

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Michael S. Dillon, on behalf of Parker)
Ridge Homeowner’s Association, an)
unincorporated association,)
)
Plaintiffs,)
)
v.)
)
John A. Carenen and Elisabeth F. Carenen,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS

C.A. No. 2023-CP-23-06494

NOTICE OF APPEAL



COMES NOW, the Defendants, John A. Carenen and Elisabeth F. Carenen (*hereinafter* “Carenen” or “Defendants”), by and through their undersigned counsel, and hereby provide this Court Notice of Appeal as required by SCACR 203(B) filed with the Court of Appeals on April 3, 2025, and attached hereto as **Exhibit A**, appealing the Court’s Order Granting Plaintiffs’ Motion for Summary Judgment dated February 6, 2025 (the “Order”). Defendants/Appellants filed a timely motion under Rule 59 seeking reconsideration and amendment of the Order which was denied by order entered March 3, 2025.

[signature page to follow]

Respectfully Submitted,

SMITH HUDSON LAW, LLC

s/ Joseph O. Smith

Joseph O. Smith (SC Bar No. 77475)

Joshua J. Hudson (SC Bar No. 100311)

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Attorneys for Defendants/Counterclaim Plaintiffs

April 8, 2025

Greenville, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Circuit Court

The Honorable Perry H. Gravely, Circuit Court Judge

Case No. 2023-CP-23-06494

Appellate Case No. 2025-

Michael S. Dillon, on behalf of Parker Ridge Homeowner’s Association,
an unincorporated association.....Respondent,

v.

John A. Carenen and Elisabeth F. Carenen.....Appellants.

NOTICE OF APPEAL

John A. Carenen and Elisabeth F. Carenen appeal the Order Granting Plaintiffs’ Motion for Summary Judgment dated February 6, 2025 (the “Order”). Appellants filed a timely Motion under Rule 59 petitioning the lower court to reconsider the Order. The lower court denied Appellants’ Rule 59 Motion by order entered March 3, 2025. Appellants are filing this timely Notice of Appeal of the Order.

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Attorneys for Appellants

April 3, 2025
Greenville, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
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v.

John A. Carenen and Elisabeth F. Carenen.....Appellants.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the above-named Respondent via
electronic mail, on April 3, 2025, addressed to counsel of record as follows.

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[signature page to follow]

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Attorneys for Appellants

April 3, 2025
Greenville, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) IN THE COURT OF COMMON PLEAS
)
) C.A. No. 2023-CP-23-06494
Michael S. Dillon, on behalf of Parker)
Ridge Homeowner’s Association, an)
unincorporated association,)
)
) **ORDER GRANTING PLAINTIFF’S**
Plaintiff,) **MOTION FOR SUMMARY JUDGMENT**
)
)
v.)
)
)
John A. Carenen and Elisabeth F. Carenen,)
)
)
Defendants.)

This matter is before the Court on cross motions for summary judgment by the Plaintiff and the Defendants. A hearing was held on these motions on January 23, 2025. Present at the hearing were Ronald Tate, attorney for the Plaintiff, and Josh Smith, attorney for the Defendants. After consideration of the entire record and after hearing the arguments of counsel, viewing the evidence in the light most favorable to the Defendants, I find that the Plaintiff is entitled to summary judgment as a matter of law.

BACKGROUND

This is a declaratory judgment action commenced by Michael S. Dillon, on behalf of Parker Ridge Homeowner’s Association, an unincorporated association. Plaintiff requests that the court construe and determine the rights of the parties and declare that restrictive covenants of Parker Ridge Subdivision are valid and enforceable and that as a result of the restrictive covenants, a homeowner’s association created thereby is a validly formed association with the power to conduct meetings, adopt bylaws, collect dues and perform those functions authorized by the restrictive covenants of the subdivision. The Defendants request a declaratory judgment finding that the

homeowner's association is not valid, and that by operation of the South Carolina Homeowner's Association Act, S.C. Code Ann. § 27-30-110 ("the HOA Act"), the homeowner's association is no longer in effect and is not capable of conducting business.

LEGAL STANDARD

Summary Judgment should be granted where the pleadings and other material in the record show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Rule 56(c), SCRPC. "The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder." *George v. Fabri*, 345 S.C. 440, 452, 548 S.E. 2d 868, 874 (2001).

ANALYSIS

In this case there is no dispute as to any material fact, and summary judgment is appropriate. It is undisputed that on June 15, 1995, restrictive covenants were filed in Greenville County for the subdivision at issue. The covenants set forth the requirement of a homeowner's association and specify how the homeowner's association should be governed.

The evidence in the record shows that the homeowner's association has existed for the purposes of collecting dues and maintaining the common areas, namely a private road that runs through the subdivision, since the HOA was created by the restrictive covenants in 1995. The evidence also establishes that the homeowner's association has conducted meetings. These meetings were not held regularly and have not been held for several years. The HOA has maintained a bank account, collected dues and performed maintenance, however. There is no evidence that the HOA was dissolved, or that the restrictive covenants were amended. In short, the restrictive covenants clearly provide for the formation of a homeowner's association.

Defendants argued that a 1999 easement agreement accomplished the Plaintiff's claimed

purpose of the HOA—maintenance of the private road, thus, making the HOA unnecessary. Nothing in the easement agreement vitiates the existence of the homeowner’s association or amended or limited the restrictive covenants. In fact, the easement agreement references the restrictive covenants thereby reinforcing the continued validity of the restrictive covenants and the homeowner’s association.

Defendants assert that the HOA did not comply with the requirements of the 2018 HOA Act, and, therefore, could not be resurrected as Plaintiffs had attempted to do prior to filing suit.. Nothing in the statute requires the termination of the HOA or otherwise limited its ability to conduct business. The HOA Act required the recording of certain information by homeowner’s associations in the public record. The restrictive covenants were in fact recorded documents. The restrictive covenants spelled out the governance of the HOA, prescribing the HOA, and stating how it was to be operated. The HOA was therefore in compliance with the 2018 Act.

The Defendants expressed that they were concerned that because Mr. Dillon owned a majority of the lots in the subdivision, he would exercise his voting power to the detriment of the Defendants. The Court finds this argument speculative, and notes that the restrictive covenants existed at the time that the Defendants purchased their property in the subdivision and therefore Defendants were on record notice of the HOA and how it would operate.

For the foregoing reasons, the Plaintiff is entitled to summary judgment as a matter of law against the Defendants, and the Defendants’ Motion for Summary Judgment is accordingly denied.

NOW, THEREFORE, IT IS ORDERED that Plaintiff’s Motion for Summary Judgment is GRANTED and a declaratory judgment is entered herein that the Restrictive Covenants of Parker Ridge, recorded in the Greenville County Register of Deeds at Book 1615, page 835, are valid and enforceable; that the Parker Ridge Homeowner’s Association created by the Restrictive Covenants

is a valid entity under South Carolina law; and that, accordingly, Parker Ridge Homeowner's Association is empowered to perform those functions authorized by the Restrictive Covenants. Final judgment is entered accordingly.

SO ORDERED.

The electronic signature page of Judge Gravely is attached.



Greenville Common Pleas

Case Caption: Michael S Dillon , plaintiff, et al vs. John A Carenen , defendant, et al

Case Number: 2023CP2306494

Type: Order/Summary Judgment

So Ordered

s/ Honorable Perry H. Gravely, #2755

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ELECTRONICALLY FILED - 2025 Feb 06 9:11 AM - GREENVILLE - COMMON PLEAS - CASE#2023CP2306494
ELECTRONICALLY FILED - 2025 Apr 08 2:04 PM - GREENVILLE - COMMON PLEAS - CASE#2023CP2306494



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RECEIVED
Apr 18 2025
SC Court of Appeals

April 18, 2025

VIA E-EMAIL

Clerk of Court
SC Court of Appeals
1220 Senate Street
Columbia, SC 29201
ctappfilings@sccourts.org

RE: Michael S. Dillon v. John A Carenen
Appellate CA No. 2025-000650
SHL No. 2950.0001

Madam Clerk:

The Appellants, John and Elisabeth Carenen, submit this letter and accompanying materials to address the Court's April 8, 2025, Deficiency Letter.

1. The order on appeal accompanied the original Notice of Appeal filed with the Court on April 3, 2025. We have also included it with this submission for convenience. Appellants also have attached the Order Denying their Motion to Reconsider that order.
2. The Order on appeal was entered February 6, 2025, and received that day through the Court's electronic filing system. Appellants filed a timely Rule 59 Motion petitioning the lower court to reconsider that Order on February 17, 2025. The lower court denied Appellants' Rule 59 Motion by Form 4 Order entered March 3, 2025, and received that day through the Court's electronic filing system.
3. The Notice of Appeal filed with the Greenville County Clerk of Court is included with this submission.

If you have any questions or issues, please do not hesitate to contact us.

Sincerely,

SMITH HUDSON LAW, LLC

A handwritten signature in blue ink, appearing to read 'J O Smith', is positioned above the printed name.

Joseph O. Smith

Enclosures (*as stated*)