It's my plat.

11 MR. GRABER: Your Honor, I think Mr. Kuhn has
12 indicated no objection. I'm going to ask the Court to
13 receive this as an exhibit.

14 THE COURT: That was 20?

15 MR. KUHN: That is correct. No objection, Your
16 Honor.

17 THE COURT: All right, sir. Thank you.

18 (Plaintiff's Exhibit No. 20, Plat, was marked for
19 identification and received into evidence.)

20 BY MR. GRABER:

21 Q David, I'm going to ask you to come down so that you
22 can illustrate this to the Court. When did you do that
23 plat, David, or when did you start [indiscernible]?

24 A In [indiscernible] of 2009.

25 THE COURT: Mr. Youmans, it may be easier to put it

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1 on the projector.

2 BY MR. GRABER:

3 Q David, prior to 2009, had you ever done any work for
4 Mr. Jenkins?

5 A No, sir.

6 Q Okay. And when he came to you in 2009, what was he
7 seeking -- why he seeking your help?

8 A He wanted a survey of his property, the remainder of
9 that particular ten-acre lot [indiscernible].

10 Q And was this your effort to do that?

11 A Yes, sir, it is.

12 Q Okay. When did you start your work?

13 A In 2009. I think March maybe. April.

14 Q Would you walk the Court through what occurred in
15 2009 vis-à-vis that plat? What occurred?

16 A First, we go research the records, all the out
17 conveyances, then [indiscernible] on the ten-acre lot, and
18 then [indiscernible] various out parcels. And then draw a
19 plat according to that.

20 Q When you say "out conveyances," does that mean you
21 came to the courthouse and searched the various deeds?

22 A Yes.

23 Q Okay. So when you put pen to paper, you had done
24 that research in terms of in conveyances and out
25 conveyances?

1 A Correct.

2 Q Did you hear Cathy Aughtman testifying earlier?

3 A Yes, sir.

4 Q Was her testimony consistent with what you did or --

5 A Right.

6 Q Was -- I'm sorry.

7 A Yes, sir.

8 Q Don't mean to cut you off.

9 A Yes, sir.

10 Q Did you find any deed or any plat or any document
11 that contradicted what Ms. Aughtman said?

12 A No, sir.

13 Q So when you drew those lines on there, those dark
14 lines, what did those dark lines on that plat represent?

15 A It represents the property of Mr. Jenkins, minus the
16 out parcel.

17 Q So --

18 A There was some conflict on the existing house that
19 was on -- the only structure on the ten acres in this
20 area. There was a plat done by Khalil that showed this
21 configuration, and it didn't seem at all to show the
22 different configuration, and we had attempted to show what
23 was being occupied and used by Mr. Rivers or
24 [indiscernible] and hopefully going to get a quitclaim
25 deed and get this squared away because [indiscernible].

1 But that never materialized.

2 Q But the dark lines that appear to define the
3 boundary between Mr. Rivers and Mr. Jenkins, is that
4 consistent with a fence? Or how did you come up with
5 that?

6 A That's the fence line, yes, sir.

7 Q Okay.

8 A The fence line ended here and we extended it down to
9 right on Seaside Road. And up here, there was some -- an
10 old playhouse and it started vehicles -- vehicle
11 [indiscernible] up in that corner and included all of
12 that, whatever was being occupied.

13 Q In terms of the property to the left of the Rivers
14 homestead -- I'll use that term -- did you see any
15 structures in there? Any buildings?

16 A No, sir.

17 Q In terms of the property to the north -- I guess it
18 was the northwest of the fence line, is there a structure
19 in there?

20 A No, sir.

21 Q Okay. Did you see any farming going on?

22 A No, sir.

23 Q Now, I see you have a diagram showing what appears
24 to be a septic tank -- or not -- I'm sorry -- a drain
25 field.

1 A Drain field, yes, sir.

2 Q How did that come about?

3 A I don't really remember how it started. I think
4 Mr. Jenkins called and requested that we locate that drain
5 field. And we went out with [indiscernible] and shovels
6 and as best we could determine, we found the outline of
7 where the existing drain field was and located it and put
8 it on the plat.

9 Q What happened thereafter?

10 A Couldn't tell you.

11 Q Okay. Did you, thereafter, participate in a meeting
12 involving Mr. Rivers and Ms. Mack, Mr. Jenkins? Were you
13 in a room where a meeting took place?

14 A Yes.

15 Q Would you tell the Court about that meeting?

16 A We had a meeting that I guess discussed primarily
17 the [indiscernible] deal, trying to establish an easement
18 onto Mr. Jenkins' property, as Mr. Bendle testified, in
19 exchange for the property to the northeast --

20 MR. KUHN: I have to object again. This gets into
21 settlement negotiations to resolve the dispute unless it
22 was finalized, documented. I would object.

23 THE COURT: Counsel?

24 MR. GRABER: Your Honor, I would think that these
25 negotiations could be classified as a statement against

1 interest in terms of the parties being willing to give up
2 property to adjust the line. If that's -- if it's a
3 hearsay objection, I would say, clearly, if he's going to
4 object to what Mr. Rivers said or did, it would be like an
5 exception of sui juris [indiscernible], a statement
6 against interest exception.

7 MR. KUHN: [Indiscernible] as much hearsay as we
8 have got a dispute, let's resolve it maybe by doing an
9 easement. Those are settlement negotiations.

10 THE COURT: I agree. That's the same.

11 So you can't talk about settlement negotiations.

12 MR. GRABER: Okay.

13 BY MR. GRABER:

14 Q Did you participate in a discussion in 2009 with
15 Mr. Jenkins, Mr. Rivers, and the Macks? Did you -- don't
16 tell me about the discussion, but were you in a
17 discussion?

18 A I was in that meeting, yes, sir.

19 Q In that meeting, was there a resolution? Did they
20 resolve -- was there a resolution of any kind?

21 A Not to my knowledge, no, sir.

22 Q Did Mr. Jenkins give any kind of adjustment as a
23 consequence of that meeting?

24 A Not to my knowledge, no, sir.

25 Q And that was in 2009?

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1 A Yes, sir.

2 Q Did you have a subsequent opportunity to
3 [indiscernible]?

4 A We surveyed -- we split his [indiscernible] -- his
5 remaining portion into four lots. From my understanding,
6 he wanted to keep that for his children. We did a plat
7 according to that and [indiscernible] septic permits on
8 all four of those lots.

9 Q Let me hand you a plat that has your name on it and
10 ask you if you recognize that.

11 A Yes, sir.

12 Q Okay. What is the date on that plat?

13 A April 23, 2019.

14 Q And what is the property that's being drawn?

15 A It's the same piece of property as the plat before.
16 It does not show the proposed drain field. It does show a
17 [indiscernible] chain-link fence that wasn't there prior.

18 MR. KUHN: No objection.

19 THE COURT: All right, sir. So that would be 21.

20 (Plaintiff's Exhibit No. 21, Plat, was marked for
21 identification and received into evidence.)

22 BY MR. GRABER:

23 Q David, would you put this under the microscope and
24 show the Court exactly what you're talking about here?

25 Now, again, what was the date on this one?

1 A April 23, 2019.

2 Q Okay. And, again, why were you back out there?

3 A To locate that fence that appeared sometime just
4 prior to our survey.

5 Q And, again, was -- I see what appears to be a fence
6 drawn -- maybe if you could show the Court --

7 A Here.

8 Q -- what you are making reference to.

9 A This fence and this fence was existing in prior
10 survey. So was this fence around what's been called the
11 homestead. But this chain-link fence from here to here
12 [indiscernible] was a new fence.

13 Q Okay. So when you say "new fence," how new?

14 A I don't know when it was put up. Not too much time
15 had elapsed before Mr. Jenkins discovered it and called us
16 to survey it.

17 Q And that was when?

18 A In 2019.

19 Q Now, in terms of -- in terms of that fence -- well,
20 in terms of the disputed property to the left of that
21 fence, or to the west, was there any building -- did you
22 notice any building or any crops or any kind of
23 improvements on that property?

24 A No, sir.

25 Q Okay. And to the north of the fence that defines

1 the homestead, did you see any buildings or improvements
2 in that area?

3 A No, sir.

4 Q Okay. In terms of the new fence, did you look
5 around? Did you examine the fence?

6 A No, sir.

7 Q But you noted where it was?

8 A Correct.

9 Q Did you note anything else up in that area?

10 A No, sir, just [indiscernible].

11 Q All right. That was in 2019.

12 Did you do anything after that for Mr. Jenkins?

13 A We did a subdivision after that.

14 Q Could you show the Court the subdivision that you
15 proposed? Or do you have a copy of that?

16 A I do.

17 MR. GRABER: Did you get that?

18 MR. KUHN: No objection, Your Honor.

19 THE COURT: All right. It will be 22.

20 (Plaintiff's Exhibit No. 22, Proposed Subdivision,
21 was marked for identification and received into evidence.)

22 BY MR. GRABER:

23 Q David, did you prepare that document?

24 A Yes, I did.

25 Q And when did you prepare it?

1 A In March of 2019.

2 MR. GRABER: Your Honor, I'm going to have to
3 [indiscernible] if we could or mark [indiscernible].

4 THE COURT: Yes, sir.

5 BY MR. GRABER:

6 Q David, I'm going to put this under the microscope,
7 and I realize we probably can't get it all under there,
8 but if you could take -- if you could, using this
9 device -- whatever it's called -- could you go around and
10 explain to the Court what you did on the property in 2019?

11 A We subdivided this parcel -- remaining parcel of the
12 property of Mr. Ben Jenkins. We subdivided it into four
13 parcels that my understanding was he wanted to deed to his
14 children. We came in off of Ball Park Road and came
15 down -- off of Ball Park Road and came in with a 50-foot
16 access easement and then cut lots so that each lot would
17 have access to come and go from Ball Park Road.

18 Q David, in terms of your subdividing it, did you or
19 your crew go out on the land?

20 A Yes, sir. A crew did. I didn't go out during this
21 phase.

22 Q Is there anything you discovered or your crew
23 discovered while they were out there in terms of
24 improvements? And when I say "improvements," I'm talking
25 about improvements in the disputed areas.

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1 A No, sir. We didn't discover anything
2 [indiscernible] other than [indiscernible].

3 Q If there had been a building, would you have drawn
4 that in?

5 A If there would have been something [indiscernible],
6 yes.

7 Q If there had been an old fence, would you have drawn
8 that in?

9 A More than likely, yes, sir.

10 Q So is this description that you have signed your
11 name to, you believe that to belong to Ben Jenkins or his
12 heirs?

13 A Yes, sir, I do.

14 Q Would you answer any questions that my colleague
15 has?

16 CROSS-EXAMINATION

17 BY MR. KUHN:

18 Q Mr. Youmans, this first plat that you showed us,
19 Exhibit 22, as I understand it, the actual use which the
20 property was being put was not consistent with the
21 boundary line that Surveyor Khalil has [indiscernible]; is
22 that correct? In other words, there's a tree house that
23 crossed over the boundary line, and there was a drain
24 field that crossed over the boundary line?

25 A Yes, sir.

1 Q And when a surveyor says that a piece of property
2 is, quote, "bounded by" something, somebody else's land or
3 a highway, that means that that property and the property
4 that it's bounded by share a common boundary line?

5 A Supposedly, yes, sir. Most of the times, that's
6 true. But there are some old deeds that, just like the
7 one in question here of Rivers, you want to make a
8 [indiscernible] where the bounds are, the owners of the
9 adjacent [indiscernible] properties. We see that
10 occasionally. It's aggravating as heck, but we see that.
11 Not only that but on the deed, it's transferred to other
12 people on a copy of that same deed description, which
13 probably was written in the 1800s or early 1900s and never
14 got [indiscernible].

15 Q And that creates uncertainty, vagueness as to where
16 the actual boundary line is; is that correct?

17 A That's true, it does.

18 Q That's why we end up in court.

19 A I'm sorry?

20 Q And that's why we end up in court; correct?

21 A Exactly. I don't think there's any doubt that the
22 Rivers owned one acre in that ten-acre lot, and by
23 building a house there and fencing that area, I don't
24 think there's very much dispute as to where that one acre
25 is according to the occupying that one particular area.

1 It's been there for a very long time.

2 Q Do you know how long the original fence stood there
3 and where the original fence stood?

4 A No.

5 Q Do you know it's a fence that's been there since the
6 1930s, it's in the same spot where this new fence is?

7 A I [indiscernible].

8 Q Are you aware that Mr. Rivers' father farmed that
9 land that's in dispute?

10 MR. GRABER: Your Honor, I'm going to object to this
11 line of questions. I don't know that the old fence has
12 been put into play here. I mean, he's testified to it
13 [indiscernible].

14 THE COURT: He can testify as to his awareness on
15 cross-examination, if he's aware of something or not.

16 MR. KUHN: These are facts that could change his
17 opinion.

18 BY MR. KUHN:

19 Q Do you know who has actually used this land since
20 the 1930s, farmed it and claimed it, built stuff on it?

21 A I didn't [indiscernible] built on it
22 [indiscernible].

23 Q Do you see remains of a horse pen?

24 A Not [indiscernible].

25 Q Remains of a hog pen?

1 A No, uh-uh.

2 Q Remains of a rooster house?

3 A No.

4 Q You did not see remains of an old fence?

5 A Not to my recollection [indiscernible].

6 Q You didn't see remains of a fence that was so old it
7 had actually grown into the trees to which it was
8 attached?

9 A Not to my recollection.

10 MR. KUHN: That's all I have, Your Honor.

11 THE COURT: Is there any redirect?

12 MR. GRABER: None, Your Honor.

13 THE COURT: All right, sir. You may step down.

14 MR. GRABER: Your Honor, we would call Luke
15 Inabinett to the stand.

16 THE CLERK: If you'll just raise your right hand for
17 me.

18 LUKE INABINETT,

19 after having been duly sworn, was examined and
20 testified to as follows:

21 THE CLERK: Have a seat.

22 THE WITNESS: Right here?

23 THE CLERK: Yes, sir. It's okay; take your time and
24 get adjusted. And then when you have a second, if you
25 feel more comfortable, you can leave your mask on but

///

1 you're more than welcome to take it down. Just state your
2 first and last name, and spell out your last name for the
3 court reporter.

4 THE WITNESS: Spell my name?

5 THE CLERK: Your last name for the court reporter,
6 yes.

7 THE WITNESS: I-n-a-b-i-n-e-t-t. Inabinett.

8 THE COURT: Your witness.

9 DIRECT EXAMINATION

10 BY MR. GRABER:

11 Q Luke, would you again repeat your full name for the
12 Court.

13 A Luke Inabinett.

14 Q And your age, sir?

15 A 87.

16 Q And where do you live?

17 A I live on Seaside Road, up [indiscernible].

18 Q And Mr. Inabinett, what sort of work do you do or
19 did you do?

20 A Well, I retired from Beaufort County in '94. And I
21 have been working ever since for myself over there in
22 Lipman's over there doing ditch work and stuff with my
23 equipment.

24 Q And you'll have to -- where are you doing this work?

25 A I work over there at Lipman's. There's a farm over

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1 there. I have got some heavy equipment. I work over
2 there, take care of the roads and the drainage and stuff.

3 Q Are you familiar with the property -- I notice you
4 have been sitting here. Are you familiar with the
5 property that's in question here today?

6 A Yeah.

7 Q Would you tell the Court how you -- why are you
8 familiar with it?

9 A Well, Reuben and Ellen Chisholm -- my wife was born
10 in their house at Club Ridge there. After they sold that
11 property down there, they moved to Club Ridge. And my
12 wife was born there. They raised my wife. They was older
13 people. And Ben's mother raised my wife as a mother. Ben
14 was like a brother-in-law to me.

15 Q Okay.

16 A So I -- and my wife --

17 Q Now, when you say, "Ben," are you making reference
18 to Ben Jenkins --

19 A Yes.

20 Q -- who is the father of these two ladies?

21 A That's right. Right.

22 Q Okay.

23 A So my wife got an acre of that land, that same land,
24 that when you see the [indiscernible] is on, that's my
25 daughter -- that was my wife -- my wife gave her the land

1 before she passed. That land come out that same property.

2 Q So Mr. Chisholm, who originally owned the ten acres,
3 he conveyed a piece to your wife?

4 A Well, his daughter, Florence, Ben's mother --

5 Q His mother. Okay.

6 And do you remember when that happened?

7 A Oh, you know, I tried to remember. It's been 10, 15
8 years ago or longer. I can't -- I'd have to look back on
9 the clock. I tell you what, it was before I retired, and
10 I've been retired 20-some years. So it's been a long time
11 ago.

12 Q Now, sir, if you stand on the piece of property that
13 is owned by your wife, can you see the property that is in
14 dispute here today?

15 A Yeah.

16 Q You can.

17 I mean, I understand if there's some woodage --
18 foilage --

19 A Oh, yeah. And I tell you what, there hasn't been
20 any farming in that area in over 40 years. Way over 40
21 years. So if you can imagine, it's growed up pretty good,
22 you know.

23 Q Okay. Well, let's -- in terms of farming, now, do
24 you ever call Mr. Michael Rivers, who is sitting there,
25 doing any farming on this land?

1 A No. No, I never seen him farm.

2 Q Ever?

3 A No.

4 Q Okay. Now, did you ever see his father -- and I
5 understand his name is Michael, was it?

6 A Well, I never known his name was anything but
7 Michael. What was his name? Yeah, I called him Michael,
8 but anyhow...

9 Q Well, we are -- you know, we're arguing basically
10 over this strip of land here that's between the homestead
11 that Michael lived in and Amos Williams. You know that
12 little stretch in there?

13 A Yeah, yeah.

14 Q Okay. Do you ever remember any farming by -- hang
15 on -- any farming on that little strip by either Michael
16 Rivers or his father?

17 A No, I can't ever remember.

18 Q Okay. Do you ever remember any cars -- any junked
19 cars being on the property?

20 A No.

21 Q Could you answer any questions [indiscernible]?

22 THE COURT: Cross-examination?

23 MR. KUHN: If it please the Court, Your Honor.

24 THE COURT: Yes, sir.

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CROSS-EXAMINATION

BY MR. KUHN:

Q Mr. Inabinett, I'd like to show you -- Vernell Smashum (ph) owns -- can you see that, Mr. Inabinett?

A Vernell Smashum is my daughter.

Q Okay. And see where it says, "Parcel: Vernell Smashum" right there?

A Mm-hmm.

Q If this is the property she owns and over here is --

A Right.

Q -- Ball Park Road and her piece of property fronts on Ball Park Road?

A Right.

Q This was originally part of the ten acres that Mr. Jenkins owed; correct?

A Right.

Q And then, below that, this acreage here, as I understand; that's now wooded; is that correct?

A Yeah, yeah.

Q Then here, this is where Seaside Road is, just to get you oriented.

A Right.

Q And here's Mr. Rivers' house where he lives. Remember that?

A Right.

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1 Q And between your daughter's property and Mr. Rivers'
2 property, part of that is wooded; is that correct?

3 A Yeah.

4 Q Okay. And those woods, is that what Mr. Jenkins
5 used to farm?

6 A Who?

7 Q Mr. Jenkins. Did he ever farm this land?

8 A No.

9 Q Did anybody ever farm this land?

10 A Not to my knowing.

11 Q So neither Mr. Jenkins nor Mr. Rivers Sr. or
12 Mr. Rivers -- Michael Rivers?

13 A Not to my knowing.

14 Q Nobody's ever farmed this land, that you can recall;
15 is that correct?

16 A (No audible response.)

17 Q Is that correct? You have to say out loud so they
18 can get it on the recording.

19 A Right. Right.

20 Q Thank you.

21 A The other side, ain't got nothing to do with it, but
22 the other side [indiscernible], my daughter owns that,
23 coming -- [indiscernible] going to come out of this same
24 land here? My uncle had land on the other side of that
25 with John Ford. There's a John Ford. My uncle bought

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1 that land early '50s or '49 or sometime. And I have an
2 acre adjoining my daughter on the other -- still on that
3 too.

4 Q John Ford's property --

5 A John and this Chisholm property that the guy bought,
6 yeah.

7 Q And that -- to your knowledge, that never adjoined
8 Michael Rivers' property?

9 A Huh?

10 Q It never abounded Michael Rivers' property down on
11 Seaside Road?

12 A No, but it [indiscernible] that same -- when my
13 daughter got -- when my daughter got -- come out of
14 that -- that property.

15 Q On the Ford property --

16 A It was right on the other side of my daughter.

17 Q [Indiscernible]?

18 A Yeah. Right there. Yeah. And I got some land and
19 I still own some myself right there. And across the road,
20 it's ten acres in there that belongs to [indiscernible].
21 That come out of it -- out of the John Ford land.

22 Manny, Reuben, and Ellen Chisholm took John Ford's
23 kids in, Roy Ford and Henry Ford, and raised those along
24 with my -- there was a lot of people way back, long time
25 ago.

1 Q Thank you, Mr. Inabinett.

2 MR. KUHN: Thank you.

3 THE COURT: Any redirect?

4 MR. GRABER: None, Your Honor.

5 THE COURT: You may step down, sir. Thank you.

6 How long is your next witness?

7 MR. GRABER: Your Honor, I was about to suggest that
8 we take a break. It's going to be -- I'm going to ask
9 Dr. Taub (ph) to read Mr. Jenkins' deposition, and that
10 may take a while.

11 THE COURT: All right. That's a good time for us to
12 take our lunch break. Will it give you enough time to
13 resume at 1:00?

14 MR. GRABER: That would be great.

15 THE COURT: All right. Thank you. We'll resume at
16 1:00. Have a nice lunch.

17 (A lunch recess was taken from 11:59 a.m. to
18 1:18 p.m.)

19 THE COURT: All right, sir. You may call your next
20 witness.

21 MR. GRABER: Your Honor, I will call -- I'd like to
22 call Dr. David Taub who is going to read the part of
23 Mr. Benjamin Jenkins from his deposition that was taken
24 about a year ago.

25 THE COURT: Yes, sir.

1 MR. GRABER: Your Honor, I do have -- it's a little
2 strange. We took the deposition during COVID and it was
3 Zoom. And so I have got, Fred, the exhibits -- the three
4 exhibits here which were attached to my copy. And I'll
5 just -- Fred, if you don't have a problem, I'll just refer
6 to the -- to the exhibits and maybe put them under the
7 light.

8 MR. KUHN: Whatever is easiest. I don't mind,
9 rather than reading it, just put it into evidence or --
10 whatever you want -- however you'd like --

11 MR. GRABER: I'd like to read it into evidence so
12 the Court could hear his words.

13 THE COURT: Certainly.

14 Come on up, sir.

15 THE CLERK: Do you solemnly swear or affirm that the
16 testimony you give to the Court in this trial shall be the
17 truth so help you God?

18 DR. TAUB: I do, but perhaps I should swear that I
19 will faithfully read verbatim the deposition of
20 Mr. Jenkins.

21 THE CLERK: I'm sorry. I read the wrong one. I
22 apologize.

23 THE COURT: That's okay.

24 THE CLERK: I'm so used to the witness one.

25 Do you solemnly swear or affirm that your statements

1 will be a true and accurate representation of the
2 deposition; that you will read from the deposition the
3 questions asked of the witnesses and the answers received
4 of the witnesses; and that you will omit no part of the
5 testimony or add to any part of the testimony, so help you
6 God?

7 DR. TAUB: I do.

8 THE CLERK: Thank you.

9 So sorry.

10 THE COURT: That's okay.

11 DR. TAUB: Your Honor...

12 THE COURT: Good afternoon. How are you?

13 DR. TAUB: Well, I think I'm okay.

14 THE COURT: Good to hear.

15 All right, sir. If you'd please state your full
16 name and then spell your last name for the record.

17 DR. TAUB: I'm sorry? I'm a little hard of hearing,
18 Your Honor.

19 THE COURT: If you could state your full name for
20 the record.

21 DR. TAUB: Yes. David; middle name, Milton; last
22 name, Taub, T-a-u-b.

23 THE COURT: Your witness.

24 MR. GRABER: Thank you, Your Honor.

25 Dr. Taub, I'm going to just simply read -- if you'll

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1 open your deposition, I'm going to read my question.

2 MR. GRABER: And, Fred, you have actually got a role
3 here in the beginning. Do you want me to read that for
4 you or do you want to read it for yourself?

5 MR. KUHN: I'll read it. Or we can skip over that.
6 Why don't you start with page 6, line 15.

7 MR. GRABER: Okay. I'm sorry. So you want to start
8 at line 12?

9 DR. TAUB: What page, Mr. Graber?

10 MR. GRABER: I'm going to start at line 12 and --
11 where it says, "Mr. Graber." And then you're the witness.

12 DR. TAUB: Line 12 of which page?

13 MR. GRABER: Page 6. Page 6. Okay. Yeah. Line 12
14 on page 6.

15 DR. TAUB: All right.

16 MR. GRABER: Are you there, David?

17 DR. TAUB: I'm ready.

18 BENJAMIN JENKINS,

19 the deposition testimony was read into the record as
20 follows:

21 DIRECT EXAMINATION

22 BY MR. GRABER:

23 Q Mr. Jenkins, would you tell, please, those of us
24 here your full name.

25 A Benjamin Jenkins.

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1 Q And Mr. Jenkins, where do you live?

2 A St. Helena Island.

3 Q And where on St. Helena do you live?

4 A Down on Seaside Road, Club Ridge.

5 Q Okay. Could you give us the number of where you
6 live, the number of?

7 A 998 Seaside Road, St. Helena.

8 Q Okay. Mr. Jenkins, this is hard for me to do, but I
9 want you to tell me about your medical condition for the
10 record here. What is your diagnosis?

11 A My medical condition ain't good now. I'm going to
12 the doctor, and he had me on a medicine for about three
13 years. And then he put me on another one. And that one
14 wasn't doing me no good -- no more no good. He said
15 cancer. The cancer was spreading, and he turned me over
16 to hospice.

17 Q Okay. So you're under -- and I don't want to lead
18 you, but you're under hospice care now?

19 A I'm under hospice care, yes.

20 Q Okay. And just -- I just want to ask you this --
21 and believe me, this is not fun for me, but how long do
22 you believe you're going to be able to live?

23 A I don't know. The way I feel, maybe a month or two.
24 I mean, it might be more. The way I'm feeling, I'm so
25 weak and don't want nothing to eat so I don't know. I

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1 don't know how long.

2 Q So you have lost your appetite?

3 A Yes. Well, I have asked the nurse about it, and she
4 said the cancer progresses, you could lose some of your
5 appetite.

6 Q Okay. Is there any reason you feel like you should
7 not go forward today? Is there any reason that --

8 A No, sir. I want to get this thing going and get it
9 over and get it straightened out.

10 Q Okay. Okay. Well, let me just say this to you,
11 that, if at some point you're tired or confused or
12 fatigued, we can stop. We don't have to -- this is not a
13 marathon. We can stop. We can take a break. We can give
14 you a chance so at any point -- either when I'm talking to
15 you or Mr. Kuhn is asking you questions, please just stop
16 us, and we'll take a break. Okay?

17 A All right, sir.

18 Q Okay. Now, Mr. Jenkins, you are the plaintiff in a
19 lawsuit involving a piece of property on St. Helena
20 Island. When did -- why did you bring this action,
21 Mr. Jenkins?

22 A Because I had a piece of property, four acres and a
23 house. And after I was sick, I was fixing it, make lots
24 of it so I could sell it. And when I asked Mr. David
25 Youmans to call me and he said, "You know, you done paid

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1 for three of them -- I mean, four of them pieces of
2 property to get perked, but the people at DHEC said it
3 can't perk with three because somebody got a fence across
4 your property on the part that you want to perk."

5 I said, "No fence is supposed to be there. I just
6 been there a couple of days ago."

7 So I went out there and I saw the fence. And I have
8 been trying to get in touch with somebody to move that
9 fence for about almost two months. Every time I call
10 somebody, they give you the runaround: Call this one or
11 call that one, maybe you can't sell it until you pay it,
12 and all that kind of stuff.

13 Q Mr. Jenkins, do you have any -- can you tell me or
14 can you tell the Court when the fences that you're making
15 reference to were put on your property?

16 A I don't have the correct date, but I know
17 Mr. Youmans would know because he's the one that surveyed
18 the land. He was staking it out to be sold.

19 Q Okay. So Mr. Youmans --

20 MR. GRABER: And, again, Fred, forgive me for trying
21 to put words in his mouth here, but I just...

22 BY MR. GRABER:

23 Q To repeat, Mr. Youmans did the survey of the land?

24 A Yes. And then had that land come from the part I
25 was doing -- I wasn't doing.

1 MR. GRABER: Fred, hang on. At this point, I gave
2 you a copy of the plat that is a legal plat. It's
3 recorded in plat book 81 at page 77. It appears that my
4 client is about to refer to that, so I'm going to mark
5 this as an exhibit unless you have some overarching
6 objection.

7 And, Your Honor, the Khalil plat is this one.

8 THE COURT: Yes, sir.

9 MR. KUHN: And I said, "No objection."

10 MR. GRABER: Thank you, Fred.

11 MR. KUHN: For ID purposes now, I'll need the
12 surveyor to authenticate it to actually admit it into
13 evidence.

14 MR. GRABER: All right. I understand. I
15 understand.

16 MR. KUHN: Okay.

17 BY MR. GRABER:

18 Q Okay. For purposes of that hearing now, I'm going
19 to mark this as Exhibit -- Plaintiff's Exhibit No. 1. And
20 what I'm going to do...

21 MR. GRABER: I'm sorry, this is 1. Okay. And then
22 it says:

23 BY MR. GRABER:

24 Q And what I'm going to do, Mr. Jenkins, is marking
25 the plat that was prepared back in 2001 by Mr. Khalil,

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1 whereupon a plat was marked as Plaintiff's Exhibit No. 1
2 for identification.

3 Could you tell me, did you commission this plat? Is
4 this is plat that you commissioned?

5 A I don't understand you.

6 Q Did you ask Mr. Khalil to do this for you?

7 A Oh, yes, sir.

8 Q You did. Okay.

9 A Yes.

10 Q Would you just describe what this plat shows?

11 A All right.

12 Q You don't have to mark it or anything at this point.
13 Just tell Mr. Kuhn and Mr. Rivers, who are connected here,
14 what do you need -- what do you need?

15 A Need to put the brakes on. It's on.

16 Q It's on. Okay.

17 A I asked Mr. Khalil to mark -- to survey the whole
18 piece of land, all the way here over to Ball Park Road
19 there, come up that, and come on down here, come on down
20 there, and over here -- there.

21 Q All right. Now, I notice the plat shows a total of
22 4.33 acres. Is that what you're asking this Court to
23 consider today as your property?

24 A Yes, sir.

25 Q Okay. Now, would you tell Mr. Kuhn and Mr. Rivers

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1 where you think there is a dispute or discrepancy here?
2 Or let me rephrase the question. Can you look at this
3 plat and tell me where the fences that you made reference
4 to a few minutes ago are located?

5 A Right here. Right about here.

6 Q All right. Do you want to draw that in there for
7 me?

8 MR. GRABER: And, Your Honor, I apologize. The map
9 is full of markings. I just -- I don't know --

10 THE COURT: That's okay.

11 MR. GRABER: Okay.

12 BY MR. GRABER:

13 Q Here, I'll take it. All right. Okay. Just don't
14 worry about that.

15 Okay. Is there any other fence also that encroaches
16 into your property besides this one?

17 A That's where it's supposed to stop.

18 Q Okay.

19 A All that in there.

20 Q Okay. It goes up there. Okay. All right. And is
21 that why you're here today, to take those fences down?

22 A Yes, sir.

23 Q Is that what this is all about?

24 A That's what it's all about.

25 Q Okay. Okay.

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1 A Because I forgot how many two-point-something acres
2 come down here.

3 Q I gotcha.

4 A But all of that block off.

5 Q Okay. Okay. Now, sir, let's take a little -- let's
6 take a step back now that we have sort of framed what
7 we're dealing with here. Did you know or do you know a
8 Reuben Chisolm? Do you know a Reuben Chisolm?

9 A Yes, sir. That's my grandfather.

10 Q Okay. And was Mr. Reuben Chisolm -- was Mr. Chisolm
11 married?

12 THE WITNESS: I'm sorry. I lost you.

13 MR. GRABER: Line 11.

14 A Yes, sir.

15 BY MR. GRABER:

16 Q And who was he married to?

17 A Ellen Rachel Scott Chisholm.

18 Q Okay. Now, did he own land on St. Helena?

19 A Yes, sir.

20 Q Okay. Did he own land that we've just been pointing
21 to?

22 A Yes, sir.

23 Q Okay. Do you have any knowledge of when he might
24 have bought that land?

25 A No, I don't know when he bought it because I don't

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1 think I was born yet.

2 Q Okay.

3 A But I know he had a house on the land that he used
4 to live in before he sold it to Rivers.

5 Q Okay. When he originally bought land, do you
6 remember how much land he bought?

7 A No, sir. I don't think I was born yet when he
8 bought that land.

9 THE WITNESS: Excuse me a moment.

10 Your Honor, can I get some water?

11 THE COURT: Of course. Can we get him some water.

12 THE WITNESS: I'm sorry, Mr. Graber.

13 BY MR. GRABER:

14 Q Okay. I'm going to show you a deed.

15 MR. GRABER: And this says: "Mr. Graber: Fred,
16 again, for identification purposes, you know what I
17 thought I'd do is just get Cathy Aughtman to
18 [indiscernible] these property deeds into evidence."

19 MR. KUHN: All right.

20 MR. GRABER: Okay.

21 MR. KUHN: I think that's the proper way to do it,
22 if you just have it marked for ID for reference so it can
23 be authenticated.

24 MR. GRABER: Exactly.

25 (Whereupon, the deed was marked as Plaintiff's

1 Exhibit No. 2 for identification.)

2 BY MR. GRABER:

3 Q Mr. Jenkins, I'm going to show you a very, very
4 light copy of a deed that purports to -- from a
5 Christensen in to Reuben Chisolm for ten acres. Does this
6 refresh your recollection?

7 A Oh, yeah. My granddad said he had ten acres of
8 land, and he sold one to Harrison Rivers, and the house.

9 Q All right. Would you -- before we go down to that
10 line again, was the ten acres in the same vicinity as this
11 four acres that we're dealing with here this morning?

12 A I couldn't tell. I don't know whether Harrison
13 Rivers pulled it down or put another house or not.

14 Q No, but I'm saying the ten acres your grandfather
15 got, is that depicted on this plat here?

16 A Oh, yes. Yes.

17 Q Okay. Okay. Okay. I realize the plat is only 4.3
18 acres but was it ten acres when he got it?

19 A Yes, when he bought it, a full ten acres.

20 Q Okay. Now, after he bought it, did he sell parts of
21 it to other people?

22 A Yes. No. My mom.

23 Q Okay. Your mother did?

24 A My mother did.

25 Q And your mother's name was what?

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1 A Florence Jenkins. No, Florence Chisholm Jenkins
2 Parker.

3 Q Okay. Okay. Reuben owned it. Did he sell any
4 property to, for example, Mr. Harrison Rivers?

5 A My granddad?

6 Q Yeah.

7 A One acre and a house.

8 Q Okay. Would you point that -- to where that is on
9 this map?

10 A So far, right down -- right now.

11 MR. GRABER: Again, Your Honor, somewhere on this
12 map.

13 THE COURT: Yes, sir.

14 A Here.

15 BY MR. GRABER:

16 Q Okay. I know this is hard to do -- maybe it's
17 impossible. Could you do, like, a little H or an R and
18 put an R there?

19 A Yes. My finger are numb. That R.

20 Q That's pretty good. That's okay. That's pretty
21 good. All right.

22 So he sold that to Mr. Rivers. Do you know what
23 year he sold it to him?

24 A I don't think I was born yet.

25 Q Okay. Did he sell other pieces to land to other

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1 people around the property?

2 A Not my granddad.

3 Q Okay. Who did sell the other pieces of land?

4 A My mother.

5 Q Okay. What pieces did your mother sell?

6 A John and Margaret Sumpter.

7 Q Would you put a little S where that is?

8 A I had that right -- I had that right name, Sumpter.

9 It's Sumpter; right?

10 Q Uh-huh. Well, I can't answer, but you can.

11 A No, no, no. Okay. Sumpter.

12 Q Okay. Could you make a little S -- that is pretty

13 hard to see, and I'm sorry that I'm making you do this.

14 A That's all right. Oh, no, no.

15 Q I'm feeling like a bad person here.

16 A You have got to do it right.

17 Q Yeah, we need to do it right. We should do it.

18 A Oh, Lord.

19 Q Okay. Now, sir, did your mother sell any other

20 property out of this property?

21 A Amos Williams.

22 Q Would you -- can you show me where that is, where

23 Amos Williams is? Do you want maybe to pull this over a

24 little closer to you?

25 A What do you want me to mark that?

1 Q Make a W.
 2 Mr. Jenkins, I see a W here for Wilson.
 3 A Williams.
 4 Q Williams. Amos Williams.
 5 I see an R here for Rivers.
 6 A Uh-huh.
 7 Q I see an S here for Sumpter. All those are kind of
 8 bottom half -- in the bottom half of the ten-acre piece.
 9 A Right.
 10 Q Was there anything else that your father sold -- not
 11 your father but your mother sold?
 12 A My mother gave an acre to Vernon [verbatim] Smashum.
 13 Q Vernon [verbatim] Smashum. Okay.
 14 A At the top there.
 15 Q Okay. Could you mark that? I think I see that name
 16 up on there. I see Smashum up there, yeah.
 17 A Put an S?
 18 Q Yes.
 19 A Oh, Lord.
 20 Q All right. You made an S on the top of the property
 21 that borders the Ball Park Road; is that right?
 22 A Right.
 23 Q Okay. Any other parcels that were sold either by
 24 your mother or your grandfather?
 25 A No, sir.

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1 Q Okay. All right. Now, sir, about how old were you
2 when you have your first recollection of this property?

3 A Around maybe six or seven.

4 Q Okay. And, first of all, when were you born? Give
5 me the year.

6 A I was born July 12, 1929.

7 Q Okay. So you have a recollection when you were six
8 or seven?

9 A Yes.

10 Q What is that recollection that you have?

11 A I knew my grandfather. He was living at Club Ridge
12 then.

13 Q I think --

14 MR. GRABER: The court reporter says, "What was
15 that, Mr. Graber?"

16 I think he said, "I knew my grandfather. He was at
17 Club Ridge."

18 DR. TAUB: Is "witness" me?

19 MR. GRABER: Yes.

20 A Club Ridge, yeah.

21 MR. GRABER: And then the court reporter: "Club
22 Ridge. Thank you."

23 A On Seaside Road.

24 BY MR. GRABER:

25 Q Okay. Okay. When you speak of your grandfather,

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1 who are you speaking of?

2 A Reuben Manning Chisholm.

3 Q Okay. Would that be the same Chisholm that owned
4 this piece of property here?

5 A The whole piece of property, correct.

6 Q Okay. He was your grandfather?

7 A My grandfather.

8 Q All right. Tell me, what was your first memory of
9 him? What was your first memory of your grandfather?

10 A I remember that he used to take me with him when I
11 was about 10 or maybe around 10 or 11. I don't really
12 remember the whole thing, but he used to take me in the
13 field with him. He used to plant some tomato but it
14 wasn't on his property. I don't know whether he rent the
15 property or just planted. I don't know if he rent it or
16 not, but I know he used to plant tomato on it.

17 Q Okay. Let me ask you this: The house that is on
18 the Rivers property, did your grandfather live in that
19 house or do you know?

20 A I don't know because I don't think I was born yet.

21 Q Okay. All right. Well, I don't want you to testify
22 about anything you don't know. If you don't know, all
23 right.

24 Did you ever have occasion to help your father --
25 excuse me -- your grandfather farm?

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1 A Yes. I started about 9 or 10, maybe only 11 or 12.

2 Q Okay. What would you do to -- what would you do to
3 help him?

4 A I used to go and help him put stuff on the truck.
5 The time we brought the corn in and we done pick all the
6 peas because the peas was all over the place. He just
7 broadcast the peas, just threw it all over. He didn't put
8 it in no row or nothing like that.

9 Q Okay. So, again, are you saying that you helped him
10 plant peas? Am I getting that right?

11 A Yes. When I was little, 10 or so, I'd help him
12 throw the peas.

13 Q What else did you help him with?

14 A Well, I brought the corn in so I could carry it up
15 to the house where the horses and stuff have to eat when
16 the wintertime come.

17 Q Now, making -- again, making reference to the
18 plat -- the Khalil plat dated 2001 that's right here --
19 that's right here that we have got, can you show me on
20 that plat where you helped your grandfather farm?

21 Okay. Here we go again. And let's put F for
22 farming.

23 Okay. You seem to be putting it between the
24 Harrison property and the Amos property. Did you mean to
25 do that?

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1 A Yes, sir.

2 Q Okay. Was there any other areas that you helped --
3 you assisted your grandfather, Reuben Chisholm, in farming
4 his property?

5 A This property? Over here, over here, go up to
6 Seaside Road.

7 Q All the way to Seaside Road?

8 A It used to go all the way to the edge of Seaside
9 Road.

10 Q Okay. We'll put a little F again in those places
11 that you assisted him.

12 A That I assisted him?

13 Q That you helped your grandfather, yeah.

14 A Right in here. Put an F?

15 Q Yeah, yeah. Wherever you did it.

16 That's pretty good. Put a little -- okay. I know
17 this is hard. All right.

18 Now, did you -- was there any place else on this
19 plat that you also farmed? Not you farmed but you helped
20 your grandfather, Reuben Chisholm?

21 A No.

22 Q Okay. Nothing planted on that but corn and peas?

23 A Okay. Okay. Okay.

24 DR. TAUB: I'm sorry.

25 A Nothing planted on that but corn and peas.

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1 BY MR. GRABER:

2 Q Okay. Okay. Okay. Now, let me ask you this: When
3 did your grandfather, Reuben Chisholm, die?

4 A January 1944.

5 Q Okay. Did he ever -- did he farm this property that
6 you have shown up until he died?

7 A Up until 1942 or '43 because he got sick.

8 Q What did he get sick from?

9 A I don't know.

10 Q Okay. But you remember him being sick?

11 A Yes, sir.

12 Q Okay. And you remember him farming the property
13 until '42 and '43?

14 A Yes, sir.

15 Q Okay. And, again, what did he farm?

16 A Corn and peas, but he don't -- most thing he just go
17 and pick some of the peas, but he didn't harvest the peas
18 because they ain't have no row. They were just scattered
19 all over the field.

20 Q Yeah, let's -- let's let the --

21 MR. GRABER: Your Honor, some jets came over.

22 BY MR. GRABER:

23 Q Let's let the jets go by.

24 Question: Okay. Go ahead.

25 A They were just scattered all over the field, the

1 peas, but the corn had rows, yes. We would plant about 90
2 percent corn and 10 percent peas because he said that
3 property -- the reason why he don't farm, because they
4 ain't going to bring nothing because it had all the
5 stinging nettles out there. It wasn't going to grow
6 nothing else that good.

7 Q All right, Mr. Jenkins. Do you remember when --
8 what is your first recollection of Mr. Harrison Rivers?

9 A I was about the same age, around 10 or 11. I used
10 to go down with my grandfather to plow the field, and I
11 knew he lived in the house, so I just presumed that was
12 Mr. Rivers but I didn't really know him.

13 Q Okay.

14 A Not at that time. After I got older, I knew him
15 better.

16 Q Okay. But I'm basically talking about the '40s when
17 you were out there in the field.

18 A No, no.

19 Q Okay. Did you know Mr. Harrison Rivers in the '40s,
20 or did you know him in the -- did you know of him in the
21 '40s?

22 A Know of him.

23 Q Okay. When did you first realize that Mr. Harrison
24 Rivers was living in the house that is out on Seaside
25 Road? What year?

1 A Back in the '40s, I guess. Maybe back in the '40s
2 because I don't remember that good. But I had a
3 grandfather and talked with him that told me that was his
4 house one time, but he sold the house and land to Harrison
5 Rivers.

6 Q Okay.

7 A And Ophelia Rivers.

8 Q Okay. So you knew Harrison Rivers and Ophelia. Did
9 you know them or did you just know of them?

10 A Just knew of them.

11 Q All right. Now, did Mr. Harrison Rivers or
12 Ms. Ophelia Rivers, did they do any farming?

13 A No, not that I know.

14 Q Okay. Now, I'm really interested in the '40s and
15 the '50s. Were you in Beaufort County during that period
16 of time?

17 A Yes, sir.

18 Q Okay. Were you observant of this piece of land
19 during that period of time?

20 A Yes, sir.

21 Q Okay. What would you take out to the property in
22 those days?

23 DR. TAUB: Give me a second, Mr. Graber. [Clearing
24 throat] Excuse me, Your Honor.

25 THE COURT: That's okay.

1 A I used to have a friend by a name of Edward Sumpter.
2 In 1940, I was working for the post exchange, and I was
3 working out there as a short order cook. I couldn't get
4 home at night because there ain't been many cars back
5 then. They ain't but many cars running, you know, after
6 midnight.

7 And me and him were talking, and I'd be to his house
8 and he'd say, "If you want to go home, I got to go to work
9 from the 3:30 shift to 12, but we got to be there at 3:30
10 so we can change our clothes. And if you want me to stop
11 by the PX barracks for you, I'll stop by the PX barracks
12 and pick you up and then we go home. But I didn't go
13 home. It's so late at night. Them older folks was strict
14 on coming in that late at night.

15 MR. GRABER: And the court reporter says, "Who was?
16 Who was strict at night?"

17 THE WITNESS: The older folks.

18 MR. GRABER: And the court reporter says, "Older
19 folks. Thank you."

20 A Older parents, the Sumpters strictly. You know,
21 people coming in, and I would go and I would stay with
22 them.

23 BY MR. GRABER:

24 Q All right. Would you show me on the map where
25 Mr. Sumpter lived? You say Sumpter -- you did say

1 Sumpter, didn't you?

2 A Yes. Edward Sumpter.

3 Q Edward Sumpter. Okay.

4 A Edward Sumpter living right there, about 10 feet
5 from the property.

6 Q Okay. Put an E and an S. Can you do an E and an S
7 there?

8 Okay. That's good. That's a good E. Okay.

9 Now, do a big S under there so that we know where
10 you're talking about.

11 Gotcha. All right. Thank you. Thank you.

12 Now, how often would you stay with Mr. Sumpter?

13 A I would stay with him a lot because his dad don't
14 work anywhere. I'd be down at his house because they used
15 to fix cars under the big oak tree they had in the yard.
16 And then, when guys come in, they'd be talking and
17 drinking beer.

18 Q So this is when you were working at Parris Island?

19 A Yes, sir. 1944.

20 Q Okay.

21 THE COURT: Mr. Graber, can I interrupt you? Do you
22 mind putting that up there so, that way, I can follow
23 along where he's marking?

24 MR. GRABER: Absolutely.

25 THE COURT: That might be able to help me.

1 MR. GRABER: Oh, put the --

2 THE COURT: The one exhibit where he's marking as
3 you talk.

4 MR. GRABER: And this is Exhibit 2.

5 THE COURT: Perfect. Thank you.

6 DR. TAUB: Line 22, Mr. Graber?

7 MR. GRABER: Yes.

8 A I mean, yes, it was '44 to '45.

9 MR. GRABER: Oh, I'm sorry. Okay. Okay.

10 BY MR. GRABER:

11 Q So you were out at Parris Island during World War
12 II?

13 A Yes, sir.

14 Q How long did you stay out at Parris Island?

15 A I worked for the PX about seven or eight years.

16 Q Okay. In the '50s, would that -- would that be a
17 fair statement that you --

18 A Yes. I worked for -- yeah. That'd be a fair
19 statement because I left the PX in 1951 and went in the
20 civil service.

21 Q Okay.

22 A And I stayed there until 1954. As soon as they
23 started coming back from war, they bumped you out your
24 job. You know?

25 Q Oh, I see. Yeah.

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1 A Uh-huh.

2 Q So you got bumped out of your job.

3 A Right.

4 Q When they came home -- but how long did you -- how
5 many years did you visit with Mr. Edward Sumpter out on
6 the property?

7 A Oh, many, many years. Many years. We would be at
8 Sumpter yard, and everybody at that property. It was
9 clear there. See, all that stuff that grew up there
10 wasn't there.

11 Q Okay. I guess I'm trying to figure out the time
12 frame then when you were friends with Mr. Sumpter, what
13 was -- about what time frame are we talking about?

14 A Around about '44, when I was friends with him. My
15 granddad was living too. We used to go over there in the
16 field. My granddaddy was, back then, and I used to stay
17 there with him sometimes.

18 Q So when you would stay with Mr. Sumpter and you'd go
19 out there, tell me what was going on -- going on the
20 property? What activities were happening on the property?

21 A Planting that corn and peas. That's all. My
22 granddad would say, "With them stinging nettles, that
23 property ain't going to grow nothing else."

24 Q My question really is, after your grandfather died
25 in '43, what was going on on the piece of property or what

1 was going on on the property in general?

2 A Nothing. Nothing.

3 Q Okay.

4 A Nothing.

5 Q All right. After you were visiting with
6 Mr. Sumpter, was the property ever farmed again?

7 A No, sir.

8 Q Okay. Okay. Okay.

9 A No, sir. Never did.

10 Q Okay. Did Mr. Harrison Rivers ever farm it?

11 A Not so far as I know.

12 Q Okay.

13 A Not that -- not on that piece of land. Never did.
14 He did it some place else but not that piece.

15 Q Okay. What did Harrison Peoples do for a living?
16 Excuse me; I said, "Harrison Peoples." I meant Harrison
17 Rivers. What did he do for a living?

18 A Most people back then around then used to go in the
19 river and crabbing -- oysters and crab and shrimp, but I
20 don't know specifically if he used to do that too because
21 I didn't, you know, keep -- be around him that much to
22 know exactly what he do. But I used to hear people say
23 most of the older folks around there used to go in the
24 river, so I don't really know what he used to do.

25 Q Okay. Did you ever see him in the '50s, '60s or

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1 '70s during this period of time farming that land where
2 you -- where your grandfather farmed?

3 A Nobody farmed that land.

4 Q Okay. Did you ever see Ms. Ophelia Rivers farm that
5 property?

6 A No, sir.

7 Q Did you ever see Mr. Harrison Rivers or Ophelia
8 Rivers or anybody else farm the property behind the house
9 into the weir of the house?

10 A No, no, no, no, because that's the other part of the
11 property, that 4.33. That's the other piece of the -- of
12 the part. Not behind the house, no.

13 Q Yeah. I'm making specific reference to the property
14 immediately behind the house -- behind the house that's on
15 the property now. Was there ever any farming in that area
16 behind the house?

17 A After my grandfather quit?

18 Q Yes, after your grandfather quit.

19 A No, sir.

20 Q Okay. Now, how would you know that, though? How
21 would you know there was no farming going on?

22 A By going back and forth. We called it Frogmore but
23 the Sumpter house, because somebody always be around
24 there. If I be off on off days, that's where I mostly
25 would hang out, there with him.

1 Q Mr. Sumpter?

2 A Mr. Sumpter.

3 Q Okay. Okay. What about in more recent times?

4 Let's move into the '90s when Mr. Michael Rivers was
5 living out there. Did you ever see Mr. Michael Rivers
6 doing any farming around the house?

7 A No, sir. I know he planted the front part of the
8 land by Ball Park Road. He was planting little shrubbery
9 and a Christmas tree. You know, that kind of stuff. I
10 stopped there and I asked him, I said, "What are you doing
11 burning stuff and planting stuff on my property?"

12 And he told me that, "Your property? My mother said
13 she bought this property from your mom."

14 I said, "If my mom had sold any property, she would
15 tell me, and she ain't ever tell me that she sold any
16 property to your mom."

17 Q Now, when you say that, what property are you making
18 reference to? What property did he specifically say your
19 mother sold to his mother?

20 A The part that come from in between here, in between
21 Williams' fence and their fence.

22 Q Okay.

23 A That property --

24 Q That property that come in here --

25 MR. GRABER: Oh, I'm sorry. Okay.

1 A That property that come in here that he was burning
2 stuff and I say, "If my mama did that, she'd tell me."
3 And later on, I come to find he done had a little fence up
4 in the front of the property. So I told him again, I
5 said, "You just can't do that."

6 "My mama said she bought it from your mama."

7 I said, "That's -- then where's the deed?"

8 And he got kind of angry, you know? Because one
9 time I see him doing that and I see him doing it and I
10 never could catch him home. So one day I saw him home,
11 car in the yard, so I went to his house and I tell him, I
12 said, "Man, I tell you, quit burning stuff and stuff on my
13 property."

14 He told me, "You come in my yard and didn't respect
15 my dog."

16 So I said, "You mean I didn't respect your dog? I
17 see a dog laying there when I knock on the house two or
18 three times. And when you did come out the house, you
19 tell me about that you should put me on my back because I
20 disrespect your dog?" I said, "You ain't going to do an
21 old man like that."

22 Then he stopped and I be a while more. I said,
23 "I'll tell you what, burning that stuff on my property,"
24 but me and him been into it several times about that
25 property. And he tried to tell me that he had a deed,

1 though. He tried to tell me my mother sold the property
2 to his mother, but he couldn't come up with no deed.

3 MR. GRABER: All right, Fred. I'm now going to use
4 David Youmans' plat. And, again, it's dated April 23,
5 2019. This will be Plaintiff's Exhibit 3 for
6 illustration -- for illustration purposes. And I'll get
7 David Youmans to properly authenticate it when we get to
8 trial if that's okay.

9 MR. KUHN: Oh, yes. Absolutely.

10 MR. GRABER: Okay.

11 BY MR. GRABER:

12 Q Mr. Jenkins, I'm now showing you a plat that was
13 done in April of 2019 by David Youmans, and I want you to
14 look at it and tell me -- just look at it and make sure
15 you recognize it.

16 A Yeah.

17 Q Okay.

18 A That's my property there. After Mr. Kernan (ph)
19 gonna do the whole piece of property, come in between
20 there, he said Michael come out there and stop him from
21 finishing -- finish surveying the land. He said the
22 property belonged to him.

23 So what I had done, I said, Kernan ain't right.
24 Said, Kernan not right. So I went because it was on my
25 mind, I went and got Mr. David Youmans to survey the land.

1 Mr. Youmans called me and told me, he said, "Ben, I can't
2 survey the land because of Rivers. I sent my men up there
3 to do it, and Rivers run them off the property."

4 I said, "What? I tell you what, I'll let him go
5 survey my property because I done tell him more than one
6 time."

7 So I set up an appointment with Mr. Youmans --
8 excuse me -- to meet me up there one day when I wasn't
9 working. I mean, when I got off work and meet with him
10 and his crew. All right. They came. I met with them.
11 They started to go to work, and Rivers said -- say,
12 "Nobody come on this property. This is my property. Get
13 off my property."

14 Q Let me ask you this: This plat is dated April of
15 2019 -- April 23, 2019. Was your meeting with Mr. Youmans
16 before or after that date or do you remember? 2019. That
17 was just only about --

18 A I think that's the same day.

19 Q Okay. All right.

20 A Yeah. I met with Mr. Youmans.

21 Q Well, this plat is completed -- I mean, this is a
22 completed plat.

23 A Yeah.

24 Q Okay.

25 A I think Mr. Youmans, I tell him -- I said, "I'll get

1 somebody to come with you while you survey the land," but
2 I never got nobody. And Mr. Youmans said, "I'll go and do
3 it" and he [indiscernible]. Well, Mr. Youmans must have
4 do it when he wasn't home or something like that.

5 Q Okay. Now, I see on the plat, Ben, that a fence
6 that he has drawn across it. It says -- it's got a fence
7 here -- fence coming from here to -- and then across here.
8 Is that the same fence that you drew in here free hand?

9 A Yes. Right. Yes.

10 Q Okay. So does this represent what you're arguing
11 about today?

12 A Yeah. That represents that.

13 Q Okay. And, again, let me ask you --

14 A See, his fence supposed to come to Williams and butt
15 right up and go behind his fence and go up to Sumpter and
16 stop right there. All this piece in here, he ain't got
17 nothing to do with them.

18 Q Okay. And, again, when did he put the fence up, to
19 the best of your knowledge?

20 A I don't know. I don't know because you got to check
21 with Mr. Youmans about that because he's the one that
22 called DHEC to perk that other piece of land so I could
23 keep on going with what I was doing.

24 Q Okay. Now, let me ask you this: Just to kind of go
25 back here, this property that was owned by Reuben

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1 Chisholm -- and is Reuben Chisholm still living?

2 A No, sir. He passed in 1944.

3 Q Okay. And who did he leave? Did he leave a wife?

4 A Wife and daughter.

5 Q And who was -- the wife's name?

6 MR. GRABER: It says poor audio. Let's let these
7 jets go by.

8 BY MR. GRABER:

9 Q Ben, I guess my question was, you testified that
10 your grandfather died in '43 or '44. When he died, who
11 did he leave?

12 A His wife, Rachel Ellen Scott Chisholm. Now, her
13 name was Rachel Ellen Scott before she got married.

14 Q Okay. And --

15 A One daughter.

16 Q Okay. I was going to ask you: Did they leave any
17 children?

18 A One daughter.

19 Q And what was the daughter's name?

20 A Florence Jenkins. No, Florence Chisholm Jenkins.

21 Q Florence Chisholm Jenkins.

22 A Jenkins.

23 Q Jenkins. Okay.

24 And who was that relation to you?

25 A That was my mother.

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1 Q Okay. And when did your mother die?

2 A 1993.

3 Q Okay.

4 MR. GRABER: Fred, again, I'm going to get a
5 document to give to Mr. Jenkins, but I'll get it properly
6 authenticated by Cathy Aughtman and get it into evidence,
7 with your permission.

8 MR. KUHN: Yes, that's fine, just for ID now and
9 then Cathy authenticates.

10 MR. GRABER: Gotcha. Okay.

11 (Whereupon, the deed of distribution was marked as
12 Plaintiff's Exhibit No. 4 for identification.)

13 Your Honor, I think we have got that deed of
14 distribution already in evidence. Cathy Aughtman put it
15 in there.

16 THE COURT: All right, sir.

17 BY MR. GRABER:

18 Q This is going to be Plaintiff's Exhibit 4.

19 MR. GRABER: Excuse me, maybe it's here. Yes.

20 David, I'm sorry; what page are we on?

21 DR. TAUB: We're on page 36, line 1.

22 BY MR. GRABER:

23 Q Mr. Jenkins, I'm going to just hand it to you. That
24 purports to be a deed of distribution where the personal
25 representative, Benjamin Jenkins, conveyed this property

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1 that we're looking at now from the Estate of Florence
2 Parker into yourself. Do you remember that deed of
3 distribution?

4 A I don't understand the words because I am but a
5 sixth-grade scholar.

6 Q Okay. All right. When your mother died, did you --
7 were you the personal representative of her estate?

8 A Oh, yes.

9 Q And did you convey the property that your mother,
10 Florence Parker, had from her estate to you?

11 A Yeah, I think I did.

12 Q Okay. And do you believe that you own the property
13 that's shown on Plaintiff's Exhibit 3?

14 A If I believe I did what?

15 Q Based on the deed of distribution, do you believe
16 that you own the 4.3 acres that are be being shown on
17 Plaintiff's Exhibit No. 4?

18 A Yes.

19 Q Okay. All right.

20 MR. GRABER: And then, Fred, I think that's all I
21 have got.

22 MR. KUHN: If you would, why don't you just skip
23 over to the next page, line 12.

24 MR. GRABER: It looks like I have a little more
25 starting on page -- line 12, yes.

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1 BY MR. GRABER:

2 Q Mr. Jenkins, according to this document that I just
3 showed you, the deed of distribution, which I can't find
4 now -- there it is -- you acquired title to this property
5 in 2001. Have you paid taxes on this property since 2001?

6 DR. TAUB: I have lost you. I'm sorry.

7 MR. GRABER: Line 17. 37.

8 DR. TAUB: 37, line 17.

9 A I don't know if I paid taxes on it. You mean all
10 that comes from here?

11 BY MR. GRABER:

12 Q Yeah. I'm talking about this property up all around
13 the 4.3 acres. Have you been paying taxes each and every
14 year?

15 A You mean the 4.3 acres?

16 Q On the 4.3 acres.

17 A I paid, yes, sir, every year.

18 Q And the notice that you get from the county, does it
19 say that you're paying taxes on 4.3 acres?

20 A Yes, sir.

21 Q Okay. Okay.

22 MR. GRABER: Fred, that's all I have got.

23 MR. KUHN: And I want to go to page 30, line 11.

24 DR. TAUB: Fred, I'm a little hard of hearing.

25 You're going to have to speak up for me. Yes, I know

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1 exactly what you're saying.

2 CROSS-EXAMINATION

3 BY MR. KUHN:

4 Q All right. Who is your doctor now?

5 A Hospice.

6 Q And which hospice service are you with?

7 A To tell you the truth, my daughter be taking care of
8 that stuff. I don't really know.

9 Q Okay. Who is your --

10 A My daughter right outside. She could probably tell
11 you.

12 Q She can't testify, Ben. Only you can. Only you can
13 testify.

14 A Oh, I don't -- I know it's hospice, but where
15 they're from or anything, I don't know.

16 Q Okay. And do you know who the doctor was that
17 referred you to hospice?

18 A Dr. Newberry.

19 Q Mark Newberry here in Beaufort?

20 A Right here in Beaufort, yeah. He's a specialist.

21 Q Have you always lived on Seaside Road?

22 A All my life, since I could remember.

23 Q You have never moved somewhere else then and moved
24 back, in other words?

25 A No, no. No, no.

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1 Q Very good. What's today's date?

2 A It's June, July, August, September -- September the
3 10th, I think it is.

4 Q And what's the year?

5 A Two -- two -- 2020.

6 Q This property that you're claiming, this is property
7 that you inherited? Am I understanding that correctly?

8 A You mean if I got it from my parents or something?

9 Q Yes, sir.

10 A Yes, sir, I got it from my parents. My mother.

11 Q And then your understanding is that, originally,
12 your grandfather, Reuben Chisholm, owned this property?

13 A Yes, sir.

14 Q Then, if I understand it, he passed away in 1944,
15 and do you know if he sold some of this property to
16 Harrison Rivers before he passed away?

17 A Well, he was living on the property in a house, and
18 he bought another piece of property and sold the house,
19 and that acre of land to -- to Harrison Rivers.

20 Q If I understand you earlier, your grandfather
21 actually told you that he sold the house and some land to
22 Harrison Rivers; is that correct?

23 A Excuse me?

24 Q Did your grandfather tell you that he sold some
25 property to Harrison Rivers?

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1 A Oh, yeah. My grandfather told me that, before he
2 passed. My grandma and my mom told me the same thing
3 because that's where I live at.

4 Q After your grandfather passed, your mother then sold
5 some of the property that she inherited from your
6 grandfather; is that right?

7 A Yes, sir.

8 Q And she sold a piece, if I remember correctly, to
9 Isaiah and Christiana Sumpter and a piece to Amos J.
10 Williams and a piece to Florence Inabinett and a piece to
11 James and Berniece Wright. Does that sound correct?

12 A Yes, sir.

13 Q What you inherited from your mother would have been
14 whatever is left over? Is that it?

15 A Right, that I didn't figure that would need to be
16 included because Isaiah Sumpter's property go across the
17 road. That's how come the property run out to Seaside
18 Road because Isaiah Sumpter property, all of that ten
19 acres, go across the road and then come back and go up to
20 Williams' fence. But Williams' fence wasn't there then.
21 He sold that half acre to Williams and that's where he put
22 his mobile home.

23 Q You said "across the road." Are you talking about
24 Seaside Road?

25 A Yes, sir. It go across Seaside Road, come back to

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1 the property we're talking about now. That's why I know.
2 When my grandfather was living, the property go up to the
3 road. He sold a piece to Isaiah Sumpter. Was it back in
4 the '40s or sometime back there or in the '30s, I don't
5 know. But I know Isaiah Sumpter had a part of it.

6 Q When you were helping your grandfather farm the
7 land, you would have been about how old?

8 A Between 7 and 11.

9 Q And you were what? About 15 years old when he
10 passed away?

11 A Somewhere around there, yes, sir.

12 Q And when he was farming that land, did he tell you
13 that he owned the land or that he was farming with
14 somebody's permission?

15 MR. GRABER: Hang on, Fred, we have got jets here.

16 Okay. Go ahead.

17 A He said that was his property because that's why he
18 used to go out there and farm it, but he doesn't farm it
19 with nothing but peas and corn because he said it had some
20 kind of nettles -- stinging nettles on it and they weren't
21 going to grow nothing else that was worthwhile.

22 BY MR. KUHN:

23 Q How do you know he wasn't farming that land with
24 permission?

25 A Who?

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1 Q Your grandfather, that he didn't have somebody's
2 permission to use the land?

3 A Give somebody permission to use it?

4 Q Yes, sir.

5 A My grandfather don't give nobody permission to use
6 it.

7 Q And you base that just on what he told you?

8 A Yes.

9 Q All right. You said, after he passed away, that
10 nobody farmed that land anymore?

11 A Nobody.

12 Q What happened? Did it just grow up? Did it get
13 overgrown?

14 A No, it didn't get overgrown right away. No, that
15 land was kind of cleared like. You could see over it. It
16 had a lot of --

17 Q Who took care of it?

18 A Sir?

19 Q Who took care of it after your grandfather passed?

20 A Nobody was cutting down nothing or nothing because
21 the land wasn't grewed up.

22 Q Did somebody start planting the land, though,
23 eventually?

24 A Somebody start planting it lately?

25 Q No, at some point in time, did somebody start

1 planting that land again?

2 A No, sir.

3 Q After your grandfather passed?

4 A Nobody.

5 Q If I go out there, it's mowed. I mean, I'm not
6 overgrown. Somebody's taking care of it. Do you know who
7 is doing that?

8 A Nobody is. But one time --

9 Q But this was --

10 A One time I had them Inabinett boys to go out there
11 to bush-hog it one time, and that was all that I can
12 remember. Maybe once or twice. It never had no big
13 shrubbery on it. I didn't want to bush-hog it because it
14 didn't seem necessary because it wasn't grown up.

15 Q So it's your testimony that nobody has taken care of
16 that land since your grandfather died except you had it
17 bush-hogged maybe once or twice?

18 A That's right.

19 Q How long ago was the most recent time you had it
20 bush-hogged?

21 A Well, that time, Mr. Christensen and them would go
22 there. I mean, Mr. Youmans had done gone there, bush-hog
23 it, and Michael won't let me on the property. The man
24 that was going to bush-hog it was right there then. So
25 Michael was acting up so the man said, "I don't want to go

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1 there and get no lawsuit on me. So I got to get you-all
2 to get this thing straightened out before I go over there
3 to bush-hog it."

4 Q When was the last time you actually had it
5 bush-hogged? Many years ago?

6 A I don't remember.

7 Q Did Harrison Rivers ever farm around his house?

8 A Not that I know. I never seen no farming going on
9 around there.

10 Q Mr. Jenkins, the fence that you drew on Plaintiff's
11 Exhibit No. 1, that's the fence that's there now today?

12 A Yes, sir. That, Michael put there. It ain't no
13 fence on that property like that. He put that fence
14 there, and that's when I found out, when Mr. David Youmans
15 get a call from DHEC that they didn't do but three parcels
16 of the land because the fourth one, somebody put a fence
17 over it. Mr. Youmans called me. I tell him to check it
18 out and I'll check it out.

19 Then he said somebody put a fence out there. What
20 we were thinking -- we couldn't think of who did it
21 because some other people that Michael was having it for a
22 house and stuff and getting them put in and put out and
23 all that kind of stuff. He was going on with some other
24 people, have to get up to the house and all kind of stuff
25 right there.

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1 So I don't know who have -- we didn't know who had
2 put the fence out there. So we were trying to find out
3 who did it.

4 Q Before that fence that's there today was put up, was
5 there ever any other fence there in that same location?

6 A The only one is Michael's fence. That fence
7 supposed to run behind instead of where he got it going.
8 There was no other fence there.

9 Q It's your sworn testimony that that fence that
10 Mr. Rivers put up is just a fence that's there today,
11 that's the only fence that's ever been there?

12 A No. Rivers had his one acre fenced in, and Williams
13 fenced in his one acre.

14 Q I'm talking about the location of the fence that's
15 there today. Was there ever a fence in that same spot
16 running around that same line before?

17 A No, sir. No, sir.

18 Q If there had been a fence there before, is that
19 something you would have objected to?

20 A I sure would have.

21 Q If I understood your earlier testimony, you say you
22 and Mr. Michael Rivers got into a little dispute because
23 you saw him planting on what you believe was your
24 property; is that correct?

25 A Right. When he told -- yeah, me and he -- me and

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1 him got into it. I said he was on my property because I
2 knew that the property go all the way out to Seaside Road
3 and across the road because that's where Isaiah Sumpter
4 had the piece across the road -- on Seaside Road. Isaiah
5 Sumpter and I -- Isaiah Sumpter, and I forgot his wife's
6 name.

7 Q When was that?

8 A Pardon?

9 Q When was that? About how long ago?

10 A My grandfather give Isaiah Sumpter that land before
11 he died when we were working because sometime when he go
12 in there to plow the field, Isaiah Sumpter would help him.
13 Because, see, back in those days, they ain't had no
14 tractor. You got to go around in a circle like a tractor
15 turn the furrows over on the other side, and that's how he
16 covered the peas up and the cornstalk.

17 Q When was it that you and Michael Rivers talked about
18 Michael Rivers planting on what you believed was your
19 property? When did that take place, ballpark?

20 A That took place way back. I can't remember. I have
21 been at him so many times that --

22 Q About when would when the first time have been?
23 Would his parents still have been alive this, Ericson or
24 Ophelia?

25 A Oh, no, no. No, sir.

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1 Q So when you moved back on the property, sometime
2 after that?

3 A Yes.

4 Q About how long had you been back on the property?

5 A I don't really know 'cause he'd been losing that
6 property. He'd lose it about two or three times that I
7 can -- that I know because his aunt, we was up to the -- I
8 don't know what you call it. We'd be sitting out here
9 now, but it was more than us. So, anyway, his aunt and --
10 aunt, daughter, and my wife and I think one more person
11 and Mr. Tab (ph) was going on in there because he lose the
12 house. So his aunt get the house for him and we went
13 there. I tell him, "Well, if your aunt going to get it,"
14 because I had a lot of trouble with him, I say, "You move
15 that stuff off of there."

16 But after his aunt was going to get it, I tell them
17 that the septic tank that was there -- the septic tank's
18 line that he got running on my property, I'll let it stay
19 because his aunt going to be owning that house now.

20 And he then -- he told Mr. Tab and another lawyer
21 been in there. So Tab turn and say, "All right. Your
22 aunt done be in your house and I got your back going." He
23 said, "Well, now, you take this money to her every month."
24 He tell Mr. Tab, "Nobody can spend his money better than
25 him."

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1 Q So these discussions you had with Mr. Rivers about
2 him planting on what you believe was your property or the
3 drain field going out on to what you -- was your
4 property --

5 A Yes.

6 Q -- that would have taken place at least before his
7 aunt, Ms. Mack and Ms. --

8 A Bonds.

9 Q -- Bonds, before they got involved with the
10 property?

11 A Pardon?

12 Q All this took place before they got involved with
13 the property, before they had been on the property?

14 A That came up because we had to go to court, meet
15 with Mr. Tab. That came up after we met with Mr. Tab
16 because I had tell him before that he had that drain field
17 on my property.

18 Q So you knew that before then?

19 A Yes. So after Ms. Mack was going to be on it, I
20 tell her I would give her an extension if she going to be
21 living in the house or own the house, but if the drain
22 field go bad, you can't put one back there.

23 And I pass there one afternoon. Michael had three
24 guys renewing the septic tank. I stopped and asked them
25 where he was. They told me, "Well, he never say where he

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1 was, but he -- but he right back."

2 I didn't go back to say more to him because it was
3 kind of dark -- dusk and dark before he started or when
4 Nate was coming. Them guys were using their trucks late
5 to do the septic tank, and it wasn't supposed to be no
6 more septic tank down there.

7 Q When was the first time, ballpark, you see
8 Mr. Rivers doing anything on what you believe is your
9 property? Are we talking ten years ago? 20 years ago?
10 Last week? Ballpark, what's your best estimate?

11 A It ain't that long. Ain't been that long. Might
12 have been eight years. Maybe it might have been eight
13 years. I don't recollect that, Mr. Fred.

14 Q Who was the surveyor who tried to get the survey of
15 the property before you got Mr. Youmans?

16 A I used to deal with Mr. Christensen but I don't know
17 if Mr. Christensen had gotten sick or passed. So we had
18 this guy named Kiernan, and Kiernan was going to do it.
19 He went out there to do it. He said Michael stopped him
20 and said this property don't go no further than 100 feet.
21 200 --

22 Q I can't answer that for you.

23 A 200-and-some feet toward the road. We said he
24 stopped right there. So I didn't look at the deed or
25 whatever the plat or whatever before they signed it

1 because I had already signed it. And Mr. Kiernan had
2 already recorded that and told me that I could come in and
3 pick it up and I go in and pick it up.

4 When I got home, my daughter looked at it and said
5 this land -- that road come up further than this. I said,
6 "Let me see." I said, "I got four-point-something acre
7 here. More than that." That's when I went and got
8 Mr. Youmans to do it. And then he said -- Youmans told me
9 that he sent a crew out there to do it, but Michael run
10 them off. So I tell him, I said, "I tell you what, I'll
11 take off a day from work, and you tell me when you can
12 meet me out there, and I'll be out there and Mr. Youmans
13 is going to do it." I was going to let him do it.
14 Michael tell me nobody come on that property because
15 that's his property.

16 Q That plat that Surveyor Khalil did before
17 Mr. Youmans, do you have that plat still?

18 A Yes, sir. That's the one I got on record.

19 Q And would it be fair to say, at least since you were
20 a teenager, you have driven by or laid eyes on that piece
21 of property almost every day?

22 A No, not almost every day.

23 Q About how often, just on average?

24 A Used to go to the Sumpter house at least two, three
25 times -- two times, three times a week.

1 Q Over the course of the years, on average, you have
2 been by this piece of property two or three times a week?

3 A Two or three times a week?

4 Q Yes, sir.

5 A That's not recently. That was back in the '40s and
6 the '60s.

7 Q And how about in the 2000s and the 1990s?

8 A Oh, I have been out there because the property got
9 some pine trees on it right next to Williams' fence. And
10 me and my son usually go out there and get -- he do
11 landscaping, and he wouldn't go out -- and he would go out
12 there in his truck and rake up pine straw. It ain't
13 nothing planted on that land.

14 Q What's your son's name?

15 A The eldest, Ricky Jenkins. But he --

16 Q Where you live, is this further down Seaside Road?

17 A Right there at Club Ridge.

18 Q You live on Club Ridge?

19 A Club Ridge, yes, sir. Seaside Road. Club Ridge
20 Road and Seaside Road. Go down to the bridge. That's
21 where I live, down at that bridge.

22 Q How far away is that from this property?

23 A About a mile or so.

24 Q And after you left the civil service in 1954, what
25 did you do?

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1 A I went to Pope and Bennett, the place Kmart at now,
2 and I got a job there.

3 Q Where is that?

4 A Right where Kmart at now.

5 Q Oh, okay.

6 A And I got a job there.

7 Q All right. And how long?

8 A Five years.

9 Q And then where did you go?

10 A I left there. I went with the County.

11 Q And worked with Mr. Rogers?

12 A Yes, sir.

13 Q For how long did you work with the County?

14 A I worked with the County about seven years or eight
15 years.

16 Q And after that?

17 A Went to Ports Authority or Charleston, the Ports
18 Authority down in Port Royal.

19 Q Okay. I gotcha. So all your jobs were local here
20 in the Beaufort area?

21 A Yeah. Right there in Ports Authority until Ports
22 Authority [verbatim]. I don't know how they got that
23 business but somebody lease it or something.

24 Q Okay.

25 A And, after that, I went to -- after Ports Authority,

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1 I went to work for Port Royal Clay Company.

2 MR. KUHN: There was a -- skip over the court
3 reporter's comments and go to page 54, line 7.

4 A Port Royal Clay Company.

5 BY MR. KUHN:

6 Q So Michael Rivers was planting on what you said your
7 property -- where was he planting? What area? Can you
8 show me on the plat?

9 DR. TAUB: I'm sorry, Mr. Kuhn. What page and what
10 line?

11 MR. KUHN: Page 54, line 7.

12 DR. TAUB: Line 7.

13 BY MR. KUHN:

14 Q So Michael Rivers was planting on what you said your
15 property -- where was he planting? What area? Can you
16 show me on the plat?

17 A Where he was planting?

18 Q Yes, sir.

19 A I can't show you on that -- on the plat because it
20 ain't no planting been going on.

21 Q So can you show me on the diagram? Was it the same
22 area that you and your grandfather had planted?

23 A Oh, it's a little bit behind that.

24 MR. GRABER: Fred, your question is confusing.

25 Would you say your question again? Because I think I'm

1 confused.

2 A I don't pick up on it.

3 MR. GRABER: I'm confused by the question.

4 BY MR. KUHN:

5 Q Sure. When you saw Michael Rivers farming on the
6 land, you believe it was your land, is that the same area
7 that you and your grandfather had farmed before?

8 MR. GRABER: Fred, let me interpose an objection to
9 the form of the question. I don't recall that his
10 testimony -- I don't recall that testimony, so I'm going
11 to object to the question -- that form of the question.

12 BY MR. KUHN:

13 Q Mr. Jenkins, you can go ahead and answer.

14 MR. GRABER: You got to answer the question.

15 A What did you say, Mr. Fred? Say it again.

16 BY MR. KUHN:

17 Q You saw Michael Rivers farming on the land, you
18 believe it's your land. Was that the same spot that you
19 and your grandfather had farmed?

20 A I never seen Mike Rivers farm. I just see him plant
21 little flowers and a Christmas tree. But, yes, that's
22 where me and my grandfather used to farm.

23 Q But he was planting the flowers and the trees in the
24 same spot that you and your grandfather used to farm?

25 A Yes, sir.

1 Q To be sure I'm clear, you have never seen Michael
2 Rivers or nobody ever farm that land since your
3 grandfather passed away?

4 A No, sir.

5 Q All right. That's all the questions I have,
6 Mr. Jenkins. Thank you.

7 MR. GRABER: Your Honor, forgive me, I have a little
8 follow-up here.

9 THE COURT: Certainly.

10 REDIRECT EXAMINATION

11 BY MR. GRABER:

12 Q Ben, you mention that there was an altercation
13 involving [indiscernible]?

14 A Yes.

15 Q Now, when -- do you remember when that was?

16 A No. I'd have to call Mr. Tab to find out exactly.

17 Q Now, when you met Mr. Tab -- well, who is Mr. Tab?

18 A Mr. Tab is an attorney.

19 Q Is that Mr. Tab Bendle, B-e-n-d-l-e?

20 A Yes, sir.

21 Q Okay.

22 A I used to go to Mr. Gibson, but Mr. Gibson retired,
23 so he turned me over to Mr. Tab.

24 Q Okay. Now, I think I heard you say the dispute over
25 the [indiscernible] that involved Shirley Mark and

1 Arabelle Bonds?

2 A Right.

3 Q Is that correct?

4 A Correct.

5 Q Okay. Now, I'm looking at the deed here that says
6 they got the property in 2001. Excuse me. 2006. 2006.

7 A Uh-huh.

8 Q Does that sound right to you? That may be the
9 septic tank thing -- that may be the septic tank thing
10 happened in 2006.

11 A Right. Right, right.

12 Q Okay. So tell me again where -- show -- let's go
13 back to the first plat. Show me on here -- well, show us
14 on this -- or can you show us where the septic tank is
15 located?

16 A At Mr. Rivers' house right there.

17 Q Okay. Put an S for septic tank so we know that.

18 MR. GRABER: One of those should have a little S
19 some place.

20 I'm sorry, David, where --

21 DR. TAUB: 13. 13.

22 MR. GRABER: 13.

23 BY MR. GRABER:

24 Q Okay. So, in 2006, how did this thing come up? Who
25 brought it up? Who wanted the septic tank?

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1 A What?

2 Q Who wanted the septic tank there?

3 A Michael put it there but without anybody's
4 permission.

5 Q All right. Did he do that before Ms. Mack and
6 Ms. Bonds bought the property?

7 A Right.

8 Q Okay. All right. So what did you do when he put
9 the septic tank up?

10 A After I found out that he had a septic tank there,
11 when Ms. Bonds and them were going to get the property,
12 and I tell them that they have that septic tank on my
13 property. But after it was her, I wouldn't make her dig
14 it up. I let it stay there until it needed repairing, but
15 you can't run the line back on my property.

16 MR. GRABER: Okay. Court reporter: Until they
17 leave the -- until they leave the what?

18 THE WITNESS: What, ma'am?

19 MR. GRABER: You would let her stay until they
20 leave...

21 THE WITNESS: Need to be fixed somehow, until the
22 septic tank needs to be repaired.

23 MR. GRABER: Oh, thank you.

24 THE WITNESS: But they can't put another one there.

25 BY MR. GRABER:

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1 Q Okay. Did this result in a meeting? Was there a
2 meeting involving figuring out how long the septic tank
3 would stay or it would go? Was there a meeting?

4 A We met with Mr. Tab, but Michael had losed the
5 property and his aunt was going to get it.

6 Q All right. So you went to Mr. Bendle. Is that when
7 you say -- when you say -- Mr. Tab --

8 A Brendle [verbatim], right.

9 Q Okay. Why were you at Mr. Bendle's office or were
10 you at his -- or were you at his office?

11 A Yes.

12 Q Okay. And who was there? Who was in the room?

13 A Shirley Mack, her daughter.

14 Q Okay.

15 A And I think my wife. And I think it might have been
16 one more person. I don't know.

17 Q Okay. Was Mr. Bendle there?

18 A Yes. Yeah, Mr. Brendle [verbatim] there.

19 Q Okay. And was Mr. Rivers there -- Mr. Michael
20 Rivers?

21 A Yeah, he was there.

22 Q Okay. So what was the outcome of the meeting?

23 A Ms. Mack got the house. She got the house and paid
24 for the house for him so he could have some place to live.
25 Mr. Tab told him he was going to take the money and give

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1 it to your aunt every month and make sure of that.

2 DR. TAUB: Mr. Kuhn, line 16?

3 MR. KUHN: I'm sure it wasn't anything important.
4 I'm reading ahead. Sorry. Didn't read my part.

5 MR. GRABER: Okay. Fred says, "I'm going to object
6 as hearsay.

7 Mr. Graber: "I think you're right. You can't
8 really say what somebody else said."

9 A Okay.

10 BY MR. GRABER:

11 Q But what somebody else said, we can get that
12 testimony -- we can't get it today, we can't get it today.

13 But in the room on that day, was Mr. Bendle there;
14 yes or no?

15 A Yes.

16 Q And Ms. Mack?

17 A Mack.

18 Q Arabelle Bonds?

19 A Right.

20 Q Mr. Rivers?

21 A Yeah. Shirley Bonds [verbatim].

22 Q And there was an issue on that day, and that issue
23 on that day was the septic tank?

24 A Yeah.

25 Q Or was there some other issue?

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1 A I'm trying to think. The issue with that day was
2 Ms. Mack was going to get the building.

3 Q Did she get it? To continue to use the septic tank,
4 was she going to be allowed to continue to use the septic
5 tank?

6 A Right. Yes, sir.

7 Q Okay. So there was an agreement that was reached by
8 all parties by the use of the septic tank?

9 A Right.

10 Q Okay.

11 A Until it went bad.

12 Q.. Okay. Was your agreement put in writing?

13 A Pardon?

14 Q Was the agreement between all parties regarding the
15 septic tank, was that put in writing?

16 A Yes, sir.

17 Q Okay. And we should be able to find that writing
18 some place?

19 A Mr. Brendle [verbatim] -- Bendle --

20 Q Okay.

21 A -- write it down.

22 Q So you had a dispute over the septic tank.

23 A Yeah.

24 Q Did you have any other disputes in the 2000s over
25 that property?

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1 A I got at him more than one time. I can't remember
2 exactly what time it was, but that same property, I got
3 after him more than one time.

4 Q Was Mr. Bendle involved in that, or Mr. Gibson? Did
5 they -- were they involved in those disputes?

6 A I'll tell you, Mr. Bendle but not Mr. Gib- -- but
7 not -- Mr. Gibson was gone.

8 Q Okay. So Mr. Bendle was involved?

9 A Yeah.

10 Q Okay. So now I know he was involved with the septic
11 tank, but he was involved -- was he involved on -- in any
12 other dispute on the disputed property? Anything else?
13 Was there any other argument about it?

14 A I don't remember, to tell you the truth. You got to
15 call him and get that answer from him because I don't
16 remember.

17 Q Okay. Now, I think I heard you -- I heard you say
18 that -- to Mr. Kuhn that there was some, like, trees --
19 Christmas trees on the property. Would you point to
20 Plaintiff's Exhibit 3 and tell me where those -- point to
21 where those Christmas trees were.

22 A Right here. Michael started planting them trees.

23 MR. KUHN: Where are you at?

24 BY MR. GRABER:

25 Q How many trees out there were there?

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1 DR. TAUB: Line 8, Mr. Graber.

2 MR. GRABER: Line 10. Oh...

3 BY MR. GRABER:

4 Q Well, just -- yeah. Okay. Put them right -- yeah.
5 How many of them were out there?

6 A Well, just -- yeah, okay. Put them right --

7 DR. TAUB: Oh, I'm sorry. Reading your role.

8 A One Christmas tree. And he plant other shrubberies.

9 BY MR. GRABER:

10 Q Okay. Now, when were those Christmas trees put in?
11 When were they put in place?

12 A I don't know. I used to pass there and say you
13 always planting something sometimes, but I don't know
14 exactly what he was putting.

15 Q Would that -- would it have been -- okay. Would it
16 have been after Mack and Bonds had left the scene or were
17 gone?

18 A He'd been putting it in before they left the scene
19 and after.

20 Q So he put -- in the Christmas trees down there, how
21 many trees would that be?

22 A He had one Christmas tree and some other little
23 shrubbery things in there.

24 Q Did you call Mr. Gibson or Mr. Tab after that?

25 A No.

1 Q Okay. Okay. And these trees are there now?

2 A Yes, sir.

3 Q Okay. All right. And what other things did he do
4 in this disputed area besides the Christmas trees down
5 there?

6 A Put up a fence.

7 Q Okay. And would that fence be this fence up here,
8 up at the top?

9 A No. He put one up at the front of the road.

10 Q Okay. So point out where that would be.

11 Okay. This here? Okay. Where did he put that
12 fence?

13 A I don't really know.

14 Q Did he put the fence in recently, in the last two or
15 three years?

16 A Yes.

17 Q Okay. Yeah, now Mr. Jenkins, behind the house,
18 there's like a little shed over in this little area about,
19 I think, right around in here. Do you remember the shed?

20 A That shed is supposed to be on his property, not
21 mine. I don't know how it was. This, my property, come
22 here and go that-a-way and come down by Sumpters.

23 Q Okay. All right.

24 MR. GRABER: Fred, I think that's all I got.

25 MR. KUHN: Just a few points to follow-up on.

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RECROSS-EXAMINATION

BY MR. KUHN:

Q Mr. Jenkins, I couldn't hear you, but the shed that you were talking about, that's a shed that who put up?

A I don't know.

Q Could it have been Harrison Rivers that put it up?

A No.

Q Was it Michael Rivers who put it up?

A Could have been him because Harrison Rivers and Ophelia were dead.

Q And about when was that shed put up?

A About when?

Q Yes, sir. When was it -- when did it come into existence?

A I don't know, because I didn't pay that much attention to it.

Q More than 20 years ago, you think?

A More than four years?

Q Twenty.

A No.

Q Is it still there today?

A No.

Q What happened to it?

A I don't know.

Q How long has it been gone?

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1 A I don't know.

2 Q But it was on part of the disputed property, the
3 property that you claim is yours?

4 A Don't really know because the way that the fence
5 come, no, I don't think so. But, see, he had a bunch of
6 old cars and stuff back there.

7 Q Is that on what you believe was your property?

8 A Yes, sir. In the back. He had old cars, trucks,
9 tractors, all kinds of stuff. I had to get the sheriff to
10 go over there and tell him, because every time I tell him,
11 he want to get in -- every time I tell him, he want to get
12 into some kind of argument.

13 Q When you say "he," are you talking about Michael
14 Rivers or Harrison Rivers?

15 A Michael Rivers. Every time you tell him he got to
16 move them cars, that old truck and stuff, he want to get
17 in some kind of argument.

18 Q Who were you talking about?

19 A Michael Rivers.

20 Q All right.

21 A So I gone and got the sheriff. I forgot what year
22 it was. And all that time, he finally move over. He
23 still didn't have it all clear except the doors and the
24 hood there right now.

25 Q Do you remember if Harrison Rivers had a hog pen

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1 back there behind his house?

2 A I don't know.

3 Q What about a horse stable or a mule stable? Do you
4 know if Harrison Rivers had that behind his house?

5 A Not that I know.

6 Q The septic tank -- when you met with Mr. Tab, that
7 septic tank was already in place?

8 A The septic tank? The line was running on my
9 property, and when we met with Mr. Tab, his aunt was going
10 to get the place.

11 Q All right. Let me stop you right there. At that
12 time, was that drain field, that septic tank, already in
13 the ground?

14 A Yes, sir.

15 Q For how long had it been in the ground by the time
16 you met with Mr. Tab?

17 A I don't know.

18 Q Was it brand new or had it been there a good while?

19 A It seemed like it had been there for a while.

20 Q Okay. Now, was there -- the house that's there now,
21 is that the house that's been there the whole time or was
22 there originally another house?

23 A I don't know. The one my granddaddy sold him and
24 Ophelia sold him -- and Ophelia, that -- that's what him
25 and Ophelia were living in. But how long ago since

1 that -- because I don't think they put that there because
2 I think they were already dead.

3 Q Put what there?

4 A The septic tank. I don't think they had no septic
5 tank at that house then. I mean, no indoor plumbing.

6 Q In the house that's there --

7 A I can't swear to that now, but I just --

8 Q The house that -- I'm sorry; go ahead and finish. I
9 didn't mean to cut you off.

10 A I can't swear to it, that plumbing was in the house
11 or not, if Ophelia and her husband put it there or
12 Michael. But I know the drain field was on my property.

13 Q The house that's there now, is that the same house
14 that your grandfather sold to Harrison and Ophelia Rivers?

15 A Well, I can't swear to that because I wasn't born
16 yet.

17 Q Is that the only house that you have ever known to
18 be there, the house that's there now?

19 A Yes, sir.

20 Q That's all I have. Thank you.

21 FURTHER REDIRECT EXAMINATION

22 BY MR. GRABER:

23 Q Ben, you mentioned that Michael Rivers had some old
24 cars on your property --

25 A Yes, sir.

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1 Q -- that you got the sheriff to move. Would you put
2 out here where those old cars might have been?

3 A Right across the back of there.

4 Q Okay. Just put on there where they might have been.
5 Put a big C.

6 There you go. All right. Good, good. Yeah. Put
7 how many cars were there? How many cars were there?

8 A I seen them. I saw some. I saw a couple of cars,
9 trucks, an old trailer and other stuff, all the debris.

10 Q Okay. Was this when Mike was [indiscernible] on the
11 property?

12 A Yes.

13 Q Was this when he was still on the house or was it
14 after he lost the house?

15 A I don't know. I think he took it over there before
16 he lost the house.

17 Q And so how many cars were over there?

18 A I don't really recall.

19 Q But was there more than one car?

20 A Oh, yeah. A lot of old junk stuff.

21 Q And I mean, we're talking four or five? How many?
22 Six?

23 A Maybe three. Old truck.

24 Q Three trucks?

25 A An old truck and all kinds of junk. Anything he

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1 didn't want, he'd throw over the fence.

2 Q And when you say "all kinds of junk," you mentioned
3 a tractor. Was there a tractor there too?

4 A I don't remember. I don't recall.

5 Q All right. What was the "all kind of junk"? What
6 was the other junk?

7 A The cars, the car door and stuff that wireless --
8 wires and all kinds of stuff.

9 Q Okay. So you went to Mr. Rivers and asked him to
10 move those? Or what did you do?

11 A I went there because we're going to have an argument
12 so I go on and got the sheriff.

13 Q Okay. And you say "the sheriff." Did you call the
14 sheriff or did you go to the sheriff's office? How did
15 you call the sheriff?

16 A I called him because somebody told me I could call
17 the sheriff there.

18 Q Okay. Did they come out on the property?

19 A Yes, sir.

20 Q And what did they do when they got to the property?

21 A They go to Michael's house and knock on the door and
22 then he come back, said nobody come out the house. But I
23 know he still been there because the car's been in the
24 yard. But he won't come out after he sees the sheriff, I
25 guess.

- 1 Q Well, did the sheriff ever talk to him?
- 2 A I think they did because the stuff was gone.
- 3 Q All right. So quickly after the sheriff was there,
- 4 the stuff was gone?
- 5 A Maybe a couple of weeks.
- 6 Q Okay. We're talking about three or four cars.
- 7 There were that many cars? That were how many cars?
- 8 A I don't remember, to tell you the truth. It may
- 9 have been two or three or four.
- 10 Q Okay. Were you -- and were -- and where you have
- 11 drawn those cars is below the fence that Michael put up
- 12 there; is that correct?
- 13 A Yeah.
- 14 Q Okay. So it's below the fence or to the south of
- 15 the fence you called this?
- 16 A Michael got the fence too high.
- 17 Q Okay.
- 18 A That fence ain't supposed to be there.
- 19 Q Gotcha. But I'm saying those old cars were below
- 20 his?
- 21 A Yeah. On the other side of the fence.
- 22 Q Okay.
- 23 A Because this Michael property here.
- 24 Q Yes. Yeah.
- 25 A It come right here.

1 Q Right, right.

2 A So that fence wasn't up there.

3 Q Okay. But you called the sheriff, and there should
4 be some record somewhere of when that happened, when he
5 did it. Okay?

6 MR. GRABER: Fred, that's all I got.

7 THE COURT: That's it?

8 MR. KUHN: That's all I had. Yes, Your Honor.

9 THE COURT: All right. You can step down, sir.
10 Thank you.

11 DR. TAUB: Is my audition over?

12 THE COURT: Yes, sir. You get an Emmy.

13 DR. TAUB: It was a pleasure, Your Honor.

14 THE COURT: You as well.

15 Marking that as 23?

16 So, Counsel, are you moving in the deposition as an
17 exhibit?

18 MR. GRABER: Yes, I'd like to, Your Honor.

19 THE COURT: And that would be 23.

20 Is that without objection, Mr. Kuhn?

21 MR. KUHN: Yes, Your Honor. That's fine.

22 (Plaintiff's Exhibit No. 23, Deposition Transcript
23 with Exhibits, was marked for identification and received
24 into evidence.)

25 THE COURT: Okay. You may call your next witness.

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1 MR. GRABER: Your Honor, I would call Ms. Carol
2 Jackson.

3 THE CLERK: Raise your right hand for me.

4 CAROL JACKSON,
5 after having been duly sworn, was examined and
6 testified to as follows:

7 THE CLERK: And once you're settled, if you'll just
8 state your first and last name and spell it out for the
9 court reporter.

10 THE WITNESS: Carol Jenkins Jackson. J-a-c-k-s-o-n.

11 THE COURT: Your witness.

12 DIRECT EXAMINATION

13 BY MR. GRABER:

14 Q Ms. Jackson, would you tell the Court, please, your
15 age.

16 A Sixty years old.

17 Q And where do you live?

18 A Stafford, Virginia.

19 Q Okay. And who is your father?

20 A Benjamin Jenkins.

21 Q Okay. And is your father still living?

22 A No, he's not.

23 Q And are you in the process of probating his estate?

24 A Yes.

25 Q Are you a personal representative?

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1 there?

2 A Yes.

3 Q And this was -- this was when?

4 A About 1972, '74 sometimes, because between 10 and
5 12, I would go over there.

6 Q Just one final question: Are you -- as I understand
7 it, you are probating this estate -- your father's estate?

8 A Yes.

9 Q And are you a beneficiary under the will?

10 A Yes, I am.

11 Q Thank you. That's all I have.

12 THE COURT: Cross-examination?

13 MR. KUHN: No questions, Your Honor.

14 THE COURT: You may step down, Ms. Jenkins.

15 THE WITNESS: Thank you.

16 THE COURT: You may call your next witness.

17 MR. GRABER: Your Honor, we would call Judy
18 Watkins -- Ms. Judy Watkins.

19 THE CLERK: Please raise your right hand.

20 JUDY WATKINS,

21 after having been duly sworn, was examined and
22 testified to as follows:

23 THE CLERK: And once you get settled, if you'll just
24 state your first and last name and spell out your last
25 name for the court reporter.

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1 THE WITNESS: Judy Watkins. W-a-t-k-i-n-s.

2 THE COURT: Your witness.

3 DIRECT EXAMINATION

4 BY MR. GRABER:

5 Q Judy, would you tell the Court, please, your date of
6 birth.

7 A March 1965.

8 Q And are you related to Ben Jenkins? Or were you
9 related to Ben Jenkins?

10 A Yes, sir.

11 Q And how so?

12 A I'm his daughter.

13 Q Are you currently probating your father's estate?

14 A Yes, I am.

15 Q And are you a personal representative?

16 A Yes.

17 Q Are you standing here today in this lawsuit on
18 behalf of your father?

19 A Yes, I am.

20 Q Ms. Watkins, when -- did you, yourself, ever visit
21 the property in question?

22 A Yes, sir.

23 Q And when did you visit the property?

24 A I have been out there a number of times. I don't
25 remember or recall what years, but I have been out there

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1 A Yes, sir.

2 Q And would you point out where those cars were?

3 A To the best of my recollection -- recollection, they
4 were in this area here. And there was -- when I went out
5 there, I know there was a [indiscernible] out there and
6 there was a fence around -- well, [indiscernible] that
7 way, but there was a fence around the property. But all
8 of the junk was, like, back here.

9 Q And when you say "junk," the junk cars were?

10 A Yeah, there was cars. I said I noticed, you know,
11 an old vehicle, and the rest of it just looked like junk
12 to me. That's how I'd describe it.

13 Q And did you observe any growth, any plants, any
14 crops on the property that you were standing on here?

15 A No, sir.

16 Q And about, again, how frequently would you go out to
17 the property?

18 A It wasn't any set time that we'd go out there, but I
19 have been out to that property quite a few times. I have
20 passed that property frequently driving back and forth on
21 several. I have a friend that lives out there and a
22 couple people I go to church with and going to their homes
23 on occasions to events that they would have at their home.
24 I traveled the road [indiscernible].

25 Q Do you have anything else you'd like to add to the

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1 BY MR. GRABER:

2 Q So, as I understand it, there was a shed in the
3 disputed property for a time after this lawsuit commenced?

4 A Yes, sir.

5 Q And that shed is now pushed someplace else?

6 A Yes. It was -- it was [indiscernible] towards the
7 front, and the last time I went there, it was pushed
8 further back towards this way.

9 Q But it's still on the disputed property?

10 A The last time I saw it, it was still on the
11 property.

12 Q And it was put up there after the lawsuit was filed?

13 A After the lawsuit was issued.

14 Q Okay. And, as I understand it -- or is there
15 anything else now in the disputed area besides that shed?
16 Is there anything --

17 A Well, there's a fence. The fence is still up there.

18 Q Okay. And when was that fence put up?

19 A I'm not -- I don't know exactly when it was put up,
20 but it was between -- I believe it was between November of
21 2018 and sometime in 2019 [indiscernible].

22 Q And that is the fence that sparked this lawsuit?

23 A Yes.

24 Q All right. Would you answer any questions Mr. Kuhn
25 has?

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1 MR. GRABER: That's all I have.

2 THE COURT: You may step down, ma'am. Thank you.

3 THE WITNESS: Thank you.

4 THE COURT: Is everybody okay? Anybody need a
5 break? Everybody good?

6 All right. You may call your next witness.

7 MR. GRABER: Your Honor, that is -- my case. I
8 think it's my case; I don't see anybody else. I believe
9 that's the extent of my case.

10 THE COURT: All right, sir. Any motions or anything
11 at this juncture?

12 MR. KUHN: Not from the defendants, Your Honor.

13 THE COURT: All right, sir.

14 All right, Mr. Kuhn. You may call your first
15 witness.

16 MR. KUHN: I'd call Mr. Bonds, Your Honor.

17 THE CLERK: Please raise your right hand.

18 RICKY BONDS,

19 after having been duly sworn, was examined and
20 testified to as follows:

21 THE CLERK: Have a seat. It is a little bit of a
22 squeeze in there. And if you'd just state your first and
23 last name, and spell out your last name for the court
24 reporter.

25 THE WITNESS: My name is Ricky Bonds, B-o-n-d-s.

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1 THE COURT: Your witness.

2 MR. KUHN: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. KUHN:

5 Q Mr. Bonds, what is your address?

6 A 251 Ball Park Road.

7 Q Ball Park Road? That's the same Ball Park Road
8 that's been shown on this plat that we have been talking
9 about?

10 A Yes, sir. Yes, sir.

11 Q And how far is your house from this property?

12 A I think around about a mile and a half or a mile.

13 Q For how long have you lived in that area?

14 A All my life. I'm 67 years old.

15 Q Are you familiar with this piece of property?

16 A Yes, sir.

17 Q Do you know where Michael Rivers lives --

18 A Yes, sir.

19 Q -- and the house he's in?

20 A Yes, sir.

21 Q Did you know his parents, by any chance --

22 A Yes, sir.

23 Q -- Harrison Rivers and Ophelia Rivers?

24 A Yes, sir. I raise up with them.

25 Q You were raised with them. What do you mean by

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1 that?

2 A Well, I'd be there most -- all the time, you know,
3 his mother -- his mother [indiscernible]. I was there
4 most every other -- every other day almost.

5 Q Did you ever see any indication that Harrison Rivers
6 was farming this property?

7 A Yes, sir.

8 Q And what did you see that led you to believe that he
9 was farming the property?

10 A They farm meadows and stuff over there.

11 Q You say "they farm." Who?

12 A Mike Rivers and his dad. Mike Rivers, mama, and
13 daddy.

14 Q And what area of the property did they farm? Could
15 you show on the plat?

16 A Same place -- same place where the septic tank at.
17 That's what I see -- that's where I -- that's where they
18 plant it, where the septic tank at.

19 Q The septic tank beside the house?

20 A Yes, sir.

21 Q So that would be this area to the west of the house?

22 A Yes, sir.

23 Q And how big an area did they plant? I mean, are we
24 talking a small plot like the size of these tables or --

25 A No, sir.

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1 Q How much of that land did they plant?

2 A They plant most all the plants close to the house on

3 the next side.

4 Q Mr. Amos Williams's house?

5 A Not -- yeah, not that one. I'm talking about the

6 one on the next house.

7 Q The [indiscernible]?

8 A The house before -- in front of Amos Williams.

9 Q Is that Mr. Rivers' grandfather's mother's house?

10 A Yes.

11 Q And Mr. Rivers' grandmother, she lives over in this

12 area down here, further down Seaside Road?

13 A No. She live around the side of that.

14 Q I need you to show me.

15 A Okay.

16 Q And on that, if you could show us, how much of that

17 was being planted or farmed?

18 A [Indiscernible].

19 Q And --

20 A [Indiscernible].

21 Q Thank you.

22 A [Indiscernible]. That's Seaside Road right here.

23 Q Seaside Road?

24 A Right here.

25 Q [Indiscernible].

- 1 A [Indiscernible].
- 2 Q And was this just a one-time thing that they farmed
- 3 this land?
- 4 A They farmed it every season.
- 5 Q Every season?
- 6 A Yes.
- 7 Q Do you mean every year or every --
- 8 A Every year.
- 9 Q And "they" being who? The Rivers family?
- 10 A Rivers family.
- 11 Q And how do you know that?
- 12 A Because I be over there all the time. I raise up
- 13 there.
- 14 Q From -- about how old would you have been maybe the
- 15 first time --
- 16 A Let's see --
- 17 Q -- [indiscernible] that property?
- 18 A Okay. I was around by like -- at least around about
- 19 11 or 12.
- 20 Q And we're talking about -- what year is that?
- 21 A That's around about like -- I think around about
- 22 like -- let me see. Around about '70 -- no. Probably
- 23 sixty --
- 24 Q What year were you born?
- 25 A '54.

1 Q All right. About 11 years after '54?

2 A Yeah.

3 Q All right. And for how long did that continue? One
4 or two years or....

5 A I think -- around about three or four -- well, I
6 know it was four or five years.

7 Q Did they do anything else on the property? Have
8 horses? Hogs?

9 A They had horse -- they don't have -- they had horses
10 and stuff. They had a barn and everything on back there
11 and everything.

12 Q So behind the house, they had, what, a stable of
13 some sort?

14 A They had a stable back there on the next
15 [indiscernible].

16 Q So that would be -- so the other side from where the
17 farm was taking place?

18 A Right.

19 Q Any other animals that you recall?

20 A No.

21 Q All right, Mr. Bonds. Thank you.

22 THE COURT: Mr. Bonds, do you mean on the right-hand
23 side of the house?

24 THE WITNESS: On the left-hand side of the house.

25 On the left hand. They'd be on the right -- on the

1 left-hand side.

2 THE COURT: Can you point it out for me? Sorry to
3 make you get up and down.

4 MR. KUHN: If it's easier to reach, you can stand up
5 here.

6 THE WITNESS: Here. On this side right here.

7 THE COURT: That's where the animals were?

8 THE WITNESS: Yes. Yes.

9 THE COURT: Okay.

10 CROSS-EXAMINATION

11 BY MR. GRABER:

12 Q Mr. Bonds, hang around just a second, if you would.
13 When Mr. Kuhn, my colleague, asked you about farming, I
14 thought I saw you pointing to this area here; is that
15 correct?

16 A Yes.

17 Q Okay. So they farmed in this area here and they
18 farmed on the other side of the house?

19 A No, they didn't farm back there. [Indiscernible]
20 put the horse stable [indiscernible].

21 Q You're right. You're right. Okay. Horses on the
22 other side.

23 A Yes.

24 Q But farming inside --

25 A They farm -- they farm a little bit back

1 [indiscernible].

2 Q Okay. A little bit -- but you pointed inside this
3 triangle as being farmed?

4 A Yeah, back there.

5 Q And you said that you remember being 11 or 12 and
6 Mr. Kuhn did a little arithmetic and that was about 1965.
7 And you remember that going on for three or four years?

8 A [Indiscernible]. I know [indiscernible]. You know,
9 [indiscernible].

10 Q But your testimony was maybe three or four years,
11 farming occurred inside that little [indiscernible]?

12 A Right.

13 Q Thank you.

14 THE COURT: Anything further?

15 REDIRECT EXAMINATION

16 BY MR. KUHN:

17 Q Mr. Bonds, to follow up, did the farming take place
18 outside the triangle or was it solely confined to inside
19 that triangle?

20 A I know -- one thing I know is it's right around the
21 side where the septic tank [indiscernible] -- you know
22 what I'm saying?

23 Q And how far out did it go out from the house?

24 A It go as far as -- well, as much as --
25 [indiscernible] when all the -- when the next

1 [indiscernible] here, they had a house on this side right
2 here.

3 Q Okay. Is that Amos Williams's house or whose house
4 was that; do you recall?

5 A [Indiscernible] Williams' house. There's another
6 house over there.

7 Q Ophelia Rivers?

8 A Yeah.

9 Q Your grandmother?

10 MR. RIVERS: Oh, oh, oh, Dolly Wright. Dolly
11 Wright.

12 THE WITNESS: Dolly Wright.

13 THE COURT: Hold on.

14 MR. GRABER: Somebody has to --

15 MR. RIVERS: Excuse me.

16 BY MR. KUHN:

17 Q Do you know who Dolly Wright is?

18 A This would be [indiscernible] aunt.

19 Q Okay. And where was her house located?

20 A Right on the side [indiscernible] Michael Rivers and
21 others, on this side.

22 Q And how close did the farming go to that house that
23 was next door?

24 A [Indiscernible]. I'd say around [indiscernible].

25 Q And the farming that took place away from the

1 Rivers' house, in other words, if this is the Rivers'
2 house here, the drain field is here, how far towards the
3 west [indiscernible]?

4 A I'm going to --

5 MR. GRABER: Your Honor, I object. The question is
6 asked and answered. This gentleman has pointed out where
7 there was farming and where -- we're pushing it to the --

8 A Well, I [indiscernible].

9 THE COURT: Hold on, gentlemen. Hold on.

10 Mr. Bonds, if you know, can you tell me where
11 exactly you're talking about there was farming?

12 THE WITNESS: All right. There was farming right in
13 this area.

14 THE COURT: All right, sir.

15 In that triangle area?

16 THE WITNESS: Yes, ma'am.

17 THE COURT: All right. Thank you.

18 BY MR. KUHN:

19 Q How big was that farm plot?

20 A Huh?

21 Q How big was that farm plot? Only from you to me?
22 Is that how big it was?

23 A No. Farther than that.

24 Q How far?

25 A I can't say how far it is, but farther than that.

1 Q Farther than that?

2 A Yeah, yeah. Farther than that.

3 Q Wider than this courtroom?

4 A Yes. Yes. Yes.

5 Q So it extended from the house, the size of this
6 courtroom?

7 A Yes.

8 Q So it was a fairly big farm plot?

9 A Fairly big, yes.

10 MR. GRABER: Your Honor...

11 MR. KUHN: That's all I have.

12 THE COURT: All right. Anything further?

13 MR. GRABER: Nothing further.

14 THE COURT: You can have a seat, sir. Did you leave
15 anything up here? All right. Thank you, sir.

16 You may call your next witness.

17 UNIDENTIFIED SPEAKER: Your Honor, would you have
18 any objection if I moved up a little closer?

19 THE COURT: No, sir. That's fine.

20 THE CLERK: Please raise your right hand.

21 DORIS HOLMES,

22 after having been duly sworn, was examined and
23 testified to as follows:

24 THE CLERK: Once you get settled, just state your
25 first and last name, spelling out your last name for the

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1 court reporter. Okay?

2 THE WITNESS: Okay. My name is Doris Holmes.

3 H-o-l-m-e-s.

4 THE COURT: Your witness.

5 MR. KUHN: If it please the Court, Your Honor?

6 THE COURT: Yes, sir.

7 DIRECT EXAMINATION

8 BY MR. KUHN:

9 Q Ms. Holmes, what is your address?

10 A It's 81 Queens Road, St. Helena Island, Saxonville.

11 Q And how far is that from the Rivers' property?

12 A About a mile and a half.

13 Q Okay. And are you familiar with the Rivers'
14 property?

15 A Yes, I do.

16 Q And how is it that you're familiar with it?

17 A From Ms. Rivers and her husband. I used to go over
18 there and help them in the field.

19 Q And you're talking about Ophelia Rivers and Harrison
20 Rivers?

21 A Yes.

22 Q That would be the parents of --

23 A Michael Rivers.

24 Q -- Michael Rivers.

25 So you'd go over there and help them in the field.

1 What do you mean by that?

2 A They used to plant, like, peas, corn, tomatoes. I
3 used to go and help them harvest it when it time for it to
4 be picked and stuff like that.

5 Q During what time frame would this have been?

6 A This would have been -- I'm 80 years old. So it
7 was, like, in the '60s until Ms. Rivers got sick and they
8 couldn't plant anymore. Me and my mother-in-law used to
9 walk there and help her harvest her crop.

10 Q And you said until Mrs. Rivers got sick or
11 Mr. Rivers got sick?

12 A Mrs. Rivers. Because Mr. Rivers died before
13 Mrs. Rivers.

14 Q So Mrs. Rivers continued to plant the land after
15 Mr. Rivers passed away?

16 A Yes, until she got sick and couldn't go in the field
17 anymore.

18 Q So she passed away March 28 of 1991. Is that
19 consistent with your memory?

20 A Yes.

21 Q And for how long was it before she passed that she
22 had to stop farming the land?

23 A About -- she was going [indiscernible] she was
24 feeling bad. About two or three years.

25 Q So up until the late 1980s?

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1 A Yeah. She still was planting her little garden and
2 stuff.

3 Q And when the both of them were farming it or
4 planting it, what -- how big a plot was being planted?

5 A It was a field. Like they plant some of everything.

6 Q Give us perspective using this courtroom as an
7 example of the size. Smaller than this courtroom or
8 bigger than this courtroom?

9 A It's not bigger than this courtroom, but it was a
10 large field.

11 Q And where was this located in relationship to their
12 house?

13 A One was -- she used to plant behind the house and on
14 the side of the house.

15 Q And are you comfortable pointing out on this plat
16 where that would have been? Or are you familiar with the
17 plats? Can you --

18 A I'm familiar with the plats but I ain't -- it's in
19 that triangle and on the other side.

20 Q So on the other side to the --

21 A On the --

22 Q -- left, looking at it?

23 A It was, like, on the left-hand side of the house and
24 in the back.

25 Q And for how long did that go on, planting this

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1 field? How many years?

2 A Every year. Every farming season, they would plant.

3 Q To your knowledge, how many years would that have
4 been roughly? Are we talking two years? Ten years? 100
5 years?

6 A About 20 years or more.

7 Q And in addition to planting, did they have any
8 animals?

9 A Yeah, they had horses. Everybody had to have a
10 horse to plow the fields.

11 Q So this field was big enough where they used a horse
12 to plow it?

13 A Yes.

14 Q This is not a small garden plot like I'd have in my
15 house?

16 A No. They used to plant a lot because that's where
17 all our elderly people use to live off the land.

18 Q And would this be something that would be open,
19 obvious, and apparent to someone who would be driving up
20 and down Seaside Road, that they could see what they were
21 doing?

22 A Most likely because it wasn't that much bushes and
23 stuff.

24 Q That's all I have. Thank you very much.

25 THE COURT: Cross-examination?

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CROSS-EXAMINATION

BY MR. GRABER:

Q Ms. Holmes, again, you're how old? And I'm embarrassed to ask you this question, but....

A I don't mind telling you.

Q Yeah, if you could tell me how old you are.

A I'm 80 years old.

Q Okay. And you were born on St. Helena?

A Yes.

Q And where on St. Helena? Where were you born on St. Helena?

A On St. Helena? I was born on -- well, I was on the born in City Grove but I was raised up on Seaside Road.

Q And I think I -- I was listening to your testimony, and did you say you lived about a mile and a half away?

A Yeah.

Q North of this property? South of the property?

A No, the south.

Q Up towards Coffin Point or towards Grand Wind (ph)?

A No, it's Saxonville on there.

Q Saxon--

A Yeah.

Q Okay. And do you have any recollection of this property in the 1930s?

A I wasn't born then.

all

1 Q Do you have any recollection -- when is your first
2 recollection of this property?

3 A It's, like, in the '50s.

4 Q In the '50s?

5 A Yeah.

6 Q And you would come over -- and tell me again, how
7 would you [indiscernible] your impression of the property?

8 A It was -- Ms. Rivers and my mother-in-law, they were
9 just like sisters, and my mother-in-law, they used to
10 switch it. She plants and Ms. Rivers used to come and
11 help her. And then when Ms. Rivers then plant, me and her
12 used to walk down there and help her.

13 Q And what was she planting?

14 A They plant some of everything. Peas, corn,
15 tomatoes, potato. That's where they lived off the land.

16 Q So you say maybe you began to form an impression in
17 the 1950s. And in the '50s, you were a young -- a young
18 woman?

19 A Yes.

20 Q Okay. And -- 20 years old or younger?

21 A I was older.

22 Q I was listening to your testimony, and Mr. Kuhn said
23 where did -- where did the growing occur on the plat. And
24 could you tell me again where -- where you remember the
25 growing in the '50s taking place?

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1 A I remember it grewed in the -- used to plant in the
2 back of the house and on the side. I don't know -- I
3 can't read the...

4 Q Okay. Let's say the back of the house is up
5 towards --

6 A Yeah.

7 Q -- the top.

8 A Mm-hmm.

9 Q So it would be up beyond -- behind the house.

10 A Behind the house.

11 Q And what was grown behind the house? Was it
12 different than what was grown in front of the house? on
13 the side of the house?

14 A They plant, like, peanuts, corn, peas, watermelon.
15 All that stuff. That's what we lived off.

16 Q So you grew it to live on? to eat?

17 A Yes, yes.

18 Q And I think I heard you say that, in terms of the
19 side of the house -- or did you say, to the side of the
20 house, the growing took place inside of this triangle?

21 A Inside -- if that's the side of the house.

22 Q Yeah. Here's the house. Here's the side of the
23 house.

24 A Side of the house and the back.

25 Q Okay. But I heard you use the word "triangle." So

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1 would it be inside that triangle?

2 A I didn't say "triangle."

3 Q Oh, you did not say it?

4 A No.

5 Q So along the side of the house and in the back of
6 the house?

7 A On the side of the house? Is that the triangle? I
8 can't read it.

9 Q Well, there's just -- there's a triangle that's
10 made -- there's a fence that runs along the side of the
11 house, and then there's Seaside Road.

12 A Mm-hmm.

13 Q And then there's a property line that goes up like
14 this, straight up, which defines this lot over here and
15 that forms the triangle.

16 A Mm-hmm.

17 Q And I heard you say "triangle" and it just pricked
18 my ears up. Is that wrong?

19 A I don't recall saying "triangle," but I said it was
20 on the side -- on the back of the house and on the side of
21 the house.

22 Q And so about how many years did the growing take
23 place alongside the house?

24 A They plant every year. Every season that it's time
25 to plant, they, like, start planting in March until July,

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- 1 they start harvesting.
- 2 Q And that occurred until Mr. Rivers got sick?
- 3 A Mrs. Rivers. Mr. Rivers died before Mrs. Rivers.
- 4 Q I think Mr. Rivers died in [indiscernible]?
- 5 A I don't remember the year, but I know he died before
- 6 Mrs. Rivers.
- 7 Q And so after 1980, she --
- 8 A She still was planting, until she got sick.
- 9 Q And, again, how many rows did she plant?
- 10 A Rows? It was -- can't count the rows. But it was a
- 11 field that you plant this here, this here, that here.
- 12 Potatoes, watermelons, sweet potato, peas, okra.
- 13 Q So that continued until she died?
- 14 A No, until she got sick.
- 15 Q Okay. Until she got sick. And then it stopped?
- 16 A She stopped. She couldn't plant no more because she
- 17 was sick. She couldn't go in the field.
- 18 Q And after that, did Mr. Michael Rivers do any
- 19 planting on the property?
- 20 A Yes, he did.
- 21 Q And what did he do?
- 22 A He plant his same little garden -- the gardens that
- 23 his mother and daddy taught him how to plant.
- 24 Q And where -- did he plant in the same place?
- 25 A The same place.

1 Q And did you help him with that?

2 A No, I didn't help him because I was older. He was
3 younger than me so he -- he did it by -- but he didn't
4 plant a lot like his father and his mother did. He plants
5 a garden.

6 Q A garden?

7 A Yeah.

8 Q So he planted a garden, and that garden will be
9 about -- I think Mr. Kuhn was asking, would it be the size
10 of this courtroom or less?

11 A It's less.

12 Q Less. Maybe about half the size of the courtroom?

13 A It might didn't be that much but he plant -- he
14 plant his little garden -- his little vegetables and stuff
15 so he can have it to eat.

16 Q Gotcha. So I'm standing here -- let's pretend the
17 wall is the side of the house. And the house is right
18 here.

19 A Mm-hmm.

20 Q Let's pretend that wall is the side of the house.
21 Would the garden be this wide or wider than that?

22 A It's wider than that.

23 Q Okay. About this wide?

24 A It's wider than that.

25 Q Okay. Would it be this wide?

1 A Well, I guess it might be wider than that because he
2 would plant his little stuff. You have to have spaces and
3 stuff to plant different stuff.

4 Q But -- okay. How about this wide?

5 A Yeah, that wide.

6 Q All right. So it's between here and the wall?

7 A Yeah.

8 Q Here and the wall. And the wall represents the side
9 of the house?

10 A Mm-hmm.

11 Q So, on the side of the house to me, that would be
12 the width of that garden?

13 A Mm-hmm.

14 Q And how deep -- how long -- how long was the garden?

15 A How long was it?

16 Q Well -- yes. If I'm standing here and I'm looking
17 at the house and I'm looking at Seaside Road, how far did
18 that garden go?

19 A I couldn't tell you the width of it, but it makes
20 the rows and then you plant different stuff.

21 Q I understand what you're saying. I'm just trying to
22 figure out if -- when we got a garden that extends out,
23 let's say, 20 feet or so from the side of the house and
24 then I'm thinking how deep -- did the garden run all the
25 way down to Seaside Road?

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1 A No.

2 Q Okay. Where did it stop?

3 A About the same place that the mother and the -- and
4 his father used to plant. But it wasn't that much. It
5 was less.

6 Q Would you say that, in terms of the length of the
7 garden, let's say the garden is this wide, would a garden
8 run to the door of the courthouse -- the courtroom?

9 A From the bench of the courthouse?

10 Q Yes.

11 A Yeah, it could run that way.

12 Q Okay. So if we go from -- to the doors to the wall,
13 where those pews are, that would be the garden?

14 A From the doors to the wall?

15 Q Yes, ma'am. I'm just trying to figure out how far,
16 how deep the dimensions of it are.

17 A How deep it is? I don't understand how deep it is
18 because when you plant seeds, you have to put it a certain
19 depth.

20 Q I understand. I'm not -- I'm just talking
21 dimensions of the garden. You know, how wide and how long
22 the garden is. I'm just trying to get an idea.

23 A How long and how wide it is?

24 Q Mm-hmm.

25 A Okay. You say from the door to the --

1 Q I'm saying, in terms of the width -- you said the
2 width would be -- we started off with the house -- that
3 the house represented the wall.

4 A Mm-hmm.

5 Q And the house -- the wall of the house to this
6 point, that would be the width.

7 A Mm-hmm.

8 Q And I'm just trying to figure out, in terms of the
9 length of the garden, how far that would be.

10 A From the wall to the --

11 Q I'm just saying maybe --

12 THE COURT: Was it shaped like a square or like a
13 triangle -- I mean a rectangle?

14 THE WITNESS: A square.

15 THE COURT: Like a square?

16 THE WITNESS: Yeah.

17 THE COURT: So all the sides were about the same
18 size.

19 THE WITNESS: Same, mm-hmm.

20 THE COURT: Okay.

21 BY MR. GRABER:

22 Q And you -- do you know when it -- when that garden
23 stopped being planted by Mr. Rivers?

24 A Well, I think he was planting it every year. I know
25 he was planting it, but I wasn't helping him. So I know

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1 he was planting his little garden every year, so I don't
2 know when he stopped planting.

3 Q Thank you, ma'am. That's all I have.

4 THE COURT: Hold on, Ms. Holmes.

5 THE WITNESS: Oh...

6 THE COURT: Any further questions?

7 MR. KUHN: Just real quick.

8 REDIRECT EXAMINATION

9 BY MR. KUHN:

10 Q Ms. Holmes, after Harrison Rivers passed away in
11 1980, did Ophelia Rivers continue to live in the house?

12 A Yes.

13 Q And do you recall if she put a fence up around the
14 house after he passed away?

15 A Yes.

16 Q Do you know why she put that up?

17 A So she can be safe. She was -- you know, didn't
18 want anybody to come in -- into her house.

19 Q And that fence, that's a chain-link fence?

20 A Yes.

21 Q Would this line correspond with how that fence ran?

22 A Yes.

23 Q Okay. And all this planting that took place, this
24 all took place on this side of that fence? Oh, it's on
25 the outside of the fence, not the perimeter

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1 [indiscernible]?

2 A It's on the outside of the fence.

3 Q All the planting would have taken place

4 [indiscernible]?

5 A This was in the back. Yeah, it's in the back and
6 the side.

7 Q And would the planting be right up against the fence
8 or be separated from the fence by [indiscernible]?

9 A It's separated from the fence.

10 Q That's all I have. Thank you.

11 THE COURT: You may step down, ma'am. Thank you.

12 THE WITNESS: Mm-hmm.

13 THE COURT: How long will your next witness be?

14 MR. KUHN: That would be Mr. Michael Rivers.

15 Hopefully 20 -- 15, 20 minutes.

16 THE COURT: All right. You may go ahead and call
17 him.

18 Do y'all want to take a quick break?

19 MR. KUHN: It's up to Your Honor.

20 THE COURT: Why don't we take, like a ten-minute
21 break. We'll be at recess for about ten minutes.

22 (A recess was taken from 3:27 p.m. to 3:42 p.m.)

23 THE COURT: Mr. Kuhn, you may call your next
24 witness.

25 MR. KUHN: If it please the Court, Your Honor, I'd

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1 call Michael Frank Rivers, Sr.

2 THE CLERK: If you'd raise your right hand for me.

3 MICHAEL RIVERS, SR.

4 after having been duly sworn, was examined and
5 testified to as follows:

6 THE CLERK: And once you get settled, just state
7 your first and last name and spell your last name for the
8 court reporter. Okay?

9 THE WITNESS: Okay. Michael Rivers. R-i-v-e-r-s.
10 Michael Rivers, Sr.

11 THE COURT: Your witness.

12 MR. KUHN: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MR. KUHN:

15 Q Mr. Rivers, how old are you?

16 A 64. Oh, I'll be 64 in October.

17 Q What is your address?

18 A 734 Seaside Road.

19 Q Is that the property we're here about today?

20 A Yes, sir.

21 Q This is your home?

22 A Since 1958.

23 Q And that was your parents' home; is that correct?

24 A Yes, sir. Since 1933.

25 Q This is not some development you're trying to

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1 develop to make money on. This is very personal; correct?

2 A Very personal.

3 Q How long -- well, when did you first live on this
4 property?

5 A 1958.

6 Q How old were you at the time?

7 A Six months. Six weeks. I'm not sure. My memory
8 wasn't good back then.

9 Q Do you have siblings?

10 A That's a loaded question but I have a lot of
11 siblings. My father was kind of friendly, but I was
12 raised as an only child.

13 Q Did you grow up in this house?

14 A That house and the house before it.

15 Q Now, the house that's there now, there was another
16 house before this house?

17 A Yes, sir.

18 Q Tell Your Honor about that. How did that come
19 about?

20 A Well, that house -- I lived in that house from '58,
21 and this house started being built in 1970, and we moved
22 in finally in '73 because I remember it was during the
23 time when Joe Lewis -- I mean, Joe Frazier fought Muhammad
24 Ali and we were so proud because Joe Frazier's wife came
25 from our area down in Scott, Ms. Florence, so we were very

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1 proud.

2 Q Just a few miles from you?

3 A Yes, sir.

4 Q Or from your house.

5 Where was the original house in relationship to the
6 current house?

7 A It was on the right-hand side. I can come down
8 there. Would that be better?

9 Q This area right here?

10 A Yes, sir.

11 Q And was there any change in occupancy? Did you and
12 your parents just move from the old house into the new
13 house?

14 A Yes, sir.

15 Q And what happened with the old house?

16 A They ended up tearing it down.

17 Q And what years did you actually live on this
18 property? Go through the sequence of events, the history.

19 A From 1958 -- and I graduated high school in 1976 --
20 I went in the military. I really came back home in 1980.
21 Then I went to Atlanta to school. I would come back, you
22 know, holidays.

23 Then from -- and my mom passed in '91. Still was
24 living there. The only time I haven't been on the
25 property was a couple of times when -- because of

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1 foreclosure. But technically, I have lived there since
2 1958, except for those two times.

3 Q And you live there now?

4 A Yes, sir.

5 Q And when did you start living there again full time?

6 A May 2014.

7 Q And who lives --

8 A From September of -- yeah, May 2014. May 2014.

9 Q Does anybody live there with you?

10 A Not for long. People come and visit but nobody
11 stay.

12 Q Were you married?

13 A No, I had -- you know, I have some [indiscernible]
14 there sometimes, but no, I wouldn't marry. Not then.

15 Q Are you married now?

16 A Yeah, I'm married now. Let me backtrack; I told you
17 an untruth. I -- I guess I'm trying to put my first wife
18 out my brain, but I was married to her, I believe from --
19 we got married in '95 [sic]. We started living there in
20 October of '86. I came back from Atlanta. We lived
21 there, as my mom was living there too, until my mom died
22 in '91.

23 Q And what happened then? Did you continue to stay
24 there?

25 A Continued staying there. Yes, sir. Yes, sir.

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1 Q And you live there now with your second wife?

2 A Yes, sir.

3 Q And how long has she lived there with you?

4 A Been -- boy, I better get this right. 2018 is when
5 we got married, but, you know, before we got married, you
6 know, she would come over sometimes and stay.

7 Q If I can show you a picture here. What does this
8 depict?

9 A That's my mom. That's Monica in front of her. And
10 that's Michelle in my hand when I was hurt (ph). And
11 then, behind that, you can see the brick front -- the
12 brick for the front door to the old house -- I mean, to
13 the front porch of the old house. That's right behind me
14 and my mama right there.

15 Q The house that's in this picture here, that's the
16 new house; is that correct?

17 A Yes, sir. And the sidewalk you see, that was the
18 sidewalk coming up to the old house.

19 Q This here is the sidewalk that led to the old house?

20 A Yes, sir.

21 Q And then these are the stones that were the steps to
22 the porch of the old house?

23 A Yes, sir.

24 Q The old house was situated behind where y'all were
25 standing here roughly?

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1 A No, all of that right -- all of that was part of it.

2 Q Where you're standing was --

3 A Yeah, the house come from there and it come out to
4 the left past this Crepe Myrtle tree.

5 Q And these are your daughters, the two little kids?

6 A Yeah, yeah. Monica and Michelle. They're
7 30-something years old now. 33 and 32, I believe.

8 Q Okay.

9 MR. KUHN: I move to introduce this as
10 Plaintiff's -- or Defendant's 1.

11 MR. GRABER: Let me just ask, when were these taken?
12 I'm just curious, these photos.

13 THE WITNESS: Well, Monica was about -- that's
14 probably about '89, '90.

15 MR. GRABER: Both of these, '89 or '90?

16 THE WITNESS: Yeah. Now, the one of me, now -- the
17 one with me was earlier than that, the one when I was, you
18 know, younger.

19 MR. KUHN: [Indiscernible].

20 THE WITNESS: Yeah.

21 (Defendant's Exhibit No. 1, Photograph, was marked
22 for identification and received into evidence.)

23 BY MR. KUHN:

24 Q The old house that you grew up in, that was situated
25 just in this footprint right here?

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1 A Yes, sir.

2 Q And this little long triangle -- long rectangle,
3 that's the sidewalk that we saw in the earlier picture
4 that led to the original house?

5 A Yes, sir.

6 Q What property did your parents utilize, from what
7 you saw and observed while you were growing up?

8 A Well, we were the only one there at the time, so
9 everything between Mr. Amos Williams' back fence all the
10 way to Mr. Johnny and Ms. Margaret fence and everything
11 going forward. It wasn't nobody there but us back then.
12 So from Amos' corner to Mr. Johnny and Margaret corner and
13 everything in the front -- or everything that clear
14 because that's -- my daddy did farm.

15 Q Mr. Amos, that's the property here?

16 A Yes, sir.

17 Q So from this property to where?

18 A All the way to John and Margaret Laurie Sumpter. My
19 mama would have it cleared off. Mr. Jonas Ladsen,
20 [indiscernible], they would clear it off with tractor all
21 the way to Amos house.

22 Q They would clear the --

23 A If she was living, she'd be mad at me now because I
24 let some of it grow up by Amos.

25 Q So everything between these two parcels -- the Amos

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1 Williams parcel and the Sumpter parcel --

2 A Yes, sir.

3 Q -- your parents utilized?

4 A Yes, sir.

5 Q You said they utilized it. How did they utilize it?
6 What did they do?

7 A Well, they'd clear a piece of ground and daddy
8 plant. In the back, my mom would tell me how she grew
9 peanuts in the back also where she would have turkeys --
10 turkey -- she would grow the turkey -- I mean, turkey
11 would be at. She would tie the turkey out there, she
12 would tell me, right by that stone -- the one that comes
13 straight -- the one that comes straight.

14 Q Let me show you --

15 A That's where the turkey. Yeah, yeah. That's my
16 cheat sheet right there. I remember all that right there.
17 Yep.

18 Q What are these notations? What do they mean?

19 A Them? The one that -- for me that's most in my
20 brain is the top with the rocks and the bricks where you
21 got them X at.

22 Q The rocks and bricks my mom told me --

23 A Yeah, I had put the rocks and bricks and I had some
24 dirt back there as well, and she told me, she said, "Mike,
25 you got it over too far." So I stopped and then I started

1 putting my dirt pile in front of the -- you know, because
2 after she told me I was wrong, I quit. She told me
3 what -- you know, that's what happened.

4 Q From where the Xs were to where the little zeros
5 are?

6 A Yes, sir. Yes, sir.

7 Q About how old were you at that time?

8 MR. GRABER: Your Honor, again, I know we don't have
9 a jury here, but I'm going to just sort of blanket
10 objection to hearsay from people who are not here who can
11 testify. Anything his mother told him or his father told
12 him or somebody else told him, I'm just going to ask this
13 Court to --

14 THE COURT: So, Mr. Rivers, you can testify what
15 about you did based on the information you have, but you
16 can't say as to what anybody told you.

17 THE WITNESS: Okay. Okay. No problem.

18 BY MR. KUHN:

19 Q You initially put rocks and bricks in the location
20 of the Xs, and after an interaction with your mother,
21 moved them to the --

22 A After I -- with more --

23 MR. GRABER: I think he's just asking -- doing the
24 same thing. "After interaction with your mother"? Isn't
25 that a conversation? Isn't that -- an interaction with

1 your mother? I mean, what are these, sign language or
2 something?

3 THE COURT: Well, something happened, and after
4 that, he moved it. So I'll allow that.

5 BY MR. KUHN:

6 Q There's a little rectangle with a narrow storage
7 building. What is that?

8 A Okay. In the corner?

9 Q Yes, sir.

10 A Yeah, that's a house I start building. Yeah, that's
11 like a storage house I started building. And I'm trying
12 to remember -- that would have been -- my mom -- this
13 would have been somewhere around '91, '92ish. Somewhere
14 up in there.

15 Q And then below that's a square with the words "horse
16 stable." What does that signify?

17 A That's where daddy used to -- that's where the horse
18 used to be. And the horse -- there was only just a
19 stable, you know, because of his age, the horse stable was
20 also the bathroom, you know, because of his age. He'd go
21 in there and use the bathroom sometimes. We had a
22 bathroom in the house, but he was born in 1908, so he was
23 used to certain things.

24 Q And when was that horse stable there? When was it
25 being used and when was it operational? How old were you?

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1 A Easily until 1980 because Daddy died in 1980 when
2 somebody poison him. But he never had -- all he used was
3 a horse, so we -- I mean, we needed a horse stable for --
4 the first horse was Sarah. The next horse was Pearl.

5 Q And how old were you first recalled there being a
6 horse stable and horses [indiscernible]?

7 A Oh, man. As soon as I -- my brain could work good.
8 Two, three, four. I mean, because -- I mean, as early as
9 I can remember.

10 Q And they were there -- and why did your father have
11 horses?

12 A Because that was his -- that was his tractor.
13 That's how he used, you know, the farm. Plow the ground,
14 harrow the ground. You know, I mean, that's what he used.

15 Q Underneath that's a smaller square with the words
16 "hog pen." What does that signify?

17 A That's where the hog pen was. And you can still see
18 the -- you can still see the wire in the tree to this day.
19 And if the breeze blow right, you can still smell the --
20 smell the hogs there, if the breeze blow right.

21 Q And who had that hog pen?

22 A My daddy and mama.

23 Q And what is your earliest memory -- how old would
24 you have been when you first realized there's a hog pen?

25 A Ever since I can -- as far as I can remember. Had

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1 to slop the hog and everything.

2 Q And when did the hog pen go -- is the hog pen still
3 being used today?

4 A No. No. I just the fertile ground to plant, you
5 know, flows like azaleas, but no, it's no hog pen. You
6 can't --

7 Q Where did the hog pen go at [indiscernible]?

8 A Daddy -- oh, boy. This would have been late '70s.
9 Late '70s. Daddy died in 1980, so it would have been
10 around that same time, '79, '80. Somewhere up in there.

11 Q If we go out there now, can you see remnants of the
12 storage building, the horse stable, and hog pen?

13 A Yes.

14 Q And what [indiscernible]?

15 A Well, matter of fact, the horse stable, you can see
16 the tree that he had the horse -- I guess you call it the
17 trough or whatever. You can still see it embedded in the
18 tree. And where the hog pen is, you can still see the
19 nails and the wires, you know, that was around the big
20 tree. It's still there.

21 Q And then sort of below and to the left of the hog
22 pen, there's cars and trucks. What does that signify?

23 A Yes, sir. I had a '68 Ford pickup and an '86 RX-7
24 and I had it parked over there. But with me leaving and
25 they wasn't running, but that's -- those are mine. I

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1 bought the '68 Ford pickup truck, a blue one, and I bought
2 a brown RX-7 the first year they came out in 1986.

3 Q Did you ever keep any -- did your folks or anybody
4 ever keep any junk cars?

5 A No. My mama don't play that. No. My mama was a --
6 no, no, no, no. Very -- no, no. And I'm going to tell
7 you why. I'm going to tell you why. And she's always
8 telling me "a lazy man works the hardest." So she would
9 say, "Make you do it right the first time."

10 So if you add junk on the place, that more work you
11 got to do. So you clean it up the first time.

12 Q And to the left of that is where the farm, with two
13 asterisks -- you go down by the two asterisks that were
14 peanuts, what does that signify?

15 A Yeah, my mama -- my mama was clear. Well, can't
16 talk about that. I understood that the ground, because
17 it's higher ground, it's good for peanuts. So I grew
18 peanuts myself. I plant peanuts back there myself. I
19 like peanuts. Right back there where that circle at.

20 And then right by that circle, there's a plum bush
21 that been there forever. And I say this and hopefully I
22 don't overtalk, but when I had to go, allow it to grow up
23 because I know it was there. But all the cleaning that
24 ever happened, my parents did it and I did it.

25 Q And the peanuts, were these peanuts that you

1 planted?

2 A Yeah.

3 Q What about your folks?

4 A They planted too. That's how I got the idea.

5 Q And when did they start planting peanuts there, to
6 your knowledge?

7 A Oh, they did it some, you know, in the '60s and '70s
8 too, but what I remember most was the watermelon, squash,
9 the potatoes, the beans. You know, those are the things
10 that I remember the most. But the peanuts, I did and I
11 knew that that ground would grow peanuts, and it did.

12 Q Let's go down to the -- before we get there, to the
13 left of that is there's an [indiscernible] and it says,
14 "My mom raised turkeys." What does that signify?

15 A Yeah, she would tell me the story, but yeah, I have
16 my turkey back here, just for that reason, my turkey. She
17 would tell me.

18 Q And going down to this rectangle, there's a series
19 of Xs that run along Amos Williams' fence. What does that
20 signify?

21 A Those are pine trees that I planted the same -- the
22 same Saturday when Carl daughter buried. She died in a
23 car accident on Ethan (ph) Road. And them trees planted
24 10-foot apart because I'm anal. Every one of them is
25 10-foot apart. And in between the 10-foot, at the 5-foot

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1 mark, is azalea.

2 Q Did you plant those?

3 A Yes, sir.

4 Q And why did you plant them there?

5 A Because that's the entrance to the -- you come from
6 Seaside Road, the family -- my grandmama and my
7 [indiscernible], that's the entrance to that side of the
8 property.

9 Q Where did your grandmother live in relation to this?

10 A Right in front of Amos and to the -- in front of
11 Amos and to the side, coming towards us.

12 Q Roughly where the words "grandmother's house" are?

13 A Yes. Yes, sir. Mm-hmm.

14 Q And then there's a series of Xs that run along the
15 southern boundary here. It has azaleas, Crepe Myrtles.
16 What do those Xs signify?

17 A Yeah, I planted those way before then. That's --
18 oh, Lord. But that's, like, the boundaries. My parents
19 didn't have a lot of money, so what they would teach me to
20 do is use trees and plants, set the boundaries. That way,
21 nature don't -- nature going to show you what's going on
22 this year or 50 years from now. They trust nature.

23 Q The trees and azaleas that run along the boundary
24 with Amos Williams, when were those planted? About what
25 year?

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1 A Yeah, that -- early '90s. Whenever Val's funeral
2 been. I can't remember. But it would have been the early
3 '90s. And how I remember, Connie used to have -- like, on
4 arbor day, they used to give a plant -- seedlings, and I
5 got them from -- yeah, that's when I planted them.
6 Somewhere around the early '90s.

7 Q And the azaleas --

8 A Somewhere in the '90s.

9 Q -- that run along the southern boundary line there,
10 when did you plant those?

11 A You mean down in the front? I get mixed up with
12 southern and...

13 You're talking about in the front?

14 Q These right here.

15 A Yeah. Again, that was planted -- maybe a year or so
16 later, but it was during the same time frame.

17 Q And then there's dotted lines. What does that
18 signify?

19 A That's the drain field and the septic drain field.

20 Q Then there's the word "farming" with an asterisk.
21 And looking down, watermelons, peas, potatoes, squash, and
22 beans, what does that signify?

23 A Those are the crops that my parents would plant. In
24 particular, watermelons. Every year. Every year.
25 Because people -- well, it's hearsay. I'll say it this

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1 way. He have so much watermelons that, you know,
2 sometimes people would borrow them out the field without
3 asking. But, yeah, watermelons, peas, potatoes, squash,
4 string beans, butter beans. Yeah, all that. I mean,
5 that's what they did.

6 Q When you say that's what they do, who are you
7 talking about?

8 A My mama and daddy.

9 Q And --

10 A Ophelia Rivers and Harrison Rivers.

11 Q How old were you when you first remembered them
12 doing that?

13 A Oh, Lord. Boy, I would -- I'd say a hand baby. And
14 I'm going to tell you why. I'm going to tell you why I
15 say that. Another place they used to place called back
16 field, and one day, I was sneaking behind my father to
17 go -- you know, he was going in the field with the horse
18 and stuff, and when we got to almost the back field, there
19 were, like, log over the road, like a log bridge, and I
20 could have fallen through the thing and drown. So that's
21 how I remember because I was -- I had to try to crawl
22 across the little log bridge. So I was -- you know, I was
23 hand -- you know, I was a little boy. I ain't no -- you
24 know, if I'm guessing, I'd say anywhere from five to
25 eight.

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1 Q At that age, you recall your parents farming this
2 area as shown on this diagram?

3 A Yeah, yeah.

4 Q And how much of this area were they farming?

5 A Now, this may sound a little bit flip or facetious;
6 right? Whenever dirt been at, right for planting. So he
7 plant that whole thing. Whole thing.

8 Let me give you an example of how he would do it,
9 how he did stuff. Between my junior and senior year, I
10 drove a school bus. And I had a trip to Charleston that
11 Sunday. He said, "What the bus doing outside?" And I
12 told him. He said, "You get to get somebody else to get
13 that bus," because the next day, we had to clear off, in
14 Saxonville, almost ten acres of land to plant tomatoes,
15 and all we had was ax, shovel, you know, that kind of
16 stuff. We didn't have no -- no real tools.

17 And I'd tell my friends -- and we didn't have no
18 backhoe. And they said, "Yeah, Mr. Rivers had a backhoe.
19 You been the backhoe." That what they tell me. You know,
20 that's how we did everything.

21 Q This area here to the west to have the house that
22 was farmed, is that the area that you're talking about
23 when you said that you had a plow with the horses on it?

24 A Yeah. And the reason why the drain field is so
25 significant, you can't plow -- you can't plow across a

1 drain field because you're going to tear it up. So,
2 automatically, you got to go back up, you know. Matter of
3 fact -- matter of fact, since we're talking about it, it's
4 coming to me. I screwed up because one of the years when
5 I had the ground cut, I had it cut too far up, and then
6 you could see all the [indiscernible]. Because there's a
7 certain spot, if you go past, you're going to be in the
8 drain field.

9 Q [Indiscernible]?

10 A Yeah.

11 Q You said somewhat tongue in cheek that your parents
12 farmed wherever there was dirt.

13 A Yes, sir.

14 Q Can you be a little more specific? Where was that?

15 A From -- from -- like I said before, where Amos is
16 right now, it's growing up a little bit. But from Amos
17 all the way to -- can I come over there and point?

18 Q Whatever is easiest. Whatever you think is best for
19 the judge to understand what you're talking about. That's
20 the only person in this room that counts.

21 A Okay. All right. How I know [indiscernible] right
22 there, that one right there. And then [indiscernible]
23 right there. So this spigot right here is the one that
24 will come over here for us to water the field. So when
25 you go plow [indiscernible] all the way up here. This is

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1 the drain field that goes all the way back up
2 [indiscernible].

3 Q You say "all the way back up here," you're going to
4 the yellow line over here?

5 A Yeah, I'm going -- yeah.

6 Q You're going to the fence on Amos Williams'
7 property?

8 A See that [indiscernible]. That's why he plant them
9 [indiscernible]. He had good sense. He plant two pine
10 trees. One right there and one here. One right there and
11 one right there [indiscernible].

12 Q And you said he planted. Who?

13 A My daddy. [Indiscernible].

14 Q His nickname was [indiscernible]?

15 A He had two. [Indiscernible]. And that's from
16 playing baseball in [indiscernible].

17 Q I wish I'd known him.

18 A Yeah.

19 Q And why did he plant those trees there, to your
20 knowledge?

21 A You know what? [Indiscernible] because he didn't
22 have good book education, but he knew and they knew that,
23 over time, them trees ain't going to move, and that was a
24 way to make sure that [indiscernible] going to come
25 [indiscernible].

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1 Q Now, there's a yellow line on this diagram. What
2 does that yellow line signify?

3 A It has -- that's the original -- that's the fence.
4 That's where the fence they put up from Amos house and the
5 fence stretch all the way to Mr. Johnny house.

6 Q Is that a difference fence than the fence that's
7 there now?

8 A That's the original fence. Yes, sir.

9 Q And when is your earliest recollection of that
10 original fence?

11 A Probably since I was a little boy. For me, it would
12 be in the '60s because of my age.

13 Q From what you could observe, was that fence a new
14 fence? An old fence? Could you tell how long it had been
15 there?

16 A It was old. It was old. Then it was old. It was
17 old back then.

18 Q If I can show you -- is this a picture taken in the
19 area of the fence?

20 A Yes, sir.

21 Q And --

22 MR. GRABER: Again, when was the picture taken,
23 please? And by who?

24 THE WITNESS: I took the picture. That's when they
25 had them cameras you got to send to Kodak. So that's --

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1 that's the '70s.

2 BY MR. KUHN:

3 Q Film camera?

4 A Yeah. That's in the '70s. That's in the '70s.

5 Q And what is this --

6 MR. GRABER: You took the picture in the '70s?

7 THE WITNESS: Yeah. I got it home right now.

8 BY MR. KUHN:

9 Q What is this?

10 A That's the -- we call that the fence. It had a
11 chicken wire fence, but that's the fence that was up but
12 it's, you know...

13 Q But the '70s --

14 A Yeah, over time, it fall down, yeah, mm-hmm.

15 Q If we go out there now, [indiscernible]?

16 A Yes, sir. Yes, sir.

17 Q [Indiscernible]?

18 A Yes, sir.

19 Q And the top photograph here, what does this depict?

20 A I believe -- okay, I know what that is. When
21 those -- those are trees that were growing up on the
22 property. Wild. Those are wild trees. When there was so
23 much stuff going on and I had to leave, so I'm like it
24 don't make sense to cut them down. No, let the tree go
25 until I get my stuff together. Them trees grew up wild

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1 there. And I planted trees, but those trees there --
2 because it wasn't -- during that time, them trees --
3 because, see, I would never plant nothing like that.
4 That's not symmetrical. I would never...

5 Q This photograph, where on this property was it
6 taken?

7 A Which one now?

8 Q Of the trees.

9 A The trees?

10 Q Yes, sir. Behind the house? Side of the house?

11 A Side of the house. Side. But they were -- no, no,
12 there were trees side and back, but those trees there in
13 that open spot. That's on the left-hand side.

14 MR. KUHN: I move to introduce this.

15 THE COURT: Any objection?

16 THE WITNESS: And it's only...

17 MR. GRABER: Again, the date of this?

18 THE WITNESS: Excuse me, sir?

19 MR. GRABER: The date of this photo?

20 THE WITNESS: Which?

21 MR. GRABER: The date of when you took this? You
22 took this photo?

23 THE WITNESS: Yeah, I took those. I took those.
24 Again, that's back in the -- now, that one -- that one
25 there was more recent. That one there would probably be

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1 in the '90s.

2 THE COURT: Which one: The trees or the fence?

3 THE WITNESS: The trees. Trees.

4 MR. GRABER: And you're going to ask him where these
5 trees are?

6 MR. KUHN: [Indiscernible].

7 THE COURT: Without objection, sir?

8 MR. GRABER: Yes.

9 (Defendant's Exhibit No. 2, Photograph, was marked
10 for identification and received into evidence.)

11 BY MR. KUHN:

12 Q Do you see the notation at the top of this diagram,
13 "newer fence in the same location as old fence," and
14 there's an arrow going to the yellow line. What does that
15 signify?

16 A New fence in the same location as the old fence?
17 Yeah, the new fence just parallels where the old fence is
18 because of the -- the old fence was in disrepair. So I
19 wanted to put something up more permanent as well as to
20 cut down on some of the consternation that I was having
21 and harassment that I was having.

22 Q So you put up the new fence?

23 A Yes, sir.

24 Q And when was that?

25 A Roughly -- I'm going by memory -- it seems to me it

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1 was somewhere around December of '19, it seems. I can't
2 remember. I can't remember if December of '19 or December
3 of '18. I can't remember. But I know it was in December.

4 Q You say you did that to cut down on the
5 consternation. What do you mean by that?

6 A Well, this Saturday, I was at home and Mr. Eddie was
7 clearing with his machine, and he -- matter of fact -- let
8 me get up there.

9 It was all back up in here. And he starts
10 [indiscernible] and then he cut through right here. Right
11 here. [Indiscernible]. And then [indiscernible]. He
12 didn't do it anymore because that's what -- yeah. From
13 here to right here. From there to right about here right
14 now you can still see, you know, the remnants
15 [indiscernible]. It's still there.

16 Then the azaleas -- the trees -- I have got the
17 azaleas that's planted on that same yellow line, like my
18 mother instructed me. Everything is right on the line.
19 Boom, just like she said.

20 Q [Indiscernible]. The land that you claim, that's
21 pretty much cleared?

22 A Yes, sir.

23 Q And then, when it goes over on to Mr. Jenkins'
24 estate land, that's mostly wooded?

25 A Yes, sir.

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1 Q There's like a treeline, cleared, and then woods?

2 A Yes, sir.

3 Q And this bottom photograph, is that sort of typical
4 of how the transition occurs between --

5 A Yes, yes.

6 Q -- what you say is your land and what they say is
7 their land.

8 A You can see maintained to unmaintained.

9 Q About when was this photograph? You took the
10 photograph?

11 A That one right there?

12 Q Yes, sir.

13 A Yeah, I took all those.

14 Q About when was it taken?

15 A Let me see the one again now. Make sure I don't
16 tell the wrong thing. During the same time as the other
17 one. That's probably early in the '90s, yeah.

18 MR. KUHN: We'd introduce this.

19 MR. GRABER: No objection.

20 THE COURT: All right. It's in.

21 (Defendant's Exhibit No. 3, Photograph, was marked
22 for identification and received into evidence.)

23 BY MR. KUHN:

24 Q This is the aerial photograph Mr. Graber was
25 referring to. It looks like this area is naturally

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1 heavily wooded; is that fair to say?

2 A Yes, sir.

3 Q The only place you'll see clearings is where
4 somebody has cleared it to build a house; correct?

5 A Yes, sir.

6 Q Except right here. Do you know why this area would
7 be cleared for any reason other than so somebody could
8 farm it?

9 A No. That's the area that -- from -- since peace
10 declared. My parents used the farm and then I tried to
11 farm -- not on the level my daddy did, but, you know, I
12 grow stuff. He farmed to survive. I farm just to eat.

13 Q In other words, this area is not naturally flat
14 field?

15 A No. And then -- and then -- wow. The reason why it
16 is not normally like that is because, during the times
17 when they mentioned my foreclosure and stuff, it grew up.
18 And I -- and I made sure I got it back the way it was when
19 I was a kid. If you don't maintain it, it going to grow.

20 Q Do you claim that this land here would have trees,
21 azaleas, farming, azaleas, Crepe Myrtles, and this land
22 here where the shed and the horse stables, hog pen used to
23 be, do you claim that you own that property?

24 A Yeah. Not claim. I do.

25 Q Why do you say that?

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1 A Because from 19 -- well, for one, from 1933 until
2 2001, there was never any dispute. Everybody openly saw
3 my parents using it. You know? And they saw me using it.
4 I was an extension of my parents. So there's no one that
5 can truthfully say that my parents did not maintain, farm,
6 and use this property those years. They say that, they're
7 an exaggerated truth.

8 Q To your knowledge, did your parents ever ask anybody
9 permission to do that?

10 A No. Pistol don't ask permission. He do what he got
11 to do.

12 Q Did they rent to anybody to do this?

13 A No, no.

14 Q Did you ever ask anybody for permission?

15 A No.

16 Q Did you ever pay rent to anybody to do it?

17 A No.

18 Q Your contention is that the boundary line runs along
19 Amos Williams' fence, along the yellow fence, and straight
20 down --

21 MR. GRABER: Your Honor, he's leading him.

22 THE WITNESS: Well, I mean, I can tell you.

23 BY MR. KUHN:

24 Q Where do you say the boundary line is? Just show
25 Her Honor.

1 A Do you want me to come up there and show you?

2 Q Whatever is easiest.

3 A Yeah, I can show you. Easy.

4 [Indiscernible] this fence being after he put in
5 [indiscernible] and prior to that [indiscernible], we come
6 across [indiscernible]. And then [indiscernible]. But
7 from there to here, all this here, from here
8 [indiscernible].

9 Q Let me help you out, Michael.

10 A Yeah, yeah. Right here. From 1933 to when -- from
11 1933 to 2001 [indiscernible] this is how it go. And to
12 show you why my parents technically, the way this fence is
13 right here, [indiscernible] wanted to, this pine right
14 here, when it coming from here, it can technically go like
15 this. But since they had the fence [indiscernible] -- and
16 I don't steal nothing from nobody. I said, you know what,
17 let me [indiscernible] that fence at right now.

18 Q And then from this point right here, where does the
19 boundary line run?

20 A Right here. Stop right there. When Ms. Margaret
21 then put their fence up, they put up the five-foot fence
22 to match the five-foot fence we had, you know, down there.

23 Q They just [indiscernible] right there?

24 A Yeah, yeah, yeah. Ms. Margaret [indiscernible].

25 Q And Ms. Margaret you're talking about, Ms. Margaret

1 Sumpter that owns the property to the east?

2 A Right.

3 Q And I see there was a notation "baseball field"
4 there on this diagram, what is that?

5 A Yeah, we had a baseball field. And our team -- we
6 had a team there. We had a team there in the '70s -- late
7 '60s and early '70s. You played baseball there.

8 MR. KUHN: And I'd move to introduce this plat into
9 the record.

10 THE COURT: Any objection?

11 MR. GRABER: No. No objection.

12 THE COURT: All right, sir. Thank you.

13 (Defendant's Exhibit No. 4, Plat, was marked for
14 identification and received into evidence.)

15 MR. KUHN: That's all the questions I have, Your
16 Honor.

17 THE COURT: Cross-examination?

18 MR. GRABER: Sorry; I'm getting signals from
19 everywhere.

20 CROSS-EXAMINATION

21 BY MR. GRABER:

22 Q Mr. Rivers?

23 A Yes, sir.

24 Q You have had a lot of testimony about crops and your
25 gardens. Where is the photograph that shows the crops

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1 that were raised each and every year by your father and
2 you? Where are those photographs?

3 A There wouldn't be any photographs because that's not
4 something that people normally do. They don't raise their
5 stuff to take pictures. They raise their stuff to sell.

6 Q I see. So of all the photographs that you put into
7 evidence, you're not -- you don't have one photograph of
8 one watermelon, one photograph of one squash, nothing?
9 There's just you saying that [indiscernible]?

10 A Well, it's not just me saying. I'm quite sure there
11 could be several who could substantiate what I'm saying.

12 Q Well, Ms. Holmes said -- Ms. Holmes said -- she said
13 there's no question about it that you got testimony from
14 one person -- in addition to yourself, one person who says
15 that there was planting in this area.

16 But I'm just asking you about some photographic
17 evidence --

18 MR. KUHN: Objection to editorializing. Just ask a
19 question.

20 MR. GRABER: Okay.

21 BY MR. GRABER:

22 Q I'm just asking you -- I'm just asking you why have
23 you not produced the Court with one single photograph
24 showing the planting that you did in this area?

25 A Well, for one, I never thought that that question

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1 would be -- a need for that mainly because any and
2 everyone that knows the area knows that planting is
3 something that my parents did and me as well. And to
4 take --

5 Q Where are those other witnesses?

6 THE COURT: Mr. Graber, let him, please, finish his
7 answer, and then you can follow up with another question.

8 A The thought for having pictures never entered my
9 mind because I didn't think anyone would come with such a
10 preposterous idea that it was never any planting done. So
11 I mean, that was something that -- it's like, "Is water
12 wet?"

13 Q Is Mr. Luke Inabinett preposterous?

14 A He's lying.

15 Q He's preposterous?

16 A He's lying.

17 Q He's lying.

18 Ben Jenkins, preposterous?

19 A Lying.

20 Q Lying. Right.

21 A But their words, based on what they have said in
22 their deposition, in particular Mr. Jenkins, I think he
23 said something to the effect that the property should
24 extend from Amos Williams to Margaret Sumpter. So, in his
25 own testimony, he reiterated what we're talking about now.

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1 Q But you -- other than your testimony and that
2 testimony of Ms. Holmes, you don't have any photographic
3 or objective proof of a garden in that area?

4 A In my mind, I do. And no one has one that can
5 refute what I'm saying. I mean, people don't normally
6 plant crops to take pictures. They plant crops to sell or
7 eat.

8 Q And in terms of the fence, you have one section of
9 fence here.

10 Where is that photograph?

11 This photograph, which is Plaintiff's -- Defendant's
12 Exhibit No. 2, the bottom photograph --

13 A Mm-hmm.

14 Q -- I see some wire there. Is that the photographic
15 evidence of the fence that you are giving this Court?

16 A Yes.

17 Q Okay. In other words, you said there were remnants
18 of the fence all along here. Why didn't you take two or
19 three or four photographs along the fence showing the
20 numerous remnants?

21 A I did. He just chose to show you that one.

22 Q Okay. So you have got other photographs?

23 A Right.

24 Q Okay. But you chose not to bring them to court
25 today?

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1 A Well, I don't do the choosing. My lawyer do the
2 choosing.

3 Q Okay. So you're pointing the finger at my
4 colleague, Mr. Kuhn, who didn't give you -- but we have
5 got one -- and I can't -- to be candid with you, I can't
6 tell whether this is a fence or not.

7 A It wouldn't be in your best interest for you to
8 tell. You don't want to tell.

9 Q This is cross-examination.

10 THE COURT: Mr. Graber, ask him -- it doesn't matter
11 whether you can tell it's a fence or not. Ask him whether
12 [indiscernible].

13 BY MR. GRABER:

14 Q So this -- I guess it's wire. This thing here I'm
15 pointing to, that's the proof of your fence that runs
16 maybe 100 yards?

17 A That's some of it. And you remember when we came
18 out and walk the property? I showed you the fence that
19 time too. Remember?

20 Q I don't.

21 A Oh, okay.

22 Q I remember going out there with you, and I remember
23 you making a lot of claims, but I don't -- I didn't see
24 any old fence --

25 A Okay.

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1 Q -- running 200 yards?

2 A Okay. It's there now, Your Honor. I would love for
3 the Court -- if it could, you can go out and look. You
4 ain't got to take my word.

5 Q All right. Now, you have -- have you paid taxes on
6 this property in question? Have you paid taxes on this
7 area here that you planted?

8 A Well, as a 100 percent disabled veteran, I don't pay
9 taxes.

10 Q All right. In other words, you don't pay any real
11 estate taxes at all?

12 A Not as a veteran. That's what the law says.

13 Q So the question is, you dispute the fact that
14 Mr. Jenkins and the Estate of Jenkins pays the taxes on
15 the disputed property?

16 A I don't -- I don't know the answer to that. All I
17 know is this, that prior to 2001, Mr. Jenkins -- there was
18 no interest in the property. So a lot of things have
19 happened since 2001 as we tried to show a chain of custody
20 to go about the goal that you're trying to seek, but I
21 can't answer your question, so I can only --

22 Q You can't answer the question. So you don't pay any
23 real estate taxes at all, and, therefore, you don't pay
24 any taxes on anything? But my question actually to you
25 is: Have you -- did you ever pay taxes on the disputed

2526

1 property that you're claiming now that's yours?

2 A Well, if you look through the records, during that
3 time, I didn't have the ability because there were
4 foreclosures. So on the -- I couldn't pay --

5 Q When did you get your disability?

6 A When did I get my disability?

7 Q When did you get your 100 percent disability?

8 A Totally, it was -- I believe it was in '18 or '19.
9 I don't remember.

10 Q '18 or '19?

11 A Yeah. I can't remember.

12 Q Prior to '18 or '19, did you pay taxes on this
13 property?

14 A Yes.

15 Q Okay. Between 1996 and 2005 when you lost the
16 property to foreclosure, you paid taxes; did you not?

17 A Yes, yes.

18 Q Okay. Now the question is, did you pay taxes on the
19 disputed area?

20 A The taxes that I paid for was for the area from Amos
21 Williams to Margaret Sumpter, similar to what my parents
22 had done. Whatever my parents was paying on, that's what
23 I paid on.

24 Q So your parents also -- but that's not my question.
25 My question is, did you -- when you -- and forgive me, I

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1 don't mean to be [indiscernible].

2 A I'm not nervous.

3 Q When you owned this property, the disputed property
4 between Amos and your house, did you -- when you owned it,
5 when you had a piece of a title, did you pay taxes on this
6 or on the triangle that you now claim?

7 A All of that. Whatever was in the deed, sir, from
8 1865, from 1933 up until 2001 when my parents are paying
9 taxes, that's the same taxes that I was paying.

10 Now, I can't answer all of that. Whatever they were
11 paying, that's what I was paying.

12 Q Would it surprise you to know that Beaufort County
13 has a GIS map which shows who pays taxes on what and that
14 this GIS map has been consistent from 1998 until the
15 present, that this property -- that Ben Jenkins pays taxes
16 on it? Would that surprise you?

17 A It wouldn't surprise me because that meets the --
18 what he's been trying to project, but the real owner of
19 the property -- for instance, for instance, since you
20 brought that up and it's been omitted, but prior to Khalil
21 drawing the dimensions for Mr. Jenkins in 2001, before
22 that, the deed was completely switched around. The plat
23 was completely switched around.

24 So from 2001, I'm not surprised about anything that
25 has happened. But what I do know is that from 1933 up

1 until recently, there was never a dispute about the
2 boundaries. Never.

3 Now, you're talking about the taxes. I don't know.

4 Q Well, I'm going to ask you this question one more
5 time, because I don't think I have gotten an answer. Have
6 you yourself, as a property owner, between 1996 when you
7 got your deed of distribution and 2005 when you lost it,
8 that stretch in there, did you ever pay taxes on the
9 disputed property, the property between you and Amos and
10 the property below -- behind you? Have you ever paid
11 taxes on it?

12 A And I'll say it again: The taxes that I paid was
13 the same -- for the same property that my parents paid for
14 prior to me getting it. So I can't answer your question.
15 All I did, when the tax note come, I pay what they say we
16 got to pay. That's the only way I can answer your
17 question.

18 Q Now, Mr. Rivers, you mortgaged this property in
19 1998; correct?

20 A Yeah, I think so. That might have been the first
21 time. It would have been Option One. I don't remember
22 who.

23 Q Well, there were two mortgages.

24 A The first one was Option One. The second was
25 Regions. And now it's --

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1 Q When you gave these two companies an interest in
2 your property, what property did you give them an interest
3 in -- these mortgage companies? When you signed the
4 mortgage pledging your property as collateral for the
5 \$16,000 loan and the \$17,000 loan, what property did you
6 pledge to those mortgage companies?

7 A An acre, more or less, from Amos Williams to
8 Margaret Sumpter and everything inside of that is what
9 everybody understood as being the property.

10 Q So you're saying you gave them -- you signed this
11 mortgage and you gave them -- you gave them a mortgage
12 on -- you pledged as collateral the disputed area between
13 Amos Williams and your homestead?

14 A Say that again.

15 Q When you signed the mortgage, when you pledged the
16 collateral, I asked you what real estate did you pledge to
17 it? And you said Amos Williams -- from Amos Williams to
18 include your homestead to -- I guess it would include the
19 triangle; correct?

20 A The triangle? What are you calling the triangle
21 now?

22 Q The little area up here that you're --

23 A Wherever Margaret -- wherever the end of Margaret
24 Lloyd and John Sumpter is to the end of where Amos is,
25 that's the property that has been understood.

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1 Q Margaret Lloyd -- Margaret Lloyd over here, across
2 to Amos Williams, you pledged all that to the mortgage
3 company?

4 A Everything in front, yes.

5 Q Everything in front.

6 A Yes.

7 Q Okay. And when the mortgage company, Wells Fargo,
8 foreclosed in 2005, can I assume that, when they
9 foreclosed, they foreclosed on all that property that you
10 had pledged from Amos Williams over to Margaret Lloyd?
11 They took it away from you?

12 A It's the same thing, yes.

13 Q They took it away from you.

14 A Right, correct.

15 Q So you lost it all; right? You lost everything.
16 You lost all your property.

17 A Okay. Temporarily, that was gone.

18 Q It was gone.

19 A Yeah. And the reason why I'm not saying -- not to
20 be evasive, but loss -- if it was loss -- and this may
21 sound a little flip -- but I wouldn't be there now. So,
22 to my brain, if you lose something, you can never get it
23 back.

24 So did I leave? Yes. Did I lose it?

25 Q When it was foreclosed on, was that property taken

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1 out of your ownership?

2 A At that time.

3 Q All of it? All of it, including the disputed --

4 A Right. All. Whatever I got -- all of what I got
5 was all of what was foreclosed, and it's all of what I got
6 back.

7 Q And in 2005, as I remember your testimony, you
8 departed the -- departed -- you left the property or did
9 you stay at the property?

10 A 2005?

11 Q You lost the property.

12 A Yeah, I left.

13 Q Where did you go?

14 A Where did I go? I can't answer that. I mean, I was
15 still working. I was living on the streets really, if
16 that's what you want to --

17 Q Okay. But you weren't living in the house?

18 A No. At the time, no.

19 Q And I have got a note here that you returned to the
20 house --

21 A Mm-hmm.

22 Q -- as a tenant in 2014; is that correct?

23 A Yes.

24 Q Okay. So you returned -- you lose all the property
25 in 2005. You go off somewhere to [indiscernible] streets

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1 but you returned as a tenant to the house in 2014?

2 A Mm-hmm. Do you want me to explain how that
3 happened?

4 Q No, I don't.

5 A Okay.

6 Q I just want --

7 A The context would make a difference, but that's
8 okay.

9 Q I just want to -- I want to make sure you have got
10 this straight.

11 So your occupation of this property -- your
12 occupation after you lost it, begins in 2014; correct?

13 A Okay.

14 Q Okay. So, in 2014, you sort of resume your --

15 A And I was there before 2014 now.

16 Q I thought you just said that you --

17 A No, you asked me when I came back. You said did I
18 come back in 2014. I said yes. But I had lived there
19 even from 2005, '6, '7, '8, '9, '10, '11, '12, '13. I
20 left there on July of '13. I lived in a storage unit from
21 September of '13 until May of '14 and I came back.

22 Q So you come back in 2014 kind of for good --

23 A But -- but --

24 Q -- as a tenant. As a tenant.

25 A Yeah, but let me make sure that you understand now.

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1 From 2005, '6, '7, '8, '9, '10, '11, '12, '13, I was
2 living there as well, even when it was in Shirley Mack's
3 name. I was still there.

4 Q Okay. So you were there even after you lost title
5 to it?

6 A Right. But the reason why that happened, my aunt
7 was supposed to be just a placeholder on the mortgage and
8 everything was supposed to go like it was before. Her
9 name was just going to be the placeholder, and I'll be
10 making the mortgage payments. So I moved back in, so I
11 never was gone.

12 Q So you never --

13 A I mean, I wasn't gone long, is what I should say.

14 Q You never left the property.

15 A Never left the property.

16 Q You never left the property --

17 A Never.

18 Q -- even though you lost the property to foreclosure
19 in 2006 and title went to somebody else. You're saying
20 you still stayed in the property?

21 A Yes, sir. Yes, sir. Because the arrangement was,
22 with my aunt, that her name would just be the placeholder
23 because of the mechanics of the loan and Regions. So she
24 became the placeholder, and the agreement was, "I'll put
25 my name on this but you'll still be staying here," and

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1 that's what happened.

2 Q Okay. So after 2005, you come back and do you do
3 any farming when you come back? Do you do any farming in
4 this -- is there any -- do you plow for your farming
5 between 2005 and 2019 when you put the fence in?

6 A No.

7 Q Okay. Now, I walked out there, Mr. Rivers, and I
8 did see a little line of pine trees that marched across
9 there. They were little saplings. And I was out there
10 two years ago. They looked -- when did you put those
11 saplings in?

12 A I didn't put those in. Nature did. When I left, it
13 started growing up, and I left it there because anybody
14 wanted to try to take --

15 Q They looked pretty geometrical to me, but you're
16 saying nature put those little saplings?

17 A No -- yeah, the ones -- the ones that you have seen,
18 there were more, but I cut it down because pine trees can
19 get unruly if it's not in the right place. But the ones
20 you saw in the front -- the ones that you're talking
21 about, nature did that. And I just worked with nature to
22 make it look good.

23 Q All right. So you didn't -- you didn't put them in.
24 Nature put them in.

25 A Yeah.

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1 Q Okay. You just mentioned to Mr. Kuhn -- Fred --
2 that you put a line of pine trees along here. When did
3 you do that?

4 A Why?

5 Q When?

6 A When? That was in the '90s. And how I can
7 remember, it was the same Saturday that my cousin Val was
8 buried. But it was in the '90s. I can't remember
9 exactly.

10 Q What -- did you still own the property in the '90s?
11 You did; right?

12 A (No audible response.)

13 Q So you put those in. My question is directed to,
14 after you come back -- you had lost the property, you had
15 lost it all. You come back -- you come back as a tenant
16 in 2005. I'm asking you what did you do in 2000 -- what
17 did you do to this property after you came back?

18 A After I came back, that's when I started clearing it
19 up because it had grown up because nobody -- I
20 deliberately wanted it to grow up because of all the
21 consternation that was going on.

22 And then one day, the Spirit said, "Mike, you need
23 to start cleaning it," because I said, if I didn't clean
24 it and Mr. Benjamin tried to clean it, he going to say,
25 you know -- yeah, so I say, you know what, let me go ahead

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1 and do it like my mama and daddy had it, and we would just
2 roll with the punches.

3 Q I heard some testimony earlier that you put a shed
4 up on the property; is that correct?

5 A The shed was there a long time ago.

6 Q I heard that you put a shed up --

7 A But some of the things you heard wasn't true.

8 Q But there was testimony there was a shed up, and I
9 don't -- the last time I saw that, there was no shed out
10 there. Where did the shed go?

11 A You got to show me what you're talking about now.

12 Q Okay. Come on up.

13 I heard testimony from somebody -- and I don't know
14 who it was; maybe it was Judy Watkins said she saw a shed
15 out here.

16 A [Indiscernible].

17 Q So you didn't build a shed in here?

18 A No, I didn't build a shed.

19 Q Okay. And you didn't plant these trees in here --

20 A Yes, I planted those trees.

21 Q I know you planted -- you didn't plant them after
22 you came back, after you lost the property?

23 A No, they were planted in the '90s.

24 Q In the '90s. So you planted those in the '90s.

25 And what about these azaleas and Crepe Myrtles?

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1 When did you --

2 A '90s as well.

3 Q In the '90s as well.

4 So in terms of this property, in terms of doing
5 anything substantial like a building or like planting,
6 after 2005, you did nothing; correct?

7 A Well, I [indiscernible] because it was grown up. |

8 Q No, no, I heard you say that.

9 A It was grown up. Matter of fact, all this stuff
10 [indiscernible] grown. All this stuff here grow up, grow
11 up, grow up, grow up, grow up. So I cleared it off the
12 way [indiscernible] between here and Amos. And everything
13 right now is just the way it was except for them pine
14 trees, some of that's in here. Now, after I cut away some
15 of the other pine trees, I liked the way it looked, you
16 know, [indiscernible].

17 Q I guess Representative (ph) Rivers, I'm asking you
18 this: You didn't build any structures in here?

19 A I didn't build no structures in here because my
20 wife -- my wife [indiscernible].

21 Q I'm asking you that, after you returned to the
22 property, after you lost -- you returned, what did you do
23 to this property to put people on notice that you were
24 claiming this property is yours?

25 A They knew it was mine, except Mr. Jenkins.

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1 Q Okay. I hear that answer. You have answered me
2 that before. I'm asking you what questions -- what did
3 you build -- what did you do to this property that would
4 notify anybody --

5 A Maintained it.

6 Q You mowed it?

7 A Mowed it. Cut down the overgrown [indiscernible].

8 Q Isn't it true that the first thing that you did --
9 the first --

10 A [Indiscernible].

11 Q Okay. Isn't it true -- this is cross-examination.
12 Isn't it true that the first substantive thing that you
13 did was to build a fence -- a new fence here in 2018 to
14 put the world on notice that you were claiming this land?

15 A No, sir. That was after [indiscernible], but all of
16 this, as you know, if you're going to maintain something,
17 [indiscernible]. You agree with me?

18 THE COURT: Mr. Rivers, you can't ask the questions.

19 THE WITNESS: Oh, excuse me, excuse me, excuse me.

20 A So the time that you're talking about, 2005 and
21 [indiscernible], nobody was maintaining it but my family
22 and me since 1933. So some trees grow up. Matter of
23 fact, back here, [indiscernible]. Matter of fact -- yeah,
24 right up in here, it grow up so much that rabbits start
25 breeding. The rabbit [indiscernible].

1 But I maintain all this. All this was growing up
2 after I left that I deliberately did that because I have
3 stuff going on. I was back and forth. But I cleared all
4 this. Anybody who [indiscernible] know that I -- that I
5 maintain the property.

6 Q You know, I didn't hear those witnesses here saying
7 that you maintained the property. I didn't hear anybody
8 comment on that. I'm just saying that.

9 A [Indiscernible].

10 THE COURT: Mr. Graber, you can ask a question.
11 Don't make a statement, please.

12 BY MR. GRABER:

13 Q I heard your witnesses, that it was a garden.

14 A [Indiscernible].

15 Q Back in the day. And I didn't quibble with it but I
16 guess what my question is -- and I know I'm being anal,
17 but my question is, what have you done other than mow the
18 lawn to demonstrate to the world that this is your
19 property? What have you done out there to say -- since
20 2005, tell me the things you have done.

21 A Now, [indiscernible] but before you [indiscernible]
22 trees or [indiscernible] being cut, the row -- you know,
23 the lawnmower, you can't mow the trees. You got to have a
24 bush-hog or [indiscernible]. But after, I was cutting
25 down the trees and stumps. Then I was [indiscernible] at

1 least two summers. At least two summers.

2 Q Two summers. And at some point after 2005, you
3 mowed the --

4 A I can tell you exactly when I mowed it. I mean, it
5 would have been -- yeah, after 2005. Because I don't
6 know -- I didn't answer your question, but maybe we're not
7 communicating [indiscernible].

8 When I left, things grew up. [Indiscernible]
9 because I knew [indiscernible] because the only person who
10 maintained it knows anything about it. So my job was
11 [indiscernible] and asking several people, as much as I
12 could, and [indiscernible]. So all that [indiscernible].
13 I tell you [indiscernible] in order to try to get to the
14 [indiscernible] and I didn't have a lot of resources so
15 [indiscernible].

16 Q Let me ask you just one final question, and then I'm
17 [indiscernible] -- we'll end this --

18 A [Indiscernible].

19 Q -- this thing. In terms of the disputed problem
20 here and here, you didn't build anything after 2005 in the
21 two disputed areas?

22 A No.

23 Q Okay. And after 2005 -- and until you purchased the
24 property in 2020, you didn't pay taxes on this either, did
25 you? You didn't pay any taxes on this or this?

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1 A [Indiscernible]. And [indiscernible] was the one in
2 charge, so [indiscernible] I couldn't pay for it because
3 somebody else was [indiscernible].

4 Q Okay. Okay. But you were not physically paying tax
5 money on this piece or that piece between -- when you lost
6 it in 2005 and when you bought it just the other day?

7 A [Indiscernible] 2005 [indiscernible]. 2005 was
8 [indiscernible]. [Indiscernible] appraisal that I still
9 have. I'm not sure [indiscernible].

10 Q No, I'm hearing you. I'm hearing you. You know,
11 it's your testimony, and fortunately or unfortunately,
12 Ms. Mack is not here, so we don't know what her view of it
13 is, but you mortgaged it.

14 A No, what I'm saying --

15 Q We don't know what her view is, but I'm just
16 saying --

17 A What I'm saying -- what I'm saying, it was
18 undisputed after that, even after Ms. Mack [indiscernible]
19 in 2006 [indiscernible], I still lived in the home from
20 August of 2006 all the way up to 2015, so...

21 Q But while you lived in the home, you did not pay
22 taxes on this and you didn't pay tax on that?

23 A No.

24 Q Okay. And while you lived in the home, you didn't
25 build anything on the same building [indiscernible]? You

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1 didn't build anything here. You didn't build anything
2 there, build a structure.

3 A No, sir.

4 Q Okay. And while you lived in the home, you
5 [indiscernible] -- I'm getting old; I'm [indiscernible].

6 But -- that's all. Thank you.

7 THE COURT: Any redirect?

8 MR. KUHN: Briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. KUHN:

11 Q Mr. Rivers, from 2006 until the present, you only
12 have been not living in that house for several months?

13 A Nine months when I was in a storage unit.

14 Q Okay. And what was the arrangement between you and
15 your aunts when the house was foreclosed and they
16 purchased it at the foreclosure sale?

17 A Just make the payment.

18 Q Who makes the payments?

19 A Me.

20 Q They got a mortgage, and you made the payments on
21 their mortgage?

22 A Yes.

23 Q And you lived in the house?

24 A Yes.

25 Q Treated it as your own?

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1 A Yes.

2 Q Ever since then, whatever maintenance has been done
3 to this property, you have done it?

4 A Yes, sir.

5 Q Mr. Jenkins has never done a thing, has he?

6 A Never.

7 Q Thank you.

8 MR. KUHN: That's all I have.

9 THE COURT: You may step down, sir. I don't know if
10 you left anything up here.

11 It's close to 5:00, so that's probably a pretty good
12 stopping time for this afternoon. Y'all want to get
13 started back at 9:30?

14 MR. RIVERS: Oh, Lord.

15 THE COURT: Mr. Rivers? Or is 10:00 okay?

16 MR. RIVERS: [Indiscernible].

17 MR. KUHN: I'm resting, Your Honor, but...

18 THE COURT: Oh, you're resting? Okay. I had a list
19 of witnesses that we hadn't gotten to yet, so...

20 MR. KUHN: Oh, no, I was just going to go with what
21 we have got at this point.

22 THE COURT: Okay. Well, we can keep on going then.
23 So you're resting your case?

24 MR. KUHN: (No audible response.)

25 THE COURT: Any reply or anything?

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1 MR. GRABER: Nothing in rebuttal or reply, Your
2 Honor.

3 THE COURT: So, Counsel, do you wish to make a
4 closing argument or do you each -- both sides wish submit
5 proposed orders?

6 MR. KUHN: With that look you're giving me, I guess
7 no.

8 THE COURT: No, no. I'm -- I am fine to stay.

9 MR. KUHN: When the judge says it's close to 5:00,
10 I'm from out of town --

11 THE COURT: No, I'm happy to stay as long as y'all
12 need. This is your day in court.

13 MR. KUHN: I appreciate your patience, Your Honor.
14 I'm fine with proposed orders.

15 THE COURT: Is that -- I mean, and I'm happy to hear
16 closings if y'all wish to do that.

17 MR. GRABER: Your Honor, I would like to make a
18 closing statement.

19 MR. KUHN: You do not have to.

20 THE COURT: I mean, I'm happy to -- the only reason
21 I said 5:00, I thought we still had a list of witnesses.
22 But I'm happy to continue if you guys wish to go forward
23 with closing. I'm happy to hear you.

24 CLOSING ARGUMENT ON BEHALF OF THE PLAINTIFF

25 MR. GRABER: Your Honor, thank you so much for

1 being as attentive as you, obviously, have been. We
2 really appreciate it.

3 I realize that, at times, I perhaps went on too
4 long, and I apologize for that. However, I really think
5 the situation is pretty much the situation that I saw when
6 we came forward -- when we came forward this morning. And
7 that situation is this: That whatever Harrison Rivers
8 acquired between 1958 and 1980 or whatever Harrison Rivers
9 and Ophelia Rivers acquired in the way of adverse
10 possession between '58 and when she died in '96, was lost
11 when Wells Fargo foreclosed in 2005.

12 Mr. Rivers himself said that, when he mortgaged the
13 property, he mortgaged everything. He said, "I mortgaged
14 everything from -- from Williams to" -- he didn't use the
15 word "Sumpter" but across the board. He mortgaged it all.

16 And I would agree with that. I think the
17 description puts it bounded on the north by Ford and on
18 the east by Williams, on the south -- you know, it
19 described this huge area.

20 And so Wells Fargo got as collateral everything that
21 was owned by Harrison Peoples [verbatim] and Ophelia
22 Peoples [verbatim] in 2005. So notwithstanding all this
23 testimony -- and I appreciate the Court's indulgence to
24 listen to all this testimony about farming occurring in
25 the '30s and '40s; I don't think it makes any difference.

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1 I don't think it's relevant at all because, when Wells
2 Fargo foreclosed in 2005, they took everything, and
3 everything went to Mack and Annabelle Bonds. They got it.
4 They got everything -- everything that they had had in
5 2006.

6 So really and truly, in that interim period between
7 2006 and 2020, we start over again. We start over again.
8 And any adverse possession, which has to be, of course,
9 ten years, it has to be continuous, it has to be open, it
10 has to be notorious, would have to have occurred between
11 2006 and 2019 -- I think it was 2020 when he got it. And
12 he just testified that he didn't build anything on this
13 property, he didn't pay taxes on this property, he didn't
14 do anything that was hostile or notorious that would put
15 people on notice.

16 Now, notwithstanding what he said, there was a
17 dispute over the septic tank. And one could say -- one
18 could say that maybe he had a stake in that dispute
19 notwithstanding the fact that he didn't own it. But there
20 was a fight in 2014 over the septic tank.

21 Thereafter, there were some other kind of
22 skirmishes, you know, that the surveyor would come out and
23 there would be some skirmishes that occurred.

24 And then, in 2019, he does something that is an act
25 of hostility and something that would rise to adverse

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1 possession if he had done it each and every year. He puts
2 a fence up. And that fence is a red flag. Ben Jenkins
3 goes to Tab Bendle. Tab Bendle works on it -- well,
4 excuse me. Ben Jenkins goes to David Youmans. David
5 Youmans comes to me and this lawsuit results.

6 But in the critical period prior to the lawsuit --
7 the lawsuit was brought in 2020 -- there is nothing in
8 that -- in that ten years that would rise to adverse
9 possession as it's defined in South Carolina. He just
10 didn't meet that criteria. There were some little
11 skirmishes. I don't think there's -- I really don't think
12 there's any [indiscernible]. I mean, we could get some
13 law on this, but I don't think there's any Court in the
14 land that would say, if you go out there and mow the lawn
15 for two years -- he said it took him two years to mow the
16 lawn -- if you mow the lawn for two years, that, in and of
17 itself, is going to rise to adverse possession.

18 So, fundamentally, my argument is, you got to look
19 at that foreclosure in 2005 as stripping away any claim to
20 adverse possession by virtue of his father, his mother, or
21 himself. He has to start over, and he started over again,
22 apparently, in 2014 when he goes out and he participates
23 in a dispute over a septic tank. But he's really got no
24 dog in that fight. He's got no dog in that fight. He's
25 in the house, but he doesn't own that house in that fight.

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1 But you can say, "Well, okay, he was exerting some
2 influence." I don't think that rises to the level of
3 hostility that adverse possession requires.

4 Then he comes and really does put the world on
5 notice when he puts the fence -- puts the fence up. It
6 cuts through the Jenkins' property and eliminates two lots
7 that they would have gotten but for that.

8 THE COURT: Thank you, sir.

9 Mr. Kuhn?

10 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

11 MR. KUHN: If it please the Court, Your Honor. We
12 are here today because this deed is inherently nonsensical
13 and vague. As Cathy Aughtman pointed out, it says that
14 this property is being conveyed to Harrison Rivers,
15 Michael's father, is bounded on the north, east, south,
16 and west by four ten-acre parcels of land, which they can
17 literally mean the entire ten acres was being conveyed
18 out, not just a piece of that ten acres.

19 If you look at [indiscernible], it's surrounded by a
20 fence [indiscernible]. If we look -- but that's not the
21 only problem with the deed. It says that you start
22 [indiscernible] highway intersects with the southern line
23 of [indiscernible]. If you look at this, this ten acres
24 intersects on the southern line of the property. It's
25 right here. It says, from there, go west 200 feet. If

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1 you go west 200 feet, it takes you to this border with
2 Mr. Wallace. We have a plat that shows this distance here
3 is about 145 feet. So it takes you almost all the way to
4 Mr. Wallace, which almost encompasses all of what we know
5 as Mr. Amos's property. So go west 200 feet. And then it
6 says go north that same distance, and then it says go east
7 that same distance. And then it says run south along the
8 highway, which you cannot do from that point. So nothing
9 about this deed makes any sense.

10 Then if we look at Mr. Jenkins' deposition, several
11 times if his deposition, he says, "I conveyed the house
12 and an acre." And we know that, at that time, the house
13 was about right there. Well, if you take the house and an
14 acre, the deed may make sense. But we have got this vague
15 inconsistency in the deed, but we know that from day one,
16 which is 1933, the only people who have used the disputed
17 land is Mr. Rivers and his parents. Mr. Jenkins and his
18 family have never, ever, ever, ever used the disputed land
19 for any reason nor until this lawsuit was filed have they
20 ever taken any actions to stop Mr. Rivers or his parents.

21 And I disagree with Mr. Graber that we have got to
22 look in the 2000s to figure out when adverse possession
23 took place. My notes are sloppy, but Harrison Rivers got
24 this in 1933 from Reuben Chisholm, who passed away in
25 1944. During those 11 years, Reuben Chisholm did not

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1 interfere with their use of this property.

2 And the Chisholm heirs did not start conveying
3 anything out until 1967. So from '33 to '67 -- what is
4 that? 34 years? -- Mr. Rivers's parents -- his father
5 died in 1980; his mother in 1991 -- they farmed this land,
6 used this land, hogs, horses, turkeys, that's when adverse
7 possession took.

8 So approximately 1953, 20 years under color of
9 title, this deed right here is when we assert Harrison
10 Rivers and Ophelia Rivers acquired good fee simple title
11 by adverse possession under color of title to the disputed
12 property.

13 Every deed after that repeats the deed description,
14 roughly, and every deed after that exactly says this is
15 the same property. So when this property went from
16 Ophelia Rivers' estate to Michael Rivers. This is the
17 same property that is encompassed in this deed, adverse
18 position, that was lost in a foreclosure. This is the
19 same property that Mr. Rivers acquired from his mom.

20 When Ms. Bonds got it at the mortgage sale, says
21 this is the same property that Mr. Rivers owned. When
22 they lost it, said the same property. When Mr. Scott got
23 it, this is the same property.

24 So the chain of title all refers to this property as
25 the same -- same property that is this disputed property,

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1 which they acquired by adverse possession back in 1953.
2 And they have owned it ever since. They have done
3 everything. They have planted trees. And I respectfully
4 submit, mowing property is a sign of ownership. Nobody is
5 going to mow all this property if they don't own it.

6 They have never exercised any ownership, any
7 control. They have never tried to use it. The only
8 person who ever used it is Michael Rivers and his parents,
9 and the neighbors, who do not have a dog in this fight,
10 unlike the beneficiaries of the estate, have corroborated
11 that.

12 And it's difficult to see on this plat perspectives
13 and distances and how far away everything is, and we have
14 got the photograph of the old fence along the fence line
15 here. I respectfully submit, Your Honor, there's no
16 reason that this would be cleared up to that line. This
17 property is clear -- the tree line starts there. There's
18 no reason that it would be cleared up to that line unless
19 there's a reason, the boundary line. Otherwise, why would
20 you arbitrarily clear property and then stop at some
21 arbitrary tree line if there's no reason for it?

22 So I respectfully submit that's why they cleared
23 this property at great trouble. This is heavily wooded
24 property.

25 Your Honor, I appreciate your patience.

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1 THE COURT: Thank you, gentlemen.

2 MR. KUHN: And that's all.

3 THE COURT: If both sides would submit a proposed
4 order for my consideration. If you would email it to my
5 law clerk and then I can tweak either one of them, and
6 I'll notify you of the ruling.

7 MR. KUHN: Thank you, Your Honor.

8 MR. GRABER: Your Honor, I'm sorry. I'm...

9 THE COURT: Sorry. If you would each submit a
10 proposed order by email to my law clerk, then we can tweak
11 it and notify you of the final ruling.

12 MR. GRABER: Thank you.

13 THE COURT: Thank you. Everyone have a good
14 afternoon.

15 MR. KUHN: Thank you, Your Honor.

16 (The above matter concluded at 5:09 p.m.)
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The State of South Carolina. } KNOW ALL MEN BY THESE PRESENTS.

THAT Me, N. Christman and Frederick W. Christman, of Beaufort

in the State aforesaid, and County of Beaufort, in consideration of the sum of One thousand and thirty-five DOLLARS, to us in hand paid at and before the signing of these presents, by Ruben M. Christman, of said Beaufort to the State aforesaid

(the receipt whereof is hereby acknowledged) have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said Ruben M. Christman, all that certain piece, parcel or tract of land, situate, lying and being in the State of South Carolina, County of Beaufort, and on S.E. 1/4 of Nelson Island, and on road to known as the "Former Plantation," and more particularly bounded and described as follows, to-wit: The North by land belonging to Mrs. Calata of John Ford, East by the Calata of Joseph Bryan Smith by lands belonging to the Calata of William Dalbey, and West by land belonging to the Calata of Butler Mitchell, containing ten acres more or less, and being the same as was formerly the property of Strauss Sammons, and later of our father, N. Christman (de), now deceased, and by him devised to us by his last bearing date the eleventh day of January, 1909, and recorded in the Office of the Probate Judge for Beaufort County, in Book 2, at page 236.

TOGETHER with all and singular the rights, tenures, hereditaments and appurtenances to the said premises belonging, or in anywise incident or appertaining TO HAVE AND TO HOLD, all and singular, the said premises before mentioned unto the said Ruben M. Christman his heirs and assigns forever

AND we do hereby bind ourselves and our heirs, Executors and Administrators, to warrant and forever defend all and singular, the said premises unto the said Ruben M. Christman, his heirs and assigns forever us and our heirs lawfully claiming, or to visit the same, or any part thereof.

WITNESS our hand and Seal this twelfth day of February in the year of our Lord one thousand nine hundred and twelve and in the one hundred and twelfth year of the Signed, Sealed and Delivered in the Presence of R. C. Gross 2 H. Namers N. Christman Frederick W. Christman (L. S.) (L. S.)

THE STATE OF SOUTH CAROLINA. } PERSONALLY appeared before me R. C. Gross and made with this us the within named N. Christman and Frederick W. Christman sign, seal, and as Witness and do hereby deliver the within written Deed; and that the with 2 H. Namers witnessed the execution thereof. SWORN to before me, this 12 day of February Anno Domini 1912. (SEAL) 2 H. Namers, Not Public R. C. Gross

THE STATE OF SOUTH CAROLINA. } do hereby certify up to all whom it may concern, that Mrs. Christman wife of the within named N. Christman did declare that she does freely, voluntarily and without any compulsion, dread or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within named heirs and assigns all her interest and estate, and also all her right and claim in, to or to all and singular the premises within mentioned and recited. GIVEN under my hand and seal, this 12 day of February Anno Domini 1912. (SEAL) 2 H. Namers March 1913 Frederick W. Christman

CERTIFIED TRUE COPY of the document recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 2, at page 236.

PLAINTIFF'S EXHIBIT NO. 1

of the document recorded in the Office of the
Register of Deeds for Beaufort County, S.C., on

March 13, 1933

Book 51 Page 213

This document contains pages

Register of Deeds - Beaufort County, SC

Feb 18, 2022

KNOW ALL MEN BY THESE PRESENTS, That I, Ruben M. Chisolm of St Helena Island in the County of Beaufort

in consideration of the sum of Fifty Dollars (\$50.00) in the State aforesaid for and to me, the said Harrison Rivers of St Helena Island DOLLARS.

released, and by these Presents do grant, bargain, sell and release unto the said Harrison Rivers a certain part of seven acre tract described as follows: bounded on the North by lands now or formerly of John Ford on the east by lands now or formerly of Joseph Logan, on the south by lands now or formerly of William Wallace and on the West by lands now or formerly of Butler, Mitchell, being a part of what is known as the Frogmore Plantation and purchased by me from H. Christensen by deed dated February 10, 1913, the road leading from Club Bridge to Gaffing Point running through this lot in a southwest to northeast direction; Beginning at the point where the said highway intersects with the southern line of the said ten acre lot, and running in a westerly direction along the boundary two hundred and ten feet, thence in a northerly direction two hundred and ten feet, thence in an easterly direction two hundred and ten feet to the said highway, thence along the said highway in a southerly direction to the point of starting, said lot containing one (1) acre, more or less.

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

TO HAVE AND TO HOLD, all and singular, the said premises before mentioned unto the said Harrison Rivers, his

Heirs and Assigns forever.

AND I do hereby bind myself and my Heirs, Executors and Administrators, to warrant and forever defend, all and singular, the said premises unto the said Harrison Rivers, his Heirs and Assigns against the claims and demands of all and singular, the said Harrison Rivers, his Heirs and Assigns against me and my Heirs and all others lawfully claiming or to claim the same, or any part thereof.

WITNESS my Hand and Seal, this thirteenth day of March in the year of our Lord one thousand three hundred and thirty and in the one hundred and fifty seventh year of the

Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered in the Presence of:

L. Walpole Ruben Chisolm (I.S.)
Gelia Chisolm (I.S.)

THE STATE OF SOUTH CAROLINA,
Beaufort County. } Personally appeared before me L. Walpole and made oath that he saw the within named Ruben Chisolm and that he act and deed, deliver the within written Deeds and that Gelia B. Chisolm sign, seal and as SWORN to before me this 13 day of March A. D. 1933 witnessed the execution thereof.
(SEAL) M.D. Batchelder (SEAL) L. Walpole
Notary Public

THE STATE OF SOUTH CAROLINA,
Beaufort County. } RENUNCIATION OF DOWER
I, M.D. Batchelder, a Notary Public for South Carolina do hereby certify unto all whom it may concern that Mrs. Rachel Chisolm wife of the within named Ruben M. Chisolm did this day appear before me, and upon being privately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread or fear of any person or persons whomsoever, reconquer, release and forever relinquish unto the within named Harrison Rivers, his Heirs and Assigns, all her interest and estate, and also all her right and claim of Dower of, in, or to all and singular the premises within mentioned and released.
Given under my hand and seal, this 13th day of March A. D. 1933 Rachel Chisolm
(SEAL) M.D. Batchelder (I.S.)
Notary Public
Recorded and certified, this 13th day of March 1933

PENGAD 800-31-8995

PLAINTIFF'S
EXHIBIT

NO. 2

STATE OF SOUTH CAROLINA
BEAUFORT COUNTY

WHEREAS, RUBEN M. CHISOLM, died
intestate leaving as his sole and only
Heirs at law, Benjamin Jenkins and
FLORENCE PARKER;
NOW THEREFORE,

That WE, BENJAMIN JENKINS and FLORENCE PARKER, of St. Helena Island,
Beaufort County, sole heirs of RUBEN M. CHISOLM, In the State aforesaid,
in consideration of the sum of ONE HUNDRED AND NO/100 (\$100.00) DOLLARS,
do hereby certify that the sum of ONE HUNDRED AND NO/100 (\$100.00) DOLLARS, the sum of which is hereby so-

ALL that certain piece, parcel or lot of land situate, lying and being in the Southeast corner of Lot 35, Sec. 28, 1st E, St. Helena Island; Beaufort County; South Carolina, and containing .54 acre and being more particularly bounded and described as follows, to-wit: On the Northwest by Seaside Road; on the East by Logan King and on the South by Edward Sumpter. For a more complete description as to metes, bounds, courses and distances reference is made to that certain plat made by Niels Christensen, R.L.S., dated November 20, 1965, which is hereto attached and made a part hereof.

This is a part of the property conveyed to the within Ruben M. Chisolm by deed dated February 10, 1913, from N. Christensen and Frederik H. Christensen recorded in the office of the Clerk of Court for Beaufort County, S. C. in Deed Book 33 at Page 29.

TOGETHER with all and Singular the Rights, Members, Hereditaments and Appurtenances to the said premises belonging, or in anywise incident or appertaining, unto the said Premises before mentioned unto the grantee(s) hereinabove named,

TO HAVE AND TO HOLD all and singular the said Premises before mentioned unto the grantee(s) hereinabove named, and their Heirs and Assigns forever.

And the grantor(s) do(es) hereby bid the grantor(s) and the grantor(s)'s Heirs, Executors and Administrators to warrant and forever defend all and singular the said premises unto the grantee(s) hereinabove named, and the grantee(s)'s Heirs and Assigns against the grantor(s) and the grantor(s)'s Heirs and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

22th day of March in the year

Witness the grantor's hand and seal this 11th day of March in the year of our Lord One Thousand Nine Hundred and Sixty seven.

Signed, Sealed and Delivered in the Presence of

Margaret J. Robison

A. Edgar Wilson

Florence C. Parker (Seal)
Benjamin Jenkins (Seal)
____ (Seal)
____ (Seal)
____ (Seal)
____ (Seal)

State of South Carolina,
Beaufort County

Personally appeared before me Margaret T. Rodgers

Beaufort County }
and made oath that s/he saw the within named grantor(s) BENJAMIN. JENKINS and FLORENCE PARKER
sign, seal and as their act and deed
witnessed the execution thereof.

Sworn to before me this 11th
day of March, A. D. 1967
W. Lee Wilson (Seal)
Notary Public for South Carolina

e Rodgers witnessed the execution thereof.
 Margaret S. Rodgers
 President

State of South Carolina,
Beaufort County:

RENUNCIATION OF DOWER

L. T. Legare Rodgers

Notary Public do hereby certify

unto all whom it may concern, that Mrs. Louise S. Jenkins, Benjamin Jenkins, wife of the within named, and upon being privately and separately examined by me, did declare that she does freely did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily, and without any compulsion, dread or fear of any person or persons, whomever, renounce, release, and forever relinquish unto TSIAH SUMPTER and CHRISTENA SUMPTER, their heirs and assigns, all her interest and estate, and also all her right and claim in, to, and to all and singular the premises within mentioned and released.

GIVEN under my hand and seal this
day of March 1967

Course & Index

CERTIFIED TRUE COPY
of the document recorded in the Office of the
Register of Deeds for Beaufort County, S.C., on
(date): 3-15-1967
in OR Book 143 Page 360
This document contains 2 pages.
James B. Baker
Register of Deeds - Beaufort County, SC
7-1-15

284

State of South Carolina,

HEIRS OF RUBEN M. CHISOLM

TO

ISAIAH and CHRISTENA SUMPTER

TITLE TO REAL ESTATE

Filed 75th day

of MARCH A. D. 19 67

at 9:00 o'clock A. M.

and recorded in Book 143

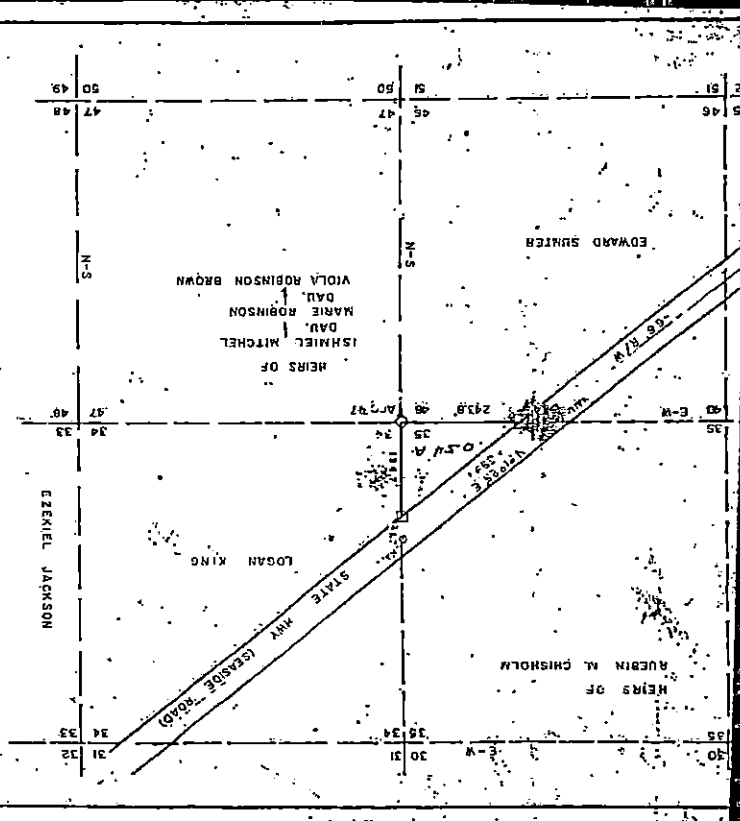
Page 260, Fee, \$ 1.50

By *William B. Chiles*
R. M. C. or Clerk Court C. P. & G. S.
Beaufort County, S. C.

Recorded this day

PROPERTY OF ISAIAH SUMPTER
S.E. CORNER LOT 35, SEC. 28, 15 1E
ST. HELENA 15L, BEAUFORT COUNTY, S.C.
SURVEYED BY NIELS CHRISTENSEN
NOVEMBER 20, 1965 SCALE: 1"=200'

F-365



280

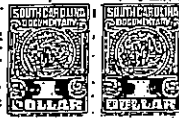
STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

1015

WHEREAS, Ruben M. Chisolm died intestate on January 31, 1944, leaving as his sole surviving heirs, his wife, Rachael Chisolm, and daughter, Florence C. Parker, and

WHEREAS, Rachael Chisolm died on January 29, 1969, leaving as her sole surviving heir, Florence C. Parker, the said Florence C. Parker as the sole surviving heir of Ruben M. Chisolm, hereby conveys the within described property to John Sumpter and Margaret Sumpter as stated herein.



Revenue Stamps
Collected

\$ 112

Beaufort County, S. C.

KNOW ALL MEN BY THESE PRESENTS, THAT
HEIRS OF RUBEN M. CHISOLM, BY FLORENCE C.
PARKER AS THE SOLE SURVIVING HEIR

in the State aforesaid for and in consideration of the sum of
EIGHT HUNDRED FIFTY AND NO/100 (\$850.00) DOLLARS,
to me in hand paid at and before the sealing of these presents by JOHN SUMPTER AND
MARGARET SUMPTER
in the State aforesaid and the receipt whereof is hereby
acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release
unto the said John Sumpter and Margaret Sumpter, their heirs and assigns forever,
the following described property, to wit:

ALL that certain piece, parcel or lot of land situate, lying and being on St. Helena Island, Beaufort County, South Carolina as shown on a plat of the property of Edward Sumpter prepared by Niels Christensen, R. L. S., dated November 26, 1971, a copy of which is recorded herewith, said property being more specifically described and bounded as follows, to wit: Bounded on the North by other lands of the estate of Ruben M. Chisolm as shown on said plat, whereon it measures for a distance of One Hundred Ninety-One and Sixty-Five One-Hundredths (191.65') feet; on the East by lands of Logan King as shown on said plat, whereon it measures for a distance of One Hundred Fifty and Seventy-Nine One-Hundredths (150.79') feet; on the South by a State Highway known as Seaside Road as shown on said plat, whereon it measures for a distance of Two Hundred Forty-One and Six One-Hundredths (241.06') feet; and on the West by lands of Harrison Rivers and other lands of the estate of Ruben M. Chisolm, as shown on said plat, whereon it measures for a total distance of Three Hundred Three and Seventy-Nine One-Hundredths (303.79') feet.

The above-described property being a portion of that property which was conveyed to Ruben M. Chisolm by deed of N. Christensen and Frederik H. Christensen dated February 10, 1918, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Deed Book 33, Page 29.

CERTIFIED TRUE COPY
of the document recorded in the Office of the
Register of Deeds for Beaufort County, S.C., on
1-6-1972
in OR Book 194 Page 1015
This document contains
Signature of Seller
Register of Deeds - Beaufort County, S.C.
Feb 10, 2022

288

PLAINTIFF'S
EXHIBIT
NO. 4

1016

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

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said

JOHN SUMPTER AND MARGARET SUMPTER, their Heirs and Assigns forever.

1355112

289

AND I do hereby bind myself and my Heirs, Assigns, Executors and Administrators, to warrant and forever defend, all and singular, the said Premises unto the said JOHN SUMETER AND MARGARET SUMETER, their

Heirs and Assigns, against me and my Heirs, and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

WITNESS my Hand and Seal, this 23rd day of December in the year of our Lord one thousand nine hundred and seventy-one, and in the one hundred and

ninety-sixth year of the Sovereignty and Independence of the United States of America,

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Harold D. Branton Florence C. Parker (L. S.)
Jean A. Williams Florence C. Parker (L. S.)

1017

THE STATE OF SOUTH CAROLINA,
Beaufort County,

PERSONALLY appeared before me Jean L. Williams and made oath that she saw the within named Florence C. Parker, sole surviving heir of Hubert M. Chisolm, sign, seal, and as her act and deed, deliver the within written Deed, and that she with Harold D. Branton witnessed the execution thereof.

SWORN to before me, this 23rd day of December, A. D. 1971.
Harold D. Branton (SEAL)
Notary Public of South Carolina
My Commission Expires 8/19/80

Jean A. Williams

THE STATE OF SOUTH CAROLINA,
County,

RENUNCIATION OF POWER
GRANTOR IS A WOMAN

I, _____, a Notary Public for South Carolina do hereby certify unto all whom it may concern, that Mrs. _____ the wife of the within named _____ did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily, and without any compulsion, dread or fear of any person or persons whatsoever, renounce, release and forever relinquish unto the within named _____

Heirs and assigns, all her interest and right, and also all her right and claim of power, in or to all and singular the premises within mentioned and released.

Given under my Hand and Seal, this _____ day of _____ Anno Domini 19_____
(SEAL)
Notary Public of South Carolina
My Commission Expires _____

216581V2

2910

MC&B

State of South Carolina,

HEIRS OF RUBEN M. CHISOLM

BY FLORENCE C. PARKER,
SOLE SURVIVING HEIR
TO

JOHN & MARGARET SUMPTER

TITLE TO REAL ESTATE

1018

Filed 5th day
of JANUARY A. D. 1972
at 9:00 o'clock A. M.
and recorded in Book 194

Page 1015 Fee, \$ 1.50

J. A. McDonald
J. A. McDonald, Clerk Court C. P. & G. S.
Beaufort County, S. C.

Recorded this day

of 19

in Book Page

Fee, \$

Auditor County, S. C.

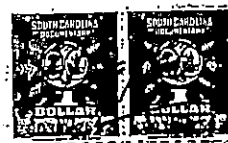
291

State of South Carolina,
COUNTY OF BEAUFORT

Form 14—Title to Real Estate
587890 Revised 1978

1575

WHEREAS Reubin M. Chisholm died intestate in the year 1944 leaving as sole heirs at law his wife Raphael Chisholm and a daughter Florence Chisholm and WHEREAS Rachel Chisholm died intestate in the year 1960 leaving as her sole heir at law a daughter Florence Chisholm Parker,



KNOW ALL MEN BY THESE PRESENTS, THAT

I, Florence Chisholm Parker

Revenue Stamps
Collected

\$ 1.00
Beaufort County, S.C.

in the State aforesaid County of Beaufort for and in consideration of the sum of
*** Eight Hundred and 00/100 *** (\$800.00) DOLLARS

to me in hand paid at and before the sealing of these presents by Amos J. Williams, of
H. O. Box 502 - Frogmore, S. C. 29920

in the State aforesaid County of Beaufort the receipt whereof is hereby

acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said Amos J. Williams, his heirs or assigns, all that certain piece, parcel or lot of land in the State of South Carolina, County of Beaufort, on Saint Helena Island containing 0.69 acres and more particularly described as bounded by a line commencing at a conc. marker on the SE corner of Land Lot 35 of Sec. 28 151E, said line extends Due North for 272.7 ft. along the West boundary of said Lot 35 to a conc. marker, thence Due East for 110.0 ft. to a conc. marker, thence Due South for 272.7 ft. to a conc. marker, thence Due West along the southern boundary of said Lot 35 for 110.0 ft. to the point of beginning, all of which is more clearly shown on a plat by Niels Christensen dated Aug. 17, 1972.

This is a part of the property sold to Reubin Chisholm Dec. 12, 1911 by Niels Christensen.

This deed prepared by Niels Christensen

CERTIFIED TRUE COPY
of the document recorded in the Office of the
Register of Deeds for Beaufort County, S.C., on
(date) 1-29-1980

In Book 295 Page 1575

This document contains 5 pages

Camelia Bradley
Register of Deeds - Beaufort County, S.C.

Feb 18, 2022

County Tax Map Reference
Map 24 Parcel 64C Blk. Dist. 230*

PLAINTIFF'S
EXHIBIT
No. 5 222

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

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said

Amos J. Williams, his

Heirs and Assigns forever.

293

AND I do hereby bind myself and my Heirs, Executors and Administrators, to warrant and forever defend, all and singular, the said Premises unto the said Amos J. Williams, his

Heirs and Assigns, against me and my Heirs, and all persons whomsoever, lawfully claiming, or to claim the same or any part thereof.

WITNESS my Hand and Seal, this 28th day of Jan. in the year of our Lord one thousand nine hundred and eighty and in the two hundred and fourth year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Walter A. Jennings X *Horace C. Parker* X
Shelton L. Smith (L. S.) (L. S.)

The State of South Carolina,

Beaufort County.

PERSONALLY appeared before me Walter A. Jennings and made oath that he saw the within named Florence Chisholm Parker sign, seal, and as her act and deed, deliver the within written Deed and that he with Niels Christensen witnessed the execution thereof.

SWORN to before me, this 28th day of January A.D. 1986

Walter A. Jennings (SEAL)
Notary Public for South Carolina
My Commission Expires

RENUNCIATION OF DOWER

GRANTOR IS A WOMAN

The State of South Carolina,

Beaufort County.

I, a Notary Public for South Carolina do hereby certify unto all whom it may concern, that Mrs. the wife of the within named did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily, and without any compulsion, dread or fear of any person or persons whomsoever, release, release and forever relinquish unto the within named

Heirs and assigns, all her interest and estate, and also all her right and claim of dower, of, in or to all and singular the premises within mentioned and released.

Given under my Hand and Seal, this day of Anno Domini 19

(SEAL)
Notary Public for South Carolina
My Commission Expires

274

Christensen

State of South Carolina,

TO

1579

TITLE TO REAL ESTATE

Filed 29th day

of January A.D. 1980

at 3:20 o'clock P.M.

and recorded in Book 295

Page 1575 Fee \$ 4.00

Roxanne W. Bunkley

R. M. C. or Clerk Court C.P. & D.S.

Beaufort County, S.C.

Recorded this 31st day

of January 1980

in Book 1 Page 164

Fee \$

Mary A. Gray

Auditor Beaufort County, S.C.

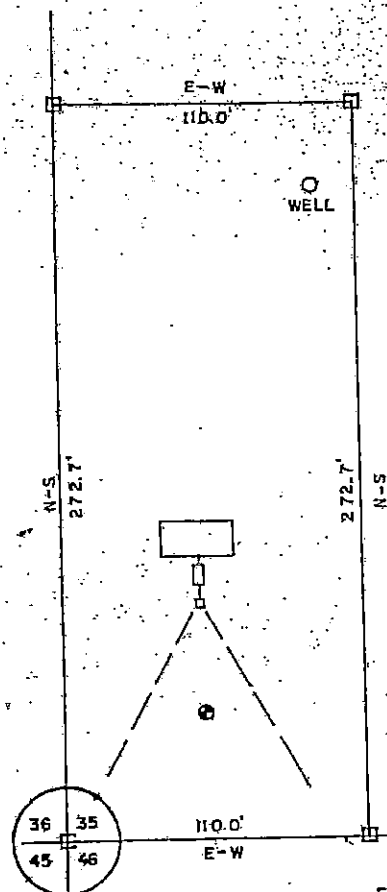
295

1577

F-1571

PROPERTY OF AMOS J. WILLIAMS
 PART OF LOT 35, SECTION 28, 151E, ST. HELENA ISLAND
 BEAUFORT COUNTY, SOUTH CAROLINA
 SURVEYED & PLATTED BY RIELS CHRISTENSEN
 AUGUST 17, 1977 SCALE 1"=100'
 REVISED 1/28/80 (NO SURVEY THIS DATE)

PERCOLATION RATE LESS THAN ONE MINUTE PER INCH
 SANDY LOAM TOPSOIL TO 6"
 FINE YELLOW SAND 6" - 5 1/2"
 COARSE SAND 5 1/2" - 7"
 WATER TABLE 6"

BUTLER
MITCHELL

FLORENCE PARKER

HARRISON RIVERS

ESTATE OF JULIA WRIGHT

SC HIGHWAY 77 (SEASIDE ROAD) 66' R/W
 N 31° 25' E
 53.5' 52.4'

No

CERTIFIED TRUE COPY
of the document recorded in the Offices of the
Register of Deeds for Beaufort County, S.C., on
(date): 9-18-1991
In DR Book 288 Page 1168
This document contains 2 pages.
Gamalis Boxley
Register of Deeds - Beaufort County, SC

Feb 18, 2022

10.00
M

36882

1168

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

PLEASE PRINT NAME OF COURT
OFFICE FOR CLERK'S SIGNATURE

PROBATE COURT

IN THE MATTER OF THE ESTATE OF OPHELIA RIVERS

CASE NUMBER 91ES0700341

DEED OF DISTRIBUTION

YOUR TAX NOTICE WILL BE SENT TO
THE ADDRESS SHOWN ON YOUR DEED
IF YOUR DEED WAS RECORDED BY
SEPTEMBER 15. IF THE ADDRESS IS
INCORRECT, PLEASE NOTIFY THE
COUNTY ASSESSOR.

WHEREAS, the decedent died on the 28TH day of MARCH, 1991; and,

WHEREAS, the estate of the decedent is being administered in the Probate Court for Beaufort
County, South Carolina in File # 91ES0700341; and,

WHEREAS, the grantee herein is either a beneficiary or heir at law, as appropriate, of the decedent; and,

WHEREAS, the undersigned Personal Representative is the duly appointed and qualified fiduciary in this matter; and,

NOW, THEREFORE, in accordance with the laws of the State of South Carolina, the Personal Representative has granted
bargained, sold and released, and by these Presents does grant, bargain, sell and release to:

Name: MICHAEL F. RIVERS
Address: ROUTE 2, BOX 534
ST. HELENA ISLAND, SC 29920

PROPERTY TAX MAP REFERENCE

Dist.	Acres	Submap	Parcel	Block
320	24		63	

the following described property:

ALL that certain piece, parcel or lot of land, situate, lying and
being on St. Helena Island, Beaufort County, South Carolina, and
consisting of one (1) acre, more or less, and is bounded on the
North by lands now or formerly of John Ford; on the East by lands
now or formerly of Joseph Logan; on the South by lands now or
formerly of William Wallace and on the West by lands now or formerly
of Butler Mitchell.

This is the same property conveyed to Ophelia Rivers by deeds of
Michael Rivers and Harold Luther Rivers. Said deeds are recorded in
the office of the RMC for Beaufort County at Deed Book 313, Page
896, and Deed Book 332, Page 1054 respectively. 300-24-63

This deed prepared by the law firm of Louis O. Dore, P.A., 133 Sea
Island Parkway, Lady's Island, S.C. 29902.



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

1169

TO HAVE AND TO HOLD, all and singular, the said Premises/Property unto the said Michael F. Rivers, his their heirs and assigns forever.

IN WITNESS WHEREOF, the undersigned, as Personal Representative of the estate of the decedent, has executed this Deed, this 18th day of September, 19 96.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Estate of: OPHELIA RIVERS
by Signature: Michael F. Rivers

Witness: Margie C. Mack

Witness: Louis O. Dore

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

PROBATE

PERSONALLY appeared before me, Margie C. Mack

and made oath that he/she saw the within named

Personal Representative(s) sign, seal, and as their act and deed, deliver the within written Deed, and that he/she with

Louis O. Dore witnessed the execution thereof.

SWORN to before me this 18th day of,
September, 19 96

Witness Signature:

Margie C. Mack

Louis O. Dore
Notary Public for South Carolina
My Commission Expires: 12/13/03

18 SEP 1996
AC
1146
30
Sullivan, Jr.
John A. Sullivan, Jr.
Beaufort County, S.C.
FILED
1435
Dore

FOLDER #

888 Pg 1168

56 SEP 18 PM 1:54

BEAUFORT COUNTY, S.C.

FILED

JOHN A. SULLIVAN, JR.

1435

826

39857

2455

MAIL TO:
Chase Manhattan Mortgage Corporation
BVO Final Docs 0903
4915 Independence Parkway
Tampa, FL 33634

Loan # 1095100830

(Space Above This Line For Recording Data)

MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on August 7, 1998.
Michael F. Rivers a married man

The mortgagor is

("Borrower"). This Security Instrument is given to

First Carolina Financial Group

which is organized and existing under the laws of South Carolina
address is 1200 Main Street Suite M-102, Columbia, SC 29201

and whose

Sixteen thousand and 00/100

("Lender"). Borrower owes Lender the principal sum of

Dollars (U.S. \$ 16,000.00

This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments with the full debt, if not paid earlier, due and payable on September 1, 2013.

This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7, to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender and Lender's successors and assigns the following described property located in BEAUFORT County, South Carolina:

See attached Schedule A

which has the address of 734 Seaside Rd, St Helena Island
South Carolina 29920

[Street, City]

[Zip Code] ("Property Address");

SOUTH CAROLINA Single Family-FHMA/FLHMC
UNIFORM INSTRUMENT Form 3041 9/90
Amended 10/94
WVP MORTGAGE FORMS - (800) 521-7291

Page 1 of 8

Initials

PJHS
Ex. 7

299

TO HAVE AND TO HOLD this property unto Lender and Lender's successors and assigns, forever, together with all the improvements now or hereafter created on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property".

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS: Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest; Prepayment and Late Charges.** Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. **Funds for Taxes and Insurance.** Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") for: (a) yearly taxes and assessments which may attain priority over this Security Instrument as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any sums payable by Borrower to Lender, in accordance with the provisions of paragraph 8, in lieu of the payment of mortgage insurance premiums. These items are called "Escrow Items." Lender may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Borrower's escrow account under the federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. Section 2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Lender may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. Lender may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is such an institution) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items. Lender may not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. However, Lender may require Borrower to pay a one-time charge for an independent real estate tax reporting service used by Lender in connection with this loan, unless applicable law provides otherwise. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender may agree in writing; however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Security Instrument.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender shall account to Borrower for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Lender at any time is not sufficient to pay the Escrow Items when due, Lender may so notify Borrower in writing, and, in such case, Borrower shall pay to Lender the amount necessary to make up the deficiency. Borrower shall make up the deficiency in no more than twelve monthly payments, at Lender's sole discretion.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender. If, under paragraph 21, Lender shall acquire or sell the Property, Lender, prior to the acquisition or sale of the Property, shall apply any Funds held by Lender at the time of acquisition or sale as a credit against the sums secured by this Security Instrument.

3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to any prepayment charges due under the Note; second, to amounts payable under paragraph 2; third, to interest due; fourth, to principal due; and last, to any late charges due under the Note.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. Hazard or Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods the Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 7.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 21 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

6. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest. Borrower may cure such a default and reinstate, as provided in paragraph 18, by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Borrower's interest in the Property or other material impairment of the lien created by this Security Instrument or Lender's security interest. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

7. Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

8. Mortgage Insurance. If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the mortgage insurance in effect. If, for any reason, the mortgage insurance coverage required by Lender lapses or ceases to be in effect, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the mortgage insurance previously in effect, from an alternate mortgage insurer approved by Lender. If substantially equivalent mortgage insurance coverage is not available, Borrower shall pay to Lender each month a sum equal to one-twelfth of the yearly mortgage insurance premium being paid by Borrower when the insurance coverage lapsed or ceased to be in effect. Lender will accept, use and retain these payments as a loss reserve in lieu of mortgage insurance. Loss reserve

payments may no longer be required, at the option of Lender, if mortgage insurance coverage (in the amount and for the period that Lender requires) provided by an insurer approved by Lender, again becomes available and is obtained. Borrower shall pay the premiums required to maintain mortgage insurance in effect, or to provide a loss reserve, until the requirement for mortgage insurance ends in accordance with any written agreement between Borrower and Lender or applicable law.

9. **Inspection.** Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

10. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property, in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the taking, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower. In the event of a partial taking of the Property, in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Borrower and Lender otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

11. **Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

13. **Loan Charges.** If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

14. **Notices.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

15. **Governing Law; Severability.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

16. **Borrower's Copy.** Borrower shall be given one conformed copy of the Note and of this Security Instrument.

17. **Transfer of the Property or a Beneficial Interest in Borrower.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed, within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

18. **Borrower's Right to Reinstate.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraph 17.

19. **Sale of Note; Change of Loan Servicer.** The Note or a partial interest in the Note (together with this Security Instrument) may be sold one or more times without prior notice to Borrower. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note and this Security Instrument. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change in accordance with paragraph 14 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.

20. **Hazardous Substances.** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 20, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 20, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

21. **Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraph 17 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 21, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

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22. Release: Upon payment of all sums secured by this Security Instrument, this Security Instrument shall become null and void. Lender shall release this Security Instrument without charge to Borrower. Borrower shall pay any recordation costs.
 23. Waiver: Borrower waives all rights of homestead exemption in the Property.
 24. Future Advances: The lien of this Security Instrument shall secure the existing indebtedness under the Note and any future advances made under this Security Instrument up to one hundred fifty percent (150%) of the original principal amount of the Note plus interest thereon, attorneys' fees and court costs.

25. Riders to this Security Instrument: If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument.
 (Check applicable box(es))

☐ Adjustable Rate Rider	☐ Condominium Rider	☐ 1-4 Family Rider
☐ Graduated Payment Rider	☐ Planned Unit Development Rider	☐ Biweekly Payment Rider
☐ Balloon Rider	☐ Rate Improvement Rider	☐ Second Home Rider
☐ VA Rider	☒ Other(s) [specify] Escrow/Impound Pay Rider	

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.
 Signed, sealed and delivered in the presence of:

Michael F. Rivers 7 AUG 98 (Seal)
 Michael F. Rivers Borrower
P. Brian McCarty (Seal)
 P. Brian McCarty Borrower
 _____ (Seal)
 _____ Borrower

STATE OF SOUTH CAROLINA,
 County of _____
 Personally appeared before me Robert V. Harrelson and made oath that
he saw the within named Borrower sign, seal, and as his act and deed, deliver the within written
 Mortgage; and that he with P. Brian McCarty
 witnessed the execution thereof.

Sworn to before me this 7th day of August, 1998
 My Commission Expires: 11-24-2007
 (Seal) P. Brian McCarty
 Notary Public for South Carolina
 (P. Brian McCarty)

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1095100830

ESCROW/IMPOUND PAYMENT RIDER

THIS ESCROW/IMPOUND PAYMENT RIDER is made this 7th day of August, 1998 and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to First Carolina Financial Group (the "Lender") of the same date and covering the Property described in the Security Instrument.

ESCROW/IMPOUND PAYMENTS: (A) Subject to the requirements stated in paragraph (B) below, Borrower will not be required to make monthly escrow/impound payments to Lender for taxes and insurance.

(B) Borrower must pay immediately when due all real estate taxes, assessments, water frontage charges and other similar charges, sewer rents, and hazard or property insurance and flood insurance (if any) covering the Property. Within 30 days after Borrower renews any insurance coverage, Borrower shall send a copy of the insurance declaration page(s) and a copy of the paid receipt(s) to Lender's Insurance Department. Within five days of receipt of a written request from Lender, Borrower shall furnish Lender with original receipts or other evidence satisfactory to Lender showing payment of insurance premiums, taxes, assessments, water frontage charges and other charges. If Borrower does not pay the insurance premium, taxes, assessments, water frontage charges and other similar charges immediately when due, Lender may, but is not obligated to, obtain insurance coverage for Borrower or pay the taxes (and any penalties) and any other charges and Borrower must reimburse Lender immediately. Lender may then require Borrower to make escrow/impound payments in accordance with the terms of the Security Instrument.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and provisions contained in this Rider.

(Seal)
Borrower

7 Aug '98
Michael F. Kivari

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

B/C ESCROW/IMPOUND PAYMENT RIDER
PC-6135.LT (4/97)

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2462

EXHIBIT "A" For File No 321863

ALL THAT CERTAIN PIECE, PARCEL, OR LOT OF LAND, SITUATE, LYING AND BEING ON ST. HELENA ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA, AND CONSISTING OF ONE (1) ACRE, MORE OR LESS, AND IS BOUNDED ON THE NORTH BY LANDS NOW OR FORMERLY OF JOHN FORD, ON THE EAST BY LANDS NOW OR FORMERLY OF JOSEPH LOGAN, ON THE SOUTH BY LANDS NOW OR FORMERLY OF WILLIAM WALLACE AND ON THE WEST BY LANDS NOW OR FORMERLY OF BUTLER MITCHELL.

TMS #: R300-24-63

PROPERTY ADDRESS: 1 ACRE
ST. HELENA ISLAND, SOUTH CAROLINA 29920

THIS BEING THE SAME PROPERTY DEVISED TO THE BORROWER(S) HEREIN BY DEED OF DISTRIBUTION, CASE #91ES0700341, FROM THE ESTATE OF OPHELIA RIVERS, DATED 9/18/96, AND RECORDED 9/18/96 IN BOOK 888 AT PAGE 1168 IN THE OFFICE OF THE R.M.C. FOR BEAUFORT COUNTY, SOUTH CAROLINA.

3000

Post Mt. Data
5477
REC'D
JOHN A. SULLIVAN RMC
BEAUFORT COUNTY, S.C.

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98 AUG 12 PM 12:46 */MLL*
BK 1074 PG 2455
FOLDER#

11
S
H
6/19

WHEN RECORDED MAIL TO:
OPTION ONE MORTGAGE CORPORATION
P.O. BOX 57076
IRVINE, CA 92619-7076
ATTN: QUALITY CONTROL

BEAUFORT COUNTY SC - ROD
BK 01473 PG 0964
FILE NUM 2001057799
RECORDING FEES 17.00
RECORDED BY P BAXLEY RCPT# 19631
RECORDED 09/19/2001 11:33:32 AM

Loan Number: 341003990
Servicing Number: 500361-1

(Space Above This Line For Recording Data)

MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on September 13, 2001. The mortgagor is MICHAEL F RIVERS A/K/A MICHAEL FRANK RIVERS

("Borrower"). This Security Instrument is given to Option One Mortgage Corporation, a California Corporation which is organized and existing under the laws of CALIFORNIA, and whose address is 3 Ada, Irvine, CA 92618

("Lender"). Borrower owes Lender the principal sum of SEVENTY THOUSAND FOUR HUNDRED

AND NO/100THs Dollars (U.S.\$70,400.00).

This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on October 01, 2031. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender and Lender's successors and assigns the following described property located in Beaufort County, South Carolina: K3000240000063

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART THEREOF.

Derivation Clause: Being the same property conveyed to
by Dated of dated and recorded Page
in the RNC Office for County in Book

which has the address of 734 SEASIDE RD,

[See]

ST HELENA ISLAND
[City]

, South Carolina

29920

("Property Address");
[Zip Code]

TO HAVE AND TO HOLD this property unto Lender and Lender's successors and assigns, forever, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

SOUTH CAROLINA - Single Family
Page 1 of 7

SCD10011 (04-07-00)

P1475
EX. 8

308

Loan Number: 341003990

Servicing Number: 500361-1

Date: 09/13/01

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest; Prepayment and Late Charges.** Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. **Funds for Taxes and Insurance.** Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") for: (a) yearly taxes and assessments which may attain priority over this Security Instrument as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any sums payable by Borrower to Lender, in accordance with the provisions of paragraph 8, in lieu of the payment of mortgage insurance premiums. These items are called "Escrow Items." Lender may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Borrower's escrow account under the Federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. § 2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Lender may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. Lender may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentally, or entity (including Lender, if Lender is such an institution) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items. Lender may not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. However, Lender may require Borrower to pay a one-time charge for an independent real estate tax reporting service used by Lender in connection with this loan, unless applicable law provides otherwise. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender may agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Security Instrument.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender shall account to Borrower for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Lender at any time is not sufficient to pay the Escrow Items when due, Lender may so notify Borrower in writing, and, in such case Borrower shall pay to Lender the amount necessary to make up the deficiency. Borrower shall make up the deficiency in no more than twelve monthly payments, at Lender's sole discretion.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender. If, under paragraph 21, Lender shall acquire or sell the Property, Lender, prior to the acquisition or sale of the Property, shall apply any Funds held by Lender at the time of acquisition or sale as a credit against the sums secured by this Security Instrument.

3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to any prepayment charges due under the Note; second, to amounts payable under paragraph 2; third, to interest due; fourth, to principal due; and last, to any late charges due under the Note.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. **Hazard or Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amount and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 7.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, or applicable Law otherwise requires, insurance proceeds shall be applied first to reimburse Lender for costs and expenses incurred in connection with obtaining any such insurance proceeds, and then, at Lender's option, in such order and proportion as Lender may determine in its sole and absolute discretion, and regardless of any impairment of security or lack thereof: (i) to the sums secured by this Security Instrument, whether or not then due, and to such components thereof as Lender may determine in its sole and absolute discretion; and/or (ii) to Borrower to pay the costs and expenses of necessary repairs or restoration of the Property to a condition satisfactory to Lender. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, Lender may collect the insurance proceeds. Lender may, in its sole and absolute discretion, and regardless of any impairment of security or lack thereof, use the proceeds to repair or restore the Property or to pay the sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 21 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

If Borrower obtains earthquake insurance, any other hazard insurance, or any other insurance on the Property and such insurance is not specifically required by Lender, then such insurance shall (i) name Lender as loss payee thereunder, and (ii) be subject to the provisions of this paragraph 5.

6. **Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds.** Borrower acknowledges that the Lender does not desire to make a loan to Borrower secured by this property on the terms contained in the Note unless the property is to be occupied by Borrower as Borrower's primary/secondary residence. Lender makes non-owner residence loans of different terms. Borrower promises and assures Lender that Borrower intends to occupy this property as Borrower's primary/secondary residence and that Borrower will so occupy this property as its sole primary/secondary residence within sixty (60) days after the date of the Security Instrument. If Borrower breaches this promise to occupy the property as Borrower's primary/secondary residence, then Lender may invoke any of the following remedies, in addition to the remedies provided in the Security Instrument: (1) Declare all sums secured by the Security Instrument due and payable and foreclose the Security Instrument; (2) Decrease the term of the loan and adjust the monthly payments under the Note accordingly, increase the interest rate and adjust the monthly payments under the Note accordingly, or (3) require that the principal balance be reduced to a percentage of either the original purchase price or the appraised value then being offered on non-owner occupied loans.

Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any foreclosure action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest. Borrower may cure such a default and reinstate, as provided in paragraph 18, by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Borrower's interest in the Property or other material impairment of the lien created by this Security Instrument or Lender's security interest. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

Borrower shall, at Borrower's own expense, appear in and defend any action or proceeding purporting to affect the Property or any portion thereof or Borrower's title thereto, the validity or priority of the lien created by this Security Instrument, or the rights or powers of Lender with respect to this Security Instrument or the Property. All causes of action of Borrower, whether accrued before or after the date of this Security Instrument, for damage or injury to the Property or any part thereof, or in connection with any transaction financed in whole or in part by the proceeds of the Note or any other note secured by this Security Instrument, by Lender, or in connection with or affecting the Property or any part thereof, including causes of action arising in tort or contract and causes of action for fraud or concealment of a material fact, are, at Lender's option, assigned to Lender, and the proceeds thereof shall be paid directly to Lender who, after deducting therefrom all its expenses, including the reasonable attorneys' fees, may apply such proceeds to the sums secured by this Security Instrument or to any deficiency under this Security Instrument or may release any monies so received by it or any part thereof, as Lender may elect. Lender may, at its option, appear in and prosecute in its own name any action or proceeding to enforce any such cause of action and may make any compromise or settlement thereof. Borrower agrees to execute such further assignments and any other instruments as from time to time may be necessary to effectuate the foregoing provisions and as Lender shall request.

7. **Protection of Lender's Rights in the Property.** If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien

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which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate in effect from time to time and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

8. **Mortgage Insurance.** If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the mortgage insurance in effect. If, for any reason, the mortgage insurance coverage required by Lender lapses or ceases to be in effect, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the mortgage insurance in effect, from an alternate mortgage insurer approved by Lender. If substantially equivalent mortgage insurance coverage is not available, Borrower shall pay to Lender each month a sum equal to one-twelfth of the yearly mortgage insurance premium being paid by Borrower when the insurance coverage lapsed or ceased to be in effect. Lender will accept, use and retain these payments as a loss reserve in lieu of mortgage insurance. Loss reserve payments may no longer be required, at the option of Lender, if mortgage insurance coverage (in the amount and for the period that Lender requires) provided by an insurer approved by Lender again becomes available and is obtained. Borrower shall pay the premiums required to maintain mortgage insurance in effect, or to provide a loss reserve, until the requirement for mortgage insurance ends in accordance with any written agreement between Borrower and Lender or applicable law.

9. **Inspection.** Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

10. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Lender may apply, use or release the condemnation proceeds in the same manner as provided in paragraph 5 hereof with respect to insurance proceeds.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

11. **Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

13. **Loan Charges.** If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

14. **Notices.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

15. **Governing Law; Severability.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

16. Borrower's Copy. Borrower shall be given one conformed copy of the Note and of this Security

17. Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or Instrument is transferred (or if a beneficial interest in Borrower is sold or transferred) and Borrower

any interest in it is sold or transferred (or is sold or transferred to a natural person) without Lender's prior written consent. Lender may, at its option, require minimums to be maintained by the Security Instrument. However, this option shall not be exercised by

payment in full of all sums secured by this security instrument. Lender is prohibited by federal law as of the date of this Security Instrument. The notice shall

If Lender exercises this option, Lender shall provide a period of not less than 30 days from the date the notice is delivered (or mailed) within which Borrower may pay the sums prior to the expiration of this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this Security Instrument, Lender shall have the right to exercise this option without further notice or

must pay all sums secured by his security instrument within the period of 60 days after the date of the completion of the sale of the property. If the property is sold for less than the amount secured by the security instrument, the lender may require the borrower to pay the deficiency within the same period. If the property is sold for more than the amount secured by the security instrument, the lender may require the borrower to pay the surplus within the same period. If the property is sold for the same amount as the amount secured by the security instrument, the lender may require the borrower to pay the surplus within the same period. If the property is sold for less than the amount secured by the security instrument, the lender may require the borrower to pay the deficiency within the same period. If the property is sold for more than the amount secured by the security instrument, the lender may require the borrower to pay the surplus within the same period. If the property is sold for the same amount as the amount secured by the security instrument, the lender may require the borrower to pay the surplus within the same period.

15. Borrower's Right to Redemptio. If Borrower meets certain conditions, Borrower may have the right to have the entire outstanding principal balance of the Security Instrument discontinued in any time prior to the earlier of: (a) 5 days (or such longer period as may be agreed to by the parties) after the date of the last payment of principal to any power of sale holder; or (b) the date of the last payment of principal to any power of sale holder.

other period as applicable law may specify for reinvestment) before sale of the Property pursuant to any of the following: (a) the Security Instrument; or (b) entry of a judgment enjoining this Security Instrument. Thereafter, the Property shall be sold by the Trustee in the manner specified in the Security Instrument.

[illegible]

pay all expenses incurred in enforcing the Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Leader may reasonably require to ensure that the lien of this Security Instrument is not impaired by this Security Instrument.

instrument, the parties agreed that the instrument shall continue unchanged. Upon refinancing by Borrower, this Security Instrument and the instrument, Lender's right in the Property and Borrower's obligation to pay the same, recorded by the parties, shall remain in full force and effect. However, this right

obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, any acceleration shall not apply in the case of acceleration under paragraph 17. The above of a partial interest in the Note (together with

19. Sale of Note. Changes of Loan Servicer. The Note or a portion interest in the Note may be sold one or more times without prior notice to Borrower. A sale may result in

the security of the country (known as the "Loren Service") that collects information on persons who have been a change in the city (known as the "Loren Service") that collects information on persons who have been a

if there is a change of the Loan Servicer. Borrower will be given written notice by the Servicer of any change of the Loan Servicer. The notice will state the name and address of the new Loan Servicer and paragraph 14 above and applicable law. The notice will also contain any other information required by applicable law.

the address to which payments should be made. The notice will also contain information regarding the applicable law. The holder of the Note and this Security instrument shall be deemed to be the lender hereunder and shall not cause or permit the presence, use, disposal, storage,

20. **Hazardous Substances.** Borrower shall not cause or permit the presence of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything that is in violation of any Environmental Law. The preceding two sentences shall

anything affecting the Property that is in violation of any laws or ordinances relating to the health, safety or general welfare of the community; or

generally recognized to be appropriate to normal residential mortgage loans.

action by any Governmental or Regulatory agency or private party, or removal or remedial authority, that any removal or other remediation of any Hazardous Substances or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified

any governmental or regulatory authority, and any action affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance

Borrower shall be solely responsible for, shall indemnify, defend and hold harmless Lender, its directors, officers, employees, agents, and their respective successors and assigns, from and against any and all claims, damages, losses, costs and expenses, including reasonable attorneys' fees, that may be asserted against or incurred by Lender, its directors, officers, employees, agents, or their respective successors and assigns in connection with the performance of its obligations under this agreement.

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(d) The following information is required to be included in the annual report:

- The name, position, and contact details of the person responsible for the implementation of any closure, abandonment, or other remedial action.

directly or indirectly, discharge, disposal, abandonment or presence of Hazardous Substances on, under or about the property; (c) the violation of any Hazardous Substances

As used in this paragraph 20, "Hazardous Substances" and "Hazardous Substances" means those substances defined as toxic or hazardous under the Federal Hazardous Substances Act, 15 U.S.C. 1051, and (d) any Hazardous Substances.

As used in this paragraph, the following substances: gasolene, kerosene, diesel fuel, oil, and the following substances: herbicides, insecticides, fungicides, molluscicides, nematocides, and other pesticides, toxic pesticides and herbicides, volatile solvents, minerals containing asbestos, and other minerals.

formaldehyde, and radioactive materials. As used in this paragraph 20, "Environmental Law" means local, state, federal, and international laws, regulations, and orders that apply to the Property and are as follows:

ADDITIONAL COVENANTS. Borrower and Lender covenant and agree as follows:

definitely under any other mortgage or other lien or other claim secured by the Property, all sums secured by this Security Instrument, or if Borrower should be in default under any provision of this Security Instrument, or if Borrower

...and regarding any other information that may be required by the Department of the Interior, the Bureau of Land Management, or the Bureau of Reclamation, the applicant shall be notified in writing by the Bureau of Land Management, the Bureau of Reclamation, or the Bureau of Indian Affairs, as the case may be, within 30 days of the receipt of the application. The applicant shall be notified in writing by the Bureau of Land Management, the Bureau of Reclamation, or the Bureau of Indian Affairs, as the case may be, within 30 days of the receipt of the application. The applicant shall be notified in writing by the Bureau of Land Management, the Bureau of Reclamation, or the Bureau of Indian Affairs, as the case may be, within 30 days of the receipt of the application.

any other territories or take any other actions permitted by applicable law. Lender will collect all export credit, interest, and charges on payments due, may then or thereafter assign or sublease the right to receive such payments, and may take or cause to be taken any action permitted by applicable law. Lender will collect all export credit, interest, and charges on payments due, may then or thereafter assign or sublease the right to receive such payments, and may take or cause to be taken any action permitted by applicable law. Lender will collect all export credit, interest, and charges on payments due, may then or thereafter assign or sublease the right to receive such payments, and may take or cause to be taken any action permitted by applicable law.

any costs incurred by pursuing the remedies described in this Paragraph 21, including, but not limited to, attorneys' fees and costs of this litigation, shall be recovered by this Security Instrument. Lender shall release

22. Release. Upon payment of all sums secured by this security instrument, the Secured Party shall pay property without warranty to the person or persons legally entitled to it. Such person or persons shall pay

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recordation costs. Lender may charge such person or persons a fee for releasing the Property for services rendered if the charging of the fee is permitted under applicable law.

23. **Waiver.** Borrower waives all rights of homestead exemption in the Property. Borrower waives the right to assert any statute providing appraisal rights which may reduce any deficiency judgement obtained by Lender against Borrower in the event of foreclosure under this Security Instrument.

24. **Future Advances.** The lien of this Security Instrument shall secure the existing indebtedness under the Note and any future advances made under this Security Instrument up to one hundred fifty percent (150%) of the original principal amount of the Note plus interest therein, attorneys' fees and court costs.

25. **Misrepresentation and Nondisclosure.** Borrower has made certain written representations and disclosures in order to induce Lender to make the loan evidenced by the Note or notes which this Security Instrument secures, and in the event that Borrower has made any material misrepresentation or failed to disclose any material fact, Lender, at its option and without prior notice or demand, shall have the right to declare the indebtedness secured by this Security Instrument, irrespective of the maturity date specified in the Note or notes secured by this Security Instrument, immediately due and payable. To the extent permitted by applicable law, Lender, upon presentation to it of an affidavit signed by Lender setting forth facts showing a default by Borrower under this paragraph, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

26. **Time is of the Essence.** Time is of the essence in the performance of each provision of this Security Instrument.

27. **Waiver of Statute of Limitations.** The pleading of the statute of limitations as a defense to enforcement of this Security Instrument, or any and all obligations referred to herein or secured hereby, is hereby waived to the fullest extent permitted by applicable law.

28. **Modification.** This Security Instrument may be modified or amended only by an agreement in writing signed by Borrower and Lender.

29. **Reimbursement.** To the extent permitted by applicable law, Borrower shall reimburse Trustee and Lender for any and all costs, fees and expenses which either may incur, expend or sustain in the execution of the trust created hereunder or in the performance of any act required or permitted hereunder or by law or in equity or otherwise arising out of or in connection with this Security Instrument, the Note, any other note secured by this Security Instrument or any other instrument executed by Borrower in connection with the Note or Security Instrument. To the extent permitted by applicable law, Borrower shall pay to Trustee and Lender their fees in connection with Trustee and Lender including, but not limited to assumption application fees; fees for payoff demands and, statements of loan balance; fees for making, transmitting and transporting copies of loan documents, verifications, full or partial lien releases and other documents requested by borrower or necessary for performance of Lender's rights or duties under this Security Instrument; fees arising from a returned or dishonored check; fees to determine whether the Property is occupied, protected, maintained or insured or related purposes; appraisal fees, inspection fees, legal fees, broker fees, insurance mid-term substitutions, repair expenses, foreclosure fees and costs arising from foreclosure of the Property and protection of the security for this Security Instrument; and all other fees and costs of a similar nature not otherwise prohibited by law.

30. **Clerical Error.** In the event Lender at any time discovers that the Note, any other note secured by this Security Instrument, the Security Instrument, or any other document or instrument executed in connection with the Security Instrument, Note or notes contains an error that was caused by a clerical mistake, calculation error, computer malfunction, printing error or similar error, Borrower agrees, upon notice from Lender, to reexecute any documents that are necessary to correct any such error(s). Borrower further agrees that Lender will not be liable to Borrower for any damages incurred by Borrower that are directly or indirectly caused by any such error.

31. **Lost, Stolen, Destroyed or Mutilated Security Instruments and Other Documents.** In the event of the loss, theft or destruction of the Note, any other note secured by this Security Instrument, the Security Instrument or any other documents or instruments executed in connection with the Security Instrument, Note or notes (collectively, the "Loan Documents"), upon Borrower's receipt of an indemnification executed in favor of Borrower by Lender, or, in the event of the mutilation of any of the Loan Documents, upon Lender's surrender to Borrower of the mutilated Loan Document, Borrower shall execute and deliver to Lender a Loan Document in form and content identical to, and to serve as a replacement of, the lost, stolen, destroyed, or mutilated Loan document, and such replacement shall have the same force and effect as the lost, stolen, destroyed, or mutilated Loan Documents, and may be treated for all purposes as the original copy of such Loan Document.

32. **Assignment of Rents.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property. Borrower shall have the right to collect and retain the rents of the Property as they become due and payable provided Lender has not exercised its rights to require immediate payment in full of the sums secured by this Security Instrument and Borrower has not abandoned the Property.

33. **Riders to this Security Instrument.** If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument.

(Check applicable box(es))

☒ Adjustable Rate Rider

☐ Manufactured Home Rider

☐ Other(s) (specify)

☐ Condominium Rider

☐ Planned Unit Development Rider

☐ 1-4 Family Rider

☐ Occupancy Rider

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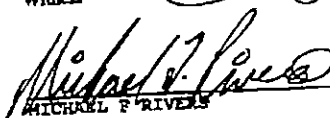
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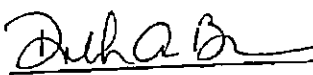
Date: 09/13/2001

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Signed, sealed and delivered in the presence of:


 Witness


 (Seal)
 MICHAEL F. RIVERS
 -Borrower


 Witness

_____ (Seal)
 -Borrower

_____ (Seal)
 -Borrower

_____ (Seal)
 -Borrower

_____ (Seal)
 -Borrower

[Space Below This Line For Acknowledgment]

STATE OF SOUTH CAROLINA, Beaufort County

I, _____
 Before me personally appeared the undersigned and made oath that
(s)he saw the within named Borrower sign, seal, and as his act and deed,
 deliver the within written Mortgage; and that (s)he with the other witness
 witnessed the execution thereof.

Sworn before me this 13th day of September, 2001.


 Witness


 Notary Public for South Carolina

My Commission Expires: ~~2/1/02~~ 3-17-2003

(Seal)

Loan Number: 341003990 Servicing Number: 500362-1 Date: 09/13/01

ADJUSTABLE RATE RIDER (LIBOR Index - Rate Caps)

THIS ADJUSTABLE RATE RIDER is made September 13, 2001 and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Adjustable Rate Note (the "Note") to Option One Mortgage Corporation, a California Corporation (the "Lender") of the same date and covering the property described in the Security Instrument and located at:

734 SEASIDE RD, ST HELENA ISLAND, SC 29920
[Property Address]

THE NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN THE INTEREST RATE AND THE MONTHLY PAYMENT. THE NOTE LIMITS THE AMOUNT THE BORROWER'S INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE THE BORROWER MUST PAY.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

The Note provides for an initial interest rate of 9.750%. The Note provides for changes in the interest rate and the monthly payments, as follows:

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The interest rate I will pay may change on the first day of October 2004 and on that day every sixth month thereafter. Each date on which my interest rate could change is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the average of interbank offered rates for six-month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in *The Wall Street Journal*. The most recent Index figure available as of the first business day of the month immediately preceding the month in which the Change Date occurs is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding SEVEN percentage point(s) (7.000%) to the Current Index. The Note Holder will then round the result of this addition to the next higher one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will

Loan Number: 341003990 Servicing Number: 500361-1

Date: 09/13/01

be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 12.750% or less than 9.750%. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than one percentage point (1.0%) from the rate of interest I have been paying for the preceding six months. In no event will my interest rate be greater than 15.750% or less than 9.750%.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER

Covenant 17 of the Security Instrument is amended to read as follows:

Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by applicable law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

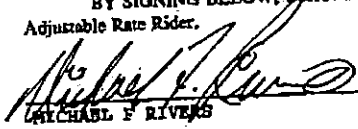
316

Loan Number: 341003990

Servicing Number: 500361-1

Date: 09/13/01

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Adjustable Rate Rider.

 (Seal)
MICHAEL F RIVERS

_____ (Seal)

_____ (Seal)

_____ (Seal)

_____ (Seal)

_____ (Seal)

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EXHIBIT "A"

ALL that certain piece, parcel or lot of land, situate, lying and being on St. Helena Island, Beaufort County, South Carolina, and consisting of one (1) acres, more or less, and is bounded on the North by lands now or formerly of John Ford; on the East by lands now or formerly of Joseph Logan; on the South by lands now or formerly of William Wallace and on the West by lands now or formerly of Butler Mitchell.

This being the same property conveyed to the within-named Mortgagor by Deed of Distribution of Estate of Ophelia Rivers, dated September 18, 1996 and recorded with the Register of Deeds Office for Beaufort County, South Carolina in Deed Book 888 at Page 1168.

This instrument prepared by the Law Office of Frampton L. Harper, II, 704 Prince Street, Beaufort, SC 29902.

5052-799

4/10 R6
Rogers 8779
8780

BEAUFORT COUNTY SC - ROD
BK 02383 PGS 1523-1526
FILE NUM 2006033855
04/27/2006 03:51:02 PM
REC'D BY B BING RCPT# 413641
RECORDING FEES 10.00

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

FORECLOSURE
MASTER IN EQUITY DEED

TO ALL TO WHOM THESE PRESENTS SHALL COME OR BE MADE KNOWN:

Or whom the same may in anywise concern, Curtis L. Coltrane, Master in Equity for the County and State aforesaid SEND GREETING:

WHEREAS, Wells Fargo Bank Minnesota, National Association, as Trustee for registered Holders of Option One Mortgage Loan Trust 2001-D, Asset-Backed Certificates, Series 2001-D, without recourse, on or about February 22, 2005, did exhibit its complaint in the Court of Common Pleas in the County and State aforesaid, Case No. 05-CP-07-0361, against Michael F. Rivers a/k/a Michael Frank Rivers.

And the Cause, being at issue before Curtis L. Coltrane, Master in Equity, came on to be heard on October 18, 2005, when the said Curtis L. Coltrane, after a full hearing thereof, and mature deliberation in the Premises, Did Order, Adjudge and Decree that the premises hereinafter mentioned and described should be sold at public auction on the terms and for the purposes mentioned in said Decretal Order, as by reference thereto, on file in the said Court will appear; and after having duly advertised the said premises for sale by Public outcry, on April 3, 2006. I, the said Curtis L. Coltrane did then, openly and publicly, and according to the custom of auction, sell and dispose of the said premises below described, unto Wells Fargo Bank Minnesota, National Association, as Trustee for registered Holders of Option One Mortgage Loan Trust 2001-D, Asset-Backed Certificates, Series 2001-D, without recourse for \$60,000.00 being, at that price, the highest bidder for the same.

NOW, KNOW ALL MEN, That I, the said Master in Equity in consideration of the premises, and also in consideration of the sum of \$60,000.00 paid me by the below-named Grantee, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents, do grant, bargain, sell and release unto the below named Grantee, its successors and assigns:

Wells Fargo Bank Minnesota, National Association, as Trustee for registered Holders of Option One Mortgage Loan Trust 2001-D, Asset-Backed Certificates, Series 2001-D, without recourse
Post Office Box 57038
Irvine, CA 92618

All that certain piece, parcel or lot of land, situate, lying and being on St. Helena Island, Beaufort County, South Carolina, and consisting of one (1) acre, more or less, and is bounded on the North by lands now or formerly of John Ford; on the East by lands now or formerly of Joseph Logan; on the South by lands now or formerly of William Wallace and on the West by lands now or formerly of Butler Mitchell.

This being the identical property conveyed to Michael F. Rivers by Deed of Distribution of Estate of Ophelia Rivers, 91ES0700341, dated September 18, 1996 and recorded September 18, 1996 in the Register of Deeds Office for Beaufort County, South Carolina in Deed Book 888 at Page 1168.

TMS# R3000240000063

ADD DMP Record 5/18/2006 10:15:32 AM
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R300	024	000	0063	0000	00

RECORDED
2006 May -18 04:48 PM
Sharon Q. Burns
BEAUFORT COUNTY AUDITOR

P1485
Ex. 9

319

TOGETHER with all and singular the rights, members, hereditaments and appurtenances whatsoever, to the said premises belonging, or in anywise appertaining, and the reversions and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, possession, property, benefit, claim and demand whatsoever, both at law and in equity, of the said Michael F. Rivers a/k/a Michael Frank Rivers and of all the parties to the said suit and of all other persons rightfully claiming or to claim the same, or any part thereof, by, from or under them, or either of them.

Subject to assessments, taxes, easements, conditions and restrictions of record and otherwise affecting the property.

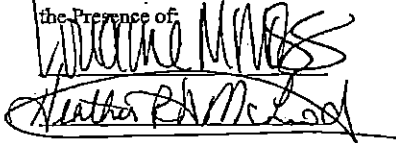
TO HAVE AND TO HOLD, the said premises with its hereditaments, privileges and appurtenances unto the said Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, I, the said Curtis L. Coltrane under and by virtue of the said Decree, have hereunto set my Hand and Seal at Beaufort, South Carolina, this 17 day of April, 2006



Curtis L. Coltrane
Master in Equity for Beaufort County

Scaled and Delivered in
the Presence of



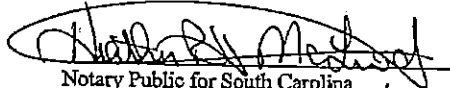
320

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

ACKNOWLEDGMENT
S.C. Code §30-5-30
(Effective January 1, 1995)

I, Heather R.H. McLeod, a Notary Public for the State of South Carolina, do hereby certify that Curtis L. Coltrane, Master in Equity for Beaufort County, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS our hands and seals on this 17 day of April, 2006.


Notary Public for South Carolina
My commission expires: 4/25/10

Index by: Curtis L. Coltrane, Master in Equity for Beaufort County
Deed Defendants: Michael F. Rivers a/k/a Michael Frank Rivers

Prepared by:

Rogers Townsend & Thomas, PC (jms/005052-00799)
P.O. Box 100200
Columbia, SC 29202-3200

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF RICHLAND

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

1. Deed to property located at 734 Seaside Road, St Helena Island, SC 29920, TMS# R3000240000063, was executed by Curtis L. Coltrane, Master in Equity, to Wells Fargo Bank Minnesota, National Association, as Trustee for registered Holders of Option One Mortgage Loan Trust 2001-D, Asset-Backed Certificates, Series 2001-D, without recourse on

April 17, 2006.

The above transaction is exempt, or partially exempt, from the recording fee as set forth in S.C. code Ann. Section 12-24-10 et seq. because the deed is:

#13. Transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagor or deed executed pursuant to foreclosure proceedings.

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

Transfer fee exemption #13.


Rogers Townsend & Thomas, PC

ATTORNEYS FOR PLAINTIFF

Samuel C. Waters (SC Bar #5958)	Cheryl H. Fisher (SC Bar #15213)
Reginald P. Corley (SC Bar #69453)	Jennifer W. Rubin (SC Bar #16727)
Ellie C. Floyd (SC Bar # 68635)	Eve Moredock Stacey (SC Bar # 5300)
Warren V. Ganjehsani (SC Bar #17040)	
700 Gervais Street, Suite 100	Post Office Box 100200 (29202)
Columbia, SC 29201	(803) 744-4444

Columbia, South Carolina

Sworn to before me this
25 day of April, 2006.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: 10-22-13
(005052-00799 JWR)

Loan Number: 0005003611

Second Loan Number:

3072

2/10/06
HBO

Please return to:
Law Offices of Robert L. Luce, LLC
P.O. Box 2327
Irmo, SC 29053

BEAUFORT COUNTY SC - ROD
BK 02463 PGS 2049-2050
FILE NUM 2006086834
10/24/2006 02:37:03 PM
REC'D BY P BAXLEY RCPT# 451407
RECORDING FEES 10.00
County Tax 128.60
State Tax 289.00

Space above this line for recording information

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

)
)
TITLE TO REAL ESTATE
SPECIAL WARRANTY
0005003611

KNOW ALL MEN BY THESE PRESENTS THAT, Wells Fargo Bank Minnesota, National Association, As Trustee for Registered Holders Of Option One Mortgage Loan Trust 2001-D, Asset-Backed Certificates, Series 2001-D, duly organized and existing under the laws of the United States of America or the State in which it was organized, with a mailing address of 3 Ada, Irvine, CA 92618, herein referred to as Grantor(s),

for and in consideration of the sum of One Hundred Fifteen Thousand and 00/100 (\$ 115,000.00) paid by

Shirley B. Mack And Arabelle Bonds, herein referred to as Grantee(s), in the State aforesaid, the receipt of which is hereby acknowledged,

has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the said Grantee(s), and to the heirs and assigns of said Grantee(s), the following described real estate situated in the County of Beaufort, State of South Carolina, to wit:

All that certain piece, parcel or lot of land, situate, lying and being on St. Helena Island, County of Beaufort, State of South Carolina, and consisting of one (1) acre, more or less, and is bounded on the North by lands now or formerly of John Ford; on the East by lands now or formerly of Joseph Logan; on the South by lands now or formerly of William Wallace and on the West by lands now or formerly of Butler Mitchell.

This being the same property conveyed unto the Grantor(s) by Deed of Master In Equity, recorded in the Office of the Register of Deeds/RMC/Clerk of Court for Beaufort County on 04/27/2006, in Deed/Record Book 2363 at Page 1523.

This conveyance is made subject to Easements, Restrictions, Covenants, and Conditions of record, including matters shown on recorded plats.

GRANTEE'S ADDRESS:

734 Seaside Rd
St Helena Island SC 29920

PROPERTY ADDRESS:

734 Seaside Road
St. Helena Island, SC 29920

Tax/Map No. R300 024 000 0063 0000

ADD DMP Record 11/29/2006 10:04:44 AM
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R300	024	000	0063	0000	00

P-18920-06

P1+P5
Exhibit
11

RECORDED
2006 Nov -30 11:19 AM
Sharon G. Bunn
BEAUFORT COUNTY AUDITOR

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

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantee(s) and to the heirs, successors and assigns of said Grantee(s) forever.

AND THE SAID GRANTOR covenants that he has not made, done, committed, executed or suffered any act or acts, thing or things whatsoever, whereby or by means whereof, the above mentioned and described premises, or any part or parcel thereof, now are, or at any time hereafter shall or may be impeached, charged or encumbered in any manner or way whatsoever.

IN WITNESS WHEREOF the undersigned on this 23 day of August, 2006, has set his/her Hand and Seal, for and on behalf of Wells Fargo Bank Minnesota, National Association, As Trustee for Registered Holders Of Option One Mortgage Loan Trust 2001-D, Asset-Backed Certificates, Series 2001-D.

Signed, Sealed and Delivered
in the Presence of:

Wells Fargo Bank Minnesota, National
Association, As Trustee for Registered Holders
Of Option One Mortgage Loan Trust 2001-D,
Asset-Backed Certificates, Series 2001-D

By Connie White
Its:

Connie White, Assistant Secretary

Angel Abundis
Witness
Ronald Smith
Witness Assistant Secretary, Servicing
Ronald Smith

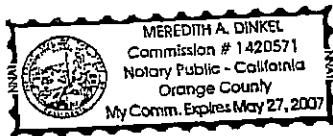
STATE OF CA
COUNTY OF Orange

On this 23 day of August, 2006, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Connie White, to me known and known by me to be the Assistant Secretary of Wells Fargo Bank Minnesota, National Association, As Trustee for Registered Holders Of Option One Mortgage Loan Trust 2001-D, Asset-Backed Certificates, Series 2001-D, and acknowledged the execution of the foregoing instrument in the capacity aforesaid and the free act and deed of said Wells Fargo Bank Minnesota, National Association, As Trustee for Registered Holders Of Option One Mortgage Loan Trust 2001-D, Asset-Backed Certificates, Series 2001-D.

Witness my hand and official seal

Meredith A. Dinkel
Notary Public
Meredith A. Dinkel

My Commission Expires: _____ 06OP12616



201 PB
24 PB
HAB

Return To:
Post Closing Department
Regions Bank d/b/a Regions Mortgage
P.O. Box 1718
Memphis, TN 38101-1718

BEAUFORT COUNTY SC - ROD
BK 02463 PGS 2063-2072
FILE NUM 2006065836
10/24/2008 02:37:03 PM
REC'D BY P BAXLEY RCPT# 451407
RECORDING FEES 28.00

Prepared By:

Tracie L. Patterson
303 Jesse Jewell Parkway, Suite
400
Gainesville, GA 30501

[Space Above This Line For Recording Data]

MORTGAGE

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated October 20, 2006 together with all Riders to this document.
(B) "Borrower" is Shirley B. Mack and Arabelle Bonds

Borrower is the mortgagor under this Security Instrument.
(C) "Lender" is Regions Bank d/b/a Regions Mortgage

Lender is a state chartered association organized and existing under the laws of the state of Alabama

0896480468

SOUTH CAROLINA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

Form 3041 1/01

VMP -6(SC) (0409).01

Page 1 of 15

Initials: *S.B.M.*
A.B.

VMP Mortgage Solutions, Inc.

CL-SC CONV MORTGAGE



P-18920.06

Book 2463/Page 2053



CERTIFIED TRUE COPY
of the document recorded in the Offices of the
Register of Deeds for Beaufort County, S.C., on
(date): 10-24-2006
in OR Book 2463 Page 2053
This document contains 20 pages.
Arabelle Bonds
Register of Deeds - Beaufort County, SC

Feb 18, 2022

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Lender's address is 7130 Goodlett Farms Parkway, Cordova, TN 38016

Lender is the mortgagee under this Security Instrument.

(D) "Note" means the promissory note signed by Borrower and dated October 20, 2006

The Note states that Borrower owes Lender ninety-two thousand and 00/100

Dollars

(U.S. \$ 92,000.00) plus interest Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than November 1, 2036

(E) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(F) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(G) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

☐ Adjustable Rate Rider	☐ Condominium Rider	☐ Second Home Rider
☐ Balloon Rider	☐ Planned Unit Development Rider	☒ 1-4 Family Rider
☐ VA Rider	☐ Biweekly Payment Rider	☐ Other(s) [specify]

(H) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(I) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(J) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(K) "Escrow Items" means those items that are described in Section 3.

(L) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(M) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(N) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(O) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

0896480468

VMIP -6(SC) 104091.07

Page 2 of 15

Initials: A.B.M.
A.B.

Form 3041 1/01

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(P) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender and Lender's successors and assigns, the following described property located in the County of Beaufort :

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

See Exhibit A attached hereto and made a part hereof for all purposes.

Parcel ID Number: R300 024 000 0063

which currently has the address of

734 Seaside Rd

[Street]

St Helena Island

[City] , South Carolina 29920

[Zip Code]

("Property Address"):

TO HAVE AND TO HOLD this property unto Lender and Lender's successors and assigns, forever, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this

VMMP -6(SC) (0409).01

Page 3 of 15

Initials: *A.B.M.*
A.B.

Form 3041 1/01

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Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts

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due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the

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lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. **Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with

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the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. **Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable

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attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

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(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

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12. **Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. **Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. **Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. **Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

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16. **Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. **Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

18. **Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. **Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to Section 22 of this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. **Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA

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Initials: *A.B.M.*
A.B.

Form 3041 1/01

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requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

0896480468

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Initials: *A.B.M.*
A.B.

Form 3041 1/01

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NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

23. Release. Upon payment of all sums secured by this Security Instrument, this Security Instrument shall become null and void. Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Homestead Waiver. Borrower waives all rights of homestead exemption in the Property to the extent allowed by Applicable Law.

25. Waiver of Appraisal Rights. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within 30 days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. TO THE EXTENT PERMITTED BY LAW, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. This waiver shall not apply so long as the Property is used as a dwelling place as defined in Section 12-37-250 of the South Carolina Code of Laws.

26. Future Advances. The lien of this Security Instrument shall secure the existing indebtedness under the Note and any future advances made under this Security Instrument up to 150% of the original principal amount of the Note plus interest thereon, attorneys' fees and court costs.

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VMP -8(SC) (0409).01

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Initials *A.B.M.*
A.B.

Form 3041 1/01

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BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Signed, sealed and delivered in the presence of:

A. E. Bond

Shirley B. Mack (Seal)
Shirley B Mack -Borrower

J. Wilbur

Arabelle Bonds By Shirley (Seal)
Arabelle Bonds -Borrower
B. Mack atty in fact

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

0896480468

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Form 3041 1/01

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STATE OF SOUTH CAROLINA,

Beaufort

County ss:

I, Derek C. Gilbert
Shirley B Mack, Arabelle Bonds

do hereby certify that

personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 20th day of Oct 2006.

D. Gilbert

Notary Public for South Carolina

My Commission Expires: 7.12.09

0896480468

 -G(SC) (0409).01

Page 15 of 15

Initials S.B.M.
A.B.

Form 3041 1/01

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1-4 FAMILY RIDER (Assignment of Rents)

THIS 1-4 FAMILY RIDER is made this 20th day of October, 2006, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to Regions Bank d/b/a Regions Mortgage

(the "Lender") of the same date and covering the Property described in the Security Instrument and located at: 734 Seaside Rd, St Helena Island, SC 29920

[Property Address]

1-4 FAMILY COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. ADDITIONAL PROPERTY SUBJECT TO THE SECURITY INSTRUMENT. In addition to the Property described in the Security Instrument, the following items now or hereafter attached to the Property to the extent they are fixtures are added to the Property description, and shall also constitute the Property covered by the Security Instrument: building materials, appliances and goods of every nature whatsoever now or hereafter located in, on, or used, or intended to be used in connection with the Property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, attached mirrors, cabinets, paneling and attached floor coverings, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the Property covered by the Security Instrument. All of the foregoing together with the Property described in the Security Instrument (or the leasehold estate if the Security Instrument is on a leasehold) are referred to in this 1-4 Family Rider and the Security Instrument as the "Property."

B. USE OF PROPERTY; COMPLIANCE WITH LAW. Borrower shall not seek, agree to or make a change in the use of the Property or its zoning classification, unless Lender has agreed in writing to the change. Borrower shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property.

C. SUBORDINATE LIENS. Except as permitted by federal law, Borrower shall not allow any lien inferior to the Security Instrument to be perfected against the Property without Lender's prior written permission.

D. RENT LOSS INSURANCE. Borrower shall maintain insurance against rent loss in addition to the other hazards for which insurance is required by Section 5.

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**MULTISTATE 1-4 FAMILY RIDER - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT
Form 3170 1/01**

VMP-57R (0411)

Page 1 of 3

Initials: L B M

VMP Mortgage Solutions, Inc. A. B.
(800)521-7291



CL - M/S CONV 1-4 FAMILY RIDER

E. "BORROWER'S RIGHT TO REINSTATE" DELETED. Section 19 is deleted.

F. BORROWER'S OCCUPANCY. Unless Lender and Borrower otherwise agree in writing, Section 6 concerning Borrower's occupancy of the Property is deleted.

G. ASSIGNMENT OF LEASES. Upon Lender's request after default, Borrower shall assign to Lender all leases of the Property and all security deposits made in connection with leases of the Property. Upon the assignment, Lender shall have the right to modify, extend or terminate the existing leases and to execute new leases, in Lender's sole discretion. As used in this paragraph G, the word "lease" shall mean "sublease" if the Security Instrument is on a leasehold.

H. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION. Borrower absolutely and unconditionally assigns and transfers to Lender all the rents and revenues ("Rents") of the Property, regardless of to whom the Rents of the Property are payable. Borrower authorizes Lender or Lender's agents to collect the Rents, and agrees that each tenant of the Property shall pay the Rents to Lender or Lender's agents. However, Borrower shall receive the Rents until: (i) Lender has given Borrower notice of default pursuant to Section 22 of the Security Instrument, and (ii) Lender has given notice to the tenant(s) that the Rents are to be paid to Lender or Lender's agent. This assignment of Rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notice of default to Borrower: (i) all Rents received by Borrower shall be held by Borrower as trustee for the benefit of Lender only, to be applied to the sums secured by the Security Instrument; (ii) Lender shall be entitled to collect and receive all of the Rents of the Property; (iii) Borrower agrees that each tenant of the Property shall pay all Rents due and unpaid to Lender or Lender's agents upon Lender's written demand to the tenant; (iv) unless applicable law provides otherwise, all Rents collected by Lender or Lender's agents shall be applied first to the costs of taking control of and managing the Property and collecting the Rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, repair and maintenance costs, insurance premiums, taxes, assessments and other charges on the Property, and then to the sums secured by the Security Instrument; (v) Lender, Lender's agents or any judicially appointed receiver shall be liable to account for only those Rents actually received; and (vi) Lender shall be entitled to have a receiver appointed to take possession of and manage the Property and collect the Rents and profits derived from the Property without any showing as to the inadequacy of the Property as security.

If the Rents of the Property are not sufficient to cover the costs of taking control of and managing the Property and of collecting the Rents any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by the Security Instrument pursuant to Section 9.

Borrower represents and warrants that Borrower has not executed any prior assignment of the Rents and has not performed, and will not perform, any act that would prevent Lender from exercising its rights under this paragraph.

Lender, or Lender's agents or a judicially appointed receiver, shall not be required to enter upon, take control of or maintain the Property before or after giving notice of default to Borrower. However, Lender, or Lender's agents or a judicially appointed receiver, may do so at any time when a default occurs. Any application of Rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of Rents of the Property shall terminate when all the sums secured by the Security Instrument are paid in full.

I. CROSS-DEFAULT PROVISION. Borrower's default or breach under any note or agreement in which Lender has an interest shall be a breach under the Security Instrument and Lender may invoke any of the remedies permitted by the Security Instrument.

0896480459

VRIR-57R (0411)

Page 2 of 3

Initials: J. B. M.
Form 3170 1/01
A. B.

342

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this 1-4 Family Rider.

Shirley B. Mack (Seal)
Shirley B Mack -Borrower

Arabelle Bonds By Shirley B. Mack (Seal)
Arabelle Bonds -Borrower
B. Mack Atty in Fact

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

0896480468

VMP-57R (0411)

Page 3 of 3

Form 3170 1/01

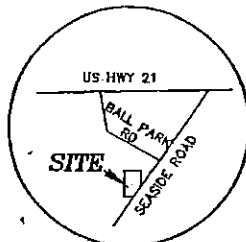
343

EXHIBIT "A"

ALL that certain piece, parcel or lot of land, situate, lying and being on St. Helena Island, Beaufort County, South Carolina, and consisting of one (1) acre, more or less, and is bounded on the North by lands now or formerly of John Ford; on the East by lands now or formerly of Joseph Logan; on the South by lands now or formerly of William Wallace and on the West by lands now or formerly of Butler Mitchell. For a more complete description of said property, reference may be had to an individual plat prepared by Ziad A. Khalil, RLS, dated August 30, 2006, which is made a part hereof and recorded herewith.

This is the same property acquired by the within mortgagors by way of deed dated August 23, 2006 and recorded in Record Book 2463 at Page 2049 in the office of the Register of Deeds for Beaufort County, South Carolina.

This mortgage was prepared by Derek C. Gilbert, Esquire of the law firm of Harvey & Battey, P.A., 1001 Craven Street, Beaufort, South Carolina 29902.



LEGEND

CM(O) = CONCRETE MONUMENT OLD
CM(N) = CONCRETE MONUMENT NEW
RB(O) = 1/2" REBAR FOUND
RB(N) = 1/2" REBAR SET
OHP = OVERHEAD POWER LINES

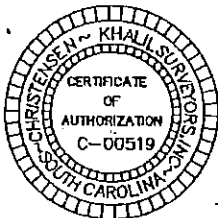
LOCATION MAP
NTS

GENERAL NOTES:

- 1.) PRESENT OWNER OF PROPERTY SHOWN HEREON:
WELLS FARGO BANK
- 2.) TBM # 300-24-63
- 3.) THE BEARINGS SHOWN HEREON ARE MAGNETIC AND AS SUCH
SUBJECT TO LOCAL ATTRACTION.
- 4.) PROPERTY SHOWN HEREON IS LOCATED IN FLOOD ZONE "C"
ELEVATION (N/A) PER FEMA PANEL #450025-0130-F,
DATED: NOV. 4, 1992

REFERENCE PLATS & DEEDS

- 1.) DEED 2383/ 1523
- 2.) L-3995



CERTIFICATION

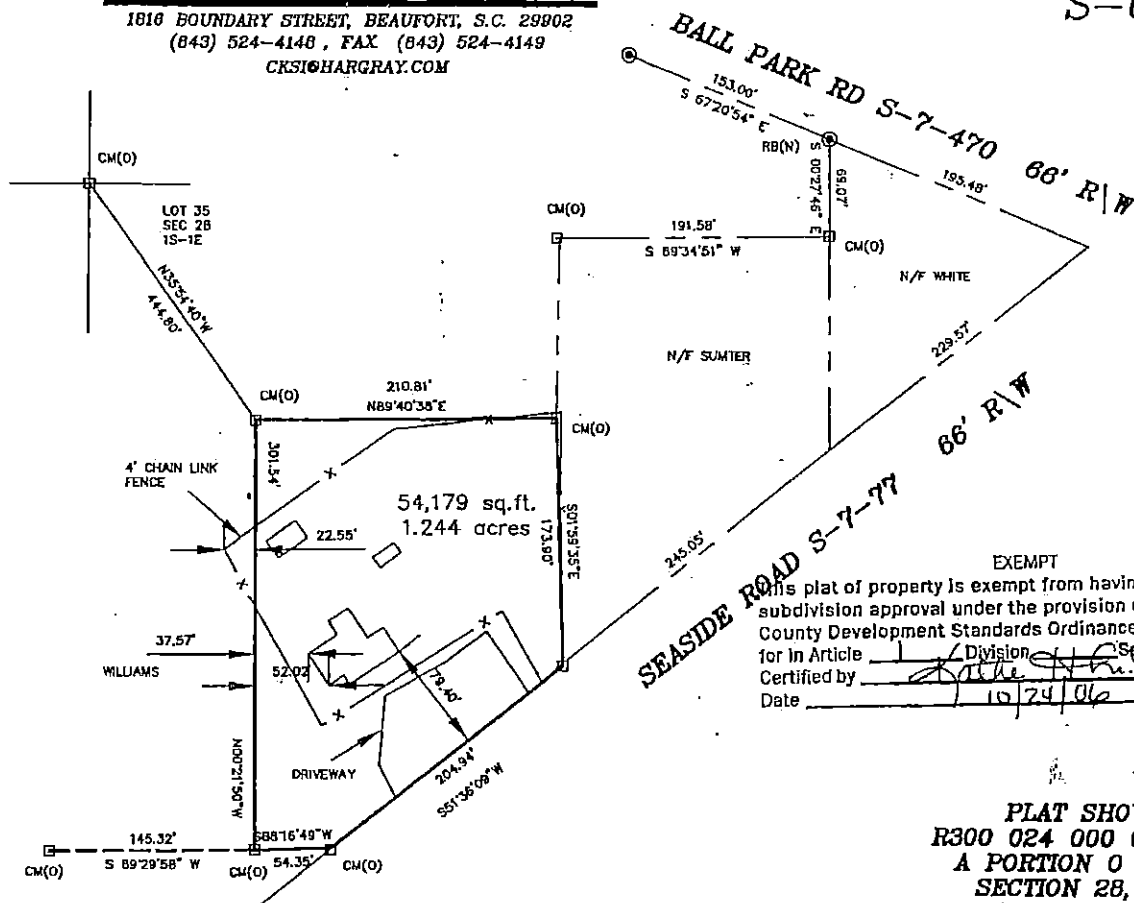
I, ZYAD A. KHALIL, HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN THE STATE OF SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "B" AS SPECIFIED THEREIN:

ZYAD A. KHALIL RLS
S.C. REG. NO. 15176 [THIS SURVEY IS NOT VALID UNLESS IT BEARS THE ORIGINAL SIGNATURE AND EMBOSSED SEAL]

CHRISTENSEN ~ KHALIL SURVEYORS, INC.

1818 BOUNDARY STREET, BEAUFORT, S.C. 29902
(843) 524-4148, FAX (843) 524-4149
CKSI@HARGRAY.COM

S-6521



GRAPHIC SCALE



(IN FEET)
1 inch = 100 ft

EXEMPT
This plat of property is exempt from having to obtain a
subdivision approval under the provision of the Beaufort
County Development Standards Ordinance as provided
for in Article 1, Division 1, Section 10-8 (1)(h)
Certified by [Signature]
Date 10/24/06

PLAT SHOWING
R300 024 000 0063 0000
A PORTION OF LOT 35
SECTION 28, 1S-1E
PREPARED FOR:
SHIRLEY B. MACK
& ARABELLE BONDS
ST. HELENA ISLAND,
BEAUFORT COUNTY, SOUTH CAROLINA
DATED: AUG. 30, 2006
SCALE: 1"=100'

3:10 PM
HB
67337

BEAUFORT COUNTY SC - ROD
BK 02463 PGS 2046-2048
FILE NUM 2006085833
10/24/2006 02:37:03 PM
REC'D BY P BAXLEY RCPT# 451407
RECORDING FEES 10.00

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

QUIT-CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, that Michael F. Rivers in the state aforesaid for and in consideration of the sum of ONE DOLLAR and 00/100 (\$1.00), to me in hand paid at and before the sealing of these presents by Shirley B. Mack and Arabelle Bonds, 734 Seaside Road, St. Helena Island, SC 29920, in the state aforesaid, the receipt whereof is hereby acknowledged, have remised, released and forever quit-claimed, and by these presents do remise, release, and forever quit-claim unto Shirley B. Mack and Arabelle Bonds, their heirs and assigns forever, all my right, title and interest in and to the following described property, to-wit:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION.
BEAUFORT COUNTY TAX MAP REFERENCE: 300-24-63

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to said premises belonging, or in anywise incident or appertaining.
TO HAVE AND TO HOLD, all and singular, the premises before mentioned unto the said Shirley B. Mack and Arabelle Bonds, their heirs and assigns, forever, so that neither I the said Michael F. Rivers do nor my heirs, nor any other person or persons, claiming under me or them, shall at any time hereafter, by any way or means, have, claim or demand any right or title to the premises or appurtenances, or any part or parcel thereof, forever.

ADD DMP Record 11/29/2006 09:56:51 AM
BEAUFORT COUNTY TAX MAP REFERENCE

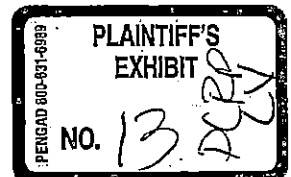
Dist	Map	SMap	Parcel	Block	Week
R300	024	000	0063	0000	00

P. 18920.06

CERTIFIED TRUE COPY
of the document recorded in the Offices of the
Register of Deeds for Beaufort County, S.C., on
(date): 10-24-2006
in OR Book 2463 Page 2046
This document contains 3 pages.
Amelia Baxley
Register of Deeds - Beaufort County, SC

Feb 18, 2022

RECORDED
2006 Nov -30 11:19 AM
Sharon Q. Burns
BEAUFORT COUNTY AUDITOR



WITNESS MY HAND(S) AND SEAL(S) this 20th day of October, 2006.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

A. Doud
Witness signature

Michael F. Rivers
Michael F. Rivers

J. C. Gilbert
Notary signature

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I, the undersigned notary public, do hereby certify that Michael F. Rivers, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

SWORN to before me
this 20 day of October, 2006.

J. C. Gilbert
Notary Public

My Commission Expires: 7.12.09

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EXHIBIT "A"

ALL that certain piece, parcel or lot of land, situate, lying and being on St. Helena Island, Beaufort County, South Carolina, and consisting of one (1) acre, more or less, and is bounded on the North by lands now or formerly of John Ford; on the East by lands now or formerly of Joseph Logan; on the South by lands now or formerly of William Wallace and on the West by lands now or formerly of Butler Mitchell.

This is the same property acquired by the within Grantor by way of deed dated September 18, 1996 and recorded in Record Book 888 at Page 1168 in the office of the Register of Deeds for Beaufort County, South Carolina.

This deed was prepared by Derek C. Gilbert, Esquire of the law firm of Harvey & Battey, P.A., 1001 Craven Street, Beaufort, South Carolina 29902.

108
Korn
5443
AFTER RECORDING PLEASE RETURN DOCUMENT TO:

KORN LAW FIRM
1300 PICKENS STREET
COLUMBIA, SC 29201

ADD DMP Record 3/11/2014 04:18:32 PM
BEAUFORT COUNTY TAX MAP REFERENCE
Dist Map SMap Parcel Block Week
R300 024 000 0063 0000 00

BEAUFORT COUNTY SC - RDD
BK 03307 PGS 2093-2096
FILE NUM 2014010757
03/07/2014 01:09:02 PM
REC'D BY S SMITH RCFT# 737218
RECORDING FEES 10.00

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

**LIMITED WARRANTY DEED
(TITLE TO REAL ESTATE)**

RECORDED
2014 Mar -14 09:27 AM

Sharon G. Burris
BEAUFORT COUNTY AUDITOR

RF12-01486/A121L5L

KNOW ALL MEN BY THESE PRESENTS, THAT

Fannie Mae a/k/a Federal National Mortgage Association organized and existing under the laws of the United States of America (hereinafter "Grantor") in the State aforesaid, for and in consideration of the sum of Twenty Nine Thousand and 00/100 (\$29,000.00), actual consideration, to me in hand paid at and before the sealing of these presents by Calvin Scott, (hereinafter "Grantee") the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said Calvin Scott his Heirs and Assigns forever, the following described real property, to wit:

LEGAL DESCRIPTION:

All that certain piece, parcel or lot of land, situate, lying and being on St. Helena Island, Beaufort County, South Carolina, and consisting of one (1) acre, more or less, and is bounded on the North by lands now or formerly of John Ford; on the East by lands now or formerly of Joseph Logan; on the South by lands now or formerly of William Wallace; and on the West by lands now or formerly of Butler Mitchell. For a more complete description of said property, reference may be had to an individual plat prepared by Zyad A Khalil, RLS, dated August 30, 2006, which is made a part hereof and recorded on October 24, 2006 in Plat Book 2463 at Page 2072.

Property Address: 734 Seaside Road, St. Helena Island, SC 29920

This deed was prepared by Korn Law Firm, PA, 1300 Pickens Street, Columbia, SC 29201

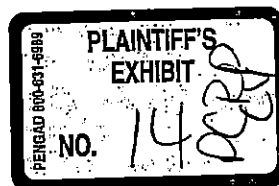
This being the same property conveyed to Fannie Mae a/k/a Federal National Mortgage Association by Deed (Public Sale) of Marvin H. Dukes, III, as Master in Equity for Beaufort County recorded 11/09/12 in Book 3189, Page 3130 in aforesaid county.

TMS#: R300-024-000-0063-0000

GRANTEE'S ADDRESS: 734 Seaside Rd, Saint Helena Island, SC 29920

This conveyance is made subject to easements and restrictions of record and otherwise affecting the property.

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



Book3307/Page2093

349
CERTIFIED TRUE COPY
of the document recorded in the Offices of the
Register of Deeds for Beaufort County, S.C., on
(date): 3-7-2014
In OR Book 3307 Page 2093
This document contains 4 pages.
Camelia G. G. G.
Register of Deeds - Beaufort County, SC
Feb 18, 2022

TO HAVE AND TO HOLD all and singular the said premises before mentioned unto the said Grantee, his Heirs and Assigns forever, and the Grantor does hereby covenant with Grantee that Grantor has done nothing to impair such title as Grantor received it except as provided herein, does by and for itself, its successors and assigns, warrant and promise forever to defend all and singular the said premises and title unto Grantee, his heirs and assigns, against itself and its successors and assigns and all persons claiming by, under or through Grantor.

WITNESS its hand(s) and seal(s) this 4th day of March, 2014.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Fannie Mae a/k/a Federal National Mortgage
Association by Korn Law Firm as Attorney-In-
Fact

[Signature]
(Witness)

[Signature] L.S.
John S Kay/Peter D Korn/Kevin T Hardy
Ashley M Zarrett
Its: Authorized Attorney

[Signature]
(Witness)

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

ACKNOWLEDGMENT

RF12-01486

I, the undersigned Notary Public, do certify that Fannie Mae a/k/a Federal National Mortgage Association by Korn Law Firm, P.A. as Attorney in Fact by, John S Kay/Peter D Korn/Kevin T Hardy/Ashley M Zarrett, its Authorized Attorney on behalf of the corporation, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal the 4th day of March, 2014.

[Signature]
Sonja U. Robertson
Notary Public for State of South Carolina
My commission expires: 03/19/20

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

AFFIDAVIT

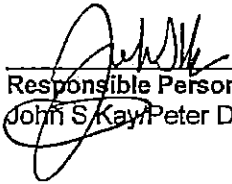
RF12-01486

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

1. I have read the information on this affidavit and I understand such information.
2. The property located at **734 Seaside Rd, Saint Helena Island, SC 29920**, bearing Tax Map Number R300-024-000-0063-0000 was transferred by Fannie Mae a/k/a Federal National Mortgage Association, to Calvin Scott
3. Check one of the following: The DEED is
 - (a) _____ subject to the deed recording fees as a transfer for consideration paid or to be paid in money or money's worth.
 - (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity or is a transfer to a trust or as a distribution to a trust beneficiary.
 - (c) XX EXEMPT FROM RECORDING FEES AS FOLLOWS:
_____ #2 Transferred to a Government Agency
_____ #13 Transferred to Mortgage by Foreclosure or Deed in Lieu of Foreclosure

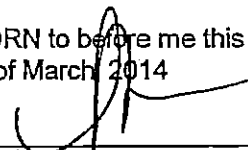
XX #3 That are otherwise exempted under the laws and Constitution of this State of the United States. SC Revenue Ruling 92-14, 12 USCA 1452 (a) & (e)
4. Complete the following if either item 3(a) or 3(b) above has been checked.
 - (a) \$_____ The fee is computed on the consideration paid or to be paid in money or money's worth.
5. Check YES _____ or NO ~~xxxxx~~ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "YES", the amount of the outstanding balance of this lien or encumbrance is \$_____.

6. The DEED Recording Fee is computed as follows:
- (a) \$_____ the amount listed in item 4 above.
 - (b) \$_____ the amount listed in item 5 above.
 - (c) \$_____ subtract Line 6(b) from Line 6(a).
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee is \$10.00.
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected to the transaction as: Seller's Attorney.
9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.



Responsible Person Connected with this Transaction
John S. Kay/Peter D Korn/Kevin T Hardy/Ashley M Zarrett

SWORN to before me this 4th
Day of March 2014



Sonja J. Robertson
Notary Public for South Carolina
My Commission Expires: 03/19/20

10 RD
@ 10.00

RECORDED
2016 Sep -26 12:10 PM



Beaufort
BEAUFORT COUNTY AUDITOR

BEAUFORT COUNTY SC - ROD
BK 3516 Pgs 1450-1453
FILE NUM 2016050478
09/20/2016 01:21:11 PM
REC'D BY rbins RCPT# 824571
RECORDING FEES \$10.00

AFTER RECORDING PLEASE RETURN DOCUMENT TO:

R.M. LAPP, Trustee, St. Helena Asset Trust
P.O. BOX 1014
STONE MOUNTAIN, GA 30086-1014

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

**LIMITED WARRANTY DEED
(TITLE TO REAL ESTATE)**

ADD DMP Record 9/21/2016 02:16:33 PM
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R300	024	000	0063	0000	00

KNOW ALL MEN BY THESE PRESENTS,

THAT CALVIN SCOTT (hereinafter "Grantor") in the State aforesaid, for and in consideration of the sum Ten and 00/100 (\$10.00) Dollars and no other valuable consideration to me in hand paid at and before the sealing of these presents by R.M. Lapp, Trustee, St. Helena Asset Trust (hereinafter "Grantee") the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the said R.M. Lapp, Trustee, St. Helena Asset Trust, any successor trustees and assigns forever, the following described property, to wit:

All that certain piece, parcel or lot of land, situate, lying and being on St. Helena Island, Beaufort County, South Carolina, and consisting of one (1) acre, more or less, and is bounded on the North by lands now or formerly of John Ford; on the East by lands now or formerly of Joseph Logan; on the South by lands now or formerly of William Wallace; and on the West by lands now or formerly of Butler Mitchell. For a more complete description of said property, reference may be had to an individual plat prepared by Zyad A Khalil, RLS, dated August 30, 2006, which is made a part hereof and recorded on October 24, 2006 in Plat Book 2463 at Page 2072.

Property Address: 734 Seaside Road, St. Helena Island, SC 29920.

This deed was prepared by Grantor, Calvin Scott, 2151 Skyland Cove, LN, Snellville, GA 30078.

This being the same property conveyed to the Grantor by deed of Fannie Mae a/k/a Federal Mortgage Association recorded 03/07/2014 in Book 03307, Pages 2093-2096 in aforesaid county.

TMS#: R300-024-000-0063-0000

GRANTEE'S ADDRESS: P.O. Box 1014, Stone Mountain, GA 30086-1014



CERTIFIED TRUE COPY
of the document recorded in the Offices of the
Register of Deeds for Beaufort County, S.C., on
(date): 9-20-2016
In *WR* Book 3516 Page 1450
This document contains 4 pages.
Janetia Carter
Register of Deeds - Beaufort County, SC
To the 7022.

This conveyance is made subject to easements and restrictions of record and otherwise affecting the property.

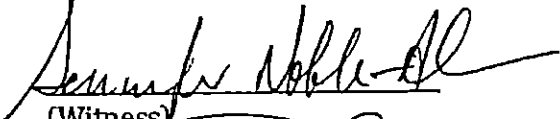
TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the said premises before mentioned unto the said Grantee, any successor trustees and assigns forever, and the Grantor does hereby covenant with Grantee that Grantor has done nothing to impair such title as Grantor received it except as provided herein, does by and for himself, his successors and assigns, warrant and promise forever to defend all and singular the said premises and title unto Grantee, any successors and assigns, against himself and his successors and assigns and all persons claiming by, under or through Grantor.

WITNESS the hand and seal of the Grantor this 13 day of September, 2016.

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:**

CALVIN SCOTT


(Witness)

(Witness)



STATE OF GEORGIA

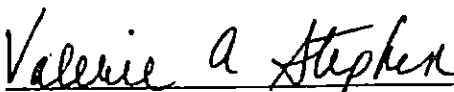
COUNTY OF GWINNETT *error*
VAS
ROCKDALE

ACKNOWLEDGEMENT

9/13/2016

I, the undersigned Notary Public, do certify that Calvin Scott personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal the 13 day of September 2016.


Notary Public for State of Georgia
My commission expires: _____

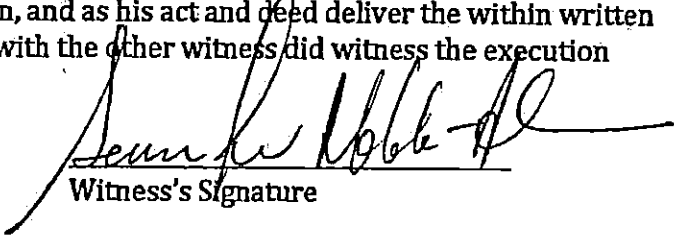


STATE OF GEORGIA

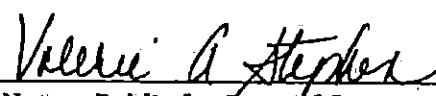
COUNTY OF GWINNETT

PROBATE

Personally appeared before me the below-signed witness and made oath (s)he saw the within named Grantor sign, and as his act and deed deliver the within written Deed, and the (s)he together with the other witness did witness the execution thereof.


Witness's Signature

Witness my hand and official seal the 13 day of September 2016.


Notary Public for State of Georgia

My commission expires: _____



STATE OF SOUTH CAROLINA

CONSIDERATION

COUNTY OF BEAUFORT

AFFIDAVIT OF TRUE

and Exemption for Existing Encumbrance

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

1. I have read the information on this affidavit and I understand such information to be true and complete to the best of my knowledge and belief. In accordance with Sect. 12-24-70, I am the responsible person connected with this transaction.

2. Description/location of property being transferred is: 734 Seaside Rd, St. Helena Island, SC 29920
Tax District/Map/Parcel # R 300 024 000 0063 0000

This property was transferred by Calvin Scott
to R.M. LAPP, Trustee, St. Helena ASSET TRUST

3. The Deed is:

- a) ☒ subject to the Deed recording fee as a transfer for consideration paid or to be paid in money or money's worth; or, is subject to the Deed recording fee as a transfer between a corporation, a partnership, or other entity, and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
- b) ☐ exempt from the Deed Recording Fee under 12-24-40 subsection _____, SC Code.

4. Check one of the following if 3(a), above has been checked:

- a) ☒ The Recording Fee is computed on the consideration paid or to be paid in money or money's worth in the amt of \$ 10.00.
- b) ☐ Fee is computed on the fair market value of the realty, which is \$ _____.
- c) ☐ The Fee is computed on the fair market value of the realty as established for property tax purposes, which is: \$ _____.

5. EXEMPTION FOR EXISTING ENCUMBRANCE: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement or realty after the transfer. The amount of the outstanding balance of this Lien or encumbrance is: \$ _____.

The Deed Recording Fee is computed as follows:

- a) Amount listed in item 4, above: \$ _____
- b) Amount listed in this item 5, above: _____
- c) Subtract Line 5.(a) from line 5.(b): \$ _____

The Deed Recording Fees due, which are calculated against the net amount listed on Line

4. (), above is: \$ _____ or 5.(c), above is: \$ _____

Signature of Responsible Person Connected with Transaction: Calvin Scott

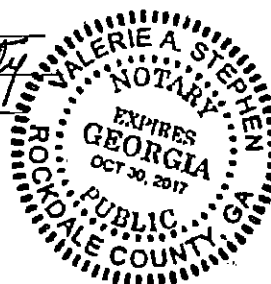
Printed/Typed Name and Capacity/Title of Responsible Person: CALVIN SCOTT, GRANTOR

SWORN to before me this 13 day of Sept, 2014

Signed: Valerie A. Stephens

NOTARY PUBLIC for Rockdale County

My Commission Expires: _____



354

RECORDED
2020 Oct -02 03:45 PM

BEAUFORT COUNTY AUDITOR

BEAUFORT COUNTY SC - ROD
BK 3897 Pgs 1139-1141
FILE NUM 2020045068
08/17/2020 12:37:36 PM
REC'D BY fJenkins RCPT# 988878
RECORDING FEES \$15.00
County Tax \$146.30
State Tax \$345.80

AFTER RECORDING PLEASE RETURN DOCUMENT TO:

Amrock Inc.
662 Woodward
Detroit, MI 48226
67051698-5555411 ①

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

LIMITED WARRANTY DEED
(TITLE TO REAL ESTATE)

Rec 15

When Recorded Return to:
Indecomm Global Services
As Recording Agent Only
1700 Energy Lane
St. Paul, MN 55108

8/15/2020 REC 15
KNOW ALL MEN BY THESE PRESENTS, THAT

R.M. LAPP, TRUSTEE, ST. HELENA ASSET TRUST (hereinafter "Grantor") in the State aforesaid, for and in consideration of the sum Ten Dollars (\$10.00) and other good and valuable consideration, to me in hand paid by Michael Frank Rivers, Snr. (hereinafter "Grantee") of Beaufort County, State of South Carolina, the receipt of which is hereby acknowledged, has granted, bargained, sold and released and by these presents does grant, bargain, sell and release unto the said Michael Frank Rivers, Snr., the following described property, to wit:

LEGAL DESCRIPTION:

All that certain piece, parcel or lot of land, situate, lying and being on St. Helena Island, Beaufort County, South Carolina, and consisting of one (1) acre, more or less, and is bounded on the North by lands now or formerly of John Ford; on the East by lands now or formerly of Joseph Logan; on the South by lands now or formerly of William Wallace; and on the West by lands now or formerly of Butler Mitchell. For a more complete description of said property, reference may be had to an individual plat prepared by Zyad A. Khalil, R.L.S., dated August 30, 2006, which is made a part hereof and recorded on October 24, 2006 in Plat Book 2463 at Page 2072.

Property Address: 734 Seaside Road, St. Helena Island, SC 29920.

Deed prepared by Trustee, R.M. Lapp, Box 1014, Stone Mountain, GA 30086.

This being the same property conveyed to the Grantor by Deed of Calvin Scott recorded 09/20/2016 in Book 3516, Pages 1450-1453 in aforesaid county.

TMR#: R300 024 000 0063 0000 00

GRANTEE'S ADDRESS: 734 Seaside Road, St. Helena Island, SC 29920

CERTIFIED TRUE COPY

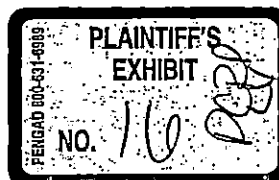
of the document recorded in the Offices of the
Register of Deeds for Beaufort County, S.C., on
(date): 8-17-2020

in OR Book 3897 Page 1139

This document contains 3 pages.

Camelia C. [Signature]
Register of Deeds - Beaufort County, SC

2-18-2022



ADD DMP Record 9/19/2020 08:17:40 AM
BEAUFORT COUNTY TAX MAP REFERENCE.

Dist	Map	SMap	Parcel	Block	Week
R300	024	000	0063	0000	00

357

This conveyance is made subject to easements and restrictions of record and otherwise affecting the property.

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 said premises before mentioned unto said Grantee, his heirs and assigns forever; and the Grantor does hereby covenant with Grantee that Grantor has done nothing to impair such title as Grantor received it except as provided herein, does by and for itself, its successors and assigns, warrant and forever defend all and singular said premises unto said Grantee, his heirs and assigns, against itself and its successors and assigns and all persons lawfully claiming by, under or through Grantor.

WITNESS its hand and seal this 23rd day of March, 2020.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

R.M. Lapp, Trustee, St. Helena Asset Trust

[Signature]
(Witness)

R.M. Lapp, Trustee
R.M. Lapp, Trustee

[Signature]
(Witness)

STATE OF GEORGIA

COUNTY OF DeKalb

ACKNOWLEDGEMENT

I, the undersigned Notary Public, do certify that St. Helena Asset Trust, by R.M. Lapp, its trustee, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal the 23rd day of March, 2020.

Beverley D Holder
Notary Public, DeKalb County, Georgia
My Commission Expires August 11, 2021

Beverley D. Holder
Notary Public for State of Georgia

My commission expires: August 11, 2021



U07283664

1632 4/22/2020 81549955/1

STATE OF SOUTH CAROLINA }

COUNTY OF Beaufort }

AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

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

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

2. The property was transferred by R.M. Lapp, Trustee, St. Helena Asset Trust
to Michael Frank Rivers, Snr on _____

3. Check one of the following: The deed is

(A) ☒ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.

(B) ☐ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary.

(C) ☐ exempt from the deed recording fee because (See Information section of affidavit): _____ (Explanation required)

(If exempt, please skip items 4-7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty?

Check Yes ☐ or No ☐

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

(A) ☒ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$133,000.00

(B) ☐ The fee is computed on the fair market value of the realty which is _____

(C) ☐ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____

5. Check YES ☐ or NO ☒ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "YES," the amount of the outstanding balance of this lien or encumbrance is _____

6. The deed recording fee is computed as follows:

(A) Place the amount listed in item 4 above here: \$133,000.00

(B) Place the amount listed in item 5 above here: -0-

(If no amount is listed, place zero here.)

(C) Subtract Line 6(b) from Line 6(a) and place the result here: \$133,000.00

7. The deed recording fee is based on the amount listed on Line 6(c) above and the deed recording fee due is:
\$492.10

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

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

Michael F. Rivers, Snr
Responsible Person Connected with the Transaction

MICHAEL FRANK RIVERS, SNR
Print or Type Name Here

Sworn this 18th day of May 2020

[Signature]
Notary Public for South Carolina
My Commission Expires: April 17, 2030

SARA NIVERBA
Notary Public-State of South Carolina
My Commission Expires
April 17, 2030

359

191
250
11/25/20
5452
5451

BEAUFORT COUNTY SC - ROD
BK 3897 Pgs 1142-1160
FILE NUM 2020045049
08/17/2020 12:37:36 PM
REC'D BY fjenkins RCPT# 922872
RECORDING FEES \$25.00

Return To:
Document Management
Quicken Loans Inc.
1050 Woodward Ave
Detroit, MI 48226-1906

CERTIFIED TRUE COPY
of the document recorded in the Offices of the
Registrar of Deeds for Beaufort County, S.C., on
(date): 8-17-2020
in OL Book 3897 Page 1142
This document contains 19 pages.
Gonzalia Barber
Register of Deeds - Beaufort County, SC

Prepared By:
Jillian Sarje
1050 Woodward Ave
Detroit, MI 48226-1906
(313)373-0000

REC 2ND
When Recorded Return to:
Intercomm Global Services
As Recording Agent Only
1260 Energy Lane
St. Paul, MN 55108

Feb 18, 2022

67031698-555412 (C) 3446904608
Company NMLS#: 3030 MORTGAGE
MIN 100039034469046082
VA Case Number: 19-1960568085

81544955 REC 2ND

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated March 24, 2020 together with all Riders to this document.
(B) "Borrower" is Michael Frank Rivers, a single man

Borrower is the mortgagor under this Security Instrument.
(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the mortgagee under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

03446904608 0233 542 0215
SOUTH CAROLINA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT WITH MERS Form 3041 1/01
5155855390
VMD - GA(SC) n3021.00
Page 1 of 15
Initials: AK
VMP Mortgage Solutions, Inc.

360
PLAINTIFF'S
EXHIBIT
NO. 17
DOE

(D) "Lender" is Quicken Loans Inc.

Lender is a Corporation
organized and existing under the laws of the State of Michigan
Lender's address is 1050 Woodward Ave, Detroit, MI 48226-1906

(E) "Note" means the promissory note signed by Borrower and dated March 24, 2020
The Note states that Borrower owes Lender One Hundred Thirty Three Thousand and 00/100 Dollars

(U.S. \$133,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than April 1, 2040

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower (check box as applicable):

☐ Adjustable Rate Rider	☐ Condominium Rider	☐ Second Home Rider
☐ Balloon Rider	☐ Planned Unit Development Rider	☐ 1-4 Family Rider
☒ VA Rider	☐ Biweekly Payment Rider	☒ Other(s) (specify) Legal Attached

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (12 C.F.R. Part 1024), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used

SOUTH CAROLINA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT WITH MERS

VMA-8A(SC) (11/02).00

Page 2 of 16

Initials: *MR*

Form 3041 1/01



603446304608 0233 562 0215

361

in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS, the following described property located in the County of Beaufort :

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.
SUBJECT TO COVENANTS OF RECORD.

Parcel ID Number: R300 024 000 0053 0000 which currently has the address of
734 Seaside Rd [Street]
Saint Helena Island [City], South Carolina 29920-6313 [Zip Code]
("Property Address"):

TO HAVE AND TO HOLD this property unto MERS (solely as nominee for Lender and Lender's successors and assigns;) and to the successors and assigns of MERS, forever, together with all the improvements now or hereafter created on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

SOUTH CAROLINA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT WITH MERS

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THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. **Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be

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in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Lien. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the



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lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services, and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with

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the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable

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attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

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(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.



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12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

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16. **Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. **Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

18. **Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. **Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to Section 22 of this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. **Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA

SOUTH CAROLINA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT WITH ENDORSEMENTS

VD-6A(SC) (11/02).00

Page 11 of 15

Initials

Form 3041 1/01



003446904600 0233 362 1115

370

requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.



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SOUTH CAROLINA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT WITH MERS

VMP-6A(SC) (13002).00

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Initials: *[Signature]*

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NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

23. Release. Upon Payment of all sums secured by this Security Instrument, this Security Instrument shall become null and void. Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Homestead Waiver. Borrower waives all rights of homestead exemption in the Property to the extent allowed by Applicable Law.

25. Waiver of Appraisal Rights. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within 30 days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. TO THE EXTENT PERMITTED BY LAW, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. This waiver shall not apply so long as the Property is used as a dwelling place as defined in Section 12-37-250 of the South Carolina Code of Laws.

26. Future Advances. The lien of this Security Instrument shall secure the existing indebtedness under the Note and any future advances made under this Security Instrument up to 150% of the original principal amount of the Note plus interest thereon, attorneys' fees and court costs.



Q33445904608 0233 562 1313

SOUTH CAROLINA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT WITH VARIATIONS

UNIFORM - 6A(SC) (113021.00)

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Initials: *AM*

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BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Signed, sealed and delivered in the presence of:

W Kemp
Marjorie Kemp

Michael Frank Rivers
Michael Frank Rivers (Seal)
-Borrower

Dalke Winters

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower



003446904600 0233 562 1415

SOUTH CAROLINA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT WITH MERS

VMP-6A(SC) (1/30/21.00)

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STATE OF SOUTH CAROLINA Beaufort
I,
Michael Frank Rivers

DALHI MYERS

County ss:
do hereby certify that

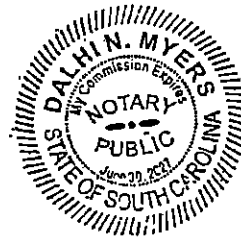
personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this ~~24th~~ 2nd day of ~~March~~ April, 2020

Dalhi Myers
Notary Public for South Carolina

My Commission Expires: June 30, 2027

Loan origination organization Quicken Loans Inc.
NMLS ID 3030
Loan originator Alexander Fuchs
NMLS ID 1626971



903441904608 0233 512 1515

SOUTH CAROLINA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT WITH MYERS

VMP-6A(SC) 113021.00

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Initials

Form 3041 1/01

[Handwritten signature/initials]

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MERS MIN: 100039034469046082

3446904608

VA GUARANTEED LOAN AND ASSUMPTION POLICY RIDER
VA Case Number: 19-1960568085 Company NMLS#: 3030

**NOTICE: THIS LOAN IS NOT ASSUMABLE
WITHOUT THE APPROVAL OF THE DEPARTMENT
OF VETERANS AFFAIRS OR ITS AUTHORIZED
AGENT.**

THIS VA GUARANTEED LOAN AND ASSUMPTION POLICY RIDER is made this 24th day of
March, 2020, and is incorporated into and shall be deemed to amend and
supplement the Mortgage, Deed of Trust or Deed to Secure Debt (herein "Security
Instrument") dated of even date herewith, given by the undersigned (herein "Borrower") to
secure Borrower's Note to Quicken Loans Inc.

(herein "Lender") and covering the Property described in the Security Instrument and located
at

734 Seaside Rd
Saint Helena Island, SC 29920-6313
[Property Address]

VA GUARANTEED LOAN COVENANT: In addition to the covenants and agreements made in
the Security Instrument, Borrower and Lender further covenant and agree as follows:

If the indebtedness secured hereby be guaranteed or insured under Title 38, United States
Code, such Title and Regulations issued thereunder and in effect on the date hereof shall
govern the rights, duties and liabilities of Borrower and Lender. Any provisions of the Security
Instrument or other instruments executed in connection with said indebtedness which are
inconsistent with said Title or Regulations, including, but not limited to, the provision for
payment of any sum in connection with prepayment of the secured indebtedness and the
provision that the Lender may accelerate payment of the secured indebtedness pursuant to
Covenant 18 of the Security Instrument, are hereby amended or negated to the extent
necessary to conform such instruments to said Title or Regulations.

MULTISTATE VA GUARANTEED LOAN AND ASSUMPTION POLICY RIDER
5155855424

Wolters Kluwer Financial Services

VMP®-53BR (0405).01 10/03

Page 1 of 3 Initials: *MBR*



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LATE CHARGE: At Lender's option, Borrower will pay a "late charge" not exceeding four per centum (4%) of the overdue payment when paid more than fifteen (15) days after the due date thereof to cover the extra expense involved in handling delinquent payments, but such "late charge" shall not be payable out of the proceeds of any sale made to satisfy the indebtedness secured hereby, unless such proceeds are sufficient to discharge the entire indebtedness and all proper costs and expenses secured hereby.

GUARANTY: Should the Department of Veterans Affairs fail or refuse to issue its guaranty in full amount within 60 days from the date that this loan would normally become eligible for such guaranty committed upon by the Department of Veterans Affairs under the provisions of Title 38 of the U.S. Code "Veterans Benefits," the Mortgagee may declare the indebtedness hereby secured at once due and payable and may foreclose immediately or may exercise any other rights hereunder or take any other proper action as by law provided.

TRANSFER OF THE PROPERTY: This loan may be declared immediately due and payable upon transfer of the property securing such loan to any transferee, unless the acceptability of the assumption of the loan is established pursuant to Section 3714 of Chapter 37, Title 38, United States Code.

An authorized transfer ("assumption") of the property shall also be subject to additional covenants and agreements as set forth below:

(a) **ASSUMPTION FUNDING FEE:** A fee equal to

(0.50%) of the balance of this loan as of the date of transfer of the property shall be payable at the time of transfer to the loan holder or its authorized agent, as trustee for the Department of Veterans Affairs. If the assumer fails to pay this fee at the time of transfer, the fee shall constitute an additional debt to that already secured by this instrument, shall bear interest at the rate herein provided, and, at the option of the payee of the indebtedness hereby secured or any transferee thereof, shall be immediately due and payable. This fee is automatically waived if the assumer is exempt under the provisions of 38 U.S.C. 3729 (c).

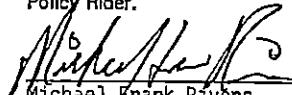
(b) **ASSUMPTION PROCESSING CHARGE:** Upon application for approval to allow assumption of this loan, a processing fee may be charged by the loan holder or its authorized agent for determining the creditworthiness of the assumer and subsequently revising the holder's ownership records when an approved transfer is completed. The amount of this charge shall not exceed the maximum established by the Department of Veterans Affairs for a loan to which Section 3714 of Chapter 37, Title 38, United States Code applies.

(c) **ASSUMPTION INDEMNITY LIABILITY:** If this obligation is assumed, then the assumer hereby agrees to assume all of the obligations of the veteran under the terms of the instruments creating and securing the loan. The assumer further agrees to indemnify the Department of Veterans Affairs to the extent of any claim payment arising from the guaranty or insurance of the indebtedness created by this instrument.



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IN WITNESS WHEREOF, Borrower(s) has executed this VA Guaranteed Loan and Assumption Policy Rider.


Michael Frank Rivers

8/24/2020

-Borrower

-Borrower

-Borrower

-Borrower

-Borrower

-Borrower

-Borrower

-Borrower

VMP®-538R (0405).01

Page 3 of 3



003446904608 0225 563 0303

EXHIBIT A - LEGAL DESCRIPTION

Tax Id Number(s): R300 024 000 0063 0000

Land situated in the County of Beaufort in the State of SC

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND, SITUATE, LYING AND BEING ON ST. HELENA ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA, AND CONSISTING OF ONE (1) ACRE, MORE OR LESS, AND IS BOUNDED ON THE NORTH BY LANDS NOW OR FORMERLY OF JOHN FORD; ON THE EAST BY LANDS NOW OR FORMERLY OF JOSEPH LOGAN; ON THE SOUTH BY LANDS NOW OR FORMERLY OF WILLIAM WALLACE; AND ON THE WEST BY LANDS NOW OR FORMERLY OF BUTLER MITCHELL. FOR A MORE COMPLETE DESCRIPTION OF SAID PROPERTY, REFERENCE MAY BE HAD TO AN INDIVIDUAL PLAT PREPARED BY ZYAD A KHALIL, RLS, DATED AUGUST 30, 2006, WHICH IS MADE A PART HEREOF AND RECORDED ON OCTOBER 24, 2006 IN PLAT BOOK 2463 AT PAGE 2072.

Commonly known as: 734 Seaside Rd, Saint Helena Island, SC 29920-6313

Being the same property conveyed to Michael Frank Rivers, Snr. by R.M. Lapp, Trustee, St. Helena Asset Trust, by deed dated March 23, 2020 and recorded of record in Deed Book ~~3897~~ Page 1139, in the County Clerk's Office.



U07283665

1632 4/22/2020 81549955/2

378

2/10/01
V. Garvin
1780

BEAUFORT COUNTY SC - ROD
BK 01472 PG 0236
FILE NUM 2001057076
RECORDING FEES 10.00
RECORDED BY V GARVIN RCPT# 19378
RECORDED 09/17/2001 11:33:58 AM

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

PROBATE COURT

RECORDED
2001 Oct -17 03:38 PM

IN THE MATTER OF: THE ESTATE OF FLORENCE C. PARKER
CASE NUMBER: 00-ES-07-00399

Sharon G. Bunn
BEAUFORT COUNTY AUDITOR

DEED OF DISTRIBUTION

WHEREAS, the decedent died on the 7th day of May 1993; and

WHEREAS, the estate of the decedent is being administered in the Probate Court for Beaufort County, South Carolina in File # 00ES0700399; and,

WHEREAS, the grantee herein is either a beneficiary or heir at law, as appropriate, of the decedent; and,

WHEREAS, the undersigned Personal Representative is duly appointed and qualified fiduciary in this matter; and,

NOW, THEREFORE, in accordance with the laws of the State of South Carolina, the Personal Representative has granted bargained, sold and released, and by these Presents does grant, bargain, sell and release to:

NAME: Benjamin Jenkins
ADDRESS: 976 Seaside Road
St. Helena Island, South Carolina 29920

the following described property:

All that certain piece, parcel or lot of land, and improvements thereon situate, lying, and being on St. Helena Island, Beaufort County, South Carolina, and being all that remains of the 7 1/4 acre tract, more or less, located next to property now or formerly belonging to Harrison Rivers Property in Frogmore, South Carolina; according to survey description as to metes and bounds courses and distances reference is craved to the certain plat prepared by Christensen - Khalil Surveying Company, R.L.S., dated April 17, 2001 and entitled: "Plat prepared for Benjamin Jenkins".

The property being conveyed is that property that the decedent acquired as the sole heir of Ruben Chisholm by deed dated February 11, 1909 and recorded in the office of the R.M.C. for Beaufort County, South Carolina on March 11, 1913 in Deed Book 33 at Page 29.

The property herein conveyed was acquired by Florence C. Parker by deed recorded in Deed Book 33 at Page 29 in the Records of Beaufort County, South Carolina, is the same property that was conveyed to the Decedent as

CERTIFIED TRUE COPY

of the document recorded in the Offices of the
Register of Deeds for Beaufort County, S.C. on
(date): 9-17-2001

In DE Book 1472 Page 234

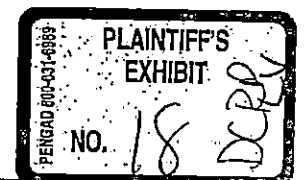
This document contains 2 pages.

Chancelia D. Bunn
Register of Deeds - Beaufort County, SC

Form #400PC

ADD DMP Record 10/11/2001 05:31:50 PM
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R300	024	000	0064	0000	00



the sole heir of Ruben Chisholm. Tax Reference number TMN: R300 024 000
0064 0000.

This deed prepared by the Law Offices of Vernell I. Scott, Esquire, Post Office Box
2357, Beaufort, South Carolina 29901-2357, without benefit of title examination.

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

TO HAVE AND TO HOLD, all and singular, the said Premises/Property unto the
said Benjamin Jenkins, in fee simple, then to his heirs and assigns forever.

IN WITNESS WHEREOF, the undersigned, as a Personal Representative of the
estate of the decedent, has executed this deed, this 10th day of September, 2001.

SEALED, SIGNED AND DELIVERED
IN THE PRESENCE OF

Estate of: FLORENCE PARKER
by Signature: Benjamin Jenkins
Benjamin Jenkins

Witness: Vernell I. Scott

Witness: Nicole L. Evans

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

)
PROBATE

Personally appeared before me Vernell I. Scott
and made an oath that he/she saw within named Personal Representative, BENJAMIN
JENKINS sign, seal, and as his act and deed, deliver the written Deed, and that he/she
with Nicole L. Evans witnessed the execution thereof.

SWORN to before this 10th day of September, 2001

Vernell I. Scott
Witness

Nicole L. Evans
Notary Public for South Carolina

My commission Expires: My Commission Expires
December 8, 2010

18C

Book 134/Pages 116



BOUNDARY SURVEY
PREPARED FOR
BENJAMIN JENKINS

PORTION OF LOT 35, SECTION 28, 1S-1E
ST. HELENA ISLAND
BEAUFORT COUNTY, SOUTH CAROLINA

BEAUFORT COUNTY SC - 300
EX 00134 PG 0136
FILED WITH 2012024551
05/03/2012 01:13:29 PM
REC'D BY R. WOODS RCP# 475591
RECORDING FEE: 10.00

LEGEND:
PP - POWER POLE
TB - TIE BOX
GT - GAS TANK

NO. BEARING DISTANCE
AA S51°41'24"W 42.72'

THIS PROPERTY IS LOCATED IN ZONE C AS
DETERMINED BY FEMA, FIRM COMMUNITY-PANEL
NUMBER 450025 0130 F, DATED 9-29-06.

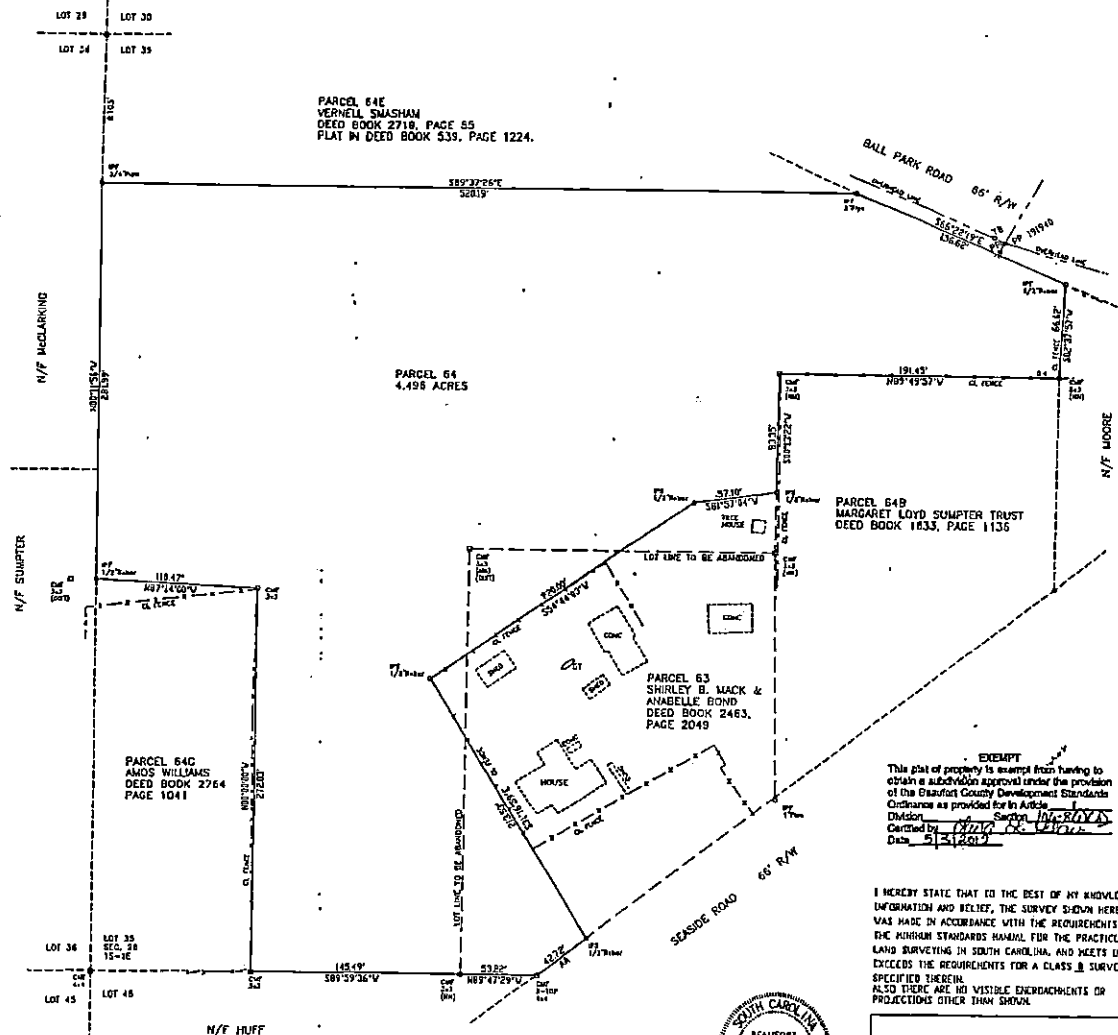
R300-024-000-0084-0000

0 25' 50' 100' 150'

SCALE 1" = 50'

APRIL 22, 2000

P14000/HNA



EXEMPT
This plot of property is exempt from having to
obtain a subdivision approval under the provisions
of the Beaufort County Development Standards
Ordinance as provided for in Article
Division Section
Certified by DAVID S. YOUNG
Date 5/3/2012

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

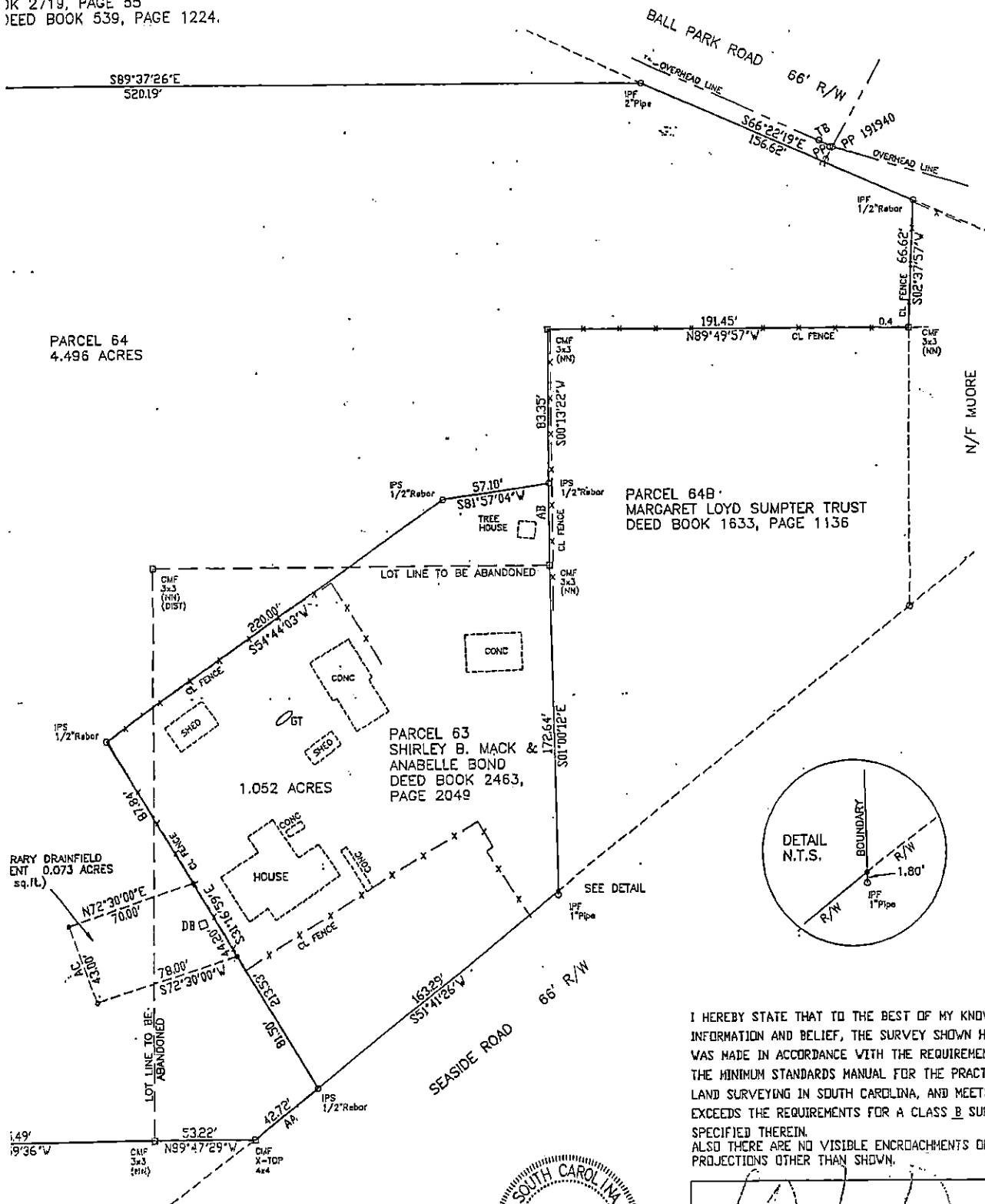


David S. Young
DAVID S. YOUNG, RLS 9786
BEAUFORT SURVEYING, INC.
1613 PARIS AVENUE
BEAUFORT, S.C. 29935
PHONE (843) 524-3261

PLAINTIFF'S
EXHIBIT
No. 19

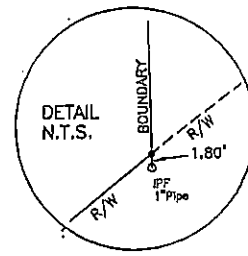
CERTIFIED TRUE COPY
of the document recorded in the Office of the
Register of Deeds for Beaufort County, S.C., on
5-3-2012
Book 134 Page 116
The document contains 1 page.
David S. Young
Register of Deeds - Beaufort County, SC
Feb 18, 2022

4E
SMASHAM
JK 2719, PAGE 55
DEED BOOK 539, PAGE 1224.



PARCEL 64B
MARGARET LOYD SUMPTER TRUST
DEED BOOK 1633, PAGE 1136

PARCEL 63
SHIRLEY B. MACK &
ANABELLE BOND
DEED BOOK 2463,
PAGE 2049



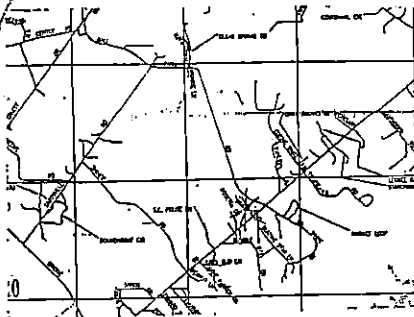
I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS B SURVEY SPECIFIED THEREIN. ALSO THERE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



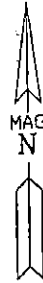
DAVID S. YOUNG RLS 976
BEAUFORT SURVEYING, INC.
1613 PARIS AVENUE
BEAUFORT, S.C. 29935
PHONE (843) 524-3261



382



VICINITY MAP NOT TO SCALE



BOUNDARY SURVEY
PREPARED FOR
BENJAMIN JENKINS

PORTION OF LOT 35, SECTION 28, 1S-1E
ST. HELENA ISLAND
BEAUFORT COUNTY, SOUTH CAROLINA

LEGEND:
PP - POWER POLE
TB - TELE BOX
GT - GAS TANK
DB - DISTRIBUTION BOX

NO.	BEARING	DISTANCE
AA	S51°41'26"W	42.72'
AB	S00°13'22"W	43.67'
AC	N20°52'23"W	43.00'

THIS PROPERTY IS LOCATED IN ZONE C AS
DETERMINED BY FEMA, FIRM COMMUNITY-PANEL
NUMBER 450025 0130 F, DATED 9-29-86.

R300-024-000-0064-0000



SCALE 1" = 50'

APRIL 22, 2009

P14000A/MMA

REVISED 7-14-09 - ADDED TEMPORARY
DRAINFIELD EASEMENT

N/F McCLARKING

N/F SUMPTER

LOT 29 LOT 30
LOT 36 LOT 35

±105'

IPF
3/4" Pipe

N00°11'56"W
281.99'

DBF
3x3
(DIST)

IPF
1/2" Rebar 110.47'
N87°14'00"W
CL FENCE

PARCEL 64C
AMOS WILLIAMS
DEED BOOK 2764
PAGE 1041

LOT 36

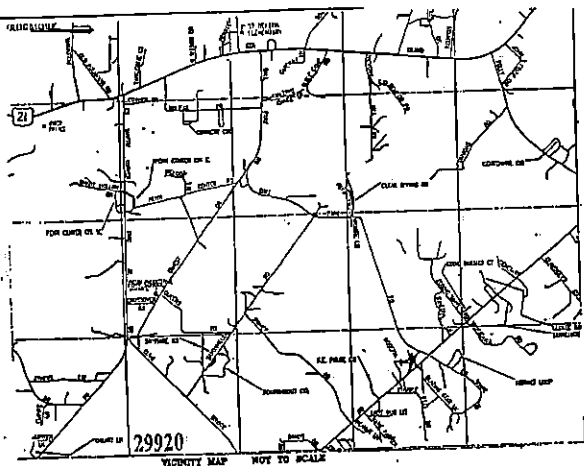
LOT 35
SEC. 28
1S-1E

LOT 45

LOT 46

N/F H

383



PLAINTIFF'S
EXHIBIT
NO. 218

BOUNDARY SURVEY
PREPARED FOR
BENJAMIN JENKINS

PORTION OF LOT 35, SECTION 28, 1S-1E
ST. HELENA ISLAND
BEAUFORT COUNTY, SOUTH CAROLINA

LEGEND:
PP - POWER POLE
TB - TELE BOX
GT - GAS TANK
DB - DISTRIBUTION BOX

THIS PROPERTY IS LOCATED IN ZONE C AS
DETERMINED BY FEMA, FIRM COMMUNITY-PANEL
NUMBER 450025 0130 F, DATED 11-4-92.

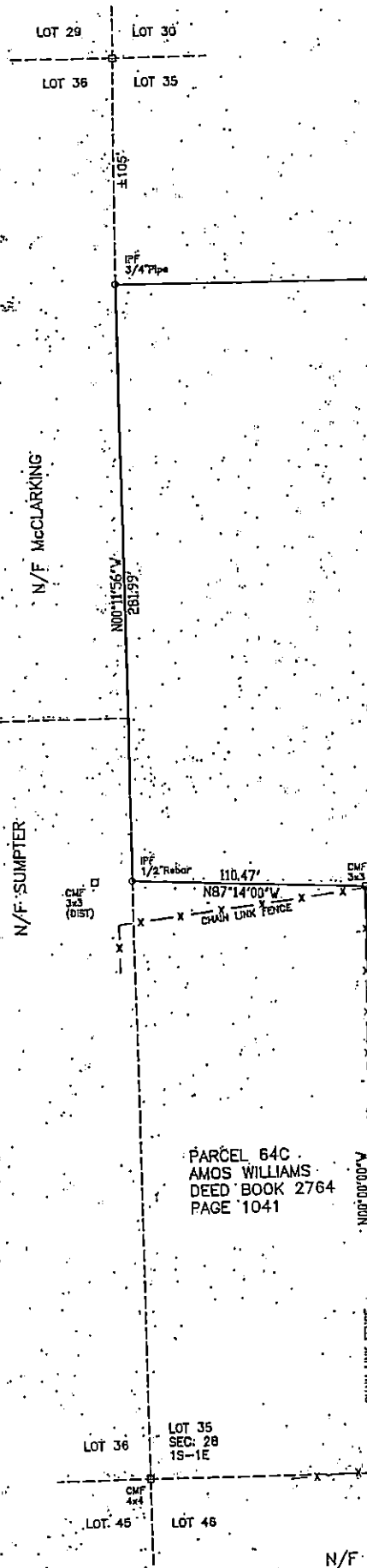
R300-024-000-0064-0000

0 25' 50' 100' 150'

SCALE 1" = 50'

APRIL 23, 2019

P14000C/MMA/WMA/MDY

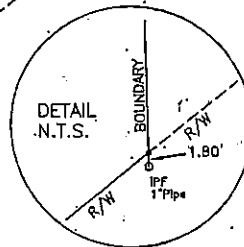


Note
Plot Dated 4-22-2009
rec'd on Plot BA 134 p116 on 5-3-12

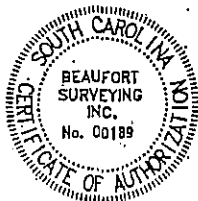
384

[illegible]

PARCEL 63
SHIRLEY B. MACK &
ANABELLE BOND
DEED BOOK 2463,
PAGE 2049



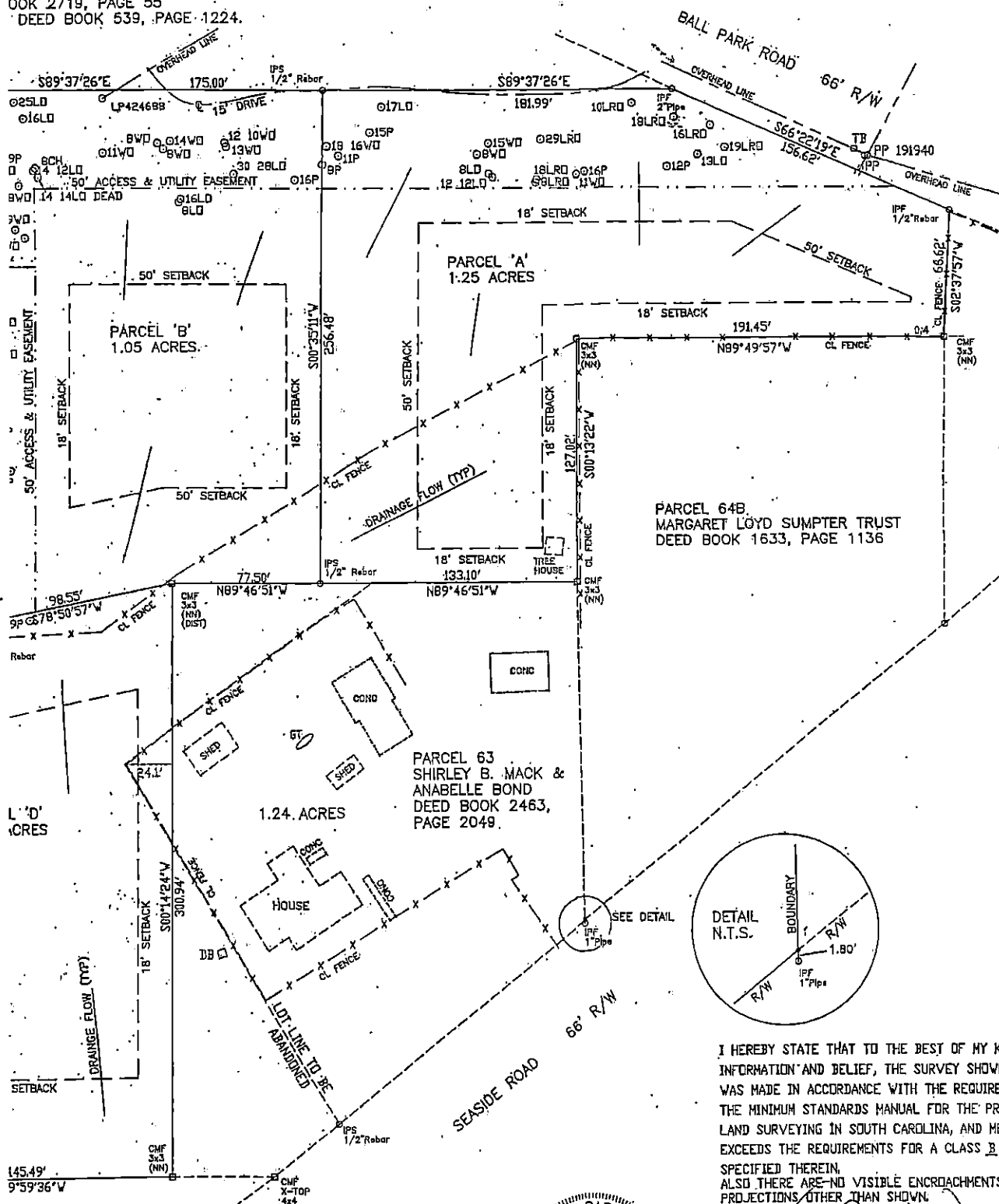
I HEREBY STATE THAT TO THE BEST OF MY KNOW
INFORMATION AND BELIEF, THE SURVEY SHOWN
WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS
THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE
OF SURVEYING IN SOUTH CAROLINA, AND DOES NOT
EXCEEDS THE REQUIREMENTS FOR A CLASS B SURVEY
SPECIFIED THEREIN.
ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR
PROJECTIONS OTHER THAN SHOWN.



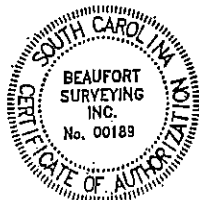
DAVID S. YOUNG RLS 97
BEAUFORT SURVEYING, INC.
2201 BOUNDARY ST. SUITE
BEAUFORT, S.C. 29902
PHONE (843) 524-3261

385

64E.
SMASHAM
BOOK 2719, PAGE 55
DEED BOOK 539, PAGE 1224.

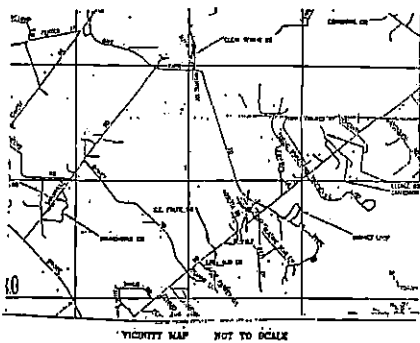


I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SURVEY SHOWN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND THE SAME EXCEEDS THE REQUIREMENTS FOR A CLASS B SURVEY SPECIFIED THEREIN. ALSO THERE ARE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



DAVID S. YOUNG, RLS.
BEAUFORT SURVEYING, INC.
2201 BOUNDARY ST. SUT
BEAUFORT, S.C. 29902
PHONE (843) 524-3261





SUBDIVISION
PREPARED FOR
BENJAMIN JENKINS

PORTION OF LOT 35, SECTION 28, 1S-1E
ST. HELENA ISLAND
BEAUFORT COUNTY, SOUTH CAROLINA

LEGEND:
PP - POWER POLE
TB - TELE BOX
GT - GAS TANK
DB - DISTRIBUTION BOX

LEGEND:
LO - LIVE OAK
WO - WATER OAK
LRO - LAUREL OAK
P - PINE
CH - CHERRY

ADDRESSES:

PARCEL "A" - 402 BALL PARK ROAD
PARCEL "B" - 406 BALL PARK ROAD
PARCEL "C" - 410 BALL PARK ROAD
PARCEL "D" - 414 BALL PARK ROAD

THIS PROPERTY IS LOCATED IN ZONE 'C' AS
DETERMINED BY FEMA, FIRM COMMUNITY-PANEL
NUMBER 450025 0130 F, DATED 9-29-86.

R300-024-000-0064-0000

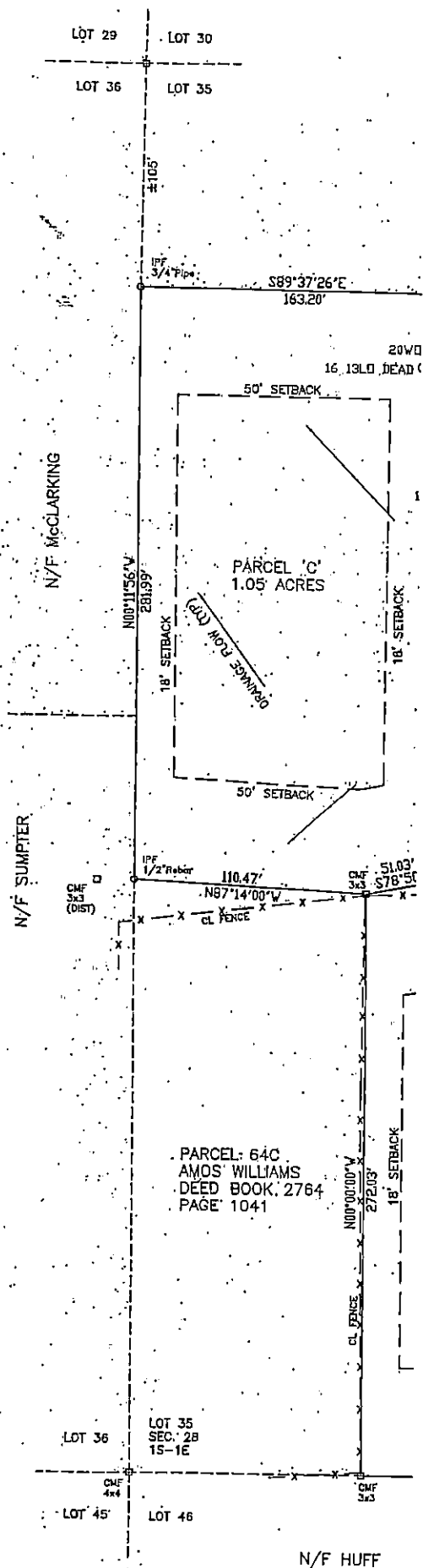
0 25' 50' 100' 150'

SCALE 1" = 50'

APRIL 22, 2009

REVISED MARCH 11, 2019 - ADDED TREES IN EASEMENT

P14000B/MMA/WMA

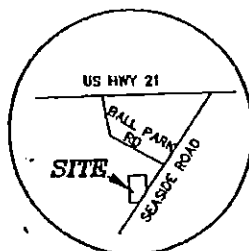


387

CHRISTENSEN ~ KHALIL SURVEYORS, INC.

1816 BOUNDARY STREET, BEAUFORT, S.C. 29902
(843) 524-4148, FAX (843) 524-4148
CKSI@HARGRAY.COM

S-6521



LEGEND

CM(O) = CONCRETE MONUMENT OLD
CM(N) = CONCRETE MONUMENT NEW
RB(O) = 1/2" REBAR FOUND
RB(N) = 1/2" REBAR SET
OHP = OVERHEAD POWER LINES

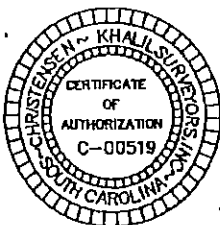
LOCATION MAP
NTS

GENERAL NOTES:

- 1.) PRESENT OWNER OF PROPERTY SHOWN HEREON:
WELLS FARGO BANK
- 2.) TBM # 300-24-63
- 3.) THE BEARINGS SHOWN HEREON ARE MAGNETIC AND AS SUCH
SUBJECT TO LOCAL ATTRACTION.
- 4.) PROPERTY SHOWN HEREON IS LOCATED IN FLOOD ZONE "C"
ELEVATION (N/A) PER FEMA PANEL #450025-0130-F
DATED: NOV. 4, 1992

REFERENCE PLATS & DEEDS

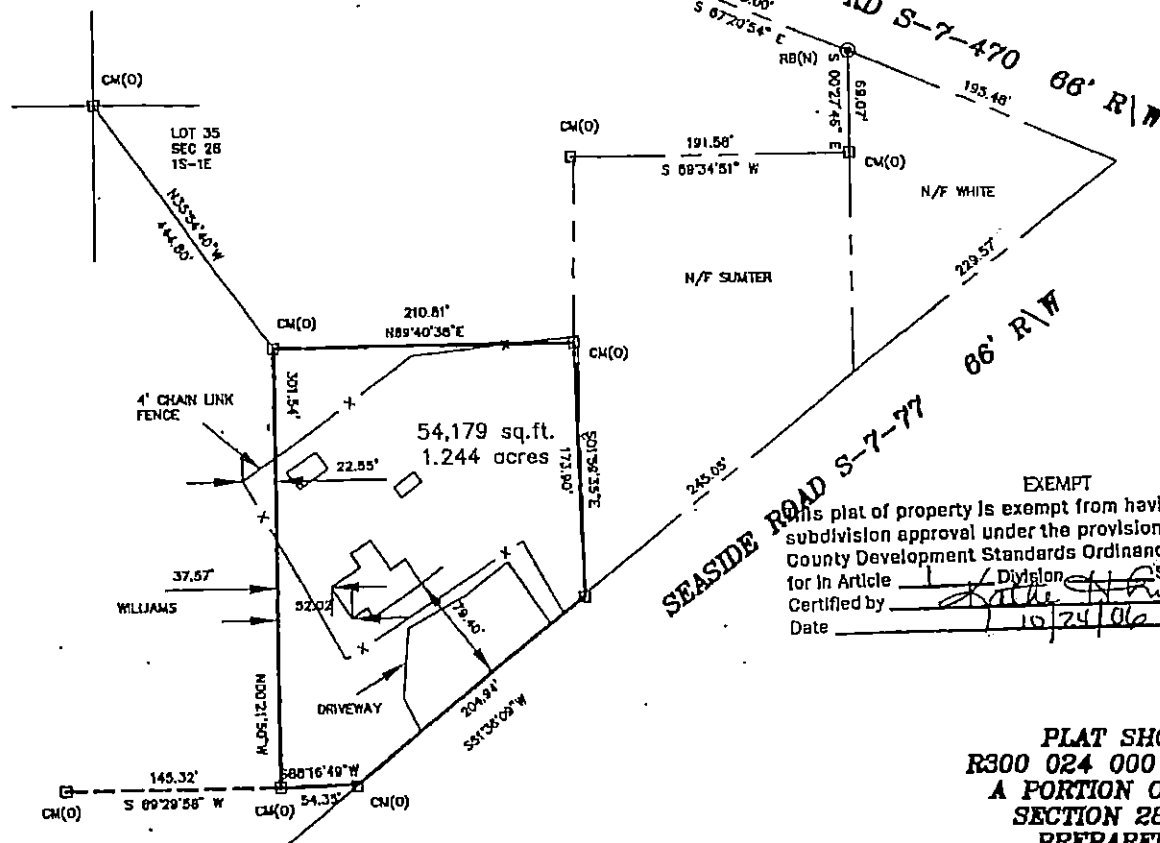
- 1.) DEED 2383/ 1523
- 2.) L-3996



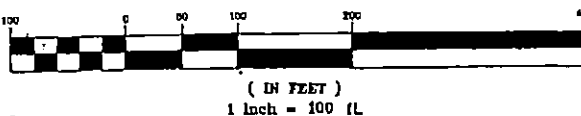
CERTIFICATION

I, ZYAD A. KHALIL, HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN
HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF
LAND SURVEYING IN THE STATE OF SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "B"
AS SPECIFIED THEREIN:

ZYAD A. KHALIL RLS
S.C. REG. NO. 13176 [THIS SURVEY IS NOT VALID UNLESS IT BEARS THE ORIGINAL SIGNATURE AND EMBOSSED SEAL]

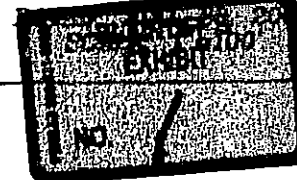


GRAPHIC SCALE



EXEMPT
This plat of property is exempt from having to obtain a
subdivision approval under the provision of the Beaufort
County Development Standards Ordinance as provided
for in Article 1, Division 1, Section (66-8 (1)(h))
Certified by [Signature]
Date 10/24/06

PLAT SHOWING
R300 024 000 0083 0000
A PORTION OF LOT 35
SECTION 28, 1S-1E
PREPARED FOR:
SHIRLEY B. MACK
& ARABELLE BONDS
ST. HELENA ISLAND,
BEAUFORT COUNTY, SOUTH CAROLINA



The State of South Carolina. } KNOW ALL MEN BY THESE PRESENTS.

THAT Me, N. Christman and Frederick H. Christman, of Beaufort

in the State aforesaid, and County of Beaufort
in consideration of the sum of One Hundred and Thirty five DOLLARS,
to us in hand paid at and before the sealing of these Presents, by Ruben M. Christman, of Beaufort
in the State aforesaid, and County of Beaufort
and by these Presents do grant, bargain, sell and release unto the said, Ruben M. Christman,

All that certain piece, parcel, or tract of land, situate,
lying and being in the State of South Carolina, County of Beau-
fort, and on Beaufort Island, and on small islands
as the "Frogmore Plantation," and more particularly bounded
and described as follows, to wit: The lot of land belonging to
the Estate of John Ford, East by the Estate of Joseph Logan,
South by lands belonging to the Estate of William Wallace,
and West by land belonging to the Estate of Ruth Mitchell,
containing ten acres, more or less, and being the same as
was formerly the property of Robert Sumner, and later
of our father, N. Christman (Sr.), now deceased, and by him
devised to us by his will bearing date the eleventh day
of January, 1869, and recorded in the Office of the Probate
Judge for Beaufort County, in Book 2, on page 238.

TOGETHER with all and singular the rights, members, hereditaments and appurtenances in the said premises belonging, or in anywise incident or apper-

tainance.
TO HAVE AND TO HOLD, all and singular, the said premises before mentioned unto the said Ruben M. Christman

Est. JOHN FORD

Est. JOSEPH

Est. BUTLER
W. FORD

10 AC

Logan

Est. Wm. Wallace

AND we do hereby bind ourselves and our
defend, all and singular, the said premises unto the said Ruben M. Christman

Heirs and Assigns against us and our Heirs,
lawfully claiming, or in claim the same, or any part thereof.

WITNESSES our Hand and Seal, this twelfth day of

June hundred and thirty and in the one hundred and thirty year of the
Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered in the Presence of
R. C. Gross
J. H. Harris

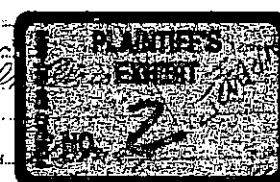
N. Christman (L. S.)
Frederick H. Christman (L. S.)

THE STATE OF SOUTH CAROLINA, } PERSONALLY appeared before me R. C. Gross and made
Beaufort County, }
on this 12 day of June 1913, that me saw the within named N. Christman and Frederick H. Christman sign, seal, and as
their act and deed, deliver the within written Deed; and that he with J. H. Harris witnessed the execution thereof.

SWORN to before me, this 12 day of June
1913
(SEAL) J. H. Harris, Not Public R. C. Gross

THE STATE OF SOUTH CAROLINA, }
County, }
I, do hereby certify unto all whom
it may concern, that Mrs. wife of the within named do declare that she does freely, voluntarily and without any compulsion,
dread or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within named do
Heirs and Assigns, all her interest and estate, and also all her right and claim of Dower, of, in, or to all and singular the premises within
mentioned and released.

GIVEN in my hand and seal, this 11th day of March 1913
(Anno Domini 1913)
Recorded and certified, this 11th day of March 1913
(Ruben M. Christman) Shogun etc



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PREPARED FOR

BENJAMIN JENKINS

PORTION OF LOT 35, SECTION 28, 1S-1E
ST. HELENA ISLAND
BEAUFORT COUNTY, SOUTH CAROLINA

LEGEND:
PP - POWER POLE
TB - TELE. BOX
GT - GAS TANK
DB - DISTRIBUTION BOX

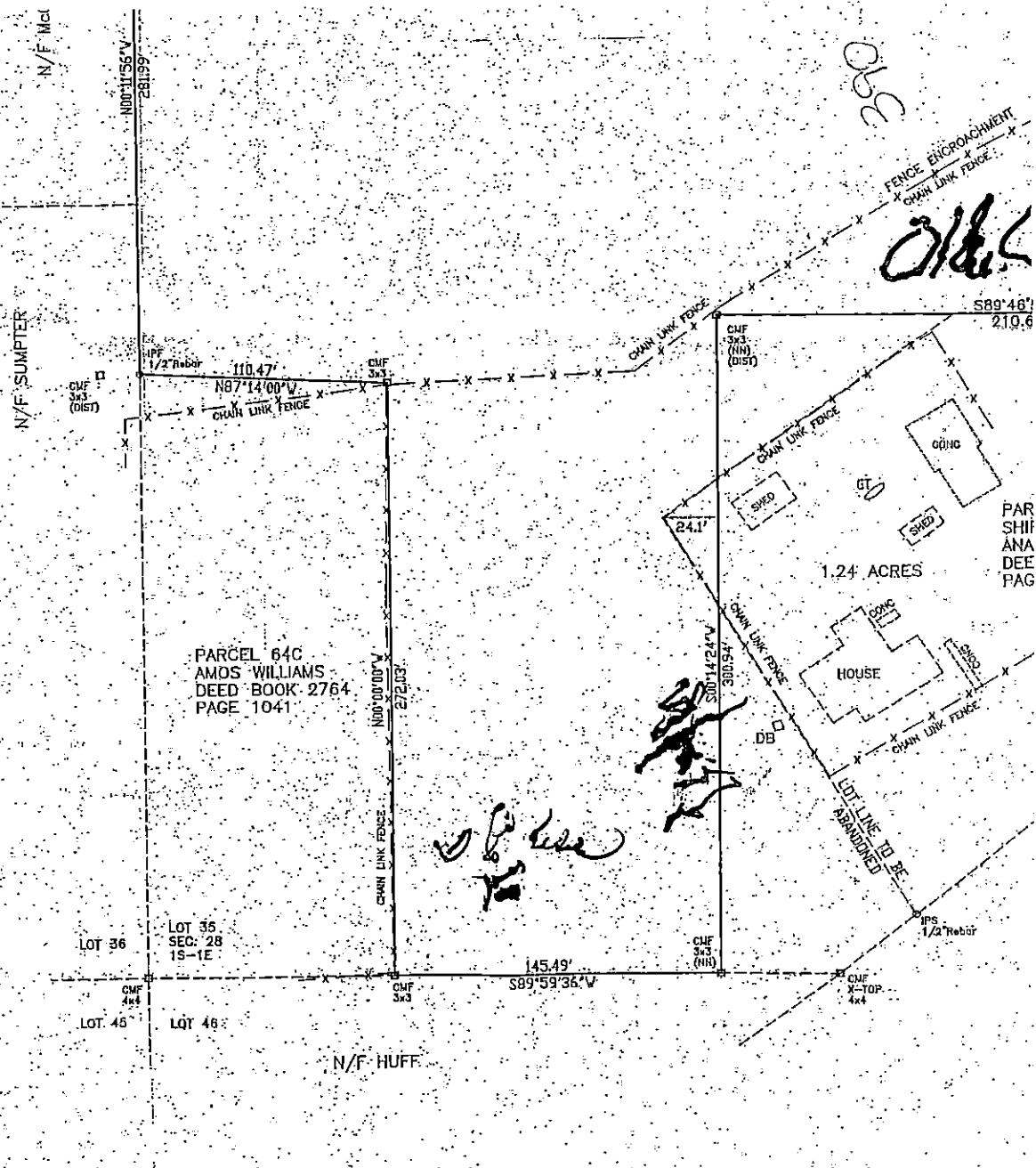


THIS PROPERTY IS LOCATED IN ZONE C AS
DETERMINED BY FEMA FIRM COMMUNITY-PANEL
NUMBER 450025 0130 F, DATED 11-4-92.

R300-024-000-0064-0000



SCALE 1" = 50'



N/F SUMPTER

LOT 36

LOT 35
SEC. 28
15-1E

LOT 45

LOT 46

PARCEL 64C
AMOS WILLIAMS
DEED BOOK 2784
PAGE 1041

N/F HUFF

Handwritten notes and signatures in the center of the map.

145.49'
S89°59'36"W

Handwritten signature/initials.

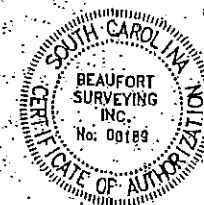
1.24 ACRES

PARCEL 63
SHIRLEY B. MACK &
ANABELLE BOND
DEED BOOK 2463
PAGE 2049

Handwritten signature/initials.

S89°46'53"E
210.60'

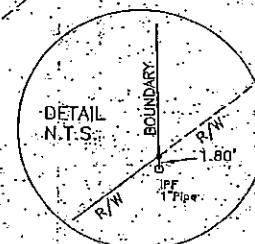
SEASIDE ROAD
66' R/W



PARCEL 64B
MARGARET LOYD SUMPTER TRUST
DEED BOOK 1633, PAGE 1136

Handwritten number 391.

N/F MOORE



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

Handwritten signature of David S. Youmans.
DAVID S. YOUNG RLS 9765
BEAUFORT SURVEYING, INC.
2201 BOUNDARY ST. SUITE 103
BEAUFORT, S.C. 29902
PHONE (843) 524-3281

20/3

PARCEL 84E
VERNELL SMASHAM
DEED BOOK 2719, PAGE 55
PLAT IN DEED BOOK 539, PAGE 1224.

4.31 ACRES

BALL PARK ROAD 66' R/W
OVERHEAD LINE

PARCEL 64B
MARGARET LOYD SUMPTER TRUST
DEED BOOK 1633, PAGE 1136

PARCEL 63
SHIRLEY B. MACK &

N/F McCLARKING

N/F SUMPTER

N/F. MOORE

2/10/01
V. Garvin
1780

BEAUFORT COUNTY SC - ROD
BK 01472 PG 0236
FILE NUM 2001057076
RECORDING FEES 10.00
RECORDED BY V GARVIN RCPT# 19378
RECORDED 09/17/2001 11:33:58 AM

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

PROBATE COURT

RECORDED
2001 Oct -17 03:38 PM

IN THE MATTER OF: THE ESTATE OF FLORENCE C. PARKER
CASE NUMBER: 00-ES-07-00399

Sharon D. Bannie
BEAUFORT COUNTY AUDITOR

DEED OF DISTRIBUTION

WHEREAS, the decedent died on the 7th day of May 1993; and

WHEREAS, the estate of the decedent is being administered in the Probate Court for Beaufort County, South Carolina in File # 00ES0700399; and,

WHEREAS, the grantee herein is either a beneficiary or heir at law, as appropriate, of the decedent; and,

WHEREAS, the undersigned Personal Representative is duly appointed and qualified fiduciary in this matter; and,

NOW, THEREFORE, in accordance with the laws of the State of South Carolina, the Personal Representative has granted bargained, sold and released, and by these Presents does grant, bargain, sell and release to:

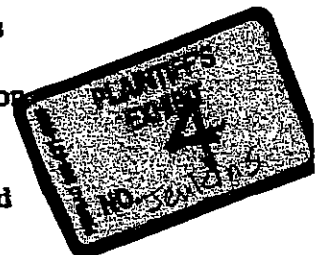
NAME: Benjamin Jenkins
ADDRESS: 976 Seaside Road
St. Helena Island, South Carolina 29920

the following described property:

All that certain piece, parcel or lot of land, and improvements thereon situate, lying, and being on St. Helena Island, Beaufort County, South Carolina, and being all that remains of the 7 $\frac{1}{4}$ acre tract, more or less, located next to property now or formerly belonging to Harrison Rivers Property in Frogmore, South Carolina; according to survey description as to metes and bounds courses and distances reference is craved to the certain plat prepared by Christensen - Khalil Surveying Company, R.L.S., dated April 17, 2001 and entitled: "Plat prepared for Benjamin Jenkins".

The property being conveyed is that property that the decedent acquired as the sole heir of Ruben Chisholm by deed dated February 11, 1909 and recorded in the office of the R.M.C. for Beaufort County, South Carolina on March 11, 1913 in Deed Book 33 at Page 29.

The property herein conveyed was acquired by Florence C. Parker by deed recorded in Deed Book 33 at Page 29 in the Records of Beaufort County, South Carolina, is the same property that was conveyed to the Decedent as



ADD DMP Record 10/11/2001 05:31:50 PM
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R300	024	000	0064	0000	00

Form #400PC

394

the sole heir of Ruben Chisholm. Tax Reference number TMN: R300 024 000
0064 0000.

This deed prepared by the Law Offices of Vernell I. Scott, Esquire, Post Office Box
2357, Beaufort, South Carolina 29901-2357, without benefit of title examination.

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

TO HAVE AND TO HOLD, all and singular, the said Premises/Property unto the
said Benjamin Jenkins, in fee simple, then to his heirs and assigns forever.

IN WITNESS WHEREOF, the undersigned, as a Personal Representative of the
estate of the decedent, has executed this deed, this 10th day of September, 2001.

SEALED, SIGNED AND DELIVERED
IN THE PRESENCE OF

Estate of: FLORENCE PARKER
by Signature: Benjamin Jenkins
Benjamin Jenkins

Witness: Vernell I. Scott

Witness: Nicole L. Evans

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

PROBATE

Personally appeared before me Vernell I. Scott
and made an oath that he/she saw within named Personal Representative, BENJAMIN
JENKINS sign, seal, and as his act and deed, deliver the written Deed, and that he/she
with Nicole L. Evans witnessed the execution thereof.

SWORN to before this 10th day of September, 2001

Vernell I. Scott
Witness

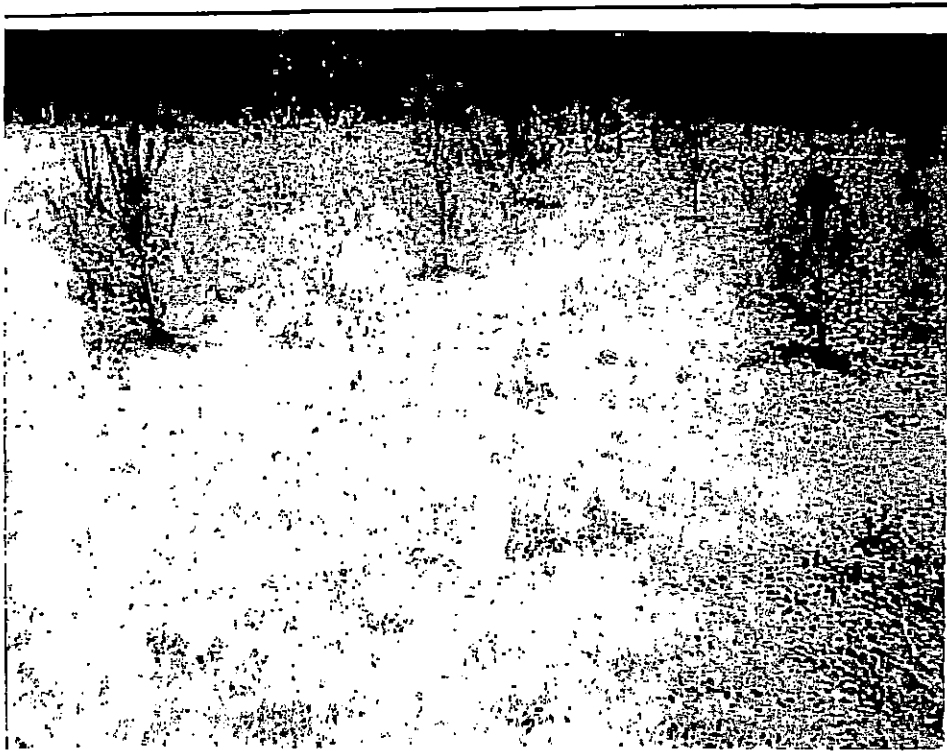
Nicole L. Evans
Notary Public for South Carolina

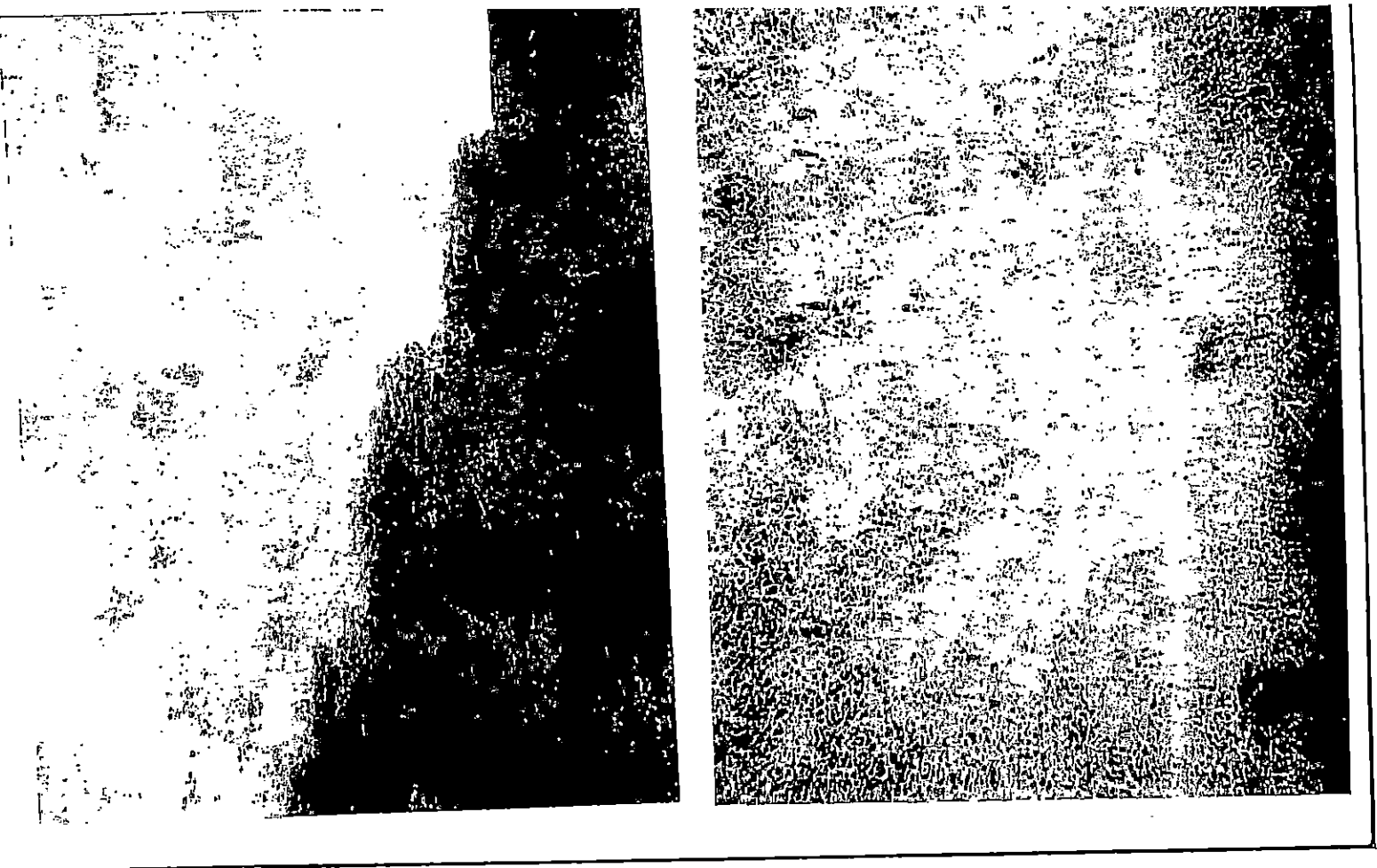
My commission Expires: My Commission Expires
December 8, 2010



DEFENDANT'S
EXHIBIT
1
NCP 101

394





398



DAVID S. YOUNG RLS 9765
BEAUFORT SURVEYING, INC.
2201 BOUNDARY ST. SUITE 103

399

LOT 29 LOT 30
LOT 36 LOT 35

PARCEL 64E
VERNELL SMASHAM
DEED BOOK 2719, PAGE 55
PLAT IN DEED BOOK 539, PAGE 1224

IPF 3/4" Pipe
NB89°37'26"W 520.19'
LP424698 15' DRIVE

NEWER FENCE IN
SAME LOCATION AS
OLD FENCE LINE
4.31 ACRES

ROCKS AND
MY MOM TO
WAS T

DIRT
PILES

MY MOM
RAISED
TURKEYS

PINE TREE
PLANTED AS
CORNER MARKER
BY MY FATHER

FENCE ENCROACHMENT
CHAIN LINK FENCE
FARM
DEBRIS

FARMED
CARS
TRUCKS

PARCEL 63
SHIRLEY B. MACK &
ANABELLE BOND
DEED BOOK 2463,
PAGE 2049

PARCEL 64C
AMOS WILLIAMS
DEED BOOK 2764
PAGE 1041

X TREES
X AZALEAS

FARMING

BASEBALL
FIELD

AZALEAS

X X X X X X
X CREPE MYRTLES

GRANDMOTHER'S
HOUSE

* WATERMELONS SQUASH
PEAS BEANS

* PEANUTS

SURVEY
CERTIFICATE

400

RECEIVED

MAR 04 2024

CERTIFICATE OF COUNSEL

SC Court of Appeals

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

Law Office of R. Thayer Rivers, Jr.



R. THAYER RIVERS, JR.

Post Office Box 668

Ridgeland, South Carolina 29936

(843) 726-8136

Attorney for the Appellants

Ridgeland, South Carolina,

March 1, 2024.