

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM EDGEFIELD COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2024-001510

Elizabeth M. Ferraro, James T. Ferraro, Edward J. Przybyl,
Marcella Gleie, John E. Gleie, Jr., Thomas Bowes, Connie
Bowes, Moataz Alasadi, Virginia Kirkwood, Bob Kirkwood,
Paul Vichroski, Nydza Vichroski, James Montellese, and
Roxann Montellese, Individually, Derivatively, and on Behalf of
All the Mount Vintage Homeowners Association Members Respondents,

v.

LL of SC, LLC, Raiford Topsail Island Investments, LLC, TR Sales
Plantation, LLC, and Mount Vintage Plantation Homeowners
Association, Inc. *a/k/a* Mount Vintage Homeowners Association, Inc. Defendants,

Of which LL of SC, LLC, Raiford Topsail Island
Investments, LLC, and TR Sales Plantation, LLC are the Appellants.

RECORD ON APPEAL
VOLUME 2 OF 3

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B E F O R E:

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Crystal Banks

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1 THE COURT: -- a lot of this is attorney
2 client issues, is that correct?

3 MR. LUCEY: Yes, Your Honor. The
4 association --

5 THE COURT: You want to put that on the
6 record?

7 MR. LUCEY: -- does not have any
8 objections to plaintiff's exhibits, proposed exhibits, and
9 the exhibits that we're stipulating to with the defendant
10 developers', the incorporation, and that moots the rest of
11 the privilege issues. The court had already ruled upon
12 the most important ones anyway, and the fact that they're
13 not objecting to our exhibits moots any further issue
14 regarding privilege.

15 THE COURT: Okay.

16 MR. BUCKINHAM: That would be correct,
17 Your Honor.

18 THE COURT: All right. You get that
19 order?

20 MR. KRAWCZYLE: Yes, sir.

21 THE COURT: I redid it, and I put the
22 trial dates. so, if they going to stay it, they ought to -

23 MS. BUCKINHAM: -- yes, sir --

24 THE COURT: clean it up.

25 MR. KRAWCZYLE: And just to cover my

1 basis with the court of appeals so I can tell them this if
2 they ask, I presume that you still view the orders
3 interlocutory and so we're moving forward on Monday?

4 THE COURT: I do.

5 MR. KRAWCZYLE: Yes, sir. Thank you.

6 THE COURT: All right, how do you want to
7 approach this?

8 MR. LUCEY: Your Honor, I think it would
9 be appropriate for the court to hear the motion in limine
10 as to the realignment of the association as the --

11 THE COURT: Yeah, I don't see that's much
12 of an issue to me. I mean, do y'all much contest that?

13 MR. BUCKINHAM: Well, yeah, Your Honor.
14 We filed a motion in opposition of that yesterday.

15 THE COURT: Well, you know what, I don't
16 ever get your motions, counsel. I haven't gotten any of
17 your stuff yet.

18 MR. BUCKINHAM: And I'm sorry, Your
19 Honor, I mean, it got filed yesterday. It got added into
20 the --

21 THE COURT: Well, I'm just telling
22 you, I don't get them.

23 MR. BUCKINHAM: And I asked my paralegal
24 this morning to e-mail it to everybody, and I don't know
25 if everybody got it or not, and so --

1 THE COURT: Well, go ahead. I will be
2 glad to hear your opposition to it.

3 MR. BUCKINHAM: Okay, Your Honor, would
4 Your Honor like the memorandum at this point in time?

5 THE COURT: Sure.

6 MR. KRAWCZYK: Sure. And I'm sorry, Your
7 Honor, I think everybody else had gotten it.

8 THE COURT: All right. My law clerk did
9 get it so I stand corrected.

10 MR. BUCKINHAM: Okay.

11 THE COURT: Sorry.

12 MR. BUCKINHAM: And I'm sorry, Your
13 Honor, I should have sent it to you personally, I guess.

14 THE COURT: That's all right.

15 MR. BUCKINHAM: So, what we have here is
16 a motion to realign the homeowners association as a
17 plaintiff in this matter as set forth in the, I guess, I
18 will go through a little bit of what I have in my
19 memorandum, is to say, that this homeowners association
20 board, the main issue as my client sees in this case is
21 that this is a developer-controlled board, an issue which
22 my client takes great offense to. And the idea of
23 aligning this homeowners association board is to align
24 them not only with the issue of the unfair trade practices
25 claim but to align them as to all claims in the lawsuit.

1 And I kind of set forth, Your Honor, a little bit, again,
2 from my client's standpoint how this board is appointed.
3 It's not appointed by the developer, none of the
4 homeowners have any relationship to the developer, in
5 fact, they get volunteers from the homeowners association,
6 and then the board votes on -- of those people who want to
7 come on the board they vote as to who becomes a board
8 member. That's kind of been the way it's been going. I
9 have Ms. Brady here today who is now the vice president of
10 the board. And these board members are very smart, very
11 intelligent, very knowledgeable people. Ms. Brady has
12 been the CFO of fortune 500 companies. And this idea that
13 they are controlled or somehow have been manipulated by
14 the developer is something they take great offense to.
15 So, when you're looking at rather to realign this
16 plaintiff, excuse me, I mean, this defendant with the
17 plaintiffs I think there is a -- when you look at the test
18 of whether or not my clients are adverse to this I've
19 noted a number of things, number one, I think I'll note
20 that there was -- that all of the issues put forth in
21 this case including the requests of the plaintiffs to
22 realign with this -- with the plaintiffs in this case was
23 put before a homeowners association board meeting and vote
24 and with the developer abstaining the unanimously stated
25 that they wanted to oppose and they did not think that

1 their interest were aligned with the plaintiffs' in this
2 matter.

3 Now, in my, in my, memorandum, Your
4 Honor, I discussed the issues of this homeowners
5 association has had since this lawsuit started, and if
6 Your Honor recalls, this lawsuit started not only as a
7 case against the developer but the case against individual
8 board members, and that portion of that case was settled.
9 So, the board has been acting under the -- essentially the
10 implied threat of additional actions and their concerns
11 that they are looking under a microscope. They have
12 homeowners who have expressed that they don't like this
13 lawsuit, but they have homeowners who have expressed that
14 they're in favor of this lawsuit. In fact, the plaintiffs
15 are here and an affiliate. They understand that Rule 23
16 allows d derivative claims to be brought for those issues,
17 and their point up to now has been to remain natural as to
18 that. And natural as to those claims in particular that
19 the developer may have up and above and beyond his
20 responsibility as a board member. I mean, there are
21 breach of fiduciary duties claims, and there are claims
22 that he's, that he's, been doing self-serving work and
23 that sort of things, but there's a number of claims that
24 are actually based upon this board somehow being
25 controlled by the developer which again, my clients assert

1 has not happened.

2 Now, there's a number of incidences where
3 this has become evident; number one, it's been the escrow
4 agreement.

5 THE COURT: Let me ask, what is the test
6 -- or is there a test to determine whether or not I am to
7 realign the HOA with the plaintiff in this case?

8 MR. BUCKINHAM: So, determining the
9 primary issue of the controversy, and in this case my
10 client sees that as to whether or not they are a
11 developer-controlled board.

12 THE COURT: The primary issue in the case
13 is breach of fiduciary duty as I understand it.

14 MR. BUCKINHAM: Okay. Well, but many of
15 those claims are based upon the actions of this court, and
16 the actions, and this developer basically making this
17 board take actions which are again this association's
18 fiduciary obligation. And that was part of the original
19 causes of action against the board members which was
20 settled, okay.

21 THE COURT: Give me the elements again
22 please, sir.

23 MR. BUCKINHAM: So, one, the court
24 determined the primary issue and the controversy by
25 considering plaintiff's principal purpose for filing this

1 suit, and the court aligns the parties according to their
2 positions with respect to the primary issue. And my
3 client's position in this is that they are not a
4 developer-controlled board. That the actions that they
5 took are not a breach of their fiduciary obligations, and,
6 you know, in that one of the issues that my client has had
7 and the reason why they take this position is because as
8 this lawsuit has progressed the developer still remains on
9 the board. And he remains on the board with four other
10 homeowner board members, and that they have to conduct the
11 day-to-day operations of the homeowners associations.

12 THE COURT: Did the convenance or bylaws,
13 whatever it is, still have distinction between Class A and
14 Class B Stock?

15 MR. BUCKINHAM: They do.

16 THE COURT: And does Class B have no
17 voting rights still?

18 MR. BUCKINHAM: So, Class B has --

19 THE COURT: Do Class B have no voting
20 rights?

21 MR. BUCKINHAM: So, if you're talking
22 about membership voting rights, that's correct. If you're
23 talking about board voting rights the convenance and
24 bylaws are signed. They just say the board has each vote.
25 It doesn't say that the developer has a veto over any

1 votes, and that's my client's position is that that's not
2 the board that they're sitting on. And when you look at
3 class --

4 THE COURT: Going back again, my question
5 though, your creation document say you have Class A, Class
6 B.

7 MR. BUCKINHAM: That's right.

8 THE COURT: The developer has Class A
9 which contains voting rights, and that the Class B doesn't
10 have any voting rights until the property has been
11 transferred to the -- of the common area, and then
12 transferred over to HOA at such point in time as to --
13 vote on wants to do that.

14 MR. BUCKINHAM: That's correct.

15 THE COURT: So, until that time they have
16 no voting rights; isn't that right?

17 MR. BUCKINHAM: They -- well, yeah. The
18 memberships have --

19 THE COURT: So --

20 MR. BUCKINHAM: -- individual voting
21 rights, and the board has too --

22 THE COURT: So, as it works whether or
23 not you do it, the developer can put and or take people
24 off the board at his desire.

25 MR. BUCKINHAM: And I'm sure that, and

1 that is part of this case. I clearly admit that. My
2 client's position is that that is not the way they've
3 acted, not the way that they've understood their
4 obligation, and it's not their interpretation of how the
5 bylaws or used. In other words, my clients have the equal
6 vote on the board as the as the developer.

7 THE COURT: Is there something in the
8 bylaws that you would point to that says that gives them
9 that right?

10 MR. BUCKINHAM: It just talks about the
11 board members votes. It doesn't -- the board members
12 portion of the bylaws and convenance don't say that the
13 developer has a veto. It just says each member has one
14 vote, and that's the way the board had been run since the
15 beginning. And again, this would be part of the testimony
16 of my client, if you realign my plaintiff -- my client as
17 a plaintiff, they're going to be testifying again whatever
18 it is they're being aligned to say in the lawsuit. And
19 so, they don't think again this idea that they are a
20 developer-controlled board. They see it as two separate
21 issues. They see that the homeowners association, your
22 annual minutes, your ability to, I mean, to vote to get
23 board members et cetera, et cetera. That's all -- yes,
24 there's Class A and Class B, but once the homeowner is on
25 the board, you know, I explained to Your Honor how they

1 historically gotten on the board, they're not appointed by
2 the developer, but -- now once they are on the board they
3 have an equal vote.

4 THE COURT: Has there ever been a time
5 when the developer put them on the board? Now, I seem to
6 recall that that's what I was told at some point.

7 MR. BUCKINHAM: So, I have -- I am not
8 aware of that happening. I know how the original -- so
9 before this developer got on -- became this developer --

10 THE COURT: Well, since this developer
11 regardless --

12 MR. BUCKINHAM: Well --

13 THE COURT: Whether it's been the
14 Rajiford or that S LLC whatever it is.

15 MR. BUCKINHAM: Obviously, I can't
16 testify to what happened all the time, but the reason why
17 I was going back to the original developer was there was -
18 -

19 THE COURT: You're not testifying anyway,
20 you're the lawyer, but.

21 MR. BUCKINHAM: Yeah. There was a
22 lawsuit from the original developers, and one of the
23 questions was, who was the developer, and who were the
24 correct board members? And that board decided that the
25 developer was at that time a man called Townage Night.

1 And --

2 THE COURT: You said Mr. Rajiford has
3 become the owner of this development either by the deed
4 and lieue --

5 MR. BUCKINHAM: Sure.

6 THE COURT: Or whatever, you know,
7 whatever -- what corporation hat he is wearing, has he
8 ever, to your knowledge appointed board members?

9 MR. BUCKINHAM: Not to my knowledge, and
10 I guess the only reason I was going back there is because
11 Art Davis who was appointed as the board and from there
12 forward it just sort of flowed as I understand it the same
13 way since that point in time.

14 THE COURT: So, if I understand it, what
15 you're telling me, this makeup of the board has been that
16 way even before this lawsuit got started?

17 MR. BUCKINHAM: That's, that's --

18 THE COURT: It wasn't a result of this
19 lawsuit?

20 MR. BUCKINHAM: That's correct, Your
21 Honor. Now, if there is testimony somewhere that someone
22 said that he appointed somebody I'm not aware of it.

23 THE COURT: Okay.

24 MR. BUCKINHAM: But my understanding of
25 this is how the board has been done.

1 THE COURT: Okay.

2 MR. BUCKINHAM: Since before he was the
3 developer.

4 THE COURT: All right.

5 MR. BUCKINHAM: And so again, I think it
6 this particular case my client's position is that they,
7 they, do not think that their interests are align with all
8 the issues in this case. They've made that business
9 decision within a board, you know, meeting and with the
10 developer abstaining they all unanimously have made the
11 decision. And all that decision was made based with
12 knowledge of all the allegations in this complaint, and
13 the good, bad, and indifferent of whatever their decision
14 was, and that's their desire not to be, not to be, aligned
15 as a plaintiff in this case.

16 THE COURT: All right, thank you.

17 MR. LUCEY: Yes, Your Honor, I would like
18 to step back a moment and make --

19 THE COURT: I want you to answer for me
20 something if you could, Mr. Lucey. In your writing you
21 made it sound as if I don't have any discretion in this.
22 It's a mandatory realignment that I have to do this.

23 MR. LUCEY: If I made that impression I
24 apologize.

25 THE COURT: Okay.

1 MR. LUCEY: I believe the court has
2 complete discretion.

3 THE COURT: All right, okay. Well,
4 maybe, I misread it.

5 MR. LUCEY: And I would like to address
6 that discretion for one moment.

7 THE COURT: Okay.

8 MR. LUCEY: Apart of what plaintiffs
9 needed to do with this motion was to make the homeowners
10 association take a position in this case. They've tried
11 to say, oh, we're neutral. But they're trying to take the
12 proceeds from the first half of the case. There's a
13 disconnect there. To try this case, we need to know which
14 side the association is on, whether it's because of what
15 they choose or what the court orders, we need it clear
16 what side their own.

17 THE COURT: Well, does that clarify the
18 vote that hey just made?

19 MR. LUCEY: Yes, but I would like to
20 clarify something for the court if I may please?

21 THE COURT: Yeah.

22 MR. LUCEY: A little-known fact about the
23 Wallback decision is this, Your Honor, the first trial got
24 miss tried because the homeowners association decided the
25 night before trial that they actually did support

1 plaintiff's claims. The developer then sought a mistrial
2 after five days of testimony because the homeowners
3 association had used one of their jury strikes and it
4 should not have been on that side of the courtroom. So,
5 we had to retry Wallback twice. So, we want to make sure
6 that didn't happen in this courtroom, one. Two, this
7 current board is practically incapable of making a lucid
8 decision on this matter. We deposed Ms. Brady, and with
9 no disrespect to her, I know she's in the courtroom, she
10 didn't know anything about plaintiff's claims. She didn't
11 know what had been settled with the insurance company for
12 2.7 million dollars. She had no clue what this case was
13 about and --

14 THE COURT: Well, does that mean that
15 they had not brought themselves up to speed, and now have
16 made a decision?

17 MR. LUCEY: It means they have not
18 brought themselves up to speed. What the court didn't
19 hear this morning from counsel is what has this board done
20 now that they realize that the people that appointed them
21 weren't the developer; nothing. They haven't considered
22 the fact that they --

23 THE COURT: Say that again please.

24 MR. LUCEY: What has this board done now
25 that the court has ruled that the people that appointed

1 them was not the developer. What have they done to
2 examine their own legitimacy or do something about their
3 own legitimacy; nothing. Absolutely nothing. So, I call
4 it more of the head in the sand approach than anything
5 else. They don't know what the case is about. They're
6 incapable of making a lucid decision on this. They have
7 not made any inquiry.

8 Ms. Brady, one of the issues in this
9 case, Your Honor, is the self-dealing that took place with
10 a retroactively signed \$300,000 note. Ms. Brady voted for
11 the approval of that note without ever looking at any of
12 the board minutes from the prior board meetings before she
13 came on the board. She listened to the developer, and
14 that -- in that vote that neither the developer -- or
15 neither the developer nor his daughter recused himself
16 from the board vote. This is the head in the sand port.
17 Plaintiffs, frankly, Your Honor, plaintiffs don't care
18 which side of the courtroom their own. We needed to make
19 them make a decision so there will be no mistrial. And if
20 they're on that side of the courtroom they've also asked -
21 - the court may have seen in their response to my motion
22 in limine about them being on the other side of the rail.
23 They've asked us to be on this side of the rail and
24 participate. But if they're participating and they take
25 any opposition to us whatsoever then they become a party

1 opponent for the purposes of hearsay exemptions. So, I
2 need to know -- I also need to know what their position
3 was in this suit for purposes of testimony. Whether or
4 not I am able to publish their witnesses in the like. The
5 plaintiffs simply needed them to make a decision. We do
6 believe, we believe, that if the board had investigated
7 the allegations, they would have no choice but to ask a
8 realignment. And they're giving up troubled damages and
9 attorney's fees by not supporting realignment. We think
10 they're further breaching their duties by not supporting
11 realignment. Does that rise to this court making them
12 realign? If their steadfast on opposing us and that's how
13 they want to testify at trial it's up to the court's
14 discretion. It seems as though they should be realigning,
15 it seems like an objective person would say that they
16 should be realigned, but frankly we just need -- honestly,
17 we just need an option. We don't want any mistrials on
18 this matter.

19 THE COURT: I hear you.

20 What's your response?

21 MR. BUCKINHAM: My response is, you know,
22 Ms. Brady is in the courtroom. She will testify to the
23 truth, the whole truth, and nothing but the truth, and
24 that's her testimony. And again, with all due respect, I
25 don't think that -- there clearly can be considerations

1 made by the board in their best business judgement, that's
2 what they do. That's their right to do.

3 THE COURT: I'm going to leave the
4 alignment like it is. I think that you made the choice.
5 I don't think I can realign it without causing problems
6 quite frankly for me.

7 Now, the point you brought up, Mr. Lucey,
8 it kind of went over my head, and I'm from Anderson so
9 that's probably understandable, but you said something
10 about the hearsay party component. I mean, I don't think
11 that's any question about that.

12 MR. LUCEY: Yeah, I need to know whether
13 they're a party opponent or not.

14 THE COURT: They certainly in my
15 judgement --

16 MR. LUCEY: They clearly now are a party
17 opponent even though I have derivative claims, one and
18 then two they've asked to participate in this trial.
19 There's no claim against them for monetary recovery. They
20 are subject to the claim for the reformation for the
21 governing documents. That is the only claim that we're
22 subjected to directly.

23 THE COURT: That's an equitable claim
24 though, isn't it?

25 MR. LUCEY: Yes. Yes, sir.

1 And then additionally they are here to be
2 bound by the outcome of the proceeding, and so that's the
3 extent of their involvement in this matter. It's
4 primarily passive. They're bound by the outcome, and the
5 other thing would be the reformation which is I believe
6 the court will rule upon after the jury makes its rulings,
7 but the court will likely rely on much of the evidence
8 that is in the case prior to that point. The reformation,
9 you know, it's hard to imagine the association not
10 supporting the reformation which is to give the members a
11 vote and to make the developer pay dues on lots after 30
12 years. It's hard to imagine they wouldn't support that
13 but it sounds like they're going to oppose that too. But
14 yes, it effects our evidence. Now, they're a party
15 opponent as admission by a party opponent.

16 THE COURT: You disagree with that?

17 MR. BUCKINHAM: I just say that it's
18 premature to know any of this, Your Honor, again --

19 THE COURT: No, it's not. We are going
20 to do it right now.

21 MR. BUCKINHAM: Well, my request to be in
22 front of the bar is I have no idea necessarily what the
23 testimony is going to be.

24 THE COURT: Well, no, no, no. We're not
25 saying that.

1 MR. BUCKINHAM: Okay.

2 THE COURT: We're saying that you are a
3 party opponent and that way it lines up that way.

4 MR. BUCKINHAM: That's the way it lines
5 up, Your Honor, but again, the position that the
6 homeowners association has continued to state that they
7 are going to do is to stay neutral on the matter, but
8 again, my request, and my objection to motion in limine is
9 just that I just need to be here in case something comes
10 up. I can't make an objection from the bar. I can't
11 imagine what it is, but I just don't think I need to be
12 tied to being able to participate if I have to, Your
13 Honor, that's --

14 THE COURT: Well, as far as I'm concerned
15 you are participating, you got a party here in the
16 courtroom and rules would apply that way.

17 MR. BUCKINHAM: And that's the only
18 reason for my objection and that motion, Your Honor.

19 THE COURT: Okay.

20 MR. BUCKINHAM: Thank you.

21 THE COURT: All right.

22 Anything further on that?

23 MR. LUCEY: No, sir.

24 THE COURT: Okay. What's next?

25 MR. LUCEY: The second matter would be

1 the omnibus motion in limine filed by plaintiff. This is
2 the first motion filed. Does the Court have a copy or
3 would you like me to hand up a copy?

4 THE COURT: I think I've got it. Instead
5 of you going through all 15 or better, are there any of
6 these that y'all can stipulate to?

7 MR. KRAWCZYK: Yes, sir, in my filling
8 from last night I agreed to --

9 THE COURT: I didn't get your filling
10 either, Mr. Buckinham (sic).

11 MS. KRAWCZYK: That's okay, it's
12 probably for the best.

13 THE COURT: All right.

14 MR. KRAWCZYK: The ones that identified
15 where there's I don't think there is any issue is the
16 existence or nonexistence of insurance. I can't bring that
17 up at trial anyway so I don't think there's any problem
18 with that.

19 The next one is the settlement negotiations,
20 and settlement proceeds, I don't have a problem with
21 excluding testimony about negations. The settlement
22 proceeds is a little bit odd just because that money is
23 still being held by plaintiff's counsel. The HOA has
24 asked that it be applied to the debts that are in issue.

25 THE COURT: But that's not necessary for

1 any issue that the jury needs to determine.

2 MR. KRAWCZYK: It could be for damages,
3 sir.

4 THE COURT: Wouldn't that be considered a
5 setoff at the end?

6 MR. KRAWCZYK: It very well could be;
7 yes, sir.

8 THE COURT: I think that's probably the
9 way we would handle it, but.

10 MR. KRAWCZYK: Okay, and as long as we
11 want to bring that up, that's fine -- bring it up that
12 way.

13 THE COURT: Okay. I'm going to say you
14 can't bring that information up, okay?

15 MR. KRAWCZYK: Yes, sir.

16 THE COURT: All right.

17 MR. KRAWCZYK: So, I think that resolved
18 number three which is the use of settlement escrow.

19 THE COURT: Okay.

20 MR. KRAWCZYK: Four, attorney's fees and
21 expenses paid in the settlement. I suppose that they
22 don't have any direct claims now for asking the jury for
23 an award of attorney's fees then --

24 MR. LUCEY: Oh, we do. The individual
25 plaintiffs still have South Carolina Unfair Trades

1 Practice Cause of Action.

2 THE COURT: Okay.

3 MR. LUCEY: But that's tired to the
4 court. That's not tired to the plaintiff. You might be
5 able to enter an interrogatory to the plaintiff

6 THE COURT: Explain that it's tried to
7 me?

8 MR. LUCEY: Yes, sir.

9 THE COURT: On the unfair trade
10 practices?

11 MR. LUCEY: The award of attorney's fees
12 I believe is tired to you. We can use an --

13 THE COURT: Oh --

14 MR. LUCEY: -- interrogatory to the jury
15 as to whether or not the violation was knowingly and
16 intentional --

17 THE COURT: If you're successful then I'd
18 determine the amount of fee --

19 MR. LUCEY: Yes, sir --

20 THE COURT: Is what you're saying, okay.
21 Yeah, all right. I agree with that.

22 MR. KRAWCZYK: Okay, all right. Setoff
23 that goes to you.

24 THE COURT: Right.

25 MR. KRAWCZYK: Adequacy as of Rule 23

1 derivative representatives. I'm not entirely sure of the
2 contours of this, I know I can't argue to the jury about
3 how these plaintiffs are not proper party representatives.

4 THE COURT: I agree with you. I can't --
5 I'm trying to -- a lot of times when I get these, I'm just
6 not smart enough to be able to figure out what they going
7 to bring up, and so, I think Mr. Lucey you just going to
8 have to stand up and object if you see something that you
9 feel like is inappropriate.

10 MR. LUCEY: Yes, sir.

11 THE COURT: With regard to that one --

12 MR. KRAWCZYK: And certainly, I'm going
13 to ask a number of board members and homeowners do you
14 agree with this lawsuit, but that doesn't go to, you know,
15 are they proper plaintiffs.

16 THE COURT: Well, let's cross that bridge
17 in a minute, okay?

18 MR. KRAWCZYK: Yes, sir.

19 MR. LUCEY: And, Your Honor, if that
20 question comes up, do you agree with this lawsuit? The
21 first objection is going to be relevance.

22 THE COURT: I don't think it's relevant
23 to anything. What's it relevant to?

24 MR. LUCEY: It's whether or not they have
25 informative testimony about a breach or a non-breach of

1 fiduciary duty. It's not whether they agree with the
2 lawsuit. It's not a voting contest.

3 MR. KRAWCZYK: Well, and so, I believe I
4 can ask these witnesses are you aware of this circumstance
5 that they've alleged? Are you aware of this circumstance?

6 THE COURT: That may be, but not -- I
7 think it's a difference from saying are you aware of this,
8 are you aware of that as opposed to do you agree or
9 disagree with Mr. Lucey's claims in this case?

10 MR. KRAWCZYK: Yes, sir, and I might not
11 have been artful about the way that I said it.

12 THE COURT: All right.

13 MR. KRAWCZYK: But I understand that.

14 THE COURT: Okay.

15 MR. KRAWCZYK: Number seven, this kind of
16 goes to the heart of this appeal that I've taken now
17 because we are getting into whose got developer rights.

18 THE COURT: I'm going to let you again
19 object at the time if you think anything is objectionable
20 about that I just -- I think if I start ruling at this
21 juncture, I am making rules on facts of the case, and I
22 don't think I can.

23 MR. KRAWCZYK: It's so hard to do these
24 at the outset.

25 THE COURT: Right.

1 MR. KRAWCZYK: Number eight, discussing
2 religion or charitable donations at churches. I can't
3 imagine that I would ever bring that up, or if I did, I
4 can imagine --

5 THE COURT: Is this kind of your
6 standard, Mr. Lucey?

7 MR. LUCEY: No, it happens to be that the
8 defense, the owner of the defendants gives \$100 a month to
9 about 12 different churches in this county, and we don't
10 think that's appropriate to come up into evidence.

11 MR. KRAWCZYK: I mean, I would --

12 THE COURT: I would agree that that's not
13 --

14 MR. KRAWCZYK: I would agree with that
15 too. I will put that in motion. I think if I tried to
16 bring that up you probably through your bench book at me.

17 THE COURT: I wouldn't be very religious
18 to doing that with --

19 (Laughter)

20 MR. KRAWCZYK: And I would deserve it.

21 THE COURT: Yeah, yeah. All right.

22 MR. KRAWCZYK: Number nine, cross-
23 examination of homeowners on legal matters by which they
24 are not expected to be knowledgeable.

25 THE COURT: I just think you got to

1 object at the time. Again, I don't disagree with you, but
2 I -- it's just going to be a little bit overly broad for
3 me to make a decision right now.

4 MR. KRAWCZYK: I think number ten is the
5 same way, questions or comments about the homeowners at
6 Mount Vintage being wealthy I don't even -- I'm not quite
7 sure how that comes up.

8 MR. LUCEY: It comes up all the time in
9 these trials, Your Honor.

10 THE COURT: Okay.

11 MR. LUCEY: It comes up in my trials all
12 the time.

13 THE COURT: Okay.

14 MR. LUCEY: And I've had construction
15 trials where in closing arguments or opening the same,
16 these homeowners aren't thinking about that flashing, you
17 looking at that view of the Atlantic Ocean out there, it's
18 a single purpose of that statement for the jury, and that
19 is to generate rich person animus. It's appropriate; it
20 has nothing to do with whether or not there was a breach
21 of fiduciary duty.

22 MR. KRAWCZYK: Well, I would say if the
23 sauce is good for the goose, it's good for the gander on
24 that point.

25 THE COURT: Okay.

1 MR. KRAWCZYK: Because Mr. Rajiford
2 himself is a wealthy individual, and so I think that is a
3 concern for their side as well, to not inspire wealth
4 animus, wealth bias.

5 MR. LUCEY: There's a difference.

6 (Laughter)

7 THE COURT: Do what?

8 MR. LUCEY: As to the wealth of Mr.
9 Rajiford there is a difference.

10 THE COURT: I think that if you're asking
11 for punitive damages that may come in.

12 MR. KRAWCZYK: That's bifurcated.

13 THE COURT: That's right, it is
14 bifurcated. You're correct.

15 MR. LUCEY: There is also like the issue
16 might be in this case is whether or not he was able afford
17 the amenities that he had the homeowners buy. So, his
18 wherewithal --

19 THE COURT: Well, I think if he opens up
20 the door to that kind of thing then, maybe, you can get
21 into it. But starting out --

22 MR. KRAWCZYK: Yes, sir.

23 THE COURT: Out the shoot and saying he's
24 rich and wealthy and all that, I think would be
25 inappropriate, you can put it that way, okay? So, I will

1 say both sides for that one I would agree to.

2 MR. KRAWCZYK: Yes, sir.

3 THE COURT: Okay.

4 MR. KRAWCZYK: The next one, I think it's
5 kind of the same thing, questions or comments to arouse
6 bias or animus against old folks or retirees. Again, I --

7 THE COURT: I, you know, listen. He, Mr.
8 Lucey, tries cases a lot more than I do on this issue and
9 this area, I just -- and when I read that I just kind of
10 grinned on it. Well, okay, but tell me what you're
11 driving at this --

12 MR. LUCEY: Well, in some ways the better
13 economic circumstances is tied in with them being better
14 off and retired in a golf community, just mostly trying to
15 cutoff any rich person, retiree, old person animus. It's
16 just not relevant to the issues before the court.

17 MR. KRAWCZYK: I think I would be foolish
18 to try to beat up on old people in front of the jury.

19 THE COURT: I agree. I think that I
20 agree with you, but, Mr. Lucey, just object. I'm not sure
21 what -- how that would come up quite frankly, and I don't
22 see any reason to have any -- appellate courts, do you?

23 MR. KRAWCZYK: Don't either.

24 Statements of personal opinion by
25 counsel. That's already excluded under the rules.

1 THE COURT: I agree.

2 MR. BUCKINHAM: And, Your Honor, one
3 issue on that, and I raise this in my memorandum and that
4 is, I've been listed as a witness in this case, and --

5 THE COURT: You're not a witness anymore
6 though, right?

7 MR. BUCKINHAM: Well, he says he's not
8 going to call me, and that's fine, but he's reserved the
9 right to, and to. And to the extent that he calls me as a
10 witness I just -- this is opinions of counsel, I don't
11 want -- if I'm called as a witness not to be limited in my
12 testimony in the in the motion in limine, and just let
13 that --

14 THE COURT: If you're called then we will
15 cross that bridge.

16 MR. BUCKINHAM: Yes, that's all I ask.

17 THE COURT: All right. If you, let me
18 tell you, if you get called as a witness it's going to
19 make a real mess in this case, you know that? You are
20 counsel, and then all of sudden you going to get put up on
21 the stand, and that's just going to be a real problem.

22 MR. LUCEY: Your Honor, since I graduated
23 from law school about 35 or 40 years ago, I've learned --

24 THE COURT: -- what year did you
25 graduate?

1 MR. LUCEY: -- to be very careful.

2 THE COURT: What year did you graduate?

3 MR. LUCEY: 1986.

4 THE COURT: You were in my class?

5 MR. LUCEY: Georgetown.

6 THE COURT: Oh, hell no you weren't --

7 (Laughter)

8 MR. LUCEY: I've learned to think twice
9 about making an attorney a witness. It happened to be
10 that so many documents in this case were to and from that
11 attorney and witnesses were taking advice of counsel
12 positions. So, we had to find out what was there. We
13 hope to avoid going there.

14 THE COURT: All right.

15 MR. KRAWCZYK: Let's see. That brings us
16 -- well, I guess while we are on that point, let me just
17 clarify something. One of the witnesses for the defense
18 is likely to be Mary Glen who was counsel for LL of SC,
19 and so she would be a witness but she's not participating
20 as counsel at trial. So, I guess to the extent that she
21 is giving opinions based on her legal work that's fine
22 under this exclusion I believe.

23 THE COURT: I would think that if you
24 have the foundation and that laid, I think that would be
25 appropriate. You're asking me now to make a decision

1 about something I haven't heard yet so.

2 MR. KRAWCZYK: Yes, sir. I just want to
3 make sure --

4 THE COURT: But the way you word it I
5 agree with you.

6 MR. KRAWCZYK: Yeah. I just want to make
7 sure that her as a witness since she is counsel outside of
8 this litigation that doesn't exclude her testimony.

9 THE COURT: I think you're right.

10 MR. KRAWCZYK: 14, mentioning consumer
11 complaints made by one or more plaintiffs to various South
12 Carolina entities. I, you know, the only way I see this
13 coming up is for purposes like during my cross-examination
14 of some of the derivative plaintiffs. I don't -- I have
15 not offered to put these consumer complaints into
16 evidence, and so I think it would be more in a sense of
17 did you file this complaint, did you say this in the
18 complaint, and if I'm using documents, it would be for
19 impeachment purposes.

20 THE COURT: In other words, they're
21 taking a position on the stand different from what they
22 said in their complaint?

23 MR. KRAWCZYK: That's exactly right.

24 THE COURT: I think you have an absolute
25 right to do that. As long as you have established that it

1 is an authentic document.

2 MR. KRAWCZYK: Yes, sir.

3 And then the last one, suggesting that
4 plaintiff's failure to sell their home, and move away from
5 Mount Vintage impeaches their claims. Frankly, I think
6 that's fertile ground for cross-examination. They had the
7 choice whether to bring this lawsuit or just cut their
8 losses and just move somewhere else, and I think the jury
9 needs to hear evidence about that, and see what their
10 responses are.

11 THE COURT: I disagree with you on that.
12 I don't think -- I think that that's -- let me think on
13 that one.

14 MR. KRAWCZYK: Yes, sir.

15 THE COURT: Okay. Mr. Lucey, I will be
16 glad to hear from you on that.

17 MR. LUCEY: Yes, Your Honor; thank you.
18 Again, the option that they had -- they could have sold
19 their house and left the neighborhood has nothing to do
20 with whether a breach of fiduciary duty occurred or not,
21 and the economic reality of it is that --

22 THE COURT: Well, let me stop you right
23 quick.

24 MR. LUCEY: Yes, sir.

25 THE COURT: What issue or affirmative

1 defense would that go to?

2 MR. KRAWCZYK: Yes, sir. So, to some
3 extent it goes to damage; right. These individual
4 homeowners have claimed that there is a diminution of
5 value, but they've not attempted to sell their homes.

6 THE COURT: I don't think that's right,
7 but go ahead.

8 MR. KRAWCZYK: Okay. But separately form
9 that, I think there's going to be testimony that comes out
10 that this small but vocal group of homeowners has personal
11 animus against Wayne Rajiford. And so, I think this is
12 relevant to the issue of why would they choose to stay
13 here and sue as opposed to spending their time living
14 elsewhere in peace? And so that goes to this particular
15 plaintiff's -- this set of plaintiffs and their motivation
16 to bring the suit.

17 THE COURT: I think I'm agreeing with Mr.
18 Lucey. But if you're going to bring that up --

19 MR. KRAWCZYK: Let you know in advance?

20 THE COURT: I'm just think, maybe, we do
21 something in camera on those -- and that way we don't have
22 it pop out in front of the jury and let me hear it so I
23 can see it. I hate to tie your hands like that, but,
24 maybe, that will be the best way to do it.

25 MR. KRAWCZYK: And it may be academic

1 anyway, it may not even come up so.

2 THE COURT: Okay. All right.

3 MR. KRAWCZYK: So, I think that takes
4 care of the issues that are in this motion.

5 Is that right, Justin?

6 MR. LUCEY: We've covered the -- trial.
7 No, there's another issue here. There's actually been a
8 dispute, Your Honor, as to what are the official records
9 and books of the HOA. It's been some minutes and what
10 have you that are not signed, but appear to be official
11 records. There's testimony about Ms. Brady that there is
12 a binder of the records. We've asked that that binder be
13 present in the courtroom so there's no dispute as to which
14 board of -- minutes is the right set of notes; that's all.
15 And it should be no problem, in fact, the association
16 should want to volunteer to do it.

17 MR. BUCKINHAM: Yeah, there's no problem
18 with that. My client will make all of that available.

19 THE COURT: Okay, good.

20 MR. LUCEY: The last one was about moving
21 in limine to exclude any clearly inappropriate jurors
22 prior to the jury panel assembly. Your Honor, one of the
23 jurors appears to be the wife of a potential developer
24 that Mr. Rajiford is negotiating the sale of this golf
25 course and this neighborhood to a month ago. She's --

1 he's a witness in the matter. We believe that she should
2 be excused prior to being in the jury panel room,
3 Blackston. I believe Mary Blackston, if we see any other
4 such as that we would bring it to the court's attention.
5 We think Ms. Blackston should be excused in advance of
6 Monday.

7 THE COURT: I'm not doing anything about
8 disqualifying anybody until I go through qualifications,
9 and if that comes out, I very well may do it for cause at
10 the qualification part of this case. Now, I'm not going
11 to.

12 MR. KRAWCZYK: Yes, sir. And I
13 appreciate this because I didn't know that the witness
14 list was or the jury list was available yet so that's good
15 to know that.

16 THE COURT: Yeah, well, he's all over it.

17 MR. KRAWCZYK: Apparently so. I didn't
18 think it would come out until today so.

19 THE COURT: You know, I tell you, talking
20 about that I had another judge tell me another lawyer from
21 Hampton County came up here and tried a case and got a 9
22 million and something dollar verdict. In the case he
23 asked to address the jury. Said sure, and he called every
24 one of them by name, and knew their spouse, knew their
25 kids. And I'm like, it's incredible how much information

1 they had.

2 MR. KRAWCZYK: Wow.

3 THE COURT: That is crazy. Anyway.

4 MR. KRAWCZYK: Yeah, so --

5 THE COURT: -- apparently, I didn't know

6 --

7 MR. LUCEY: One other thing that is
8 implicated by what we did move on, but we didn't express
9 it separate and we should have, my fault, is how the
10 parties will refer to the part of the case that frankly is
11 resolved. Because we're not going to talk about
12 insurance, we're not going to talk about funds, whatever
13 else. I usually cover this with my courts in advance of
14 trial and we usually agree that those claims will be
15 referred to resolved; not settled, not negotiated, just
16 resolved. At some point it's going to come up on cross-
17 examination of somebody that a portion of this case has
18 been resolved, and we believe a neutral word is resolved.

19 MR. KRAWCZYK: I don't think I have any
20 objection to that. Certainly, I can see where some
21 witnesses who have been named as parties previously who
22 are no longer involved in the case where it would come out
23 that, hey, I used to be a defendant but I'm not anymore
24 because those claims were resolved. I think that's fine.

25 THE COURT: Think about it, and if y'all

1 can't agree bring it back up before we get started.

2 MR. KRAWCZYK: Yeah. But I don't --

3 THE COURT: I think you guys are probably
4 better able to agree on that than me trying to force
5 something down your throat.

6 MR. KRAWCZYK: Would, I mean, would it be
7 fine to say that an individual defendant was dismissed?

8 MR. LUCEY: I think dismissed is fine and
9 resolved is fine.

10 MR. KRAWCZYK: Okay, so either one of
11 those?

12 MR. LUCEY: Yeah.

13 MR. KRAWCZYK: Okay. Because I can see
14 myself screwing it up too when I'm in the moment and I
15 forget this so. Okay, so that works. Yeah, so I think, I
16 think, that's fine.

17 THE COURT: All right, yeah.

18 MR. LUCEY: Your Honor, the final motion
19 in limine or the third motion in limine is plaintiff's
20 motion in limine as to the defendant's burden of proof,
21 and we bring to the court two cases, South Carolina --

22 THE COURT: I'm not doing that. I read
23 it, and I'm not -- that's me find facts in this case, and
24 I'm not going to do that. You got the burden and, maybe,
25 at some appropriate time in the case that may shift over,

1 but at this juncture I'm not going to do that. That would
2 be me finding facts, and I think it would be totally
3 inappropriate.

4 MR. LUCEY: Yes, sir.

5 THE COURT: All right. But I know -- and
6 please, if you would, Mr. Lucey, your motions in limine
7 would you make them court exhibit's so they are part of
8 this record?

9 MR. LUCEY: Yes, sir.

10 THE COURT: Okay. Any other matters from
11 the plaintiff?

12 MR. LUCEY: Yes, Your Honor, we have
13 filed with the court and we brought a paper copy, the
14 plaintiff's exhibit list, trial exhibit list. I have an
15 extra copy for the court.

16 THE COURT: Okay, great. Have y'all
17 looked at that?

18 MR. KRAWCZYK: I'm not seeing -- I know
19 he sent this version to me this morning, but I was in my
20 truck getting here. I've got a prior working version so I
21 --

22 MR. LUCEY: I sent this last night.

23 MR. KRAWCZYK: Yeah. So, anyway it's the
24 same thing so I think we're -- we can work through this.

25 THE COURT: Okay.

1 MR. LUCEY: The plaintiffs and the
2 corporate defendants without objection from the
3 association defendant have stipulated into evidence the
4 exhibits that are bolded on this list. The exhibits that
5 are not bolded either have a paren around them which means
6 the plaintiff may offer it at some point in the trial, but
7 we're not offering it now probably because we got an
8 objection. And there's a few on here that may still have
9 an asterisk which means that counsel for the parties are
10 still working through and trying to resolve them.

11 THE COURT: Say that last thing again,
12 please, sir.

13 MR. LUCEY: Counsels for the parties are
14 still working through them. For instance, once is
15 accessibly long and we're trying to cull it out.

16 THE COURT: Let me ask you so I can make
17 sure I understand how your document is setup. I'm looking
18 at 2.2 that doesn't seem to be bolded but it doesn't have
19 any parens or asterisks by it, is that something that's
20 objected to?

21 MR. LUCEY: It's not bolded it's objected
22 to or not being offered, either one, it's not in.

23 THE COURT: So, just because it doesn't
24 have a paren or asterisk doesn't mean it's not objected
25 to?

1 MR. LUCEY: Correct.

2 THE COURT: Okay, got you.

3 MR. LUCEY: We're not, we're not, with
4 this list brining objections to the court's attention, the
5 primary purpose of this list is to bring the stipulated
6 exhibits to the court's attention.

7 THE COURT: Right.

8 MR. LUCKEY: Okay. Now, with regards to
9 the objections there are -- let's just say there are four
10 dozen objections, plaintiff would like to have the court
11 hear about 15 of those this morning because we believe it
12 would expedite the trial if some of those issues were
13 resolved in advance. We gave counsel --

14 THE COURT: I'm glad to try to. Y'all
15 ready to do it?

16 MR. KRAWCZYK: Yes, sir.

17 THE COURT: Okay.

18 MR. LUCEY: We gave them a list yesterday
19 afternoon.

20 THE COURT: Okay. Fair enough.

21 MR. LUCEY: As to which exhibits those
22 would be. The first one that I would take up on this list
23 is the Exhibit 19.2, and we would like to take it up, at
24 least in part, in the context of the publication of Lourie
25 Gardner that we noticed yesterday for publication and

1 we've provided that actual extracts to everybody this
2 morning.

3 THE COURT: What am I, what am I, looking
4 at in this confidential Lourie -- what is that? Is that
5 her deposition?

6 MR. LUCEY: Yes, sir. It's the software
7 program printed it out.

8 THE COURT: Oh.

9 MR. LUCEY: I'm sorry. And it's a
10 software program where you can go in and put the lines and
11 page numbers and it will generate the list for the court
12 and then the extracts.

13 THE COURT: That's when they blow it up
14 and put it up on the screen like that?

15 MR. LUCEY: Yes, sir.

16 THE COURT: Okay.

17 MR. LUCEY: And, Your Honor, the extract,
18 it's about a 35-minute publication. Lourie Gardner is the
19 principle of Gardner Marketing. Her and her husband John
20 ran and were Gardner Marketing I believe out North
21 Carolina, in relationship to the developer defendants for
22 a period of about 15 years. The developer defendants had
23 actually going back in time Lourie Gardner and her husband
24 John were actually marketing consultants to the original
25 developer of Mount Vintage. Before the defendants in this

1 case got Mount Vintage they then went to work for the
2 defendants in this case in another neighborhood, another
3 HUD that they were developing called Three Runs
4 Plantation. So, they began working with these defendants
5 in about 2007, for about seven or eight years before these
6 defendants got Mount Vintage. They were then brought by
7 these defendants into Mount Vintage to help this developer
8 develop and market Mount Vintage. The court will see from
9 some of the communication that we're going to look at,
10 these consultants were integral to the defendant
11 developer's operation. They advised them on the business
12 matter because all of the business matters affected the
13 marketing matters. Your Honor, it's plaintiff's position
14 that as all of the statements and e-mails made by Gardner
15 Marketing were within the scope and course of their
16 employment for the developers that those constitute
17 admissions by party opponents. In fact, the court will
18 see that the work that she did for them in these exhibits
19 and the -- for a period of time, by the way, Rajiford was
20 Gardner's marketing only client. That's how, that's how,
21 much of a symbiotic relationship it was.

22 So, then going to Exhibit 19.2, this is a
23 e-mail transmittal from the Gardner Marketing to Raiford
24 office at Gmail.com. And by the way, Your Honor, the
25 Rajiford office all shares a single e-mail address. So,

1 this is Wayne Rajiford, but he apparently doesn't actually
2 get on a computer keyboard. He has two assistants in the
3 office that send and receive e-mails for him. But this is
4 his office e-mail address that his assistants utilize for
5 him. The Rajiford.office, Monday, March 7, 2016, this is
6 Lourie Gardner sending her and her husband's John's advice
7 to the defendant developers as to how they should be
8 handling the acquisition issue, and on page three of the
9 exhibit is a memo from the Gardeners to Rajiford on
10 dealing with the amenities. On the second paragraph she's
11 advising for an HOA purchase of the town's center. The
12 court might recall, that's eventually what happened.
13 She's advising the developers that for them to market this
14 subdivision, for them help the developers sell their lots,
15 they need to have access to the amenities. The go on to
16 advise the developer that he needs to have consideration
17 of what the ongoing maintenance costs is going to be for
18 these amenities. The -- they advise the developer to
19 flush out his plans before conveying them to the property
20 owners, and that additional assessments and dues if
21 necessary are appropriate for these acquisitions. That
22 the homeowner should be kept inform but they should not --
23 their position should not never be requested. And the
24 financial evaluation for the proposed assessment is
25 evaluated on page two, and she goes on to say on the

1 bottom paragraph of page two of three of her memo first
2 sentence quote, so the prudent thing to do is to pull as
3 much cash from the property owners as possible without
4 building consensus to reduce the bottom line on financing
5 the purchase, and to offset the town center's operating
6 expenses when the dues increase so there will be minimal
7 long term impact on building reserves and a healthy
8 financial picture for the HOA. Plaintiffs don't offer
9 this exhibit for the truth of the matter asserted, in
10 fact, we disagree that the prudent thing to do is to pull
11 as much money as you can out of the homeowners, we think
12 that's wrong. So, right away this communication is not
13 hearsay. It's not offered for the truth of the matter
14 asserted. Even if the court would determine otherwise --

15 THE COURT: What is it offered for?

16 MR. LUCEY: It is offered as to the state
17 of mind -- it is offered as an admission by a party
18 opponent. She is working within the scope of her
19 employment of all three defendants developing Mount
20 Vintage. It's admission by a party defendant. And it's
21 offered as to the state of mind and the intentions of his
22 business consultant and it's circumstantial evidence as to
23 what Rajiford's state of mind is because he had received
24 this advice from his consultant. So, one, in the first
25 evaluation it's not hearsay because it's not offered for

1 the matter asserted. Even if it was, it comes in under
2 803-3 because it is evidence of the state of mind and the
3 intent of the declarant. And lastly it would also come in
4 as circumstantial evidence of what Rajiford's mind was
5 when he made arrangements with the HOA. Contrary to what
6 we see Lourie Gardner advising Rajiford to do in the
7 acquisition of the HOA, contrary to this, Rajiford's -- in
8 testimony that it wasn't his decision to buy the HOA,
9 excuse me, to buy the amenities. That the HOA board made
10 that decision, and I would say to him, well, you were the
11 president of the board. There is only three people there.
12 He says, yeah, but they made that decision. His -- one of
13 his defenses is he had no role in the decisions to acquire
14 the amenities. His marketing department and business
15 consultant evidence clearly shows otherwise. So, it's
16 extremely relevant, and it comes in under the fact that
17 it's not hearsay and it comes in because it shows state of
18 mind and intent as to his business consultant as to why
19 she is advising him to do these things, and is
20 circumstantial evidence as what Rajiford state of mind was
21 when he decided to do these things.

22 THE COURT: What relevance is his state
23 of mind has as to any issues in this case?

24 MR. LUCEY: State of mind, Your Honor, as
25 to the amenities acquisitions the bulk of plaintiff's case

1 is that the developer did not put the HOA in sound
2 financial position. Here we're seeing his marketing
3 position sent -- marketing person advising use the
4 homeowners' money so that this is not an issue. Use the
5 homeowners' money so you don't use your own money, and it
6 is evidence of why he didn't use his own money to acquire
7 the amenities. It's also evidence that his defense that
8 he didn't vote to acquire the amenities, that the alleged
9 homeowner controlled-board did -- the alleged homeowner-
10 controlled board did with little input from him is simply
11 false. So, that's the relevance of it.

12 And, Your Honor, primarily I went to
13 steps two, three, and four to make sure that we fully
14 evaluate the -- but primarily it's an admission by a party
15 opponent. It's not hearsay anyway. This is his captive
16 marketing and business consultant advising him how to
17 handle it. She's working within the course and scope of
18 her employment. Everything she says in the course and
19 scope of her employment constitute an admission by a
20 party opponent, and all the current learning treaties,
21 Your Honor, all the current learning treaties they no
22 longer use the phrase admission by a party opponent
23 because that's a mislabel. It's a declaration by a party
24 opponent. It doesn't have to admit anything. It's a
25 verbal statement by a party opponent. Any verbal

1 statement by a party opponent within the course and scope
2 of their employment is under the rules an admission by a
3 party opponent. So, we don't even have to get to the rest
4 of the hearsay analysis. The rest of the analysis just
5 shows this court has a reason this document should come
6 into evidence, either initially at the commencement of
7 trial, right now. Or as we publish Lourie Gardner, we've
8 already noticed to the court the -- page numbers of the
9 Gardner publications, and they include Exhibit 19.2 and it
10 appears at page 66 in the publication. Thank you, sir.

11 THE COURT: Thank you.

12 MR. KRAWCZYK: Yes, sir. So, I'm not
13 sure what all the learning treaties say now, but I do know
14 that South Carolina Rules of Evidence still take about an
15 admission by a party opponent, and I do know that the
16 rules of evidence don't contemplate an independent
17 contractor being bound within the idea of who a party
18 opponent is. Lourie Gardner is not a party to this
19 lawsuit. She's not employed by anyone --

20 THE COURT: What if she was his lawyer,
21 and it didn't fall under protected information.

22 MR. KRAWCZYK: So --

23 THE COURT: -- we could use it that way,
24 couldn't you?

25 MR. KRAWCZYK: Yeah, but that's a

1 different circumstance.

2 THE COURT: Why is it a different
3 circumstance?

4 MR. KRAWCZYK: Because that's a
5 relationship between a lawyer a client. Where the lawyer
6 --

7 THE COURT: She's his financial -- she's
8 his advisor as to what's going on in this subdivision.
9 Why would it be any different?

10 MR. KRAWCZYK: She's a marketing advisor,
11 and so, to the first point about why is this not hearsay,
12 I mean, this is -- in my estimation it's textbook hearsay.
13 I mean, they are offering this for the truth of the matter
14 asserted; right? Because as Mr. Lucey just articulated to
15 the court, the thing that she advocates is ultimately,
16 according to their contention, what happens so necessarily
17 my clients must have relied on this advice, there's an
18 inferential step there that's missing. And she is just an
19 independent contractor that offered her opinion apparently
20 without solicitation; right? There's nothing in this
21 document that suggested that any of my clients asked her
22 for her advice about this. It appears that she just
23 offered it, and so --

24 THE COURT: I don't see that appearance.
25 It looks like she's working within the course and scope of

1 her employment, but, I mean --

2 MR. KRAWCZYK: But as an independent
3 contractor that doesn't transform everything she says into
4 something that can be imputed to the principal. I don't -
5 - I'm not aware of any law that goes so far to say that is
6 the case. And Ms. Gardner, this is going beyond what you
7 need to know, they talked about her being a captive
8 marketing professional. She's 75 years old. Her
9 husband's dead. She just does this on the side. So,
10 she's not captive. She's retired. She's getting out of
11 the business, and the last thing she has left is LL and
12 Mount Vintage. So, the idea that she is somehow captive
13 is just not the circumstance.

14 THE COURT: When you say captive, I'm --

15 MR. KRAWCZYK: When he says captive as I
16 understood it, it means that she is the dedicated
17 marketing arm --

18 THE COURT: Oh.

19 MR. KRAWCZYK: For my clients and that
20 all her economic employment, all of the active comes from
21 my clients.

22 THE COURT: Does it make a difference if
23 -- between being an agent and independent contractor?

24 MR. KRAWCZYK: Well, it could, because an
25 independent contractor is not necessarily the agent of the

1 person that engages them.

2 THE COURT: All right. Well, agents I
3 think by agent certainly can be held against the person
4 who is the principal, but an independent contractor --
5 isn't there a distinction between the two?

6 MR. KRAWCZYK: There is a distinction,
7 and particularly when you talk about agency what you're
8 really looking at is what, what, is a third party's
9 relevance on the communication of the agent, and is the
10 principal bound by that. In this circumstance, there is
11 no third-party communication, this is just the independent
12 contractor offering her opinion to, you know, the
13 principal.

14 THE COURT: Well, let me ask Mr. Lucey
15 right quick.

16 MR. KRAWCZYK: Yes, sir.

17 THE COURT: In your mind is there a
18 distinction as to whether or not this comes in if she's an
19 independent contractor versus being an agent?

20 MR. LUCEY: There can be, Your Honor, but
21 it's not a distinction between the two. An independent
22 contractor can be an agent, and I would call to the
23 court's attention the 2016 case or actually go to the 2000
24 and -- the 1989 case of Midlands Utilities versus South
25 Carolina Department of Insurance, and in that case, it was

1 the reports of a third-party company, a complete
2 independent contractor, which was admitted by this state
3 as a admission by a party opponent regarding lab tests
4 that were done by the third party. Lab test that
5 obviously the principal had no control over which is why
6 he had hired the third party to do the lab test because he
7 couldn't do them himself, and the -- so, it does not need
8 to be an employee and an independent contractor can be --
9 state an admission, a declaration by a party opponent.

10 THE COURT: Is there a difference in
11 foundational requirement for you in the case that you got
12 to put in the record before this comes in for as it being
13 an agent or independent contractor?

14 MR. LUCEY: Yes, Your Honor. And most of
15 it is contained within the Gardner Publication that I've
16 submitted to the court.

17 THE COURT: Okay.

18 MR. LUCEY: That I filed yesterday, and
19 it shows -- and by the way, she's fulltime for this
20 principal in Bridle Creek one of the neighborhoods. She
21 was almost fulltime a while back in Three Runs Plantation
22 before that closed out. Bridle Creek is still in
23 existence. She actually responds to the developer -- the
24 e-mails to the developer on the developer's website for
25 the developer. That's how tied into this organization is.

1 She is the person the court will see in a moment in one of
2 these other exhibits we look at, when Mary Gwen the
3 attorney you've heard about writes a memo for Rajiford
4 about his soul and absolute control of board of directors
5 that he can replace them at will, he can remove them at
6 will, I mean, when he gets that memo from Mary Gwen Mr.
7 Rajiford send that Mary Memo to Lourie Gardner, and says
8 see what Ms. Gwen says. What do you think about this?
9 Lourie Gardner responds back and says you need to send
10 that board -- that memo to your other board members before
11 the next board meeting to show them whose absolutely in
12 control. And those are the words that Lourie Gardner
13 used, absolute control. He does exactly what she requests
14 in one of the exhibits we're going to look at. He
15 thereafter e-mails the Lourie, excuses me, he e-mails the
16 Mary Gwen e-mail about absolute developer control to his
17 other board members as Lourie had advised him to do before
18 the board meeting and he had -- they discussed his
19 absolute control at the next board meeting, and this is
20 all admitted in all of the depositions. And, in fact, the
21 way we ended up getting this Mary Gwen legal memo which
22 was originally withheld from us on privilege, was the fact
23 that it had been shared with Lourie Gardner, and so we're
24 eventually through the motions to compel, what have you,
25 we eventually got this memo, and we were able to ask the

1 two other board members present at that meeting about
2 receiving this memo --

3 THE COURT: All right. All right. I
4 really just wanted to hear the thing about the foundation
5 requirements, but, go ahead Mr. Krawczyk --

6 MR. KRAWCZYK: Yes, sir --

7 THE COURT: I interrupted you.

8 MR. KRAWCZYK: And so, if the foundation
9 requirement is found within these deposition designations,
10 I've not had a chance to counter designation --

11 THE COURT: Assuming they're met, what --

12 MR. KRAWCZYK: I'm trying to think of
13 what issue that's probative to because, I mean, let's say
14 the transaction --

15 THE COURT: Well, I think it's very
16 probative to this case. I mean, I hear counsel for the
17 homeowners saying this is an independent board, and
18 they've been doing this, and doing that, and I don't agree
19 with any of this case. And they're not controlled by this
20 developer and quite frankly I don't think that's right
21 either, but that's not my call. I think that the evidence
22 shows that he does control this, but that's up to the jury
23 to make a decision not me.

24 MR. KRAWCZYK: So --

25 THE COURT: But I think it's relevant.

1 MR. KRAWCZYK: So, to me the relevant
2 issue is did the transaction occur and the cross or,
3 maybe, the direct of Mr. Rajiford is going to be about why
4 he did it, and going into, maybe, the things that are in
5 Ms. Gardner's memo. But to offer the actual document of
6 Ms. Gardner's memo into evidence --

7 THE COURT: What rule do you think it is
8 valid of?

9 MR. KRAWCZYK: I think that, I think
10 that, if the -- well, I do think that it's valid of the
11 hearsay rules by 801 and I don't think it is subject to
12 any exception by 803. I think that it gets into an issue
13 of speculation, frankly, about whether and to what extent
14 Mr. Rajiford ever relied on the substance of this memo. If
15 he gets up and testifies, I didn't rely on this. Well,
16 now the jury has seen something that's hearsay that they
17 may think impeaches his credibility when he's testifies, I
18 didn't rely on this. And in fact, he's testified at
19 depositions that he didn't rely on this. So, if he's
20 saying that I didn't rely on this memo, but the document
21 is admitted as evidence anyway from a third party and it's
22 hearsay then I think we're also running into a 403 call.
23 I think that is substantially more prejudicial than it is
24 probative. Now, if -- I'm sorry, Your Honor.

25 THE COURT: No, no. Go ahead. I'm just

1 trying to think it though myself as we go.

2 MR. KRAWCZYK: Yes, sir. It's thorny,
3 there's no doubt about that.

4 THE COURT: Let me say this, today I'm
5 going to allow it subject to you showing me that it
6 shouldn't be allowed in. But we need to do that before we
7 start this trial.

8 MR. KRAWCZYK: But that's not -- it's not
9 a stipulated exhibit.

10 THE COURT: It's not?

11 MR. KRAWCZYK: Yes, sir. I mean, and
12 that's --

13 THE COURT: Clearly not.

14 MR. KRAWCZYK: And that's perfectly fine.

15 THE COURT: But I agree with Mr. Lucey's
16 argument, okay.

17 MR. KRAWCZYK: Yes, sir.

18 THE COURT: So, I'm going to give you a
19 chance to prove him wrong but we have to do it before this
20 jury starts. In other words, if the day starts and you
21 hand me something when we're picking the jury or we're
22 there in Edgefield I'm going to say too late. Go me? So
23 just do it before so we can all be clear where we going
24 with this case.

25 MR. KRAWCZYK: Could it be before the

1 deposition designation is offered?

2 THE COURT: Yeah.

3 MR. KRAWCZYK: Whenever -- whatever point
4 in trial that would be?

5 MR. LUCEY: It's been published.

6 MR. KRAWCZYK: Well, I assume it's going
7 to be read to the jury.

8 THE COURT: I'm not going to -- I just
9 think it's easier for everybody if we know where we are
10 going during the trial. I would prefer quite frankly that
11 you do it prior but --

12 MR. KRAWCZYK: Yes, sir.

13 THE COURT: I'm not going to hamstring
14 you. I'm going to let you bring it up. You got to do
15 what you got to do.

16 MR. KRAWCZYK: Yes, sir.

17 THE COURT: All right.

18 MR. KRAWCZYK: The --

19 THE COURT: But for right now, it's in.

20 MR. KRAWCZYK: It's in? Well, it's not -
21 -

22 THE COURT: Yeah. The foundation -- it's
23 not stipulated. He's got to lay a foundation, but I'm
24 sustaining his argument that it's admissible, let me say
25 that. Not in.

1 MR. KRAWCZYK: I understand.

2 THE COURT: Not in. I shouldn't say
3 that. That's improper.

4 MR. KRAWCZYK: And just so I'm clear, the
5 deposition designations of Ms. Gardner, is this it or are
6 there more coming at trial or?

7 MR. LUCEY: It's it as of today. We have
8 -- if we decide to add a line, and we timely do so we will
9 add a line.

10 MR. KRAWCZYK: I understand that. I just
11 wanted to make sure that this wasn't just for this
12 argument and there was something else different that was
13 coming later on, that's all I'm asking. Okay, so.

14 THE COURT: In other words, are you
15 having any other designations other than what you put in
16 for this person?

17 MR. LUCEY: Not for Ms. Gardner that I
18 know of.

19 THE COURT: Okay, fair enough. And
20 again, listen, I know how last-minute things hit but if
21 y'all see it change try to communicate with each other the
22 best you can.

23 MR. KRAWCZYK: Yes, sir.

24 THE COURT: And if not, we'll figure it
25 out.

1 MR. LUCKY: The next one will be 18.46,
2 Your Honor, and, perhaps, this will be shorter because the
3 court has already heard about it, this is the series of e-
4 mails that I've just described to the court wherein the
5 attorney Mary Gwen writes to Mr. Rajiford the memo about
6 his absolute control, it is sent to Lourie Garnder.
7 Lourie Gardner on the fifth page to sixth page of this
8 exhibit is a Gmail, Lourie Gardner in the second paragraph
9 says, John and I have read Mary's memo. It seems
10 abundantly clear that --

11 THE COURT: Now, where are you, please?

12 MR. LUCEY: Page 6 is a Gmail, Page 6 the
13 Exhibit 18.46, the bate number is 29734.

14 THE COURT: Okay, I got it.

15 MR. LUCEY: Second paragraph, John and I
16 have read Mary's memo. It seems abundantly clear who is
17 in charge. John thinks Wayne should send the board of
18 directors this memo before the meeting; give them a chance
19 to digest. John would suggest that a cover memo to the
20 board of directors that Wayne ask them to review the memo
21 and that he, Wayne, would like to meet as a follow-up to
22 discuss moving forward with the understanding among the
23 board of director members as to how Wayne would like to
24 handle issues and possible resolutions to all issues that
25 impact Mount Vintage. She goes on to talk about the

1 bylaws and the PCs, the covenants, for Mount Vintage, how
2 they -- them, how they're changing them and the process.
3 I mentioned the ladder part only to show how involved she
4 is in the development of Mount Vintage. She is amending
5 the bylaws with the attorney for Wayne Rajiford. So
6 that's just part of the foundational matter. This is --
7 this e-mail by her is clearly -- it's in the course and
8 scope of her employment, it's a statement by an agent, and
9 it is admissible. It's an admission by a party opponent.

10 In the following pages we see a list at
11 bate stamp 29736 of all the activities that she is
12 supervising, performing or participating in for the
13 developer of Mount Vintage, again showing the intricacy of
14 her involvement in this business development operation.
15 Laying the foundation that she truly is an agent and her
16 statements come in as admissions. Pure, and simple, any
17 declaration by her within the scope is an admission. And
18 the court heard a minute about representations of third
19 parties, that's not part of the rule. That's not part of
20 the rule -- South Carolina Rules of Evidence. There is
21 nothing in 802, Rule 802, regarding representations have
22 to be a third party. It has nothing to do with anything.
23 It's a declaration of any kind out of court by an agent of
24 the opponent.

25 And then, and frankly, the rest of this

1 file is simply the organization as the defendants kept it.

2 And at page 748 bate stamp 29748, we see
3 the transmittal from Rajiford to board members Carol --
4 and Jerrey Shaford quote, to assist you in preparing for
5 Monday's meeting I've attached the following, Mary Gwen
6 Memo. That's the memo regarding absolute control. So,
7 Your Honor, we believe this again is a declaration by a
8 party opponent, it's outside the hearsay rule.

9 MR. KRAWCZYK: All right. So, with
10 respect to this document the only two pages that I have
11 objected to are the ones with the bate stamp ending 34 and
12 35 --

13 THE COURT: Okay, hang on. Let me get
14 back over there. And that's just Ms. Gardner's --

15 MR. KRAWCZYK: That's right. So, we've
16 already talked about that, but in addition, in the first
17 page of this paragraph that Mr. Lucey was referring to
18 where it starts, John thinks Wayne should send the BOD
19 this memo, that would go to hearsay within hearsay
20 probably. Now, Ms. Gardner is talking about what her
21 husband whose dead thinks. So we think that that should
22 be excluded as well.

23 THE COURT: I think their admissible,
24 Buddy, I'm sorry.

25 MR. KRAWCZYK: Okay, I understand.

1 THE COURT: I just think they are
2 admissible. I'm going to do the same thing as I did
3 earlier. I don't want to be wishy washy, but right now I
4 think they're admissible subject to you proving me wrong.

5 MR. KRAWCZYK: Yes, sir.

6 THE COURT: All right. So, that would be
7 the entirety of 18.46?

8 MR. KRAWCZYK: No, sir. The only ones I
9 had objections to were these two pages of the Gardner --

10 THE COURT: Right. Right. I'm saying
11 the entirety of that is admissible.

12 MR. KRAWCZYK: Yes, sir.

13 THE COURT: Not just the two things that
14 you objected to.

15 MR. KRAWCZYK: Yes, sir. I got you.

16 THE COURT: Okay.

17 MR. LUCKEY: Exhibit 19.3, another Lourie
18 Gardner communication. This is a document dated June 27th
19 2016, it is the day before the board of directors votes to
20 except the individual notes for the downpayment for the
21 golf course. So, the golf course acquisition is in
22 process. It's a communication from Lourie Gardner and
23 Gardner Media to Wayne Rajiford. It's within the course
24 and scope of her employment. She is advising him on the
25 marketing of Mount Vintage. She's confirming to him that

1 she can't sell any of his lots unless they buy and control
2 the amenities, period end of story. That is relevant, of
3 course, in his defense --

4 THE COURT: Where is specifically is she
5 saying that?

6 MR. LUCEY: Bottom paragraph, page one
7 second line quote, our challenge is compounded by Mount
8 Vintage history and the still unresolved status of all
9 amenities.

10 THE COURT: Which bates number are you
11 looking at?

12 MR. LUCEY: Page one

13 MR. KRAWCZYK: 1654.

14 THE COURT: 1654?

15 MR. KRAWCZYK: Yes, sir.

16 THE COURT: I must be blind; I'm looking
17 at that. I don't see it. And that's the last paragraph?

18 MR. KRAWCZYK: Yes, sir.

19 MR. LUCEY: Last paragraph, second line,
20 our challenge is the first words.

21 THE COURT: Okay, yes. I'm sorry.

22 MR. LUCEY: And then, it says our
23 challenges are compounded by the history that still
24 results status of the amenities. If we go to the next
25 page, bates stamp 1655, middle paragraph, first sentence

1 the HOA's recent acquisition of the town center, athletic
2 club is huge. This facilities and its amenities are
3 important to most potential buyers or more important to
4 most potential buyers than playing golf. The repairs and
5 improvements that have been made are a tremendous boost to
6 sales and marketing; however, this can also be a concern
7 for potential buyers as we all know many homeowners, HOAs,
8 are going belly-up under the burden increasing maintenance
9 costs. I would like to pause there, Your Honor. Almost
10 all of her communications are admissible for initial
11 reasons we haven't had the opportunity to discuss yet
12 which they are notice, they constitute notice to the
13 developer that he must put the neighborhood on sound
14 physical footing; he never does that. And every one of
15 her communications have a reference to sound physical
16 footings. She goes on to say quote, our concern hope is
17 that Mount Vintage financials are sounds and that the
18 facility can remain solvent. We don't know how the HOA
19 can guarantee its ability to financially support the
20 facility with the current optional yearly social athletic
21 memberships end quote. She's communicating to the
22 developer, it's not going to survive the way you guys are
23 planning it; it's not going to work. It's not physically
24 sound planned. She goes on in the next paragraph to talk
25 about recent aerial photography of the golf course. It's

1 in bad shape and the bottom paragraph quote without some
2 resolution and a plan to turn this around that can be
3 presented to potential buyers we will be hard-pressed to
4 sell lots at any price.

5 Next page, bates stamp 1656, second full
6 paragraph quote, again we are worried about the long-term
7 ability of this LLC to generate monies. Down towards the
8 bottom of the same paragraph quote, today's owners don't
9 feel they should bear the financial burden of supporting
10 the golf course even though it's in their backyard end
11 quote. Next paragraph, single sentence paragraph quote,
12 if Greg's financial plan is dependent on membership fees
13 of potential buyers he should rethink his numbers.

14 Your Honor, this all constitutes a
15 declaration by the agent of a party opponent within the
16 scope of her employment. We're already seen at length how
17 much of a foundation there is for this being within the
18 scope of her employment.

19 MR. KRAWCZYK: I think this is just the
20 same issue that we've been talking about.

21 THE COURT: It is.

22 MR. KRAWCZYK: So, I understand what your
23 ruling is going to be on it.

24 I would like to get clarification though
25 of the larger issue of the developer's obligation to leave

1 the HOA in a firm -- in a solvent financial position.

2 THE COURT: I thought that would occur at
3 the time of the transfer.

4 MR. KRAWCZYK: It occurs at turnover.
5 And so, I want to make it very clear that we should not be
6 misleading the jury as we head into trial about when a
7 solvent financial position that the HOA has to occur. And
8 so I suspect that's going to be an issue that -- so I'm
9 just raising that to the court's attention now.

10 THE COURT: I don't disagree with you
11 that it occurs solvency occurs at the time of transfer.

12 You don't disagree with that, do you?

13 MR. LUCEY: I certainly do, Your Honor.
14 The fiduciary duty is in existent the entire time the
15 board of directors, excuse me, the developer is running
16 the board of directors.

17 THE COURT: Well, didn't you tell me that
18 the fiduciary duty is more encompassing than just on the -
19 -

20 MR. LUCEY: Yes, Your Honor.

21 THE COURT: Transfer of the amenities.

22 MR. LUCEY: Yes, Your Honor.

23 THE COURT: But as regards to the
24 transfer of the amenities that aspect of the fiduciary
25 duty is solvency upon transfer, that's is my

1 understanding.

2 MR. LUCEY: For the comment elements,
3 yes, Your Honor.

4 THE COURT: Right.

5 MR. LUCEY: Which given that the
6 developer rights were transferred in 2013 there's an issue
7 of fact as to whether or not the transfer of amenities has
8 already occurred.

9 MR. KRAWCZYK: Yeah, and I hate to bring
10 this up, but that's exactly why we keep on taking the
11 appeal of this issue. And that's why it's so central for
12 this case.

13 THE COURT: Say that again, I'm sorry.

14 MR. KRAWCZYK: That's why we've taken the
15 appeal of this RTI having developer rights versus LL
16 having developer rights. Because that's the exact
17 argument they're trying to say that turnover occurred ten
18 years ago and that somehow all of these breaches of
19 fiduciary duty occurred ten years ago when it came to
20 turnover, and respectfully, we just don't think that's the
21 case.

22 THE COURT: Well, I think that might be
23 an uphill battle for you too, but still I'm going to allow
24 it in on the same basis I did before.

25 MR. KRAWCZYK: Yes, sir.

1 THE COURT: With the same arrangement, if
2 you can prove it inadmissible, I will be glad to hear from
3 you.

4 MR. KRAWCZYK: Yes, sir.

5 THE COURT: All right.

6 MR. LUCEY: Exhibit 25.08, Your Honor, is
7 an e-mail from a CPA to a board member at the time Bwayne
8 Dotta. And Mr. Dotta pours it onto Leanne Keeles who at
9 the time who was either the board member or treasury of
10 the association, and this is with regards to the payment
11 of the \$300,000 in donations from Mr. Rajiford to an
12 entity named Golf Gym. The \$300,000 was originally tied
13 as security to the downpayment notes on the golf course,
14 and instead the developer gave that money to Golf Gym.
15 What he didn't -- what the board didn't know at the time
16 was the developer's daughter opened a bank account,
17 deposited the checks in the bank account this new
18 contribution account that the board members weren't aware
19 of and then wrote checks to Golf Gym. So, she passed it
20 through an association account unknown to the board
21 members at the time. At the time there was a debate as to
22 whether any of the funds should be going through homeowner
23 accounts or not. The CPA provided the advice to the board
24 that the monies should not go through the account. This
25 is being offered as notice, not for the truth of the

1 matter asserted but as notice to the developer's daughter
2 to by the way at this point in time owns LL -- one third
3 of LL or to one half of LL of South Carolina besides being
4 a trader of the association. This is notice to her that
5 the money should not go through the homeowners accounts
6 and she did that, she put it through the homeowners
7 accounts anyways, Your Honor. So, it's not being offered
8 for the truth of the matter asserted --

9 THE COURT: Hang on for a second, let me
10 read these. I'm not reading it to say what's you're
11 saying, but I haven't had a chance to look at it either.

12 (Pause)

13 THE COURT: All right, sir.

14 MR. LUCEY: So, it's being offered as
15 notice to the developer, Your Honor.

16 MR. KRAWCZYK: I think this is the same
17 hearsay issue we've been discussing, sir. I know he says
18 it's not being offered for the truth of the matter
19 asserted that it is for notice. It is also being offered
20 for the truth of the matter asserted. It's saying, our
21 recommendation is, don't run it through the account unless
22 you got another business purpose. So, the issue to me is
23 whether or not this statement by a third-party accountant
24 is hearsay or not.

25 THE COURT: I don't think it comes in

1 quite frankly. I think it just doesn't. It doesn't say
2 what I think you're saying it says, but I'm going to say
3 that it's not admissible right now, but I'm going to give
4 you the same opportunity as I gave the other side to prove
5 me wrong, okay?

6 MR. LUCEY: Yes, sir.

7 THE COURT: All right. And look, I'm
8 just looking at these without having time to study them,
9 so.

10 MR. LUCEY: Exhibit 26.11 is the next
11 exhibit, Your Honor. Your Honor, if I may explain to the
12 court what it's looking at. In the background is a
13 document, it's an assignment of rights, and it's where Mr.
14 Rajiford signed a one-page document assigning his
15 ownership of RTI to LL of South Carolina, and the document
16 is not dated but it says at the bottom of the document it
17 says effective December 31, 2013. This screenshot is a
18 screenshot of the metadata of the original copy the CPA,
19 Fleaflet, Rajiford's CPA original copy of that document,
20 the assignment. The screenshot of the metadata shows that
21 the document was created in September of 2014, not 2013,
22 and that it was finalized on September 18th of 2014. We
23 have with this Exhibit 26.19 which is a CPA Fleaflet's
24 agenda for September 11th, 2014, and in Exhibit 26.19 if I
25 can direct the court to item three LL of SC, LLC subitem A

1 says, assignment of Rajiford Topsail Allen LLC prepared by
2 Mary Gwen dash handwriting, Wayne and Linda to sign and to
3 return. So, the agenda the CPA's agent, the developer's
4 agent, CPA and his CPA's assistant on their 2014 agenda
5 make a note that evidences the assignment has not been
6 signed. Going back to 26.11 the metadata from the CPA's
7 computer shows the document didn't exist until September
8 18th, 2014. It's not a 2013 document.

9 THE COURT: So, how's that -- I'm not
10 following how it came up in 2013, bring me up-to-date on
11 that.

12 MR. LUCEY: We're not following either.
13 It just appears out of the blue. Nobody knows why.

14 THE COURT: Is it dated 2013 somehow?
15 How --

16 MR. LUCEY: At the bottom it implies it's
17 effective December 31, 2013.

18 THE COURT: And that is the assignment?

19 MR. LUCEY: That is the assignment.

20 THE COURT: Okay.

21 MR. LUCEY: The assignment did not get
22 created or executed until September of 2014. That's
23 admitted under oath by Charles Fleaflet, and these
24 documents are authenticated under oath by the agent and
25 the party opponent in his deposition, the CPA's office.

1 Mr. Rajiford was then asked about these two documents
2 especially the screenshot which is the personal -- and he
3 admits, yes, I don't disagree the documents executed in
4 September of 2014. They've objected to this coming in a
5 hearsay. It's a business record and any hearsay within it
6 is a statement by a party opponent. It's prepared by the
7 attorney Mary Gwen as received in the CPA notes. The
8 notes are made by the CPA. The screenshot; the metadata
9 is created by the CPA's computer. It's all done within
10 the course and scope of all of their agency, and its
11 conclusive evidence and it's been admitted under oath by
12 two different people that the assignment was not executed
13 until September of 2014, and it's an admission by a party
14 opponent. Thank you, sir, both 26.19 and 26.11.

15 MR. KRAWCZYK: So, with regard to 26.11
16 anytime I hear things about metadata I automatically think
17 we've got hearsay problems, and we've got expert problems.
18 I mean, typically it's an expert some sort of forensic
19 computer wizard that comes --

20 THE COURT: I thought he said it's
21 already authenticated already.

22 MR. KRAWCZYK: All right, so, it is
23 authenticated. Well --

24 THE COURT: Wouldn't that part of showing
25 it is what it says it is?

1 MR. KRAWCZYK: I mean, I'm not about to
2 explain the nuances of technology to you, but.

3 THE COURT: Thank you.

4 MR. KRAWCZYK: Yeah, but -- because I
5 don't understand it. But a lot of times an expert is
6 necessary to say that what this screen actually means in
7 terms of how files get stored and when they get stored. I
8 mean, I don't think there's much of a dispute actually
9 that this document was started -- the underlining document
10 was executed in September of '14 to become effective
11 previously in '13. So, I'm not even sure why they need
12 this document, but --

13 THE COURT: You have a document that says
14 2013, and they want to make it -- it's obvious why they
15 want it. But tell me, if he says it's authenticated that
16 means the document is what it says it is, right, assuming
17 that it's authenticated.

18 MR. KRAWCZYK: That's right. I mean,
19 there's no question it came from the CPA's computer.

20 THE COURT: Are you saying to me -- did I
21 hear you say that metadata could be from some other
22 timeframe or --

23 MR. KRAWCZYK: It could be, and again, I
24 don't know how that stuff works, but that's why there are
25 forensics folks that come in all the time on these cases

1 to talk about what metadata means, and what -- how when
2 files get stored the information shows up as metadata and
3 what it means.

4 THE COURT: Otherwise?

5 MR. KRAWCZYK: Otherwise, I mean, I don't
6 have a problem with that document. With 26.19 I don't
7 have a problem with the agenda. The handwriting, the
8 handwritten notes of the CPA, again, I think that's
9 hearsay. Again, that was just for the CPA's own
10 reference. That then shared with the principle.

11 THE COURT: I'm going to allow that in.

12 MR. KRAWCZYK: Okay.

13 THE COURT: I want to hear you on the
14 metadata issue though, Mr. Lucey. Do you need to have an
15 expert to say this is what it is or?

16 MR. LUCEY: No, sir. The CPA, Charlie
17 Fleaflet admitted that this was his original document. We
18 opened up the metadata from the document in his presence.
19 He identified his assistant that had made the document and
20 the date she made it, and he authenticated it.

21 THE COURT: All right. I'm going to
22 allow it in.

23 MR. KRAWCZYK: Okay.

24 THE COURT: I'm going to say it's
25 admissible. I'm not allowing anything in at this

1 juncture.

2 MR. KRAWCZYK: Yes, sir.

3 MR. LUCEY: I'm going to hand the court
4 Exhibit 32.09. Your Honor, the cover of 32.09 is an e-
5 mail from Mary Gwen to Mr. Rajiford. Mary Gwen we've seen
6 is an agent of the developer, and she handles his real-
7 estate matters and this is in the course and scope of her
8 representation of him, and attached to this e-mail, Your
9 Honor, is a redacted copy of a developer agreement. This
10 developer agreement was the original developer agreement
11 that the board members were circulating for Mr. Rajiford
12 to sign. The court may recall he had agreed to give
13 \$3,000 per lot sale toward the downpayment -- repayment
14 for the downpayment of the golf course. And the court
15 will see the third whereas on this document says, whereas
16 the developer acknowledges that the HOA based upon the
17 representations of the developer has entered into certain
18 other loan agreements with individuals to fund the
19 downpayment necessary to purchase the golf club, and have
20 used the funds committed by the developer under this
21 agreement as security for those loan payments. The
22 developer is taken the position in this litigation he
23 never knew it was placed. He never agreed to it, never
24 knew it, and that's why he gave the money to the golf
25 course and not to the HOA for the downpayments. This came

1 to light, excuse me, after he, maybe, made a dozen lot
2 sales and the downpayment lender said, hey, where is our
3 reduction in principle?

4 THE COURT: Well, let me ask you this.

5 MR. LUCEY: Yes, sir.

6 THE COURT: This agreement, was it
7 actually executed?

8 MR. LUCEY: This version was not. He's
9 claiming --

10 THE COURT: Does the executed version
11 have that same language?

12 MR. LUCEY: It does not. He's claiming
13 he didn't know about the obligation. This document shows
14 he conferred with his attorney about his board's belief of
15 the existence of that obligation before he ever paid a
16 cent of that money to the Golf Gym. He knew his board
17 thought he was obligated on the developer downpayments.
18 Happens to be this goes hand-in-hand with the board
19 minutes from July 28th 2016 where the three board members,
20 Wayne Rajiford, and two others approve the downpayments
21 that are tied to this note. So, we've got the original
22 board meeting showing he approved the downpayment notes,
23 and we have him consulting with his attorney prior to
24 paying money to the golf facility instead of the HOA
25 regarding this proposed developer agreement from his

1 fellow board members which he refused to sign. For us the
2 relevance is, he claims he didn't know about this, but
3 this conclusively shows that he knew. His board
4 understood it prior to paying \$300,000 to somebody else.
5 And even if it didn't have as much significance as we
6 attribute to it, this is in fact, a declaration by an
7 agent by a party opponent within the course and scope of
8 her employment. And the draft document is a business
9 record. It's a business record that the developer had
10 transmitted to her and she's transmitting back with
11 comments, and they're redacted. But the point of it is it
12 all happens before he pays a dime outside of the HOA
13 directly to the Golf Gym.

14 MR. KRAWCZYK: So, my objection to this
15 is on relevance grounds. It's an unsigned agreement, this
16 was a draft prepared by the board's lawyer, sent to Mr.
17 Rajford that he forwarded onto his lawyer. It was
18 negotiated, and different agreement --

19 THE COURT: How did Mr. Rajiford deny
20 knowing or having knowledge that the board thought that
21 this was some kind of secured payment? I'm not quite
22 following that all the way, but it says that whereas the
23 developer acknowledges to the HOA based on representation
24 of the developer has entered in certain loan agreement
25 with individuals to fund the downpayment necessary to

1 purchase the golf club, and has used the funds committed
2 by developer on this agreement as security for both loans.

3 MR. KRAWCZYK: Uh-hm.

4 THE COURT: And he's denying having that
5 -- knowing anything about that?

6 MR. KRAWCZYK: Yeah, about that agreement
7 which is why the agreement was ultimately --

8 THE COURT: What does he say? I didn't
9 know anything about the money I'm putting up there is
10 supposed to be security for this payment?

11 MR. KRAWCZYK: Yeah. He, he, thought --
12 his testimony would be that he thought that \$3,000 per lot
13 that he was going to give was just going to go straight to
14 the golf course to help substance golf course operations.
15 If it was communicated to him that it was going to be
16 security for other folks that were putting up money and to
17 repay the principle, he just doesn't remember that. And
18 so, to solve this problem way back when, long before this
19 litigation started, he personally made another \$300,000
20 lumpsum payment to solve these issues and then later
21 continue to give \$3,000 per lot to the HOA which again
22 according to the CPA statement was just booked as a
23 payment back to him. So that the \$300,000 that he
24 committed to give was netted out, everyone was paid what
25 they were promised to be paid, and all the confusion was

1 resolved. So, he just doesn't recall that it was ever
2 going to be security. And that's just the simple matter
3 of it.

4 MR. LUCEY: That's an absolutely
5 incorrect rendition of the facts. When this came to light
6 that he had given the money to Golf Gym which went under,
7 the money is gone. This didn't come to light until it
8 didn't matter until then. All of sudden the developer is
9 out of the \$300,000. So, he's saying no, that's the
10 \$3,000 hundred thousand the same 300,000 I committed on
11 the downpayment. So, no, I'm not out the \$300,000. I
12 either already paid it or you got a problem or whatever.
13 So, what the developer does is he has the association sign
14 a \$300,000 note to him for the 300 he lost giving to Golf
15 Gym. So, they had -- on day one they have no obligation to
16 him. On day two they now own \$300,000; they have not
17 received a dime. This is for the \$300,000 he sent
18 previously. So, then for the next two years, whenever he
19 would sell a lot and pay the association \$3,000 for the
20 lot sale, he made the association pay him back the \$3,000
21 on the retroactively signed note. There was not a second
22 \$300,000 given by the developer, it was the same \$300,000
23 he spent it twice, and it's part of our claim that it was
24 a breach of fiduciary duty for him to have had the
25 association sign a retroactive note for money they didn't

1 owe, and that he did no recuse himself from the vote. His
2 daughter participated in the transaction, and the -- none
3 of that -- it's important for the court to know the merits
4 of it, but the evidently, admissibility of it stands for
5 reasons we have already stated to the court.

6 MR. KRAWCZYK: I think today is going to
7 be a long day if we don't argue our cases to you.

8 THE COURT: Well, I don't have a problem
9 with it being a long day, but if he denied it and that's
10 within the documents created by his lawyer and him not
11 knowing it, I think that is proper cross-examination
12 material --

13 MR. KRAWCZYK: What -- so, it's my
14 understanding that this draft note was created by the HOA
15 first and then sent to Mr. Rajiford who then sent it to
16 his lawyer.

17 THE COURT: Say that again please, sir.

18 MR. KRAWCZYK: Yeah. The draft note was
19 created by the HOA sent to Mr. Rajiford who then forwarded
20 it to his own lawyer, and so this is -- if it's a
21 statement or declaration by a party opponent, whatever we
22 are calling it now, it would be to the HOA, and not to Mr.
23 Rajiford. And as evidence to suggest that this is not a
24 document Mr. Rajiford created this is the redacted copy of
25 Mr. Rajiford's correspondence with Ms. Gwen redacted for

1 attorney client privilege issues, and so why would Ms.
2 Gwen be marking up her own document which that is what the
3 redactions are on this other page if she's the one that
4 created it and then send it to Mr. Rajiford. The reality
5 is that the HOA created this document. Ms. Gwen had
6 comments about it which is what's redacted here. There
7 were further negations, and there was ultimate an
8 agreement that was signed between the parties.

9 THE COURT: But that -- I don't think it
10 goes to who's creating and what it's for, it's just that
11 he's denying having any knowledge that that was an issue
12 that this was a security for these security for these
13 agreements.

14 MR. KRAWCZYK: Sure.

15 THE COURT: And he says I don't have
16 anything -- I don't know anything about it and even though
17 this is not coming from him it was sent to him, and I
18 think it's subject to -- I think he's correct, and it's a
19 cross-examination matter,

20 MR. KRAWCZYK: It could be cross but I
21 don't think it's admissible as evidence.

22 THE COURT: Okay. Well, you're trying to
23 put it in your case and chief?

24 MR. LUCEY: Yes, Your Honor.

25 THE COURT: Tell me again how you do

1 that?

2 MR. LUCEY: I've actually already used
3 these documents to get the owner of all three defendants
4 to admit that he had discussed this with his attorney
5 prior to transferring the monies. I've already got the
6 admissions. I would simply would be repeating what I
7 already ended up -- and I can do that. I can publish him
8 or I can call him, either one. It's in his deposition or
9 I can call him as a witness, and do it live.

10 MR. KRAWCZYK: I mean, I've got no idea
11 what Mr. Lucey's trial strategy is whether or not he's
12 going to call my witness or not --

13 THE COURT: I tell you what, at this
14 juncture when he starts to admit in his case and chief
15 raise your objection. Let's just argue it there.

16 MR. KRAWCZYK: Yes, sir.

17 THE COURT: Quite frankly, I just don't
18 know.

19 MR. KRAWCZYK: Yes, sir.

20 THE COURT: I think he's right, but I
21 don't know.

22 MR. KRAWCZYK: Yes, sir.

23 THE COURT: Okay.

24 MR. LUCEY: Your Honor, may we have a
25 midmorning restroom break?

1 THE COURT: Then you did grab -- oh,
2 yeah. You don't blame it on her over there.

3 MR. LUCEY: I did initially until I saw
4 pushback.

5 (Laughter)

6 THE COURT: Yes, sure.

7 MR. LUCEY: Thank you!

8 (Whereupon, a short break was taken.)

9 MR. LUCEY: Sir, Exhibit 32.12 which I've
10 handed up to the court, it follows on the same topic that
11 we've been discussing for the last 30 minutes. This is a
12 record on page one which I will get back, attached to the
13 record is executed loan agreements and the eventual
14 executed developer agreement. The court is probably aware
15 the executed agreements have their own independent legal
16 significance, so they're not hearsay anyways. So, the
17 only question is the cover page. Again, Your Honor,
18 remembers the privilege disputes we had. We got a
19 privilege log from the developer which included privilege
20 claim on his real estate attorney documents. We
21 eventually were able to force the production of this
22 record, page one, which shows when the attorney, Mary
23 Gwen, created her record of the executed notes. So, this
24 record was created -- it's contemptuous records. It was
25 created by Mary Gwen in the course and scope of her

1 employment. It's a regular business activity, it's also a
2 declaration by a party opponent that she received this on
3 this date, the date is July 24th, 2017, and not that it
4 matters for the hearsay argument, but the -- again, it
5 shows that his real estate attorney has receipt of the
6 notes indicating his \$300,000 was tied to the downpayment
7 notes before he bypassed the association and gave the
8 money directly to Golf Gym. Thank you, sir.

9 MR. KRAWCZYK: So, my objection to this
10 document is only to the first page, the reflection of the
11 privilege log. Obviously not to the notes that follow on
12 behind it. It is -- I don't understand what the relevance
13 this would be to a jury.

14 THE COURT: I'm not sure either. It is
15 some kind of date relevant as to when --

16 MR. LUCEY: Yes, Your Honor. The
17 privilege log shows the date the record was created in
18 Mary Gwen's office which precedes all of his transfers
19 claiming no knowledge to Golf Gym of the association's
20 \$300,000. That date is a record created by the
21 defendant's agent in her regular course of business or the
22 defendant himself, the attorney's office, whoever it is.
23 It shows the date they created the record in Mary Gwen's
24 office, and it's an admission by a party opponent.

25 THE COURT: So, you're looking at the

1 \$300,000 that's on 5113 bates note?

2 MR. LUCEY: On the bates I'm looking at
3 the very cover page which doesn't have a bates note.

4 THE COURT: No, no. I'm just talking
5 about that goes to that issue of the \$300,000?

6 MR. LUCEY: Yes, sir. Yes, sir. And the
7 cover page dates and the receipt and the creation of the
8 saved document as July 24th, 2017.

9 THE COURT: I'm going to allow it, okay.

10 MR. KRAWCZYK: First page, the privilege
11 log?

12 THE COURT: Yes, sir.

13 MR. KRAWCZYK: Okay.

14 MR. LUCEY: On the same related matter,
15 Your Honor, I'm handing to the court Exhibit 32.26 and
16 it's the demand letter that went to the association
17 because they were not being repaid that \$300,000 that had
18 been pledged to their note. The letter is being offered
19 purely for notice and what happened -- what the HOA was
20 subject to when the obligation was bypassed from Mr.
21 Rajiford. We're not offering this to say the money is
22 actually owed or that there was a breach simply notice of
23 the problem.

24 THE COURT: Say that again for me, Mr.
25 Lucey.

1 MR. LUCKEY: So, we're not offering this
2 to prove that there was a breach or there was money owed
3 simply the notice of the expectations of the noteholders
4 under the signed agreements. And I should have added,
5 this is a business record out of the association's file so
6 it is also admission by a party opponent.

7 MR. KRAWCZYK: Well, so, I object to this
8 on the grounds of hearsay because this is signed by two
9 individuals that are not parties to either side of this.
10 I understand the argument that it is being offered for
11 notice purposes only, but this is making assertions of
12 fact in it.

13 THE COURT: But now that the homeowners
14 is a party opponent wouldn't it be admissible from that
15 standpoint?

16 MR. KRAWCZYK: Well, they didn't create
17 the document. This is the individual homeowners that sent
18 this to the HOA, and as far as the business records
19 exception goes, it's got to be a business record that's
20 created by the party.

21 THE COURT: Yeah.

22 MR. KRAWCZYK: And it's not this.

23 THE COURT: I would agree with that.

24 MR. LUCEY: A business record doesn't
25 have to be created by the party, but if there is hearsay

1 within the record it has to satisfy an independent
2 admissibility criteria. In this case --

3 THE COURT: It's got to be created by the
4 business.

5 MR. LUCEY: The business record gets
6 created by the HOA taking the document they received and
7 putting it in their file. They now have the business
8 record. They're trying to allege that the demand letter
9 itself is hearsay. The demand letter is not being offered
10 for the truth of the matter asserted which is that you owe
11 us money. It's been offered for the notice. So, it's not
12 being offered for the truth of the matter asserted. So,
13 it satisfies its own leg of the double hearsay review.

14 THE COURT: So, going back to what you
15 represented earlier, if it's something I send to the HOA,
16 and they take it and put in its file, it's automatically a
17 business record?

18 MR. LUCEY: It's now their business
19 record. They've kept it in the regular course of their
20 business. However, if what you sent me has hearsay in it
21 then I have to satisfy a hearsay objection on that, double
22 hearsay. In this case, I'm satisfying that because it's
23 not hearsay because it's not offered to prove the truth of
24 the matter asserted. It's purely offered to prove notice
25 to the --

1 THE COURT: Well, how many notices are
2 you going to have? It gets a little cumulative, isn't it?

3 MR. LUCEY: Yes, Your Honor. Not
4 cumulative, but, you know, there's the notice to start --
5 this is the notice the start of the problem that occurs
6 after the money has already transferred. So, we're almost
7 having to work back. Nobody knew this problem existed
8 because Leanne put it in a secrete account and nobody knew
9 the transfers existed. And nobody knew the developer was
10 not going to pay the \$3,000 per lot and that he was going
11 to claim he had already given it to the failed golf
12 course, sorry, see you later. So, that's how the
13 association learned it in hindsight, in retrospect.

14 MR. KRAWCZYK: That is a lot of facts
15 that would need to be developed at trial, that will be
16 disputed. In terms of --

17 THE COURT: I think that you going to
18 have to lay your foundation at trial. I tend to agree
19 with you Mr. Lucey, but at this juncture I'm just going to
20 have to hear it, okay.

21 MR. LUCEY: Yes, sir. Exhibit 46.21,
22 this is the United States Tax return, Your Honor. It was
23 prepared by the same CPA Fleaflet. It was prepared in the
24 course and scope of his engagement. It is an admission by
25 a party opponent. It is not hearsay. The relevance of

1 this document, Your Honor, is if the court will turn to
2 bate stamp 156, it's about two thirds of the way back.

3 THE COURT: Okay.

4 MR. LUCEY: If the court will look at the
5 third line it will see management fees, HH and LL,
6 \$600,000. Mr. Rajiford under oath has denied TR Sales
7 manages LL. This is totally relevant; this is an
8 admission by a party opponent that he represented to the
9 Federal Government that TR Sales manages LL of South
10 Carolina on the 2021 tax return.

11 MR. KRAWCZYK: Sir, the testimony of Mr.
12 Rajiford is consistent with everyone is that TR Sales
13 provides the administrative support, does the payroll for
14 LL. And so there is a management fee that LL pays at the
15 advice of tax counsel, the tax advisor, the CPA, from
16 time-to-time for those services, and that's what this
17 reflects. If, you know, somehow relevant for I guess
18 impeachment purposes then certainly they can use that
19 impeachment purposes, but in terms of evidence for trial,
20 there's no issue at trial that this relevant to. TR Sales
21 tax returns aren't relevant to any issues at trial.

22 MR. LUCEY: It is absolutely and
23 repeatedly denied under oath for pages and pages that TR
24 Sales provided any management services to LL. He never
25 said the \$200,000 relates to the bookkeeping, and that

1 would be obnoxious anyway.

2 THE COURT: \$600,000.

3 MR. LUCEY: Six hundred. Three of it is
4 for HH which is Hiren Hills, 300,000 is for LL. So, it's
5 300 for LL in one year. It would be obnoxious for anybody
6 to assert \$300,000 is for bookkeeping, but it's never been
7 asserted and it's not been in any deposition in this case
8 that they paid \$300,000 for bookkeeping. The assertion is
9 that they paid -- they reported \$300,000 for management
10 fees for management, and he is denied under oath
11 repeatedly, repeatedly, TR Sales provided any management
12 services to LL even while admitting that his only pay
13 check comes from TR Sales. Doesn't get any other pay
14 check, and all of his activities are for TR Sales.

15 THE COURT: And I know I am being slow on
16 this, but tell me which issue in your case in chief that
17 you said that would go to?

18 MR. LUCEY: It will go to TR Sales join
19 participating in all breaches of fiduciary duty. It's not
20 just LL or RTI, TR Sales directly participated. And if I
21 may add, let's consider -- if the court doesn't mind
22 considering two issues at the same time, I will put it in
23 even clearer perspective, I'm going to hand the court's
24 Exhibit 57 which is the publicly available record of the
25 ownership of the website known as Mount Vintage dot com.

1 This website was created 35 years ago by the original
2 developers to the extent that there were websites back in
3 that day. But anyway, the original developers created it.
4 Somehow it got transferred and the court can see clearly
5 here the registration for this webpage where LL through
6 all of its marketing of -- lots is TR Sales Plantation,
7 LLC. And the name of the registrant is Wayne Rajiford
8 under TR Sales Plantation, LLC. So, there's a number of,
9 there's a number of pieces of evidence tying TR Sales to
10 the operations of Mount Vintage.

11 THE COURT: All right. I'm going to
12 allow it.

13 MR. KRAWCZYK: The entirety of the tax
14 return?

15 THE COURT: Well, that's a good point. I
16 don't see that you need to have the entirety of the tax
17 return.

18 MR. LUCEY: I will be happy to extract
19 the signature page, the first page, and the reporting of
20 fees page.

21 THE COURT: Okay, very good.

22 MR. KRAWCZYK: Well, sir, I mean, what
23 about all the other pages that talk about the income that
24 TR Sales has earned? I mean, that's not relevant to
25 anything. And to my knowledge there's been no allegation

1 in this case that all of these defendants ought to be
2 treated as an amalgamation.

3 THE COURT: I thought that he was saying
4 I'm going to do the front page, signature page, and that
5 page that we had the \$600,000 management fee noted.

6 Is that what -- isn't that what you said,
7 Mr. Lucey?

8 MR. LUCEY: Yes, sir.

9 MR. KRAWCZYK: The signature page shows
10 the net income for TR Sales.

11 THE COURT: Says what?

12 MR. KRAWCZYK: The signature page shows
13 the net income for TR sales, that's the summary of all the
14 tax activity, income and expense.

15 THE COURT: Can't you -- any reason why
16 you can't redact it?

17 MR. LUCEY: I will be happy to redact
18 that, sure.

19 THE COURT: Okay, very good.

20 MR. KRAWCZYK: All those numbers?

21 MR. LUCEY: Sure.

22 MR. KRAWCZYK: And to be clear, I mean, I
23 want to be very clear about this. There have been no
24 allegations there's been an amalgamation of these entities
25 so far. Is that where we are going into trial?

1 MR. LUCEY: I'm not alleging
2 amalgamation.

3 THE COURT: Sounds like it's getting
4 pretty close.

5 MR. KRAWCZYK: Yeah. I mean, that's
6 exactly what this is for.

7 MR. LUCEY: I have not moved for
8 amalgamation motion. I have not alleged it.

9 THE COURT: All right.

10 MR. LUCEY: Exhibit 32.22, this is an e-
11 mail from Leanne Keeles part owner of defendant LL and
12 treasury of the association -- and at this point in time I
13 believe she is also on the board, this is 2018. And at
14 this point in time, she is the liaison for the board and
15 the developer to Golf Gym LLC, the golf club. And so
16 essentially the testimony will be essentially she's
17 running it. But this is a response by her to Golf Gym's
18 leader Bob regarding why aren't you passing a bigger
19 assessment to help fund our negative cashflow here, and
20 her explanation about how the finances are working. Your
21 Honor, first and foremost this is not hearsay because it
22 is a declaration by a party opponent within the scope of
23 their services. Whether it's Leanne's developer role as
24 liaison for the association to the golf club or as the
25 treasury of the association both roles are within the

1 scope.

2 THE COURT: Hang on for a minute.

3 MR. LUCEY: Yes, sir.

4 (Pause)

5 THE COURT: All right. So, go ahead,
6 tell me again.

7 MR. LUCEY: So, the bottom e-mail, Your
8 Honor, is an e-mail, blanket wide e-mail, from the
9 association to its homeowners saying basically life is
10 good, things are great. We still might give you a slight
11 assessment of \$275, but everything is working out great,
12 okay. The Golf Gym, golf club then objects and says \$275,
13 that won't do enough for us, we need more money than that.
14 Leanne then responds to all the reason that you can't do
15 more, doesn't want to do more whatever else. This is not
16 hearsay because it is done within the scope and course of
17 Leanne's employment for both entities, and it's admission
18 by a party opponent. To the extent it is deemed
19 otherwise, it is also not being offered to the truth of
20 the matter asserted. The gist of the newsletter is
21 finances are great and we can explain them. This is being
22 offered to show how bad the finances are. It's not being
23 offered for the truth of the matter asserted; it's being
24 offered to the falsity of the matter asserted. So, the
25 two reason it's admissible.

1 MR. KRAWCZYK: So, I only objected to the
2 top part of this, not the e-mail communication from the
3 HOA to all the homeowners, but the top part, and part of
4 my objection was based on I didn't know what the court's
5 decision was going to be about the HOA and its alignment,
6 because it looks like Ms. Keeles is responding on behalf
7 of the HOA, and if that's the case then I do think this is
8 probably an admission by a party opponent. Now, that
9 being said, it is being offered for the truth of the
10 matter asserted, that's just inescapable but since it's an
11 admission by a party opponent, I think it probably is
12 admissible so.

13 THE COURT: Is that what you was doing
14 for the HOA?

15 MR. LUCEY: Well, the HOA, but she also
16 controls the HOA, excuse me, and the golf course for the
17 developer. She's acting in both capacities here. She's
18 in that HOA position because she --

19 THE COURT: Was she responding for the --
20 as the representative of the HOA at this time when she's --
21 -

22 MR. LUCEY: As the developer's
23 representative of the HOA.

24 THE COURT: All right. I'm going to let
25 it be admission then.

1 MR. KRAWCZYK: Yeah, I think so. This
2 brings up another evidentiary thing before we get to
3 trial.

4 THE COURT: Okay.

5 MR. KRAWCZYK: So much of this, so much
6 of the evidence depends on who it's being offered for or
7 against. I don't know how we treat that, if we treat it
8 at all. But so much of these documents are admissible
9 under the party opponent exception depending on what hat
10 folks are wearing.

11 THE COURT: Well, I think that whether
12 the jury follow it or not, it might be viable saying this
13 is admitted for the purpose as to whatever top sale or LL
14 of SC or whoever, I don't know that the jury is ever going
15 to follow that though.

16 MR. KRAWCZYK: I don't think they are. I
17 can't follow it.

18 THE COURT: I can't either.

19 MR. LUCEY: It's a situation, the
20 developer --

21 THE COURT: But it comes in. I mean, it
22 doesn't mean it's not coming in. I just -- if you think
23 it's something that I can tell the jury when it comes in
24 that will be helpful.

25 MR. KRAWCZYK: Uh-hm.

1 THE COURT: I'm more than glad to try it.

2 MR. KRAWCZYK: Yes, sir.

3 THE COURT: Okay. Sometimes, the more
4 you say the worse it gets.

5 MR. KRAWCZYK: Yeah.

6 THE COURT: But --

7 MR. KRAWCZYK: Yes, sir.

8 THE COURT: All right.

9 MR. LUCEY: Exhibit 11.1 is identical to
10 the previously heard issues relating to Lourie Gardner.
11 The exhibit has a Lourie Gardner memo at page 20 and 21.

12 THE COURT: What's the first page I'm
13 looking at?

14 MR. LUCEY: The first page is this is a
15 file from the developer. This is developer's file on dept
16 X.

17 THE COURT: Okay.

18 MR. LUCEY: This is the developer's 2013
19 file when he tried to buy the note from the golf course
20 prior to it going into foreclosure, and this is the advice
21 he got from Lourie Gardner during that effort, and that's
22 found on page 20 and 21. And her memo for some reason is
23 filed in reverse order so the second page is first. So,
24 she starts out by saying, Hi Wayne, I want to recap my
25 thoughts based on our conversation about the golf course.

1 So not only is it not hearsay because it's by an agent --
2 deceleration by an agent within the course and scope of
3 her employment but this is also contemporarily recorded
4 recollection which is an independent hearsay objection.
5 It's also her recording of Wayne's thoughts from a phone
6 conversation which is also an admission by a party
7 opponent. She goes on to provide, just like the other
8 memorandums, her advice about the acquisitions or non-
9 acquisition of the golf course, and whether or not the
10 golf course should be acquired by the developer and
11 various financial ramifications of acquiring the golf
12 course or not acquiring the golf course. You need to
13 acquire it one way or another to sell lots, but owning a
14 golf course is a nightmare, you should avoid it at all
15 costs. This is a -- this document is admissible for all
16 the prior reasons we discussed with regards to the
17 developer's agent during the course and scope of her duty,
18 the other hearsay exception. And it also constitutes
19 notice to Mr. Wayne Rajiford from 2013 that the
20 acquisition cost of a golf course is only a small cost --
21 is only a small part of the cost. The maintenance cost is
22 a very significant problem.

23 You will see on the fourth paragraph --
24 fifth paragraph of page one where she refers to HOAs going
25 upside-down and holding the bag because communities

1 falling into disrepair because the homeowners can't afford
2 to pay the bills. So, these two pages are the only two
3 pages in the exhibit as I understand that the defendant
4 has objected to.

5 MR. KRAWCZYK: Almost, and also the last
6 page.

7 THE COURT: And also, the last?

8 MR. KRAWCZYK: Yeah, it's bates ending
9 961, the very last page of the packet. I think this is
10 also something from Ms. Gardner that was sent to Wayne.
11 So, we have already talked about Ms. Gardner, and I'm
12 going to brief the court on that issue about whether or
13 not she's an agent, and that qualifies for hearsay. I
14 also want to raise to the court's attention that the date
15 of this e-mail we've been discussing and apparently also
16 this last page memo is from June and July of 2013 that was
17 even before Mr. Rajiford even became the developer. So,
18 you know, our position would be that this is also not
19 relevant because this is before his time as developer even
20 commenced. He didn't get the deed in lieu until September
21 of that year, and then, of course, the foreclosure sale is
22 in November of that year.

23 THE COURT: So how -- if it's before he's
24 developer --

25 MR. LUCEY: Mr. Rajiford didn't get a

1 brain cleanse the day he became developer. This is
2 knowledge and notice he acquired as he foreclosed on the
3 property that he took the board with him as the developer.

4 THE COURT: Say that again please.

5 Notice when he foreclosed on the property --

6 MR. LUCEY: This is knowledge and notice
7 receive by Mr. Rajiford as he's foreclosing on Mount
8 Vintage that he carries forward with him into his
9 management of Mount Vintage. This is notice to him of the
10 financial problems that are associated with these
11 amenities. He knew from day one why there were problems
12 with the amenities. As it turns out, and this is the
13 courthouse, he bid 1.5 million for the course in 2013 as
14 he was foreclosing, as he was completing his foreclosure.
15 He lost that bid to Apex Bank, they bid more. They bid
16 2.2, he wouldn't bid 2.2. He didn't think it was worth
17 it. Because he lost the bid to Apex in 2013 at 2.2, the
18 homeowners ended up paying in 2016, 2.9 million to get
19 back. Mr. Rajiford personally only offered 1.5 million
20 for it.

21 MR. KRAWCZYK: Okay. Let's go back a
22 little bit further back on that because the historical
23 context is really interested. It as the initial
24 developer, MD Development, that sold or spun off the golf
25 course and the town center long before Mr. Raijiford was

1 ever involved, and then both of those assets, amenities,
2 were transferred to other entities that incumbered those
3 properties with debt that defaulted, that ended up going
4 into this Plantation Alliance entity.

5 THE COURT: That went into what?

6 MR. KRAWCZYK: They went into a separate
7 LLC, setup by someone else called Plantation Alliance but
8 the golf course and the town center went into that.
9 Plantation Alliance encumbered those amenities again with
10 debt, defaulted, and that's how a bank ended up with
11 ownership in this. It's not that Mr. Rajiford somehow
12 allowed these amenities to go into foreclosure, and he was
13 asleep at the wheel, that just didn't happen. By the time
14 he became the developer they were already out of the
15 developer chain of title going back years, and no one did
16 anything about it including the plaintiff homeowners who
17 were there at the time that they were spun off into
18 separate entities. So, yeah, it's regrettable that Mr.
19 Rajiford lost his bid, but they were already out of the
20 development by the time he came on and acquired developer
21 rights.

22 THE COURT: So, what is the relevance of
23 it? And, maybe, I'm just being obtuse over here, I'm just
24 --

25 MR. LUCEY: Well, the primary relevance

1 of this document is it advices Rajiford that the golf
2 course --

3 THE COURT: It's going to cost him money.

4 MR. LUCEY: It's unmanageable. You can't
5 afford it, and the homeowners can't afford it. He never
6 discloses information to the board of directors when they
7 vote on the acquisition of the golf course. He never
8 discloses to the board of directors that he once bid on
9 it. He never exposed to the bord of directors that he
10 only bit 1.5 because it was only worth 1.1.

11 MR. KRAWCZYK: The testimony at trial is
12 going to be that when the board of directors voted to
13 acquire those amenities Wayne told them, you're
14 overpaying, and they did it anyway because they had no
15 other choice. It was either pay too much and get the
16 amenities or let it turn into a wheat field. It was one
17 or the other. The bank held a gun to their head, and then
18 they made the best choice out of a bad decision. That's
19 going to be the testimony.

20 THE COURT: And the only way the
21 development is going to go is to have the golf course?

22 MR. KRAWCZYK: That's right.

23 THE COURT: Well, I mean, I can see your
24 first -- well, how about this last one document that's
25 dated for June 12th? I haven't -- let me look at it right

1 quick.

2 (Pause)

3 MR. LUCEY: In large part that this last
4 page simply reinforces Lourie Gardner's role in this
5 development. She is the business mind; she is the
6 consultant. These are all of the steps that she is
7 advising. As they're getting ready to complete their
8 foreclosure and take over Mount Vintage this is all done
9 by an agent of a party opponent and the course and scope
10 of her employment is all an admission by a party opponent
11 and it's also business record. It's also
12 contemporaneously recorded business record. And the whole
13 file is Mr. Rajiford's file from 2013. These are all his
14 business records.

15 THE COURT: I'm not going to let that in
16 right now, if she opens the door somehow, maybe, you can.
17 But I'm not going to let that in, okay.

18 The first one, I am.

19 MR. KRAWCZYK: Yes, sir.

20 THE COURT: Okay. So, that's limited,
21 Mr. Lucey, to the last page.

22 MR. LUCEY: Yes, sir.

23 THE COURT: Okay.

24 MR. LUCEY: Exhibit 37.12 is an e-mail by
25 a gentleman named Rick Atkins. Rick Atkins, Your Honor,

1 has been Mr. Rajiford's marketing agent at Mount Vintage
2 for roughly ten or so years. Originally, he was working
3 for Al, the main realtor. And then Al died and Rick took
4 over. He's been probably sole sales agent for Mr.
5 Rajiford for, maybe, the last eight or nine years. He
6 actually assisted Mr. Rajiford in acquiring a lot of his
7 lots, and he's involved in marketing. In fact, Mr.
8 Rajiford pays for what they call Mr. Atkin's collateral,
9 his marketing materials, his business cards are paid out
10 of LL of South Carolina's books.

11 Mr. Rick Atkins wrote to this gentleman,
12 John, in response to his question, and made a
13 representation that the developer spent \$500,000 last year
14 in marketing Mount Vintage. He did not; that's a lie.
15 This is being offered for the falsity of the matter. This
16 is an admission, a false admission, by a party opponent,
17 and this is within the course and scope of Rick Atkins
18 employment. Mr. Rajiford has admitted under oath, ten
19 days ago, that this was false when made, that, maybe, he
20 spent 50,000 the prior year. Thank you.

21 MR. KRAWCZYK: Yes, sir. So, Mr. Atkins
22 is a real estate agent. He works for a different real
23 estate company. He's dedicated to selling Mount Vintage
24 properties because he's a resident of Mount Vintage. I
25 mean, there's not doubt that he was wrong about this

1 \$500,000 figure. Our position is that he's not an agent
2 of LL, we've already argued the hearsay stuff -- but now
3 we've got a relevance, and a 403 problem. The importance
4 of this document to them is here you have a real estate
5 agent who is telling someone else that \$500,000 was spent
6 on marketing. Okay, he was wrong, all right. What's the
7 relevance of that? Who does that matter to? This
8 gentleman that it was sent to, John Davis, he's not
9 involved in this case. There's been no evidence that he
10 relied on this to his detriment, and even if, you know,
11 this were relevant this is still a 403 problem. They're
12 trying to use that to show that somehow there's a grand
13 conspiracy of liars around Wayne Rajiford, and here's Rick
14 Atkins being another one, and I --

15 THE COURT: I agree with you.

16 MR. KRAWCZYK: Yeah.

17 THE COURT: I agree with you. I think
18 that, you know, they may open the door and let it in, but
19 right now, I'm not going to let it in. I think it's 403,
20 it's just no -- I don't see that it's got much relevance
21 to anything in this case really except everybody is a
22 general liar.

23 MR. LUCEY: Well, the relevance is, Your
24 Honor, is that they actually didn't market this property.
25 They drove down all of the values for three and a half

1 years while they brought another hundred lots. They
2 didn't start marketing until after the caused the
3 amenities to be brought on the backs of the homeowner;
4 that's the relevance. There was no marketing.

5 THE COURT: I -- let me just say this.
6 You know, I'm trying to make this thing out -- I don't
7 have the benefit of having heard all of the facts, but
8 right now I'm saying I'm not allowing it in. If you want
9 to try it during the trial, I'm not going to stop you.
10 But you're going to have to -- I would make a call then.
11 Right now, I don't think it's relevant, and I think it is
12 -- 403.

13 MR. LUCEY: Exhibit 7.7, sir.

14 THE COURT: Okay.

15 MR. LUCEY: This is the audit for the
16 year 2016 for the Mount Vintage homeowners association.
17 The audits, the court may be aware, any CPA analysis of
18 your books would typically be accompanied by one of more
19 notes. Notes explains one or more numbers, and the
20 financial statement; it's a form of clarity by
21 accountants. This audit has three pages of notes attached
22 to it as does every year at Mount Vintage, and those notes
23 have been objected to by the defendants. The court will
24 find those notes beginning at bates stamp 35.

25 MR. KRAWCZYK: No, that's not my

1 objection.

2 MR. LUCEY: I thought you said notes.

3 MR. KRAWCZYK: Yeah. This is found on
4 page four through six.

5 THE COURT: What page is it?

6 MR. KRAWCZYK: Four through six. There's
7 no bates stamps on these pages. It's literally like the
8 fourth page of this document. And four through six, I
9 don't know how this got objected, but this is just an e-
10 mail stream from the --

11 THE COURT: Yeah.

12 MR. KRAWCZYK: A homeowner, you know, the
13 secretary for the board, and so, that's hearsay. It's
14 also not relevant to anything.

15 THE COURT: And it's not part of the
16 document.

17 MR. KRAWCZYK: Yes, it's not part of the
18 document. So, we would ask that that be out. Everything
19 else I don't have an objection to.

20 MR. LUCEY: That's fine, Your Honor.

21 THE COURT: Okay, good.

22 MR. LUCEY: Exhibit 18.59, this is an e-
23 mail report by two members of the HOA board, excuse me,
24 board committee that have been assigned to investigate
25 what the court will hear about next week called fourth and

1 parcels. It's about four dozen parcels of real estate in
2 or around Mount Vintage that are not tied into the
3 conveyance property or, perhaps, not at all. First, let's
4 -- the greenspace at the front entrances; it's green, it's
5 out there; it's not on a map as greenspace but there isn't
6 actually an official document, recorded document, that
7 says hey, that greenspace belongs to those conveyance.
8 So, they had an effort -- or it's governed by those
9 conveyance. They had an effort to investigate the orphan
10 parcels. This is the work from one of the persons on the
11 committee, Paul, to Jerry Gerzz -- G-E-R-Z-Z. He's a
12 board member named Jerry Schaefer. They have been
13 collaborating on assembling this list, and the list is
14 attached. This is not offered for the truth of the matter
15 asserted. It's offered as the ongoing list that they were
16 working on, that they were investigating. It is an
17 admission by a party opponent. These two gentlemen
18 assembled it in the course and scope of their employment
19 for the association, and so it's not being offered for the
20 truth of the matter asserted. It's actually being offered
21 to show that the board of directors has been working on
22 this issue since 2017, seven years, seven and a half
23 years. This similar list shows up in the annual meeting
24 presentation in 2019. This is the earlier version of what
25 was presented to the homeowners in 2019.

1 THE COURT: And that goes to what as far
2 as your cause of action is concerned?

3 MR. LUCEY: It goes to our breach of
4 fiduciary duty, Your Honor. The developer has been aware
5 for 13 years that there are 48 odd, unmanaged parcels, in
6 and around Mount Vintage that needed to be part of this
7 development that aren't. Case in point, three months ago
8 a foreclosure occurred on some of the greenspace. Stanley
9 Martin brought it. They filed -- this is the greenspace
10 at the rear entrance; what's called the north entrance.
11 They brought -- they had filed an Edgefield County
12 application to build a house on the homeowners'
13 greenspace. The developer gave them a letter permitting
14 them to do it. He not only did not try and get the
15 greenspace back, he gave another developer permission to
16 build a house, a residential house, structure, on the
17 homeowner's greenspace at the entrance. Thank God we
18 found out about it. It was blocked as Your Honor refused
19 to approve it, but it's part of the plaintiff's breach of
20 fiduciary duty against the developer who's supposed to be
21 the steward of this pub, and has been acting against the
22 pub's interest.

23 MR. KRAWCZYK: So, my objection to this
24 is relevance. I'm not aware of where in the conveyance or
25 anywhere generally there's an obligation on developers to

1 purchase so called orphan parcels back. Land that is
2 within the development but was never for whatever reason
3 designated particularly by a prior developer.

4 THE COURT: Is there anything in the, I
5 guess, the bylaws, convenience, or anything in advertising
6 materials that show any of these lots as being part of
7 this deal?

8 MR. KRAWCZYK: Not that I'm aware of.

9 THE COURT: Well, if they're not part of
10 -- or if they've not been made -- represented to be part
11 of this deal, I mean, because I heard you say earlier --
12 or I thought I heard you say this greenspace is shown to
13 be a greenspace for everybody, but then they don't have
14 any documents showing it's been -- it ties it into the
15 homeowners association or to the development. But these
16 other documents doesn't seem to have the same thing, these
17 other lots.

18 MR. LUCEY: Yes, for instance, the
19 greenspace at the rear entrance has greenspace on the
20 neighborhood map since the beginning of time. That same
21 map --

22 THE COURT: Are these lots showing on
23 that map?

24 THE COURT: The greenspace for that rear
25 entrance lot that --

1 THE COURT: No, I'm talking about these
2 other lots that are on here and it's referenced.

3 MR. LUCEY: They are almost all shown on
4 there. One of them, one of them, is shown as future
5 development. We don't include that in our list.

6 Everything else is shown on there as land that's adjacent
7 to the golf course, between the houses and the golf
8 course. Not land for development. It is actually, like
9 for instance, there's another 35 acre -- 39-acre parcel
10 that recently surfaced. That's part of the drainage plan,
11 the DHEC approved drainage plan, for this neighborhood.
12 It's shown as trees in the neighborhood plans says 20 --
13 says the year 2000. It's shown as vacant space between
14 houses and a golf course. So, yes, it is --

15 THE COURT: So, going back to this. I'm
16 looking at this July 17th of '21 Goldhorn to Schaefer, and
17 it says you got 1.7 acres of roads, 116.17 acres and all
18 of those.

19 MR. LUCEY: The roads are part of it.
20 The developer -- this developer has never gathered up the
21 ownership of the roads to give to the association. A
22 prior developer --

23 THE COURT: A road usually went to the
24 county or the state.

25 MR. LUCEY: You have to construct them to

1 an acceptable standard before you can get them to a county
2 or a state which these are not which these are not. And
3 when he foreclosed, he never made arrangements to get the
4 roads from the prior developer. So, the association --

5 THE COURT: Are these -- the refence to
6 these different lots that I'm looking at, if I were buying
7 into this development, would I have something that would
8 show me or represent to me that this was included within
9 that development?

10 MR. LUCEY: Visually, yes. For instance,
11 a couple of these parcels are the boards on the roads in
12 the development.

13 THE COURT: Okay, I mean, that may be.
14 I'm just -- tell you what, I think you're just going to
15 have to lay some kind of foundation to show me that it was
16 part of it. I think if it was then I think is relevant,
17 but if it's just the parcels out there that were not ever
18 made part of the deal to anybody else then I think that's
19 another question.

20 MR. LUCEY: Okay.

21 THE COURT: Okay. And I'm sorry to be
22 wishy washy on that, I just --

23 MR. KRAWCZYK: No, it's complicated
24 stuff.

25 THE COURT: I would say it is. That's

1 why y'all make the big dollars.

2 Exhibit 16.11, I should have put it up
3 with -- the same time as 19.3, it is the e-mail version of
4 19.3. So, all the arguments presumably the ruling that
5 the court already granted in 19.3 the Lourie Gardner e-
6 mail would apply to this. It's just this one -- this
7 version has a date on it, page eight of the exhibit, Your
8 Honor; page eight of 16.11. This version of Exhibit 19.2
9 has an e-mail transmission and date showing the receipt of
10 it, and sending receipt of it.

11 THE COURT: What is 19.3 again?

12 MR. LUCKEY: 19.3 was a --

13 THE COURT: I got it. I got it.

14 MR. LUCEY: Yeah.

15 THE COURT: Okay, and tell me how it ties
16 in please, Mr. Lucey.

17 MR. LUCEY: It's the exact same document
18 as 19.3. It's just on an e-mail format showing that it
19 got sent and got received, that's all. And the only
20 reason we care is this document was used in one of the
21 depositions instead of 19.3. Same document and presumably
22 be the same ruling by the court.

23 MR. KRAWCZYK: Yeah, I think your ruling
24 applies just the same on that.

25 THE COURT: Okay.

1 MR. KRAWCZYK: And so, I'm going to about
2 -- the independent contractor thing.

3 THE COURT: All right.

4 MR. KRAWCZYK: There is an addition to
5 this packet of documents that I have an objection to. If
6 you start right after that e-mail string Mr. Lucey was
7 referencing this --

8 THE COURT: And we're looking at 16.11?

9 MR. KRAWCZYK: Yes, sir.

10 THE COURT: Okay. So, what bates number
11 am I starting on?

12 MR. KRAWCZYK: It ends 4-8-8 and it goes
13 to 4-8-9 and 490. This is apparently advertising material
14 for a different subdivision, Three Runs Plantations.

15 MR. LUCEY: We're happy to remove it,
16 Your Honor.

17 THE COURT: Okay. Perfect.

18 MR. LUCEY: So, I think the last exhibit
19 I'm going to ask the court to look at today --

20 THE COURT: Did I hear you say last
21 exhibit?

22 MR. LUCEY: Yes, sir.

23 (Laughter)

24 MR. KRAWCZYK: Make him sign an
25 affidavit.

1 MR. LUCEY: Exhibit 63.26.

2 MR. KRAWCZYK: I can make this easy, I
3 think -- the court's prior ruling about alignment. I
4 think this is an admission by a party opponent.

5 THE COURT: Good enough. Are you
6 planning on putting these in some type of notebook?

7 MR. LUCEY: Yes, sir.

8 THE COURT: Do you plan on giving the
9 jury notebooks they can have and look at it while they're
10 going through it?

11 MR. LUCEY: No, we're going to be putting
12 them on the board in multimedia if that's acceptable to
13 the court?

14 THE COURT: Fine with me. You know, one
15 thing I do, just for FYI, if you're going to show
16 multimedia in your opening make sure they've already been
17 admitted in the record other than that, I have no problem.

18 MR. LUCEY: Which is my last point with
19 the court, Your Honor.

20 THE COURT: Okay.

21 MR. LUCEY: Lourie Gardner, those are
22 admissions by a party opponent during the course and
23 scope, I should be able to use those in my opening. I can
24 use an admission by a party opponent at -- in any way that
25 I am inclined subjected to the court's ruling. And at any

1 way I'm inclined at any point in my case. I can publish
2 it; I can do anything I want. I'm supposed to be able to
3 use it in my opening. If we could possibly have briefing
4 in opposition to any of her e-mails be due say, you know,
5 midmorning Friday or so, so we can -- the court can make
6 any ruling. I understand that they're in unless they show
7 otherwise, but I want to be comfortable using them in my
8 opening.

9 THE COURT: All right.

10 MR. KRAWCZYK: Yeah, I think that's fine.
11 I think I can make, let's say, noon Friday, but I think I
12 can do it. There are only two objections I think that Mr.
13 Lucey had to my documents and I think Your Honor's already
14 resolved them, and probably against me.

15 THE COURT: Sorry about that.

16 MR. KRAWCZYK: The first one is, it was a
17 copy of the 2020 homeowner's petition against
18 participation in light of Your Honor's prior ruling that,
19 you know, there's no relevance to homeowners expressing
20 directly as testimony that they don't support the lawsuit.
21 I think that probably resolved the fact that that petition
22 is not admissible.

23 THE COURT: And, you know, who knows
24 what's going to happen during the trial. Things may open
25 the door, I don't --

1 MR. KRAWCZYK: That's correct.

2 THE COURT: Okay.

3 MR. KRAWCZYK: And then the second one
4 was the court's order granting partial settlement. I
5 think we've resolved that by saying how we were going to
6 address it, and the fact that --

7 THE COURT: That was resolved, that was
8 disputed or whatever that --

9 MR. KRAWCZYK: That --

10 THE COURT: Dismissed and you resolved --

11 MR. KRAWCZYK: Dismissed or resolved, and
12 that I can't bring up the funds that are being held by
13 plaintiff's counsel. That would come up and setoff if
14 ever.

15 THE COURT: Well, let me all right -- Mr.
16 Lucey, you agree with that?

17 MR. LUCEY: Yes, sir.

18 THE COURT: Let me ask you, how long --
19 just from my perspective and seeing how this case is going
20 to operate, are you going to end up like when Mr. Lucey
21 puts up a witness are you going to cross-examine them
22 along with, Mr. Buckinham?

23 MR. BUCKINHAM: I don't have any
24 intention to do that, Your Honor.

25 THE COURT: Okay.

1 MR. BUCKINHAM: I reserve the right to do
2 it if, let you say, you never know what pops up.

3 THE COURT: I mean, if they're a party
4 opponent I think you certainly have that right.

5 MR. BUCKINHAM: That's correct, Your
6 Honor. But at this point --

7 THE COURT: Are you going to do opening
8 statements too?

9 MR. BUCKINHAM: I'm not intending to at
10 the moment, Your Honor.

11 THE COURT: Okay. I mean, you have that
12 right.

13 MR. BUCKINHAM: I understand that.

14 THE COURT: I just want to know.

15 MR. LUCEY: Can we ask for notice by
16 Sunday night if they change their mind, and decide to make

17 MR. BUCKINHAM: Yeah, absolutely.

18 THE COURT: Yeah, please. I mean, as
19 much as y'all can agree upon. I know that this -- it's a
20 fight, that's why we are here. And I know that we're not
21 over here kissing each other on the back. We're going to
22 fight. But as much we can agree upon that would be great.

23 What chance do you think of there being a
24 resolution of this before we get to Edgefield?

25 MR. LUCEY: As of today, zero.

1 THE COURT: Sir?

2 MR. LUCEY: As of today, zero, sir.

3 THE COURT: Do y'all have plans for
4 further negotiations?

5 MR. KRAWCZYK: I would --

6 THE COURT: I don't care if you do or
7 not. I'm just kind of curious.

8 MR. KRAWCZYK: And I got no problem
9 saying this, if I can convenience my clients to sit back
10 down for another mediation, but I don't have like an offer
11 to put on the table. I think it's going to take people
12 discussing this, and sitting across from each other if
13 we're going to get to a resolution.

14 THE COURT: Right. Well, do me a favor.

15 MR. KRAWCZYK: Yes, sir.

16 THE COURT: I mean, if you don't, great.
17 If you do, great. Just -- I hate to tie up two weeks for
18 Edgefield if it's not needed. So as soon as y'all -- if
19 you're going to get rid of it let me know.

20 MR. LUCEY: One other matter, Your Honor,
21 we expect that Ronnie Maxwell is going to enter an
22 appearance to assist us with jury strikes on Monday.

23 THE COURT: Who is that?

24 MR. LUCEY: Ronnie Maxwell from Aiken.

25 THE COURT: Is he an attorney there?

1 MR. LUCEY: Yes, sir. Past president of
2 the bar association.

3 THE COURT: Is he going to what, help you
4 pick a jury or something?

5 MR. LUCEY: Yes, sir. That's it. Thank
6 you.

7 THE COURT: All right.

8 MR. KRAWCZYK: Can I also ask a question
9 of how likely we're going to finish this in two weeks?

10 MR. LUCEY: Our plan is to finish in two
11 weeks.

12 MR. KRAWCZYK: How long do you think your
13 case is going to take?

14 THE COURT: To put y'all -- I'm glad you
15 brought that up. You know, I've got reelection this year,
16 and I've got to go to citizens committee meeting Tuesday
17 the 24th in Greenville at four. So, I will have to quit,
18 go up there, and then come back. But just -- Tuesday
19 afternoon at some point, I don't know how far Edgefield is
20 from Greenville.

21 MR. KRAWCZYK: It will take you about two
22 hours.

23 THE COURT: Yeah, I think that's probably
24 about right.

25 MR. KRAWCZYK: I've made the drive many

1 times in this case.

2 THE COURT: So, maybe, not even come back
3 after lunch. That might just be -- I hate to do that to
4 you. I'm open to working as late and as long as y'all
5 want to. I hate to tie up the staff if we don't have to,
6 but whatever y'all want to do; it's your case. So, you
7 just tell me, and I'm good to go.

8 MR. LUCEY: I think Monday morning they
9 have us there at 10 a.m. for roster hearing, does that
10 sound --

11 MR. KRAWCZYK: That's when they noticed
12 us.

13 THE COURT: You know, I haven't even
14 looked what time. When they get the jury in, I would
15 assume they coming in at nine and start qualifying at 10,
16 but I don't even know that I have anything else. I don't
17 think there's anything on the roster for that week. The
18 next week, the second week, I think they had other trials
19 backing you up. That's my understanding.

20 MR. LUCEY: Got you. Thank you, sir.

21 THE COURT: But I will double check, and
22 let y'all know.

23 MR. LUCEY: Thank you.

24 THE COURT: All right, guys. Y'all have
25 my number, if you need it, call me.

1 MR. LUCEY: Thank you.

2 MR. KRAWCZYK: Thank you.

3 THE COURT: Appreciate you guys. That's
4 what I just told them, September 24th is my citizens
5 committee meeting.

6 All right, guys.

7 MR. LUCEY: Thank you.

8 THE COURT: Interesting case.

9 END OF PROCEEDINGS

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1 CERTIFICATE OF REPORTER
2

3 STATE OF SOUTH CAROLINA)

4 COUNTY OF RICHLAND)
5

6 I, Crystal Banks, Official Court
7 Reporter/Transcriber for the Judicial Circuit of
8 the State of South Carolina, do hereby certify that
9 the foregoing is a true, accurate and Complete
10 Transcript of Record of the proceedings had and
11 evidence introduced in the hearing of the captioned
12 case, relative to appeal, in the Court of Common
13 Pleas for Edgefield County, South Carolina, on the
14 day 11th of September, 2024.

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

17
18
1920 Crystal Banks_____21 Crystal Banks, Court Reporter/Transcriber
22
23
24
25

EDGEFIELD COUNTY
CLERK OF COURT
STATE OF SOUTH CAROLINA
COUNTY OF EDGEFIELD
2013 JAN 10 AM 8:58
IN THE COURT OF COMMON PLEAS

Bettis C. Rainsford,

Plaintiff

vs.

Talmadge Knight,
K & H Development, LLC,
P.K. Knight, LLC, Plantation
Alliance, LLC, Michael R. Hooker,
Barbara Hooker, LL of SC, LLC,
Southern First Bank; SunTrust
Bank, and Branch Banking
and Trust Company

Defendants

AMENDED
LIS PENDENS

C/A No: 2012-LP-19-118
(2012-CP-19-388)

NOTICE IS HEREBY GIVEN that an action has been commenced and is pending or is about to be commenced in the Circuit Court between the above-named Plaintiff against the above-named Defendants to foreclose on a mortgage between the Plaintiff, as Mortgagee, and P. K. Knight, LLC, as Mortgagor, which Mortgage is dated May 13, 2011, and was filed for record in the RMC Office for Edgefield County on May 17, 2011, in Record Book 1331, at Pages 136-139. The property which is the subject of said action is described as follows:

All that certain piece, parcel or tract of land, situate, lying and being within Mount Vintage Plantation, Edgefield County, State of South Carolina, containing 11.56 acres, and being bounded on the North and East by lands of MV Development Company, LLC, on the South by the right-of-way of Mount Vintage Plantation Drive of the said Plantation, and on the west by lots in Phase I of Mount Vintage Plantation numbered 25, 24, 23, and 22, all as is shown more particularly on the plat of Piedmont Surveying, Inc. dated June 26, 2008. This tract is a portion of the property conveyed to MV Development Company, LLC by deed of Mount Vintage

Property Co., Inc. dated March 10, 2000 and recorded in Record Book 669 at pager 257;

NOTICE IS FURTHER GIVEN that the action is also an action alleging breach of contract and breach of contract with fraudulent intent, and that therefore Plaintiff has an equitable security interest in the property of K & H Development Company, LLC which Talmadge Knight is attempting, through fraudulent means, to take away from Plaintiff's security. The property which is the subject of said action is described as follows:

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, in Mount Vintage Plantation, and being designated by lot and tax map numbers and on the plats shown on the schedule below:

Lot #	Tax Map #	Plat Reference
F-3	122-00-06-003	36,672
F-4	122-00-06-004	36,672
F-8	122-00-06-008	
F-9	122-00-06-009	
F-10	122-00-06-010	
F-11	122-00-06-011	
F-12	122-00-06-012	
F-13	122-00-06-013	
F-14	122-00-06-014	
F-15	122-00-06-015	
F-16	122-00-06-016	
F-17	122-00-06-017	
F-19	122-00-06-019	
F-25	122-00-06-025	
F-27	122-00-06-027	
F-28	122-00-06-028	
F-29	122-00-06-029	
F-30	122-00-06-030	
F-31	122-00-06-031	
F-32	122-00-06-032	

H-1	122-00-09-001	36,455
H-2	122-00-09-002	36,455
H-12	122-00-09-012	36,455
H-15	122-00-09-015	36,455
H-20	122-00-09-020	36,455
H-65	122-00-09-065	36,455
H-73	122-00-09-073	36,455
H-43	122-00-09-043	36,456
H-44	122-00-09-044	36,456
H-45	122-00-09-045	36,456
H-46	122-00-09-046	36,456
J-1	122-00-10-001	37,368
J-2	122-00-10-002	37,368
J-3	122-00-10-003	37,368
J-4	122-00-10-004	37,368
J-5	122-00-10-005	37,368
J-6	122-00-10-006	37,368
J-7	122-00-10-007	37,368
J-8	122-00-10-008	37,368
J-9	122-00-10-009	37,368
J-11	122-00-10-011	37,368
J-13	122-00-10-013	37,368
J-14	122-00-10-014	37,368
J-15	122-00-10-015	37,368
J-16	122-00-10-016	37,368
J-17	122-00-10-017	37,368
J-18	122-00-10-018	37,368
J-19	122-00-10-019	37,368
J-20	122-00-10-020	37,368
J-27	122-00-10-027	37,368
J-28	122-00-10-028	37,368
J-30	122-00-10-030	37,368
J-35	122-00-10-035	37,368
J-36	122-00-10-036	37,368
J-44	122-00-10-044	37,368
J-45	122-00-10-045	37,368
J-46	122-00-10-046	37,368
J-47	122-00-10-047	37,368
K-7	122-00-11-007	38,031
K-11	122-00-11-011	38,031
L-1	099-01-01-001	38,149
L-2	099-01-01-002	38,149
L-3	099-01-01-003	38,149
L-7	099-01-01-007	38,149

L-24	099-01-01-024	38,149
L-25	099-01-01-025	38,149
L-26	099-01-01-026	38,149
L-27	099-01-01-027	38,149
L-28	099-01-01-028	38,149
L-29	099-01-01-029	38,149
L-31	099-01-01-031	38,149
L-37	099-01-01-037	38,149
L-38	099-01-01-038	38,149
L-39	099-01-01-039	38,149
M-1	099-01-02-001	38,387
M-2	099-01-02-002	38,387
M-3	099-01-02-003	38,387
M-4	099-01-02-004	38,387
M-5	099-01-02-005	38,387
M-6	099-01-02-006	38,387
M-7	099-01-02-007	38,387
M-8	099-01-02-008	38,387
M-9	099-01-02-009	38,387
M-10	099-01-02-010	38,387
M-12	099-01-02-012	38,387
M-13	099-01-02-013	38,387
M-18	099-01-02-018	38,387
M-19	099-01-02-019	38,387
M-20	099-01-02-020	38,387
M-42	099-01-02-042	38,387
M-44	099-01-02-044	38,387
M-46	099-01-02-046	38,387
M-47	099-01-02-047	38,387
M-48	099-01-02-048	38,387
M-49	099-01-02-049	38,387
M-53	099-01-02-053	38,387
M-29	099-01-02-029	38,149
M-30	099-01-02-030	38,149
M-32	099-01-02-032	38,149
N-1	099-01-03-001	38,149
N-2	099-01-03-002	38,149
N-3	099-01-03-003	38,149
N-4	099-01-03-004	38,149
N-5	099-01-03-005	38,149
N-10	099-01-03-010	38,149
N-11	099-01-03-011	38,149
N-69	099-01-03-069	38,149
N-70	099-01-03-070	38,149
N-79	099-01-03-079	38,149

WHERE FS
M-43

N-80	099-01-03-080	38,149
N-81	099-01-03-081	38,149
N-82	099-01-03-082	38,149
N-83	099-01-03-083	38,149
N-85	099-01-03-085	38,149
N-86	099-01-03-086	38,149
N-27	099-01-03-027	38,662
N-28	099-01-03-028	38,662
N-29	099-01-03-029	38,662
N-30	099-01-03-030	38,662
N-31	099-01-03-031	38,662
N-32	099-01-03-032	38,662
N-33	099-01-03-033	38,662
N-34	099-01-03-034	38,662
N-35	099-01-03-035	38,662
N-36	099-01-03-036	38,662
N-37	099-01-03-037	38,662
N-39	099-01-03-039	38,662
N-40	099-01-03-040	38,662
N-41	099-01-03-041	38,662
N-42	099-01-03-042	38,662
N-43	099-01-03-043	38,662
N-44	099-01-03-044	38,662
N-45	099-01-03-045	38,662
N-46	099-01-03-046	38,662
N-47	099-01-03-047	38,150
N-49	099-01-03-049	38,150
N-51	099-01-03-051	38,150
N-52	099-01-03-052	38,150
N-57	099-01-03-057	38,150
N-58	099-01-03-058	38,150
N-59	099-01-03-059	38,150
O-1	099-01-04-001	38,606
O-2	099-01-04-002	38,606
O-3	099-01-04-003	38,606
O-4	099-01-04-004	38,606
O-9	099-01-04-009	38,606
O-10	099-01-04-010	38,606
O-11	099-01-04-011	38,606
O-12	099-01-04-012	38,606
O-13	099-01-04-013	38,606
O-14	099-01-04-014	38,606
O-17	099-01-04-017	38,606
O-22	099-01-04-022	38,606
O-23	099-01-04-023	38,606

O-24	099-01-04-024	38,606
O-25	099-01-04-025	38,606
O-26	099-01-04-026	38,606
O-27	099-01-04-027	38,606
O-29	099-01-04-029	38,606
O-33	099-01-04-033	38,606
O-35	099-01-04-035	38,606
O-37	099-01-04-037	38,606
O-38	099-01-04-038	37,368
O-41	099-01-04-041	37,368
O-46	099-01-04-046	37,368
O-49	099-01-04-049	37,368
O-50	099-01-04-050	37,368
O-51	099-01-04-051	37,368
P-2	099-01-05-002	38,150
P-3	099-01-05-003	38,150
P-5	099-01-05-005	38,150
P-6	099-01-05-006	38,150
P-7	099-01-05-007	38,150
P-9	099-01-05-009	38,150
P-13	099-01-05-013	38,150
P-14	099-01-05-014	38,150
P-15	099-01-05-015	38,150
P-16	099-01-05-016	38,150
P-17	099-01-05-017	38,150
P-18	099-01-05-018	38,150
P-21	099-01-05-021	38,150
P-22	099-01-05-022	38,150
P-23	099-01-05-023	38,150
P-26	099-01-05-023	38,149
P-27	099-01-05-023	38,149
P-31	099-01-05-023	38,149
P-42	099-01-05-023	38,149


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January 9, 2013
 Edgefield, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF EDGEFIELD

2013 JUL 19 AM 10:44

IN THE COURT OF COMMON PLEAS

LL OF SC, LLC,

PLAINTIFF

vs.

K & H DEVELOPMENT COMPANY, LLC
AND MOUNT VINTAGE PLANTATION
HOMEOWNERS ASSOCIATION, INC.,

DEFENDANTS.

**CONSENT ORDER
AND JUDGMENT OF
FORECLOSURE AND SALE**

C/A No: 12-CP-19-336

This matter was scheduled to come before the Court pursuant to an Order of Reference signed by Shirley J. Newby, Clerk of Court of Edgefield County, dated March 18, 2013 and a hearing was to be held in the office of J. Martin Harvey, as Special Referee, at 110 Main Street, Barnwell, South Carolina on June 6, 2013 at 10:00 a.m. Prior to the hearing, Mary O. Guynn and Scott W. Patterson, Attorneys for the Plaintiff, LL of SC, LLC, and Scott Klosinski, Attorney for the Defendants, K&H Development Company, LLC and Mount Vintage Plantation Homeowners Association Inc., advised the Court that a settlement was reached in the matter between their respective clients and that the parties desired to set forth their agreement pursuant to this Consent Order and Judgment of Foreclosure.

Based upon the aforesaid, the undersigned Special Referee finds and concludes as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on October 23, 2012.
2. The Summons and Complaint were filed on October 23, 2012.



ROA_00528

3. Service was made upon the Defendants named in this report as shown by the proof(s) of service filed herein.

4. The Defendants, K&H Development Company, LLC and Mount Vintage Plantation Homeowners Association, Inc., filed their Answer on January 25, 2013.

5. Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, an Order of Reference was filed on March 18, 2013 referring the matter to J. Martin Harvey, Esquire, as Special Referee to make appropriate findings of fact and conclusions of law with authority to enter a final judgment in the case, further providing that any appeal from the final judgment so entered would be made directly to the Court of Appeals of South Carolina.

6. Thereafter, with the consent of all parties, an Amendment to Lis Pendens and an Amendment to Complaint were filed on April 29, 2013.

7. The Defendant(s) and/or all attorneys of record who appeared were notified of the time, date, and place of the hearing in this matter.

8. For value received, Defendant K&H Development Company, LLC f/k/a Park Meridian Holdings SC Fund 2009-2, LLC made, executed and delivered a Note dated September 25, 2009, promising thereby to pay to the order of J. Wayne Raiford the sum of \$2,500,000.00 (the "Original Note").

9. Thereafter, Defendant K & H Development Company, LLC f/k/a Park Meridian Holdings SC Fund 2009-2, LLC made, executed and delivered unto Plaintiff, LL of SC, LLC f/k/a LL, Inc. a certain Replacement Note in the principal sum of \$2,500,000.00 dated October 13, 2009 but

Print #12

effective September 25, 2009 with interest at the rate of 15.00% per annum (the "Note") which expressly replaced the Original Note.

10. After diligent search, the Note cannot be located as more particularly set forth in that Lost Note Affidavit executed by J. Wayne Raiford on behalf of Plaintiff, attached hereto and incorporated herein as Exhibit "A", which exhibit contains a true and correct copy of the Note.

11. To better secure the payment of the Note described above, K&H Development Company, LLC f/k/a Park Meridian Holdings SC Fund 2009-2, LLC, made, executed, and delivered to Plaintiff, LL of SC, LLC f/k/a LL, Inc. a certain Mortgage of Real Estate ("Mortgage") in writing, dated April 19, 2010, covering real property in Edgefield County as more particularly described in the Complaint, as amended by that certain Amendment to Complaint (the "Property"). The Mortgage was filed on April 22, 2010 and is of record in the Office of Register of Mesne Conveyances for Edgefield County, South Carolina in Mortgage Book 1282 at Page 191. The original Mortgage is attached hereto and incorporated herein as Exhibit "B".

12. This Mortgage constitutes a purchase money first mortgage lien on the Property, subject only to ad valorem or other liens/taxes given priority by statute.

13. In addition, the Mortgage constitutes a collateral assignment of all other rights appurtenant to the Property, including, but not limited to, all developer rights held by K&H Development Co., LLC as to Mount Vintage Plantation.

14. The Plaintiff in this action is the owner and holder of the Note and Mortgage it is seeking to foreclose.

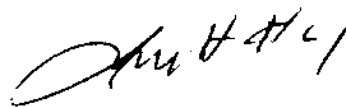
A handwritten signature in black ink, appearing to read "J. Wayne Raiford", followed by the number "13".

15. Payment due on the Note has not been made as provided for therein, and the Plaintiff, as the holder thereof, has elected to require immediate payment of the entire amount due thereon and has placed the Note and Mortgage in the hands of the attorney herein for collection by foreclosure.

16. The sum of \$8,775.00 is a reasonable fee to allow as attorney fees for Plaintiff's attorney for services performed and anticipated to be performed until final adjudication of the within action, under the terms of the Note and Mortgage, as more particularly set forth in the Affidavit in Support of Request for Attorney's Fees filed herein by the Plaintiff's counsel. These sums are likewise reasonable based on the time necessarily devoted to representation of the Plaintiff during the several month course of these proceedings. The services of counsel performed for the Plaintiff, including the number and types of pleadings and documents prepared, the incumbent liabilities, and the difficulties involved in this particular case also support the amount awarded. The fees are also reasonable given the professional standing of the Plaintiff's counsel and their experience in handling foreclosure matters. The fees awarded herein are also reasonable in light of the fees customarily awarded by this Court for similar services in this locality. Moreover, the effort of Plaintiff's counsel has had the beneficial result of a prompt foreclosure of the mortgage. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional circumstances delaying conclusion beyond the normal time.

17. The amount due and owing on the Note, with interest at the rate provided in the Note, and other costs and expenses of the within action, including an attorney's fee, secured by the Note and Mortgage, is as follows:

(a)	Principal due June 6, 2013	\$2,500,000.00

A handwritten signature in black ink, appearing to be "J. H. H. /", is written over the signature line.

(b)	Interest through June 6, 2013	\$1,327,707.71
(c)	Costs of collection prior to hearing (service, filing, etc.)	\$ 473.80
(d)	Late Charges	\$ 125,000.00
(e)	Attorney's fee	\$ 8,775.00
	TOTAL debt secured by Note and Mortgage, including interest to date shown	\$3,961,956.61

Interest for the period from the date shown in (b) above through the date of this judgment at above stated rate to be added to the above stated "Total Debt" to comprise the amount of the judgment debt entered herein and interest after the date of judgment at the rate of 15.00% per annum (pursuant to the terms of the Note and Mortgage) on the judgment debt should be added to such judgment debt to comprise the amount of the debt secured by the Mortgage through the date to which such interest is computed.

18. Plaintiff is seeking the usual foreclosure of the Mortgage and has in the Complaint (or subsequently thereto in writing) expressly waived the right to a personal or deficiency judgment.

19. The following Defendant claims or may claim a lien upon or interest in the Property and in the event there is a surplus from the sale of the Property, such Defendants may present any such lien claims at a hearing subsequent to the sale, in accordance with Rule 71(c) South Carolina Rules of Civil Procedure. The said Defendant and such claim or lien is as follows:

- a. Mount Vintage Plantation Homeowners Association, Inc. by virtue of any lien enforceable assessments claimed as provided in the Declaration of Protective

Print #5

Covenants, Conditions and Restrictions of Mount Vintage recorded in the Real Estate Records for Edgefield County and any amendments or modifications thereto.

20. Pursuant to an Order of the South Carolina Supreme Court (Administrative Order dated May 22, 2009), the Plaintiff has set forth its belief in the Complaint or by Affidavit, which is already of record in this case, that the mortgage loan which is the subject of the foreclosure action is not eligible for modification pursuant to the terms of the Home Affordable Modification Program (HMP) and therefore Plaintiff has fully complied with said Order. Also, attention is called to the fact that pursuant to Order of the South Carolina Supreme Court Administrative Order dated May 22, 2009, Plaintiff's attorney has not received a counter affidavit from any Defendants.

21. Attorney for the Plaintiff has fully complied with the South Carolina Supreme Court Administrative Order 2011-05-02-01 dated May 2, 2011.

CONCLUSIONS OF LAW

I, THEREFORE, CONCLUDE AS FOLLOWS:

The Plaintiff should have judgment of foreclosure of the Mortgage and the Property should be ordered sold at public auction after due advertisement, provided however that the public auction shall in no event be held prior to September 3, 2013.

IT IS THEREFORE ORDERED:

1. Plaintiff has fully complied with the South Carolina Supreme Court Administrative Orders 2009-05-22-01 dated May 22, 2009 and 2011-05-02-01 dated May 2, 2011 and the foreclosure action may proceed.

Quil #6

2. There is due to the Plaintiff on the Note and Mortgage set forth in the Complaint the sum of \$2,500,000.00, principal, as set out in the Findings of Fact supra, together with interest, late charges, costs and expenses at the rate provided therein on the balance of principal from the date aforesaid to the date hereof.
3. The amount due in the preceding paragraph (the "Total Debt" as set out in the Findings of Fact supra) shall accrue interest at the rate of 15.00% per annum and together with such interest shall constitute the total judgment debt due the Plaintiff.
4. The amount of the judgment shall be subject to increase to permit the Plaintiff to recover additional costs, commissions and expenses not included in the minimum deposit previously made in compliance with SC Code Annotated Section 14-11-310 (1976). It may also increase to include supplemental compensation for attorney's services not contemplated by the initial fee award. Jurisdiction over the fee award and total debt is reserved to facilitate the assessment and payment of any such costs and/or supplemental compensation. Such additional costs, commissions and expenses may be established by affidavit and shall be adjudicated by the Court without further hearing.
5. The Defendant(s) liable for the aforesaid judgment debt including interest at the rate of 15.00% per annum shall on or before the date of sale of the property hereinafter described, pay to the Plaintiff, or Plaintiff's attorney the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.
6. On default of payment at or before the time herein indicated, the Property described in the Complaint (as amended), as hereinafter set forth, shall be sold by the Special Referee at public auction, at the Edgefield County Courthouse, in the City of Edgefield, County and State aforesaid,

Print #7

on some convenient sales day not prior to September 3, 2013 at a time reasonably agreeable to the Special Referee (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the sales day shall be on Tuesday next succeeding such holiday), on the following terms, that is to say:

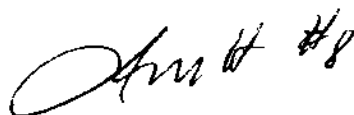
a. For cash: The Special Referee will require a deposit of 5% on the amount of the bid (in cash or equivalent) same to be applied on the purchase price only upon compliance with the bid, but in case of non-compliance within twenty (20) days such 5% deposit shall be forfeited and applied to the costs and Plaintiff's debt.

b. Interest on the balance of the bid shall be paid to the day of compliance at the rate of 15.00%.

c. The sale shall be subject to taxes and assessments, existing easements and restrictions and easements and restrictions of record, and any other senior encumbrances.

d. Purchaser to pay for any statutory commission on sale, deed preparation, costs of recording the deed, and deed stamps.

7. The Special Referee will, by advertisement according to law, give notice of the time and place of such sale and the terms thereof and will execute to the purchaser, or purchasers, a deed to the Property sold together with an assignment of all developer rights of Defendant K&H Development Company, LLC. The Plaintiff, or any other party to this action, may become a purchaser at such sale, and if, upon such sale being made, the purchaser, or purchasers, should fail to comply with the terms thereof within twenty (20) days after date of sale, then the Special Referee



may advertise the said premises for sale on the next or some other subsequent sales day at the risk of the highest bidder and so from time to time thereafter until a full compliance shall be secured.

8. A personal or deficiency judgment having been waived, the bidding will not remain open after the date of sale and compliance with the bid may be made immediately.

9. In the event an agent of Plaintiff does not appear at the time of sale, the within Property shall be automatically withdrawn from sale and sold at the next available sales date upon the same terms and conditions as set forth in this Consent Order and Judgment of Foreclosure and Sale.

10. If Plaintiff be the successful bidder at the said sale, for a sum not exceeding the amount of costs, expenses and the indebtedness of Plaintiff in full, Plaintiff may pay to the Special Referee only the amount of the costs and expenses crediting the balance of the bid on Plaintiff's indebtedness.

11. The Special Referee will apply the proceeds of the sale as follows:

FIRST: To the payment of the amount of the costs and expenses of this action, including any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court;

NEXT: To the payment to the Plaintiff or Plaintiff's attorney of the amount of Plaintiff's debt and interest (including attorney fees) or so much thereof as the purchase money will pay on the same;

NEXT: Any surplus should be held pending further Order of this court.

12. In the event the successful bidder is other than the Defendant(s) in possession herein, the Sheriff of Edgefield County is ordered and directed to eject and remove from the Property the occupant(s) of the property sold, together with all personal property located thereon, and put the successful bidder or his assigns in full, quiet, and peaceable possession of said Property without delay, and to keep said successful bidder or his assigns in such peaceable possession.

AmA #9

13. The Defendant(s) named herein, and all persons whosoever claiming under Defendant(s), be forever barred and foreclosed of all right, title, interest, and equity of redemption in the said Property so sold, or any part thereof.
14. The deed of conveyance made pursuant to said sale shall contain the names of only the first-named Plaintiff and the first-named Defendant(s), and the Defendant(s) who was/were the titleholder(s) of the Property at the time of the filing of the notice of pendency of the within action, and the name of the grantee; and the RMC/Clerk of Court is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.
15. The deed of conveyance made pursuant to said sale shall also indicate that it is transferring and conveying all appurtenant rights of the Defendant, K&H Development Company, LLC, including but not limited to the developer rights for Mount Vintage Plantation.
16. The undersigned will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Writ of Assistance.
17. The following is a description of the Property herein ordered to be sold:

PROPERTY DESCRIPTION:

LOTS IN SECTION "F"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots F-3 and F-4 on that certain plat by Newby-Procter and Associates dated April 8, 2003 and recorded November 6, 2003 in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,672. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot F-3 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax

Am #10

Map # 122-00-06-003 and Lot F-4 is shown on Tax Map # 122-00-06-004.

LOTS IN SECTION "H"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots H-1, H-2, H-12, H-15, H-20, H-65 and H-73 on that certain plat by Newby-Procter and Associates dated July 30, 2003 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,455. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot H-1 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-09-001; Lot H-2 on Tax Map # 122-00-09-002; Lot H-12 on Tax Map #122-00-09-012; Lot H-15 on Tax Map # 122-00-09-015; Lot H-20 on Tax Map #122-00-09-020; Lot H-65 on Tax Map # 122-00-09-065 and Lot H-73 on Tax Map # 122-00-09-073.

AND ALSO All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots H-43, H-44, H-45 and H-46 on that certain plat by Newby-Procter and Associates dated July 30, 2003 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,456. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot H-43 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-09-043; H-44 on Tax Map #122-00-09-044; Lot H-45 on Tax Map #122-00-09-045 and Lot H-46 on Tax Map #122-00-09-046.

LOTS IN SECTION "J"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots J-1 thorough J-9 inclusive, J-11, J-13 through J-20 inclusive, J-27, J-28, J-30, J-35, J-36, J-44 through J-47 inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot J-1 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax

Am. H-11

Map #122-00-10-001; Lot J-2 on Tax Map #122-00-10-002; Lot J-3 on Tax Map #122-00-10-003; Lot J-4 on Tax Map #122-00-10-004; Lot J-5 on Tax Map #122-00-10-005; Lot J-6 on Tax Map #122-00-10-006; Lot J-7 on Tax Map #122-00-10-007; Lot J-8 on Tax Map #122-00-10-008; Lot J-9 on Tax Map #122-00-10-009; Lot J-11 on Tax Map #122-00-10-011; Lot J-13 on Tax Map #122-00-10-013; Lot J-14 on Tax Map #122-00-10-014; Lot J-15 on Tax Map #122-00-10-015; Lot J-16 on Tax Map #122-00-10-016; Lot J-17 on Tax Map #122-00-10-017; Lot J-18 on Tax Map #122-00-10-018; Lot J-19 on Tax Map #122-00-10-019; Lot J-20 on Tax Map #122-00-10-020; Lot J-27 on Tax Map #122-00-10-027; Lot J-28 on Tax Map #122-00-10-028; Lot J-30 on Tax Map #122-00-10-030; Lot J-35 on Tax Map #122-00-10-035; Lot J-36 on Tax Map #122-00-10-036; Lot J-44 on Tax Map #122-00-10-044; Lot J-45 on Tax Map #122-00-10-045; Lot J-46 on Tax Map #122-00-10-046 and Lot J-47 on Tax Map #122-00-10-047.

LOTS IN SECTION "K"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots K-7 and K-11, on that certain plat by Newby-Procter and Associates dated July 21, 2005 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,031. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot K-7 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-11-007 and Lot K-11 is shown on Tax Map #122-00-11-011

LOTS IN SECTION "L"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots L-1 thorough L-3 inclusive, Lot L-7, Lot L-24 through L-29, inclusive, Lot L-31, Lots L-37 through L-39, inclusive, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "M"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots M-1 through M-10, inclusive, Lot M-12, Lot M-13, Lots M-18 through M-20, inclusive, Lot M-42, Lot M-44, Lots M-46 through M-49, inclusive and Lot M-53, on that certain plat by Newby-Procter and Associates dated June 28, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,387. Said

Am H #12

plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot M-29, Lot M-30 and Lot M-32 on that certain plat by Newby-Procter and Associates dated 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "N"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-1 through N-5, inclusive, Lot N-10, Lot N-11, Lot N-69, Lot N-70, Lot N-79 through N-83, inclusive, Lot N-85 and Lot N-86, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-27 through N-37, inclusive, and Lots N-39 through N-46, inclusive, on that certain plat by Newby-Procter and Associates dated June 26, 2008 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,662. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot N-47, Lot N-49, Lot N-51 and N-52, Lot N-57, through N-59, inclusive, on that certain plat by Newby-Procter and Associates dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

A handwritten signature, possibly reading "J. H. #13", is written in dark ink at the bottom center of the page.

Less and Excepting as Released: Lot N-27b

LOTS IN SECTION "O"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots O-1 through O-4, inclusive, Lots O-8 through O-14, inclusive, Lot O-17, Lot O-22 through O-27, Lot O-29, Lot O-33, Lot O-35 and Lot O-37 on that certain plat by Newby-Procter and Associates dated November 30, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,606. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot O-38, Lot O-41, Lots O-49 through Lot O-51, inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "P"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots P-2, P-5 through P-7, inclusive, Lot P-9, Lot P-13 through P-18, inclusive and Lots P-21 through P-23, inclusive, on that certain plat by Newby-Procter and Associates dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot P-26, Lot P-27, Lot P-31, and Lot P-42, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Am't #14

PROPERTY B:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and containing 23.26 acres, more or less, designated on that plat of survey prepared by Newby-Procter and Associates dated May 11, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,002. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Less and Excepting as Released: Lots F-18, 20, 21, 22, 23, 24 and 26

PROPERTY C:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, near Mount Vintage Plantation Drive, containing sixty-six hundredths (.066) of an acre, more or less, and designated as Lot P-3 on that plat prepared for MV Development Company, LLC, by Newby-Procter and Associates, and recorded in Judgment Roll 38,150 in the Office of the Clerk of Court for Edgefield County, which said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

ALL of the aforesaid lots being a portion of the property conveyed to MV Development Company, LLC by Deed of the Special Referee for Edgefield County dated April 19, 2010 and recorded April 22, 2010 in Deed Book 1282, Page 180, Edgefield County Records.

pm 14 #15

AND IT IS SO ORDERED.

July 16, 2013
Edgefield, South Carolina
B. Brinwell


J. Martin Harvey
Special Referee for Edgefield
County, South Carolina

SMITH, MASSEY, BRODIE, GUYNN & MAYES, LLC

ATTORNEYS AND COUNSELORS AT LAW

GARY H. SMITH, III
WM. RAY MASSEY*
BRAD A. BRODIE
MARY O. GUYNN**
W. DANIEL MAYES
SCOTT W. PATTERSON
*ALSO LICENSED IN NORTH CAROLINA
**ALSO LICENSED IN GEORGIA

POST OFFICE BOX 519
210 COLONY PARKWAY, SOUTHEAST
AIKEN, SOUTH CAROLINA 29802

TELEPHONE
(803) 643-4110
FACSIMILE
(803) 643-8140
(803) 644-9057

November 27, 2013

Via Email

Original Via Overnight Delivery

Kyle B. Parker
Pope & Hudgens, P.A.
1508 College Street
P.O. Box 190
Newberry, South Carolina 29108

Dear Mr. Parker:

Enclosed herewith please find the following original documents (the "Seller's Documents"):

- (1) Limited Warranty Deed from Raiford Topsail Island Investments, LLC;
- (2) Quitclaim Deed from LL of SC, LLC;
- (3) Owner's Affidavit;
- (4) Assignment of Hooker and Knight Promissory Note;
- (5) Assignment of P.K. Knight Mortgage;
- (6) Assignment of Hooker Retirement Investments Mortgage;
- (7) South Carolina Non-resident Withholding Affidavit; and
- (8) FIRPTA.

You are hereby instructed to hold the Seller's Documents in trust unless and until you disburse all proceeds to the Seller in accordance with documents previously provided to you which includes the Payoff Statement (a copy of which is enclosed) as well as reimbursement for taxes in the amount of \$13,815.23. Please wire these sums in accordance with the enclosed wiring instructions.

You are not to release any of the Seller's Documents unless and until the above has been satisfied. If at any time you are instructed by me or the Seller to return the Seller's Documents, you agree to do so. With best regards, I remain

Very truly yours,



Mary O. Guynn

Enclosure

PLAINTIFF
EXHIBIT

2.2

exhibitstickers.com

WIRING INSTRUCTIONS

Bank: First Citizens Bank & Trust Company, Inc.

Address: 518 Georgia Avenue
North Augusta, SC 29841

Account Name: LL of SC, LLC

Account Holders Address: 616 Edgefield Rd Suite 115
North Augusta, SC 29841

ABA No: 053906041

Routing No: 052144677301

SMITH, MASSEY, BRODIE, GUYNN & MAYES, LLC

ATTORNEYS AND COUNSELORS AT LAW

GARY H. SMITH, III
WM. RAY MASSEY*
BRAD A. BRODIE
MARY O. GUYNN**
W. DANIEL MAYES
SCOTT W. PATTERSON

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(803) 643-4110
FACSIMILE
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(803) 644-9057

*ALSO LICENSED IN NORTH CAROLINA
**ALSO LICENSED IN GEORGIA

November 27, 2013

Kyle B. Parker
Pope & Hudgens, P.A.
1508 College Street
P.O. Box 190
Newberry, South Carolina 29108

RE: PAYOFF QUOTE

Dear Mr. Parker:

The total amount due to my clients, Raiford Topsail Island Investments, LLC and LL of SC, LLC, as of November 30, 2013 is as follows:

Principal and Interest on Loan to K&H Development Company: \$3,500,000.00

Principal and Interest on Loan to Hooker and Knight: \$ 159,000.00

TOTAL PAYOFF **\$3,659,000.00**

The payoff should be remitted by wire transfer in accordance with the attached instructions. My client shall proceed to convey all of its interest in the collateral more particularly set forth in that certain Option Agreement between LL of SC, LLC and K&H Development Company, LLC. With best regards, I remain

Sincerely,



Mary O. Guynn

Enclosure

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD) TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS:

That RAIKORD TOPSAIL ISLAND INVESTMENTS, LLC, a South Carolina limited liability company, (hereinafter called "Grantor"), for and in consideration of the sum of THREE MILLION FIVE HUNDRED THOUSAND AND NO/100 Dollars (\$3,500,000.00), to it in hand paid at and before the sealing of these presents by _____ (hereinafter called "Grantee"), the receipt of which is hereby acknowledged, have granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto Grantee, its successors and assigns, the following described real estate, to wit:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN

Grantee's Address: _____

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining thereto,

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the said Grantee, its successors and assigns forever, and the Grantor does hereby bind itself and its successors and assigns, to warrant and forever defend all and singular the said premises unto the said Grantee, its successors and assigns, against Grantor and its successors and assigns and none other.

WITNESS the Hand and Seal of the Grantor this 27 day of November, 2013.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Witness: Tony Raiford

Witness: Wayne

RAIFORD TOPSAIL ISLAND
INVESTMENTS, LLC

By: Wayne Raiford (LS)
Wayne Raiford, Member

STATE OF SOUTH CAROLINA)
)
COUNTY OF Aiken)

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named Grantor by its duly authorized Member sign, seal and as its act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that s/he, with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me this
27 day of November, 2013.

[Signature]
Notary Public for South Carolina
My Commission Expires: 6/10/2021

[Signature]
Witness



After recording return to _____

EXHIBIT A

LOTS IN SECTION "F"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots F-3 and F-4 on that certain plat by Newby-Procter and Associates dated April 8, 2003 and recorded November 6, 2003 in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,672. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot F-3 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map # 122-00-06-003 and Lot F-4 is shown on Tax Map # 122-00-06-004.

LOTS IN SECTION "H"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots H-1, H-2, H-12, H-15, H-20, H-65 and H-73 on that certain plat by Newby-Procter and Associates dated July 30, 2003 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,455. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot H-1 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-09-001; Lot H-2 on Tax Map # 122-00-09-002; Lot H-12 on Tax Map #122-00-09-012; Lot H-15 on Tax Map # 122-00-09-015; Lot H-20 on Tax Map #122-00-00-020; Lot H-65 on Tax Map # 122-00-09-065 and Lot H-73 on Tax Map # 122-00-09-073.

AND ALSO All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots H-43, H-44, H-45 and H-46 on that certain plat by Newby-Procter and Associates dated July 30, 2003 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,456. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot H-43 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-09-043; H-44 on Tax Map #122-00-09-044; Lot H-45 on Tax Map #122-00-09-045 and Lot H-46 on Tax Map #122-00-09-046.

LOTS IN SECTION "J"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield,

State of South Carolina, and being shown and designated as Lots J-1 thorough J-9 inclusive, J-11, J-13 through J-20 inclusive, J-27, J-28, J-30, J-35, J-36, J-44 through J-47 inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot J-1 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-10-001; Lot J-2 on Tax Map #122-00-10-002; Lot J-3 on Tax Map #122-00-10-003; Lot J-4 on Tax Map #122-00-10-004; Lot J-5 on Tax Map #122-00-10-005; Lot J-6 on Tax Map #122-00-10-006; Lot J-7 on Tax Map #122-00-10-007; Lot J-8 on Tax Map #122-00-10-008; Lot J-9 on Tax Map #122-00-10-009; Lot J-11 on Tax Map #122-00-10-011; Lot J-13 on Tax Map #122-00-10-013; Lot J-14 on Tax Map #122-00-10-014; Lot J-15 on Tax Map #122-00-10-015; Lot J-16 on Tax Map #122-00-10-016; Lot J-17 on Tax Map #122-00-10-017; Lot J-18 on Tax Map #122-00-10-018; Lot J-19 on Tax Map #122-00-10-019; Lot J-20 on Tax Map #122-00-10-020; Lot J-27 on Tax Map #122-00-10-027; Lot J-28 on Tax Map #122-00-10-028; Lot J-30 on Tax Map #122-00-10-030; Lot J-35 on Tax Map #122-00-10-035; Lot J-36 on Tax Map #122-00-10-036; Lot J-44 on Tax Map #122-00-10-044; Lot J-45 on Tax Map #122-00-10-045; Lot J-46 on Tax Map #122-00-10-046 and Lot J-47 on Tax Map #122-00-10-047.

LOTS IN SECTION "K"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots K-7 and K-11, on that certain plat by Newby-Procter and Associates dated July 21, 2005 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,031. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot K-7 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-11-007 and Lot K-11 is shown on Tax Map #122-00-11-011

LOTS IN SECTION "L"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots L-1 thorough L-3 inclusive, Lot L-7, Lot L-24 through L-29, inclusive, Lot L-31, Lots L-37 through L-39, inclusive, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "M"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots M-1 through M-10, inclusive, Lot M-12, Lot M-13, Lots M-18 through M-20, inclusive, Lot M-42, Lot M-44, Lots M-46 through M-49, inclusive and Lot M-53, on that certain plat by Newby-Procter and Associates dated June 28, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,387. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot M-29, Lot M-30 and Lot M-32 on that certain plat by Newby-Procter and Associates dated 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "N"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-1 through N-5, inclusive, Lot N-10, Lot N-11, Lot N-69, Lot N-70, Lot N-79 through N-83, inclusive, Lot N-85 and Lot N-86, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-27 through N-37, inclusive, and Lots N-39 through N-46, inclusive, on that certain plat by Newby-Procter and Associates dated June 26, 2008 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,662. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot N-47, Lot N-49, Lot N-51 and N-52, Lot N-57, through N-59, inclusive, on that certain plat by Newby-Procter and Associates dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this

description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Less and Excepting as Released: Lot N-27b

LOTS IN SECTION "O"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots O-1 through O-4, inclusive, Lots O-9 through O-14, inclusive, Lot O-17, Lot O-22 through O-27, Lot O-29, Lot O-33, Lot O-35 and Lot O-37 on that certain plat by Newby-Procter and Associates dated November 30, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,606. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot O-38, Lot O-41, Lots O-49 through Lot O-51, inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "P"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots P-2, P-5 through P-7, inclusive, Lot P-9, Lot P-13 through P-18, inclusive and Lots P-21 through P-23, inclusive, on that certain plat by Newby-Procter and Associates dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot P-26, Lot P-27, Lot P-31, and Lot P-42, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

PROPERTY B:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and containing 23.26 acres, more or less, designated on that plat of survey prepared by Newby-Procter and Associates dated May 11, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,002. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Less and Excepting as Released: Lots F-18, 20, 21, 22, 23, 24 and 26

PROPERTY C:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, near Mount Vintage Plantation Drive, containing sixty-six hundredths (.066) of an acre, more or less, and designated as Lot P-3 on that plat prepared for MV Development Company, LLC, by Newby-Procter and Associates, and recorded in Judgment Roll 38,150 in the Office of the Clerk of Court for Edgefield County, which said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

ALL of the aforesaid lots being the property conveyed to Raiford Topsail Island Investments, LLC by Deed of the Special Referee for Edgefield County dated November 11, 2013 and recorded November 18, 2013 in Deed Book 1455, Page 297, Edgefield County Records.

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information of this affidavit and I understand such information.
2. The property being transferred is located in Edgefield County, bearing Edgefield County Tax Map Number: 122-00-06-003 et al. was transferred by Raiford Topsail Island Investments, LLC to _____ on _____.
3. Check one of the following: The deed is
 - (a) X 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 a distribution to a trust beneficiary.
 - (c) _____ exempt from the deed recording fee because (*See Information section of affidavit*):
(If exempt, please skip items 4 – 7 and go to item 8 of this affidavit.)
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) X The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$3,500,000.00.
 - (b) _____ The fee is computed on the fair market value or 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 X 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:	\$3,500,000.00
(b) Place the amount listed in item 5 above here:	<u>-0-</u>
(c) Subtract Line 6(b) from Line 6(a) and place result here:	<u>\$3,500,000.00</u>
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$12,950.00
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as:
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.

SWORN to before me this _____
Day of _____

Responsible Person Connected with the Transaction

Notary Public for South Carolina
My Commission Expires:

Print or Type Name Here

INFORMATION:

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any rights. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

EXCEPTED FROM THE FEE ARE DEEDS:

1. transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
2. transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
3. that are otherwise exempted under the laws and Constitution of this State or the United States;
4. transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
5. transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interest in the realty that are being exchanged in order to partition the realty;
6. transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
7. that constitute a contract for the sale of timber to be cut;
8. transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty for a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
9. transferring realty from a family partnership to a partner or from family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
10. transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
11. transferring realty in a merger or consolidation from constituent partnership to the continuing or new partnership;
12. that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid to or is to be paid under the corrective or quitclaim deed; and,
13. transferring realty subject to a mortgage whether by a deed in lieu or foreclosure executed by the mortgagor or deed executed pursuant to foreclosure proceedings.
14. transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.
15. transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or take functional control of electric transmission assets as defined in the Federal Power Act.

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD) QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

That LL OF SC, LLC, a South Carolina limited liability company, (hereinafter called "Grantor"), for and in consideration of the sum of TEN AND NO/100 Dollars (\$10.00), and incident to that certain Option Agreement from Grantor recorded on September 3, 2013 in Book 1445, Page 13, Edgefield County Records, to it in hand paid at and before the sealing of these presents by _____ (hereinafter called "Grantee"), the receipt of which is hereby acknowledged, have granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto Grantee, its successors and assigns, all of Grantor's right, title and interest in and to the following described real estate, to wit (the "Land") more particularly described on Exhibit A attached hereto and incorporated herein, together with those certain rights, to wit (the "Rights"; the Land and the Rights being collectively referred to as the "Property") more particularly described on Exhibit B attached hereto and incorporated herein.

Grantee's Address: _____

SUBJECT to all covenants, conditions and restrictions of record.

The premises are granted together with all the rights, members, hereditaments and appurtenances belonging or in any wise incident or appertaining to them.

TO HAVE AND TO HOLD, the premises to Grantee, its successors and assigns forever; so that neither Grantor nor Grantor's successors, nor any other person or persons, claiming under Grantor, shall at any time, by any ways or means have, claim or demand any right or title to the above mentioned premises or appurtenances, or any part or parcel of them, forever.

WITNESS the Hand and Seal of the Grantor this _____ day of _____, 20__.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Witness: Tom Raiford

Witness: Myron

LL OF SC, LLC

By: J. Wayne Raiford (LS)
J. Wayne Raiford, Manager

STATE OF SOUTH CAROLINA)
COUNTY OF Aiken)

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named Grantor by its duly authorized Manager sign, seal and as its act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that s/he, with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me this
27 day of November, 2013.

Myron
Notary Public for South Carolina
My Commission Expires: 6/10/2021

Tom Raiford
Witness



After recording return to _____

EXHIBIT A

LOTS IN SECTION "F"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots F-3 and F-4 on that certain plat by Newby-Procter and Associates dated April 8, 2003 and recorded November 6, 2003 in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,672. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot F-3 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map # 122-00-06-003 and Lot F-4 is shown on Tax Map # 122-00-06-004.

LOTS IN SECTION "H"

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AND ALSO All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots H-43, H-44, H-45 and H-46 on that certain plat by Newby-Procter and Associates dated July 30, 2003 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,456. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot H-43 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-09-043; H-44 on Tax Map #122-00-09-044; Lot H-45 on Tax Map #122-00-09-045 and Lot H-46 on Tax Map #122-00-09-046.

LOTS IN SECTION "J"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield,

State of South Carolina, and being shown and designated as Lots J-1 thorough J-9 inclusive, J-11, J-13 through J-20 inclusive, J-27, J-28, J-30, J-35, J-36, J-44 through J-47 inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot J-1 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-10-001; Lot J-2 on Tax Map #122-00-10-002; Lot J-3 on Tax Map #122-00-10-003; Lot J-4 on Tax Map #122-00-10-004; Lot J-5 on Tax Map #122-00-10-005; Lot J-6 on Tax Map #122-00-10-006; Lot J-7 on Tax Map #122-00-10-007; Lot J-8 on Tax Map #122-00-10-008; Lot J-9 on Tax Map #122-00-10-009; Lot J-11 on Tax Map #122-00-10-011; Lot J-13 on Tax Map #122-00-10-013; Lot J-14 on Tax Map #122-00-10-014; Lot J-15 on Tax Map #122-00-10-015; Lot J-16 on Tax Map #122-00-10-016; Lot J-17 on Tax Map #122-00-10-017; Lot J-18 on Tax Map #122-00-10-018; Lot J-19 on Tax Map #122-00-10-019; Lot J-20 on Tax Map #122-00-10-020; Lot J-27 on Tax Map #122-00-10-027; Lot J-28 on Tax Map #122-00-10-028; Lot J-30 on Tax Map #122-00-10-030; Lot J-35 on Tax Map #122-00-10-035; Lot J-36 on Tax Map #122-00-10-036; Lot J-44 on Tax Map #122-00-10-044; Lot J-45 on Tax Map #122-00-10-045; Lot J-46 on Tax Map #122-00-10-046 and Lot J-47 on Tax Map #122-00-10-047.

LOTS IN SECTION "K"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots K-7 and K-11, on that certain plat by Newby-Procter and Associates dated July 21, 2005 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,031. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot K-7 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-11-007 and Lot K-11 is shown on Tax Map #122-00-11-011

LOTS IN SECTION "L"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots L-1 thorough L-3 inclusive, Lot L-7, Lot L-24 through L-29, inclusive, Lot L-31, Lots L-37 through L-39, inclusive, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "M"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots M-1 through M-10, inclusive, Lot M-12, Lot M-13, Lots M-18 through M-20, inclusive, Lot M-42, Lot M-44, Lots M-46 through M-49, inclusive and Lot M-53, on that certain plat by Newby-Procter and Associates dated June 28, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,387. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot M-29, Lot M-30 and Lot M-32 on that certain plat by Newby-Procter and Associates dated 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "N"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-1 through N-5, inclusive, Lot N-10, Lot N-11, Lot N-69, Lot N-70, Lot N-79 through N-83, inclusive, Lot N-85 and Lot N-86, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-27 through N-37, inclusive, and Lots N-39 through N-46, inclusive, on that certain plat by Newby-Procter and Associates dated June 26, 2008 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,662. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot N-47, Lot N-49, Lot N-51 and N-52, Lot N-57, through N-59, inclusive, on that certain plat by Newby-Procter and Associates dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this

description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Less and Excepting as Released: Lot N-27b

LOTS IN SECTION "O"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots O-1 through O-4, inclusive, Lots O-9 through O-14, inclusive, Lot O-17, Lot O-22 through O-27, Lot O-29, Lot O-33, Lot O-35 and Lot O-37 on that certain plat by Newby-Procter and Associates dated November 30, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,606. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot O-38, Lot O-41, Lots O-49 through Lot O-51, inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "P"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots P-2, P-5 through P-7, inclusive, Lot P-9, Lot P-13 through P-18, inclusive and Lots P-21 through P-23, inclusive, on that certain plat by Newby-Procter and Associates dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot P-26, Lot P-27, Lot P-31, and Lot P-42, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

PROPERTY B:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and containing 23.26 acres, more or less, designated on that plat of survey prepared by Newby-Procter and Associates dated May 11, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,002. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Less and Excepting as Released: Lots F-18, 20, 21, 22, 23, 24 and 26

PROPERTY C:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, near Mount Vintage Plantation Drive, containing sixty-six hundredths (.066) of an acre, more or less, and designated as Lot P-3 on that plat prepared for MV Development Company, LLC, by Newby-Procter and Associates, and recorded in Judgment Roll 38,150 in the Office of the Clerk of Court for Edgefield County, which said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

ALL of the aforesaid lots being the property conveyed to Raiford Topsail Island Investments, LLC by Deed of the Special Referee for Edgefield County dated November 11, 2013 and recorded November 18, 2013 in Deed Book 1455, Page 297, Edgefield County Records.

EXHIBIT B

THE RIGHTS

All rights appurtenant to the Property, including, but not limited to, all developer rights formerly held by K&H Development Company, LLC as to Mount Vintage Plantation, including but not limited to any and all rights set forth in the Assignment of Developer's Rights recorded in Book 1331, Page 199, Edgefield County Records (the "Assignment"), all reserved rights formerly held by K&H Development Company, LLC under the Covenants (as defined in the Assignment), the Class A membership interest, including voting privileges, in Mount Vintage Plantation Homeowners Association, Inc., options, conditions and powers including, but not limited to, the right to levy assessments and dues against lots subject to the Covenants, lot owners and members of nay entities or organizations within the Land as established or as may be established and the right to control the "Preferred Builder" program in Mount Vintage, including the right to collect any and all fees assessed to or for such Preferred Builder program.

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information of this affidavit and I understand such information.
2. The property being transferred is located in Edgefield County, bearing Edgefield County Tax Map Number: 122-00-06-003 et al. was transferred by LL of SC, LLC to _____ 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 a distribution to a trust beneficiary.
 - (c) X exempt from the deed recording fee because (See Information section of affidavit):
#12
(If exempt, please skip items 4 – 7 and go to item 8 of this affidavit.)
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 \$ _____.
 - (b) _____ The fee is computed on the fair market value or 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 X 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: \$ _____
 - (b) Place the amount listed in item 5 above here: -0-
 - (c) Subtract Line 6(b) from Line 6(a) and place result here: \$ _____
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$ _____.
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as:
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.

SWORN to before me this _____
Day of _____.

Responsible Person Connected with the Transaction

Notary Public for South Carolina
My Commission Expires:

Print or Type Name Here

INFORMATION:

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any rights. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

EXCEPTED FROM THE FEE ARE DEEDS:

1. transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
2. transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
3. that are otherwise exempted under the laws and Constitution of this State or the United States;
4. transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
5. transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interest in the realty that are being exchanged in order to partition the realty;
6. transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
7. that constitute a contract for the sale of timber to be cut;
8. transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty for a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
9. transferring realty from a family partnership to a partner or from family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
10. transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
11. transferring realty in a merger or consolidation from constituent partnership to the continuing or new partnership;
12. that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid to or is to be paid under the corrective or quitclaim deed; and,
13. transferring realty subject to a mortgage whether by a deed in lieu or foreclosure executed by the mortgagor or deed executed pursuant to foreclosure proceedings.
14. transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.
15. transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or take functional control of electric transmission assets as defined in the Federal Power Act.



File Number: 12-529 KNIGHT

OWNER'S AFFIDAVIT

On the date shown below, personally appeared before me the undersigned, J. Wayne Raiford, Member of Raiford Topsail Island Investments, LLC, to me personally known, who, being duly sworn on their oath did state the following:

1. That the undersigned is/are the owner(s) of the property located in the County of Edgefield, in the State of South Carolina, said property being described as Mount Vintage Plantation Property, North Augusta, SC 29860.
2. That all of the persons, firms, and corporations, including the General Contractor and all sub-contractors, who have furnished services, labor, or materials for construction or repair of the improvements located on the above described property have been paid in full, that there are no mechanics' or materialmen's liens against said property and no claims outstanding which would entitle the holder thereof to claim a lien against the property, and that all such construction or repairs have been completed and accepted by the owner;
EXCEPT: None
3. That there are no other parties other than the Owner or Purchaser from the Owner who have a right of Possession in the property;
EXCEPT: None
4. That this affidavit is made for the purpose of inducing Old Republic National Title Insurance Company to issue its policy or policies insuring the title to said property without exception to or providing insurance against, loss or damage on account of any claims of mechanics, materialmen and laborers, and the undersigned owner(s) do hereby jointly and severally agree to indemnify and hold Old Republic National Title Insurance Company harmless of and from any and all loss, cost, damage and expense of every kind, including Attorneys fees, which said Old Republic National Title Insurance Company shall or may suffer or incur or become liable for under its said policy or policies directly or indirectly out of such improvements, repairs or other construction on the property above described or on account of any such mechanics' or materialmen's liens or claims of liens.

WITNESS THE HAND(S) AND SEAL(S) of the undersigned on the ___ day of November, 2013.

Tony Bess Witness

[Signature] Witness

SELLER: Raiford Topsail Island Investments, LLC

BY [Signature]
ITS

Sworn to before me this 27 day of November, 2013.

[Signature] (L.S.)
Notary Public for the State of South Carolina
My Commission Expires: 6/10/2021



**ASSIGNMENT OF PROMISSORY NOTE
(WITHOUT RECOURSE)**

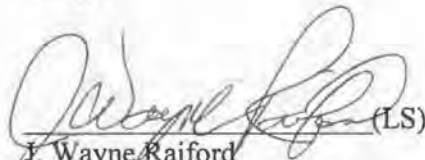
For Value Received, the undersigned holder of a Promissory Note (herein "Assignor") whose address is 616 Edgefield Road, Suite 115, North Augusta, South Carolina 29841, does hereby grant, sell, assign, transfer and convey without recourse, unto _____ whose address is _____

(herein "Assignee"), all beneficial interest under that certain Promissory Note from Talmadge M. Knight and Michael J. Hooker to J. Wayne Raiford in the original principal amount of \$150,000.00 dated April 28, 2011.

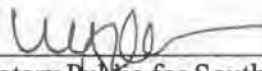
TO HAVE AND TO HOLD, the same unto Assignee, its successors and assigns, forever, subject only to the terms and conditions of the above-described Promissory Note.

IN WITNESS WHEREOF, the undersigned Assignor has executed this Assignment of Promissory Note on _____, 20____.

Assignor:


J. Wayne Raiford (LS)

Sworn to before me this 27
Day of November, 2013


Notary Public for South Carolina
My Commission Expires: 6/10/2021

[NOTARY SEAL]



_____[Space Above This Line For Recording Data]_____

ASSIGNMENT OF MORTGAGE

After Recording please return to:

For Value Received, the undersigned **J. WAYNE RAIFORD**, holder of a Mortgage (herein "Assignor") whose address is 616 Edgefield Road, Suite 115, North Augusta, South Carolina 29841, does hereby grant, sell, assign, transfer and convey unto _____ whose address is _____

(herein "Assignee"), all beneficial interest under a certain Mortgage dated April 28, 2011 made and executed by **P.K. KNIGHT, LLC**, upon the following described property situated in Edgefield County, South Carolina:

ALL that certain piece, parcel or tract of land, with all improvements thereon, situate, lying and being within the County of Edgefield, State of South Carolina, located approximately ten (10) miles South of the Town of Edgefield, South Carolina shown and designated as Lot G-20 containing 0.44 acres, more or less, on that certain Subdivision Plat of Mount Vintage Plantation Section G Chester Downs dated August 14, 2001 and recorded in Judgment Roll #35,381 in the Office of the Clerk of Court for Edgefield County, South Carolina, which plat is incorporated herein and made a part and parcel of this description by reference thereto. Reference is hereby made to said plat for a more complete and accurate description as to the metes, bounds and exact location of the within conveyed property.

BEING a portion of the same property conveyed to P.K. Knight, LLC by Corrective Deed of MV Development Company, LLC dated December 17, 2010 and recorded

December 17, 2010 in Deed Book 1312, Page 346, Edgefield County Records.

Tax Parcel No. 122-00-08-020

Such Mortgage having been given to secure payment of the principal sum of \$150,000.00 which Mortgage is of record in Mortgage Book 1329, page 325, in the Office of the Register of Deeds of Edgefield County, State of South Carolina, together with the note(s) and obligations therein described, the money due and to become due thereon with interest, and all rights accrued or to accrue under such Mortgage.

TO HAVE AND TO HOLD, the same unto Assignee, its successors and assigns, forever, subject only to the terms and conditions of the above-described Mortgage.

[Signatures Commence on Next Page]

IN WITNESS WHEREOF, the undersigned Assignor has executed this Assignment of Mortgage on _____, 20____.

Assignor:

Tony [Signature]
Witness Signs Here
[Signature]
Notary Public Signs Here

[Signature] (LS)
J. Wayne Rufford

STATE OF SOUTH CAROLINA)

COUNTY OF Aiken)

Personally appeared before me the above named witness who, in oath, says that s/he saw the within named Assignor, sign the within Assignment of Mortgage, and the said, as his act and deed, deliver the same, and that (s)he with the above-named notary public witnessed the execution thereof.

Sworn to before me this 27
day of November, 2013

[Signature] (L.S.)
NOTARY PUBLIC
My Commission Expires: 6/10/2021

[Signature]
Witness Signs Here



_____[Space Above This Line For Recording Data]_____

ASSIGNMENT OF MORTGAGE

After Recording please return to:

For Value Received, the undersigned **J. WAYNE RAIFORD**, holder of a Mortgage (herein "Assignor") whose address is 616 Edgefield Road, Suite 115, North Augusta, South Carolina 29841, does hereby grant, sell, assign, transfer and convey unto _____ whose address is _____

(herein "Assignee"), all beneficial interest under a certain Mortgage dated April 28, 2011 made and executed by **HOOKER RETIREMENT INVESTMENTS, LLC**, upon the following described property situated in Edgefield County, South Carolina:

ALL that certain piece, parcel or tract of land, with all improvements thereon, situate, lying and being within the County of Edgefield, State of South Carolina, located approximately ten (10) miles South of the Town of Edgefield, South Carolina near Mount Vintage Plantation Drive, containing ninety-five hundredths (.95) of an acre, more or less, and designated as Lot L-8 on that certain plat prepared for MV Development Company, LLC by Newby-Proctor and Associates, and recorded in Judgment Roll #38,149 in the Office of the Clerk of Court for Edgefield County, South Carolina, which plat is incorporated herein and made a part and parcel of this description by reference thereto. Reference is hereby made to said plat for a more complete and accurate description as to the metes, bounds and exact location of the within conveyed property.

BEING the same property conveyed to Hooker Retirement Investments, LLC by deed of MV Development Company, LLC dated May 11, 2006 and recorded May 12, 2006 in

Deed Book 1049, Page 291, Edgefield County Records.

Tax Parcel No. 099-01-01-008

Such Mortgage having been given to secure payment of the principal sum of \$150,000.00 which Mortgage is of record in Mortgage Book 1329, page 336, in the Office of the Register of Deeds of Edgefield County, State of South Carolina, together with the note(s) and obligations therein described, the money due and to become due thereon with interest, and all rights accrued or to accrue under such Mortgage.

TO HAVE AND TO HOLD, the same unto Assignee, its successors and assigns, forever, subject only to the terms and conditions of the above-described Mortgage.

[Signatures Commence on Next Page]

IN WITNESS WHEREOF, the undersigned Assignor has executed this Assignment of Mortgage on _____, 20____.

Assignor:

Tony M. [Signature]
Witness Signs Here

[Signature]
Notary Public Signs Here

[Signature] (LS)
J. Wayne Raiford

STATE OF SOUTH CAROLINA)
)
COUNTY OF Aiken)

Personally appeared before me the above named witness who, in oath, says that s/he saw the within named Assignor, sign the within Assignment of Mortgage, and the said, as his act and deed, deliver the same, and that (s)he with the above-named notary public witnessed the execution thereof.

Sworn to before me this 27
day of November, 2013

[Signature] (L.S.)
NOTARY PUBLIC
My Commission Expires: 6/10/2021

Tony M. [Signature]
Witness Signs Here



Seller's Affidavit
Nonresident Withholding Tax
S.C. Code Section 12-8-580 et seq.

This is an affidavit of facts. Whether or not this affidavit is sufficient to relieve the Buyer of the responsibility to withhold is governed by SC Revenue Advisory Bulletin #02-6. Please read this affidavit carefully in conjunction with this advisory opinion.

The undersigned on oath, being first duly sworn, hereby certifies as follows:

1. This affidavit is being given in connection with a sale of real estate pursuant to SC Revenue Advisory Bulletin #02-6.
2. I have attached to this affidavit a description of the real property and any tangible personal property being sold as part of this sale. The real property is located in the county of Edgefield and its tax map number(s) is 122-00-06-003 et seq.
3. The undersigned is the seller of the property described in the attached description.
4. The closing date of this sale is:
5. The Seller's name is: Raiford Topsail Island Investments, LLC
6. The Seller's address is: 616 Edgefield Rd Suite 115
North Augusta, SC 29841
7. The Seller's social security number(s) or taxpayer identification number is/are:
#1 24-9665757 #2
8. The undersigned acknowledges his obligation to file a South Carolina income tax return for the year of sale.
9. ☒ **Resident.** The seller(s) is/are resident(s) of South Carolina, as that term is defined in the South Carolina income tax laws (Code Section 12-6-30 et. seq.).
10. ☐ **Deemed Resident.** Pursuant to Code Section 12-8-580(C) and SC Revenue Advisory Bulletin #02-6, the seller is deemed to be a resident of South Carolina because:
 - 1.a. The seller is a corporation incorporated outside South Carolina, has its principal place of business in South Carolina, and does no business in its state of incorporation, or
 - b. The seller (i) has been in business in South Carolina during the last two taxable years, including the year of sale (ii) will continue substantially the same business in South Carolina after the sale, (iii) is not delinquent with respect to filing any South Carolina income tax returns, (iv) has filed at least one South Carolina income tax return, and (v) has a certificate of authority to do business in South Carolina or is registered to do business in South Carolina and
2. The seller agrees to report the sale on a timely filed South Carolina income tax return.
11. ☐ **Tax-Exempt Organizations.** The seller is an organization exempt from income taxes under Internal Revenue Code Section 501(a) or is an insurance company exempt from South Carolina taxes on income.
12. ☐ **Gain Amount.** The seller affirms pursuant to Code Section 12-8-580(B) that the amount of gain required to be recognized on this transaction and on which Buyer is to make the requisite withholding will not exceed \$_____.
13. ☐ **Withholding Amount Equals Entire Net Proceeds.** If the withholding amount is limited to the entire net proceeds, any lien, mortgage or credit line advance which was made within one year prior to the closing was not made in contemplation of the sale. See Question and answer 15 in SC Revenue Advisory Bulletin #02-6 for a discussion of loans made in contemplation of the sale.
14. **Installment Sale.**
☐ The Seller will report this sale on the installment method for South Carolina income tax purposes, and has attached an amortization schedule correctly designating the principal and interest portions of the payments. If withholding is to be limited to the gain, the seller has entered the gain amount in item 12.
☐ The seller elects out of the installment sale method for South Carolina purposes and will report the entire withholding in one payment. If withholding is to be limited to the gain, the seller has entered the gain amount in item 12.

15. ☐ **Principal Residence or Involuntary Conversion - Nonrecognition of gain.** The sale of the property will not be subject to taxes because of Internal Revenue Code Section 121 (sale of a principal residence) or Internal Revenue Code Section 1033 (involuntary conversions). If the Seller fails to comply with Section 1033, the Seller acknowledges an obligation to file an amended South Carolina income tax return for the year of the sale.
16. ☐ **Like Kind Exchange.**
- ☐ In a simultaneous exchange, the entire gain is deferred under Internal Revenue Code Section 1031.
- ☐ A gain will be partially recognized. Enter the gain amount in item 12.
- ☐ The gain is intended to be deferred under Internal Revenue Code Section 1031 using a qualified intermediary and the steps required by SC Revenue Advisory Bulletin #02-6 have been completed.
17. ☐ **Employee Relocation.** The transaction involves the sale of an employee's property which is being sold by an employer or relocation company in connection with the employee's transfer. For income tax purposes the sale is treated as a sale by the employer or relocation company.

The undersigned understands that this affidavit may be disclosed to the Department and that any false statement contained herein could be punished by fine, imprisonment, or both.

RAIFORD TOPSAIL ISLAND INVESTMENTS, LLC

By: 
J. Wayne Raiford, Member

If the person making the affidavit is not a Seller, complete the following:

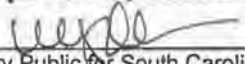
(Affiant's Name)

(Affiant's Social Security Number or Taxpayer Identification Number)

(Affiant's Number, Street or Rural Route)

(Affiant's City, State and Zip Code)

SUBSCRIBED AND SWORN to before me this
27 day of November 2013.


Notary Public for South Carolina

My Commission Expires: 10/10/2021

Social Security Privacy Act Disclosure

It is mandatory that you provide your social security number on this tax form if you are an individual taxpayer. 42 U.S.C 405(c)(2)(C)(k) permits a state to use an individual's social security number as means of identification in administration of any tax. SC Regulation 117-201 mandates that any person required to make a return to the SC Department of Revenue shall provide identifying numbers, as prescribed, for securing proper identification. Your social security number is used for identification purposes.

The Family Privacy Protection Act

Under the Family Privacy Protection Act, the collection of personal information from citizens by the Department of Revenue is limited to the information necessary for the Department to fulfill its statutory duties. In most instances, once this information is collected by the Department, it is protected by law from public disclosure. In those situations where public disclosure is not prohibited, the Family Privacy Protection Act prevents such information from being used by third parties for commercial solicitation purposes.

EXEMPTION FROM WITHHOLDING OF TAX FOR
DISPOSITIONS OF U.S. REAL PROPERTY INTERESTS

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by Raiford Topsail Island Investments, LLC, a South Carolina limited liability company (the "Seller") the undersigned hereby certifies the following:

1. Seller is not a nonresident alien, foreign corporation, foreign partnership, foreign trust, or foreign estate for purposes of U.S. income taxation;
2. Seller's taxpayer identifying number (Social Security or U.S. employer number) is 24-9665757.
3. Seller's home or office address is:

616 Edgefield Road
Suite 115
North Augusta, SC 29841

Seller understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declare I have authority to sign this document.

RAIFORD TOPSAIL ISLAND INVESTMENTS,
LLC

By: 

J. Wayne Raiford, Member

11/27/13
Date

* INFO AS OF 12-31-2014



Edgefield County Assessor's Office
129 Courthouse Square, Suite 109
Edgefield, SC 29824
803-637-4066 Phone / 803-637-4119 Fax

(Complete and return to The Assessor's Office)

May 1st Deadline

RECEIVED
MAR 06 2015
Edgefield County Tax Assessor

Tax Year 2015

Name of Sub-Division or Development MOUNT VINTAGE PLANTATION

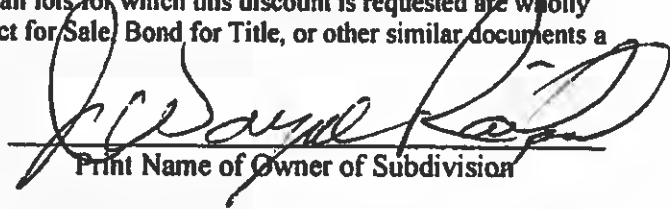
Developer (Address) 6116 EDGEFIELD ROAD

SUITE 115

NORTH AUGUSTA SC 29841

Telephone Number 803.278.7374

I hereby apply to have the unsold lots in the subdivision indicated below granted the multiple lot discount under the authority of Section 12-43-224, and 12-43-225, Code of Laws for South Carolina, 1976, as amended. I certify that all lots for which this discount is requested are wholly owned in fee and were not under a Contract for Sale, Bond for Title, or other similar documents as of December 31st, last.


Print Name of Owner of Subdivision

2-18-15
Date

RAYMOND TOPSAIL ISLAND INVESTMENTS LLC
Signature of Certifying Individual

Name of Subdivision MOUNT VINTAGE PLANTATION
Total # of Lots in SD _____ # of Lots Unsold Dec. 31, last _____
Plat Reference _____ Deed Book _____ Page _____
Tax District _____ Tax Map Reference # _____

** SEE ATTACHED SPREADSHEET FOR ABOVE DETAILS

Subdivision Improvements:

Streets: Paved ☒; Dirt ☒; Other _____
Electrical Power: Above Ground _____; Below Ground ☒
Community Water: Yes ☒; No _____ Sewage; Septic Tanks _____; Central _____
Do You Finance Lots? Yes _____; No _____ What Rate for Interest _____
No. of Years Financed _____ No. of Lots Sold Previous Year _____
What is Your Anticipated Sellout Period in Years? _____

EXHIBIT

13.02

REV. 12/17/10

ROA_00578

Multi-Lot Discount						
Worksheet						
As of 2/15/2015						
Lot	Block	Set as Asking Price	Plat Ref.	Deed Book	Tax District	Tax Map #
3	F	\$ 15,000.00	JR34896	1455 297	1	122-00-06-003
4	F	\$ 15,000.00	JR34896	1455 298	1	122-00-06-004
8	F	\$ 20,000.00		1455 27	1	122-00-06-008
9	F	\$ 20,000.00		1455 27	1	122-00-06-009
10	F	\$ 20,000.00		1455 27	1	122-00-06-010
11	F	\$ 20,000.00		1455 27	1	122-00-06-011
12	F	\$ 20,000.00		1455 27	1	122-00-06-012
13	F	\$ 20,000.00		1455 27	1	122-00-06-013
14	F	\$ 20,000.00		1455 27	1	122-00-06-014
15	F	\$ 20,000.00		1455 27	1	122-00-06-015
16	F	\$ 20,000.00		1455 27	1	122-00-06-016
17	F	\$ 20,000.00		1455 27	1	122-00-06-017
19	F	\$ 20,000.00		1455 27	1	122-00-06-019
25	F	\$ 20,000.00		1455 27	1	122-00-06-025
27	F	\$ 20,000.00		1455 27	1	122-00-06-027
28	F	\$ 15,000.00		1455 27	1	122-00-06-028
29	F	\$ 15,000.00		1455 27	1	122-00-06-029
30	F	\$ 15,000.00		1455 27	1	122-00-06-030
31	F	\$ 15,000.00		1455 27	1	122-00-06-031
32	F	\$ 15,000.00		1455 27	1	122-00-06-032
20	G	\$ 20,000.00		1049 291	1	122-01-01-008
1	H	\$ 8,000.00	JR36455	1455 298	1	122-00-09-001
2	H	\$ 8,000.00	JR36455	1455 298	1	122-00-09-002
12	H	\$ 8,000.00	JR36455	1455 298	1	122-00-09-012
15	H	\$ 8,000.00	JR36455	1455 298	1	122-00-09-015
20	H	\$ 8,000.00	JR36455	1455 298	1	122-00-09-020
43	H	\$ 8,000.00	JR36455	1455 298	1	122-00-09-043
44	H	\$ 8,000.00	JR36455	1455 298	1	122-00-09-044
45	H	\$ 8,000.00	JR36455	1455 298	1	122-00-09-045
46	H	\$ 8,000.00	JR36455	1455 298	1	122-00-09-046
65	H	\$ 8,000.00	JR36455	1455 298	1	122-00-09-065

- does not own

73	H	\$ 8,000.00	JR36455	1455298	1	122-00-09-073		
1	J	\$ 8,000.00	JR37368	1455 297	1	122-00-10-001		
2	J	\$ 15,000.00	JR37368	1455 297	1	122-00-10-002		
3	J	\$ 15,000.00	JR37368	1455 297	1	122-00-10-003		
4	J	\$ 15,000.00	JR37368	1455 297	1	122-00-10-004		
5	J	\$ 15,000.00	JR37368	1455 297	1	122-00-10-005		
6	J	\$ 15,000.00	JR37368	1455 297	1	122-00-10-006		
7	J	\$ 15,000.00	JR37368	1455 297	1	122-00-10-007		
8	J	\$ 15,000.00	JR37368	1455 297	1	122-00-10-008		
9	J	\$ 15,000.00	JR37368	1455 297	1	122-00-10-009		
11	J	\$ 15,000.00	JR37368	1455 297	1	122-00-10-011		
13	J	\$ 15,000.00	JR37368	1455 297	1	122-00-10-013		
14	J	\$ 20,000.00	JR37368	1455 297	1	122-00-10-014		
15	J	\$ 20,000.00	JR37368	1455 297	1	122-00-10-015		
16	J	\$ 20,000.00	JR37368	1455 297	1	122-00-10-016		
17	J	\$ 20,000.00	JR37368	1455 297	1	122-00-10-017		
18	J	\$ 20,000.00	JR37368	1455 297	1	122-00-10-018		
19	J	\$ 20,000.00	JR37368	1455 297	1	122-00-10-019		
20	J	\$ 20,000.00	JR37368	1455 297	1	122-00-10-020		
27	J	\$ 20,000.00	JR37368	1455 297	1	122-00-10-027		
28	J	\$ 20,000.00	JR37368	1455 297	1	122-00-10-028		
30	J	\$ 20,000.00	JR37368	1455 297	1	122-00-10-030		
35	J	\$ 15,000.00	JR37368	1455 297	1	122-00-10-035		
44	J	\$ 15,000.00	JR37368	1455 297	1	122-00-10-044		
45	J	\$ 15,000.00	JR37368	1455 297	1	122-00-10-045		
46	J	\$ 15,000.00	JR37368	1455 297	1	122-00-10-046		
47	J	\$ 15,000.00	JR37368	1455 297	1	122-00-10-047		
7	K	\$ 20,000.00	JR37633	1455 297	1	122-00-11-007		
11	K	\$ 20,000.00	JR37633	1455 297	1	122-00-11-011		

Lot	Block	Set as Asking Price	Plat Ref.	Deed Book	Tax District	Tax Map #		
1	L	\$ 20,000.00	JR3 8163	1455 297	1	099-01-01-001		
2	L	\$ 20,000.00	JR3 8163	1455297	1	099-01-01-002		
3	L	\$ 20,000.00	JR3 8163	1455297	1	099-01-01-003		

7	L	\$ 20,000.00	JR3 8149	1455297	1	099-01-01-007	
8	L	\$ 15,000.00		1049 291	1	099-01-01-008	
24	L	\$ 15,000.00	JR3 8149	1455297	1	099-01-01-024	
25	L	\$ 15,000.00	JR3 8149	1455297	1	099-01-01-025	
26	L	\$ 15,000.00	JR3 8149	1455297	1	099-01-01-026	
27	L	\$ 15,000.00	JR3 8149	1455297	1	099-01-01-027	
28	L	\$ 15,000.00	JR3 8149	1455297	1	099-01-01-028	
29	L	\$ 15,000.00	JR3 8149	1455297	1	099-01-01-029	
31	L	\$ 15,000.00	JR3 8149	1455297	1	099-01-01-031	
36	L	\$ 15,000.00				099-01-01-036	
37	L	\$ 15,000.00	JR3 8149	1455297	1	099-01-01-037	
38	L	\$ 15,000.00	JR3 8149	1455297	1	099-01-01-038	
39	L	\$ 15,000.00	JR3 8149	1455297	1	099-01-01-039	
1	M	\$ 12,000.00	JR3 8387	1455297	1	099-01-02-001	
2	M	\$ 12,000.00	JR3 8387	1455297	1	099-01-02-002	
3	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-003	
4	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-004	
5	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-005	
6	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-006	
7	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-007	
8	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-008	
9	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-009	
10	M	\$ 15,000.00	JR3 8379	1455297	1	099-01-02-010	
12	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-012	
13	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-013	
18	M	\$ 20,000.00	JR3 8387	1455297	1	099-01-02-018	
19	M	\$ 20,000.00	JR3 8387	1455297	1	099-01-02-019	
20	M	\$ 20,000.00	JR3 8387	1455297	1	099-01-02-020	
29	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-029	
30	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-030	
32	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-032	
42	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-042	
44	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-044	
46	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-046	
47	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-047	
48	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-048	
49	M	\$ 15,000.00	JR3 8387	1455297	1	099-01-02-049	

53	M	\$ 20,000.00	JR3 8387	1455297	1	099-01-02-053

Lot	Block	Set as Asking Price	Plot Ref.	Deed Book	Tax District	Tax Map #
1	N	\$ 11,000.00	JR3 8387	1455297	1	099-01-03-001
2	N	\$ 11,000.00	JR3 8150	1455297	1	099-01-03-002
3	N	\$ 11,000.00	JR3 8150	1455297	1	099-01-03-003
4	N	\$ 11,000.00	JR3 8150	1455297	1	099-01-03-004
5	N	\$ 11,000.00	JR3 8150	1455297	1	099-01-03-005
10	N	\$ 20,000.00	JR3 8150	1455297	1	099-01-03-010
11	N	\$ 20,000.00	JR3 8150	1455297	1	099-01-03-011
27	N	\$ 12,000.00	JR3 8662	1455297	1	099-01-03-027
28	N	\$ 12,000.00	JR3 8662	1455297	1	099-01-03-028
29	N	\$ 12,000.00	JR3 8662	1455297	1	099-01-03-029
30	N	\$ 12,000.00	JR3 8662	1455297	1	099-01-03-030
31	N	\$ 12,000.00	JR3 8661	1455297	1	099-01-03-031
32	N	\$ 12,000.00	JR3 8661	1455297	1	099-01-03-032
33	N	\$ 12,000.00	JR3 8661	1455297	1	099-01-03-033
34	N	\$ 12,000.00	JR3 8661	1455297	1	099-01-03-034
35	N	\$ 12,000.00	JR3 8661	1455297	1	099-01-03-035
36	N	\$ 12,000.00	JR3 8661	1455297	1	099-01-03-036
37	N	\$ 20,000.00	JR3 8661	1455297	1	099-01-03-037
39	N	\$ 20,000.00	JR3 8661	1455297	1	099-01-03-039
40	N	\$ 20,000.00	JR3 8662	1455297	1	099-01-03-040
41	N	\$ 20,000.00	JR3 8661	1455297	1	099-01-03-041
42	N	\$ 8,000.00	JR3 8661	1455297	1	099-01-03-042
43	N	\$ 8,000.00	JR3 8661	1455297	1	099-01-03-043
44	N	\$ 8,000.00	JR3 8661	1455297	1	099-01-03-044
45	N	\$ 8,000.00	JR3 8661	1455297	1	099-01-03-045
46	N	\$ 8,000.00	JR3 8661	1455297	1	099-01-03-046
47	N	\$ 8,000.00	JR3 8150	1455297	1	099-01-03-047
49	N	\$ 8,000.00	JR3 8150	1455297	1	099-01-03-049
51	N	\$ 8,000.00	JR3 8150	1455297	1	099-01-03-051
52	N	\$ 8,000.00	JR3 8150	1455297	1	099-01-03-052
57	N	\$ 8,000.00	JR3 8150	1455297	1	099-01-03-057
58	N	\$ 8,000.00	JR3 8150	1455297	1	099-01-03-058
59	N	\$ 8,000.00	JR3 8150	1455297	1	099-01-03-059

69	N	\$ 15,000.00	JR3 8149	1455297	1	099-01-03-069
70	N	\$ 15,000.00	JR3 8149	1455297	1	099-01-03-070
79	N	\$ 15,000.00	JR3 8149	1455297	1	099-01-03-079
80	N	\$ 15,000.00	JR3 8149	1455297	1	099-01-03-080
81	N	\$ 15,000.00	JR3 8149	1455297	1	099-01-03-081
82	N	\$ 15,000.00	JR3 8149	1455297	1	099-01-03-082
83	N	\$ 15,000.00	JR3 8149	1455297	1	099-01-03-083
85	N	\$ 12,000.00	JR3 8149	1455297	1	099-01-03-085
86	N	\$ 12,000.00	JR3 8149	1455297	1	099-01-03-086

Lot	Block	Set as Asking Price	Plat Ref.	Deed Book	Tax District	Tax Map #		
1	O	\$ 8,000.00	JR3 8606	1455297	1	099-01-04-001		
2	O	\$ 8,000.00	JR3 8606	1455297	1	099-01-04-002		
3	O	\$ 8,000.00	JR3 8606	1455297	1	099-01-04-003		
4	O	\$ 8,000.00	JR3 8606	1455297	1	099-01-04-004		
7	O	\$ 8,000.00				099-01-04-007		
8	O	\$ 8,000.00	JR3 8606	1455297	1	099-01-04-008		
9	O	\$ 8,000.00	JR3 8606	1455297	1	099-01-04-009		
10	O	\$ 8,000.00	JR3 8606	1455297	1	099-01-04-010		
11	O	\$ 8,000.00	JR3 8606	1455297	1	099-01-04-011		
							not Paid	
13	O	\$ 8,000.00	JR3 8606	1455297	1	099-01-04-013		
14	O	\$ 8,000.00	JR3 8606	1455297	1	099-01-04-014		
17	O	\$ 8,000.00	JR3 8606	1455297	1	099-01-04-017		
22	O	\$ 8,000.00	JR3 8606	1455297	1	099-01-04-022		
							not Paid	
24	O	\$ 10,000.00	JR3 8606	1455297	1	099-01-04-024		
25	O	\$ 10,000.00	JR3 8606	1455297	1	099-01-04-025		
26	O	\$ 10,000.00	JR3 8606	1455297	1	099-01-04-026		
27	O	\$ 10,000.00	JR3 8606	1455297	1	099-01-04-027		
29	O	\$ 10,000.00	JR3 8060	1455297	1	099-01-04-029		
33	O	\$ 10,000.00	JR3 8606	1455297	1	099-01-04-033		
35	O	\$ 10,000.00	JR3 8606	1455297	1	099-01-04-035		
37	O	\$ 10,000.00	JR3 8606	1455297	1	099-01-04-037		
38	O	\$ 10,000.00	JR3 8606	1455297	1	099-01-04-038		
41	O	\$ 10,000.00		1455297	1	099-01-04-041		

49	O	\$ 10,000.00		1455297	1	099-01-04-049		
50	O	\$ 10,000.00		1455297	1	099-01-04-050		
51	O	\$ 10,000.00		1455297	1	099-01-04-0541		
Lot	Block	Set as Asking Price	Plat Ref.	Deed Book	Tax District	Tax Map #		
2	P	\$ 10,000.00		1455 297	1	099-01-05-002		
3	P	\$ 10,000.00		1455 297	1	099-01-05-003		
5	P	\$ 10,000.00		1455 297	1	099-01-05-005		
6	P	\$ 10,000.00	JR3 8150	1455297	1	099-01-05-006		
7	P	\$ 12,000.00	JR3 8150	1455297	1	099-01-05-007		
9	P	\$ 12,000.00	JR3 8150	1455297	1	099-01-05-009		
13	P	\$ 12,000.00	JR3 8150	1455297	1	099-01-05-013		
14	P	\$ 12,000.00	JR3 8150	1455297	1	099-01-05-014		
15	P	\$ 12,000.00	JR3 8150	1455297	1	099-01-05-015		
16	P	\$ 12,000.00	JR3 8150	1455297	1	099-01-05-016		
17	P	\$ 12,000.00	JR3 8150	1455297	1	099-01-05-017		
18	P	\$ 12,000.00	JR3 8150	1455297	1	099-01-05-018		
21	P	\$ 8,000.00	JR3 8150	1455297	1	099-01-05-021		
22	P	\$ 8,000.00	JR3 8150	1455297	1	099-01-05-022		
23	P	\$ 8,000.00	JR3 8150	1455297	1	099-01-05-023		
26	P	\$ 8,000.00	JR3 8149	1455297	1	099-01-05-026		
27	P	\$ 8,000.00	JR3 8149	1455297	1	099-01-05-027		
31	P	\$ 8,000.00	JR3 8149	1455297	1	099-01-05-031		
32	P	\$ 8,000.00				099-01-05-032		
42	P	\$ 8,000.00	JR3 8149	1455297	1	099-01-05-042		

Lot	Block	Set as Asking Price	Plat Ref.	Deed Book	Tax District	Tax Map #
4	R	18,000.00				122-00-07-004

ATTACHMENT A

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
OF MOUNT VINTAGE

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COVENANT 34.00
OR Book 1665 Page 3 -

COUNTY OF EDGEFIELD

WHEREAS, Mount Vintage has been subject to the following covenants and restrictions: Protective Covenants of Mount Vintage Plantation Estate Tracts, Phase One (Lots 1 through 25: Lots C-1, C-2 and C-3 and Estate Lots A, C and G) dated July 5, 1995 and recorded July 5, 1995 Book 398, p.77; Mount Vintage Plantation, Section A, Lots A-1 through A-37, under revised date of January 6, 2000 and recorded in Judgment Roll No. 33,903; Mount Vintage Plantation, Section B, Lots B-1 – B-18 under revised date of March 1, 1999 and recorded in Judgment Roll No. 33,904 and Mount Vintage Plantation, Section C, Lots C-1 - C-30; under revised date of November 1998 and recorded in Judgment Roll No. 33,905; Protective Covenants of Mount Vintage Plantation Estate Tracts, Phase Two (Lots D-1 through D-19 and Estate Lot B), dated March 29, 2000 and recorded April 6, 2000 Book 673, p. 111; Declaration of Protective Covenants, Conditions and Restriction of Mount Vintage Plantation dated March 29, 2000 and recorded March 30, 2000 in Book 672, at Page 0098; Declaration of Protective Covenants, Conditions , and Restriction of Mount Vintage Plantation, Sections E & F (Pavilion Lake Section), dated November 6, 2001, and recorded November 6, 2001, Book 752 at Page 0004; Declaration of Protective Covenants, Conditions and Restriction of Mount Vintage Plantation, The Retreat at Independent Hill Patio Homes dated November 6, 2001 and recorded November 6, 2001, Book 752, Page 021; Declaration of Protective Covenants, Conditions and Restrictions of Mount Vintage Plantation, Section G (Chester Downs Section) dated May 7, 2002 and recorded May 7, 2002 in Book 784 at Page 0250; Declaration of protective Covenants, Conditions, and Restrictions of Mount Vintage Plantation, Section H (Longstreet Place Section), dated August 8, 2003, and recorded August 8, 2003 in Book 873, at Page 139;

Declaration of Protective Covenants, Conditions and Restrictions of Mount Vintage Plantation, Section F (The Vineyard), dated May 19, 2004 and recorded May 19, 2004 in Book 0927 at Page 024; Declaration of Protective Covenants, Conditions, and Restrictions of Mount Vintage Plantation, Section S (Shaw Estates), dated May 27, 2004 and recorded May 28, 2004 in Book 0928, at page 191; Declaration of Protective Covenants, Conditions, and Restrictions of Mount Vintage Plantation, Section J (Belfast), dated January 24, 2005 and recorded February 7, 2005 in Book 0963 at Page 320; Declaration of Protective Covenants, Conditions, and Restriction of Mount Vintage Plantation, Section K (Belfast), dated June 22, 2005 and recorded June 22, 2005 in Book 0991 at Page 113; Declaration of Protective Covenants, Conditions, and Restrictions of Mount Vintage Plantation, Section L, Lots L-1 through L-39; Section M, Lots M-24 through M-35; Section N, Lots N-1 through N-13 and Lots N-47 through N-86; and Section P, Lots P-1 through P-43 dated February 21, 2006 and recorded May 30, 2006, Book 1052, P. 277; Section M-1 through M-23 Section O, Lots O-38 through O-51 dated June 28, 2006, and recorded June 30, 2006 in Book 1058, at Page 191; Declaration of Protective Covenants, Conditions, and Restrictions of Mount Vintage Plantation, Section O, Lots O-1 through O-37 dated October 27, 2006 and recorded October 27, 2006 in Book 1081, at Page 100; Declaration of Protective Covenants, Conditions, and Restrictions of Mount Vintage Plantation, Section N, Lots N-22 through N-46 dated November 13, 2006 and recorded November 13, 2006 in Book 1084, at Page 109; and Declaration of Protective Covenants, Conditions, and Restrictions of Mount Vintage Plantation, The Village, Lots V-1 through V-51 dated March 2, 2007 and recorded March 6, 2007 in Book 1106, at Page 181, records of Edgefield County, South Carolina; Assignment of Developers Rights dated May 17, 2011 and recorded May 17, 2011 in Book 1331, page 199, records of Edgefield County, South Carolina; Declaration of Protective Covenants, Conditions and Restrictions of Mount vintage Plantation dated November 16, 2012 and recorded November 21, 2012 in Book 1404 page 178, records of Edgefield County, South Carolina (hereinafter collectively referred to as the "Covenants");

WHEREAS, this Declaration of Protective Covenants, Conditions and Restrictions (DPCCR) of Mount Vintage shall also be binding upon the Mount Vintage Golf Club (Edgefield County tax map # 099-01-00-001-000 and 099-01-00-002-000 ad 122-00-00-006-000), The Town Center (Edgefield County tax map #122-00-00-014-000) and the Mount Vintage Homeowners Association building (Edgefield County tax map #122-00-04-021-000)

WHEREAS, this Declaration of Protective Covenants, Conditions and Restrictions (DPCCR) of Mount Vintage, which amends, consolidates and restates all previously issued DPCCRs. Restatement and consolidation of those previously issued DPCCRs or portions thereof that remain in effect for all Sections of the community as contained in the main body of this restatement and Consolidation with the exception of the Assignment of Developers Rights dated May 17, 2011 detailed above, together with the Assignment of Developers Rights to LL of SC, LLC by instrument recorded September 3, 2013 in Book 1445, Page 1, which is incorporated in full herein.

Those particular provisions applicable to the specific Section or Sections of the community are contained in Addenda to the Re-statement and Consolidation, attached hereto. In the event of a conflict between the provisions of an addendum with the main body of this Restatement and Consolidation, the particular addendum applies.

WHEREAS, the Developer and those parties having previously been conveyed lots, tracts or parcels within Mount Vintage, have determined that it would be appropriate to establish and continue the development of Mount Vintage as a private residential community; and

WHEREAS, the Developer is continuing the development of said property as a residential community known as Mount Vintage, and hereafter referred to as Mount Vintage, and has deemed it desirable for the preservation of the value of said property to have an organization which shall be delegated and assigned, as hereinafter set forth, the power of maintaining and administering and enforcing the terms and conditions hereinafter set forth in this agreement, and also to perform any other functions that may be desirable to improve the enjoyment of living in Mount Vintage; and

WHEREAS, it is to the interest, benefit and advantage of the Developer and the Association and to each and every person who shall purchase a lot in said subdivision, that certain protective covenants governing and regulating that use and occupancy of the same, and certain easements, reservations, and servitudes to be imposed upon said property, and the same be established, set forth and declared to be covenants running with the land.

NOW THEREFORE, for and in consideration of the premises and the benefits to be derived by the Developer and the Association, and each and every subsequent owner of any of the lots of said subdivision, the Developer does hereby set up, establish, promulgate and declare the following protective covenants to apply to all of said lots and to all persons owning said lots, or any of them hereinafter:

ARTICLE I

RESIDENTIAL USE, BUILDING AND LOCATION OF STRUCTURES

- (1) All of the above-described lots shall be used for residential purposes only for the erection of one single-family dwelling. No structure shall be erected, altered, placed or permitted to remain on any residential lot other than one single-family residence unless otherwise called for in this Declaration. The Architectural Control Committee ("ACC"), as hereinafter described, recognizing that the quantity of square footage does not alone necessarily determine the design and construction quality or monetary value of a residential structure, shall not be bound by minimum square footage requirement for a residence. It is the intention, rather, that the sole criteria governing the nature of such improvements to be constructed in Mount Vintage shall be those of good taste, high quality, both as to workmanship and materials, and harmony and suitability of such improvements to their environment and surroundings, as determined by the ACC in its sole opinion

- (2) No breaks shall be made in any curb or gutter on or adjacent to the right of way of any street for the purpose of constructing any driveway, walk or other means of ingress to and egress from a lot, unless the apron of such driveway or walk shall be constructed of a permanent paving material, such as asphalt or exposed aggregate which is structurally and aesthetically compatible with the curb or gutter being broken and adjacent street. Such driveway or walk shall tie in with the street curb and/or gutter in such a manner that a hazardous condition is not created.
- (3) No lot shall be subdivided, or its boundary lines changed, nor shall application for same be made to the County of Edgefield, except with the written consent of the Developer. However, the Developer hereby expressly reserves unto itself and its successor and assigns, the full right and privilege to re-plat and change the boundary lines or subdivide any lot or lots owned by it, provided, however, that such right and privilege shall not affect any lots already sold and provided that no such resurvey shall be less in area than the smallest lot now shown in the subdivision from which such resurveyed lot may be carved. In all cases of re-subdivision of any lots, the setback line and the side and rear line restrictions and the drainage and utility easements as set forth in these covenants shall be applicable to such lots as re-subdivided.
- (4) Zoning ordinances, restrictions and regulations of the County of Edgefield, and its various agencies applicable to the subject property shall be observed. In the event of any conflict between any provision of the Declarations and such ordinances, restrictions, or regulations, the more restrictive provisions shall apply.

See Addendum One for specific covenants applicable to the Estate Tracts, Phase One and Phase Two.

ARTICLE II ARCHITECTURAL CONTROL COMMITTEE

(1) Submission of Plans, etc.

An Architectural Control Committee, hereinafter call the "ACC", has been duly set up and appointed by the Developer or the Association as applicable, to exercise such jurisdiction and functions with respect to all lots in Mount Vintage and such as may now or hereafter by amendment be additionally bestowed upon it by terms of this agreement. Plans and specifications for all proposed improvements and landscaping upon the lots, must be submitted in writing to the ACC, which is hereby vested with the full power and authority to approve or disapprove the same in whole or in part, or require the modification of the same as it may, in its discretion, deem proper. No construction, landscaping, or improvements of any kind may be undertaken without its prior written approval. The ACC shall have the right to refuse to approve any building plans, specifications, site plans, landscape plans or grading plans which are not suitable or desirable in its sole opinion for any reason, including purely aesthetic reasons. In so passing upon building plans, specifications, site plans or grading plans, the ACC shall take into consideration the suitability of the proposed building, the materials of which it is to be built, the

location on the lot of the proposed building and any other improvements, the harmony of the building in its location with its surroundings, and the effect of the building as planned on the outlook from adjacent or neighboring portions of the subject property. All fences, walls, barbeque pits, detached garages, and other accessory buildings or recreational facilities shall be constructed in general conformity with the architecture of the main dwelling and out of materials which conform to the materials used in such main building. Building plans and specifications submitted to the ACC shall consist of not less than the following: Foundation plans, section details, floor plans of all floors, elevation drawings of all exterior walls, roof plans, material specifications, landscape plan and site plans showing locations and orientations of building on the lot, with all setbacks indicated, in such detail as may be required by the ACC in its sole discretion. Plans and specifications shall show drawings of service courts or areas, parking or any other buildings and improvements of facilities to be constructed. Neither the main residential building nor accessory building may be constructed on any lot without the full and active supervision of an architect or licensed building contractor.

The ACC shall approve or reject any plans, specifications, etc. normally within fourteen (14) days of the date submitted to the ACC, provided however, that failure of the ACC to respond within such time shall not be construed as an acceptance or approval of the plans, specifications, etc. so submitted. The ACC shall establish a reasonable fee to cover the cost of the review of all plans and specifications submitted hereunder. Such fee shall be due and payable simultaneous with the submittal of the plans and specifications for review and shall be nonrefundable even if plans and specifications are denied and/or withdrawn from review for any reason.

(2) Preservation of Trees and Vegetation

Since living trees, shrubs and other vegetation contribute to the aesthetic value of the lots in Mount Vintage, no tree more than twelve (12) inches in diameter at its base may be removed from a lot at any time without the prior written approval of the ACC. In order to obtain approval for the clearing of a building site or for any other purpose, the owner must stake on the tract or lot the proposed location of the planned improvements an area to be cleared and mark all trees to be removed for inspection by the ACC. The preliminary stakeout must be updated to reflect any proposed changes in the location of improvements, cleared areas, driveways or any additional trees to be removed.

(3) Clear cutting is not allowed.

The subtle beauty of the view through the trees is encouraged. All existing tree lines along any wetlands must be maintained for a distance of forty (40) feet.

(4) Garages and Carports

All Garages shall have an automatic garage door opener installed and the garage doors shall be kept down or closed whenever possible.

(5) Completion of Construction Within One Year.

The exterior of all buildings or other structures must be completed within one (1) year after the construction of the same shall have been commenced, except when such completion is impossible or would result in great hardship to the owner or builder due to strikes, fire, national emergency, or natural calamity.

- (6) Completion of Landscaping Within Three Months of Completion of Construction.
The landscape plan as originally submitted to the ACC, or a subsequent modification thereof as approved in writing by the ACC, shall be fully implemented and completed within three (3) months of the completion of the main dwelling, unless such implementation and completion is impossible or would result in great hardship to the owner due to weather conditions, planting seasons or availability of designated shrubs, trees, grasses or other vegetation.
- (7) Fences and Hedges.
No fence, hedge, wall, shrub, brush, tree or other similar structure, natural or artificial, shall be placed, maintained or permitted to remain on any lot if the location of such structure obstructs the vision of the motorists on any adjacent street or lane and/or creates a traffic hazard. The type, design and location of any and all fences, hedges, walls or similar structures must be approved in writing by the ACC.
- (8) Membership on the Architectural Control Committee.
Membership on the ACC shall be solely by appointment of the Developer until all of the lots which are now or may hereafter be made subject to these Declarations shall have been improved by the construction of a residential building, unless said Developer, shall, in its sole discretion, earlier assign its rights of appointment to the Association. The ACC shall be composed of at least three (3) members at the discretion of the Developer or the Association as applicable. A simple majority of the members of the ACC shall be required to bind the committee. As an alternative, the Developer may employ a third party to oversee and administer the ACC and its responsibilities.
- (9) Preferred Builders.
Before commencement of any construction on a lot and simultaneous with submittal of plans and specifications for all proposed improvements to the ACC, the owner who desires to construct improvements must provide the Developer with the name, address, telephone number and license number of the builder that owner desires to construct the improvements. All builders must have the necessary licenses as required by the applicable governmental jurisdiction and must carry insurance coverage in such amounts as are reasonably required by the Developer. As part of the approval process of the ACC, the Developer must reasonably approve the use of said builder. The Developer has the right to refuse to approve a builder in the Developer's sole discretion or to require satisfaction of certain conditions as a precedent to approving the builder.

ARTICLE III LAND USE RESTRICTIONS

- (1) No attic, shack, garage, barn or detached outbuilding shall be used for sleeping quarters except that servant or guest quarters may be provided as part of, or accessory to, a main residential building and shall conform to it in exterior design and quality. This provision shall not prohibit the conversion of a detached garage into sleeping quarters, which are incorporated as part of the main residential building.
- (2) No poultry, swine, cows, goats, horses, mules or other farm animals nor fowl nor bait farms shall be maintained on any lot.
See Addendum One for specific covenant applicable to estate Tracts, Phase One and Phase Two and Addendum Eleven for specific covenant applicable to Shaw Estates.
- (3) No vegetable garden may be planted on any lot except in the rear or backyard of any lot. Any vegetable garden on any lot bordering Mount Vintage Golf Club must be approved by the ACC, including, but not limited to, the specific size and location of same. The ACC in its sole discretion may approve or reject any such vegetable garden or may require that such be screened from view from the golf course.
See Addendum One for specific covenant applicable to Estate Tracts, Phase One and Phase Two.
- (4) No garbage receptacles, fuel tanks or similar storage receptacles, electric and gas meters, air conditioning equipment, clotheslines and other unsightly objects may be maintained, except in areas which conceal them from view from streets and adjacent lots. Plans for such areas delineating the design, size, appearance and location must be approved in writing by the ACC prior to their construction. Such areas of individual homes must be carefully planned to screen from view garbage can enclosures, dog pens, utility hookups and mechanical equipment.
- (5) Exterior television, radio and CB antennas are not permitted in Mount Vintage. Satellite television reception dishes must be totally screened from view from all roads and adjacent properties except to the extent that other installation may be required by applicable law. The size, design, installation and location of any satellite reception dishes must be approved in writing by the ACC prior to their erection.
- (6) No parking of automobiles, trucks, trailers, construction equipment, buses or mobile homes shall be permitted on the streets, lots or other portions of Mount Vintage except during construction and, thereafter, except for delivery and pickup or remodeling and repair of buildings on the subject property. Motorcycles, motorbikes, boats, and boat trailers not over twenty-five (25) feet in length may be kept on a lot if parked in a closed garage at all times. Camping vehicles, utility trailers and other outboard or inboard motor boats including all vehicles and/or

equipment not capable of being stored in a closed garage, shall only be parked, placed or stored in areas that may be designated by the ACC.

See Addendum One for covenant applicable to Estate Tracts, Phase One and Phase Two.

- (7) The pursuit of hobbies or other activities, including, without limiting the generality hereof, the assembly and disassembly of vehicles and other mechanical devices, which might lead to disordered, unsightly or unkempt conditions, shall not be pursued or undertaken on any lot. No permanent type of sports equipment such as basketball hoops shall be located on any lot where such equipment would be visible from any street or adjacent tract of land without the prior written approval of the ACC.
- (8) No noxious or offensive trade or activity, as determined in the sole discretion of the ACC, shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance (such as excessive noise) to the neighborhood, as determined in the sole discretion of the ACC, nor should any such condition be permitted to exist. Use of fireworks is not permitted without the written permission of the ACC. All lawns, yards and grounds of each lot shall be maintained in a neat and orderly manner consistent with the standards and character of the development, as determined in the sole discretion of the ACC. The landscape plan as approved by the ACC shall be fully and properly maintained at all times. Any significant changes of, or modifications to, the original landscape plan and design shall be submitted to the ACC for prior approval and no such change or modification shall be instituted until such time as approved in writing by the ACC.
- (9) No lots shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste and such shall be kept clean and sanitary closed containers. No garbage, lawn cuttings or domestic trash shall be disposed of by burning, stacking or burying on any lot within this subdivision or adjacent property.
- (10) Some portions of some lots in Mount Vintage are, or may be, considered wetlands, as that term is defined under applicable local, state or federal law or regulation. No owner of any lot in Mount Vintage shall construct any improvements or take other action within such wetlands, which would be prohibited under such laws or regulations.
- (11) Except as otherwise provided in these Declarations, no sign shall be erected or maintained on any portion of Mount Vintage by anyone, including, but not limited to, an owner, a realtor, a contractor or a subcontractor, except with the written permission of the ACC or except as may be required by legal proceedings. If such permission is granted, the ACC reserves the right to restrict the design, color and content of such sign. One sign of not more than four (4) square feet used by a contractor during the construction period of the main dwelling structure or accessory structure is permissible. "For Sale" signs may not be erected without the written permission of the ACC.

- (12) The mailbox and its stand, as well as any property identification signs for each lot, may not be erected unless they have received the prior written approval of the ACC. A uniform mailbox shall be used for all lots in Mount Vintage. The ACC shall establish the design and specifications of such mailbox, subject to the right of the ACC to modify such design and specifications in its sole discretion at any time and from time to time because of influence or effect of topography, availability or quality of building materials, lot or overall development aesthetics, safety and other such considerations. Lot owners shall be responsible for the installation, cost and maintenance of said mailboxes and stands in a manner prescribed by the ACC.
- (13) No owner shall obstruct, alter or interfere with the flow or natural course of the waters of any river, creek, stream, lake or pond in the subject property without first obtaining the written consent of the ACC.
- (14) Fences shall not be permitted to extend in front of the residence on a lot and the design, style, material, location and height of any fence must be approved in writing by the ACC as set forth herein above prior to construction or installation thereof.
- (15) No junked or abandoned vehicles, as determined in the sole discretion of the ACC, shall be allowed or permitted to be on any lot or common area and any vehicle not bearing a current license plate issued by an appropriate authority shall be considered abandoned.
- (16) If any residence is damaged by casualty, the owner of said residence shall submit plans and specifications for repair within sixty (60) days to the ACC. The ACC in sole discretion, shall determine the allowable time for completion of the repair.
- (17) Access to Mount Vintage Golf Course from any individual resident's lot within Mount Vintage is strictly prohibited except as may be specifically permitted to members of the golf course by the golf course staff.
- (18) No fishing is allowed within Mount Vintage except that individual lot owners may grant fishing access to ponds which they own or abut.
- (19) Garage, estate and moving sales are prohibited in Mount Vintage. The Board of Directors shall have the right to fine any owner in violation. The Board agrees that owner will initially receive written demand to cease and desist and thereafter may be immediately fined.
- (20) No privately owned sewage disposal system shall be permitted upon any lot or parcel of land of the properties covered by these Declarations unless the Developer or the Association has indicated it will not make its sewer system available, and then not unless such system is designed, located and constructed in accordance with requirements, standards and recommendations or applicable government agencies and approved in writing by the ACC or the Association as applicable.

(21) Dedication of Roadways, Common Areas, etc.

The Developer shall convey title to the roadways, common areas and green spaces of Mount Vintage to the Association at such time as it, in its sole discretion, deems proper but not later than such time as eighty percent (80%) of the residential building lots as contemplated in the overall plans of development of Mount Vintage, including additions as set forth in Article IX herein below, shall have been conveyed by the Developer.

See Addendum One for covenant applicable to Estate Tracts, Phase One and Phase Two regarding "Use and Maintenance of Ponds and Dams"; Addendum Two applicable to Estate Tracts, Phase Two regarding ponds, dams, docks, boats, easements thereto as well as Developer and Mount Vintage Golf Club reservations; Addendum Five applicable to Section C regarding "Use and Maintenance of Pond and Dam, in Section C"; and Addendum Six applicable to "Use and maintenance of Ponds and Dams in Section G", Chester Downs.

See Addendum Eight applicable to the Vineyard, Section F, Lots F-1 through F-32, regarding "Use and Maintenance of Automatic Gate".

See Addendum Eleven applicable to Shaw Estates, Lots S-2, S-3 and S-4 regarding "Use and maintenance of Lakes, Dams, Fences in Section S".

ARTICLE IV RESERVATIONS OF EASEMENTS

- (1) In addition and supplemental to the easements as shown and delineated on aforesaid subdivision plats, easements for the installation and maintenance of utilities and drainage facilities are reserved by the Developer fifteen feet (15') along all side lot line (7.5' each side), and twenty foot (20') easement (20' on lot side) along rear lot lines adjoining the golf course, and twenty foot (20') easement (10' each side) along rear lot lines adjoining other subdivision lots and overall areas designated as easements upon the aforesaid plat of Mount Vintage provided, that in the event of re-subdivision of any of the said lots under the provisions of Paragraph 3 of Article I hereof, such side easement shall apply to the side lot lines of the lots as re-divided in lieu of the side lot line of the lots as shown on the original plat referred to above, unless the installation of utilities and drainage facilities shall have been substantially completed, in which event the easement originally reserved shall apply. Where an easement with larger dimensions is shown on said plat, the larger easement shall apply instead of the easement herein reserved. Notwithstanding ownership of applicable subdivision easements, residents shall maintain contiguous areas in a condition consistent with their own property and the overall beauty and property interests of the community.

See Addendum Two for covenant applicable to Estate Tracts, Phase Two; Addendum Three applicable to Sections A, B, and C; Addendum Four applicable

to Section A; Addendum Five applicable to Section C; Addendum Six applicable to Chester Downs; Addendum Seven Applicable to Section M, Lots M-1 through M-23 and M-36 through M-58 and Section O, Lots O-38 through O-51; Addendum Nine applicable to the Retreat at Independent Hill Patio Homes; Addendum Ten applicable to Pavilion Lake, Sections E and F; Addendum Eleven applicable to Shaw Estates, Section S and Addendum Twelve applicable to Section L, Lots L-1 through L-39, Section M, Lots M-24 through M-35; Section N, Lots N-1 through N-13 and N-47 through N-86 and Section P, Lots P-1 through P-43.

- (2) Golf Gem MV LLC d/b/a Mount Vintage Golf Course, its successors, assigns, guests, invitees, employees, agents and members are granted a non-exclusive easement for the use of roads, streets, and ways in Mount Vintage for purpose of ingress and egress. This provision does not preclude the Association imposing an impact fee for said ingress and egress at its sole discretion.

ARTICLE V MEMBERSHIP IN THE ASSOCIATION AND VOTING RIGHTS OF ITS MEMBERS

(1) Membership.

All owners of a single-family residential building lot or lots in Mount Vintage shall thereby become members of the Association for so long as such ownership continues, provided, however, that no person or corporation in taking title as security for the payment of money for the performance of any obligations shall thereby so become entitled to membership unless such person or corporation shall take actual title of the property through legal or voluntary means. Ownership of property as qualification for membership is defined herein as follows: Ownership of any such lot under recorded deed, whether the owner is occupant or not, or ownership under a bond for title or contract of purchase, if the same be accompanied by an actual occupancy of the lot in question. Ownership within the meaning and intention hereof shall cease upon the sale of any such lot of another by the owner thereof. Sale of any such lot within the meaning hereof shall be effective upon the recording of any deed conveying such lot to another or the termination of occupancy of the property of the property by the owner thereof accompanied by the giving of such owner to another of a bond for title or contract of sale with respect to such lot.

The Developer shall be a member of the Association so long as it is an owner of one or more residential lots as shown on the aforesaid plat or lands contiguous thereto which are reserved for future development as contemplated herein.

Members of the Association shall consist of two classes: Class A members and Class B Members, who respectively shall have the rights, voting privileges and duties as set forth in the bylaws of the Association and as hereinafter set forth, to-wit:

(a) Class A members for the owners of the lots in Mount Vintage shall initially consist of the Developer, who shall be entitled to voting privileges, in the amount of one (1) vote for each residential lot owned by it in Mount Vintage.

(b) Class B members shall consist of all other owners of residential lots in Mount Vintage, other than the Developer. Class B members shall not have voting privileges until the Developer shall have conveyed all residential lots and tracts within Mount Vintage including, but not limited to, additional phases, sections and developments which the Developer may decide to add to the scheme of the development as contemplated under Article IX of this Declaration of Protective Covenants, Conditions and Restrictions of Mount Vintage, unless and until the Developer, at its sole and exclusive discretion, elects to transfer such rights, voting privileges and duties to Class B members of the Association at which time Class B members shall become Class A members. In the event that a Class B member shall own more than one contiguous lot upon which only one residence is constructed, such member, upon becoming a Class A member, shall be entitled to only one (1) vote and shall likewise only be subject to the imposition of dues and assessments calculated for a single lot pursuant to Article VI of these Declarations provided said residence is partially physically located on each such contiguous lot. A corporation owning one or more lots in Mount Vintage shall have one (1) vote for each such lot owned, but no member, stockholder, director, employee or officer of such corporation shall acquire any rights individually to become a member of the Association.

(2) Duties of the Association are as follows:

(a) Impose and collect such dues, assessments, fines, fees, and other charges as it may deem necessary in accordance with Article VI hereof, and to landscape and maintain the beautification of all common areas and green spaces of Mount Vintage as shown on the plats thereof. Common areas shall mean all real and personal property now and hereafter owned by the Association for the common use and enjoyment of the Owners. The Common Areas and amenities are to be owned by the Association at a time and in the discretion of the Developer, less and except individual lots, dwellings and attached dwelling areas of the property, recreational amenities and additional property. The designation of any land and/or improvements as Common Areas shall not mean or imply that the public at large acquires any easement or use or enjoyment.

In addition, the Association shall also repair and maintain all roadways, traffic circles, landscape islands, medians, sidewalks, street lighting and parking areas of said subdivision located as shown on subdivision development plats incorporated herein. The Association may, in its discretion, have the additional duty of requiring all lot owners to maintain their property in accordance with the standards set forth herein.

(b) Maintain liability insurance for the Association in such amounts as shall be determined by its Board of Directors to protect the Association against claims for which the Board of Directors determine should be covered, including, without

limitation, insurance for the officers and directors in connection with their management of the Association.

- (c) Purchase, own, maintain, repair, operate and finance the Athletic Club, Town Center, Mount Vintage Golf Course and any additional amenities, common areas or other properties which the Association deems to be for the overall good of Mount Vintage, the Association and its members, and for the benefit of its members.

(3) Rights of the Members to Use Facilities

All members in good standing have an irrevocable right to use and enjoy on an equal basis the Mount Vintage Golf Course, Grill, Pro Shop, Driving Range, Town Center, and Athletic Club subject to reasonable restrictions that may be promulgated by the Association. These may include, but are not limited to, payment of reasonable fees and restrictions on use during special events.

ARTICLE VI
COVENANTS & ASSISMENTS IN FAVOR OF THE ASSOCIATION

(1) Imposition of Assessment

Each member of the Association, as defined in Article V of these Declarations, obligates himself, or itself, and by the ownership of a residential lot in Mount Vintage shall be deemed to covenant and agree to pay the Association when due the annual or special assessment for any fees, dues, fines, or assessments established hereby or by its Board of Directors from time to time hereinafter provided. In no event shall ownership by the Developer of any residential lot in Mount Vintage, including any additional area or areas added in the future, pursuant to Article IX herein, be construed as imposing upon the Developer the duty or obligation of paying any dues, assessments or other charges to the Association for such lots or areas.

Each residential building lot on the aforementioned plat of Mount Vintage shall be made subject to a continuing lien to secure the payment for all fines, dues, fees, annual or and special assessment charges when due.

(2) Amount and Payment of Fees, Fines, Annual Dues and Special Assessments

Annual dues or special assessments, fees and fines shall be in amounts to be determined annually and from time to time by the Board of Directors of the Association pursuant to the provision of Bylaw Seven of the Bylaws of Mount Vintage Homeowners Association, Inc., provided, however, that the amount of such annual dues or special assessments shall be the same within each of the two categories of members (homeowners and lot owners) but may differ for homeowners and lot owners. The amount of annual dues as determined by the Board of Directors will be announced to the members of the Association on or before January 1 of each year. The initial payment of annual dues shall be pro-rated at the closing of any lot or property. Special assessments, fees and fines imposed in accordance with these Declarations and the Bylaws of the Association shall be due and payable at such time as the Association designates.

(3) Use of Annual Dues

The amount so paid to the Association shall be administered by the Association and may be used for the payment of expenses incurred for the following purposes:

- (a) Maintenance of roadways, entrance sites, entrance ways, traffic circles, landscape islands, medians, sidewalks, parking areas, common areas and street lighting of Mount Vintage.
- (b) For such purposes as set forth in the Bylaws of the Association as they now exist or as the same may be hereafter amended.
- (c) For the purchase, maintenance, upkeep, operation, repair, debt service, loan payments and other costs associated with the Town Center, Athletic Club, the Mount Vintage Golf Course and any and all other amenities or properties which the Association shall determine is in the best interests of Mount Vintage, the Association and its members.
- (d) For such other lawful purposes as the Board of Directors of the Association shall determine.

ARTICLE VII RULE MAKING

Rules and Regulations.

(1) Subject to the provisions hereof, the Board of Directors may establish reasonable rules and regulations. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees, servants and agents, until and unless any such rule or regulation be specifically overruled, cancelled or modified by the Board of Directors or as applicable, in a regular or special meeting of the Association by the affirmative vote of the majority of the owners present or by proxy, provided that in the event of such vote, such action must also be approved by Developer, for so long as Developer owns any Lot or Dwelling primarily for the purpose of sale or has the expired option to add Additional Property of any portion thereof to the Development.

ARTICLE VIII REMEDIES FOR VIOLATIONS OF THESE DECLARATIONS

- (1) In the event of a violation or breach of any of the declarations and restrictions contained herein by any owner, or agent of such owner, the owner of the lots in Mount Vintage or the Association or the ACC or any of them jointly or severally shall have the right to proceed at law or in equity to compel the compliance to the terms hereof or to prevent the violation or breach of the covenants herein contained or recover damages for such violation to impose a monetary fine for violation of said bylaw and/or covenant which may be established from time to time in an amount at the sole discretion of the Developer or the Association, or the ACC. In addition to the foregoing, the Developer or the Association or the ACC shall have the right, whenever there shall have been built on any lot in the

subdivision any structure or other condition created which is in violation of these restrictions, to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the owner, if after 30 days written notice of such violation, it shall not have been corrected by the lot owner. Furthermore, the Developer or the Association or the ACC have the right whenever an owner of a lot fails or refuses to maintain the yards and grounds in compliance with the approved landscape plan in violation of these restrictions, to enter upon the property where such violation exists and perform such maintenance as is necessary to comply with the approved landscape plan, at the expense of the owner, if after 30 days written notice of such violation, it shall not have been corrected by the lot owner. Any such entry and abatement or removal shall not be deemed a trespass.

Each owner shall comply strictly with the covenants and bylaws and any published rules and regulations of the Association adopted pursuant to this Declaration, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in this Declaration and in the deed or the other instruments of conveyance to his lot or dwelling, if any. Failure to comply with any of the same shall be grounds for imposing fines, for suspending voting rights or rights of use in and to any recreational amenities, or for instituting an action to recover sums due, for damages, and/or for injunctive relief, such actions to be maintainable by the Developer, the Board of Directors on behalf of the Association, or, in proper case, by an aggrieved owner. Should the Developer or the Association employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorney's fees, shall be paid by the violating owner. In as much as the enforcement of the provisions of this Declaration, the Bylaws and rules and regulations of the Association are essential for the effectuation of the general plan of the development contemplated hereby and for the protection of present and future owners, it is hereby declared that any breach thereof may not adequately be compensated by recovery of damages, and that the Developer, the Association or any aggrieved owner, in addition to all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach or any other threatened violation or breach. No delay, failure or omission on the part of the Developer, the Association or any aggrieved owner in exercising any right, power or remedy herein provided shall be construed as an acquiescence thereto nor shall be deemed a waiver of the right to enforce such right, power or remedy thereafter as to the same violation or breach, or as to a violation or breach occurring prior to subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Developer or the Association for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, by any person of the provision of the Declaration, the Bylaws or any rules and regulations of the Association, however long continued.

(2) Authority and Enforcement.

Upon violation of this Declaration, the Bylaws, or any rules and regulations duly adopted hereunder, including without limitation, the failure to timely pay any fees, fines, assessment or dues, the Board of Directors shall have the power;

- (a) To impose reasonable monetary fines consistent with Article VI hereof, which shall constitute an equitable charge and a continuing lien upon the Lot or Dwelling, the Owners, occupants or guests of which are guilty of such violation,
- (b) To suspend an Owner's right to vote in the Association,
- (c) To suspend an Owner's right (and the right of such Owner's family, guests and tenants and of any co-Owners of such Owner and their respective families, guests and tenants) to use any of the Common Areas, and
- (d) The Board of Directors shall have the power to impose all or any combination of these sanctions.

An owner shall be subject to the foregoing sanctions in the event of such a violation by such Owner, his family, guests or tenants or by his co-Owners or the family, guests or tenants of any co-Owners. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days.

(3) Procedure.

Except with respect to the failure to pay assessments or dues, the Board of Directors shall not impose a fine, suspended voting rights or infringe upon or suspend any other rights of an Owner or other occupant of the Development for violation of the Declaration, the Bylaws, or any rules and regulations of the Association, unless and until the following procedure is followed:

- (a) Written demand to cease and desist from any alleged violation shall be served upon the Owner responsible for such violation specifying:
 - i. The Alleged violation;
 - ii. The action required to abate the violation; and
 - iii. A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one, or if the violation of the same provision of this Declaration, the Bylaws or of the rules and regulations of the Association may result in the imposition of sanctions after notice and hearing.
- (b) Within thirty (30) days of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs, the Board of Directors may serve such Owner with written notice of a hearing to be held by the Board of Directors in executive session. The notice shall contain:
 - i. The nature of the alleged violation;

- ii. The time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice;
 - iii. An invitation to attend the hearing and produce any statement, evidence and witnesses on his behalf; and
 - iv. The proposed sanction to be imposed.
- (c) The hearing shall be held in executive session of the Board of Directors pursuant to the notice and shall afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the hearing. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer, director or other individual who delivered such notice. The notice requirement shall be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any.

ARTICLE IX ADDITIONAL PROPERTY SUBJECT TO THESE DECLARATIONS

- (1) Additional contiguous real estate which the Developer may decide to add to the scheme of the development herein set forth may be subjected to and placed within the jurisdiction of the Association upon the written designation of the Developer, at the sole option of the Developer, extending the terms of these Declarations to such other property, and the same shall be effective upon the filing of same for record in the Office of the Registrar of Mesne Conveyance and Clerk of Court for Edgefield County, State of South Carolina. Such supplementary declarations or agreements may contain such modifications of the terms of these Declarations as may be deemed necessary or appropriate by the Developer to reflect the different character, if any, of said additional real estate. In no event, however, shall such supplementary declarations be construed so as to revoke or modify the terms hereof with respect to the property shown on the aforementioned plats of Mount Vintage.
- (2) The Developer reserves unto itself and its successors and assigns, or heirs and assigns, as the case may be, the full and absolute right to extend the streets, roads, parking areas, utilities, storm drainage systems and water and sanitary sewer systems to such additional real estate as may be added to the scheme of the development as herein set forth.

ARTICLE X COMMON EASEMENTS

Each and every owner of a lot or lots in Mount Vintage is hereby granted a nonexclusive easement for the use of roads, streets and ways in Mount Vintage for purpose of ingress and egress, for themselves and their invitees, as the same are shown on the aforementioned plats of said subdivision.

ARTICLE XI SEVERABILITY CLAUSE

The invalidation of any one or more paragraphs or portions of these Declarations and agreements by judgment or decree of court of competent jurisdiction shall in no way affect any of the other provisions, which shall remain in force and effect.

ARTICLE XII EFFECTIVE PERIOD

These Declarations and agreements shall be effective immediately upon the filing of the same for record in the Office of Registrar of Mesne Conveyance and Clerk of court for Edgefield County, South Carolina; shall thereupon run with the land and be binding upon all persons or parties and their heirs, successors or assigns claiming title under or through the Developer, until December 31, 2056, and shall be continued automatically and without further notice from that time for a period of ten (10) years thereafter and for successive periods of ten (10) years each without limitation, unless by a vote of a seventy-five percent (75%) majority of the then owners of the lots in Mount Vintage following the granting of voting privileges to Class B members, it is agreed to change said covenants in whole or in part. These restrictions may be amended from time to time by a vote of the owners of seventy-five percent (75%) of the lots in Mount Vintage following the granting of voting privileges to Class B members. In the event any such written agreement of change or modification be fully executed and recorded, the original covenants, restrictions, reservations, servitudes and easements as therein modified shall continue in force for successive periods of ten (10) years each, unless and until further changed, modified or extinguished, in the manner herein provided.

So long as the Developer shall hold title to any portion of the hereinabove described property, or to any additional real estate added to the scheme of the development herein set forth in accordance with Article IX of these declarations, the Developer as well as its successors, assigns, or heirs, as the case may be, shall have, and are hereby granted, the exclusive right, exercisable at any time and from time to time, to amend or to grant exceptions to these Declarations and to waive, repeat or vary these Declarations in any one or more respects whenever in the sole and controlled opinion of the Developer, such waiver, repeal or variance shall not be materially detrimental to the general nature in development of Mount Vintage as a residential area.

(Remainder of the page left intentionally blank)

IN WITNESS WHEREOF, Mount Vintage Homeowners Association, Inc. and the Developer have caused these presents to be executed this 15th day of December, 2017.

Signed, Sealed and Delivered)
In the presence of

Witness [Signature]

Witness Rick Atkins

MOUNT VINTAGE
HOMEOWNERS ASSOCIATION, INC.

BY: [Signature]
Duane Dotta, Director

BY: [Signature]
Leigh Ann Keels, Director

BY: [Signature]
H. G. Hodges, Director

BY: [Signature]
Gerald Schaefer, Director

BY: [Signature]
J. Wayne Raiford, Director

LL of SC LLC (Developer)

By: [Signature]

STATE OF SOUTH CAROLINA)
COUNTY OF EDGEFIELD)

PERSONALLY, APPEARED BEFORE ME the undersigned and made oath that he saw Mount Vintage Homeowners Association, Inc. by Duane Dotta, Leigh Ann Keels, H.G. Hodges, Gerald Schaefer and J. Wayne Raiford, its Directors, and LL of SC, LLC by J. Wayne Raiford sign, seal and as its Act and Deed, deliver the within-written Covenants and that he with the other witness subscribing above witnessed the execution thereof.

Witness Rick Atkins

SWORN TO BEFORE ME THIS
15 DAY OF December, 2017

[Signature]
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: JUNE 02, 2025

ADDENDUM ONE, Applicable to the Estate Tracts, Phase One and Phase Two

Article I, Residential Use, Buildings and Location of Structures

- (5) Location of Building on Lot. It is the intention of the Developer that the Architectural Control Committee allows the construction of structures to be erected on any lot in Mount Vintage Plantation Estate Tracts in such a location on each lot as will more fully enhance the natural harmony and aesthetic appeal of Mount Vintage Plantation, Estate Tracts. However, no building of any kind or character shall be erected on a lot within one hundred (100) feet of any front lot line, or within twenty-five (25) feet of any side property line or within fifty (50) feet of the high water mark of any pond or lake. Swimming pools, other recreational amenities, and auxiliary buildings, not to be used as sleeping quarters, may be constructed within twenty-five feet of a rear lot line with the prior written approval of the ACC. If any lot is re-subdivided or enlarged pursuant to the provisions of Paragraph 3 of Article I hereof, side and rear line restrictions shall be applicable only to the side and rear lines of the lot altered or re-divided. All boundary lines between corner lots and contiguous lots shall be considered as side boundary lines.

Article III, Land Use Restrictions

- (2) Animals. No poultry, swine, cows, goats or other farm animals or fowls or bait farms shall be maintained on any lot. Horses and mules shall be allowed on subject estate tracts, however, all barns, stall paddocks, fences, stable and related equipment and fixtures are to be maintained in a clean orderly and sanitary condition so as not to create offensive odors or appearances.
- (3) Vegetable Gardens. Plans for a vegetable garden area delineating the design, size, appearance and location must be approved in writing by the ACC prior to planting. Vegetable gardens areas of individual tracts must be carefully planned to be screened from view from streets and adjacent tracts of land.
- (6) Trucks, Trailers, Mobile Homes. Campers, motorcycles, motorbikes, motor homes, vans, travel trailers, panel or service trucks, boats and boat trailers not over twenty-five (25) feet in length may be kept on a lot if parked in a closed garage at all times. Special exception to this restriction may be granted an owner provided prior written permission from the ACC and all owners of contiguous lots is obtained and such campers, motorcycles, motorbikes, motor homes, vans, travel trailers, panel or service trucks, boats and boat trailers are parked in the rear yard so that they are not visible from any street or adjacent lot. Horse trailers are specifically excepted from the foregoing restriction but shall be maintained in a clean and orderly manner and parked or stored in an unobtrusive location.
- (22) Use and Maintenance of Ponds and Dams. The owners of all lots bordering the pond in Mount Vintage Plantation Estate Tracts are required to maintain said pond and dam. Only the owners of lots adjoin the pond and their invitees shall have access to and use of said pond.

The owners of said lots shall, when necessary, form a committee with one vote per lot, for the purpose of maintaining the pond and dam, with a simple majority vote of said lots being necessary to effect the passage of a binding resolution upon all the owners of said lots.

Said committee has the right to assess the owners of said lots for the cost thereof. Such assessment shall be imposed equally upon the owners of tracts adjoining said pond regardless of the size of individual tracts or of the front footage of an individual tract on said pond.

ADDENDUM TWO, Applicable to Estate Tracts, Phase Two

The owners of all lots bordering the pond in Mount Vintage Plantation Estate Tracts are required to contribute to the maintenance, repair and replacement of said pond and dam. Only the owners of lots adjoining the pond and their invitees shall have access to and use of said pond.

Docks may be permitted on the pond, provided however, plans and specification detailing size, design, materials and location for all proposed docks must be submitted in writing to the ACC which is hereby vested with the full power and authority to approve or disapprove the same in whole or in part, or require modification of the same as it may, in its discretion, deem proper.

While boats are allowed on said pond, no internal combustion engines or motors are permitted on watercraft. Only quiet operating electric motors shall be authorized for use on watercraft.

LL of SC, LLC hereby assigns to the Association and Golf Gem MV LLC d/b/a Mount Vintage Golf Course and the Association and Golf Gem MV LLC d/b/a Mount Vintage Golf Course hereby accept the exclusive control and management of said pond and dam and hereby grants to Association and Golf Gem MV LLC d/b/a Mount Vintage Golf Course a non-exclusive easement over, across and through the property adjoining said pond and dam as necessary for the purposes of maintaining said pond and dam and if deemed necessary in the future for its replacement or reconstruction. Association and Golf Gem MV LLC d/b/a Mount Vintage Golf Course shall have the right to assess the owners of said lots for the cost thereof. Such assessment shall be imposed equally upon the owners of tracts adjoin said pond regardless of the size of individual tracts or of the front footage of an individual tract on said pond.

The Developer, its successors and assigns, specifically reserves until itself, its successors and assigns, and unto the Association and Golf Gem MV LLC d/b/a Mount Vintage Golf Course, its successors and assigns, the right and privilege to the absolute control of all waters in and to said pond for purposes of irrigation of Mount Vintage Golf Club. Without limitation to the foregoing, the Developer, its successors and assigns, the Association and Golf Gem MV LLC d/b/a Mount Vintage Golf Course, its successors and assigns, may limit the flow of waters into said pond and draw down the water level of said pond without

restriction and shall not be responsible for any damages, costs, loss or other consequences arising therefrom to other owners of lots or tracts adjoining said pond or having a vested interest in said pond. By acceptance of a deed to any tract or lot adjoining or forming a part of said pond, the grantee(s), his/her/its/their heirs, successors and/or assigns, releases the Association and Golf Gem MV LLC d/b/a Mount Vintage Golf Course its successors and assigns, from any and all costs, including attorney's fees, expenses, damages, losses, or other consequences arising or resulting from the foregoing.

Article IV

- (1) Reservations of Easements. In addition and supplement to the easements as shown and delineated on aforesaid subdivision plat, easements for the installation and maintenance of utilities and drainage facilities are reserved by the Developer over the front and rear ten (10) feet of each lot and over ten (10) feet from each side lot line, and overall areas designated as easements upon the aforesaid plat of Mount Vintage Plantation, Estate Tracts, Phase Two provided, that in the event of re-subdivision of any of the said lots under the provision of Paragraph 3 of Article I hereof, such side easements shall apply to the side lot lines of the lots as re-subdivided in lieu of the side lot lines of the lots as shown on the original plat referred to above unless the installation of utilities and drainage facilities shall have been substantially completed, in which the even the easement originally reserved shall apply. Where an easement with larger dimensions is shown on said plat, the larger easement shall apply instead of the easement herein reserved.

ADDENDUM THREE, Applicable to Sections A, B and C

Article IV

- (1) ...easements for the installation and maintenance of utilities and drainage facilities are reserved by the Developer over the rear ten (10) feet of each lot and over five (5) feet from each side lot line and overall areas designated as easements.....

ADDENDUM FOUR, Applicable to Section A

Article IV

- (3) Use of Pond in Section A. The owners of Lots A-24, A-25 and A-26, as shown on aforesaid plat(s) bordering the pond in Mount Vintage shall have access to and use of said pond from the bank thereof on their individual lot only. No boats, docks or flotation devices of any kind, sort, configuration or design shall be permitted on or in said pond or on the banks thereof. Swimming in the pond is strictly prohibited.

ADDENDUM FIVE, Applicable to Section C

Article IV

- (3) Use and Maintenance of the Pond and Dam in Section C. The owners of Lots C-20, C-21 and C-22, as shown on aforesaid plat(s) bordering the pond in Mount Vintage are required to maintain said pond and dam. Only the owners' of lots adjoining the pond and their invitees shall have access to and use of said pond. Additional lots adjoining the pond may be developed in future phases or sections of Mount Vintage and such additional lots shall be subject to the terms and conditions hereof.
- (4) Docks may be permitted on the pond, provided however, plans and specifications detailing size, design, materials and location for all proposed docks must be submitted in writing to the ACC which is hereby vested with the full power and authority to approve or disapprove the same in whole or in part, or require modification of the same as it may, in its discretion, deem proper.
- (5) While boats are allowed on said pond, no motorized watercraft shall be authorized or permitted on said pond. Swimming is strictly prohibited.
- (6) The owners of said lots shall, when necessary, form a committee with one vote per lot for the purpose of maintaining the pond and dam, with a simple majority vote of said lots being necessary to effect the passage of a binding resolution upon all the owners of said lots. LL of SC LLC, as an owner of property adjoining said pond, shall be a member of such committee.

Said committee has the right to assess the owners of said lots for the costs of maintenance thereof. Such assessment shall be imposed equally upon the owners of tracts adjoining said pond regardless of the size of individual tracts or of the front footage of an individual tract on said pond.

ADDENDUM SIX, Applicable to Chester Downs

Article IV

- (3) Use and maintenance of Pond and Dam in Section G. The owners of lots G-40, G-41, G-43, G-44 and G-56 as shown on aforesaid plat shall join with the owners of lots in Section C of Mount Vintage, bordering the pond in Mount Vintage to maintain said pond and dam. Only the owners of lots adjoining the pond and their invitees shall have access to and use of said pond.
- (4) Docks may be permitted on the pond, provided however, plans and specifications detailing size, design, materials and location for all proposed docks must be submitted in writing to the ACC, which is hereby vested with the full power and authority to approve or disapprove the same in whole or in part, or require modification of the same as it may, in its discretion, deem proper.

- (5) While boats are allowed on said pond, no motorized watercraft shall be authorized or permitted on said pond. Swimming is strictly prohibited.
- (6) The owners of said lots shall, when necessary, form a committee with one vote per lot for the purpose of maintaining the pond and dam, with a single majority vote of said lots being necessary to effect the passage of a binding resolution upon all the owners of said lots. LL of SC, LLC as an owner of property adjoining said pond shall be a member of such committee.

ADDENDUM SEVEN, Applicable to Section M, Lots M-1 through M-23 and M-36 through M-58 and Section O, Lots O-38 through O-51

Article IV

- (1) A fifty-foot (50') foot easement, as shown on the aforesaid plats of Mount Vintage by Newby-Proctor & Associates, along the rear of Lots P-7 through P-37 and Lots P-39 through P-43 is reserved, which easement is a Buffer Easement and on which no land clearing or land disturbance is allowed, so as to insure a buffer from the adjoining property for the benefit of all lot owners and residents of Mount Vintage.

ADDENDUM EIGHT, Applicable to the Vineyard, Lots F-7 through Lots F-32

Article III

- (22) Use and Maintenance of Automatic Gate in Section F. The owners of Lot F-7 through F-32, as shown on aforesaid plat shall maintain the automatic gate at the entrance of the Vineyard. These owners of said lots shall form a committee with one vote per lot for the operation of said gate, with a simple majority vote of said lots being necessary to effect the passage of a binding resolution upon all the owners of said lots. Said committee has the right to assess the owners of said lots for the costs thereof. Such assessment shall be imposed equally upon the lots in the Vineyard.

ADDENDUM NINE, Applicable to the Retreat at Independent Hill

Article IV

- (1) In addition and supplemental to the easements as shown and delineated on aforesaid subdivision plats, easements for the installation and maintenance of utilities and drainage facilities are reserved by the Developer over the rear ten (10) feet of each lot and over five (5) feet from each side lot line and overall areas designated as easements upon the aforesaid plat of Mount Vintage; provided that in the event of a re-subdivision of any of the said lots under the provisions of Paragraph 3 Article I hereof, such side easements shall apply to the side lot lines of the lots as re-subdivided in lieu of the lots as shown on the original plat referred to above, unless the installation of utilities and drainage facilities shall have been substantially completed, in which event the easement original reserved

shall apply. Where an easement with larger dimensions is shown on said plat, the larger easement shall apply instead of easement herein reserved.

ADDENDUM TEN, Applicable to Pavilion Lake, Sections E & F

Article IV

- (1) In addition and supplemental to the easements as shown and delineated on aforesaid subdivision plats, easements for the installation and maintenance of utilities and drainage facilities are reserved by the Developer over the rear ten (10) feet of each lot and over five (5) feet from each side lot line and overall areas designated as easements upon the aforesaid plat of Mount Vintage; provided that in the event of a re-subdivision of any the said lots under the provisions of Paragraph 3 Article I hereof, such side easements shall apply to the side lot lines of the lots as re-subdivided in lieu of the lots shown on the original plat referred to above, unless the installation of utilities and drainage facilities shall have been substantially completed, in which event the easement originally reserved shall apply. Where an easement with larger dimensions is shown on said plat, the larger easement shall apply instead of the easement herein reserved.

ADDENDUM ELEVEN, Applicable to Shaw Estates, Section S

Article III

- (2) No poultry, swine, cows, goats or other farm animals or fowl or bait farm shall be maintained on any lot. Horses shall be allowed on all lots under fencing and stabling arrangements to be approved by the ACC.

Article IV

- (1) In addition and supplemental to the easements as shown and delineated on aforesaid subdivision plats, easements for the installation and maintenance of utilities and drainage facilities are reserved by the Developer fifteen feet (15') alongside lot lines (7.5' each side), and a twenty foot (20') easement (10' each side) along rear lot lines adjoining other subdivision lots and overall areas designated as easements upon the aforesaid plat on Mount Vintage; provided, that in the event of re-subdivision of any of the said lots under the provisions of Paragraph 3 of Article I hereof, such side easements shall apply to the side lot lines of the lots as re-subdivided in lieu of the side lot line of the lots as shown on the original plat referred to above, unless the installation of utilities and drainage facilities shall have been substantially completed, in which event the easement originally reserved shall apply. Where an easement with larger dimensions is shown on said plat, the larger easement shall apply instead of the easement herein reserved. Also, an easement of ten feet (10') in width is reserved along Sweetwater Road on Lots S-1 and S-42 through S-45, and along the side property lines of Lots S-1 and S-42 for the construction and maintenance of fences as described in Article V, Section 5.

Article IV

- (3) Use and Maintenance of Lakes, Dams, Fences in Section S. The owners of Lots S-2, S-3 and S-4 as shown on aforesaid plat, shall maintain the lake and dam that adjoins their lot. Likewise, the owners of Lots S-32, S-33, S-34, S-35, S-38 and S-39, as shown on aforesaid plat, shall maintain the lake and dam that adjoins their lot. Only the owners of lots adjoining the lakes and their invitees shall have access to, and use of, said lakes.
- (4) Docks maybe permitted on the lakes, provided however, plans and specifications detailing size, design, material and location for all proposed docks must be submitted in writing to the ACC, which is hereby vested with the full power and authority to approve or disapprove the same in whole or in party, or require modifications of the same as it may, in its discretion, deem proper.
- (5) While boats are allowed on said lakes, no motorized watercraft shall be authorized or permitted on said lakes. Swimming in the lakes is strictly prohibited.
- (6) The owners of said lots adjoin each lake shall form a committee for that lake with one vote per lot for the purpose of maintaining the lake and dam, with a simple majority vote of said lots being necessary to effect the passage of a binding resolution upon all the owners of said lots. LL of SC, LLC as owner of property adjoining said lakes shall be a member of each such committee. Each committee has the right to assess the owners of said lots for the cost of maintaining said lake. Such assessment shall be imposed equally upon the owners of tracts or lots adjoin said lake regardless of the size of individual's tracts or lots or of the frontage of an individual tract or lot on said lake.
- (7) Developer has erected fences along Sweetwater Road on the edge of Lots S-1 and S-42 through S-45, as well as along the side property line on Lots S-1 and S-42. A permanent easement is reserved for these fences which shall hereafter belong to the Association. No change shall be made in these fences without the written approval of the ACC.

ADDENDUM TWELVE, Applicable to Mount Vintage , Section L, Lots L-1 through L-39; Section M, Lots M-24 through M-35; Section N, Lots N-1 through N-13 and N-47 through N-86 and Section P, Lots P-1 through P-43

Article IV

- (1) In addition and supplemental to the easements as shown and delineated on aforesaid subdivision plats, easements for the installation and maintenance of utilities and drainage facilities are reserved by the Developer fifteen feet (15') along all side lot lines (7.5' each side) and a twenty foot (20') easement along rear lot lines adjoining the golf course and a twenty foot (20') easement (10' each side) along rear lot lines adjoining other subdivision lots and overall areas designated as easements upon the aforesaid plat of Mount Vintage; provided, that in the event of re-subdivision of any of the said lots under the provisions of Paragraph 3 Article I hereof, such side easements shall apply to the side lot lines of the lots as re-subdivided in lieu of the side lot lines of the lots as shown on the original plat referred to above, unless the installation of utilities and drainage facilities shall have been

substantially completed, in which event the easement originally reserved shall apply. Where an easement with larger dimensions is shown on said plat, the larger easement shall apply instead of the easement herein reserved.

A fifty foot (50') easement, as shown on the aforesaid plats of Mount Vintage by Newby-Proctor & Associates, along the rear of Lots P-7 through P-37 and Lots P-39 through P-43 is reserved, which easement is a Buffer Easement and on which no land clearing or land disturbance is allowed, so as to insure a buffer from the adjoining property for the benefit of all lot owners and residents of Mount Vintage.

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN) IN THE COURT OF COMMON PLEAS
) SECOND JUDICIAL CIRCUIT

ELIZABETH M. FERRARO; JAMES) C.A. No.: 2020-CP-02-01086
T. FERRARO; EDWARD J.)
PRZYBYL; MARCELLA GLEIE;)
JOHN E. GLEIE, JR.; THOMAS)
BOWES; CONNIE BOWES; and)
MOATAZ ALASADI; VIRGINIA)
KIRKWOOD; BOB KIRKWOOD;)
PAUL VICHROSKI; NYDZA)
VICHROSKI; JAMES)
MONTELLESE; ROXANN)
MONTELLESE; and JULIE)
WILLIAMS, *Individually, Derivatively,*)
and on Behalf of all the Mount Vintage)
Homeowners Association Members,)
))
Plaintiffs,)

vs.)

AFFIDAVIT OF J. WAYNE RAIFORD

J. WAYNE RAIFORD, *Individually and*)
as President of the Board of Directors of)
Mount Vintage Plantation Homeowners)
Association, Inc.; LL OF SC, LLC;)
RAIFORD TOPSAIL ISLAND)
INVESTMENTS, LLC; MOUNT)
VINTAGE PLANTATION)
HOMEOWNERS ASSOCIATION,)
INC. *a/k/a* MOUNT VINTAGE)
HOMEOWNERS ASSOCIATION,)
INC.; GREGG KARLBERG; JERRY)
SCHAEFFER; LEIGH ANN KEELS;)
and JOHN DOE,)
))
Defendants.)

PERSONALLY APPEARED BEFORE ME the Affiant, and, after being placed under oath, did state and/or affirms as follows:

1. My name is J. Wayne Raiford. I am over the age of eighteen (18) years, am of sound mind, am not under the influence of any chemical substance that is likely to impair my capacity, and am competent to give testimony.

2. The facts and circumstances presented in this statement are made based upon my own personal knowledge and information, and are true and accurate to the best of my present recollection.

3. I am a member of LL of SC, LLC, as well as Raiford Topsail Island Investments, LLC, and, to the extent their authorization is necessary, I am authorized by both entities to provide the information set out in this statement.

4. It is my understanding that the Amended Complaint in this action identifies the principal place of business for LL of SC, LLC (which I will refer to hereinafter as “LLSC”) as 616 Edgefield Road, Suite 115, North Augusta, South Carolina 29841, which I understand is located in Aiken County. (Am. Compl. ¶ 11.) This is not accurate.

5. It is true that the registered address for LLSC, as reflected in the records of the Secretary of State, is the 616 Edgefield Road address referenced above. (See Exhibit 1.) However, LLSC has had no actual affiliation with this address since at least April 2015.

6. During April 2015, LLSC acquired a piece of real estate whose address is 235 Mt. Vintage Plantation Drive, North Augusta, South Carolina 29860. (See Exhibit 2.) This property is located entirely within Edgefield County. LLSC maintains its offices at this property, and has done so for at least the past five years. All of LLSC’s business, during that time, has been conducted from this property.

7. The fact that the registered address for LLSC continues to be identified as the 616 Edgefield Road address is simply administrative oversight.

8. To be clear, LLSC has conducted no business whatsoever from the 616 Edgefield Road address since at least 2015. And I do not have any information about who presently occupies that address.

9. LLSC's attorney, Mr. Buckingham, has provided me with screenshots of the property whose address is 616 Edgefield Road, Suite 115. I have included those with this statement.

10. **Exhibit 3** appears to depict 616 Edgefield Road, Suite 115, from an aerial view. This property seems to be part of a strip mall.

11. **Exhibit 4** appears to depict the same address from the road, and **Exhibit 5** is a zoomed-in view of the same.

12. Consistent with these Exhibits, it appears that the present occupant (at least as of the time when the screenshots were obtained by Google) of 616 Edgefield Road, Suite 115, is a business known as "All About Children, LLC."

13. I do not know anything about this business, nor do I have any connection with it. Nor, to the best of my knowledge, does LLSC know anything about this business or have any connection with it. (See **Exhibit 6**.)

14. Turning back to the Amended Complaint, it is also my understanding that it identifies the principal place of business for Raiford Topsail Island Investments, LLC (which I will refer to as "**Topsail**") as 528 Edgefield Road, Belvedere, South Carolina 29841, which I understand is located in Aiken County. (Am. Compl. ¶ 12.) Like the circumstances involving LLSC, these, too, are incorrect.

15. It is true that the registered address for Topsail, as reflected in the records of the Secretary of State, is the 528 Edgefield Road address referenced above. (See Exhibit 7.) However, Topsail has had no actual affiliation with this address since at least April 2015, when Topsail moved its business operations to LLSC's offices—the 235 Mt. Vintage Plantation Drive address. From here, Topsail maintains its offices and conducts the entirety of its business, and has done so for at least the past five years. All of Topsail's business, during that time, has been conducted from this property.

16. To be clear, Topsail has not conducted any business whatsoever from the 528 Edgefield Road address since 2015. And I do not have any information about who presently occupies that address.

17. Topsail's attorney, also Mr. Buckingham, has provided me with screenshots of the property whose address is 528 Edgefield Road. I have included those with this statement.

18. Exhibit 8 appears to depict 528 Edgefield Road from an aerial view.

19. Exhibit 9 appears to depict the same address from the road, and Exhibit 10 is a zoomed-in view of the same.

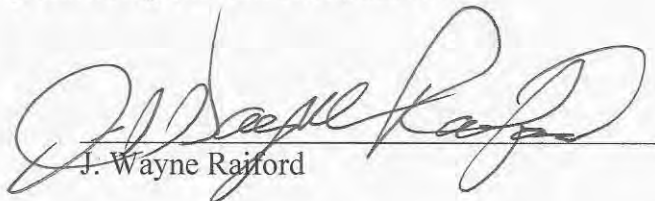
20. Consistent with these Exhibits, it appears that the 528 Edgefield Road address is a small office park. I have included property records from Aiken County as Exhibit 11 to demonstrate that Topsail does not own this property.

21. Furthermore, Topsail does not maintain an office at this property and, to the best of my knowledge, has no connection to any business that does maintain an office at this property. Nor do I personally.

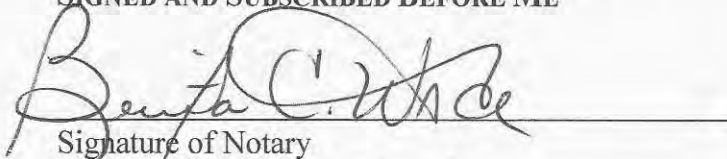
22. Finally, it is my understanding and belief that each of the Plaintiffs are residents of Edgefield County, that the Mount Vintage Plantation neighborhood is located entirely within

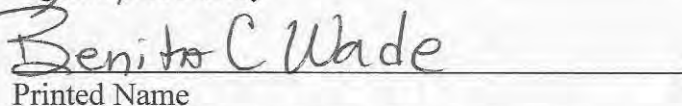
Edgefield County, and that, therefore, the principal place of the Mount Vintage Homeowners Association is within Edgefield County.

23. I affirm, under penalty of perjury, that the facts and circumstances set out in this statement are true and accurate to the best of my knowledge, information, and belief.


J. Wayne Rainford

SIGNED AND SUBSCRIBED BEFORE ME


Signature of Notary


Printed Name

Notary Public for the State of South Carolina

This 5th Day of November, 2020.

My Commission Expires: 02/26/28



EXHIBIT 1

Business Entities Online

File, Search, and Retrieve Documents Electronically

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LL OF SC, LLC

Corporate Information

Entity Type: Limited Liability Company

Status: Good Standing

Domestic/Foreign: Domestic

Incorporated State: South Carolina

Important Dates

Effective Date: 10/02/2009

Expiration Date: N/A

Term End Date: N/A

Dissolved Date: N/A

Registered Agent

Agent: J WAYNE RAIFORD

Address: 616 EDGEFIELD RD STE 115
NORTH AUGUSTA, South Carolina 29841

Official Documents On File

Filing Type	Filing Date
Amendment	01/15/2010
Incorporation	10/02/2009

Former Names

Name	Filing Date
LL, INC.	10/02/2009

EXHIBIT 2



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Edgefield County, SC

Summary

Parcel Number 100-00-01-029-000
 Tax District County (District 1)
 Location Address 235 MT VINTAGE PLANTATION
 Class Code (NOTE: Not Zoning Info) RG-REGULAR 6%
 Acres 2.46
 Description NS OF PLANTATION DRIVE
 Legal Information
 Town Code / Neighborhood
 Owner Occupied

[View Map](#)

Owners

[LL OF SC LLC](#)
 235 MT VINTAGE PLANTATION DR
 NORTH AUGUSTA SC
 29860

Value Information

Land Market Value \$53,402
 Improvement Market Value \$223,840
 Total Market Value \$277,242
 Taxable Value \$277,242
 Total Assessment Market \$16,640

Building Information

Building Type	R	Basement (Finished) SF	0
Class	RG	Basement (Unfinished) SF	0
Year Built	1998	Basement Garage SF	0
Living Area	2366	Att. Garage SF	650
Porch (Covered) SF	184	Att. Carport SF	0
Porch (Open) SF	0	Det. Garage SF	0
Patio SF	0	Det. Car SF	0
Wood Deck SF	336		

Sales Information

Sale Date	Price	Deed Book	Plat Book	Grantor
4/7/2015	\$350,000	1519 332	1047 93	PHILLIPS TIMOTHY LEWIS & MARSH
4/11/2006	Not Available	1047 94	Not Available	Not Available
11/20/1998	Not Available		Not Available	Not Available

Recent Sales In Area

Sale date range:

From:

11/04/2017

To:

11/04/2020

Sales by Area

1500

Feet



Sales by Distance

No data available for the following modules: Mobile Home Information, Lot Size Information (Dimensions in Feet), Photos.

EXHIBIT 3

Google Maps 616 Edgefield Rd #115



Imagery ©2020 U.S. Geological Survey, Map data ©2020 20 ft



616 Edgefield Rd #115

North Augusta, SC 29841



Directions



Save



Nearby



Send to your phone



Share

Photos



EXHIBIT 4

Google Maps 613 Edgefield Rd

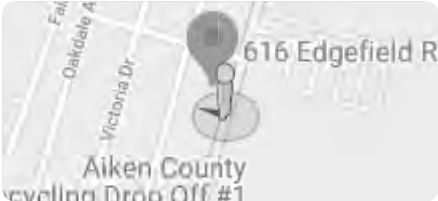


Image capture: Aug 2019 © 2020 Google

Belvedere, South Carolina



Street View



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PLEASE - CASE#2020CP0201086

EXHIBIT 5

Google Maps 613 Edgefield Rd



Image capture: Aug 2019 © 2020 Google

Belvedere, South Carolina



Street View



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EXHIBIT 6

ALL ABOUT CHILDREN EARLY INTERVENTION SERVICES, LLC

Corporate Information

Entity Type: Limited Liability Company

Status: Good Standing

Domestic/Foreign: Foreign

Incorporated State: Georgia

Important Dates

Effective Date: 01/26/2016

Expiration Date: N/A

Term End Date: N/A

Dissolved Date: N/A

Registered Agent

Agent: DESTINEE ROSEANA WILIAMS

Address: 22 HARPER VALLEY LN
GRANITEVILLE, South Carolina 29829

Official Documents On File

Filing Type	Filing Date
Authority	01/26/2016

EXHIBIT 7

RAIFORD TOPSAIL ISLAND INVESTMENTS, LLC

Corporate Information	Important Dates
Entity Type: Limited Liability Company	Effective Date: 12/11/2007
Status: Good Standing	Expiration Date: N/A
Domestic/Foreign: Domestic	Term End Date: N/A
Incorporated State: South Carolina	Dissolved Date: N/A

Registered Agent
Agent: J WAYNE RAIFORD
Address: 528 EDGEFIELD RD STE G BELVEDERE, South Carolina 29841

Official Documents On File	
Filing Type	Filing Date
Organization	12/11/2007

For filing questions please contact us at 803-734-2158

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EXHIBIT 8

Google Maps



Imagery ©2020 U.S. Geological Survey, Map data ©2020 20 ft

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EXHIBIT 9

Google Maps 528 Edgefield Rd



Image capture: Aug 2019 © 2020 Google

Belvedere, South Carolina



Street View



ELECTRONICALLY FILED
11/4/2020
Aiken - COMMON PLEAS - CASE#2020CP0201086

EXHIBIT 10

Google Maps 528 Edgefield Rd

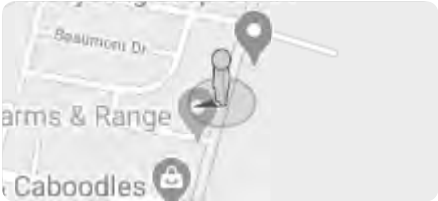


Image capture: Aug 2019 © 2020 Google

Belvedere, South Carolina



Street View



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EXHIBIT 11



Aiken County, SC

Parcel Summary

Parcel ID	001-20-02-006
Location Address	528 EDGEFIELD ROAD NORTH AUGUSTA W OF HWY 230 (Note: Not to be used on legal documents)
Legal Description	
Property Class / Property Type	COMMERCIAL / REAL PROPERTY
Neighborhood	COMM EXIT 1 MARTINTOWNE RD.
Fire District	NORTH AUGUSTA FIRE DEPARTMENT
Building Description	
Tax District	NORTH AUGUSTA CITY
Millage Rate	6% RATIO = 239.50 OWNER-OCCUPIED 4% RATIO = 102.20
Acres	16.13
Exemptions	
Council District	COUNCIL DISTRICT FOUR
Location Description	W OF HWY 230

Owner Information

T R Reddy
3112 Washington Rd
Augusta, GA 30907

Land Information

Land Type	Units	Unit Type	Appraised Value	Market Value
Commercial 6%	16.13	AC	\$403,250	\$403,250

Sales

Sale Date	Buyer	Seller	Sale Price	Book/Page
10/22/2007	MARTIN-SLOAN LLC	THE MARTIN GROUP LLC	\$925,235	4168/2202
12/17/2014	TD BANK NA- OREO DEPT	MARTIN-SLOAN LLC	\$899,500	4534/2060
11/10/2016	I-20 INVESTORS LLC	TD BANK NA- OREO DEPT	\$350,000	4634/1317
12/2/2016	PROPERTIES OF REDDY FAMILY LLC I		\$1	4661/431
7/23/2017	T R REDDY	PROPERTIES OF REDDY FAMILY LLC I	\$300,000	4687/361

Property Valuation History

	2020	2019
Land Value	\$403,250	\$403,250
Improvement Value	\$0	\$0
Total Market Value	\$403,250	\$403,250
Assessed Value	\$24,200	\$24,200

No data available for the following modules: Residential Buildings, Commercial Buildings, Mobile Home Information, Mobile Homes on Parcel, Miscellaneous Improvement Information, Sketches, Photos.

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1 IN THE COURT OF COMMON PLEAS
2 FOR THE STATE OF SOUTH CAROLINA
3 EDGEFIELD COUNTY

4 DEPOSITION OF CHARLES FLIFLET

5
6 ELIZABETH M. FERRARO, JAMES T.
7 FERRARO, EDWARD J. PRZYBYL,
8 MARCELLA GLEIE, JOHN E. GLEIE, JR.,
9 THOMAS BOWES, CONNIE BOWES,
10 MOATAZ ALASADI, VIRGINIA KIRKWOOD,
11 BOB KIRKWOOD, PAUL VICHROSKI, NYDZA
12 VICHROSKI, JAMES MONTELLESE,
13 ROXANN MONTELLESE, AND JULIE
14 WILLIAMS, Individually, Derivatively, and on
15 Behalf of all the Mount Vintage Homeowners
16 Association Members,

17 Plaintiffs,

18 Case No. 2021-CP-19-00050

19 vs.

20 J. WAYNE RAIFORD, INDIVIDUALLY AND
21 AS PRESIDENT OF THE BOARD OF
22 DIRECTORS OF MOUNT VINTAGE
23 PLANTATION HOMEOWNERS ASSOCIATION,
24 INC., LL OF SC, LLC, RAIFORD TOPSAIL
25 ISLAND INVESTMENTS, LLC, MOUNT
26 VINTAGE PLANTATION HOMEOWNERS
27 ASSOCIATION, INC. a/k/a MOUNT VINTAGE
28 HOMEOWNERS ASSOCIATION, INC., GREGG
29 KARLBERG, JERRY SCHAEFER, LEIGH ANN
30 KEELS, and JOHN DOE,

31 Defendants.

1 DEPONENT: CHARLES FLIFLET
2 DATE: January 19, 2023
3 TIME: 8:59 a.m.
4 LOCATION: Hawk Law Group
5 Aiken, SC
6 REPORTED BY: JESSICA BOLANOS
7 CLARK BOLEN
8 PO Box 12189
9 Charleston, SC 29405
10 843-762-6294
11 WWW.CLARKBOLEN.COM
12
13
14
15
16
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24
25

1 RTI?

2 A. It owns 50 percent or more of the
3 voting -- of the units of RTI.

4 Q. Correct. So on that alone, that would
5 be an affirmative answer, yes, it owns more than
6 50 percent?

7 A. Well, I'm not -- it's ignored for income
8 taxes and income tax return.

9 Q. Okay.

10 A. So my opinion is that it would be -- it
11 would be no. It would be no.

12 Q. The question -- the factual question,
13 the answer is yes, correct?

14 A. Well, if you're saying does -- did -- I
15 mean, I don't know whether the LLC owned them at
16 that time, number one. Okay? Number two, if it
17 did own it, yes, it would own 100 percent of the
18 units of the single member LLC.

19 Q. Okay. And if we go to 6.6, Exhibit 6.6,
20 we'll find your transmittal of the 2014 annual
21 federal tax return for LL of South Carolina,
22 correct?

23 A. Correct.

24 Q. And again, we'll see that on page 2 of
25 the tax return, question 4A regarding the

1 ownership of 50 percent or more is answered in
2 the negative, correct?

3 A. Correct.

4 Q. And do you -- are you able to tell us
5 whether or not -- in 2014 whether or not LL of
6 South Carolina owned any part of RTI?

7 A. I can't tell you, no.

8 Q. In answering these questions, did you
9 ever consider whether or not RTI was, in fact --

10 A. Probably not at that time.

11 Q. And if we go to the back of the 2014 LL
12 tax returns, we'll see that -- excuse me. Did I
13 say the back -- page 5 of the tax return, page 6
14 of the exhibit. We see the similar balance sheet
15 showing the Mount Vintage lots in the LL of South
16 Carolina entity as assets in the beginning of the
17 year and the end of the year, correct?

18 A. Correct.

19 Q. And if we flip forward to Exhibit 6.7,
20 we'll see various similar information as that
21 which we saw in 2014 for the 2015 return,
22 correct?

23 A. Yeah. I'm sorry. What are you
24 referring to?

25 Q. 6.7. Question 4A is answered the same

1 MR. MAJOR: Object to the form.

2 A. Aware of the concept.

3 Q. So here we hit screenshot -- and, in
4 fact, I can log into my server if you want me to
5 do it live. We've hit a screenshot on the
6 metadata on this document, this RTI assignment in
7 file, and this screenshot, Bates stamp Fliflet
8 CPA 00597 indicates that the assignment was
9 created on September 18th, 2014, correct?

10 A. Now, who created it?

11 Q. This is the assignment from your file.

12 A. Okay. Okay. So when it was accepted
13 into our system --

14 Q. Correct.

15 A. -- that was the date? Okay.

16 Q. And that would be approximately three
17 days after Jennifer indicated that Wayne and
18 Linda would sign the assignment and return it to
19 you, correct?

20 A. Okay. I see that.

21 Q. All right. And so it appears as though
22 that assignment was signed by Wayne and Linda
23 sometime between September 11th and September 14,
24 2014, correct?

25 A. It appears so, yes.

STATE OF SOUTH CAROLINA

COUNTY OF EDGEFIELD

ELIZABETH M. FERRARO, JAMES T. FERRARO,
 EDWARD J. PRZYBYL, MARCELLA GLEIE, JOHN
 E. GLEIE, JR., THOMAS BOWES, CONNIE BOWES,
 MOATAZ ALASADI, VIRGINIA KIRKWOOD, BOB
 KIRKWOOD, PAUL VICHROSKI, NYDZA
 VICHROSKI, JAMES MONTELLESE, ROXANN
 MONTELLESE, Individually, Derivatively, and on
 Behalf of all the Mount Vintage Homeowners
 Association Members,

Plaintiffs,

vs.

LL OF SC, LLC, RAIFORD TOPSAIL ISLAND
 INVESTMENTS, LLC, TR SALES PLANTATION,
 LLC, AND MOUNT VINTAGE PLANTATION
 HOMEOWNERS ASSOCIATION, INC. A/K/A
 MOUNT VINTAGE HOMEOWNERS ASSOCIATION,
 INC.

Defendants.

) IN THE COURT OF COMMON PLEAS
) FOR THE ELEVENTH JUDICIAL CIRCUIT
) CASE NO. 2021-CP-19-00050
)

) **BUSINESS COURT CASE,**
) **ASSIGNED TO:**

) **THE HONORABLE R. LAWTON**
) **MCINTOSH**

) **PLAINTIFFS' MOTION FOR PARTIAL**
) **SUMMARY JUDGMENT AS TO**
) **DEVELOPER RIGHTS AND CLASS A**
) **MEMBERSHIP**

PLEASE TAKE NOTICE that Plaintiffs, by and through their undersigned counsel, and pursuant to Rule 56, SCRCP, move this Court for an Order granting summary judgment in favor of Plaintiffs as to developer rights and Class A Membership. Specifically, the September 3, 2013 deed in lieu of foreclosure (hereinafter "Deed in Lieu"), granted after the October 23, 2012, Lis pendens (hereinafter "Lis Pendens"), was superseded by the November 11, 2013 Special Referee's Deed (hereinafter "Special Referee's Deed"), and LL of SC, LLC ("LL") is not the developer of Mount Vintage and is not a Class A Member under the Covenants. The current LL appointed and controlled Association Board is a nullity. There are no genuine issues of material fact and Plaintiffs are entitled to judgment as a matter of law.

SUMMARY JUDGMENT STANDARD

"The purpose of summary judgment is to expedite the disposition of cases which do not require the services of a factfinder." *Singleton v. Sherer*, 377 S.C. 185, 197-98, 659 S.E.2d

196, 203 (Ct. App. 2008). Summary judgment shall be granted “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56(c), SCRCP. “In determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the nonmoving party.” *Quail Hill, LLC v. County of Richland*, 387 S.C. 223, 235, 692 S.E.2d 499, 505 (2010).

“Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent’s case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings.” *Singleton*, 377 S.C. at 197-98, 659 S.E.2d at 203. Instead, “[t]he nonmoving party must come forward with specific facts showing there is a genuine issue for trial.” *Id.* at 198, 659 S.E.2d at 203. “It is not sufficient for one to create an inference that is not reasonable or an issue of fact that is not genuine.” *Evans v. Stewart*, 370 S.C. 522, 526, 636 S.E.2d 632, 635 (Ct. App. 2006). “Although summary judgment is a drastic remedy which should be cautiously invoked, where a verdict is not reasonably possible under the facts presented, summary judgment is proper.” *Id.*

ARGUMENT

I. The Lis Pendens Pre-Dates the Deed in Lieu, and Therefore the Special Referee’s Deed Relates Back to the Filing of the Lis Pendens and Takes Precedence Over the Deed in Lieu.

The purpose of a notice of pendency of an action is to inform a purchaser or encumbrancer that a particular piece of real property is subject to litigation. *Shelley Constr. Co. v. Sea Garden Homes, Inc.*, 287 S.C. 24, 336 S.E.2d 488 (Ct.App.1985); *Wooten v. Seanch*, 187 S.C. 219, 196 S.E. 877 (1938). **“A properly filed lis pendens binds subsequent purchasers or**

encumbrancers to all proceedings evolving from the litigation.” *South Carolina Nat’l Bank v. Cook*, 291 S.C. 530, 532, 354 S.E.2d 562, 562 (1987) (emphasis added). Generally, the filing of a *Lis pendens* places a cloud on title which prevents the owner from freely disposing of the property before the litigation is resolved. *Shelley Constr.*, 287 S.C. at 24, 336 S.E.2d at 491–492.

Additionally, the South Carolina Code provides that subsequent purchasers shall be bound by all proceeding taken after the filing of the *lis pendens*:

From the time of filing only, the pendency of the action shall be constructive notice to a purchaser or encumbrancer of the property affected thereby, and every person whose conveyance or encumbrance is subsequently executed or subsequently recorded shall be deemed a subsequent purchaser or encumbrancer and **shall be bound by all proceedings taken after the filing of such notice to the same extent as if he were made a party to the action.** For the purposes of this section, an action shall be deemed to be pending from the time of filing such notice.

S.C. Code Ann. § 15-11-20 (emphasis added). Moreover, it is hornbook law that a later obtained judgment relates back to the filing of the *lis pendens*.

A "*lis pendens*" is a notice of litigation, placed in the real property records, asserting an interest in the property and notifying third parties that ownership of the property is disputed. "*Lis pendens*" is a common-law and statutory doctrine which has the effect of providing constructive notice to the world of an alleged claim of a lien or an interest in property. As *lis pendens* provides constructive notice of litigation, **any judgment later obtained in that litigation relates back to filing of the *lis pendens*.**

51 Am.Jur.2d *Lis Pendens* § 1 (2000) (emphasis added).

Although *lis pendens* has been defined as an "encumbrance" as that term has been traditionally defined, and may be applied to enforce an existing lien, some courts have stated that the doctrine of *lis pendens* does not impress affected property with a lien, or extend or prolong any existing lien, but rather, **binds third parties with notice that any interest they may acquire in property pending litigation will be subject to the outcome of the action.**

Id. § 3 (emphasis added).

Furthermore, the *lis pendens* **“notifies potential purchasers that there is pending litigation that may affect their title to real property and that the purchaser will take subject**

to the judgment, without any substantive rights.” *Pond Place Partners, Inc. v. Poole*, 351 S.C. 1, 567 S.E.2d 881 (Ct. App. 2002) (citing 51 Am.Jur.2d *Lis Pendens* § 2 (2000) (emphasis added). After the filing of the lis pendens, any conveyance of the property is now subject to the outcome of the litigation. *In re Shiver*, 598 B.R. 221 (Bankr. D. S.C. 2019); *see also Meliani v. Jade Dunn Loring Metro, LLC*, 286 F. Supp. 2d 741 (E.D. Va. 2003) (“**[O]nce recorded, lis pendens binds subsequent bona fide purchasers of disputed property such that subsequent purchaser, with or without actual notice of lis pendens, takes subject to outcome of pending litigation.**”) (emphasis added).

Here, the below is a chronology of relevant events showing that the Deed in Lieu to LL, granted after the Lis Pendens, was superseded by the Special Referee’s Deed to Raiford Topsail Island Investments, LLC (“RTI”):

1. Oct. 23, 2012: LL files a Lis Pendens (**Ex. A**);
2. Oct. 23, 2012: LL files a Summons & Complaint foreclosing on the real estate (**Ex. B**);
3. Sept. 3, 2013: Deed in Lieu of Foreclosure to LL (**Ex. C**);
4. Nov. 6, 2013: LL voluntary assignment of Foreclosure Bid to RTI (**Ex. D**);
5. Nov. 11, 2013: Filing of the Master’s Report on the Bid by RTI (**Ex. E**);
6. Nov. 11, 2013: Special Referee’s Deed filed in Favor of RTI (**Ex. F**); and
7. July 22, 2014: Corrective Special Referee Deed filed (**Ex. G**).

A. Supersession by the Special Referee’s Deed

The Special Referee’s Deed, executed and filed on November 11, 2013, provides the definitive terms regarding the ownership and development of Mount Vintage because it relates back in time to the filing of the Lis pendens, which was filed on October 23, 2012. The Deed in Lieu, executed on September 3, 2013, post-dates the Lis pendens and cannot alter or supersede

whatever judgment results from the Lis pendens and the related litigation. Under South Carolina law, this properly filed Lis pendens binds all subsequent purchasers or encumbrancers to all proceedings evolving from the litigation. *See Cook, supra*. Here, the culmination of the litigation which evolved from the filing of the Lis pendens is the Special Referee's Deed.

The superseding nature of the 2013 Special Referee's Deed was confirmed when all Defendants, through Raiford, had Defendants' long-time counsel, Mary Guynn, draft, submit, and secure a Corrective Special Referee Deed in 2014. While the Corrective Deed purports to be for the purpose of adding one lot to the legal description, it also expressly adds that the conveyance of developer rights to RTI was part of the original 2013 Special Referee's Deed.¹ There can be no doubt about the meaning or intent of this Order as the Defendants' attorney prepared it, solicited it, and filed it.²

B. Binding Effect of the Lis Pendens and Resulting Special Referee's Deed

The Special Referee's Deed (and the Corrective Special Referee's Deed), as the latest document, governs the rights and responsibilities related to the property. The Deed in Lieu does not impact the current status of the property or the parties' roles as defined in the Special Referee's Deed. This is consistent with the principle that subsequent legal documents and proceedings take precedence over earlier ones.

C. LL's Status

Because the Deed in Lieu of Foreclosure was a nullity, LL is not the "Developer" of Mount Vintage and is not a Class A member under the Covenants. Therefore, all actions taken by LL in the administration of the Homeowners' Association since 2013 are a nullity, and the current Board

¹ The appurtenant rights were originally referred to generally in the Special Referee deed as being granted "with all and singular rights, members, hereditaments and appurtenances to the said premises belonging or in any way incident or pertaining thereto, and all the estate, right title, claim, and interest, whatsoever...".

² See the "Return to" entry on the Corrective Master Deed, and the Guynn testimony which will be supplemented.

of Directors is not properly nominated, elected, or appointed and is non-existent. RTI has obviously abandoned its developer rights by allowing LL to conduct this charade. As there is no Developer, the Class B members are automatically elevated to Class A membership and a homeowner elected Board of Directors should be recognized by this Court before trial.

These and other grounds will be supported by the pleadings, discovery, affidavits, expert reports, memorandum of law, and oral argument at the hearing on this matter.

CONCLUSION

Since the Special Referee's Deed (original and corrected) supersedes the Deed in Lieu of Foreclosure and defines the present ownership rights, membership, and privileges, LL's purported status as the Developer/Class A Member must be vacated as there are no genuine issues of material fact. RTI's failure to assume Developer status after eleven years clearly constitutes abandonment; and the absence of a Class A member for eleven years should act to automatically elevate the Class B members to Class A status and permit a homeowner Board of Directors to replace the current null Board prior to trial. Plaintiff is entitled to judgment on these preliminary issues as a matter of law.

JUSTIN O'TOOLE LUCEY, P.A.

By: /s/ Anna McCann
 Justin Lucey
 Anna McCann
 JUSTIN O'TOOLE LUCEY, P.A.
 415 Mill Street
 Mount Pleasant, SC 29464
 (843) 849-8400 phone
jlucey@lucey-law.com
amccann@lucey-law.com

August 13, 2024
 Charleston, South Carolina

EXHIBIT**A**EDGEFIELD COUNTY
CLERK OF COURT
SHIRLEY F. NEWBYSTATE OF SOUTH CAROLINA
2024 OCT 23 PM 2:03

COUNTY OF EDGEFIELD

IN THE COURT OF COMMON PLEAS

LL OF SC, LLC,

PLAINTIFF

LIS PENDENS

vs.

C/A No: 12-LP-19-105

2012-CP-19-336

K & H DEVELOPMENT COMPANY, LLC
AND MOUNT VINTAGE PLANTATION
HOMEOWNERS ASSOCIATION, INC.,

DEFENDANTS.

NOTICE IS HEREBY GIVEN that an action has been commenced and is pending or is about to be commenced in the Circuit Court between the above-named Plaintiff against the above-named Defendants to foreclose on a mortgage between the Plaintiff, as Mortgagee, and K & H Development Company, LLC, as Mortgagor, which Mortgage is dated April 19, 2010, and was filed for record in the RMC Office for Edgefield County on April 22, 2010, in Record Book 1282 at Page 191. The property which is the subject of said action is described as follows:

PROPERTY DESCRIPTION:**LOTS IN SECTION "F"**

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots F-3 and F-4 on that certain plat by Newby-Procter and Associates dated April 8, 2003 and recorded November 6, 2003 in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,672. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot F-3 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map # 122-00-06-003 and Lot F-4 is shown on Tax Map # 122-00-06-004.

EXHIBIT**41.01**

exhibitsclerk.com

ROA_00653

LOTS IN SECTION "H"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots H-1, H-2, H-12, H-15, H-20, H-65 and H-73 on that certain plat by Newby-Procter and Associates dated July 30, 2003 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,455. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot H-1 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-09-001; Lot H-2 on Tax Map # 122-00-09-002; Lot H-12 on Tax Map #122-00-09-012; Lot H-15 on Tax Map # 122-00-09-015; Lot H-20 on Tax Map #122-00-00-020; Lot H-65 on Tax Map # 122-00-09-065 and Lot H-73 on Tax Map # 122-00-09-073.

AND ALSO All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots H-43, H-44, H-45 and H-46 on that certain plat by Newby-Procter and Associates dated July 30, 2003 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,456. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot H-43 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-09-043; H-44 on Tax Map #122-00-09-044; Lot H-45 on Tax Map #122-00-09-045 and Lot H-46 on Tax Map #122-00-09-046.

LOTS IN SECTION "J"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots J-1 thorough J-9 inclusive, J-11, J-13 through J-20 inclusive, J-27, J-28, J-30, J-35, J-36, J-44 through J-47 inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot J-1 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-10-001; Lot J-2 on Tax Map #122-00-10-002; Lot J-3 on Tax Map #122-00-10-003; Lot J-4 on Tax Map #122-00-10-004; Lot J-5 on Tax Map #122-00-10-005; Lot J-6 on Tax Map #122-00-10-006; Lot J-7 on Tax Map #122-00-10-007; Lot J-8 on Tax Map #122-00-10-008; Lot J-9 on Tax Map #122-00-10-009; Lot J-11 on Tax Map #122-00-10-011; Lot J-13 on Tax Map #122-00-10-013; Lot J-14 on Tax Map #122-00-10-014; Lot J-15 on Tax Map #122-00-10-015; Lot J-16 on Tax Map #122-00-10-016; Lot J-17 on Tax Map #122-00-10-017; Lot J-

18 on Tax Map #122-00-10-018; Lot J-19 on Tax Map #122-00-10-019; Lot J-20 on Tax Map #122-00-10-020; Lot J-27 on Tax Map #122-00-10-027; Lot J-28 on Tax Map #122-00-10-028; Lot J-30 on Tax Map #122-00-10-030; Lot J-35 on Tax Map #122-00-10-035; Lot J-36 on Tax Map #122-00-10-036; Lot J-44 on Tax Map #122-00-10-044; Lot J-45 on Tax Map #122-00-10-045; Lot J-46 on Tax Map #122-00-10-046 and Lot J-47 on Tax Map #122-00-10-047.

LOTS IN SECTION "K"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots K-7 and K-11, on that certain plat by Newby-Procter and Associates dated July 21, 2005 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,031. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot K-7 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-11-007 and Lot K-11 is shown on Tax Map #122-00-11-011

LOTS IN SECTION "L"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots L-1 through L-3 inclusive, Lot L-7, Lot L-24 through L-29, inclusive, Lot L-31, Lots L-37 through L-39, inclusive, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "M"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots M-1 through M-10, inclusive, Lot M-12, Lot M-13, Lots M-18 through M-20, inclusive, Lot M-42, Lot M-44, Lots M-46 through M-49, inclusive and Lot M-53, on that certain plat by Newby-Procter and Associates dated June 28, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,387. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot M-29, Lot M-30 and Lot M-32 on that certain plat by Newby-Procter and Associates dated 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is

incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "N"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-1 through N-5, inclusive, Lot N-10, Lot N-11, Lot N-69, Lot N-70, Lot N-79 through N-83, inclusive, Lot N-85 and Lot N-86, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-27 through N-37, inclusive, and Lots N-39 through N-46, inclusive, on that certain plat by Newby-Procter and Associates dated June 26, 2008 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,662. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot N-47, Lot N-49, Lot N-51 and N-52, Lot N-57, through N-59, inclusive, on that certain plat by Newby-Procter and Associates dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Less and Excepting as Released: Lot N-27b

LOTS IN SECTION "O"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots O-1 through O-4, inclusive, Lots O-9 through O-14, inclusive, Lot O-17, Lot O-22 through O-27, Lot O-29, Lot O-33, Lot O-35 and Lot O-37 on that certain plat by Newby-Procter and Associates dated November 30, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,606. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot O-38, Lot O-41, Lots O-49 through Lot O-51, inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "P"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots P-2, P-5 through P-7, inclusive, Lot P-9, Lot P-13 through P-18, inclusive and Lots P-21 through P-23, inclusive, on that certain plat by Newby-Procter and Associates dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot P-26, Lot P-27, Lot P-31, and Lot P-42, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

PROPERTY B:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and containing 23.26 acres, more or less, designated on that plat of survey prepared by Newby-Procter and Associates dated May 11, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,002. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Less and Excepting as Released: Lots F-18, 20, 21, 22, 23, 24 and 26

PROPERTY C:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, near Mount Vintage Plantation Drive, containing sixty-six hundredths (.066) of an acre, more or less, and designated as Lot P-3 on that plat prepared for MV Development

Company, LLC, by Newby-Procter and Associates, and recorded in Judgment Roll 38,150 in the Office of the Clerk of Court for Edgefield County, which said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

ALL of the aforesaid lots being a portion of the property conveyed to MV Development Company, LLC by Deed of the Special Referee for Edgefield County dated April 19, 2010 and recorded April 22, 2010 in Deed Book 1282, Page 180, Edgefield County Records.

**SMITH, MASSEY, BRODIE,
GUINN & MAYES, LLC**



Mary O. Guynn, Esquire
Post Office Box 519
Aiken, South Carolina 29802
(803) 643-4110
Attorney for Plaintiff

October 22, 2012
Aiken, South Carolina

EXHIBIT B

EDGEFIELD COUNTY
CLERK OF COURT
SHIRLEY F. NEWBY

2022 OCT 23 PM 2:03

IN THE COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA

COUNTY OF EDGEFIELD

LL OF SC, LLC,

PLAINTIFF

vs.

K & H DEVELOPMENT COMPANY, LLC
AND MOUNT VINTAGE PLANTATION
HOMEOWNERS ASSOCIATION, INC.,

DEFENDANTS.

SUMMONS AND NOTICES

C/A No: 12-CP-~~11~~-330
(Non-Jury)

**FORECLOSURE OF REAL
ESTATE MORTGAGE
DEFICIENCY BALANCE WAIVED**

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to appear and defend by answering the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer on the subscriber at her offices, 210 Colony Parkway, Post Office Box 519, Aiken, South Carolina, 29802, within thirty (30) days after the service hereof, exclusive of the day of such service; except that the United States of America, if named, shall have sixty (60) days to serve a copy of their Answer, exclusive of the date of service; and if you fail to do so, judgment by default will be rendered against you for the relief demanded in the Complaint.

YOU WILL ALSO TAKE NOTICE that should you fail to Answer the Complaint, the Plaintiffs will move for a general Order of Reference of this cause to the Master-In-Equity or Special Referee for this County, which Order shall, pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, specifically provide that the said Master-In-Equity or Special Referee is authorized and empowered to enter a final judgment in this case.

EXHIBIT

41.02

exhibitster.com

**SMITH, MASSEY, BRODIE,
GUINN & MAYES, LLC**



Mary O. Guynn, Esquire
Post Office Box 519
Aiken, South Carolina 29802
(803) 643-4110
Attorney for Plaintiff

October 22, 2012
Aiken, South Carolina

EDGEFIELD COUNTY
CLERK OF COURT
SHIRLEY F. NEWBY

STATE OF SOUTH CAROLINA

COUNTY OF EDGEFIELD

2012 OCT 23 PM 2:03

IN THE COURT OF COMMON PLEAS

LL OF SC, LLC,

PLAINTIFF

vs.

K & H DEVELOPMENT COMPANY, LLC
AND MOUNT VINTAGE PLANTATION
HOMEOWNERS ASSOCIATION, INC.,

DEFENDANTS.

COMPLAINTC/A No: 12-CP-~~12~~-320

(Non-Jury)

**FORECLOSURE OF REAL
ESTATE MORTGAGE
DEFICIENCY BALANCE WAIVED**

The Plaintiff above named, complaining of the Defendants herein, allege:

1. That Plaintiff, LL of SC, LLC f/k/a LL, Inc. is a limited liability company organized and existing pursuant to the laws of the State of South Carolina.
2. That Defendant K & H Development Company, LLC f/k/a Park Meridian Holdings SC Fund 2009-2, LLC is a limited liability company organized and existing pursuant to the laws of the State of South Carolina.
3. That Defendant Mount Vintage Homeowners Association, Inc. is a South Carolina nonprofit corporation.
4. This is an action for the foreclosure of a mortgage upon certain real estate in Edgefield County, South Carolina.
5. The subject loan is not eligible for modification pursuant to the Home Affordable Modification Program ("HMP") because the loan is not owned, securitized or guaranteed by either Federal National Mortgage Association or Federal Home Loan Mortgage Corporation nor has the servicing agent executed an agreement under HMP.
6. The subject loan is exempt from the requirements of South Carolina Supreme

Court Administrative Order 2011-05-02-01 in that the property which is the subject of the foreclosure is not an "owner-occupied dwelling" as defined in the aforesaid Administrative order.

7. Some lien on or interest in the real estate, the subject of this action, may be claimed by the Defendant(s) herein.

8. Heretofore, on September 25, 2009, Defendant K & H Development Company, LLC f/k/a Park Meridian Holdings SC Fund 2009-2, LLC made, executed and delivered unto Plaintiff a certain Note in the principal sum of \$2,500,000.00 (the "Original Note").

9. Thereafter, Defendant K & H Development Company, LLC f/k/a Park Meridian Holdings SC Fund 2009-2, LLC made, executed and delivered unto Plaintiff a certain Replacement Note in the principal sum of \$2,500,000.00 dated October 13, 2009 but effective September 25, 2009 (the "Note") which expressly replaced the Original Note, a copy of which is attached hereto as Exhibit "A" and made a part hereof by reference.

10. In order to secure the payment of the Note according to the terms and conditions thereof, the aforesaid Defendant K & H Development Company, LLC executed and delivered unto Plaintiff a certain Mortgage of Real Estate (the "Mortgage") dated April 19, 2010 covering the property more particularly described on Exhibit "B" and made a part hereof by reference (the "Property").

11. The Mortgage was duly signed, witnessed and probated; thereafter the Mortgage was duly recorded in the office of the Register of Mesne Conveyance for Edgefield County on April 22, 2010 in Record Book 1282, Page 191, a copy of which is attached hereto as Exhibit "C" and made part hereof by reference.

12. The Mortgage evidences and secures the repayment of money advanced by the

Plaintiff to, or on behalf of, the Defendant K & H Development Company, LLC f/k/a Park Meridian Holdings SC Fund 2009-2, LLC and constitutes a first mortgage lien on the Property.

13. The monthly payments due on the Note are in default, the Defendant K & H Development Company, LLC f/k/a Park Meridian Holdings SC Fund 2009-2, LLC having failed to make the payments as and when due, and the conditions of the Note and Mortgage have been broken and the Plaintiff elects to and does declare the entire balance of said indebtedness due and payable, and that there is due on the Note as of October 17, 2012 principal of Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00), interest of One Million Sixty-Nine Thousand Three Hundred Seventy-Four and 41/100 Dollars (\$1,069,374.41), with interest continuing to accrue at the rate of Fifteen Percent (15.0%) per annum and late fees of One Hundred Twenty-Five Thousand and No/100 Dollars (\$125,000.00) and also for the costs and disbursements of this action, including reasonable attorney's fees; all as more particularly set forth in Statement of Account which is attached hereto as Exhibit "D".

14. That Notice of Consumer's Right to Cure, as contemplated by S.C. Code Sections 37-5-110 and 37-5-111, was sent by the Plaintiff to the Defendant K & H Development Company, LLC f/k/a Park Meridian Holdings SC Fund 2009-2, LLC. Said Notice has been disregarded by the Defendant.

15. All persons having an interest or lien or possible claim in or upon the Property as of the date and time of the filing of the Lis Pendens herein have been made Defendants.

16. The hereinafter named party may have or claim some interest in or lien upon the Property set forth above, or some part thereof; said liens or interests are of record in the Office of the RMC and/or Clerk of Court of the aforesaid county and, upon information and belief, are junior to the Plaintiff's Mortgage. The claim or interest held by such Defendant is described as

follows:

- a. Mount Vintage Plantation Homeowners Association, Inc. by virtue of any lien enforceable assessments claimed as provided in the Declaration of Protective Covenants, Conditions and Restrictions of Mount Vintage recorded in the Real Estate Records for Edgefield County and any amendments or modifications thereto.

17. Plaintiffs' right to a personal or deficiency judgment pursuant to South Carolina Code Sections 29-3-650 and 29-3-660 is expressly waived.

WHEREFORE, having fully set forth its Complaint, Plaintiff prays that this Honorable Court inquire into the matters set forth herein and:

1. Under the direction of this Court, ascertain and determine the amount due upon the Note held by Plaintiff together with attorney's fees and costs of this action as well as any sums advanced under the Note and Mortgage terms, including taxes and insurance.
2. Declare Plaintiff's lien a first priority lien and render judgment and foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due with reasonable attorney's fees and for the costs of this action.
3. Appoint a Receiver to collect the rents, issues and profits from the mortgagor(s) and/or tenant(s) occupying or exercising control over the Property during the pendency of this action and hold the same subject to the further order of this Court.
4. Under the direction of this Court, sell the Property, bar any equity of redemption, and apply the proceeds of sale as follows:
 - a. First, to the costs and expenses of the within action and sale;
 - b. Second, to the payment and discharge of the amount due on Plaintiff's Note

and Mortgage, together with attorney's fees as aforesaid; and

c. Third, the surplus, if any, be distributed according to law.

5. Issue an order directing the Sheriff of Edgefield County, South Carolina, to place the successful purchaser at said foreclosure sale in possession of the Property should the same become necessary.

6. Order the reimbursement of all costs for inspecting and securing the Property incurred by the Plaintiff.

7. Order such other and further relief as may be just and proper.

**SMITH, MASSEY, BRODIE,
GUYNN & MAYES, LLC**



Mary O. Guynn, Esquire
Post Office Box 519
Aiken, South Carolina 29802
(803) 643-4110
Attorney for Plaintiff

October 22, 2012
Aiken, South Carolina

**EXHIBIT
C**

201300003061
Filed for Record in
EDGEFIELD COUNTY, SC
SHIRLEY F NEWBY, CLERK OF COURT
09-03-2013 At 02:36 PM.
DEED 18.00
DR Book 1445 Page 1 - 12
201300003061 EXEMPT
SHIRLEY F NEWBY
CLERK OF COURT
EDGEFIELD COUNTY, SC
09-03-2013 02:36 PM.
REC FEE: 18.00

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD) DEED IN LIEU OF FORECLOSURE

KNOW ALL MEN BY THESE PRESENTS:

That **K & H DEVELOPMENT COMPANY, LLC A/K/A K & H, LLC F/K/A PARK MERIDIAN HOLDINGS SC FUND 2009-2, LLC**, a South Carolina limited liability company, (hereinafter called "Grantor"), for fair and adequate consideration, such being the full satisfaction of any and all debt evidenced by that certain Mortgage executed by Grantor in favor of **LL OF SC, LLC F/K/A LL, INC.**, (hereinafter called "Grantee") dated April 19, 2010 and recorded in Mortgage Book 1282, page 191, Edgefield County Records in the original principal amount of \$2,500,000.00 (the "Mortgage"), the receipt of which is hereby acknowledged, has absolutely granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto Grantee, its successors and assigns, the following described real estate, to wit (the "Land") more particularly described on Exhibit A attached hereto and incorporated herein, together with those certain rights, to wit (the "Rights"; the Land and the Rights being collectively referred to as the "Property") more particularly described on Exhibit B attached hereto and incorporated herein.

Grantee's Address: 616 Edgefield Road Suite 115
North Augusta, South Carolina 29841

EXHIBIT

41.04

exhibitstickers.com

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining thereto,

AND Grantor does hereby warrant to Grantee that the Deed is intended to be and is an absolute conveyance of the title to the Property to the Grantee, and it was not and is not intended as a mortgage, trust conveyance, or security device of any kind; that it is the intention of the Grantor that the Deed unconditionally and absolutely convey to the Grantee all of the Grantor's right, title, and interest in and to the Property; that the Grantor has no right, option or obligation to redeem the Property or to acquire, reacquire or repurchase any portion of the Property or any rights or interests with respect thereto; that Grantor has vacated the Property, and possession of the Property has been surrendered to the Grantee; that there are no other agreements, written or otherwise, between the Grantor and Grantee, relating to the Property or the Deed; that the Deed was not given as a fraudulent transfer or preference against any other creditors of the Grantor; that at the time it was given, there was no other persons or entities, other than the Grantee, interested, either directly or indirectly in the Property; that the Grantor is solvent and has no other creditors whose rights would be prejudiced by such conveyance, and that the Grantor is not obligated upon any debt or other mortgage whereby any lien has been created or exists against the Property; that in the execution and delivery of the Deed the Grantor fully understands the effects thereof, and acted freely and voluntarily, and was not acting under coercion, duress or undue influence; that the consideration for the Deed was and is the full and unconditional release and cancellation of all debts, liabilities, obligations, costs, and charges owed by the undersigned, and all guarantors, if any, and secured by the Mortgage and the release of record of the Mortgage; and that at the time of the making the Deed, the outstanding debt owed by the Grantor to the Grantee equaled or exceeded the fair market value of the Property; that these

representations are made for the protection and benefit of the Grantee, its successors and assigns, with knowledge and intention that they will rely hereon; that the undersigned will testify, declare, depose, and certify before any competent tribunal, officer, or person, in any case now pending or which may hereafter be instituted to the truth of the particular facts hereinabove set forth and that the undersigned has executed this Deed for and on behalf of said Grantor pursuant to the appropriate authorization of said Grantor.

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the said Grantee, its successors and assigns forever, and the Grantor does hereby bind itself and its successors and assigns, to warrant and forever defend all and singular the said premises unto the said Grantee, its successors and assigns, against Grantor and its successors and assigns whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the Hand and Seal of the Grantor this 3rd day of September, 2013.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Witness: Pat Knight

Witness: Unjell

K & H DEVELOPMENT
COMPANY, LLC

By: [Signature] (LS)
Name: Almadse Knight
Title: member

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named Grantor by its duly authorized Member/Manager sign, seal and as its act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that s/he, with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me this
3rd day of September, 2013.



Notary Public for South Carolina



My Commission Expires: 6/10/2021

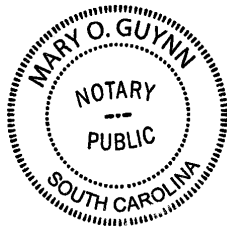


EXHIBIT A

THE LAND

LOTS IN SECTION "F"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots F-3 and F-4 on that certain plat by Newby-Procter and Associates dated April 8, 2003 and recorded November 6, 2003 in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,672. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot F-3 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map # 122-00-06-003 and Lot F-4 is shown on Tax Map # 122-00-06-004.

LOTS IN SECTION "H"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots H-1, H-2, H-12, H-15, H-20, H-65 and H-73 on that certain plat by Newby-Procter and Associates dated July 30, 2003 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,455. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot H-1 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-09-001; Lot H-2 on Tax Map # 122-00-09-002; Lot H-12 on Tax Map #122-00-09-012; Lot H-15 on Tax Map # 122-00-09-015; Lot H-20 on Tax Map #122-00-09-020; Lot H-65 on Tax Map # 122-00-09-065 and Lot H-73 on Tax Map # 122-00-09-073.

AND ALSO All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots H-43, H-44, H-45 and H-46 on that certain plat by Newby-Procter and Associates dated July 30, 2003 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,456. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot H-43 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-09-043; H-44 on Tax Map #122-00-09-044; Lot H-45 on Tax Map #122-00-09-045 and Lot H-46 on Tax Map #122-00-09-046.

LOTS IN SECTION "J"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots J-1 thorough J-9 inclusive, J-11, J-13 through J-20 inclusive, J-27, J-28, J-30, J-35, J-36 (to the extent such lot exists), J-44 through J-47 inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot J-1 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-10-001; Lot J-2 on Tax Map #122-00-10-002; Lot J-3 on Tax Map #122-00-10-003; Lot J-4 on Tax Map #122-00-10-004; Lot J-5 on Tax Map #122-00-10-005; Lot J-6 on Tax Map #122-00-10-006; Lot J-7 on Tax Map #122-00-10-007; Lot J-8 on Tax Map #122-00-10-008; Lot J-9 on Tax Map #122-00-10-009; Lot J-11 on Tax Map #122-00-10-011; Lot J-13 on Tax Map #122-00-10-013; Lot J-14 on Tax Map #122-00-10-014; Lot J-15 on Tax Map #122-00-10-015; Lot J-16 on Tax Map #122-00-10-016; Lot J-17 on Tax Map #122-00-10-017; Lot J-18 on Tax Map #122-00-10-018; Lot J-19 on Tax Map #122-00-10-019; Lot J-20 on Tax Map #122-00-10-020; Lot J-27 on Tax Map #122-00-10-027; Lot J-28 on Tax Map #122-00-10-028; Lot J-30 on Tax Map #122-00-10-030; Lot J-35 on Tax Map #122-00-10-035; Lot J-36 on Tax Map #122-00-10-036 (to the extent such lot exists); Lot J-44 on Tax Map #122-00-10-044; Lot J-45 on Tax Map #122-00-10-045; Lot J-46 on Tax Map #122-00-10-046 and Lot J-47 on Tax Map #122-00-10-047.

LOTS IN SECTION "K"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots K-7 and K-11, on that certain plat by Newby-Procter and Associates dated July 21, 2005 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,031. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot K-7 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-11-007 and Lot K-11 is shown on Tax Map #122-00-11-011

LOTS IN SECTION "L"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots L-1 thorough L-3 inclusive, Lot L-7, Lot L-24 through L-29, inclusive, Lot L-31, Lots L-37 through L-39, inclusive, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances

and location of subject property.

LOTS IN SECTION "M"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots M-1 through M-10, inclusive, Lot M-12, Lot M-13, Lots M-18 through M-20, inclusive, Lot M-42, Lot M-44, Lots M-46 through M-49, inclusive and Lot M-53, on that certain plat by Newby-Procter and Associates dated June 28, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,387. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot M-29, Lot M-30 and Lot M-32 on that certain plat by Newby-Procter and Associates dated 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "N"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-1 through N-5, inclusive, Lot N-10, Lot N-11, Lot N-69, Lot N-70, Lot N-79 through N-83, inclusive, Lot N-85 and Lot N-86, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-27 through N-37, inclusive, and Lots N-39 through N-46, inclusive, on that certain plat by Newby-Procter and Associates dated June 26, 2008 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,662. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot N-47, Lot N-49, Lot N-51 and N-52, Lot N-57, through N-59, inclusive, on that certain plat by Newby-Procter and Associates

dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Less and Excepting as Released: Lot N-27b

LOTS IN SECTION "O"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots O-1 through O-4, inclusive, Lots O-9 through O-14 (Lot O-12 being shown on said plat as "Reserved Property MV Development, LLC containing 1.32 acres), inclusive, Lot O-17, Lot O-22 through O-27 (Lot O-23 being shown on said plat as "Reserved Property MV Development, LLC containing 0.95 acres), Lot O-29, Lot O-33, Lot O-35 and Lot O-37 on that certain plat by Newby-Procter and Associates dated November 30, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,606. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot O-38, Lot O-41, Lots O-49 through Lot O-51, inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "P"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots P-2, P-5 through P-7, inclusive, Lot P-9, Lot P-13 through P-18, inclusive and Lots P-21 through P-23, inclusive, on that certain plat by Newby-Procter and Associates dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot P-26, Lot P-27, Lot P-31, and Lot P-42, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149.

Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

PROPERTY B:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and containing 23.26 acres, more or less, designated on that plat of survey prepared by Newby-Procter and Associates dated May 11, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,002. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Less and Excepting as Released: Lots F-18, 20, 21, 22, 23, 24 and 26

PROPERTY C:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, near Mount Vintage Plantation Drive, containing sixty-six hundredths (.066) of an acre, more or less, and designated as Lot P-3 on that plat prepared for MV Development Company, LLC, by Newby-Procter and Associates, and recorded in Judgment Roll 38,150 in the Office of the Clerk of Court for Edgefield County, which said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

ALL of the aforesaid lots being a portion of the property conveyed to MV Development Company, LLC by Deed of the Special Referee for Edgefield County dated April 19, 2010 and recorded April 22, 2010 in Deed Book 1282, Page 180, Edgefield County Records.

EXHIBIT B

THE RIGHTS

All rights appurtenant to the Property, including, but not limited to, all developer rights held by K&H Development Company, LLC as to Mount Vintage Plantation, including but not limited to any and all rights set forth in the Assignment of Developer's Rights recorded in Book 1331, Page 199, Edgefield County Records (the "Assignment"), all reserved rights held by K&H Development Company, LLC under the Covenants (as defined in the Assignment), the Class A membership interest, including voting privileges, in Mount Vintage Plantation Homeowners Association, Inc., options, conditions and powers including, but not limited to, the right to levy assessments and dues against lots subject to the Covenants, lot owners and members of nay entities or organizations within the Land as established or as may be established and the right to control the "Preferred Builder" program in Mount Vintage, including the right to collect any and all fees assessed to or for such Preferred Builder program.

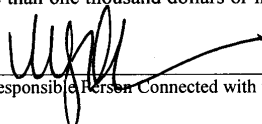
STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information of this affidavit and I understand such information.
2. The property being transferred is located in Aiken County, bearing Aiken County Tax Map Number (122-00-06-003et al.) was transferred by (K&H Development Company, Inc.) to (LL of SC, LLC) on the (3rd) day of (September), 2013.
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 a distribution to a trust beneficiary.
 - (c) X _____ exempt from the deed recording fee because (*See Information section of affidavit*):
#13
(If exempt, please skip items 4 – 7 and go to item 8 of this affidavit.)
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 _____.
 - (b) _____ The fee is computed on the fair market value or 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 X 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: \$ _____
 - (b) Place the amount listed in item 5 above here: \$ _____
 - (c) Subtract Line 6(b) from Line 6(a) and place result here: \$ _____
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: _____.
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: 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.

SWORN to before me this
3 day of September, 2013.
Cristal Brown
Notary Public for South Carolina
My Commission Expires: 6-28-15



Responsible Person Connected with the Transaction
Mary O. Guynn

Print or Type Name Here

INFORMATION:

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any rights. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

EXCEPTED FROM THE FEE ARE DEEDS:

1. transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
2. transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
3. that are otherwise exempted under the laws and Constitution of this State or the United States;
4. transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
5. transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interest in the realty that are being exchanged in order to partition the realty;
6. transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
7. that constitute a contract for the sale of timber to be cut;
8. transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty for a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
9. transferring realty from a family partnership to a partner or from family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
10. transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
11. transferring realty in a merger or consolidation from constituent partnership to the continuing or new partnership;
12. that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid to or is to be paid under the corrective or quitclaim deed; and,
13. transferring realty subject to a mortgage whether by a deed in lieu of foreclosure executed by the mortgagor or deed executed pursuant to foreclosure proceedings.
14. transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.
15. transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or take functional control of electric transmission assets as defined in the Federal Power Act.

STATE OF SOUTH CAROLINA

2013 NOV 18 AM 11:27 IN THE COURT OF COMMON PLEAS

COUNTY OF EDGEFIELD

LL OF SC, LLC,

PLAINTIFF

vs.

ASSIGNMENT OF BID

K & H DEVELOPMENT COMPANY, LLC
AND MOUNT VINTAGE PLANTATION
HOMEOWNERS ASSOCIATION, INC.,

C/A NO: 12-CP-19-336

DEFENDANTS.

FOR VALUABLE CONSIDERATION, receipt whereof is hereby acknowledged, LL of SC, LLC ("Assignor") does hereby assign its successful bid in the above-captioned mortgage foreclosure action unto Raiford Topsail Island Investments, LLC ("Assignee") and does hereby direct J. Martin Harvey, Esquire, as Special Referee for Edgefield County to execute unto and in favor of the aforesaid Assignee, the Foreclosure Deed to the subject real estate that was sold by public auction of the subject premises on November 4, 2013, at which sale the Assignor was the high bidder with the successful bid amount of \$100,000.00.

IN WITNESS WHEREOF, the undersigned Assignor by and through its duly authorized Member has hereunto set its hand and seal this 16th day of November, 2013.

Sworn to before me this 16
Day of November, 2013

Crystal Brown
Notary Public for South Carolina
My Commission Expires: 6-28-15

LL OF SC, LLC

By J. Wayne Raiford
J. Wayne Raiford, Member

[NOTARY SEAL]

CRYSTAL BROWN
Notary Public
State of South Carolina
Commission Expires June 28, 2015

EXHIBIT

41.06

STATE OF SOUTH CAROLINA
COUNTY OF EDGEFIELD

LL OF SC, LLC,

PLAINTIFF

vs.

K & H DEVELOPMENT COMPANY, LLC
AND MOUNT VINTAGE PLANTATION
HOMEOWNERS ASSOCIATION, INC.,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

**EXHIBIT
E**

MASTER'S REPORT ON SALE

C/A NO: 12-CP-19-336

1. Pursuant to Order of Court and after due notice and advertisement, the undersigned Special Referee sold the property described thereto to the Plaintiff for the sum of \$100,000.00 that amount being the highest bid made on Sales Day, November 4, 2013. The Plaintiff thereafter paid only the costs as provided in said Order. Thereafter, the Plaintiff assigned its bid to Raiford Topsail Island Investments, LLC by Assignment of Bid dated November 6, 2013 and said entity became the grantee.
2. That I have executed and delivered unto said grantee a good and sufficient deed of conveyance of said property.
3. That I have received and disbursed the costs.

Nov 11, 2013
Barnwell, South Carolina


J. Martin Harvey
Special Referee for Edgefield
County, South Carolina

EXHIBIT

41.07

exhibiticker.com

Instrument Book Page
201300004040 OR 1455 297

201300004040
Filed for Record in
EDGEFIELD COUNTY, SC
SHIRLEY F NEWBY, CLERK OF COURT
11-18-2013 At 12:05 pm.
DEED 380.00
OR Book 1455 Page 297 - 305

201300004040
SHIRLEY F NEWBY
CLERK OF COURT
EDGEFIELD COUNTY, SC
11-18-2013 12:05 pm.
REC FEE: 10.00
STATE TAX \$ 260.00
COUNTY TAX \$ 110.00

EXHIBIT F

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)

SPECIAL REFEREE DEED

LL of SC, LLC
Plaintiff

v. K&H DEVELOPMENT COMPANY, LLC et al.
Defendant

Civil Action Number 2012-CP-19-336

BY VIRTUE OF and pursuant to the terms of a Decree in the above entitled action, the undersigned as the Special Referee for Edgefield County executes and delivers this Deed by direction of the Court.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that I, J. MARTIN HARVEY, Special Referee for Edgefield County, in consideration of the sum of ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00), the receipt whereof is hereby acknowledged, has granted, bargained, sold and released, and by these presents, does grant, bargain, sell and release the following described premises unto RAIFORD TOPSAIL ISLAND INVESTMENTS, LLC, 616 Edgefield Road, Suite 115, North Augusta, South Carolina 29841:

**SEE EXHIBIT A ATTACHED HERETO AND
INCORPORATED HEREIN BY REFERENCE**



EXHIBIT

41.08

exhibitstick.com

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining thereto, and all the estate, right, title, claim and interest, whatsoever, of the parties of the cause aforesaid, and for each of them in and to the same; and of all other persons rightfully claiming from, under, or by these or any of them.

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the said RAIKORD TOPSAIL ISLAND INVESTMENTS, LLC, its successors and assigns forever.

IN WITNESS WHEREOF, I, as the Special Referee for Edgefield County, have hereunto set my hand and seal this 11 day of November, 2013.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Witness:

Witness:

Kimberly Moore
Ashley Delile (LS)
J. Martin Harvey, Special Referee for
Edgefield County, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF BARNWELL)

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named J. Martin Harvey as Special Referee for Edgefield County, sign, seal and as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that s/he, with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me this
11th day of November 2013.

Kimberly Moore
Notary Public for South Carolina
My Commission Expires: Oct 13, 2020

Ashley Delile
Witness

After recording return to Smith, Massey, Brodie, Guynn & Mayes

#2

EXHIBIT A**LOTS IN SECTION "F"**

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots F-3 and F-4 on that certain plat by Newby-Procter and Associates dated April 8, 2003 and recorded November 6, 2003 in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,672. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot F-3 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map # 122-00-06-003 and Lot F-4 is shown on Tax Map # 122-00-06-004.

LOTS IN SECTION "H"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots H-1, H-2, H-12, H-15, H-20, H-65 and H-73 on that certain plat by Newby-Procter and Associates dated July 30, 2003 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,455. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot H-1 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-09-001; Lot H-2 on Tax Map # 122-00-09-002; Lot H-12 on Tax Map #122-00-09-012; Lot H-15 on Tax Map # 122-00-09-015; Lot H-20 on Tax Map #122-00-00-020; Lot H-65 on Tax Map # 122-00-09-065 and Lot H-73 on Tax Map # 122-00-09-073.

AND ALSO All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots H-43, H-44, H-45 and H-46 on that certain plat by Newby-Procter and Associates dated July 30, 2003 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,456. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot H-43 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-09-043; H-44 on Tax Map #122-00-09-044; Lot H-45 on Tax Map #122-00-09-045 and Lot H-46 on Tax Map #122-00-09-046.

LOTS IN SECTION "J"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield,



State of South Carolina, and being shown and designated as Lots J-1 thorough J-9 inclusive, J-11, J-13 through J-20 inclusive, J-27, J-28, J-30, J-35, J-36, J-44 through J-47 inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot J-1 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-10-001; Lot J-2 on Tax Map #122-00-10-002; Lot J-3 on Tax Map #122-00-10-003; Lot J-4 on Tax Map #122-00-10-004; Lot J-5 on Tax Map #122-00-10-005; Lot J-6 on Tax Map #122-00-10-006; Lot J-7 on Tax Map #122-00-10-007; Lot J-8 on Tax Map #122-00-10-008; Lot J-9 on Tax Map #122-00-10-009; Lot J-11 on Tax Map #122-00-10-011; Lot J-13 on Tax Map #122-00-10-013; Lot J-14 on Tax Map #122-00-10-014; Lot J-15 on Tax Map #122-00-10-015; Lot J-16 on Tax Map #122-00-10-016; Lot J-17 on Tax Map #122-00-10-017; Lot J-18 on Tax Map #122-00-10-018; Lot J-19 on Tax Map #122-00-10-019; Lot J-20 on Tax Map #122-00-10-020; Lot J-27 on Tax Map #122-00-10-027; Lot J-28 on Tax Map #122-00-10-028; Lot J-30 on Tax Map #122-00-10-030; Lot J-35 on Tax Map #122-00-10-035; Lot J-36 on Tax Map #122-00-10-036; Lot J-44 on Tax Map #122-00-10-044; Lot J-45 on Tax Map #122-00-10-045; Lot J-46 on Tax Map #122-00-10-046 and Lot J-47 on Tax Map #122-00-10-047.

LOTS IN SECTION "K"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots K-7 and K-11, on that certain plat by Newby-Procter and Associates dated July 21, 2005 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,031. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot K-7 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-11-007 and Lot K-11 is shown on Tax Map #122-00-11-011

LOTS IN SECTION "L"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots L-1 thorough L-3 inclusive, Lot L-7, Lot L-24 through L-29, inclusive, Lot L-31, Lots L-37 through L-39, inclusive, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "M"

Just #5

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots M-1 through M-10, inclusive, Lot M-12, Lot M-13, Lots M-18 through M-20, inclusive, Lot M-42, Lot M-44, Lots M-46 through M-49, inclusive and Lot M-53, on that certain plat by Newby-Procter and Associates dated June 28, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,387. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot M-29, Lot M-30 and Lot M-32 on that certain plat by Newby-Procter and Associates dated 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "N"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-1 through N-5, inclusive, Lot N-10, Lot N-11, Lot N-69, Lot N-70, Lot N-79 through N-83, inclusive, Lot N-85 and Lot N-86, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-27 through N-37, inclusive, and Lots N-39 through N-46, inclusive, on that certain plat by Newby-Procter and Associates dated June 26, 2008 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,662. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot N-47, Lot N-49, Lot N-51 and N-52, Lot N-57, through N-59, inclusive, on that certain plat by Newby-Procter and Associates dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this



description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Less and Excepting as Released: Lot N-27b

LOTS IN SECTION "O"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots O-1 through O-4, inclusive, Lots O-9 through O-14, inclusive, Lot O-17, Lot O-22 through O-27, Lot O-29, Lot O-33, Lot O-35 and Lot O-37 on that certain plat by Newby-Procter and Associates dated November 30, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,606. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot O-38, Lot O-41, Lots O-49 through Lot O-51, inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "P"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots P-2, P-5 through P-7, inclusive, Lot P-9, Lot P-13 through P-18, inclusive and Lots P-21 through P-23, inclusive, on that certain plat by Newby-Procter and Associates dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot P-26, Lot P-27, Lot P-31, and Lot P-42, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

PROPERTY B:



All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and containing 23.26 acres, more or less, designated on that plat of survey prepared by Newby-Procter and Associates dated May 11, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,002. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Less and Excepting as Released: Lots F-18, 20, 21, 22, 23, 24 and 26

PROPERTY C:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, near Mount Vintage Plantation Drive, containing sixty-six hundredths (.066) of an acre, more or less, and designated as Lot P-3 on that plat prepared for MV Development Company, LLC, by Newby-Procter and Associates, and recorded in Judgment Roll 38,150 in the Office of the Clerk of Court for Edgefield County, which said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

ALL of the aforesaid lots being a portion of the property conveyed to K&H Development Company, LLC by Deed of the Special Referee for Edgefield County dated April 19, 2010 and recorded April 22, 2010 in Deed Book 1282, Page 180, Edgefield County Records.

Josh H

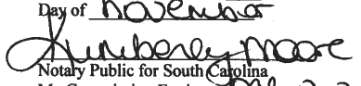
STATE OF SOUTH CAROLINA
COUNTY OF EDGEFIELD

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information of this affidavit and I understand such information.
2. The property being transferred is located in Edgefield County, bearing Edgefield County Tax Map Number: 122-00-06-003 et al. was transferred by J. Martin Harvey, Special Referee for Edgefield County to Raiford Topsail Island Investments, LLC on 11/11/23.
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 a distribution to a trust beneficiary.
 - (c) ☐ exempt from the deed recording fee because (See Information section of affidavit):
(If exempt, please skip items 4 – 7 and go to item 8 of this affidavit.)
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 \$ 100,000.00
 - (b) ☐ The fee is computed on the fair market value or 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:	<u>\$ 100,000.00</u>
(b) Place the amount listed in item 5 above here:	<u>-0-</u>
(c) Subtract Line 6(b) from Line 6(a) and place result here:	<u>\$ 100,000.00</u>
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is:
\$ 370.00
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as:
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.

 SWORN to before me this 11
 Day of November

 Notary Public for South Carolina
 My Commission Expires: Oct 13, 2020

Responsible Person Connected with the Transaction


 Print or Type Name Here

INFORMATION:

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any rights. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

EXCEPTED FROM THE FEE ARE DEEDS:

1. transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
2. transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
3. that are otherwise exempted under the laws and Constitution of this State or the United States;
4. transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
5. transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interest in the realty that are being exchanged in order to partition the realty;
6. transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
7. that constitute a contract for the sale of timber to be cut;
8. transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty for a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
9. transferring realty from a family partnership to a partner or from family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
10. transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
11. transferring realty in a merger or consolidation from constituent partnership to the continuing or new partnership;
12. that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid to or is to be paid under the corrective or quitclaim deed; and,
13. transferring realty subject to a mortgage whether by a deed in lieu or foreclosure executed by the mortgagor or deed executed pursuant to foreclosure proceedings.
14. transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.
15. transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or take functional control of electric transmission assets as defined in the Federal Power Act.

Instrument	Book	Page
201400002260 OR	1486	235

201400002260
Filed for Record in
EDGEFIELD COUNTY, SC
SHIRLEY F NEWBY, CLERK OF COURT
08-04-2014 At 01:29 PM.
CORR DEED 15.00
OR Book 1486 Page 235 - 243

201400002260 EXEMPT
SHIRLEY F NEWBY
CLERK OF COURT
EDGEFIELD COUNTY, SC
08-04-2014 01:29 pm.
REC FEE: 15.00

EXHIBIT G

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)
)

CORRECTIVE **
SPECIAL REFEREE DEED
(Deed Book 1455, Page 297)

LL of SC, LLC
Plaintiff

v. K&H DEVELOPMENT COMPANY, LLC et al.
Defendant

Civil Action Number 2012-CP-19-336

BY VIRTUE OF and pursuant to the terms of a Decree in the above entitled action, the undersigned as the Special Referee for Edgefield County executes and delivers this Deed by direction of the Court.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that I, J. MARTIN HARVEY, Special Referee for Edgefield County, in consideration of the sum of ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00), the receipt whereof is hereby acknowledged, and by way of correction, has granted, bargained, sold and released, and by these presents, does grant, bargain, sell and release the following described premises unto RAIFORD TOPSAIL ISLAND INVESTMENTS, LLC, 616 Edgefield Road, Suite 115, North Augusta, South Carolina 29841:

**SEE EXHIBIT A ATTACHED HERETO AND
INCORPORATED HEREIN BY REFERENCE**

**Corrective Deed being recorded to add Lot 0-8 erroneously omitted from prior Deed.

Print #1

EXHIBIT

41.11

exhibitsticker.com

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining thereto, and all the estate, right, title, claim and interest, whatsoever, of the parties of the cause aforesaid, and for each of them in and to the same; and of all other persons rightfully claiming from, under, or by these or any of them including, but not limited to, all developer rights held by K&H Development Co., LLC as to Mount Vintage Plantation.

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the said RAIFFORD TOPSAIL ISLAND INVESTMENTS, LLC, its successors and assigns forever.

IN WITNESS WHEREOF, I, as the Special Referee for Edgefield County, have hereunto set my hand and seal this 22 day of July, 2014.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Witness:

Witness:

(LS)

J. Martin Harvey, Special Referee for
Edgefield County, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF BARNWELL)

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named J. Martin Harvey as Special Referee for Edgefield County, sign, seal and as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that s/he, with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me this

22nd day of July, 2014.

Kimberly Moore
Notary Public for South Carolina

My Commission Expires: Oct 13, 2020

Witness

After recording return to Smith, Massey, Brodie, Guynn & Mayes

#2

EXHIBIT A**LOTS IN SECTION "F"**

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots F-3 and F-4 on that certain plat by Newby-Procter and Associates dated April 8, 2003 and recorded November 6, 2003 in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,672. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot F-3 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map # 122-00-06-003 and Lot F-4 is shown on Tax Map # 122-00-06-004.

LOTS IN SECTION "H"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots H-1, H-2, H-12, H-15, H-20, H-65 and H-73 on that certain plat by Newby-Procter and Associates dated July 30, 2003 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,455. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot H-1 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-09-001; Lot H-2 on Tax Map # 122-00-09-002; Lot H-12 on Tax Map #122-00-09-012; Lot H-15 on Tax Map # 122-00-09-015; Lot H-20 on Tax Map #122-00-00-020; Lot H-65 on Tax Map # 122-00-09-065 and Lot H-73 on Tax Map # 122-00-09-073.

AND ALSO All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots H-43, H-44, H-45 and H-46 on that certain plat by Newby-Procter and Associates dated July 30, 2003 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,456. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot H-43 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-09-043; H-44 on Tax Map #122-00-09-044; Lot H-45 on Tax Map #122-00-09-045 and Lot H-46 on Tax Map #122-00-09-046.

LOTS IN SECTION "J"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield,



State of South Carolina, and being shown and designated as Lots J-1 thorough J-9 inclusive, J-11, J-13 through J-20 inclusive, J-27, J-28, J-30, J-35, J-36, J-44 through J-47 inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot J-1 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-10-001; Lot J-2 on Tax Map #122-00-10-002; Lot J-3 on Tax Map #122-00-10-003; Lot J-4 on Tax Map #122-00-10-004; Lot J-5 on Tax Map #122-00-10-005; Lot J-6 on Tax Map #122-00-10-006; Lot J-7 on Tax Map #122-00-10-007; Lot J-8 on Tax Map #122-00-10-008; Lot J-9 on Tax Map #122-00-10-009; Lot J-11 on Tax Map #122-00-10-011; Lot J-13 on Tax Map #122-00-10-013; Lot J-14 on Tax Map #122-00-10-014; Lot J-15 on Tax Map #122-00-10-015; Lot J-16 on Tax Map #122-00-10-016; Lot J-17 on Tax Map #122-00-10-017; Lot J-18 on Tax Map #122-00-10-018; Lot J-19 on Tax Map #122-00-10-019; Lot J-20 on Tax Map #122-00-10-020; Lot J-27 on Tax Map #122-00-10-027; Lot J-28 on Tax Map #122-00-10-028; Lot J-30 on Tax Map #122-00-10-030; Lot J-35 on Tax Map #122-00-10-035; Lot J-36 on Tax Map #122-00-10-036; Lot J-44 on Tax Map #122-00-10-044; Lot J-45 on Tax Map #122-00-10-045; Lot J-46 on Tax Map #122-00-10-046 and Lot J-47 on Tax Map #122-00-10-047.

LOTS IN SECTION "K"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots K-7 and K-11, on that certain plat by Newby-Procter and Associates dated July 21, 2005 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,031. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot K-7 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-11-007 and Lot K-11 is shown on Tax Map #122-00-11-011

LOTS IN SECTION "L"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots L-1 thorough L-3 inclusive, Lot L-7, Lot L-24 through L-29, inclusive, Lot L-31, Lots L-37 through L-39, inclusive, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.



LOTS IN SECTION "M"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots M-1 through M-10, inclusive, Lot M-12, Lot M-13, Lots M-18 through M-20, inclusive, Lot M-42, Lot M-44, Lots M-46 through M-49, inclusive and Lot M-53, on that certain plat by Newby-Procter and Associates dated June 28, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,387. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot M-29, Lot M-30 and Lot M-32 on that certain plat by Newby-Procter and Associates dated 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "N"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-1 through N-5, inclusive, Lot N-10, Lot N-11, Lot N-69, Lot N-70, Lot N-79 through N-83, inclusive, Lot N-85 and Lot N-86, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-27 through N-37, inclusive, and Lots N-39 through N-46, inclusive, on that certain plat by Newby-Procter and Associates dated June 26, 2008 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,662. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot N-47, Lot N-49, Lot N-51 and N-52, Lot N-57, through N-59, inclusive, on that certain plat by Newby-Procter and Associates dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this



description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Less and Excepting as Released: Lot N-27b

LOTS IN SECTION "O"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots O-1 through O-4, inclusive, Lots O-9 through O-14, inclusive, Lot O-17, Lot O-22 through O-27, Lot O-29, Lot O-33, Lot O-35 and Lot O-37 on that certain plat by Newby-Procter and Associates dated November 30, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,606. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot O-38, Lot O-41, Lots O-49 through Lot O-51, inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots O-8 on that certain plat by Newby-Procter and Associates dated November 30, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,606. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property. Tax Parcel Number 099-01-04-008

LOTS IN SECTION "P"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots P-2, P-5 through P-7, inclusive, Lot P-9, Lot P-13 through P-18, inclusive and Lots P-21 through P-23, inclusive, on that certain plat by Newby-Procter and Associates dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.



AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot P-26, Lot P-27, Lot P-31, and Lot P-42, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

PROPERTY B:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and containing 23.26 acres, more or less, designated on that plat of survey prepared by Newby-Procter and Associates dated May 11, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,002. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Less and Excepting as Released: Lots F-18, 20, 21, 22, 23, 24 and 26

PROPERTY C:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, near Mount Vintage Plantation Drive, containing sixty-six hundredths (.066) of an acre, more or less, and designated as Lot P-3 on that plat prepared for MV Development Company, LLC, by Newby-Procter and Associates, and recorded in Judgment Roll 38,150 in the Office of the Clerk of Court for Edgefield County, which said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

ALL of the aforesaid lots being a portion of the property conveyed to K&H Development Company, LLC by Deed of the Special Referee for Edgefield County dated April 19, 2010 and recorded April 22, 2010 in Deed Book 1282, Page 180, Edgefield County Records.



Instrument Book Page
201400002260 OR 1486 242

STATE OF SOUTH CAROLINA
COUNTY OF EDGEFIELD

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information of this affidavit and I understand such information.
2. The property being transferred is located in Edgefield County, bearing Edgefield County Tax Map Number: 122-00-06-003 et al. was transferred by J. Martin Harvey, Special Referee for Edgefield County to Raiford Topsail Island Investments, LLC on July 22, 2014
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 a distribution to a trust beneficiary.
 - (c) X exempt from the deed recording fee because (See Information section of affidavit):
#12
(If exempt, please skip items 4 – 7 and go to item 8 of this affidavit.)
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 \$ _____.
 - (b) _____ The fee is computed on the fair market value or 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 X 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: \$ _____
 - (b) Place the amount listed in item 5 above here: -0-
 - (c) Subtract Line 6(b) from Line 6(a) and place result here: \$ _____
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$ _____
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as:
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.

SWORN to before me this 22nd
Day of July, 2014.

Notary Public for South Carolina
My Commission Expires: Oct 13, 2020

Responsible Person Connected with the Transaction

Print or Type Name Here

INFORMATION:

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any rights. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

EXCEPTED FROM THE FEE ARE DEEDS:

1. transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
2. transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
3. that are otherwise exempted under the laws and Constitution of this State or the United States;
4. transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
5. transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interest in the realty that are being exchanged in order to partition the realty;
6. transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
7. that constitute a contract for the sale of timber to be cut;
8. transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty for a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
9. transferring realty from a family partnership to a partner or from family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
10. transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
11. transferring realty in a merger or consolidation from constituent partnership to the continuing or new partnership;
12. that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid to or is to be paid under the corrective or quitclaim deed; and,
13. transferring realty subject to a mortgage whether by a deed in lieu or foreclosure executed by the mortgagor or deed executed pursuant to foreclosure proceedings.
14. transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.
15. transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or take functional control of electric transmission assets as defined in the Federal Power Act.

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
 COUNTY OF EDGEFIELD) ELEVENTH JUDICIAL CIRCUIT

ELIZABETH M. FERRARO; JAMES) C.A. No.: 2021-CP-19-00050
 T. FERRARO; EDWARD J.)
 PRZYBYL; MARCELLA GLEIE;)
 JOHN E. GLEIE, JR.; THOMAS)
 BOWES; CONNIE BOWES;)
 MOATAZ ALASADI; VIRGINIA)
 KIRKWOOD; BOB KIRKWOOD;)
 PAUL VICHROSKI; NYDZA)
 VICHROSKI; JAMES)
 MONTELLESE; and ROXANN)
 MONTELLESE, *Individually,*)
Derivatively, and on Behalf of all the)
Mount Vintage Homeowners Association)
Members,)
)
)
 Plaintiffs,)
)
)

vs.)

LL OF SC, LLC; RAIFORD TOPSAIL)
 ISLAND INVESTMENTS, LLC;)
 MOUNT VINTAGE PLANTATION)
 HOMEOWNERS ASSOCIATION,)
 INC. a/k/a MOUNT VINTAGE)
 HOMEOWNERS ASSOCIATION,)
 INC.; and TR SALES PLANTATION,)
 LLC,)
)
)
 Defendants.)

MEMORANDUM IN OPPOSITION TO
PLAINTIFFS' MOTION FOR PARTIAL
SUMMARY JUDGMENT AS TO DEVELOPER
RIGHTS AND CLASS A MEMBERSHIP

Defendants LL of SC, LLC and Raiford Topsail Island Investments, LLC respectfully submit this memorandum in opposition to Plaintiffs' motion for partial summary judgment as to developer rights and Class A membership. In short, Plaintiffs' argument is:

1. That LL of SC, LLC does not have developer rights in Mount Vintage, and does not hold the Class A membership interest in the community;

2. That Raiford Topsail Island Investments, LLC is the holder of developer rights, and is the holder of the Class A membership interest;
3. That this is so, allegedly, because the subsequent assignment of a successful bid at a mortgage foreclosure nullified LL of SC's deed in lieu, through which it acquired its developer rights and Class A membership interest;
4. That RTI has abdicated its rightful status as developer in Mount Vintage; and,
5. That, because of such abdication, the Court should judicially dissolve the existing Board of Directors and install its own Board.

Even if the Court could take such drastic action, it is not warranted. Plaintiffs' analysis of the pertinent facts is deeply misguided.

I. LL of SC's deed in lieu was not superseded by the Special Referee's deeds.

In 2010, LL of SC loaned the immediately preceding developer of Mount Vintage \$2.5 million, taking back a mortgage against the entirety of that party's interest in Mount Vintage as security for payment. (See 2010 Mortg. Excerpt, attached hereto as **Attachment 1.**)

By the latter months of 2012, the debtor-developer was in default of its note to LL of SC. Accordingly, during October 2012, LL of SC caused its legal counsel to commence foreclosure proceedings against the mortgage. (See Pls.' Mot. Partial Summ. Judg., Exhibits A & B.) Specifically, on October 23, 2012, a foreclosure action was commenced against the debtor-developer, and a lis pendens was recorded in connection therewith.

On September 3, 2013, a deed in lieu of foreclosure was recorded in the Office of the Register of Deeds for Edgefield County, transferring the entirety of the debtor-developer's interest in Mount Vintage to LL of SC in satisfaction of the debt. (See Pls.' Mot. Partial Summ. Judg., Exhibit C.)

A little more than 2 months later, on November 4, 2013, and in connection with the foreclosure proceedings against the debtor-developer that were still under way, LL of SC attended a foreclosure sale and “was the high bidder” of the debtor-developer’s remaining interest in Mount Vintage “with the successful bid amount of \$100,000.00.” (See Pls.’ Mot. Partial Summ. Judg., Exhibit D.) Payment was then tendered to the Special Referee. (See Pls.’ Mot. Partial Summ. Judg., Exhibit E.)

Two days later, on November 6, LL of SC caused its legal counsel to file an assignment of bid in the Edgefield County foreclosure action, directing that the Special Referee’s deed should be made out to Raiford Topsail Island Investments. (See Pls.’ Mot. Partial Summ. Judg., Exhibit D.) The Special Referee honored that instruction, and, on November 11, 2013, issued a foreclosure deed in favor of Raiford Topsail Island Investments.

It is on this factual basis that Plaintiffs claim the deed in lieu was a legal nullity, that it was superseded by the Special Referee’s foreclosure deed, and that Raiford Topsail Island Investments—not LL of SC—holds developer rights in Mount Vintage.

This leads to an exceedingly narrow question presented: *What is the net legal effect when the creditor in a foreclosure action purchases the same rights at a foreclosure sale that had been previously acquired by the same creditor through a deed in lieu?*

Plaintiffs have not cited to any case that resolves this issue. Instead, they have generally argued that a deed in lieu of foreclosure is trumped by an earlier filed lis pendens. And, in some circumstances, that may be accurate. But not in this case.

First of all, a lis pendens does not create a property right. It is merely a mechanism to put the world on notice that an adverse interest is claimed in the subject property. See, e.g., S.C. Code § 15-11-20 (explicitly describing the purpose of a lis pendens as constructive notice to

subsequent purchasers or encumbrancers). Whether the property right claimed in a lis pendens ultimately exists is a matter for a much later adjudication.

Second, and of particular importance to this case, the lis pendens at issue was recorded by LL of SC against the debtor-developer's property with respect to a pre-existing mortgage that LL of SC had against the same party and the same property. In other words, through the mortgage, LL of SC had an adverse interest in the debtor-developer's Mount Vintage property; and through the lis pendens, LL of SC was putting the world on notice that it was in the midst of foreclosing on the mortgage. The mortgage gave rise to the lis pendens.

Third, through the deed-in-lieu, LL of SC acquired the same rights and interest to the Mount Vintage property that it could have acquired through foreclosure.

And fourth, LL of SC was the winning bidder at the foreclosure auction. Only after winning the auction and paying what was owed did LL of SC assign its rights of ownership (if any) to Raiford Topsail Island Investments.

But why would a creditor proceed with a foreclosure sale after getting a deed-in-lieu? The reason is very simple: for the foreclosing creditor to be more assured of clean title. See, e.g., Decon Group, Inc. v. Prudential Mortg. Cap. Co., 227 Cal. App. 4th 665, 174 Cal. Rptr. 3d 205 (Cal. Ct. App. 2014). When a creditor takes title to property through a deed-in-lieu, he takes the property subject to all existing liens and encumbrances as of the date of transfer. By contrast, when a creditor takes title through a foreclosure sale, he takes the property free and clear of junior liens and encumbrances as of the date of sale. See, e.g., Green Tree Servicing v. Adams, 375 S.C. 583, 654 S.E.2d 100 (Ct. App. 2007). Therefore, by taking a belt-and-suspenders approach to foreclosure, a first-priority creditor may be able to get the best of both worlds: taking title to property more quickly and cheaply than waiting for a foreclosure sale, but using

foreclosure to ultimately extinguish junior liens, be they known or unknown. See CIT Bank, N.A. v. Buono, C.A. No. 14-CV-6610, *6 n. 3 (E.D.N.Y. Nov. 8, 2019) (“Generally, an experienced and careful lender will only rarely find the acceptance of a deed in lieu of foreclosure to be an appropriate avenue for settling or concluding a foreclosure action.” (citation and internal quotation omitted).)

LL of SC took the belt-and-suspenders approach. In fact, when LL of SC received the debtor-developer’s deed-in-lieu, it would very much seem as though LL of SC’s equitable interest—established by the mortgage—was united with ownership, establishing a merger that would nullify the relief sought in the foreclosure action. See, e.g., McCraney v. Morris, 170 S.C. 250, 170 S.E. 276 (1933) (applying the doctrine of merger). If that is accurate, then a foreclosure sale of the debtor-developer’s property would have absolutely no value to anyone—at least, to no one other than LL of SC.

All of this has previously been explained. During the course of this litigation, Plaintiffs took the deposition of Mary Guynn, Esq., a lawyer in Aiken who has worked with LL of SC for a very long time, and who was responsible for coordinating the debtor-developer deed-in-lieu / foreclosure transaction. (See Dep. Guynn, attached hereto as **Attachment 2**, 23:20-31:1.) In relevant part:

Q: And what is this?

...

A: This is a deed in lieu of foreclosure.

Q: And what’s the purpose of this document?

A: This document was K&H Development deeding over to LL of SC all of the property that was subject to the foreclosure action as well as developer rights.

Q: Okay. And is—why would this not halt the action—the foreclosure action?

A: We elected to proceed forward and complete the sale for two purposes—to ensure that title was clean. It would estop anyone that had filed a claim against the properties post-filing of the lis pendens, and it would also give any other named creditor the opportunity to voice or to assert a lien on the properties.

Q: So in your understanding, did developer rights transfer with this deed in lieu of foreclosure, or did they transfer with the special referee's deed at the conclusion of the foreclosure action.

A: They transferred with this deed in lieu of foreclosure.

...

Q: Do you believe that this document, the special referee deed, transferred developer rights to Raiford Topsail Island Investments?

A: No.

Q: And why is that?

A: The developer rights had already been transferred to LL of SC with the deed in lieu of foreclosure.

...

Q: So the special referee's deed that in essence finalized the foreclosure proceeding that was filed in 2012, why is—why does this special referee deed not supersede the deed in lieu of foreclosure?

A: The deed in lieu of foreclosure, which was filed after the foreclosure action had been instituted, transferred all of the property to LL of SC at that point.

Q: Well, that what was the—I guess, again, what was the purpose of going through the foreclosure proceedings and then assigning a bid—a successful bid to RTI?

A: If any creditor claimed an interest in the properties post lis pendens, filing of the lis pendens or if any named defendant claimed an interest in the properties, they would have the opportunity at the final hearing to assert the claim. And then the special referee or the master would determine whether there was a residual claim on the lots that were transferred to LL of SC.

...

Q: So does this deed, this special referee deed, does it grant anything to Raiford Topsail Island?

A: In my opinion, it does not.

Q: And why is that?

A: There was—the property had already been conveyed over to LL of SC with the deed in lieu of foreclosure.

(Id.)

Consistent with the foregoing discussion, there is no factual or legal basis on which to conclude that the Special Referee's deed divested LL of SC of its Class A membership or status as the holder of developer rights in Mount Vintage, much less to dissolve the current Board of Directors by judicial fiat.

II. The issue of who holds developer rights is much ado about absolutely nothing.

At its core, Plaintiffs' argument is that Raiford Topsail Island Investments, LLC holds developer rights in Mount Vintage, not LL of SC. This leads to an obvious question: *Does it matter?* Effective December 31, 2013 (and as part of his estate planning), Mr. Raiford assigned the totality of his interest in Raiford Topsail Island Investments, LLC to LL of SC, LLC. (See Assignment, attached hereto as **Attachment 3.**) At this point, Raiford Topsail Island became a wholly owned subsidiary of LL of SC.

Then, by deed recorded on May 31, 2018, Raiford Topsail Island Investments, LLC quitclaimed the ownership of whatever lots it may have acquired by the Special Referee's deed in 2013 over to LL of SC. (See 2018 Quitclaim Deed, attached hereto as **Attachment 4.**)

Accordingly, even if it were the case that Raiford Topsail Island Investments, LLC had ever acquired developer rights in Mount Vintage, that has since been addressed.

III. Literally no one—other than Plaintiffs' counsel—is contending that any party other than LL of SC or Wayne Raiford individually holds developer rights in Mount Vintage.

Following are relevant excerpts of depositions taken in this case of Plaintiffs or other homeowners:

1. Sharon Brady, current Vice President of the Mount Vintage Homeowners Association, excerpt attached as **Attachment 5**, at 35:7-11:

Q: Well, who's the developer of Mount Vintage.

A: Wayne Raiford.

Q: I thought it was LL of South Carolina.

A: That may be his company.

Q: Well, which one is it; do you know?

A: I don't know.

2. Ed Przybyl, Plaintiff, Att. 5, at 67:17-19:

Q: And when it says developer, who do you understand that to be?

A: Wayne Raiford.

3. Patrick Bukszar, Homeowner, Att. 5, at 77:9-14:

Q: So sitting here today, do you know one way or another whether the HOA has been turned over from the declarant to the homeowners?

A: I mean, I would say, no, it has not since Wayne Raiford is still listed as the declarant or LL of South Carolina. . . .

4. Virginia Kirkwood, Plaintiff, Att. 5, at 46:3-11:

Q: And do you recall who the developer was when Raiford first came onto the scene?

A: He became the developer.

Q: All right. And was it Wayne that became the developer, as far as you know, or was it one of his companies?

A: One of his companies.

Q: Do you remember which one?

A: LL of SC, LLC.

5. Marcella Gleie, Plaintiff, Att. 5, at 175:7-14, acknowledging that Raiford Topsail Island Investments, LLC is “not the developer company.”
6. Gaylord “Buddy” Hodges, Homeowner, Att. 5, at 44:21-24:

Q: And is it—who was the developer—who became the developer after that assignment, which entity?

A: LL of SC.
7. Elizabeth Ferraro, Plaintiff, Att. 5, at 67:4-11, acknowledging that LL of SC, LLC is the current holder of developer rights at Mount Vintage.
8. Charles L. “Rick” Atkins, Jr., Homeowner, Att. 5, at 129:10-12, referring to Wayne Raiford as the holder of developer rights.
9. Connie Bowes, Plaintiff, Att. 5, at 42:15-25, same.
10. Art Biggs, Homeowner, Att. 5, at 32:20-25, same.

Finally, it is worth noting that, if Plaintiffs have ever intended to put the issue of who owns developer rights in question, it is nowhere alleged in any version of the Complaint they have ever filed.

In short, this issue is not before the Court. And even if it were, it has no merit.

CONCLUDING STATEMENT

Consistent with the foregoing discussion, Plaintiffs’ motion for partial summary judgment must be denied.

Respectfully submitted,

s/ Steven Edward Buckingham

Steven Edward Buckingham (S.C. Bar No. 0075089)
The Law Office of Steven Edward Buckingham, LLC
16 Wellington Avenue
Greenville, South Carolina 29609
(o) 864.735.0832
(e) seb@buckingham.legal

*Attorney for Defendants LL of SC, LLC and Raiford
Topsail Island Investments, LLC*

August 26, 2024
Greenville, South Carolina

ATTACHMENT 1

Instrument Book Page
201000001274 DR 1282 191

201000001274
Filed for Record in
EDGEFIELD COUNTY, SC
SHIRLEY F NEWBY, CLERK OF COURT
04-22-2010 At 10:55 am.
MORTGAGE 26.00
DR Book 1282 Page 191 - 212

Please return to:
James S. (Jeb) Murray, Esq.
Warlick, Tritt, Stebbins & Murray, LLP
Post Office Box 1495
Augusta, GA 30903-1495
706-722-7543

MORTGAGE OF REAL ESTATE

STATE OF SOUTH CAROLINA

COUNTY OF EDGEFIELD

THIS MORTGAGE is dated April 19, 2010.

THE "Mortgagors" referred to in this Mortgage are **K & H DEVELOPMENT COMPANY, LLC**, a South Carolina limited liability company whose address is 310 South Main Street, Saluda, South Carolina 29138.

THE "MORTGAGEE" is **LL OF SC, LLC**, a South Carolina limited liability company whose address is 616 Edgefield Road, Suite 115, North Augusta, SC 29841.

THE "NOTE" is a note from Mortgagors to Mortgagee in the amount of **\$2,500,000**, dated September 25, 2009. The Note and any documents renewing, extending or modifying it and any notes evidencing future advances are all referred to as the "Note" and are considered to be part of this Mortgage. The final maturity date of the Note is September 25, 2011, and together with any and all other indebtedness now owing or which may hereafter be owing by Mortgagors to Mortgagee, however incurred (all of which present and future indebtedness are collectively referred to herein as the "Secured Indebtedness").

ATTACHMENT 1

Instrument 201000001274 DR Book Page 1282 204

IN WITNESS WHEREOF, this Mortgage has been duly executed under seal by Mortgagors as of the day and year first above written.

K & H DEVELOPMENT COMPANY, LLC

By: _____

Name: Talmadge M. Knight

Title: Member

WITNESSES:

Talmadge M. Knight
Jennifer M. Anderson

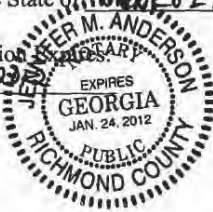
STATE OF GEORGIA)

COUNTY OF RICHMOND)

Personally appeared before me the undersigned witness and made oath that s/he saw the within named Mortgagor sign, seal and, as the Mortgagor's act and deed, deliver the within-written Mortgage of Real Estate for the uses and purposes therein mentioned and that s/he, with the other witness whose signature appears above witnessed the execution thereof.

Sworn to before me this 19th day
day of April, 2010.

Jennifer M. Anderson
Notary Public State of GEORGIA

My Commission Expires
1/24/2012


Talmadge M. Knight
WITNESS

ATTACHMENT 1

Instrument 201000001274 DR Book Page 1282 205

K & H DEVELOPMENT COMPANY, LLC

By: Herbert P. Witter, II
Name: Herbert P. Witter, II
Title: Member

WITNESSES:

Jeffrey M. Anderson
Jennifer M. Anderson

STATE OF GEORGIA)
COUNTY OF RICHMOND)

Personally appeared before me the undersigned witness and made oath that s/he saw the within named Mortgagor sign, seal and, as the Mortgagor's act and deed, deliver the within-written Mortgage of Real Estate for the uses and purposes therein mentioned and that s/he, with the other witness whose signature appears above witnessed the execution thereof.

Sworn to before me this 19th day)
day of April, 2010.)

Jennifer M. Anderson)
Notary Public State of GEORGIA)

My Commission Expires 1/25/2012)
JAN 24, 2012)



Jeffrey M. Anderson
WITNESS

Deposition of Mary Guynn
ATTACHMENT 2

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
EDGEFIELD COUNTY

DEPOSITION OF MARY GUYNN

ELIZABETH M. FERRARO, JAMES T. FERRARO, EDWARD J.
PRZYBYL, MARCELLA GLEIE, JOHN E. GLEIE, JR.,
THOMAS BOWES, CONNIE BOWES, MOATAZ ALASADI,
VIRGINIA KIRKWOOD, BOB KIRKWOOD, PAUL VICHROSKI,
NYDZA VICHROSKI, JAMES MONTELLESE, ROXANN
MONTELLESE, Individually, Derivatively, and on
Behalf of all the Mount Vintage Homeowners
Association Members,

Plaintiffs,

vs.

CASE NO. 2021-CP-19-00050

LL OF SC, LLC, RAIFORD TOPSAIL ISLAND
INVESTMENTS, LLC, T R SALES PLANTATION, LLC, AND
MOUNT VINTAGE PLANTATION HOMEOWNERS
ASSOCIATION, INC. a/k/a MOUNT VINTAGE
HOMEOWNERS ASSOCIATION, INC.,

Defendants.

1 Development?

2 A. Yes.

3 Q. And he was also the attorney for the
4 Mount Vintage Plantation Homeowners Association?

5 A. That's what this indicates.

6 Q. And why were -- why was the homeowners
7 association a necessary defendant in this
8 foreclosure action?

9 A. Any time that there's a foreclosure in a
10 neighborhood that has association assessments, it
11 is common practice to name the association as a
12 defendant to the extent that they have any liens
13 or claims as to the property.

14 Q. Okay. And the mortgage or the note that
15 K & H gave in favor of LL of SC that you
16 initiated foreclosure proceedings on that we
17 previously looked at, did that note or mortgage
18 include as collateral developer rights?

19 A. I do not recall.

20 Q. Could you please flip to tab 4. This is
21 Plaintiffs' Exhibit 41.04. And again, if you'd
22 like to look through it, that's fine. And what
23 is this?

24 (Exhibit No. 41.04 was marked for
25 identification.)

1 A. This is a deed in lieu of foreclosure.

2 Q. And what's the purpose of this document?

3 A. This document was K & H Development
4 deeding over to LL of SC all of the property that
5 was subject to the foreclosure action as well as
6 developer rights.

7 Q. Okay. And is -- why would this not halt
8 the action -- the foreclosure action?

9 A. We elected to proceed forward and
10 complete the sale for two purposes -- to ensure
11 that title was clean. It would estop anyone that
12 had filed a claim against the properties
13 post-filing of the lis pendens, and it would also
14 give any other named creditor the opportunity to
15 voice or to assert a lien on the properties.

16 Q. So in your understanding, did developer
17 rights transfer with this deed in lieu of
18 foreclosure, or did they transfer with the
19 special referees deed at the conclusion of the
20 foreclosure action?

21 A. They transferred with this deed in lieu
22 of foreclosure.

23 Q. And near the back of 41.04, it's
24 Exhibit B. Does this exhibit describe the
25 developer rights that you and I were just

1 discussing?

2 A. Yes.

3 Q. Could you please flip to Exhibit 41.05?

4 And what is this document?

5 (Exhibit No. 41.05 was marked for
6 identification.)

7 A. This is the notice of the foreclosure
8 sale that's filed with the court.

9 Q. And this indicates that the sale is to
10 occur on November 4th, 2013, correct?

11 A. Correct.

12 Q. Did you attend that sale?

13 A. Yes.

14 Q. Did Mr. Raiford attend that sale?

15 A. I don't remember.

16 Q. Can you flip to the last tab, which was
17 41.06. And was Ms. Crystal Brown an employee in
18 your office?

19 A. Yes.

20 Q. Is she still?

21 A. No.

22 Q. I just have seen her name a few times,
23 so I just want to confirm that. So you believe
24 that this was signed either here at your office
25 or otherwise in the presence of you and your

1 employee?

2 A. It was signed in the presence of my
3 employee. I do not know if it was in my
4 presence.

5 Q. And can you please tell me what this
6 document is?

7 A. This is an assignment of the high bid at
8 the foreclosure sale from LL of SC to Raiford
9 Topsail Island Investments.

10 Q. And what's your understanding of what
11 Raiford Topsail Island Investments, LLC, is?

12 A. It was another LLC of which Mr. Raiford
13 had some ownership or control.

14 Q. And can you flip to the next tab,
15 please, which is 41.07. And this document is
16 dated November 11th, 2013, correct?

17 A. Yes.

18 Q. And can you please tell me what this
19 document is?

20 A. This is the master's report on sale
21 where the special referee for the foreclosure
22 essentially says that he has done everything
23 necessary to close out the sale and the
24 foreclosure.

25 Q. And can you please flip to the next tab,

1 41.08. And I believe this was filed on
2 November 18th, 2013; is that correct?

3 A. Yes.

4 Q. And can you please tell me what this is?

5 A. This is the special referee deed whereby
6 the special referee signs a deed as the grantor
7 over to Raiford Topsail Island Investments as the
8 grantee.

9 Q. If you can flip to page 2 of 9, so
10 second page. That first paragraph there says,
11 Together with all and singular the rights,
12 members, hereditaments and appurtenances to the
13 said premises belonging or in anywise incident or
14 appertaining thereto and all the estate right,
15 title, claim, and interest, whatsoever, of the
16 parties of the cause aforesaid, and for each of
17 them in and to the same; and of all other persons
18 rightfully claiming from, under, or by these or
19 any of them.

20 Did I read that correctly?

21 A. Yes.

22 Q. Do you believe that this document, the
23 special referee deed, transferred developer
24 rights to Raiford Topsail Island Investments?

25 A. No.

1 Q. And why is that?

2 A. The developer rights had already been
3 transferred to LL of SC with the deed in lieu of
4 foreclosure.

5 Q. And can you tell me why it is that the
6 lis pendens and summons and complaint in this
7 foreclosure action, which was filed before the
8 deed in lieu of foreclosure, why in your
9 understanding that lis pendens wouldn't supersede
10 this -- wouldn't supersede the deed in lieu of
11 foreclosure?

12 A. I do not understand your question.

13 Q. So the lis pendens and summons and
14 complaint that we looked at was filed in October
15 of 2012. We can go back and look at it if you
16 like. But it was filed in -- you can flip back
17 to 41.01 or 41.02. They were filed on the same
18 day, October 23rd, 2012, which initiated the
19 foreclosure proceedings.

20 A. Yes.

21 Q. And then the deed in lieu of
22 foreclosure, which is 41.04, was filed almost a
23 year later in September of 2013, correct?

24 A. Yes.

25 Q. So the special referees deed that in

1 essence finalized the foreclosure proceeding that
2 was filed in 2012, why is -- why does this
3 special referee deed not supersede the deed in
4 lieu of foreclosure?

5 A. The deed in lieu of foreclosure, which
6 was filed after the foreclosure action had been
7 instituted, transferred all of the property over
8 to LL of SC at that point.

9 Q. Well, then what was the -- I guess,
10 again, what was the purpose of going through the
11 foreclosure proceedings and then assigning a
12 bid -- a successful bid to RTI?

13 A. If any creditor claimed an interest in
14 the properties post lis pendens, filing of the
15 lis pendens or if any named defendant claimed an
16 interest in the properties, they would have the
17 opportunity at the final hearing to assert the
18 claim. And then the special referee or the
19 master would determine whether there was a
20 residual claim on the lots that were transferred
21 to LL of SC.

22 Q. Okay. So the special referee deed,
23 which is 41.08, is this the court's formal order
24 on the foreclosure proceedings that were brought
25 in 2012?

1 A. No. His -- the order -- his formal
2 order is twofold. There is -- and I don't know
3 what tab it is or if we have even seen it. There
4 is the consent order and then his record on sale
5 would be his orders.

6 Q. Okay. And then the special referee deed
7 is what transfers title?

8 A. It can. In this case, it did not, but
9 it can.

10 Q. And does the special referee deed that
11 we're looking at, 41.08, does it make mention of
12 the facts that there was already a deed in lieu
13 of foreclosure and this is --

14 A. No.

15 Q. Do you recall whether this situation was
16 explained to the special referee prior to his
17 issuing this deed?

18 A. Yes.

19 Q. So does this deed, this special referee
20 deed, does it grant anything to Raiford Topsail
21 Island?

22 A. In my opinion, it does not.

23 Q. And why is that?

24 A. There was -- the property had already
25 been conveyed over to LL of SC with the deed in

1 lieu of foreclosure.

2 Q. So what was the purpose of assigning LL
3 of SC's successful bid to Raiford Topsail Island?

4 A. I do not know why the bid was assigned.

5 Q. Do you know if you had any involvement
6 in that?

7 A. I prepared the assignment of bid form,
8 but I don't know the reason for the assignment.

9 Q. Can you think of any legal reason why
10 such an assignment would be necessary after
11 property has already been transferred?

12 A. I do not know the reason for the
13 assignment.

14 Q. When these lots -- if this special
15 referee deed did not grant anything to Raiford
16 Topsail Island Investments, then why were these
17 lots titled in that name after this special
18 referee deed was issued?

19 A. Are you referring to how the tax
20 assessor showed them?

21 Q. The ownership records in the RMC's
22 office and I guess the tax assessor as well.

23 A. The RMC is required to catalogue every
24 document that comes in. They had also catalogued
25 the deed in lieu of foreclosure. They wouldn't

ASSIGNMENT OF LIMITED LIABILITY COMPANY INTEREST

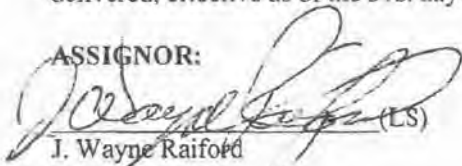
FOR VALUE RECEIVED, **J. WAYNE RAIFORD** (the "Assignor") in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged as full and final consideration, does hereby assign to **LL OF SC, LLC** (the "Assignee"), all of Assignor's Interest in **RAIFORD TOPSAIL ISLAND INVESTMENTS, LLC** (the "LLC"), including but not limited to Assignor's capital account in the LLC and rights to distributions of cash and property and allocations of profits from the LLC from and after the date of the assignment.

The Assignor hereby represents, warrants and covenants that he has full legal title to the Interest assigned by this instrument, free and clear of all liens, claims and encumbrances, and that he has the full legal power, right and authority to make the assignment provided for herein. Assignor further represents, warrants and covenants that there are no claims pending or threatened against, relating to or affecting the Interest assigned by this instrument, nor is there any decree, consent decree, judgment, award, order or injunction outstanding against the Assignor or all or any portion of the Interest. The Assignor further represents and warrants that the execution, delivery and performance of this Assignment will not (i) result in a violation of the LLC articles of organization or operating agreement or any applicable law or regulation (including all securities laws) or (ii) result in a default under any material written indenture, note, mortgage, security agreement, loan agreement, guaranty, pledge or other instrument, contract, agreement or commitment to which Assignor or the LLC is a party. The Assignor shall forever defend unto Assignee, all right, title and interest in and to the Interest assigned by this instrument, against any and all claims of the Assignor and the Assignor's heirs, successors and assigns, and against any and all claims of all other persons whomsoever.

Any capitalized terms not defined herein shall have the meaning provided in the operating agreement of the LLC.

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be executed and delivered, effective as of the 31st day of December, 2013.

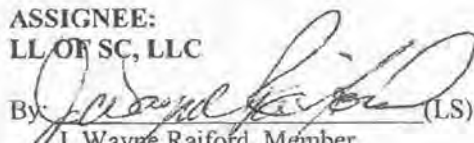
ASSIGNOR:

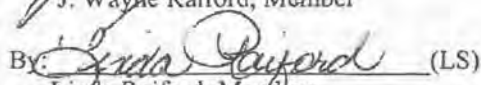
 (LS)
J. Wayne Raiford

The Assignment provided for herein is hereby accepted, effective as of the date set forth above.

ASSIGNEE:

LL OF SC, LLC

By:  (LS)
J. Wayne Raiford, Member

By:  (LS)
Linda Raiford, Member

EXHIBIT

41.09

exhibitstick.com

ELECTRONICALLY FILED - 2024 Aug 26 8:36 PM - EDGEFIELD - COMMON PLEAS - CASE#2021CP1900050

201800001673 EXEMPT
Filed for Record in
EDGEFIELD COUNTY, SC
CHARLES L. REEL, CLERK OF COURT
05-31-2018 At 12:14 pm.
DEED 15.00
OR Book 1683 Page 74 - 82

201800001673 EXEMPT
CHARLES L. REEL
CLERK OF COURT
EDGEFIELD COUNTY, SC
05-31-2018 12:14 pm.
REC FEE: 15.00

KNOW ALL MEN BY THESE PRESENTS:

That RAIKORD TOPSAIL ISLAND INVESTMENTS, LLC (hereinafter called “Grantor”), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, to it in hand paid at and before the sealing of these presents by LL OF SC, LLC (hereinafter called “Grantee”), the receipt of which is hereby acknowledged, has remised, released and forever quitclaimed and does remise, release and forever quit-claim unto Grantee, its successors and assigns, all of its right, title and interest in and to the following described property to wit:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN

Grantee's Address: 235 Mount Vintage Plantation Drive
North Augusta, South Carolina 29860

SUBJECT to all covenants, conditions and restrictions of record.

The premises are granted together with all the rights, members, hereditaments and appurtenances belonging or in any wise incident or appertaining to them.

TO HAVE AND TO HOLD, the premises to Grantee, its successors and assigns forever;

so that neither Grantor nor Grantor's successors and assigns, nor any other person or persons,

ATTACHMENT 4

Instrument 201800001673 OR Book Page 1683 75

claiming under it or them, shall at any time, by any ways or means have, claim or demand any right or title to the above mentioned premises or appurtenances, or any part or parcel of them, forever.

WITNESS the Hand and Seal of the Grantor this 30 day of May, 2017.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

[Signature]
Witness

RAIFORD TOPSAIL ISLAND
INVESTMENTS, LLC

By [Signature] (LS)
J. Wayne Raiford, Member

[Signature]
Notary Public

STATE OF South Carolina
COUNTY OF Aiken

ACKNOWLEDGEMENT

I, the undersigned notary, do hereby certify that J. Wayne Raiford personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of Raiford Topsail Island Investments, LLC.

Witness my hand and official seal this the 30 day of May, 2018.

[Signature]
Notary Public for the State of SC
My Commission Expires: 7.28.27

[NOTARY SEAL]



After Recording Return to Smith, Massey, Brouse, Gwynn & Mayes

ELECTRONICALLY FILED - 2024 Aug 26 8:36 PM - EDGEFIELD - COMMON PLEAS - CASE#2021CP1900050

ROA_00724

ATTACHMENT 4

Instrument Book Page
201800001673 OR 1683 76

EXHIBIT A

LOTS IN SECTION "F"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots F-3 and F-4 on that certain plat by Newby-Procter and Associates dated April 8, 2003 and recorded November 6, 2003 in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,672. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot F-3 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map # 122-00-06-003 and Lot F-4 is shown on Tax Map # 122-00-06-004.

LOTS IN SECTION "H"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots H-1, H-2, H-12, H-15, H-20, H-65 and H-73 on that certain plat by Newby-Procter and Associates dated July 30, 2003 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,455. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot H-1 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-09-001; Lot H-2 on Tax Map # 122-00-09-002; Lot H-12 on Tax Map #122-00-09-012; Lot H-15 on Tax Map # 122-00-09-015; Lot H-20 on Tax Map #122-00-09-020; Lot H-65 on Tax Map # 122-00-09-065 and Lot H-73 on Tax Map # 122-00-09-073.

AND ALSO All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots H-43, H-44, H-45 and H-46 on that certain plat by Newby-Procter and Associates dated July 30, 2003 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 36,456. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot H-43 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-09-043; H-44 on Tax Map #122-00-09-044; Lot H-45 on Tax Map #122-00-09-045 and Lot H-46 on Tax Map #122-00-09-046.

LOTS IN SECTION "J"

ELECTRONICALLY FILED - 2024 Aug 26 8:36 PM - EDGEFIELD - COMMON PLEAS - CASE#2021CPI1900050

ATTACHMENT 4

Instrument Book Page
201800001673 OR 1683 77

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots J-1 thorough J-9 inclusive, J-11, J-13 through J-20 inclusive, J-27, J-28, J-30, J-35, J-36, J-44 through J-47 inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot J-1 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-10-001; Lot J-2 on Tax Map #122-00-10-002; Lot J-3 on Tax Map #122-00-10-003; Lot J-4 on Tax Map #122-00-10-004; Lot J-5 on Tax Map #122-00-10-005; Lot J-6 on Tax Map #122-00-10-006; Lot J-7 on Tax Map #122-00-10-007; Lot J-8 on Tax Map #122-00-10-008; Lot J-9 on Tax Map #122-00-10-009; Lot J-11 on Tax Map #122-00-10-011; Lot J-13 on Tax Map #122-00-10-013; Lot J-14 on Tax Map #122-00-10-014; Lot J-15 on Tax Map #122-00-10-015; Lot J-16 on Tax Map #122-00-10-016; Lot J-17 on Tax Map #122-00-10-017; Lot J-18 on Tax Map #122-00-10-018; Lot J-19 on Tax Map #122-00-10-019; Lot J-20 on Tax Map #122-00-10-020; Lot J-27 on Tax Map #122-00-10-027; Lot J-28 on Tax Map #122-00-10-028; Lot J-30 on Tax Map #122-00-10-030; Lot J-35 on Tax Map #122-00-10-035; Lot J-36 on Tax Map #122-00-10-036; Lot J-44 on Tax Map #122-00-10-044; Lot J-45 on Tax Map #122-00-10-045; Lot J-46 on Tax Map #122-00-10-046 and Lot J-47 on Tax Map #122-00-10-047.

LOTS IN SECTION "K"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots K-7 and K-11, on that certain plat by Newby-Procter and Associates dated July 21, 2005 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,031. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Lot K-7 is also shown in the Office of the Auditor and Tax Assessor for Edgefield County on Tax Map #122-00-11-007 and Lot K-11 is shown on Tax Map #122-00-11-011

LOTS IN SECTION "L"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots L-1 thorough L-3 inclusive, Lot L-7, Lot L-24 through L-29, inclusive, Lot L-31, Lots L-37 through L-39, inclusive, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

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LOTS IN SECTION "M"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots M-1 through M-10, inclusive, Lot M-12, Lot M-13, Lots M-18 through M-20, inclusive, Lot M-42, Lot M-44, Lots M-46 through M-49, inclusive and Lot M-53, on that certain plat by Newby-Procter and Associates dated June 28, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,387. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot M-29, Lot M-30 and Lot M-32 on that certain plat by Newby-Procter and Associates dated 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

LOTS IN SECTION "N"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-1 through N-5, inclusive, Lot N-10, Lot N-11, Lot N-69, Lot N-70, Lot N-79 through N-83, inclusive, Lot N-85 and Lot N-86, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots N-27 through N-37, inclusive, and Lots N-39 through N-46, inclusive, on that certain plat by Newby-Procter and Associates dated June 26, 2008 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,662. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot N-47, Lot N-49, Lot N-51 and N-52, Lot N-57, through N-59, inclusive, on that certain plat by Newby-Procter and Associates dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this

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description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Less and Excepting as Released: Lot N-27b

LOTS IN SECTION "O"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots O-1 through O-4, inclusive, Lots O-9 through O-14, inclusive, Lot O-17, Lot O-22 through O-27, Lot O-29, Lot O-33, Lot O-35 and Lot O-37 on that certain plat by Newby-Procter and Associates dated November 30, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,606. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot O-38, Lot O-41, Lots O-49 through Lot O-51, inclusive, on that certain plat by Newby-Procter and Associates dated November 23, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,368. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

AND ALSO that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots O-8 on that certain plat by Newby-Procter and Associates dated November 30, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,606. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property. Tax Parcel Number 099-01-04-008

LOTS IN SECTION "P"

All those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lots P-2, P-5 through P-7, inclusive, Lot P-9, Lot P-13 through P-18, inclusive and Lots P-21 through P-23, inclusive, on that certain plat by Newby-Procter and Associates dated February 20, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,150. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

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AND ALSO ALL those certain pieces, parcels or lots of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and being shown and designated as Lot P-26, Lot P-27, Lot P-31, and Lot P-42, on that certain plat by Newby-Procter and Associates dated January 26, 2006 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 38,149. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

PROPERTY B:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, and containing 23.26 acres, more or less, designated on that plat of survey prepared by Newby-Procter and Associates dated May 11, 2004 and recorded in the Office of the Clerk of Court for Edgefield County in Judgment Roll 37,002. Said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

Less and Excepting as Released: Lots F-18, 20, 21, 22, 23, 24 and 26

PROPERTY C:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Edgefield, South Carolina, located approximately ten (10) miles South of the Town of Edgefield, State of South Carolina, near Mount Vintage Plantation Drive, containing sixty-six hundredths (.066) of an acre, more or less, and designated as Lot P-3 on that plat prepared for MV Development Company, LLC, by Newby-Procter and Associates, and recorded in Judgment Roll 38,150 in the Office of the Clerk of Court for Edgefield County, which said plat is incorporated herein and made a part and parcel of this description by reference thereto. Further reference being made to said plat for a more complete and accurate description of metes, bounds, distances and location of subject property.

ALL of the aforesaid lots being a portion of the property conveyed to Raiford Topsail Island Investments, LLC by deed of J. Martin Harvey, Special Referee for Edgefield County recorded in Book 1455, Page 297, Edgefield County Records, thereafter corrected by deed dated July 22, 2014 and recorded August 4, 2014 in Book 1486, Page 235, Edgefield County Records.

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STATE OF SOUTH CAROLINA
COUNTY OF EDGEFIELD

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information of this affidavit and I understand such information.
2. The property being transferred is located in Edgefield County, bearing Edgefield County Tax Map Number (122-00-06-003 et al.) and was transferred by (Raiford Topsail Island Investments, LLC) to (LL of SC, LLC) on the (20) day of (May), 2018.
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 a distribution to a trust beneficiary.
 - (c) X _____ exempt from the deed recording fee because (See Information section of affidavit):
#12
(If exempt, please skip items 4 – 7 and go to item 8 of this affidavit.)
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 _____.
 - (b) _____ The fee is computed on the fair market value or 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: \$ _____
 - (b) Place the amount listed in item 5 above here: \$ _____
 - (c) Subtract Line 6(b) from Line 6(a) and place result here: \$ _____
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: _____.
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as:
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.

SWORN to before me this
30 day of May, 2018.
[Signature]
Notary Public
My Commission Expires:



[Signature]
Responsible Person Connected with the Transaction

Mary O. Givnn
Print or Type Name Here

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INFORMATION:

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any rights. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

EXCEPTED FROM THE FEE ARE DEEDS:

1. transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
2. transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
3. that are otherwise exempted under the laws and Constitution of this State or the United States;
4. transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
5. transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interest in the realty that are being exchanged in order to partition the realty;
6. transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
7. that constitute a contract for the sale of timber to be cut;
8. transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty for a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
9. transferring realty from a family partnership to a partner or from family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
10. transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
11. transferring realty in a merger or consolidation from constituent partnership to the continuing or new partnership;
12. that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid to or is to be paid under the corrective or quitclaim deed; and,
13. transferring realty subject to a mortgage whether by a deed in lieu of foreclosure executed by the mortgagor or deed executed pursuant to foreclosure proceedings.
14. transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.
15. transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or take functional control of electric transmission assets as defined in the Federal Power Act.

1 A. Uh-huh. Yes.

2 Q. And are you aware of why plaintiffs say
3 that the developer or his affiliates should be
4 paying dues on some of those lots?

5 A. No. We just follow the covenants, and
6 the covenants do not say that.

7 Q. Well, who's the developer of Mount
8 Vintage?

9 A. Wayne Raiford.

10 Q. I thought it was LL of South Carolina.

11 A. That may be his company.

12 Q. Well, which one is it; do you know?

13 MR. KRAWCZYK: Object to the form.

14 A. I don't know.

15 Q. Have you ever looked to see in what name
16 some of these lots are titled to see if they're
17 titled in the same name as the developer that's
18 referenced on the covenants?

19 A. No. I personally have not. I inherited
20 when I came in -- there's a lot list, and there
21 was just a lot of -- those lots say Raiford.
22 That's all I know. I don't know if it's him
23 personally, if it's a company. It just says
24 Raiford.

25 Q. And you executed some amended covenants

ATTACHMENT 5

EDWARD PRZYBYL
FERRARO vs RAIFORD

March 21, 2023
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1 way too high or way too low or whether --

2 A. I have no idea. I don't know how bad it
3 was inside and so forth.

4 Q. Do you know if the bank had been
5 allowing access to the Town Center before the
6 acquisition?

7 A. I couldn't tell you.

8 Q. And then the next paragraph, it
9 discusses that -- the contribution by the
10 developer towards the refurbishment of 100,000.
11 Do you see that?

12 A. Yes.

13 Q. And the developer was also providing the
14 financing, according to that paragraph. Do you
15 see that?

16 A. Yes.

17 Q. And when it says developer, who do you
18 understand that to be?

19 A. Wayne Raiford.

20 Q. And it notes there in the memo, This is
21 financing the HOA would not have been able to
22 obtain by itself.

23 Do you see that?

24 A. Yes. When I read that, I questioned
25 why.



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ROA_00733

1 has the ability to utilize that to maintain the
2 roads.

3 So as a homeowner and as a professional
4 builder, I see what it says right here, and from
5 that, it sounds like the developer as a company
6 is responsible for repairing the roads. But I
7 would -- I would and did assume that any repairs
8 were to be paid out of the road reserve.

9 Q. So sitting here today, do you know one
10 way or another whether the HOA has been turned
11 over from the declarant to the homeowners?

12 A. I mean, I would say, no, it has not
13 since Wayne Raiford is still listed as the
14 declarant or LL of South Carolina. But typically
15 homeowners have no interaction in an HOA that has
16 not been turned to homeowners. So we have
17 homeowners on a board of an HOA.

18 So in the developments that I've been
19 involved in, until it's handed over to the
20 homeowners, there's no homeowner representation
21 or interaction on the HOA. Now, whether that's
22 standard practice or just happened to be what I
23 was involved in, I'm not aware.

24 Q. As a homeowner in Mount Vintage, did you
25 vote on who sits on the board as representatives

ATTACHMENT 5

VIRGINIA KIRKWOOD
ELIZABETH M. FERRARO vs J. WAYNE RAIFORD

March 06, 2023
46

1 from Mount Vintage, but I had no idea who lived
2 there.

3 Q. And do you recall who the developer was
4 when Raiford first came onto the scene?

5 A. He became the developer.

6 Q. All right. And was it Wayne that became
7 the developer, as far as you know, or was it one
8 of his companies?

9 A. One of his companies.

10 Q. Do you remember which one?

11 A. LL of SC, LLC.

12 Q. All right. And did you know that at the
13 time?

14 A. No.

15 Q. All right. When did you find that out?

16 A. Actually in 2019.

17 Q. All right.

18 A. I found out that he owned a number of
19 companies under different names and that the
20 developer was LL of SC.

21 Q. All right. At the time back in, you
22 know, 2013, 2014 when he first came onto the
23 scene, did you -- were you concerned about what
24 the name of the developer was?

25 A. No.



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ATTACHMENT 5

MARCELLA GLEIE
FERRARO V. RAIFORD ET AL

March 22, 2023
175

1 of LL of SC, would it have been any different? I
2 mean, would anything be different now?

3 MS. McCANN: Object to the form.

4 A. Well, it would be different that they
5 would be titled in the name of LL of SC, but
6 that's -- that is not the case of where it was.

7 Q. Yeah. The homeowners association would
8 not be any better off now if the lots had been
9 titled in the name of LL of SC rather than RTI,
10 would it?

11 A. Yes, it would be better because he would
12 have been paying HOA fees on lots that were
13 titled in RTI since it's not -- we know now
14 that's not the developer company.

15 MR. MAJOR: Repeat my question
16 back.

17 (Question read back.)

18 A. It's like a double negative question.
19 If the lots were titled RTI, which they were, the
20 HOA would be better off had they -- he would have
21 had to pay. It would be -- if they were LL of
22 SC, no, we wouldn't have had to pay -- he would
23 not have had to pay, and that would be what the
24 status is today, but that wasn't the case, so...

25 Q. All right. And whether it's titled in



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ROA_00736

1 A. I don't think he came in those very
2 first meetings. I mean a couple meetings -- he
3 started coming in the early part of '14, as I
4 recall.

5 Q. And do you remember how you first
6 learned that the foreclosure was happening and
7 the transfer of developer rights from Talmadge to
8 a new developer was happening? Do you remember
9 how you first learned of that?

10 A. Well, I'm sure -- I'm sure I learned
11 from Art Biggs. He was the vice president of the
12 board, and I think he had contact with Wayne.
13 I'm a little vague on that. If I remember
14 correctly, Art asked for some paperwork to
15 validate Wayne, and we got something, and he took
16 it to the HOA attorney, and from that point on,
17 we have recognized Wayne as the developer.

18 Q. Do you remember what that paperwork was?

19 A. It must have been the assignment of the
20 developer rights.

21 Q. And is it -- who was the developer --
22 who became the developer after that assignment,
23 which entity?

24 A. LL of SC.

25 Q. And so it's your understanding sitting

ATTACHMENT 5

ELIZABETH M. FERRARO
ELIZABETH M. FERRARO vs J. WAYNE RAIFORD

March 07, 2023
67

1 something to the effect of that he was not
2 looking to be the developer for Mount Vintage?

3 A. Correct.

4 Q. Do you know who the developer for
5 Mount Vintage is?

6 A. I know who it is now, yes.

7 Q. Yeah, who is it now?

8 A. It's LL of SC, I think, is the --

9 Q. And you understand that's one of
10 Mr. Raiford's companies?

11 A. Yes.

12 Q. Okay. Have you come to learn how LL
13 became the developer for Mount Vintage?

14 A. Through this litigation.

15 Q. Sure. And what is your understanding
16 about how LL became the developer for
17 Mount Vintage?

18 A. I believe that maybe money had been
19 given to Talmadge Knight, and so when Talmadge
20 Knight went under, it defaulted to LL of SC.

21 Q. Do you recall how you felt when you
22 heard that Mr. Raiford was the developer but he
23 did not want to be?

24 A. I felt terrible.

25 Q. Why is that?



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ROA_00738

1 is that right?

2 A. Yes.

3 Q. Have you ever heard of an entity called
4 TR Sales Plantation, LLC?

5 A. Yes.

6 Q. What is your understanding of what that
7 is?

8 A. I have no understanding of it.

9 Q. How did you hear about that entity?

10 A. I -- I just know that the developer,
11 Mr. Raiford, owns several companies and that's
12 one of the companies that he owns.

13 Q. Okay. You have been a resident of
14 Mount Vintage since 2011; is that right?

15 A. That's correct.

16 Q. How is your experience at Mount Vintage
17 now compared to how it was in 2011? Is it
18 better? Is it worse?

19 A. The golf course is in great shape today.
20 The -- the community is thriving. There's
21 multiple homes being built in here, you know,
22 over a million dollars. I would say that -- that
23 the community is doing pretty well, but that's
24 just my perspective.

25 Q. How about from the perspective of a real

ATTACHMENT 5

CONNIE BOWES
FERRARO vs RAIFORD

March 21, 2023
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1 Q. And based on your experience with
2 construction and real estate, you were aware that
3 that's something that you could have done prior
4 to 2017, correct?

5 MS. McCANN: Object to the form.

6 Q. You can answer.

7 MS. McCANN: You can answer.

8 A. Yes.

9 Q. Okay. Had you ever researched real
10 estate records prior to 2017?

11 A. I don't recall.

12 Q. Did you ever have to do that as part of
13 your job responsibilities at Toll Brothers?

14 A. I did not.

15 Q. During your time as -- when I asked you
16 who the developer was, you said Mr. Raiford. Is
17 there anyone else during your time as a homeowner
18 in Mount Vintage that you've considered to be the
19 developer?

20 A. No. No.

21 Q. Okay. And to your knowledge, is
22 Mr. Raiford -- when you say Mr. Raiford, you mean
23 him personally, or is there some entity that you
24 consider the developer?

25 A. I never really considered him the



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ATTACHMENT 5

11 you're the president unless you show me. So we
12 just made him show us. That was all.

13 Q. So you-all didn't actually prevent him
14 from doing anything?

15 A. No. No, no, no. It was just a matter
16 of him walking in and saying, I'm the developer,
17 as far as I recall. And we said, You know, show
18 us that you're developer, and we'll put it in the
19 record.

20 Q. And was it Mr. Raiford personally, or
21 was it one of his entities that was the
22 developer?

23 A. No. It was Mr. Raiford.

24 Q. Personally?

25 A. Yeah.

33

1 Q. That's what he told you?

2 A. Told me what?

3 Q. That he personally was the developer.

4 MR. MAJOR: Object to the form.

5 A. Well, I don't know if those were his
6 exact words but, yeah, he come in and showed that
7 he was the developer.

8 Q. But you have no idea what he showed you

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE ELEVENTH JUDICIAL CIRCUIT
COUNTY OF EDGEFIELD	)	CASE NO. 2021-CP-19-00050
	)	
ELIZABETH M. FERRARO, JAMES T.	)	BUSINESS COURT CASE,
FERRARO, EDWARD J. PRZYBYL,	)	ASSIGNED TO:
MARCELLA GLEIE, JOHN E. GLEIE, JR.,	)	
THOMAS BOWES, CONNIE BOWES, MOATAZ	)	THE HONORABLE R. LAWTON
ALASADI, VIRGINIA KIRKWOOD, BOB	)	MCINTOSH
KIRKWOOD, PAUL VICHROSKI, NYDZA	)	
VICHROSKI, JAMES MONTELLESE,	)	
ROXANN MONTELLESE, Individually,	)	PLAINTIFFS' MEMORANDUM IN
Derivatively, and on Behalf of all the Mount	)	OPPOSITION TO DEFENDANTS'
Vintage Homeowners Association Members,	)	MOTIONS FOR SUMMARY JUDGMENT
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
LL OF SC, LLC, RAIFORD TOPSAIL ISLAND	)	
INVESTMENTS, LLC, T R SALES	)	
PLANTATION, LLC, AND MOUNT VINTAGE	)	
PLANTATION HOMEOWNERS ASSOCIATION,	)	
INC. A/K/A MOUNT VINTAGE HOMEOWNERS	)	
ASSOCIATION, INC.,	)	
	)	
Defendants.	)	

Plaintiffs, by and through their undersigned counsel, submit this Memorandum in Opposition to Defendants LL of SC, LLC, Raiford Topsail Island Investments, LLC and T R Sales Plantation, LLC's (hereinafter "Defendants" or "Developer")¹ various, untimely Motions for Summary Judgment as to Plaintiffs' claims² (*see* Defs. Motions, filed August 16, 2024), and respectfully show the Court as follows:

¹ There is a question in this case as to who the "Developer" is—*see* Pltfs. Motion for Summary Judgment filed August 13, 2024. Plaintiffs references herein to the Developer/Defendants is not intended to waive those arguments.

² Developer Defendants each filed a Motion for (Partial) Summary Judgment on August 16, 2024. Each motion contains largely identical grounds for summary judgment, with RTI's and T R Sales' motions containing a few grounds unique to those Defendants. Plaintiffs are filing a single memorandum in opposition to these Motions.

SUMMARY OF RELEVANT FACTS

Taken in the light most favorable to the non-moving party, the relevant facts are these:

In 2009 LL of SC, LLC (“LL”) acquired its interest in Mount Vintage by aiding and abetting a principal of the prior developer (Talmadge Knight, principal of “K&H Development”) in giving a \$5.0m haircut to Carolina First Bank on its \$10.0m+ loans on Mount Vintage. LL did this through a \$2.5m loan to a shadow company (“Park Meridian Holdings”) to buy the Carolina First notes secured by the Mount Vintage developer rights and lots.³ The security interest assigned by Carolina First included developer rights.⁴ The deal was so good that LL/Raiford claims to have consummated the transaction without doing any due diligence on the collateral or borrowers.⁵

When the second developer, K&H, was unable to pay LL the 15% interest owed on the new note, LL filed a Lis Pendens and Foreclosure in 2012, and took a deed in lieu of foreclosure on September 3, 2013, which deed included developer rights.⁶ However, LL elected to continue the foreclosure to foreclose out all claims of any kind. The Order of Foreclosure included the developer rights, LL won the foreclosure bid, and then assigned the winning bid to Raiford Topsail Island Investments, LLC (“RTI”), who received a Special Referee deed for the developer property and “all and singular rights ... in any way incident or pertaining thereto, and all the estate, right title, claim, and interest, whatsoever...” on November 11, 2013.⁷ Therefore, LL’s tenure as Mount Vintage’s developer ended on November 11, 2013, after two (2) months. Notwithstanding the

³ This transaction is described by a contemporaneous file memorandum by Attorney Byrd Warlick and is independently verifiable by review of the related instruments. (See Pl. Ex. 40.06, Warlick Memo dated December 2, 2009).

⁴ See Pl. Ex. 40.05, p. 8.

⁵ See *Exhibit A*, 30(B)(6) Dep. of Raiford Topsail Isl., J. Wayne Raiford, at p. 53:3-17. Please note all exhibits to this Memorandum will be filed separately with “Plaintiffs’ Notice of Filing of Exhibits.”

⁶ See Pl. Ex. 41.04.

⁷ The Special Referee issued a Corrective Deed on July 22, 2014, confirming that its prior deed to RTI included Developer Rights. (See Pl. Exs. 41.05, 41.06, 41.07, 41.08, and 41.11).

Court Order granting all property and rights to RTI, LL continued to assert it was the developer, even inserting its name into the Covenants.⁸

It is important to note that neither LL nor RTI, nor any other Raiford development company, has employees: all personnel working for these entities are employed by a separate operating company. At the time of the foreclosure, the operating company was Georgialina Enterprises, Inc. (“Georgialina”). At some point in time between 2015 and 2019 (there is conflicting evidence on when), Georgialina assigned its managing and personnel roles to T R Sales Plantation, LLC (“T R Sales”), and Georgialina now receives a \$400,000 per year preferential payout from T R Sales. All employees of entities owned or controlled by Raiford now work for T R Sales, including Wayne Raiford and his daughter Leigh Ann Keels. Raiford, LL, T R Sales, and their CPA, Charles Fliflet, have all reported to the IRS that T R Sales manages LL and employs Raiford and Keels. The sole business of LL is the management, marketing, and sale of Mount Vintage. For the last five or more years, while Raiford and Keels have operated LL and controlled the Mount Vintage HOA (and, apparently, RTI), they have been employees of T R Sales.

In September of 2014, in what appears to be an attempt to mitigate the foregoing disconnect, Raiford backdated an assignment of his ownership of RTI to LL. However, this transfer is contradicted by Raiford’s original filed venue affidavit in this matter and all of LL’s tax returns, all of which answer in the negative as to LL’s ownership or control of any subsidiary.

Nonetheless, LL and RTI remain two (2) different corporate entities, whether they are affiliated or not, and there has never been an assignment from RTI to LL of developer rights.⁹

⁸ Its apparent that Defendants have always been aware of this developer identity disconnect. For example, when they drew up documents for a sale of Mount Vintage to the Chinese investor in 2013, they prepared a warranty deed from RTI to the buyers and a quitclaim deed from LL to the buyers. (*See* Pl. Ex. 2.2).

⁹ Eventually, most of the RTI lots were conveyed to LL, but developer rights were not conveyed or assigned.

Defendants proceeded with allowing Mount Vintage to decline in value, even after the recession ended, until they could gather up enough cheap lots to make the redevelopment of Mount Vintage extremely profitable. T R Sales continued making millions at Raiford's Aiken development, Three Runs, while Defendants 1) allowed Mount Vintage amenities to be lost to foreclosure; 2) delayed the completion of the Mount Vintage roads until they could consummate a road reimbursement deal with Edgefield County; 3) delayed all marketing until Raiford could cause the LL-appointed-and-controlled HOA board to acquire the amenities from the bank at a grossly inflated price and without sufficient funds or reserves to operate them; and 4) purchased an additional one hundred (100) lots in distress sales before commencing marketing.

Of course, the foregoing events were all executed surreptitiously while LL represented itself to be the Developer and did not come to light until the Plaintiffs investigated the HOA's deteriorating financial condition after the homeowners were assessed in 2019 to cover operating shortfalls. Plaintiffs then realized the lack of Reserves for the properties the "Developer" caused the HOA to purchase were compounding and quickly becoming insurmountable.

STANDARD OF REVIEW

Summary judgment is inappropriate where material facts are in dispute and further inquiry into the facts is necessary to clarify the application of the law. Rule 56(c), SCRCP ("[s]ummary judgment may only be granted where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that any party is entitled to a judgment as a matter of law.") (emphasis added); *Moriarty v. Garden Sanctuary Church of God*, 341 S.C. 320, 534 S.E.2d 672 (2000) (summary judgment should not be granted even when there is no dispute as to evidentiary facts if there is disagreement concerning the conclusion to be drawn from those facts).

Summary judgment is also inappropriate “where further inquiry into the facts of the case is desirable to clarify the application of the law.” *Jackson v. Swordfish Invs., L.L.C.*, 365 S.C. 608, 612, 620 S.E.2d 54, 56 (2005). This is because a court considering summary judgment neither makes factual determinations nor considers the merits of conflicting evidence with respect to a disputed fact. *S.C. Prop & Cas. Guar. Ass’n v. Yensen*, 345 S.C. 512, 518, 548 S.E.2d 880, 883 (Ct. App. 2001); *see also Anderson v. Liber Lobby, Inc.*, 477 U.S. 242, 249 (1986) (In deciding summary judgment, “the judge’s function is not himself to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.”). Rather, the court must view the evidence and all reasonable inferences therefrom in the light most favorable to the non-moving party. *Vermeer Carolina’s, Inc. v. Wood/Chuck Chipper Corp.*, 336 S.C. 53, 59, 518 S.E.2d 301, 304 (Ct. App. 1999); *see also Anderson*, 477 U.S. at 248 (“A disputed fact presents a genuine issue if the evidence is such that a reasonable jury could return a verdict for the non-moving party.”).

I. Defendants’ August 16, 2024, Motions Are Untimely

The hearing on pre-trial Motions for Summary Judgment is scheduled for August 28, 2024, and this date was communicated to the parties on July 25, 2024, and confirmed by the Court on July 26, 2024. All Summary Judgment motions were required to be filed fifteen (15) days in advance of the hearing. (See Rule 6(e), SCRCF, augmented by S.C Sup. Ct. Order dated May 27, 2022, Rule 4(e)(4) (regarding the addition of five days when using filing and service via electronic means)). Plaintiffs complied with this deadline; the Defendants did not. Therefore, for Defendants’ motions to be timely for the August 28, 2024, hearing, they must have been filed on or before August 13, 2024. On this basis alone, Defendants’ motions should be summarily overruled.¹⁰

II. Plaintiffs’ Cause of Action for Declaratory Judgment / “Reformation” is Legally and Factually Supported and Must Proceed to Trial

¹⁰ The purpose of this rule is well illustrated here where the filing occurred late on a Friday and were not available for download until after staff had departed for the day.

a. *Reformation: Covenants are Construed as Contracts and are Subject to the Law on Contracts*

Restrictive covenants are contractual in nature and are subject to the rules applicable to the construction of contracts. *See* 17 S.C. Juris. Covenants § 69 (1993). Therefore, contract defenses such as fraud, duress, and unconscionability apply to a court’s evaluation of the enforceability of a restrictive covenant. Thus, if the Court finds a clause in a restrictive covenant to be unconscionable, the Court may refuse to enforce the clause or otherwise limit its application so as to avoid an unconscionable result. S.C. Code§ 36-3-302(1).

It is well established that South Carolina’s public policy is to protect homeowners. *See, e.g., Kennedy v. Columbia Lumber & Mfg. Co.*, 299 S.C. 335, 343-46, 384 S.E.2d 730, 735-37 (1989) (expanding traditional tort concepts to provide innocent home buyers with protection, and taking “judicial cognizance” of the inherent unequal bargaining positions of a modern homebuyer as against the seller – be it builder, developer, or the like).¹¹ This public policy—as well as its recognition of the unequal bargaining power between homeowners and a developer—support Plaintiffs’ claims for reformation.

Reformation is appropriate where a contract or other document does not reflect the true agreement between the parties. *Progressive Max Ins. Co. v. Floating Caps, Inc.*, 405 S.C. 35, 49, 747 S.E.2d 178, 185 (2013) (“[R]eformation is adjudged because the instrument, by reason of mistake or fraud, does not embody the true agreement of the parties.”) (quotations omitted). A determination of whether reformation is appropriate should be made on a case-by-case basis. *Id.*

¹¹ Pre-*Kennedy* cases also aimed to protect consumers in what is likely their largest purchase: a home. *See, e.g., Roundtree Villas Ass’n, Inc. v. 4701 Kings Corp.*, 282 S.C. 415, 423, 321 S.E.2d 46, 51 (1984) (holding where lender undertook to repair defects in houses to facilitate further sales, the lender could be held liable in tort for negligent repairs); *Terlinde v. Neely*, 275 S.C. 395, 398-99, 271 S.E.2d 768, 769-70 (1980) (holding a subsequent purchaser of a home may pursue a claim in contract or tort against a developer).

at 51 (“[E]ach suit for reformation stands on its own peculiar facts.”) (quotations omitted). And, extrinsic evidence is admissible to show the parties' intent. *Id.* at 49 (In an action for reformation “the rules of construction, such as the ban on extrinsic evidence, do not apply.”)

b. Perpetual Contracts are Terminable at Will

South Carolina disfavors perpetual contracts and such contracts have only been upheld if the perpetual nature of the contract is an express term of the agreement itself. *Carolina Cable Network v. Alert Cable TV, Inc.*, 316 S.C. 98, 101–02, 447 S.E.2d 199, 201 (1994), citing *Childs v. City of Columbia*, 87 S.C. 566, 70 S.E. 296 (1911). Further, a term which leaves a contract’s duration to a subjective event which one party can control renders a contract perpetual. *See, e.g., Tower St. Cap. Mgmt. Inc. v. KnightBrook Ins. Co.*, No. 3:17-CV-01781-JFA, 2020 WL 13065453, at *12 (D.S.C. June 15, 2020) (“The contractual provision at issue here has the force and effect of creating a perpetual contract by allowing unilateral perpetual power to renew.”). A perpetual contract is terminable at will by either party, subject only to reasonable notice. *See Carolina Cable*, 316 S.C. at 102.

c. Unconscionability and Contracts of Adhesion

The definition of unconscionability is “the absence of meaningful choice on the part of one party due to one-sided contract provisions, together with terms which are so oppressive that no reasonable person would make them and no fair and honest person would accept them.” *Damico v. Lennar Carolinas, LLC*, 437, S.C. 596, 611 (2022) (internal citations omitted). In *Damico*, the Court clarified that the “touchstone of the [unconscionability] analysis begins with the presence or absence of meaningful choice.” 437 S.C. at 612-613 (“Whether one party lacks a meaningful choice typically speaks to the fundamental fairness of the bargaining process.”) (internal quotations omitted). A strong indicator of absence of meaningful choice exists when a contract is one of adhesion. *Id.* at 613.

“[A]n adhesion contract is a standard form contract offered on a “take-it-or-leave-it” basis with terms that are not negotiable.” *Simpson v. MSA of Myrtle Beach, Inc.*, 373 S.C. 14, 26–27, 644 S.E.2d 663, 669 (2007). Additionally, terms which lack mutuality are “oppressive terms” under South Carolina law. *Damico*, 437 S.C. at 615; 879 S.E.2d at 757 *citing* 17A Am. Jur. 2d *Contracts* § 272 (“Mutuality [] is a paramount consideration when assessing the substantive unconscionability of a contract term.”).

d. *Perpetual Developer Control is Disfavored*

Other courts around the country, as well as the Restatement (Third) of Property, recognize that a developer has a duty to turn over control of the HOA within a reasonable time. *See, e.g. Innerimages, Inc. v. Newman*, 579 S.W.3d 29, 48 (Tenn. Ct. App. 2019) (recognizing that developer owes duty of good faith in his development of the property, and has a duty to turn over control of an HOA to the Owners after a time “reasonably necessary” to complete the project.”). A developer’s duty to turn over control within a reasonable time is a “common law” duty. *Id.* (Citing Restatement (Third) of Property (Servitudes) 6.19). This principle exists irrespective of the allowances provided in the governing documents crafted by the developer. *See Innerimages*, at 579 S.W. 3d at 47-49 (ordering developer to relinquish control despite provision in Covenants giving developer control until developer sells 75% of lots). The reason for this rule is to prevent a developer from abusing its status and robbing the homeowners from their bargained-for collective control of the Association. *See Id.* at 45 (recognizing that “[t]he longer the developer retains control, the greater the likelihood of conflict.”); *Id.* at 47 (“Requiring developers to ... turn over control after a reasonable time helps ensure that property owners can *actually obtain* the form of collective decision making that they bargained for when they purchased their property.”) (internal quotations omitted).

e. The MV HOA Covenants Are Perpetual in Duration; The Covenants Are Contained in a Contract of Adhesion with Oppressive and One-Sided Terms Which Were Offered on a Take-it-Or-Leave-It Basis; and Therefore Plaintiffs' Cause of Action for Reformation Must Proceed to Trial

The operable Covenants of Mount Vintage—which vest LL with complete, perpetual control of the homeowner’s association in which no other members have voting (or any other) rights—are perpetual in duration, are unconscionable and are unenforceable.

The “Effective Period” (Article XII) of the Covenants reads as follows:

This Amended and Restated Declaration and agreements [...] shall thereupon run with the land and be binding on all persons or parties and their heirs, successors or assigns claiming title under or through the Developer, until December 31, 2056, and shall be continued automatically and without further notice from that time for a period of ten (10) years thereafter and for successive periods of ten (10) years each without limitation, unless by a vote of a seventy-five percent (75%) majority of the then owners of the lots in Mount Vintage following the granting of voting privileges to Class B members, it is agreed to change said Amended and Restated Declaration in whole or in part.

[...]

So long as the Developer shall hold title to any portion of the hereinabove described property, or to any additional real estate added to the scheme of the development herein set forth in accordance with Article IX of this Amended and Restated Declaration, the Developer as well as its successors, assigns, or heirs, as the cause may be, shall have, and are hereby granted, the exclusive right, exercisable at any time and from time to time, to amend or to grant exceptions to this Amended and Restated Declaration and to waive, repeal or vary this Amended and Restated Declaration in any one or more respects whenever in the sole and controlled opinion of the Developer, such waiver, repeal or variance shall not be materially detrimental to the general nature in development of Mount Vintage as a residential area.

(See Art. XII, Amended and Restated Declaration of Protective Covenants, Conditions, and Restrictions of Mount Vintage, hereinafter “Covenants,” filed Dec. 12, 2022, Edgefield County Register of Deeds, at Bk. 2014, Pg. 173, Excerpts attached as Exhibit B). Article IX, entitled “Additional Property Subject to This Declaration,” provides:

Additional contiguous real estate which the Developer may decide to add to the scheme of the development herein set forth may be subjected to and placed within

the jurisdiction of the Association upon the written designation of the Developer, at the sole option of the Developer [...]

(*See id.*, Art. IX). And, as to when Class B Members are granted voting privileges:

Class B members shall not have voting privileges until the Developer shall have conveyed all residential lots and tracts within Mount Vintage including, but not limited to, additional phases, sections and developments which the Developer may decide to add to the scheme of the development as contemplated under Article IX of the Amended and Restated Declaration, unless and until the Developer, at its sole and exclusive discretion, elects to transfer such rights, voting privileges and duties to Class B members of the Association at which time Class B members shall become Class A members.

(*See id.*, Art. V(1)(b)).

These Covenants perfectly fit the definition of a perpetual contract with no durational limitation save at the option of one party, the Developer. The Covenants will continue in force until 75% of the Class B Members vote to change or alter them; Class B Members cannot vote until the Developer either sells his last tract/lot or decides to grant them such privileges; the Developer has the sole option to add lots and tracts to Mount Vintage at his sole discretion; and while the Developer owns any property in Mount Vintage, he can, at his sole option, modify, waive, or repeal any aspect of the Covenants. The Developer—and his successors and assigns--has unilateral power to renew these Covenants; this is a perpetual contract; and is therefore terminable at will by either party upon reasonable notice.

Here, the Developer continues to acquire assets in Mount Vintage, allowing for potentially indefinite control in a variety of scenarios. (*See, e.g.* Title to Real Estate, Edgefield SC Properties, LLC, to LL of SC, LLC, dated July 7, 2022, Edgefield Co. Register of Deeds, Bk. 1983, Pg. 97, attached as Exhibit C). Further, Raiford testified that he does not anticipate granting Class B Members voting rights until all Developer lots/tracts are sold, which he does not expect will happen:

- Q: When do you intend to turn over the control of Mount Vintage to the homeowners?
- A: When it's sold out the percentage I have to have sold out. I can't remember what it is. 95 or 98.
- Q: And when do you anticipate that occurring?
- A: I don't.

(See 30(b)(6) Dep. of LL of SC, LLC, Aug. 23, 2024, at 22:10-17, attached as Exhibit D).¹²

If the Court does not find the foregoing facts sufficient to clearly establish that the Covenants are terminable at will and/or subject to reformation, the Covenants additionally contain unconscionable terms that must be reformed. These Covenants, which were originally recorded in 2000, were clearly offered on a “take-it-or-leave-it” basis and are therefore considered contracts of adhesion. *See Munoz v. Green Tree Fin. Corp.*, 343 S.C. 531, 541, 542 S.E.2d 360, 365 (2001) (defining adhesion contracts as “standard form contract[s] offered on a take-it or leave-it basis with terms that are not negotiable”).

Further, the specific provisions above clearly lack mutuality, as the invocation of all material terms of the Covenants is subject to the “sole discretion” of one party—the Developer. “Mutuality is a paramount consideration when assessing the substantive unconscionability of a contract term.” *See Damico v. Lennar Carolinas, LLC*, 437 S.C. 596, 615, 879 S.E.2d 746, 757 (2022), *reh'g denied* (Nov. 17, 2022), *cert. denied*, 143 S. Ct. 2581, 216 L. Ed. 2d 1192 (2023), *citing* 17A Am. Jur. 2d *Contracts* § 272. These one-sided and oppressive terms, which are contained in a contract of adhesion, are unconscionable. The Court may choose to refuse to enforce the unconscionable provisions; or, if the Court finds that the unconscionable provisions are so pervasive that “blue-penciling” the agreement would result in “only a disintegrated fragment”

¹² If this were not bad enough, Raiford is negotiation with MV neighbor and Raiford's cousin, Blackston, regarding additional, contiguous, undeveloped land which either of them could add to Mount Vintage, further delaying the prospect of turnover. (See Ex. D, Dep. of LL of SC, pp. 7:7-8:5)

remaining, the Court can disregard the Covenants *in toto*. See *Damico*, 437 S.C. 596 at 618, 879 at 758 (2022).

South Carolina public policy, which seeks to protect homeowners¹³, disfavors one-sided terms which provide for perpetual and unilateral developer control, and they should be declared void or unenforceable at this point, 25 years after development of Mount Vintage began, with no end in sight, and/or the governing documents should be reformed accordingly.

III. Defendants, By Accepting the Benefits of “Developer Rights”, Also Accepted the Obligations; Which They Have Failed to Meet

Promissory estoppel requires a claimant to prove: (1) the presence of an unambiguous promise; (2) the promisee reasonably relied upon the promise; (3) the reliance was expected and foreseeable by promisor; and (4) the promisee was injured as a result of reliance upon the promise. *Davis v. Greenwood Sch. Dist.* 50, 365 S.C. 629, 634, 620 S.E.2d 65, 67 (2005).

a. The Principle of “With the Benefits Come the Burdens” Applies Here

The legal and equitable principle—that with the benefits come the burdens—is firmly grounded in South Carolina jurisprudence. See, e.g., *Welling v. Crosland*, 129 S.C. 127, 123 S.E. 776, 780 (1924) (“The assignee of a contract, who acquires the right to enforce the executory provisions thereof, or to recover damages for the breach, assumes the burdens which are imposed upon the assignor by the contract.”) (internal quotations omitted); see also *Clardy v. Bodolosky*, 383 S.C. 418, 430, 679 S.E.2d 527, 533 (Ct. App. 2009) (citing *Welling*) (“However, with proof of a valid assignment of contract, an assignee can be bound to certain equities of the contract.”). Put differently, “it is well established that an assignee stands in the shoes of its assignor.” *Twelfth*

¹³ Wayne Raiford, through his various corporate entities, is an experienced developer who has developed and sold hundreds of residential lots in this state; as such, Developer’s contention that there are no public policy considerations at issue here is grossly misguided. See *Damico v. Lennar Carolinas, LLC*, 437 S.C. at 624, 879 S.E.2d at 761 (2022) (“[W]ith respect to the public policy considerations inherent in this type of consumer transaction (homebuying), the likelihood that refusal to enforce the bargain or term will further public policy is, we hope, high.”).

RMA Partners, L.P. v. Nat'l Safe Corp., 335 S.C. 635, 639, 518 S.E.2d 44, 46 (Ct. App. 1999).

These principals support Plaintiffs' promissory estoppel *and other* causes of action.

b. Developers Are Bound By Their Marketing Representations

A developer is bound by his representations made in marketing and selling lots in a development. *See Chesus v. Watts*, 967 S.W.2d 97, 109 (Mo. Ct. App. 1998) ("When a development is a work in progress, a lot buyer should be able to rely on the developer's oral representations regarding amenities and basic services."). Therefore, a developer is not entitled to freely renege on promises regarding the development scheme or substantially alter fundamental aspects of the common areas/amenities after lots have already been sold and homes have been built in reliance on those promises. *Id.* at 110 ("Individuals purchasing lots in new developments in Missouri should be able to rely, within the limits of reasonableness, on the sales promises of the developer."). And, where certain aspects of a proposed development are used as a selling tool to induce purchasers, equity prohibits the developer from removing or substantially altering those features. *Knight v. City of Albuquerque*, 110 N.M. 265, 794 P.2d 739 (Ct.App.1990) (where developer used the golf course as a selling tool to induce purchasers into his planned development, the developer's retention of right to change use of course was unfair, violative of public policy, and would not be given effect).

c. Successor Developers Are Bound By Their Predecessor's Marketing Representations

A successor developer that takes ownership of a development and exercises developer rights over it assumes the obligations of the predecessor developer(s). *Bd. of Managers of Medinah on Lake Homeowners Ass'n v. Bank of Ravenswood*, 295 Ill. App. 3d 131, 137, 692 N.E.2d 402, 407 (1998) (A successor developer "acquire[s] the original developer's rights *and obligations*...") (emphasis added). The obligations assumed include the agreements and representations made by

its predecessor. *See Sun Valley Iowa Lake Ass'n v. Anderson*, 551 N.W.2d 621, 640 (Iowa 1996) (Developer's agreement to convey common areas to association no later than the end of its involvement in the project *bound successor* that purchased developer's remaining lots and common areas). A subsequent purchaser assumes such agreements because it is not a *bona fide* purchaser. *Id.* At 638 (in order to be a *bona fide* purchaser, “purchaser must show the purchase was made without either actual or constructive notice of existing rights in the property.”). Furthermore, the burden is on the land purchaser to establish that he/she is a *bona fide* purchaser. *Id.* And, in any case, a successor who explicitly takes an assignment of developer rights with knowledge of the development has a “duty to make further inquiry” as to the obligations attendant to his/her purchase and cannot claim ignorance. *Id.*

d. Defendants Are Bound by Obligations of Prior Developer

As the self-proclaimed successor developer, one or more Defendants are obligated to make good on the representations made by the original developer, MV Development Company, LLC.

To be sure, Defendants have taken full advantage of the benefits of the assignment of Developer Rights, including not paying dues on the lots owned by *any* of the Defendants, and taking advantage of the Edgefield County multi-lot discount for almost eleven (11) years, which discount is reserved for Developers.

Defendants failed to make good on the actionable promises and obligations of the original developer to the purchasers, to which it is obligated as an alleged successor developer, which it/they purport to be. Those promises include the unambiguous promise that the owners would have access to *optional* amenities (including optional first class athletic club and golf course), and that they would not own the amenities or be taxed for them unless they chose to enjoy them; the unambiguous promise that an Equestrian Center would be provided; and the unambiguous promise

that all homes within Mount Vintage would be custom built according to certain high and uniform construction standards and be architecturally significant.

i. The original developer promised that the amenities would be “optional”, which is an unambiguous promise

The original developer’s pitches, marketing, and development strategy consistently promised to the purchasers that the Mount Vintage facilities would be optional. The original developers stated that the owners would not be ‘buying a golf course,’ which is potentially a tremendous risk or financial burden; owners would not be required to support the golf course. (*See, e.g. Dep. of Marcella Gleie, 23:11—24:17, attached as Exhibit E*). This promise is unambiguous. Defendants have clearly failed to make good on the promise as it has caused the HOA to buy the Golf Course and the ACTC and take on the attendant financial and other responsibilities. Not only that, but Defendants have caused the Association to incur well over \$4,000,000 in debt to fund the purchases. In fact, *after* Defendants caused the HOA to purchase the golf course and ACTC, Defendants retroactively caused the Covenants to be amended to provide as follows:

Duties of the Association are as follows:

[...]

(c) Purchase, own, maintain, repair, operate, and finance the Athletic Club, Town Center, Mount Vintage Golf Course, and any additional amenities, common areas or other properties which the Association deems to be for the overall good of Mount Vintage, the Association and its members.

(*See Amended and Restated Declaration of Covenants, June 21, 2017, excerpt attached as Ex. F*). The previous version(s) of the Covenants did not contain such a provision. This amendment evidences overt activity on the part of Defendants to alter the original scheme regarding ownership of the amenities.

ii. The original developer unambiguously promised that Mount Vintage would include the Equestrian Center

The original developer's promise that equestrian facilities and riding trails would be included in the amenity package of Mount Vintage is also unambiguous. (*See* Pl. Ex. 16.01, at pp. 29-31). And, Defendants have not provided an Equestrian Center. The riding trails are owned by a third party, who occasionally makes the trails "available" but places significant restrictions on their usage. And, of course, the need to board horses off premises significantly devalues the usefulness of that offering.

iii. The original developer unambiguously promised that only custom homes would be constructed in Mount Vintage

Houses in Mount Vintage were originally only built by a deliberate selection of approved, high-end, custom home builders, and, according to certain design standards, after approval by the Architectural Committee. This was for the purpose of maintaining home values by ensuring the quality of neighboring homes, and for preserving the aesthetics of Mount Vintage. This standard, while originally adopted and promulgated by Defendants (*see, e.g.* Pl. Ex. 16.02 at 12), was abandoned by Defendants in favor of quick, bulk sales by to a national builder. Defendants have sold dozens of lots to national tract builder Stanley Martin Homes and has and allowed "spec" homes to be constructed with inferior design standards, for example, permitting slab on grade construction and other variances. Plaintiffs and other homeowners relied on this unambiguous promise to their detriment. (*See* Section V(b), *infra*, for testimony of Plaintiffs regarding decreased home values due to the low-quality builds). For example, the sale prices of the Stanley Martin homes resulted in an average price per sq. ft reduction in Mount Vintage, as testified to by Raiford's captive real estate agent, Rick Atkins (*see* Section V(B), *infra*).

e. The reliance and injury elements are met

The testimony adduced to date illustrates that the Plaintiffs relied on the original developer's promises in acquiring lots and/or building residences. (*See* Section V(B), *infra*: Ex. E,

Dep. of Gleie; *see also* Dep. of V. Kirkwood attached as Exhibit H). Furthermore, Plaintiffs allege that the original developers expected and foresaw Plaintiffs' reliance. *Id.* Furthermore, Plaintiffs allege that their reliance on the aforementioned original developer promises resulted in harm – not only by having lost certain benefits of their bargained for exchange but also by the plummeting of their home investment. (*See* Section V(b), *infra* regarding loss of property values).

Raiford/LL had intimate knowledge of the development prior to taking ownership. Besides living across the street during the entire development of Mount Vintage, 1) Raiford was the primary lender who financed the second developer's purchase of interest from MV Development; 2) Raiford is a local, experienced developer who would not have purchased into or made a loan regarding Mount Vintage without doing his due diligence; and, 3) Mount Vintage has a slightly notorious, well-known history. Therefore, Raiford and LL cannot claim they took ownership without notice of the nature of the development and developer obligations. At minimum Raiford/LL had a duty to make inquiry and discover the promises made regarding the development; and, in any case, the burden to show otherwise is on LL. Moreover, after taking ownership, Defendants voluntarily assumed control of Mount Vintage, leaving behind and vestige of passive lender foreclosure ownership.

IV. This Court Should Deny Defendants' Motion for Summary Judgment Because Plaintiffs "Fairly and Adequately" Represent the Interests of the MV HOA and its Members

This Court should deny the Defendants' Motion for Summary Judgment because Plaintiffs' derivative action, brought on behalf of the MV HOA Members, fairly and adequately represents the interests of the other MV HOA Members in accordance with Rule 23(b)(1) of the South Carolina Rules of Civil Procedure ("SCRCP").

Rule 23(b)(1), SCRCF, governs derivative actions and stipulates the requirements necessary to maintain derivative claims. Specifically, Rule 23(b)(1), SCRCF, requires: (a) the verification of a derivative complaint; (b) particular allegations of the plaintiff's efforts to "obtain action he desires from the directors or comparable authority;" and (c) "the reason for the plaintiff's failure to obtain the action or for not making the effort."¹⁴ Rule 23(b)(1), SCRCF, further provides a plaintiff maintaining a derivative action must "fairly and adequately represent the interests of the shareholders or members similarly situated in enforcing the right of the corporation or association."

In determining whether an individual plaintiff is an adequate representative, South Carolina Courts consider two criteria: (1) the common interests between the plaintiff and the members he represents; and (2) the plaintiff's ability and commitment to prosecute said common interests. The recent Court of Appeals decision in *McMillan Pazdan Smith, LLC versus Mattison* augmented those criteria by citing to a Sixth Circuit Court of Appeals case, *Davis versus Comed., Inc.*, which listed factors courts have examined in determining whether a plaintiff can provide the requisite fair and adequate representation in a derivative action. Those factors are as follows:

[(1)] economic antagonisms between representative and class; [(2)] the remedy sought by plaintiff in the derivative action; [(3)] indications that the named plaintiff was not the driving force behind the litigation; [(4)] plaintiff's unfamiliarity with the litigation; [(5)] other litigation pending between the plaintiff and defendants; [(6)] the relative magnitude of plaintiff's personal interests as compared to his interest in the derivative action itself; [(7)] plaintiff's vindictiveness toward the defendants; and, finally, [(8)] the degree of support plaintiff was receiving from the shareholders he purported to represent.

McMillan Pazdan Smith, LLC v. Mattison, No. 2020-001645, 2024 WL 3688320, at *6 (S.C. Ct. App. Aug. 7, 2024), citing *Davis*, 619 F.2d 588 (6th Cir. 1980). As an initial matter, *the burden of*

¹⁴ None of the criteria set forth in Rule 23(b)(1)(a-c), SCRCF, are challenged in the instant Motions for Summary Judgment before the Court.

proof is on the Defendants to show that Plaintiffs do not fairly and adequately represent the interests of the other members of the Mount Vintage HOA. *See Mattison*, No. 2020-001645, 2024 WL 3688320, at *7 (S.C. Ct. App. Aug. 7, 2024) (“The burden is on the defendants to show that the plaintiff will not fairly and adequately represent the corporation and its shareholders.”) (internal citations omitted). Here, not only do Defendants fail to meet that burden, but the evidence adduced to-date shows the exact opposite.

a. *Plaintiffs Fairly and Adequately Represent the MV HOA Members*

In the present case, the record clearly reflects that derivative Plaintiffs (1) have a mutuality of interests with the other MV HOA Class “B” Members; and (2) have the ability and commitment to prosecute these common interests. Therefore, Plaintiffs are entitled to bring this derivative action on behalf of the Mount Vintage HOA.

First, there is a mutuality of interest between the named Plaintiffs and those of Mount Vintage members, as all Class “B” MV HOA members suffered from the same conduct of the Defendants, and it is that conduct which Plaintiffs seek to redress in this case. Most obviously, all Class B members are fiscally supporting the Developer’s operations without having any say in the matter. Additionally, when considering the other *Davis* factors, Derivative Plaintiffs have *no* personal, financial interests in this lawsuit which are antagonistic to or conflict with the interests of the other Members¹⁵; they have *no* “other litigation” with the Defendants in which the derivative suit could be used as leverage; should derivative Plaintiffs’ claims succeed at trial, there would be *no* adverse economic or other effect on the other Members; and derivative Plaintiffs are unquestionably familiar with the litigation and were, in various ways, the driving force(s) behind

¹⁵ *See McMillan Pazdan Smith, LLC v. Mattison*, No. 2020-001645, 2024 WL 3688320, at *8 (S.C. Ct. App. Aug. 7, 2024) (finding a conflict between derivative plaintiff and other minority members where derivative plaintiff admitted to using the derivative suit as leverage to increase her personal claim against majority members for increased value of her shares).

the litigation. Each of the foregoing are factors which weigh in favor of satisfying the “fair” and “adequate” representation inquiry. There is also *no* evidence that “vindictiveness” between the derivative Plaintiffs and the Defendants was the driving force behind this litigation.¹⁶ Of course, there is animus between the derivative Plaintiffs and the Defendants, which is to be expected: “charged emotions and economic antagonism are virtually endemic to disputes in closely held corporations.”¹⁷ However, and as the Court of Appeals held in the *Boathouse versus Stoney* case, the Court,

must look beyond the mere presence of economic and emotional conflict, placing more emphasis on whether the totality of the circumstances suggest that the plaintiff will vigorously pursue the suit and that the remedy sought is in the interest of the corporation.

Boathouse at Breach Inlet, LLC by & through Stoney v. Stoney, 442 S.C. at 648, 900 S.E.2d 483 at 491.

Perhaps the most impactful show of mutuality of interests between derivative Plaintiffs and the other Class “B” Members of the MVHOA is the degree of opposition received when the other Members were notified of the derivative settlement in 2023. On June 27, 2023, the Court-approved Notice of the Partial Resolution was sent via U.S. Mail to four hundred and ninety-one (491) Class “B” Members of Mount Vintage. **One (1) objection was received; and the objector was not a disinterested member (see Section IV(c)(1), *infra*).**

Additionally, Plaintiffs have no **interests** which are antagonistic or adverse to other members of the MV HOA which further supports Plaintiffs’ ability to fairly and adequately

¹⁶ See *Boathouse at Breach Inlet, LLC by & through Stoney v. Stoney*, 442 S.C. 633, 648, 900 S.E.2d 483, 491 (Ct. App. 2024), *reh’g denied* (Apr. 29, 2024) (considering and overruling a claim that vindictiveness was the motivating factor behind the derivative suit).

¹⁷ See *id.*

represent the MV HOA members in accordance with the South Carolina Rules of Civil Procedure. Rule 23(b)(1), SCRCP.

b. Other Evidence/Testimony that Plaintiffs Represent the Interests of the HOA

There is ample evidence that Plaintiffs fairly and adequately represent the interests of the membership. As a recent example, and without the knowledge of the “Board,” Defendants gave their business partner, Stanley Martin, permission to convert an unbuildable green space at the North/second entrance of Mount Vintage into a buildable lot.¹⁸ It was only when Plaintiffs became aware of this, and brought the issue to the membership’s attention via the HOA Attorney, that the development of a green space was halted by the memberships objections prior to the zoning hearing. Plaintiffs’ detailed research of the chain of title forced the developer-controlled HOA to acknowledge that this was always intended to be green space and was included in the Covenants. Plaintiffs’ attention to the matter forced the Defendant-controlled Board to issue a statement to the membership on the subject, which created an uproar:

- Pl. Ex. 63.23 (5/7/2023 Email to HOA from non-Plaintiff HOA Member): “I am writing to express my disagreement with the decision to support Stanley Martin’s request to rezone Lot P1A for a single-family residential unit.”
- Pl. Ex. 63.22 (5/7/2024 Email to HOA from non-Plaintiff HOA Member): “We had planned to attend the meeting on the 9th about this lot, but that seems rather pointless. Our HOA feels they are entitled to make any decisions based on what you want and not the citizens of this community. It must be very satisfying to you all not having to inform the community about how we feel [sic] on anything.”
- Pl. Ex. 63.21 (5/7/2024 Email to HOA from non-Plaintiff HOA Member): “Hard to comprehend how a small brick home squeezed onto a lot in order to get HOA dues is better than green space.”
- Pl. Ex. 63.20 (5/3/2024 Email to HOA from non-Plaintiff HOA Member): “The fact that a builder has taken possession of this tract of land that is the corner of our restrictive neighborhood and is not bound by our construction requirements is unimaginable. [...]

¹⁸ See Pl. Ex. 49.05.

This should certainly warrant further review and possibly a legal injunction. This will have continued repercussions to all residents.”

This example provides additional evidence that Plaintiffs fairly and adequately represent the interests of the MV HOA and its members. Indeed, efforts to stop the Defendants from allowing their business partner to convert Mount Vintage dedicated green space into a lot could only be for the benefit of the MV HOA.

c. Defendants Fail to Meet Their Burden

Defendants have the burden to show that Plaintiffs do not fairly and adequately represent the interests of the MV HOA and its members. They have failed to meet this burden. Let’s examine what the Defendants have proffered to illustrate that Plaintiffs do not fairly and adequately represent the HOA’s interests:

- A 2020 Petition started by “Independent” resident, Dan Binz, which garnered 211 unworn signatures without any disclosures to the signatories;
- Testimony of five (5) “Mount Vintage Residents” who allegedly do not support the Plaintiffs’ efforts;
- That Plaintiffs have “abandoned” their class claims because of a lack of support;
- That there are only fourteen (14) Plaintiffs;
- That Plaintiffs’ opposition to the *Developer* controlled Board’s motion for release of escrow funds is evidence of “economic antagonism” between Plaintiffs and the HOA; and
- That there is evidence of “other litigation” pending between the Plaintiffs and Defendants, including liens filed by the HOA *during* the pendency of this action on three (3) of the Plaintiffs; previously filed South Carolina Department of Consumer Affairs complaints filed by certain Plaintiffs against Defendants’ operation of the HOA; and a police report filed by one Plaintiff against Wayne Raiford.

(See Corp. Defs. Mot. for SJ, at 7-9).

1. The 2020 Petition Has No Bearing on Plaintiffs’ Fair and Adequate Representation of the HOA or Its Members

First, the signatures on the 2020 Petition should be completely disregarded by this Court as evidence in support of a motion for summary judgment because the signatures are not sworn or

notarized. *See Mattison*, 2024 WL 3688320, at *9 (“We agree the circuit court erred in considering the signed members statements because the statements were not sworn or notarized.”).

Second, the Petition organizers—Dan Binz, Bob Porter, and Mike Bone—were each founding members of the failed golf course management entity known as Golf Gem, LLC, with Binz and Porter sitting on the Golf Gem Board with Leigh Ann Keels (part owner and member of Defendant LL of SC). While Plaintiffs do not have claims against Golf Gem, Golf Gem’s mismanagement of the golf course after it was purchased by the HOA certainly factored into the damages suffered by the HOA which are being sought in this derivative action.

Third, approximately sixty (60) of the signatories have either moved or sold their lots, and at least six (6) of the signatories are deceased. Stated differently, Movant has failed to document to this Court the number of legitimate signatures on the petition.

Fourth, approximately sixty (60) of the signatories to the 2020 Petition recently signed the petition submitted to this Court in support of the Developer-controlled HOA’s motion for disbursement of the escrow funds. In other words, while they may not have supported the lawsuit back in 2020, they are now in favor of the HOA receiving the benefit of the lawsuit in 2024. One can either be counted as opposed to the suit or in favor of the HOA receiving the funds of the suit—one cannot be both. Stated differently, the signatures on the petition are stale, and Movant presents no evidence that they are still valid.

Fifth, and to the extent any additional reasons are necessary, the solicitation sent out for signatures misrepresents the lawsuit as being “against the HOA” and makes no mention of the fact that the lawsuit primarily sought damages against the “Developer”/ Defendants. (*See* Email Solicitation, attached as Exhibit I). It is axiomatic that one cannot oppose the merits of something that they have not read or do not understand. **For these and additional reasons, this “evidence”**

does not assist Defendants in carrying their burden regarding fair and adequate representation by Plaintiffs.

2. *Deposition Testimony of “MV Homeowners” Has No Bearing on Plaintiffs’ Fair and Adequate Representation of the HOA or Its Members*

Defendants cite to the testimony of “multiple homeowners” who have testified that the Plaintiffs “do not represent their interests.” (LL Mot. for SJ at p. 7). Out of the five “homeowners” cited by Developer Defendants, one is Wayne Raiford’s cousin (Charles Blackston), who has an on-going business relationship with Raiford/LL of SC and is currently negotiating to become the successor developer; is no longer a homeowner (Patrick Bukszar)¹⁹ and is the owner of a company which is in business with Defendants, and one is Wayne Raiford/LL of SC’s exclusive listing agent in Mount Vintage and has made tens of thousands of dollars selling Mr. Raiford/LL of SC’s lots (Rick Atkins).

A fourth, former board member Duane Dotta, did not testify that the Plaintiffs “did not represent his interests,” as Defendants averred to the Court; rather, he testified that he did not want to get dragged into the lawsuit (*See* Dep. of Duane Dotta, Jan. 20, 2023, 131:13-22, attached as Exhibit K). Many of the grievances he aired as to the Developer are alleged in the lawsuit. For example, he testified that “Leigh Ann Keels should not have her hands on our checkbook” because “she’s the developer and its HOA money. It’s not developer money.” (*see id* at 25:2-7). He also testified that the mishandling of the \$300k Promissory Note by Leigh Ann Keels and the Defendants was the reason he resigned from the Board, calling the handling of it quickly and without board knowledge “sneaky” (*Id.* at 127:2-10), and testifying that he initially accused Leigh Ann Keels and Raiford of “fraud.” (*Id.* at 86:21-87:2). The fifth homeowner cited by Defendants,

¹⁹ *See* Bukszar Dep., 125:14-20, attached hereto as Exhibit J. Mr. Bukszar also did not testify that the lawsuit or the Plaintiffs did not represent his interests—the cite to which Defendants point to does not say anything of the sort.

former board member Bill Johnston, testified that he was “not sure everything [Wayne] did was above board” (*see* Dep. of Bill Johnston, Jan. 18, 2023, at 42:12-18, attached hereto as Exhibit L); that he agreed with Duane Dotta regarding the mishandling of the \$300k Promissory Note. (*see id.* at 108: 1-2); and that he objected to decisions being made unilaterally by the Developer (*see id.* at 62:20-63:4). Further, Mr. Johnston’s testimony evidenced that he did not understand the lawsuit and believed that the Plaintiffs were seeking damages from the HOA. (*See id.* at 140:23) (“We’re suing ourselves.”).

So, Defendants cannot point to any independent and non-biased homeowner²⁰ who has given sworn testimony who has (1) read the lawsuit papers; (2) understands the suit; (3) and is opposed to it. **This “evidence” does not assist Defendants in carrying their burden; and the additional testimony cited above clearly creates an issue of fact.**

3. Number of Plaintiffs and Voluntary Dismissal of Class Claims

One derivative Plaintiff is sufficient to bring a Rule 23, SCRCp, derivative action. There are fourteen named derivative Plaintiffs. Defendants have no idea how many homeowners have reached out to Plaintiffs and Plaintiffs’ counsel in a show of support. It is not Plaintiffs’ burden to win a popularity contest and dispel misinformation promulgated by interested parties, especially when Plaintiffs’ hard-fought efforts *on behalf of the HOA* have already accrued \$1.6 million dollars *for the benefit of the HOA*; rather, it is Defendants’ burden to show that Plaintiffs do not fairly and adequately represent the HOA or its members. Pointing to the number of named Plaintiffs does not

²⁰ A shareholder’s, or, here, a member’s, motivation for opposing a derivative suit is relevant when considering whether a derivative plaintiff adequately represents the interests of that member. *McMillan Pazdan Smith, LLC v. Mattison*, No. 2020-001645, 2024 WL 3688320, at *8 (S.C. Ct. App. Aug. 7, 2024) (“We hold that shareholders’ motivation for opposing the derivative action is relevant to determining the question of whether any shareholder is similarly situated to the derivative plaintiff.”) (internal citations omitted).

help Defendants reach its burden. Additionally, the fact that Plaintiffs’ voluntarily dismissed class claims does not benefit Defendants’ argument—in fact, it cuts directly against it. Plaintiffs’ class claims were seeking *individual* damages for *all* class members, as opposed to the derivative claims which seek damages on behalf of the HOA and its members *writ* large. Truth be known, the class damages were dropped because the derivative damages were already so large and there was an overlap between the two, so the Plaintiffs opted to favor the derivative claims *for the benefit of the HOA*.

4. “Economic Antagonisms” Do Not Exist Between the Plaintiffs and the Homeowner Members of the HOA

The “economic antagonism” contemplated by the *Mattison* Court is simply “whether the plaintiff’s interests are antagonistic to those parties it is seeking to represent.” 180 Am. Jur. Proof of Facts 3d 331 (Originally published in 2020). In *Mattison*, “economic antagonism” was present because there, the Plaintiff—a “class of one”—was seeking to increase the value of her own share payout, and if she succeeded in her derivative claims, other shareholders would be divested of their shares completely. (*See Mattison, generally*).

Here, there is no antagonism between Plaintiffs and the HOA members, as the most valuable damages being sought at trial are for the benefit of the HOA. If Plaintiffs succeed, the HOA receives additional funds. If Plaintiffs do not succeed, the HOA is not harmed. The Defendants’ attempt to spin Plaintiffs’ opposition to releasing the Escrow Funds to the *Developer* controlled board to pay off a loan which Plaintiffs allege should be borne by the Defendants does not illustrate economic antagonism between the Plaintiffs and the HOA; rather, it shows antagonism between the best interests of the HOA and the interests of the Defendants. Plaintiffs do not dispute that the Escrow Fund is for the benefit of the HOA; Plaintiffs do dispute whether the Escrow Fund should be handed over to the Defendants who control the HOA Board. **This**

“evidence” does not assist Defendants in carrying their burden regarding fair and adequate representation by Plaintiffs.

5. “Other Litigation” Between Derivative Plaintiffs and “Vindictiveness”

The fact that the Developer controlled Board placed liens (which have each been resolved and released) on three of the named Plaintiffs’ properties for non-payment of dues *during the pendency of this action* should not be given *any* consideration by the Court. Indeed, the rationale behind this factor as explained by the *Mattison* Court is that “the trial court should beware allowing a derivative suit to proceed where the representative could conceivably use the derivative action as leverage in other litigation.” *See Mattison*, 2024 WL 3688320, at *8 (S.C. Ct. App. Aug. 7, 2024). There are no pending liens, so there is no other litigation, and the suits were filed *by the HOA during the pendency of this case*, not by the derivative Plaintiffs. These liens are also not evidence of “vindictiveness” (at least on the part of Plaintiffs) because they were filed after the derivative Plaintiffs filed this action.

Nor are complaints made to the South Carolina Department of Consumer Affairs or police reports “litigation” or evidence of “vindictiveness.” Filing a complaint with the South Carolina Department of Consumer Affairs is a protocol established by the South Carolina Homeowners Association Act, Article 3, "Department of Consumer Affairs Services for Homeowners and Homeowners Associations Act". (*See* SC Code Ann. **SECTION 27-30-310**).

Here, derivative Plaintiffs have “vigorously pursue[d]” this suit—even the Defendants must admit that to be the case. The remedy sought—monetary damages for the HOA and homeowner control over the HOA—are squarely in the best interests of the HOA. Their dogged efforts have already resulted in a significant monetary recovery for the HOA.

This “evidence” does not assist Defendants in carrying their burden regarding fair and adequate representation by Plaintiffs.

V. Plaintiffs’ Individual Claims for Negligence, Breach of Fiduciary Duty, SCUTPA, Unjust Enrichment and Civil Conspiracy Are Legally and Factually Supported and Must Proceed to Trial

Defendants allege that “no plaintiff is competent to proceed in an individual capacity” because “each and every one of [Plaintiffs’] grievances pertains to actions or omissions that have allegedly had an adverse effect on the HOA—not on any particular Plaintiff or property owner.” (Defs. Mot. at 10). This argument is ironic, as the Defendants also allege that no Plaintiff may proceed derivatively on behalf of the HOA because they lack capacity to do so.

a. *Plaintiffs’ Individual Claims of Negligence/Gross Negligence Must Proceed to Trial*

Defendants appear to only be arguing that Plaintiffs have not suffered any damages which are distinct from the damages suffered by the HOA, and thus have wisely abandoned any claim that the Defendants do not owe any duties to the individual members of the HOA.

As for damages, Plaintiffs have set forth facts sufficient to show that the individual Plaintiffs have suffered damages which are distinct from those suffered by the MV HOA. For example, the Developer controlled HOA has issued at least two (2) assessments during the course of its tenure: one in 2019²¹ to subsidize the failing golf-course management entity, Golf Gem, LLC, and one in 2023²² to subsidize the ballooning interest of the golf-course loan. These assessments were issued to the members of the HOA, including the individual Plaintiffs, and thus constitute examples of monetary damages sustained by the individual Plaintiffs which are distinct

²¹ (See Pl. Ex. 8.8, 8.9, (excerpts), regarding assessments for 2019).

²² (See Pl. Ex. 43.04, notice of assessment, 2023).

from the damages suffered by the MV HOA writ large. The Defendants' conduct has also caused an increase in annual dues and are exposing Plaintiffs to future increases.

b. *Plaintiffs' Individual Claims Breach of Fiduciary Duty Must Proceed to Trial*

Similar to the above, it appears as though Defendants have wisely abandoned any argument as to whether they owe fiduciary duties to the individual Plaintiffs. To resolve all doubt, however, under South Carolina jurisprudence, a developer has a fiduciary duty to act in the best interests of property owners while controlling the development's property owners' association and/or the neighborhood. *See, e.g., Goddard v. Fairways Dev. Gen. Partn.*, 310 S.C. 408, 426 S.E.2d 828 (Ct. App. 1993) (developer has a duty to place the ensuing neighborhood on stable financial footing). Thus, if a developer fails to act in the best interest of the property owners while in control of the property owners' association, the developer has breached its fiduciary duty, and therefore, is liable to individual property owners as a result. *Id.*

Many focus on the context of *Goddard* (and later, *Concerned Citizens of Dunes West*), which was the transfer of substandard and/or inadequately funded amenities. However, a close reading of *Goddard* suggests a broader, more basic proposition: a developer has a "promoter" like obligation (think *Duncan*,²³ cited by *Goddard*) to put the ensuing development on a stable financial footing. Both propositions are applicable to, and violated by, these Defendants.

The evidence adduced in this case has shown that, instead of acting in the best interests of the individual owners by, *e.g.*, contributing their fair share to amenity acquisition, the Defendants "pull[ed] as much cash from the PO's [property owners] as possible" to acquire amenities, because "[t]he importance of having control of the Town Center far outweighs any resistance to special assessments or dues increases." (*See* Pl. Ex. 19.2). These assessments, mentioned *supra*, represent

²³ *Duncan v. Brookview House, Inc.*, 262 S.C. 449, 205 S.E.2d 707 (1974).

actual damages sustained by the individual owners resulting from the Defendants placing their interests above those of the homeowners.

An additional example of damage suffered by the Plaintiffs individually is loss of value of the Plaintiffs' homes. It is widely conceded that the Defendants' delay in the completion of the roads and the marketing of the development damaged the neighborhood property values. Many of the individual Plaintiffs testified the Defendant's mishandling of the amenities, as did that the influx of Stanley Martin tract homes permitted by the Defendants adversely affected their property values. (*See, e.g.*, Dep. of Elizabeth Ferraro, Mar. 7, 2023, p. 68:24—69:21, attached as Exhibit M); (*see also* Dep. of V. Kirkwood, Mar. 6, 2023, p. 169:12-25, attached as Exhibit H). In fact, Defendant LL of SC's own captive insurance agent, Rick Atkins, confirmed that the influx of Stanley Martin tract homes had an adverse impact on home values in Mount Vintage:

Q. Sir, you testified last week that the property values of the custom homes in the new nine diminish as a result of the Stanley Martin construction there. Do you recall that?

A. Yeah. I'm not sure that -- I guess -- the Stanley Martin home values do have an impact on all other home values. Their square-foot prices are lower than some of the resale homes and the custom homes.

(*See* Dep. of Rick Atkins, Aug. 14, 2023, at 148:8-16, attached as Exhibit N). This is an additional example of damage suffered by the individual Plaintiffs which is distinct from that suffered by the MV HOA.

c. Plaintiffs' Individual SCUPTA Claims Must Proceed to Trial

Defendants repeat their unsupported refrain as to individual Plaintiffs' cause of action under the South Carolina Unfair Trade Practices Act ("SCUTPA"): the damages belong to the HOA, and not to the individual Plaintiffs. (*See* Defs. Mot. at 10). As laid out in the sections above, the individual Plaintiffs suffered damages separate and distinct from those suffered by the MV HOA, including in the form of assessments and loss of property values.

Defendants’ deceptive and unfair practices as it relates to, *e.g.*, advertising luxury communities with high architectural standards but sacrificing those promises in favor of corporate profits, not only have the possibility of repetition, but have already been repeated. Defendants are currently developing at least two (2) other neighborhoods in the Aiken area – Bridle Creek and Highland Hills—where homeowners are complaining about “plummeting home values” because of low-quality homes being approved by Defendants in direct contravention to Defendants’ marketing of the neighborhoods. (*See, e.g.*, LLSUPP_057895-057898, Em. From Bridle Creek Property Owner to Raiford).

This is sufficient for Plaintiffs to overcome Defendants’ motion for summary judgment as to violations of the SCUTPA. *See Daisy Outdoor Advert. Co. v. Abbott*, 322 S.C. 489, 493, 473 S.E.2d 47, 49 (1996) (“[A]fter alleging and proving facts demonstrating the potential for repetition of the defendant's actions, the plaintiff has proven an adverse effect on the public interest. The plaintiff need not allege or prove anything further in relation to the public interest requirement.”).

d. Plaintiffs Civil Conspiracy and Unjust Enrichment Claims Must Proceed to Trial

Plaintiffs’ allegations of individual harm attributable to the Defendants listed above and supported by facts and evidence gleaned during the course of discovery, apply equally to Plaintiffs’ individual claims for Civil Conspiracy and Unjust Enrichment. Defendants’ two-sentence argument in support of summary judgment as to these claims must similarly be overruled.

VI. Any Attempt to Exclude Pre-2017 Damages Ignores (1) Complete Control of the MV HOA By Defendants; and (2) the Discovery Rule

In all three Motions, Defendants move for summary judgment that a large portion of Plaintiffs’ damages are unrecoverable. Defendants appear to seek a ruling that any damages accruing more than three years before the filing of suit, which Defendants date to mid-2017, are barred. Defendants’ one-sentence argument on the statute of limitations does not meet the moving

party's relatively low burden at the Rule 56 stage. *See Sides v. Greenville Hosp. Sys.*, 362 S.C. 250, 255, 607 S.E.2d 362, 364 (Ct. App. 2004) ("Under Rule 56(c), the party seeking summary judgment has the initial responsibility of demonstrating the absence of a genuine issue of material fact."). And, this argument certainly does not meet the Defendants' more robust burden as the party seeking to impose the statute of limitations as a defense. *Chabek v. AnMed Health*, 442 S.C. 61, 72, 897 S.E.2d 58, 63–64 (Ct. App. 2023), *reh'g denied* (Feb. 14, 2024) ("Further, the burden of establishing the statute of limitations defense is on the party seeking to impose it."). Regardless, Plaintiffs submit the below arguments to show that genuine issues of material fact regarding the application of the statute of limitations abound, and the issue should either be decided by the Court in favor of the Plaintiffs or proceed to the jury.

a. *Defendants Complete Control Over the MV HOA Tolls Any Applicable Statute of Limitations Under Applicable South Carolina Jurisprudence*

Defendants repeatedly allege that *all* of Plaintiffs' claimed damages were sustained by the MV HOA. (*See* Defs. Mot. at 10-11). Plaintiffs disagree that *all* damages were sustained by the MV HOA but do agree that the MV HOA has suffered significant damage at the hands of Defendants. Defendants also concede that "it is undisputed that Defendant continues to retain sole voting rights within the HOA[.]" (*See id.* at 12). With these two concessions in mind, it is difficult to understand how Defendants proffer a statute of limitations argument in the face of South Carolina jurisprudence like *Magnolia North*.

A property owners association lacks autonomy while controlled by the developer with sole voting rights. *See, e.g., Magnolia N. Prop. Owners' Ass'n, Inc. v. Heritage Communities, Inc.*, 397 S.C. 348, 372, 725 S.E.2d 112, 125 (Ct. App. 2012) (tolling the statute of limitations during the period of developer control of the association, because the developers would not initiate litigation

against themselves during this period).²⁴ An association lacking autonomy does not have the freedom to bring suit against the developer that controls it. *See Magnolia North*, 397 S.C. at 372, 725 S.E.2d at 125 (finding “unpersuasive developers’ claim that an organization they controlled would have initiated an action against itself during [the developer control] period.”). As South Carolina law recognizes, a developer-controlled HOA will not sue itself – or authorize a suit to be brought against itself – and therefore commencement of the statute of limitations for developer wrongdoing is tolled until turnover. (*See id.*).

b. Defendants Ignore the “Discovery Rule” Applicable to the Statute of Limitations

Defendants also ignore an indisputable doctrine called the discovery rule. As documented by Plaintiffs further above, Defendants kept their subterfuge close to their chests, such that the homeowners would not know that their rights had been violated, even if they felt slightly damaged, incidentally or otherwise. Defendants can’t show one instance of full and frank advance disclosure which would trigger the commencement of the statute of limitations on damages. For example, Defendants might cite to the fact that the overpriced golf acquisition occurred in 2016, but they can’t show the Court a disclosure to the Members that the amenity was being acquired at nearly three times its value. And it wasn’t until years later that the Board clearly violated its prior promise that the homeowners would not have to subsidize the amenity operational deficits. Like the

²⁴ *See also Darner Realty Assocs., LLC v. 137 East 56th St. Owners, Inc.*, 214 F.3d 79 (2nd Cir. 2000) (finding a developer’s power to veto amendments gave “special developer control” as defined by the CCCP²⁴); *Aldea Dos Vientos v. Calatlantic Group, Inc.*, 44 Cal.App.5th 1073, 258 Cal.Rptr. 1073 (2nd Dist. 2020) (finding master deed provision gave developer veto power and control over HOA’s claims); *See also Resolution Trust Corp. v. Farmer*, 865 F. Supp. 1143, 1151 (E.D. Pa. 1994) (explaining the basis of the adverse domination doctrine: “the corporation which can only act through the controlling wrongdoers cannot reasonably be expected to pursue a claim which it has against them until they are no longer in control.”); *see also 15 U.S.C. § 3603(22)* (defining “Special Developer Control” as “any right arising under State law. . .condominium instruments, the association’s bylaws. . .through which the developer *may* control or direct the association or its executive board”).

developer entity in the *Walbeck* case (cited *infra*), the Defendants continuously, subtly eroded the homeowners rights, without every disclosing what they were doing.

In South Carolina, the statute of limitations begins to run “when the **underlying cause of action** reasonably ought to have been discovered.” *Holly Woods Ass’n of Residence Owners v. Hiller*, 392 S.C. 172, 183, 708 S.E.2d 787, 793 (S.C. Ct. App. 2011) (emphasis added); *see also Martin v. Companion Healthcare Corp.*, 357 S.C. 570, 575, 593 S.E.2d 624, 627, 2004 S.C. App. LEXIS 41, *7 (S.C. Ct. App. 2004). The clock starts ticking when “the injured party knows, or should have known by the exercise of reasonable diligence that **a cause of action arises from the wrongful conduct.**” *See id.* (emphasis added).

Plaintiffs have testified that it was only when the Developer-controlled HOA issued assessments for the subsistence of the golf course that they realized the dire financial situation in Mount Vintage. (*See, e.g.* Ex. E, Dep. of Marcella Gleie, Mar. 22, 2023, p. 42:3—43:4; *see also* Ex. H, Dep. of V. Kirkwood, Mar. 6, 2023, p. 48:17—49:21).

Even if this Court finds conflicting evidence exists as to whether Plaintiffs knew or should have known they had a cause of action, the question is one for the jury. *See, e.g., Walbeck v. I’On Co., LLC*, 439 S.C. 568, 581, 889 S.E.2d 537, 543 (2023), *reh’g denied* (July 26, 2023) (“Specifically, the question of when a plaintiff discovered, or should have discovered the alleged harm is for the jury to decide because it is an objective question.”); *see also Logan v. Cherokee Landscaping & Grading Co.*, 389 S.C. 611, 618, 698 S.E.2d 879, 883 (Ct. App. 2010); *See also Arant v. Kressler*, 327 S.C. 225, 229, 489 S.E.2d 206, 208 (1997) (“When there is conflicting testimony regarding the time of discovery, it becomes an issue for the jury to decide.”); *Johnston v. Bowen*, 313 S.C. 61, 64, 437 S.E.2d 45, 47 (1993) (“Whether a claimant knew or should have known that they had a cause of action is question for the jury.”).

VII. Defendants RTI and T R Sales Motions Must Also Be Denied

Defendants' other grounds for summary judgment, raised in the separately filed motions for RTI and T R Sales, which are supported by a one sentence argument, without legal precedent, also fail.

a. Conflating RTI and LL Does Not Save Defendants

LL and RTI both try to ignore or minimize their abuse of corporate structure by proffering a legally non-existent, self-serving and self-performed "piercing of the corporate veil" to collapse themselves into a single entity for their own benefit. For example, when questioned as to why the defendant(s) did not compel their non-developer affiliates to pay dues, Defendants have repeatedly responded in Depositions that Defendant LL and RTI (and even Mr. Raiford) are the same entity, so it does not matter. This is unheard of and ignores basic, hornbook, corporate law:

A basic tenet of American corporate law is that the corporation and its shareholders are distinct entities. An individual shareholder, by virtue of his ownership of shares, does not own the corporation's assets and, as a result, does not own subsidiary corporations in which the corporation holds an interest. A corporate parent which owns the shares of a subsidiary does not, for that reason alone, own or have legal title to the assets of the subsidiary; and, it follows with even greater force, the parent does not own or have legal title to the subsidiaries of the subsidiary.

Dole Food Co. v. Patrickson, 538 U.S. 468, 474 (2003) (internal citations omitted). It is clear that the assets of RTI do not belong to LL, even after the alleged backdated assignment; nor vice versa.

There is no precedent for Defendants to unilaterally choose to ignore their corporate structure to prevail over others. Veil piercing is an offensive doctrine employed to limit injustices perpetrated by controlling persons who ignore corporate formalities to the detriment of others:

In general, equitable principles govern the veil-piercing remedy, and it is settled authority that the doctrine of piercing the corporate veil is not to be applied without substantial reflection. If any general rule can be laid down, it is that a corporation will be looked upon as a legal entity until sufficient reason to the contrary appears; but when the notion of legal entity is used to protect fraud, justify wrong, or defeat public policy, the law will regard the corporation as an association of persons. The

party seeking to pierce the corporate veil has the burden of proving that the doctrine should be applied.

Drury Development Corp. v. Foundation Ins. Co., 668 S.E.2d 798, 800, 380 S.C. 97, 101 (2008) (internal citations omitted); *see also Sturkie v. Sifly*, 280 S.C. 453, 458, 313 S.E.2d 316, 319 (Ct. App. 1984) (“The corporate form may be disregarded only where equity requires the action to assist a third party.”)

While ignoring the foregoing legal precedent, Developer repeatedly asserts that “it’s difficult to understand the legal basis...” for Plaintiffs complaint that the alleged subsidiary, RTI, is not paying dues since its parent was the Developer. Of course, “it’s difficult to understand the legal basis” on which Defendants rely as they fail to set forth any legal precedent whatsoever to support their attempts to pierce their own corporate veils in an attempt to pass liability to third parties. (In fact, in most instances where Movant indicates that “it’s difficult to understand the legal basis...”, the Movant itself fails to set forth any legal precedent to support its difficulty or position).

b. T R Sales MSJ Should be Summarily Overruled

T R Sales’ participation and potential liability is crystal clear from the summary of relevant facts, *supra*; however, it will be briefly addressed again, here.

T R Sales’ self-serving declaration that it “does not manage Mount Vintage” is amusing. For starters, it should garner as much credence as Raiford’s original declaration that T R Sales does not manage LL – “it does not manage LL of South Carolina.” (See Exhibit O, T R Sales 30(b)(6) Depo., at p.49:21-22). Now, of course, counsel for T R Sales conveniently advises the Court that T R Sales “functions primarily as a management and administrative service provider for LL.” (*see* T R Sales Mot. for SJ, pg. 2.) This is a complete about-face from T R Sales’ sworn testimony.

Presumably, Raiford abandoned his denial that T R Sales manages LL in light of the overwhelming evidence otherwise, including the fact that all three (3) entities repeatedly told the Federal Government otherwise on their tax returns, and that LL does not and never has had a human employee. LL uses Wayne Raiford and Leigh Ann Keels to get its work done and both Raiford and Keels are employed by T.R. Sales. (*see* Ex. O, T R Sales Dep. at pp.35-36).

During the T R Sales 30(b)(6) Deposition, Raiford went on to deny that he worked for T R Sales, even though he draws a salary from T R Sales, (*see id.* at p.47:4-16) and reported his T R Sales salary to the Federal government, because it was just “tax pay.” (*see id.* at pp. 46:22-47:14).

As testified by LL’s CPA Fliflet, the business of LL is the development of Mount Vintage and the sale of its Mount Vintage lots at a profit. (*see* Exhibit. P, Dep. of Charles Fliflet, CPA, at 38:21-39:11). A major tool in the development of Mount Vintage is LL’s management and control of the neighborhood and the HOA. LL has amended the Covenants numerous times (twice in 2017, twice in 2018, and again in 2022).²⁵ In the words of Fliflet, LL’s development activities include “enhancing the saleability (sic) of existing lots... working with the homeowners association... bringing the development back to life...” (*see id.*). By July 7, 2016, forecasts provided by LL to its CPA were showing a profit for the developmental period of \$9.5 million. (*see id.* at p. 134:10-24).

Besides spearheading LL’s management of Mount Vintage, T R Sales participated in the looting of the Mount Vintage orphan parcels on LL’s behalf. (*see* Ex. O, T R Sales Dep., at p. 38).

Raiford received his paycheck from T R Sales while he sat on the HOA Board of Directors for LL (and still does). (*see id.* at p. 40).

²⁵ The Amended Covenants will be made available for inspection rather than filed due to their large size.

LL's 2021 financial performance was so good that Fliflet had LL pay T R Sales an extra Two Hundred Thousand dollars (\$200,000.00) in management fees making management fees that year total Three Hundred Thousand dollars (\$300,000.00). (*see* Ex. P, Fliflet Dep., at p. 100:10-18).

As can be seen by the foregoing, T R Sales participated in all of LL's derelictions as it succeeded to T R Sales's predecessor, Georgialina, whose interests have been bought by T R Sales to the tune of \$400,000 per year, and for the next 5-10 years thereafter, by T R Sales itself, while it operated LL of SC and controlled and operated the Association's Board of Directors. T R Sales is just as responsible for LL for 99% of the derelictions complained of in this matter.

c. Negligent Development Permeates This Case

Defendants ridicule, and again, "fail to see any legal basis for," yet fail to set forth any legal basis against, a claim for *negligent development*. Plaintiffs brought a negligence/gross negligence claim for the Developer's negligent acts. The developer negligence is detailed *ad nauseum* in the applicable complaint, and in the deposition testimony, and exemplar derelictions have been discussed in this memorandum. In short, Defendants owed Plaintiffs and the HOA various duties, including the duty to put the neighborhood on sound financial footing, the duty do no harm, the duty to place the HOA's interests above those of the Developer, and the duty not to profit at the Association's and homeowners' expense. This has been conceded by Raiford in deposition testimony:

Q. Are you aware of whether or not a board of directors -- an HOA board of director member has a duty of loyalty to the HOA and its members?

A. Yes, and I have always been exactly that.

Q. Are you aware of whether an HOA director owes a duty of full and complete disclosure to the HOA and its members?

A. I am aware to do that.

Q. You agree with that?

A. I do.

[...]

Q. We're going to get to those details, sir, but first I want to find out if you agree with me that a developer board member has a duty not to put the developer's interests in front of the association and its members' interests?

A. I do.

(See Dep. of J. Wayne Raiford, 243:9-21; 245:6-12) (objections omitted).

Defendants violated these duties in many ways, including by failing to put Mount Vintage on sound financial footing, by self-dealing, and by profiting at the HOA and member's expense. The Defendants also had a duty to deal fairly with the individual and derivative Plaintiffs; instead of complying with that duty, defendants, *inter alia*, engaged in self-dealing at the HOA's expense, taking HOA assets for pennies, and causing the HOA to execute a back dated, inexplicable, \$300,000.00 note. Every which way one turns, these defendants have been negligent, and this summary judgment ground should be summarily overruled.

CONCLUSION

For any and all of the foregoing reasons, Defendants' Motions for Summary Judgment should be summarily overruled by this Court and this case should proceed to its September 16, 2024, trial.

Signature on following page.

Respectfully submitted,

By: /s/Anna McCann
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Attorneys for the Plaintiffs

August 27, 2024
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE ELEVENTH JUDICIAL CIRCUIT
COUNTY OF EDGEFIELD	)	CASE NO. 2021-CP-19-00050
	)	
ELIZABETH M. FERRARO, JAMES T.	)	BUSINESS COURT CASE,
FERRARO, EDWARD J. PRZYBYL,	)	ASSIGNED TO:
MARCELLA GLEIE, JOHN E. GLEIE, JR.,	)	
THOMAS BOWES, CONNIE BOWES, MOATAZ	)	THE HONORABLE R. LAWTON
ALASADI, VIRGINIA KIRKWOOD, BOB	)	MCINTOSH
KIRKWOOD, PAUL VICHROSKI, NYDZA	)	
VICHROSKI, JAMES MONTELLESE,	)	
ROXANN MONTELLESE, Individually,	)	NOTICE OF FILING
Derivatively, and on Behalf of all the Mount	)	
Vintage Homeowners Association Members,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
LL OF SC, LLC, RAIFORD TOPSAIL ISLAND	)	
INVESTMENTS, LLC, T R SALES	)	
PLANTATION, LLC, AND MOUNT VINTAGE	)	
PLANTATION HOMEOWNERS ASSOCIATION,	)	
INC. A/K/A MOUNT VINTAGE HOMEOWNERS	)	
ASSOCIATION, INC.,	)	
	)	
Defendants.	)	

PLEASE BE ADVISED that Plaintiffs herein give Notice of Filing of the following testimony submitted in further support of Plaintiffs' Memorandum¹ in Opposition to Defendants' Motion² for Partial Summary Judgment as to Plaintiffs Standing as Members of the Mount Vintage HOA.

Ex. C: (30(b)(6) Deposition of LL of SC, LLC, Wayne Raiford, at 75:18-20; 150:5-24).

Signature on following page.

¹ Filed on August 23, 2024.

² Filed on July 15, 2024.

Respectfully submitted,

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August 27, 2024
Charleston, South Carolina

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
EDGEFIELD COUNTY

*****ROUGH DRAFT*****

DEPOSITION OF WAYNE RAIFORD,
as 30(b)(6) representative of
LL OF SC, LLC

ELIZABETH M. FERRARO, JAMES T. FERRARO, EDWARD J.
PRZYBYL, MARCELLA GLEIE, JOHN E. GLEIE, JR.,
THOMAS BOWES, CONNIE BOWES, MOATAZ ALASADI,
VIRGINIA KIRKWOOD, BOB KIRKWOOD, PAUL VICHROSKI,
NYDZA VICHROSKI, JAMES MONTELLESE,
ROXANN MONTELLESE, AND JULIE WILLIAMS,
Individually, Derivatively, and on
Behalf of all the Mount Vintage Homeowners
Association Members,

Plaintiffs,

vs.

CASE NO. 2021-CP-19-00050

J. WAYNE RAIFORD, INDIVIDUALLY AND AS PRESIDENT
OF THE BOARD OF DIRECTORS OF MOUNT VINTAGE
PLANTATION HOMEOWNERS ASSOCIATION, INC.,
LL OF SC, LLC, RAIFORD TOPSAIL ISLAND
INVESTMENTS, LLC, MOUNT VINTAGE PLANTATION
HOMEOWNERS ASSOCIATION, INC. a/k/a MOUNT VINTAGE
HOMEOWNERS ASSOCIATION, INC., GREGG KARLBERG,
JERRY SCHAEFER, LEIGH ANN KEELS, and JOHN DOE,

Defendants.

DEPONENT: WAYNE RAIFORD
DATE: AUGUST 23, 2024
TIME: 12:31 P.M.
LOCATION: AIKEN AIRPORT
AIKEN, SOUTH CAROLINA
REPORTED BY: HANNAH MOORE
CLARK BOLEN
CHARLESTON, SC 29415
843-762-6294
WWW.CLARKBOLEN.COM
Office@ClarkBolen.com

1 Q. Which sections of Mount Vintage did
2 Satterfield pave?

3 A. They paved Calvary Run in the bad
4 section. They paved the Village. And then they
5 paved the Village property because it only had
6 1 inch of asphalt. And by the way, I had to
7 repave a whole section in the new section there.
8 I had to put 1 more inch of asphalt on every bit
9 of it, pay for it.

10 Q. What's the total you paid Satterfield?

11 A. I don't remember.

12 Q. Which section did Prince do?

13 A. Calvary Run.

14 MR. LUCEY: Sir, we've been going
15 for a little bit. We'll take a five-minute
16 break.

17 (A recess was taken.)

18 Q. Sir, are the Mount Vintage homeowners
19 members of the homeowners association?

20 A. Yes.

21 Q. You heard with regards to the \$300,000
22 note issue earlier, Joan say that -- said that
23 after the note receivable was booked, that every
24 time LL sold a lot, it would write a check to the
25 HOA for the promised \$3,000 and the HOA would

1 Q. Let me show you Exhibit 21.70.

2 (Exhibit No. 21.70 marked for
3 identification.)

4 (Off-the-record discussion.)

5 Q. This is an e-mail from your daughter,
6 Leigh Ann Keels, to the credit card company dated
7 January 16, 2020. Do you see that?

8 A. I see it.

9 Q. And in the second e-mail also from Leigh
10 Ann to the credit card company in the second
11 paragraph, she's answering some of the inquiries
12 below. Do you see that?

13 A. Yes.

14 Q. The third line has a new sentence about
15 halfway over beginning with, the homeowners, tell
16 me when you're there, please.

17 A. I'm there.

18 Q. Leigh Ann says to the credit card
19 company, quote, the homeowners own the
20 association, end quote.

21 Did I read that correctly?

22 A. Yeah, I think so.

23 Q. Do you agree with that?

24 A. Yes.

25 Q. Sir, I'm going to show you Exhibit 30.03

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE ELEVENTH JUDICIAL CIRCUIT
COUNTY OF EDGEFIELD	)	CASE NO. 2021-CP-19-00050
	)	
ELIZABETH M. FERRARO, JAMES T.	)	BUSINESS COURT CASE,
FERRARO, EDWARD J. PRZYBYL,	)	ASSIGNED TO:
MARCELLA GLEIE, JOHN E. GLEIE, JR.,	)	
THOMAS BOWES, CONNIE BOWES, MOATAZ	)	THE HONORABLE R. LAWTON
ALASADI, VIRGINIA KIRKWOOD, BOB	)	MCINTOSH
KIRKWOOD, PAUL VICHROSKI, NYDZA	)	
VICHROSKI, JAMES MONTELLESE,	)	
ROXANN MONTELLESE, Individually,	)	NOTICE OF FILING
Derivatively, and on Behalf of all the Mount	)	
Vintage Homeowners Association Members,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
LL OF SC, LLC, RAIFORD TOPSAIL ISLAND	)	
INVESTMENTS, LLC, T R SALES	)	
PLANTATION, LLC, AND MOUNT VINTAGE	)	
PLANTATION HOMEOWNERS ASSOCIATION,	)	
INC. A/K/A MOUNT VINTAGE HOMEOWNERS	)	
ASSOCIATION, INC.,	)	
	)	
Defendants.	)	

PLEASE BE ADVISED that Plaintiffs herein give Notice of Filing of the following Exhibits submitted in support of Plaintiffs' Memorandum¹ in Opposition to Defendants' Motions² for Summary Judgment.

- EX. A - 30(b)(6) Dep. of Raiford Topsail Island (Raiford), May 5, 2022
- EX. B - Amended and Restated Covenants of Mount Vintage (Extr.), Dec. 12, 2022
- EX. C - Title to Real Estate, Edgefield SC Props, to LL of SC, LLC, July 7, 2022
- EX. D - 30(b)(6) Dep. of LL of SC (Raiford), Aug. 23, 2024

¹ Filed on August 27, 2024.

² Filed on August 16, 2024.

- EX. E - Dep. of Marcella Gleie, Mar. 22, 2023
- EX. F - Amended and Restated Declaration of Covenants, June 21, 2017
- EX. H - Dep. of Virginia Kirkwood, Mar. 6, 2023
- EX. I - Email Solicitation
- EX. J - Dep. of Patrick Bukszar, Sept. 8, 2023
- EX. K - Dep. of Duane Dotta, Jan. 20, 2023
- EX. L - Dep. of Bill Johnston, Jan. 18, 2023
- EX. M - Dep. of Elizabeth Ferraro, Mar. 7, 2023
- EX. N - Dep. of Rick Atkins, Aug. 14, 2023
- EX. O - 30(b)(6) Dep. of T R Sales (Raiford), Apr. 19, 2024
- EX. P - Dep. of Charles Fliflet, CPA, Jan. 19, 2023
- EX. Q - Dep. of J. Wayne Raiford, Feb. 7, 2023
- EX. R - Declaration of Paul Goldhorn

Respectfully submitted,

By: /s/ Anna McCann
 Justin Lucey
 Anna McCann
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August 27, 2024
 Charleston, South Carolina

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
EDGEFIELD COUNTY

DEPOSITION OF J. WAYNE RAIFORD
30(B)(6) OF RAIFORD TOPSAIL
ISLAND INVESTMENT, LLC

ELIZABETH M. FERRARO, JAMES T.
FERRARO, EDWARD J. PRZYBYL,
MARCELLA GLEIE, JOHN E. GLEIE, JR.,
THOMAS BOWES, CONNIE BOWES,
MOATAZ ALASADI, VIRGINIA KIRKWOOD,
BOB KIRKWOOD, PAUL VICHROSKI, NYDZA
VICHROSKI, JAMES MONTELLESE,
ROXANN MONTELLESE, AND JULIE
WILLIAMS, Individually, Derivatively, and on
Behalf of all the Mount Vintage Homeowners
Association Members,

Plaintiffs,

vs.

CASE NO. 2021-CP-19-00050

J. WAYNE RAIFORD, INDIVIDUALLY AND
AS PRESIDENT OF THE BOARD OF
DIRECTORS OF MOUNT VINTAGE
PLANTATION HOMEOWNERS ASSOCIATION,
INC., LL OF SC, LLC, RAIFORD TOPSAIL
ISLAND INVESTMENTS, LLC, MOUNT
VINTAGE PLANTATION HOMEOWNERS
ASSOCIATION, INC. a/k/a MOUNT VINTAGE
HOMEOWNERS ASSOCIATION, INC., GREGG
KARLBERG, JERRY SCHAEFER, LEIGH ANN
KEELS, and JOHN DOE,

Defendants.

EXHIBIT

A

DEPONENT: J. WAYNE RAIFORD
DATE: MAY 5, 2022
TIME: 10:00 A.M.
LOCATION: HAWK LAW FIRM
AIKEN, SOUTH CAROLINA

1 everything was deteriorated. Didn't have the
2 money to run the golf course or anything.

3 Q. You lent 2.5 million in I think what
4 some people would call the middle of the Great
5 Recession.

6 Am I correct on that?

7 A. You're correct.

8 Q. And did you ascertain what effect the
9 recession had had on this proposed collateral
10 before you lent on it?

11 A. No.

12 Q. You just -- you just -- you did not
13 consult with any appraiser or any --

14 A. I did not.

15 Q. -- Realtors? You just made your own
16 decision that it was worthwhile?

17 A. I always have.

18 Q. And is it your testimony that the lot
19 value changed in there between the middle of the
20 Great Recession in 2009 and when you foreclosed
21 on the 183 lots in 2013?

22 A. I don't think it changed. It was still
23 down to the bottom. It was still low.

24 Q. It just hadn't come back?

25 A. It had not.

EXHIBIT**B**

Instrument Book Volume Page
 2022-5065 OR 2014 173

2022-5065
 Filed for Record in
 Edgefield County, SC
 Charles L. Reel, Clerk of Court
 12/12/2022 09:35:33 AM
 REST OF COV \$25.00

By: Of: Vol: 2022-5065 Page: 173 201

**AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS,
 CONDITIONS AND RESTRICTIONS
 OF MOUNT VINTAGE**

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ARTICLE II	ARCHITECTURAL CONTROL COMMITTEE
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ARTICLE IV	RESERVATIONS OF EASEMENTS
ARTICLE V	MEMBERSHIP IN ASSOCIATION AND VOTING RIGHTS OF ITS MEMBERS
ARTICLE VI	COVENANTS AND ASSESSMENTS IN FAVOR OF THE ASSOCIATION
ARTICLE VII	RULE MAKING
ARTICLE VIII	REMEDIES FOR VIOLATION OF THIS DECLARATION
ARTICLE IX	ADDITIONAL PROPERTY SUBJECT TO THIS DECLARATION
ARTICLE X	COMMON EASEMENTS
ARTICLE XI	SEVERABILITY CLAUSE
ARTICLE XII	EFFECTIVE PERIOD

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THIS AMENDED AND RESTATED DECLARATION OF PROTECTIVE ASSOCIATION, CONDITIONS AND RESTRICTIONS OF MOUNT VINTAGE ("Amended and Restated Declaration") is made and published this 1st day of November, 2022 by, LL of SC LLC, hereinafter referred to as "Developer" and Mount Vintage Homeowners Association, Inc. (f/k/a Mount Vintage Plantation Homeowners Association, Inc.) hereinafter referred to as "Association".

WHEREAS, Developer is the developer of a residential subdivision formally known as Mount Vintage Plantation and from herein to be referred to as Mount Vintage. Wherever in this declaration and all previous covenants it refers to Mount Vintage Plantation it shall also refer to Mount Vintage and vice versa.

WIHEREAS, the Mount Vintage Plantation Homeowners Association, Inc. has changed its name to the Mount Vintage Homeowners Association, Inc., wherever in this Amended and Restated Declaration and all previous covenants and Bylaws it refers to Mount Vintage Plantation Homeowners Association it shall also refer to Mount Vintage Homeowners Association and vice versa.

WHEREAS, Mount Vintage has been subjected to the following covenants and restrictions: Protective Covenants of Mount Vintage Plantation Estate Tracts, Phase One dated July 5, 1995 and recorded July 5, 1995 in Book 398, Page 77; Protective Covenants of Mount Vintage Plantation Section One recorded in Book 398, Page 78; Protective Covenants of Mount Vintage Section One recorded in Book 483, Page 256; Affirmation of Protective Covenants for Phase One recorded in Book 483, Page 258; Protective Covenants of Mount Vintage Plantation Lots C1, C2 and C3 of Section 1 dated July 8, 1996 and recorded July 10, 1996 in Book 518, Page 22; Declaration of Protective Covenants, Conditions and Restriction of Mount Vintage Plantation dated March 29, 2000 and recorded March 30, 2000 in Book 672, at Page 98; Protect Protective Covenants of Mount Vintage Plantation Estate Tracts, Phase Two (Lots D-1 through D-19 and Estate Lot B), dated March 29, 2000 and recorded April 6, 2000 Book 673, p. 111; Declaration of Protective Covenants, Conditions, and Restriction of Mount Vintage Plantation, Sections E & F (Pavilion Lake Section), dated November 6, 2001, and recorded November 6, 2001, Book 752 at Page 4; Declaration of Protective Covenants, Conditions and Restriction of Mount Vintage Plantation, The Retreat at Independent Hill Patio Homes dated November 6, 2001 and recorded November 6, 2001, Book 752, Page 21; Declaration of Protective Covenants, Conditions and Restrictions of Mount Vintage Plantation, Section G (Chester Downs Section) dated May 7, 2002 and recorded May 7, 2002 in Book 784 at Page 250; Amendment to Declaration of Protective Covenants, Conditions and Restrictions of Mount Vintage dated December 3, 2002 and recorded December 11, 2022 in Book 824, Page 39; Declaration of Protective Covenants, Conditions, and Restrictions of Mount Vintage Plantation, Section H (Longstreet Place Section), dated August 8, 2003, and recorded August 8, 2003 in Book 873, at Page 139; Declaration of Protective Covenants, Conditions and Restrictions of Mount Vintage Plantation Lot F-7 dated October 1, 2003 and recorded November 7, 2003 in Book 893, Page 212; Declaration of Protective Covenants, Conditions and Restrictions of Mount Vintage Plantation, Section F (The Vineyard), dated May 19, 2004 and recorded May 19, 2004 in Book 927 at Page 24; Declaration of Protective Covenants, Conditions, and Restrictions of Mount Vintage Plantation,

easement with larger dimensions is shown on said plat, the larger easement shall apply instead of the easement herein reserved. Notwithstanding ownership of applicable subdivision easements, residents shall maintain contiguous areas in a condition consistent with their own property and the overall beauty and property interests of the community.

See Addendum Two for covenant applicable to Estate Tracts, Phase Two; Addendum Three applicable to Sections A, B, and C; Addendum Seven Applicable to Section P, Lots P-7 through P-37 and P-39 through P-43 and Section O, Lots O-38 through O-51; Addendum Nine applicable to the Retreat at Independent Hill Patio Homes; Addendum Ten applicable to Pavilion Lake, Sections E and F; Addendum Eleven applicable to Shaw Estates, Section S and Addendum Twelve applicable to Section L, Lots L-1 through L-39, Section M, Lots M-24 through M-35; Section N, Lots N-1 through N- 13 and N-47 through N-86 and Section P, Lots P-1 through P-43.

- (2) Mount Vintage Golf Course, its successors, assigns, guests, invitees, employees, agents and members are granted a non-exclusive easement for the use of roads, streets, and ways in Mount Vintage for purpose of ingress and egress. This provision does not preclude the Association from imposing an impact fee for said ingress and egress at its sole discretion.

ARTICLE V MEMBERSHIP IN THE ASSOCIATION AND VOTING RIGHTS OF ITS MEMBERS

- (1) **Membership.**
All owners of a single-family residential building lot or lots in Mount Vintage shall thereby become members of the Association for so long as such ownership continues, provided, however, that no person or corporation in taking title as security for the payment of money for the performance of any obligations shall thereby so become entitled to membership unless such person or corporation shall take actual title of the property through legal or voluntary means. Ownership of property as qualification for membership is defined herein as follows: Ownership of any such lot under recorded deed, whether the owner is occupant or not, or ownership under a bond for title or contract of purchase, if the same be accompanied by an actual occupancy of the lot in question. Ownership within the meaning and intention hereof shall cease upon the sale of any such lot of another by the owner thereof. Sale of any such lot within the meaning hereof shall be effective upon the recording of any deed conveying such lot to another or the termination of occupancy of the property of the property by the owner thereof accompanied by the giving of such owner to another of a bond for title or contract of sale with respect to such lot.

The Developer shall be a member of the Association as long as it is an owner of one or more residential lots as shown on any plat of Mount Vintage or lands contiguous thereto which are reserved for future development as contemplated herein.

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Members of the Association shall consist of two classes: Class A members and Class B Members, who respectively shall have the rights, voting privileges and duties as set forth in the bylaws of the Association and as hereinafter set forth, to-wit:

(a) Class A members for the owners of the lots in Mount Vintage shall initially consist of the Developer, who shall be entitled to voting privileges, in the amount of one (1) vote for each residential lot owned by it in Mount Vintage.

(b) Class B members shall consist of all other owners of residential lots in Mount Vintage, other than the Developer. Class B members shall not have voting privileges until the Developer shall have conveyed all residential lots and tracts within Mount Vintage including, but not limited to, additional phases, sections and developments which the Developer may decide to add to the scheme of the development as contemplated under Article IX of the Amended and Restated Declaration, unless and until the Developer, at its sole and exclusive discretion, elects to transfer such rights, voting privileges and duties to Class B members of the Association at which time Class B members shall become Class A members. In the event that a Class B member shall own more than one contiguous lot upon which only one residence is constructed, such member, upon becoming a Class A member, shall be entitled to only one (1) vote and shall likewise only be subject to the imposition of dues and assessments calculated for a single lot pursuant to Article VI of this Amended and Restated Declaration provided said residence is partially physically located on each such contiguous lot. A corporation owning one or more lots in Mount Vintage, shall have one (1) vote for each lot owned, but no member, stockholder, director, employee, or officer of such corporation shall acquire any rights individually to become a member of the Association.

(2) Duties of the Association are as follows:

(a) Impose and collect such dues, assessments, fines, fees, and other charges as it may deem necessary in accordance with Article VI hereof, and to landscape and maintain the beautification of all common areas and green spaces of Mount Vintage as shown on the plats thereof. Common areas shall mean all real and personal property now and hereafter owned by the Association for the common use and enjoyment of the owners. The common areas and amenities are to be owned by the Association at a time and in the discretion of the Developer, less and except individual lots, dwellings and attached dwelling areas of the property, recreational amenities, and additional property. The designation of any land and/or improvements as common areas shall not mean or imply that the public at large acquires any easement or use or enjoyment.

In addition, the Association shall also repair and maintain all roadways, traffic circles, landscape islands, medians, sidewalks, street lighting and parking areas of said subdivision located as shown on subdivision development plats incorporated herein. The Association may, in its discretion, have the additional duty of requiring all lot owners to maintain their property in accordance with the standards set forth herein.

(b) Maintain liability insurance for the Association in such amounts as shall be determined by its Board of Directors to protect the Association against claims for

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imposition of sanctions after notice and hearing.

(b) Within thirty (30) days of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs, the Board of Directors may serve such owner with written notice of a hearing to be held by the Board of Directors in executive session. The notice shall contain:

- i. The nature of the alleged violation;
- ii. The time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice;
- iii. An invitation to attend the hearing and produce any statement, evidence and witnesses on his behalf; and
- iv. The proposed sanction to be imposed.

(c) The hearing shall be held in executive session of the Board of Directors pursuant to the notice and shall afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the hearing. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer, director or other individual who delivered such notice. The notice requirement shall be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any.

ARTICLE IX ADDITIONAL PROPERTY SUBJECT TO THIS DECLARATION

- (1) Additional contiguous real estate which the Developer may decide to add to the scheme of the development herein set forth may be subjected to and placed within the jurisdiction of the Association upon the written designation of the Developer, at the sole option of the Developer, extending the terms of this Amended and Restated Declaration to such other property, and the same shall be effective upon the filing of same for record in the Office of the Registrar of Mesne Conveyance and Clerk of Court for Edgefield County, State of South Carolina. Such supplementary declarations or agreements may contain such modifications of the terms of this Amended and Restated Declaration as may be deemed necessary or appropriate by the Developer to reflect the different character, if any, of said additional real estate. In no event, however, shall such supplementary declarations be construed so as to revoke or modify the terms hereof with respect to the property shown on the aforementioned plats of Mount Vintage.

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- (2) The Developer reserves unto itself and its successors and assigns, or heirs and assigns, as the case may be, the full and absolute right to extend the streets, roads, parking areas, utilities, storm drainage systems and water and sanitary sewer systems to such additional real estate as may be added to the scheme of the development as herein set forth.

ARTICLE X COMMON EASEMENTS

Each and every owner of a lot or lots in Mount Vintage is hereby granted a nonexclusive easement for the use of roads, streets and ways in Mount Vintage for purpose of ingress and egress, for themselves and their invitees, as the same are shown on the aforementioned plats of said subdivision.

ARTICLE XI SEVERABILITY CLAUSE

The invalidation of any one or more paragraphs or portions of this Amended and Restated Declaration and agreements by judgment or decree of court of competent jurisdiction shall in no way affect any of the other provisions, which shall remain in force and effect.

ARTICLE XII EFFECTIVE PERIOD

This Amended and Restated Declaration and agreements shall be effective immediately upon the filing of the same for record in the Office of Registrar of Mesne Conveyance and Clerk of court for Edgefield County, South Carolina; shall thereupon run with the land and be binding upon all persons or parties and their heirs, successors or assigns claiming title under or through the Developer, until December 31, 2056, and shall be continued automatically and without further notice from that time for a period of ten (10) years thereafter and for successive periods of ten (10) years each without limitation, unless by a vote of a seventy-five percent (75%) majority of the then owners of the lots in Mount Vintage following the granting of voting privileges to Class B members, it is agreed to change said Amended and Restated Declaration in whole or in part. These restrictions may be amended from time to time by a vote of the owners of seventy-five percent (75%) of the lots in Mount Vintage following the granting of voting privileges to Class B members. In the event any such written agreement of change or modification be fully executed and recorded, the original covenants, restrictions, reservations, servitudes and easements as therein modified shall continue in force for successive periods of ten (10) years each, unless and until further changed, modified or extinguished, in the manner herein provided.

So long as the Developer shall hold title to any portion of the hereinabove described property, or to any additional real estate added to the scheme of the development herein set forth in accordance with Article IX of this Amended and Restated Declaration, the Developer as well as its successors, assigns, or heirs, as the case may be, shall have, and are hereby granted, the

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exclusive right, exercisable at any time and from time to time, to amend or to grant exceptions to this Amended and Restated Declaration and to waive, repeat or vary this Amended and Restated Declaration in any one or more respects whenever in the sole and controlled opinion of the Developer, such waiver, repeal or variance shall not be materially detrimental to the general nature in development of Mount Vintage as a residential area.

(Remainder of the page left intentionally blank)

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IN WITNESS WHEREOF, Mount Vintage Homeowners Association, Inc. and the Developer have caused these presents to be executed this 18 day of November, 2022.

Signed, Sealed and Delivered
In the presence of

Witness

Chasity Marshall

MOUNT VINTAGE
HOMEOWNERS ASSOCIATION, INC.

BY: J. Wayne Raiford, Director

BY: Sharon D. Brady, Director

BY: Stephen Perun, Director

BY: Patricia L. Roberts, Director

BY: Jerome M. Kadleck, Director

Witness

J. R. Leve

LL OF SC, LLC

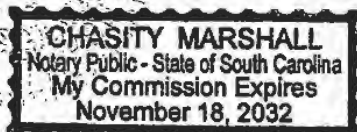
By J. Wayne Raiford, Member

STATE OF SOUTH CAROLINA)

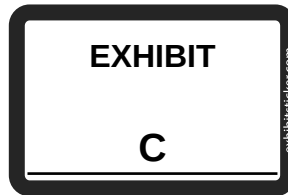
COUNTY OF EDGEFIELD)

PERSONALLY, APPEARED BEFORE ME the undersigned and made oath that he saw Mount Vintage Homeowners Association, Inc. by Sharon D. Brady, Stephen Perun, Patricia L. Roberts, Jerome M. Kadleck, and J Wayne Raiford, its Directors, and LL of SC, LLC by J. Wayne Raiford sign, seal and as its Act and Deed, deliver the within-written Amended and Restated Declaration and that he with other witness subscribing above witnessed the execution thereof.

Chasity Marshall
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: _____



Requested by: amc 8/1/2024



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2022-2973
 Filed for Record in
 Edgefield County, SC
 Charles L. Reel, Clerk of Court
 07/07/2022 09:50:10 AM
 DEED \$440.50
 State Tax \$299.00 County Tax \$126.50
 Bk OR Vol 1983 Page 197 - 200

Space above this line for recording information

STATE OF SOUTH CAROLINA	)	
	)	TITLE TO REAL ESTATE
COUNTY OF EDGEFIELD	)	

KNOW ALL MEN BY THESE PRESENTS THAT, EDGEFIELD SC PROPERTIES LLC, a South Carolina limited liability company, herein referred to as Grantor for and in consideration of the sum of ONE HUNDRED FIFTEEN THOUSAND AND 00/100 (115,000.00) Dollars paid by LL OF SC, LLC, a South Carolina limited liability company, hereinafter referred to as Grantee in the State aforesaid, the receipt of which is hereby acknowledged, ha granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the said Grantee, its successors and assigns forever:

ALL those certain pieces, parcels or tracts of land, situate, with the improvements thereon, situate, lying and being in the County of Edgefield, State of South Carolina, being shown and designated as Lot M-25, Lot M-34 and Lot N-77 on that certain plat prepared for Mount Vintage Plantation by Newby-Proctor & Associates, and recorded in the Office of the Clerk of Court for Edgefield County as Judgment Roll Number 38149, which plat is incorporated by reference. Reference is made to said plat for a more complete and accurate description as to the metes, bounds, and exact location of said property.

This being a portion of the property conveyed unto Edgefield SC Properties, LLC by deed of Special Referee's Deed on behalf of MV Development Company, LLC dated November 9, 2021 and recorded November 24, 2021 in Record Book 1929 at Page 80, records of Edgefield County, South Carolina.

Tax Parcel Numbers: 099-01-02-025-000; 09901-02-034-000; 099-01-03-077-000

Grantee's Address: 235 Mt Vintage Plantation Drive
 North Augusta, SC 29860

ELECTRONICALLY FILED - 2024 Aug 27 4:20 PM - EDGEFIELD - COMMON PLEAS - CASE#2021CPI1900050

Requested by: amc 8/1/2024

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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, its successors and assigns forever.

AND THE GRANTOR does hereby bind Grantor's successors, executors and administrators, to warrant and forever defend all and singular the said premises unto the said Grantee, its successors and assigns, against Grantor and Grantor's successors and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS my Hand and Seal this 23 day of June, in the year of our Lord 2022.

Signed, Sealed and Delivered
in the Presence of:

[Signature]

Witness #1 Signs Here

Edgefield SC Properties LLC

By Edgefield Holdings, LLC, Sole Member

BY: [Signature] (LS)
Dan Gower, Vice President

[Signature]

Witness #2 or Notary Signs Here

STATE OF Georgia
COUNTY OF Fulton

I, the undersigned notary, do hereby certify that Edgefield SC Properties LLC by Edgefield Holdings, LLC, Sole Member by Dan Gower, Vice President personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 23 day of June, 2022

[Signature]
Notary Public for the State of Georgia
My Commission Expires: June 23, 2023



Requested by: amc 8/1/2024

STATE OF SOUTH CAROLINA)
COUNTY OF EDGEFIELD)Instrument Book Volume Page
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AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

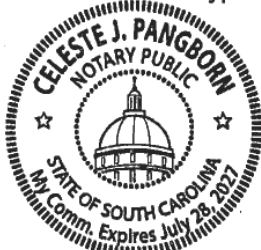
1. I have read the information on this affidavit and I understand such information.
2. The property being transferred is known as Lots M-25, M-34 and N-77 Mt Vintage, in Edgefield County, bearing County Tax Map Number 099-01-02-025-000 ET AL. which was transferred by Edgefield SC Properties LLC to LL of SC, LLC on June 17, 2022
3. Check one of the following: The deed is
 - (a) X 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 a distribution to a trust beneficiary.
 - (c) _____ exempt from the deed recording fee because (See Information section of affidavit):
(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)
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) X The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$ 115,000.00
 - (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 X to the following: A lien or encumbrance 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:	\$115,000.00
(b) Place the amount listed in item 5 above here:	\$
(c) (If no amount is listed, place zero here.)	\$0
(c) Subtract Line 6(b) from Line 6(a) and place result here:	\$115,000.00
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$ 425.50
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: 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 the Transaction

SWORN to before me this 28
day of June, 2022Notary Public for
My Commission Expires: 7-28-27

Print or Type Name Here: Mary O. Guynn



Deed Consideration Affidavit

Requested by: amc 8/1/2024

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INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

- (1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
- (2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
- (3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
- (4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
- (6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
- (7) that constitute a contract for the sale of timber to be cut;
- (8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, except for transfers from one family trust to another family trust without consideration, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
- (9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust, in which the beneficiaries are all members of the same family. "Family" means the grantor, the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of them, and the grantor's and grantor's spouse's heirs under a statute of descent and distribution. A "family partnership" or "family trust" also includes charitable entities, other family partnerships and family trusts of the grantor, and charitable remainder and charitable lead trusts, if all the beneficiaries are charitable entities or members of the grantor's family. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
- (11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and,
- (12) that constitute a corrective deed or a quitclaim used to confirm title vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed.
- (13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagee or deed pursuant to foreclosure proceedings.
- (14) transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.
- (15) transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act.

Deed Consideration Affidavit

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
EDGEFIELD COUNTY

****ROUGH DRAFT*****

DEPOSITION OF WAYNE RAIFORD,
as 30(b)(6) representative of
LL OF SC, LLC

ELIZABETH M. FERRARO, JAMES T. FERRARO, EDWARD J.
PRZYBYL, MARCELLA GLEIE, JOHN E. GLEIE, JR.,
THOMAS BOWES, CONNIE BOWES, MOATAZ ALASADI,
VIRGINIA KIRKWOOD, BOB KIRKWOOD, PAUL VICHROSKI,
NYDZA VICHROSKI, JAMES MONTELLESE,
ROXANN MONTELLESE, AND JULIE WILLIAMS,
Individually, Derivatively, and on
Behalf of all the Mount Vintage Homeowners
Association Members,

Plaintiffs,

vs.

CASE NO. 2021-CP-19-00050

J. WAYNE RAIFORD, INDIVIDUALLY AND AS PRESIDENT
OF THE BOARD OF DIRECTORS OF MOUNT VINTAGE
PLANTATION HOMEOWNERS ASSOCIATION, INC.,
LL OF SC, LLC, RAIFORD TOPSAIL ISLAND
INVESTMENTS, LLC, MOUNT VINTAGE PLANTATION
HOMEOWNERS ASSOCIATION, INC. a/k/a MOUNT VINTAGE
HOMEOWNERS ASSOCIATION, INC., GREGG KARLBERG,
JERRY SCHAEFER, LEIGH ANN KEELS, and JOHN DOE,

Defendants.

DEPONENT: WAYNE RAIFORD
DATE: AUGUST 23, 2024
TIME: 12:31 P.M.
LOCATION: AIKEN AIRPORT
AIKEN, SOUTH CAROLINA
REPORTED BY: HANNAH MOORE
CLARK BOLEN
CHARLESTON, SC 29415
843-762-6294
WWW.CLARKBOLEN.COM
Office@ClarkBolen.com

1 A. I gave you the ones that I've talked to
2 already.

3 Q. What contact, if any, have you had with
4 either Cedar Creek or Cedar Meadows within the
5 last 12 months?

6 A. None.

7 Q. Did you quote Blackston the same numbers
8 that you quoted to Charlotte and Columbia?

9 A. I did.

10 Q. And what information did you provide
11 Blackston besides those two numbers?

12 A. Basically that's it because he knows all
13 about Mount Vintage.

14 Q. Did you provide him with an inventory
15 list of lots?

16 A. Yes.

17 Q. Did you provide him with any information
18 regarding the golf course?

19 A. No.

20 Q. Did you have more than one meeting with
21 Mr. Blackston?

22 A. Two.

23 Q. And what happened at the second meeting?

24 A. Same thing.

25 Q. And why did his interest dissipate or

1 not come any further forward?

2 A. He wanted to do some 1031 exchanges.

3 Q. And you weren't interested in that?

4 A. I looked at them. I just -- in fact, I
5 just looked at them yesterday.

6 Q. So that's still an open discussion?

7 A. Yes.

8 Q. And what does he want 1031 for Mount
9 Vintage?

10 A. Do what?

11 Q. What property does he want to 1031 for
12 Mount Vintage?

13 A. The property on Currytown Road. It's
14 about 271 acres.

15 Q. And where is that from Mount Vintage,
16 please?

17 A. It's about three miles down towards
18 North Augusta on the right-hand side.

19 Q. What is your perception of the value of
20 that 270 acres?

21 A. It's a big field and I really don't want
22 it.

23 Q. And did you and him discuss that he
24 would have to pay cash for the golf course?

25 A. No, but he knows that's what I'd want.

1 Q. Well, did he ask you to indemnify for
2 the results of the lawsuit?

3 A. No.

4 Q. What is it that you-all discussed about
5 it, if anything?

6 A. We didn't.

7 Q. How about with the group from Charlotte
8 or the group from Columbia?

9 A. I didn't discuss it with them at all.

10 Q. When do you intend to turn over the
11 control of Mount Vintage to the homeowners?

12 A. When it's sold out the percentage I have
13 to have sold out. I can't remember what it is.
14 95 or 98.

15 Q. And when do you anticipate that
16 occurring?

17 A. I don't.

18 Q. Not during your lifetime?

19 A. Probably not. With the interest rates
20 like they are, nothing sells.

21 Q. What discussions have you had with
22 anybody regarding applying the plaintiffs'
23 litigation recovery net escrow of \$1.6 million to
24 the pay down of the Apex loan?

25 A. What have I had what to do with it?

EXHIBIT

E

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In the Matter Of:

FERRARO V. RAIFORD ET AL

2021-CP-19-00050

MARCELLA GLEIE

March 22, 2023



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ROA_00807

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
EDGEFIELD COUNTY

DEPOSITION OF MARCELLA GLEIE

ELIZABETH M. FERRARO, JAMES T.
FERRARO, EDWARD J. PRZYBYL,
MARCELLA GLEIE, JOHN E. GLEIE, JR.,
THOMAS BOWES, CONNIE BOWES,
MOATAZ ALASADI, VIRGINIA KIRKWOOD,
BOB KIRKWOOD, PAUL VICHROSKI, NYDZA
VICHROSKI, JAMES MONTELLESE,
ROXANN MONTELLESE, AND JULIE
WILLIAMS, Individually, Derivatively, and on
behalf of all the Mount Vintage Homeowners
Association Members,

Plaintiffs,

vs. CASE NO. 2021-CP-19-00050

J. WAYNE RAIFORD, INDIVIDUALLY AND
AS PRESIDENT OF THE BOARD OF
DIRECTORS OF MOUNT VINTAGE
PLANTATION HOMEOWNERS ASSOCIATION,
INC., LL OF SC, LLC, RAIFORD TOPSAIL
ISLAND INVESTMENTS, LLC, MOUNT
VINTAGE PLANTATION HOMEOWNERS
ASSOCIATION, INC. a/k/a MOUNT VINTAGE
HOMEOWNERS ASSOCIATION, INC., GREGG
KARLBERG, JERRY SCHAEFER, LEIGH ANN
KEELS, and JOHN DOE,

Defendants.

1 DEPONENT: MARCELLA GLEIE
2 DATE: March 22, 2023
3 TIME: 10:02 a.m.
4 LOCATION: Holiday Inn Express
5 North Augusta, SC 29860
6
7 REPORTED BY: PAULA MAXWELL
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1 control, and asked all of our questions, and we
2 understood the organization.

3 Q. When you were at Ford's Colony and it
4 was under developer control, were there any
5 issues that you-all had up there with respect to
6 the developer?

7 A. No.

8 Q. That didn't have any impact on you-all
9 moving?

10 A. No.

11 Q. All right. You mentioned Jeff Wright.
12 Who is Jeff Wright?

13 A. He was the sales rep for MV Development,
14 our first sales rep.

15 Q. And you guys are asking questions to
16 Jeff; is that right?

17 A. Yes.

18 Q. What questions did you ask Jeff
19 regarding the HOA and the developer?

20 A. Well, we asked for financials. We asked
21 who owned -- one of our very important questions
22 was who owned the golf course. In fact, we asked
23 that by telephone before we ever came to visit
24 Mount Vintage, Woodside, or Cedar Creek because
25 we did not want to be in a community where the

1 HOA owned the golf club or if the golf club was
2 an equity club.

3 And we did talk about security. It was
4 important to us. We came from a gated community.
5 We asked if it was gated. He said, no, that we
6 had 24-hour roving security. Bettis, I remember
7 in one of my conversations with him, said that
8 the plan would be, when Mount Vintage was built
9 out, it would be up to the community. If the
10 community decides to gate the community or
11 continue with roving security, that would be a
12 future decision of the residents.

13 And then general nature of the
14 relationship with the -- we asked about the barn
15 and the Town Center and the golf club, and we
16 talked about -- a lot about the golf club and
17 membership and costs and...

18 Q. Did you-all join the golf club?

19 A. Yes. We did from -- in 2007 when we
20 bought the property, we joined the club.

21 Q. All right.

22 A. In fact, we took full athletic at the
23 time it was offered, which gave us also the Town
24 Center --

25 Q. Okay.

1 A. Right. I didn't know who, but I knew
2 there was a foreclosure in process.

3 Q. Okay. And when you -- are you talking
4 about foreclosure of the lots that K & H
5 Development owned?

6 A. Yes.

7 Q. Do you know how many lots they owned at
8 that time?

9 A. I didn't at that time.

10 Q. Okay. You've learned it through this
11 litigation?

12 A. No. I learned it prior to the
13 litigation.

14 Q. When did you learn it?

15 A. 2019.

16 Q. All right. And how did you learn it
17 then?

18 A. A group of us retained an attorney.

19 Q. Who did you retain?

20 A. John Donsbach, from Donsbach Law
21 Associates in Augusta.

22 Q. That was at the beginning of 2019?

23 A. Yes, February 2019.

24 Q. When did you first get together with a
25 group of residents?

1 A. Around -- it was January -- it was
2 actually -- yeah, it was January when we were
3 upset about the 275 assessment to Golf Gem, the
4 special assessment.

5 Q. Yeah. All right. I know I've spoken
6 with others about this, but what is your memory
7 of what people were involved in retaining this
8 log?

9 A. There were 22 of us.

10 Q. And do you remember who?

11 A. I do. I remember most of them. Those
12 who still live here, the Kirkwoods, Gabriels,
13 Champaigns, Conleys, Rita Brinkman as an
14 individual. I'm trying to think. How many did I
15 name? Gleies. 9, so that's 10, so that's 20 --

16 Q. That's 11.

17 A. 11. So we were 22.

18 Q. Okay.

19 A. So that's about right, right?

20 Q. Well, I was doubling up on the couples.

21 A. Well, that's what I was doing.

22 Q. Kirkwoods, Gabriels, Champaigns, that's
23 six. Conleys would be eight.

24 A. Reynolds. Odums.

25 Q. Okay.

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
OF MOUNT VINTAGE

TABLE OF CONTENTS

ARTICLE I – RESIDENTIAL USE, BUILDINGS AND LOCATION OF STRUCTURES

ARTICLE II – ARCHITECTURAL CONTROL COMMITTEE

ARTICLE III – LAND RESTRICTIONS

ARTICLE IV – RESERVATIONS OF EASEMENTS

ARTICLE V – MEMBERSHIP IN ASSOCIATIONS AND VOTING RIGHTS OF ITS
MEMEBERS

ARTICLE VI – COVENANTS & ASSESSMENTS IN FAVOR OF THE ASSOCIATION

ARTICLE VII – RULE MAKING

ARTICLE VIII – REMEDIES FOR VIOLATION OF THESE DECLARATIONS

ARTICLE IX – ADDITIONAL PROPERTY SUBJECT TO THESE DECLARATIONS

ARTICLE X – COMMON EASEMENTS

ARTICLE XI – SEVERABILITY CLAUSE

ARTICLE XII – EFFECTIVE PERIOD

EXHIBIT

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Paragraph 3 of Article I hereof, such side easement shall apply to the side lot lines of the lots as re-divided in lieu of the side lot line of the lots as shown on the original plat referred to above, unless the installation of utilities and drainage facilities shall have been substantially completed, in which event the easement originally reserved shall apply. Where an easement with larger dimensions is shown on said plat, the larger easement shall apply instead of the easement herein reserved. Notwithstanding ownership of applicable subdivision easements, residents shall maintain contiguous areas in a condition consistent with their own property and the overall beauty and property interests of the community.

See Addendum Two for covenant applicable to Estate Tracts, Phase Two; Addendum Three applicable to Sections A, B, and C; Addendum Four applicable to Section A; Addendum Five applicable to Section C; Addendum Six applicable to Chester Downs; Addendum Seven Applicable to Section M, Lots M-1 through M-23 and M-36 through M-58 and Section O, Lots O-38 through O-51; Addendum Nine applicable to the Retreat at Independent Hill Patio Homes; Addendum Ten applicable to Pavilion Lake, Sections E and F; Addendum Eleven applicable to Shaw Estates, Section S and Addendum Twelve applicable to Section L, Lots L-1 through L-39, Section M, Lots M-24 through M-35; Section N, Lots N-1 through N-13 and N-47 through N-86 and Section P, Lots P-1 through P-43.

- (2) Golf Gem MV LLC d/b/a Mount Vintage Golf Course, its successors, assigns, guests, invitees, employees, agents and members are granted a non-exclusive easement for the use of roads, streets, and ways in Mount Vintage for purpose of ingress and egress. This provision does not preclude the Association imposing an impact fee for said ingress and egress at its sole discretion.

ARTICLE V MEMBERSHIP IN THE ASSOCIATION AND VOTING RIGHTS OF ITS MEMBERS

(1) Membership.

All owners of a single-family residential building lot or lots in Mount Vintage shall thereby become members of the Association for so long as such ownership continues, provided, however, that no person or corporation in taking title as security for the payment of money for the performance of any obligations shall thereby so become entitled to membership unless such person or corporation shall take actual title of the property through legal or voluntary means. Ownership of property as qualification for membership is defined herein as follows: Ownership of any such lot under recorded deed, whether the owner is occupant or not, or ownership under a bond for title or contract of purchase, if the same be accompanied by an actual occupancy of the lot in question. Ownership within the meaning and intention hereof shall cease upon the sale of any such lot of another by the owner thereof. Sale of any such lot within the meaning hereof shall be effective upon the recording of any deed conveying such lot to another or the termination of occupancy of the property of the property by the

owner thereof accompanied by the giving of such owner to another of a bond for title or contract of sale with respect to such lot.

The Developer shall be a member of the Association so long as it is an owner of one or more residential lots as shown on the aforesaid plat or lands contiguous thereto which are reserved for future development as contemplated herein.

Members of the Association shall consist of two classes: Class A members and Class B Members, who respectively shall have the rights, voting privileges and duties as set forth in the bylaws of the Association and as hereinafter set forth, to-wit:

(a) Class A members for the owners of the lots in Mount Vintage shall initially consist of the Developer, who shall be entitled to voting privileges, in the amount of one (1) vote for each residential lot owned by it in Mount Vintage.

(b) Class B members shall consist of all other owners of residential lots in Mount Vintage, other than the Developer. Class B members shall not have voting privileges until the Developer shall have conveyed all residential lots and tracts within Mount Vintage including, but not limited to, additional phases, sections and developments which the Developer may decide to add to the scheme of the development as contemplated under Article IX of this Declaration of Protective Covenants, Conditions and Restrictions of Mount Vintage, unless and until the Developer, at its sole and exclusive discretion, elects to transfer such rights, voting privileges and duties to Class B members of the Association at which time Class B members shall become Class A members. In the event that a Class B member shall own more than one contiguous lot upon which only one residence is constructed, such member, upon becoming a Class A member, shall be entitled to only one (1) vote and shall likewise only be subject to the imposition of dues and assessments calculated for a single lot pursuant to Article VI of these Declarations provided said residence is partially physically located on each such contiguous lot. A corporation owning one or more lots in Mount Vintage shall have one (1) vote for each such lot owned, but no member, stockholder, director, employee or officer of such corporation shall acquire any rights individually to become a member of the Association.

(2) Duties of the Association are as follows:

(a) Impose and collect such dues, assessments, fines, fees, and other charges as it may deem necessary in accordance with Article VI hereof, and to landscape and maintain the beautification of all common areas and green spaces of Mount Vintage as shown on the plats thereof. Common areas shall mean all real and personal property now and hereafter owned by the Association for the common use and enjoyment of the Owners. The Common Areas and amenities are to be owned by the Association at a time and in the discretion of the Developer, less and except individual lots, dwellings and attached dwelling areas of the property, recreational amenities and additional property. The designation of any land and/or improvements as Common Areas shall not mean or imply that the public at large acquires any easement or use or enjoyment.

In addition, the Association shall also repair and maintain all roadways, traffic circles, landscape islands, medians, sidewalks, street lighting and parking areas of said subdivision located as shown on subdivision development plats incorporated herein. The Association may, in its discretion, have the additional duty of requiring all lot owners to maintain their property in accordance with the standards set forth herein.

- (b) Maintain liability insurance for the Association in such amounts as shall be determined by its Board of Directors to protect the Association against claims for which the Board of Directors determine should be covered, including, without limitation, insurance for the officers and directors in connection with their management of the Association.
- (c) Purchase, own, maintain, repair, operate and finance the Athletic Club, Town Center, Mount Vintage Golf Course and any additional amenities, common areas or other properties which the Association deems to be for the overall good of Mount Vintage, the Association and its members.

ARTICLE VI

COVENANTS & ASSISMENTS IN FAVOR OF THE ASSOCIATION

(1) Imposition of Assessment

Each member of the Association, as defined in Article V of these Declarations, obligates himself, or itself, and by the ownership of a residential lot in Mount Vintage shall be deemed to covenant and agree to pay the Association when due the annual or special assessment for any fees, dues, fines, or assessments established hereby or by its Board of Directors from time to time hereinafter provided. In no event shall ownership by the Developer of any residential lot in Mount Vintage, including any additional area or areas added in the future, pursuant to Article IX herein, be construed as imposing upon the Developer the duty or obligation of paying any dues, assessments or other charges to the Association for such lots or areas.

Each residential building lot on the aforementioned plat of Mount Vintage shall be made subject to a continuing lien to secure the payment for all fines, dues, fees, annual or and special assessment charges when due.

(2) Amount and Payment of Fees, Fines, Annual Dues and Special Assessments

Annual dues or special assessments, fees and fines shall be in amounts to be determined annually and from time to time by the Board of Directors of the Association pursuant to the provision of Bylaw Seven of the Bylaws of Mount Vintage Homeowners Association, Inc., provided, however, that the amount of such annual dues or special assessments shall be the same within each of the two categories of members (homeowners and lot owners) but may differ for homeowners and lot owners. The amount of annual dues as determined by the Board of Directors will be announced to the members of the Association on or before January 1 of each year. The initial payment of annual dues shall be pro-rated at the closing of any lot or property. Special assessments, fees and fines imposed in accordance

IN WITNESS WHEREOF, Mount Vintage Homeowners Association, Inc. and the
Developer have caused these presents to be executed this 21 day of
June, 2017.

Signed, Sealed and Delivered)
In the Presence of)

MOUNT VINTAGE HOMEOWNERS
ASSOCIATION, INC.

JE Niff
Witness

By:

[Signature]

By:

[Signature]

By:

[Signature]

LL of SC LLC (Developer)

By:

[Signature]

STATE OF SOUTH CAROLINA

COUNTY OF EDGEFIELD

PERSONALLY APPEARED BEFORE ME the undersigned and made oath that he saw
Mount Vintage Plantation Homeowners Association, Inc. by _____,
_____, and _____ its Directors, and LL of SC, LLC
by _____ sign, seal and as its Act and Deed, deliver the within-written
Covenants and that he with the other witness subscribing above witnessed the execution thereof.

SWORN TO BEFORE ME THIS
____ DAY OF _____, 2017

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

ADDENDUM ONE, Applicable to the Estate Tracts, Phase One and Phase Two

Article I, Residential Use, Buildings and Location of Structures

EXHIBIT

H

In the Matter Of:

ELIZABETH M. FERRARO vs J. WAYNE RAIFORD

2021-CP-19-00050

VIRGINIA KIRKWOOD

March 06, 2023



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IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
EDGEFIELD COUNTY

DEPOSITION OF VIRGINIA KIRKWOOD

ELIZABETH M. FERRARO, JAMES T.
FERRARO, EDWARD J. PRZYBYL,
MARCELLA GLEIE, JOHN E. GLEIE, JR.,
THOMAS BOWES, CONNIE BOWES,
MOATAZ ALASADI, VIRGINIA KIRKWOOD,
BOB KIRKWOOD, PAUL VICHROSKI, NYDZA
VICHROSKI, JAMES MONTELLESE,
ROXANN MONTELLESE, AND JULIE
WILLIAMS, Individually, Derivatively, and on
Behalf of all the Mount Vintage Homeowners
Association Members,

Plaintiffs,

Case No. 2021-CP-19-00050

vs.

J. WAYNE RAIFORD, INDIVIDUALLY AND
AS PRESIDENT OF THE BOARD OF
DIRECTORS OF MOUNT VINTAGE
PLANTATION HOMEOWNERS ASSOCIATION,
INC., LL OF SC, LLC, RAIFORD TOPSAIL
ISLAND INVESTMENTS, LLC, MOUNT
VINTAGE PLANTATION HOMEOWNERS
ASSOCIATION, INC. a/k/a MOUNT VINTAGE
HOMEOWNERS ASSOCIATION, INC., GREGG
KARLBERG, JERRY SCHAEFER, LEIGH ANN
KEELS, and JOHN DOE,

Defendants.

1 DEPONENT: VIRGINIA KIRKWOOD
2 DATE: March 6, 2023
3 TIME: 10:03 a.m.
4 LOCATION: Holiday Inn Express
North Augusta, SC
5
6 REPORTED BY: JESSICA BOLANOS
CLARK BOLEN
PO Box 12189
7 Charleston, SC 29405
8 843-762-6294
WWW.CLARKBOLEN.COM
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1 anything like that?

2 A. No. He -- my husband's usually very
3 quiet. He takes notes when he goes to those
4 meetings, and we typically don't discuss it.

5 Q. All right. Did you have any
6 understanding about how Mr. Raiford came to be
7 the developer?

8 A. I learned later, yes.

9 Q. Okay. When did you learn later?

10 A. In 2019.

11 Q. All right. And I'm going to go ahead
12 and ask, what happened in -- well, strike that.

13 In learning about how he became the
14 developer, is that also when you learned about LL
15 of SC being the developer?

16 A. Yes.

17 Q. And what came to pass that caused you to
18 understand that?

19 A. When we were told we were going to have
20 to pay the \$275 assessment to help Golf Gem.
21 That did not sit well with me because we were
22 told we would never have to give any money to
23 Golf Gem, and suddenly we did. There were a
24 number of neighbors who were also upset about
25 that. So we did contact an attorney to see if we

1 really had to pay it. He reviewed all of the
2 covenants and bylaws and did some additional
3 research, and he is the one who told us about LL
4 of SC.

5 Q. Who was that attorney?

6 A. His name is John Donsbach.

7 Q. I'm sorry? I couldn't hear.

8 A. John Donsbach.

9 Q. Donsbach. Okay. What caused -- well,
10 sorry. Strike that.

11 How did you find that there were other
12 people that opposed that special assessment that
13 you referenced?

14 A. Just neighbors, friends that you talked
15 to because we were all shocked that suddenly we
16 were going to have to pay that.

17 Q. And that was in January of 2019; is that
18 right?

19 A. Probably, yes, because I believe they
20 discussed it at the annual meeting. So that
21 would have usually been in January.

22 Q. Did you have any emails with other
23 neighbors who felt that way at that time?

24 A. Might have.

25 Q. You don't recall one way or the other?

1 Q. But you've never had a conversation with
2 Mr. Raiford?

3 A. The only time I've been with Mr. Raiford
4 was when the board met with the Town Center
5 management committee, and he did not speak
6 specifically to me, no.

7 Q. And you never had an occasion to ask him
8 just in conversation about what his intentions
9 are with Mount Vintage?

10 A. No. I've never met Mr. Raiford other
11 than that one meeting.

12 Q. What other complaints do you have about
13 Mount Vintage that you attribute to the
14 developer's actions or failures to act?

15 MS. McCANN: Object to the form.

16 A. I feel my property values have declined.
17 Originally they declined because everybody's
18 property values were declining, but the developer
19 let the amenities fall into bankruptcy.
20 Mount Vintage became known as this place that was
21 in bankruptcy. People were not coming out to
22 look at homes, weren't interested in buying
23 homes. Our values plummeted. So I believe his
24 lack of action as a developer had an impact on
25 our values not coming back after all this time.

EXHIBIT

I

From: Anna McCann
To: Anna McCann
Date: Tuesday, August 27, 2024 2:12:00 PM

From: Daniel Binz <binzda@gmail.com>
Date: August 13, 2020 at 10:59:33 AM EDT
To: "debleoco@comcast.net" <debleoco@comcast.net>, "sandydykes@yahoo.com" <sandydykes@yahoo.com>, "Falcone, Alma" <almafalcone@comcast.net>, Dan <dan.falcone@comcast.net>, "boogs4j@gmail.com" <boogs4j@gmail.com>, "ellafreeman51@gmail.com" <ellafreeman51@gmail.com>, "dansyl@comcast.net" <dansyl@comcast.net>, "mgsylvan@comcast.net" <mgsylvan@comcast.net>, "heffleyjohn@hotmail.com" <heffleyjohn@hotmail.com>, "ssheffley@gmail.com" <ssheffley@gmail.com>, Buddy Hodges <hghodges310@comcast.net>, "erh5344@yahoo.com" <erh5344@yahoo.com>, "eh2p1010@yahoo.com" <eh2p1010@yahoo.com>, Linda Jones <lindaj295077@gmail.com>, "richard.joyner416@comcast.net" <richard.joyner416@comcast.net>, "h.klein25@comcast.net" <h.klein25@comcast.net>, "dkoon93@gmail.com" <dkoon93@gmail.com>, "reneekoon4@gmail.com" <reneekoon4@gmail.com>, Lapp Dave <toledolaps@msn.com>, "shirls873@hotmail.com" <shirls873@hotmail.com>, Bruce Latham <kblatham@yahoo.com>, "Latham, Kathy" <kathylatham@yahoo.com>, "afm13@aol.com" <afm13@aol.com>, "o_navedo@hotmail.com" <o_navedo@hotmail.com>, "odemarisnavedo@hotmail.com" <odemarisnavedo@hotmail.com>, "georgiaouellette@icloud.com" <georgiaouellette@icloud.com>, "andrew_pride@comcast.net" <andrew_pride@comcast.net>, "theproctors2019@gmail.com" <theproctors2019@gmail.com>, Stuckey Tom <tstuckey@outtech-online.com>, Joe Ward <vintageward@gmail.com>, Judy Ward <vintagejudy@gmail.com>, "cwfox517@gmail.com" <cwfox517@gmail.com>, John Wehner <jwehner50@gmail.com>, "thomas.williams01@comcast.net" <thomas.williams01@comcast.net>, "brittany_williams25@icloud.com" <brittany_williams25@icloud.com>, "rallgoodjr1@gmail.com" <rallgoodjr1@gmail.com>, "deborah.arnold@outlook.com" <deborah.arnold@outlook.com>, "michael.arnold@outlook.com" <michael.arnold@outlook.com>, Bailey Jerry <jeraldbailey@mac.com>, Dan Berghtholdt <trshhlr77@gmail.com>, "Berghtholdt, dan" <mberghtholdt@gmail.com>, "dennis.blevins@fplfood.com" <dennis.blevins@fplfood.com>, Walt Brill <wrbrill@comcast.net>, Sheri Bulger <bulgersheri@msn.com>, Byrd Jimmy <obyrd2@comcast.net>, "lwbyrd@yahoo.com" <lwbyrd@yahoo.com>, "dalicampbell@aol.com" <dalicampbell@aol.com>, Helen Campbell <hcampbell22@comcast.net>, Web Curl <curlw@comcast.net>, "curld@comcast.net" <curld@comcast.net>, "coavosu@aol.com" <coavosu@aol.com>, Scott Davies <scotthd Davies@aol.com>, "j_derrick@live.com" <j_derrick@live.com>, "vintagesmitty@comcast.net" <vintagesmitty@comcast.net>, Ed Gall <eddiegall@aol.com>, "drggglass@gmail.com" <drggglass@gmail.com>, "dick.glass@comcast.net" <dick.glass@comcast.net>, "jlhmd@me.com" <jlhmd@me.com>, "tlharmel@yahoo.com" <tlharmel@yahoo.com>, steve harris <patty39180@comcast.net>, "crhoward01@gmail.com" <crhoward01@gmail.com>, pam johnsons <pamj52@yahoo.com>, Phillip Johnson <pjohnson@johnsonwebbert.com>, "jclang@rcn.com" <jclang@rcn.com>, "sclang@rcn.com" <sclang@rcn.com>, "evelyn@meadowsmedia.com" <evelyn@meadowsmedia.com>, "meadowsmedia1@gmail.com" <meadowsmedia1@gmail.com>, "nidiffer, tom" <ten210@aol.com>, "xoxmrsn@aol.com" <xoxmrsn@aol.com>, Norris Jim <j.norris64@comcast.net>, "reneebeaty2000@aol.com" <reneebeaty2000@aol.com>, Stephen Perun <sgperun@gmail.com>, "sheilapear@gmail.com" <sheilapear@gmail.com>, Peterson Ron <l.peterson25@comcast.net>, "lil.peterson@comcast.net" <lil.peterson@comcast.net>, "goodoldboy1@comcast.net" <goodoldboy1@comcast.net>, "zuzudorantez@hotmail.com" <zuzudorantez@hotmail.com>, "vichroski@aol.com" <vichroski@aol.com>, "snowracer@aol.com" <snowracer@aol.com>, "hdweikal@me.com" <hdweikal@me.com>, "drjuliemdAMC@gmail.com" <drjuliemdAMC@gmail.com>, "beccamichele@yahoo.com" <beccamichele@yahoo.com>, "cwbbilly@aol.com" <cwbbilly@aol.com>, DARIN BAYNHAM <darin.baynham1@comcast.net>, "lbbidinger@outlook.com" <lbbidinger@outlook.com>, "paul.biddinger@comcast.net" <paul.biddinger@comcast.net>, David Bingham <dbing.ky@gmail.com>, "2jodiebingham@gmail.com" <2jodiebingham@gmail.com>, "jimmybranch60@gmail.com"

ELECTRONICALLY FILED - 2024 Aug 27 4:20 PM - EDGEFIELD - COMMON PLEAS - CASE#2021CP1900050

ROA_00825

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Subject: HOA lawsuit information

August 13, 2020

As the HOA note Tuesday stated, a few HOA members have filed a lawsuit against the HOA and some individuals. Bob Porter, Mike Bone and I, (Dan Binz) have been residents here in MV and active on many committees and boards over the last 10+years. We have lived through both up and down periods, as well as many legal and financial transactions over the years. As the Covid-19 pandemic has proven again, life is not perfect!

However, in our humble opinions, we finally have positive activities in the community on many levels after the depression type situation of 2008 – 2014:

1. 30 homes sold in the last year, 9 or more new homes currently under construction and residents with improved property values.
2. A well maintained golf course that is getting a lot of play and positive comments; there are 39 new golf members this year.
3. The town center amenity has recently redone the tennis and bocce courts.

We have reviewed the lawsuit filed in Aiken county (attached below), and are concerned about a clear purpose and goal, and very upset that the filing implies that it should be considered a class action lawsuit. We, as well and many others have indicated that we do not support such an action and see no point in another legal exercise which could interrupt the recent progress of the community.

A hearing before a judge to determine whether or not this is or is not a class action is one of the next steps. We are gathering signatures on a petition to share with the appointed judge, saying simply that as residents we do not support the lawsuit or it being a class action representing our interests.

If you share our concerns and wish to add your name to the list, Bob, Mike and I are going to be available from 1-4pm, Monday and Tuesday, August 17 & 18, then 2-4pm on Wednesday and Thursday, August 18-19 20th in the Shaw Room(next to the pro shop at the golf course) to have you stop by and sign the petition. We will try and answer any questions you have and we would like for both owners to sign and list your home address and any lots or other property you own in the HOA. Wear your mask and we will look forward to meeting with you. If you are not physically in the area, or can't make these times, let us know how to send you a copy of the form to sign and return.

We would like to complete this task by the end of August in advance of additional action on the lawsuit.

Thank you for your attention,

Dan, Mike and Bob

--

Dan Binz

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
EDGEFIELD COUNTY

DEPOSITION OF DUANE DOTTA

ELIZABETH M. FERRARO, JAMES T.
FERRARO, EDWARD J. PRZYBYL,
MARCELLA GLEIE, JOHN E. GLEIE, JR.,
THOMAS BOWES, CONNIE BOWES,
MOATAZ ALASADI, VIRGINIA KIRKWOOD,
BOB KIRKWOOD, PAUL VICHROSKI, NYDZA
VICHROSKI, JAMES MONTELLESE,
ROXANN MONTELLESE, AND JULIE
WILLIAMS, Individually, Derivatively, and on
Behalf of all the Mount Vintage Homeowners
Association Members,

Plaintiffs,

Case No. 2021-CP-19-00050

vs.

J. WAYNE RAIFORD, INDIVIDUALLY AND
AS PRESIDENT OF THE BOARD OF
DIRECTORS OF MOUNT VINTAGE
PLANTATION HOMEOWNERS ASSOCIATION,
INC., LL OF SC, LLC, RAIFORD TOPSAIL
ISLAND INVESTMENTS, LLC, MOUNT
VINTAGE PLANTATION HOMEOWNERS
ASSOCIATION, INC. a/k/a MOUNT VINTAGE
HOMEOWNERS ASSOCIATION, INC., GREGG
KARLBERG, JERRY SCHAEFER, LEIGH ANN
KEELS, and JOHN DOE,

Defendants.

EXHIBIT

K

exhibitsticker.com

1 Q. Right.

2 A. And the other big objection I have, and
3 it's not with your clients, but Leigh Ann Keels
4 should not have her hands on our checkbook.

5 Q. And why do you say that, please?

6 A. Because she's -- she's the developer,
7 and it's HOA money. It's not developer money.

8 Q. Okay. And have you seen instances where
9 that conflict of interest gave rise to a --

10 A. I know right where you're headed. I'm
11 sorry. I did what I wasn't supposed to do.

12 MR. BUCKINGHAM: And I'm going to
13 object to form anyways, but go ahead.

14 A. Yes.

15 Q. Tell me about that.

16 A. And that's the reason I left the board.
17 Okay? We had just bought the golf course, and
18 there was a lot of work to be done, and Leigh Ann
19 jumped in with the golf pro and started setting
20 things up. Now, I'm the HOA treasurer. I
21 understand that stuff. I know how to set that
22 stuff up. She had no experience in that, and
23 neither did Mr. Usry. Okay? So -- but I was
24 kept on the wayside, out of it.

25 The other thing that caused a lot of

1 notes, the original version that was sent to
2 developer's attorney did tie to those notes?

3 A. Okay.

4 Q. Were you aware of that?

5 A. No.

6 Q. Has anybody shared that with you?

7 A. No. Who changed it?

8 Q. Either the developer or his attorney.

9 A. Developer's attorney. Hmm.

10 Q. Let me show you Plaintiffs' 21.65, which
11 is an email --

12 A. Boy, I wish I would have known that on
13 August 29th.

14 Q. Well, this email happens to be
15 August 29th also, August 29, 2019, and it's from
16 Leigh Ann to you at 12:11 p.m., and after you
17 read it -- I think it's after this board meeting
18 on the same day, but after you read it, let's
19 talk about it. Well --

20 A. I'm well aware of that one.

21 Q. Well, the minutes actually say that the
22 board meeting was at 10 a.m., and this is after
23 the board meeting at 12:11 p.m. as a result of
24 your in uiry during the board meeting, right?

25 A. Right. I accused them of fraud.

1 Q. You accused who of fraud?

2 A. Wayne and Leigh Ann.

3 Q. And this is her response?

4 A. Yeah.

5 Q. And she's admitting to you that she had
6 not made the journal entries on some of these
7 contributions.

8 A. Only one-third of all the entries
9 required were in the general ledger.

10 Q. So how are you supposed to know it's
11 there if it's not even on the books, right?

12 A. Right.

13 Q. And did she ever explain to you why she
14 had done journal entries for some and not others?

15 A. No. I didn't hang around long enough to
16 find out.

17 Q. And, in fact, if she had done a regular
18 deposit, she doesn't even need to do a journal
19 entry. It shows right up in the QuickBooks,
20 right?

21 A. It wouldn't show right up in QuickBooks,
22 no.

23 Q. Why not?

24 A. Let me see here. No, you're right. If
25 she would have -- if she'd have done a regular

1 engaged in fraud?

2 A. Judging by the presentation of his
3 emails, I would have to say no. Okay? It still
4 was sneaky. You know? You don't bring it up to
5 the board for a meeting -- for an approval
6 because there was approvals that were required.
7 So was it fraud? Was it done on purpose? I
8 think it was done quickly to be sneaky but -- and
9 knowing about the 300,000 note tied to it.

10 So --

11 Q. How about Mr. Raiford, do you have any
12 reason to believe that he is engaged in fraud?

13 A. No.

14 Q. Do you think that Mr. Raiford as the
15 developer tried the best that he can to improve
16 the condition of Mount Vintage?

17 MR. LUCEY: Objection.

18 A. Yeah. Yes.

19 Q. You will agree that serving on an HOA
20 board is a thankless job?

21 A. Yes.

22 Q. Right. What about -- Mr. Lucey
23 mentioned some issues regarding properties that
24 were purchased at a sale. And there was some
25 discussion about this road called Revolutionary

1 it, no. Thinking back, he should really own it,
2 but --

3 Q. As the developer?

4 A. As the developer. My -- you know,
5 my -- my experience is with developers all comes
6 out of the Poconos, and those guys built the
7 roads to the County specs. The County then took
8 over the roads, and when the developer was done
9 with the community, he turned all the amenities
10 over to the HOA for nothing, maybe a dollar for
11 the transfer fee, and that's how it worked, where
12 over here we're paying for everything. So --

13 Q. Do you recall ever having the
14 opportunity to express an opinion about whether
15 or not you wanted to join this lawsuit as a
16 plaintiff?

17 A. Somebody presented it to me, yes, and I
18 wasn't interested.

19 Q. Why weren't you interested?

20 A. Because I just didn't want to deal with
21 it. Now you dragged me into it.

22 Q. They dragged you into it.

23 A. Well --

24 Q. Has your opinion changed over the past
25 two and a half years?

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
EDGEFIELD COUNTY

EXHIBIT

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DEPOSITION OF BILL JOHNSTON

ELIZABETH M. FERRARO, JAMES T.
FERRARO, EDWARD J. PRZYBYL,
MARCELLA GLEIE, JOHN E. GLEIE, JR.,
THOMAS BOWES, CONNIE BOWES,
MOATAZ ALASADI, VIRGINIA KIRKWOOD,
BOB KIRKWOOD, PAUL VICHROSKI, NYDZA
VICHROSKI, JAMES MONTELLESE,
ROXANN MONTELLESE, AND JULIE
WILLIAMS, Individually, Derivatively, and on
Behalf of all the Mount Vintage Homeowners
Association Members,

Plaintiffs,

Case No. 2021-CP-19-00050

vs.

J. WAYNE RAIFORD, INDIVIDUALLY AND
AS PRESIDENT OF THE BOARD OF
DIRECTORS OF MOUNT VINTAGE
PLANTATION HOMEOWNERS ASSOCIATION,
INC., LL OF SC, LLC, RAIFORD TOPSAIL
ISLAND INVESTMENTS, LLC, MOUNT
VINTAGE PLANTATION HOMEOWNERS
ASSOCIATION, INC. a/k/a MOUNT VINTAGE
HOMEOWNERS ASSOCIATION, INC., GREGG
KARLBERG, JERRY SCHAEFER, LEIGH ANN
KEELS, and JOHN DOE,

Defendants.

1 in good faith. He put the product in, he signed
2 it, he sent the invoice in. We lost the invoice,
3 and their answer was, We don't have a budget.
4 How are we going to take care of it? We don't
5 have the budget.

6 So in a lot of cases, I would have one
7 of my guys, his direct manager, write him a
8 credit. Write him a credit for bad merchandise
9 because I'm not going to let that guy lose a
10 thousand dollars because we screwed up. So
11 there's gray areas.

12 Now, would my company say that's legal?
13 No, but sometimes you had to do things like that
14 to make it right. And so in defense of Wayne,
15 I'm not sure everything he did was above board or
16 the way we would do it, but surely he had
17 lawyers. I mean, I'm sure he ran these things by
18 somebody.

19 So -- but there again, Duane didn't
20 agree, and that wasn't the reason I left. I left
21 because I got tired of people saying, Why come
22 you don't do this? Why come you don't do that?
23 I came home from golf and told my wife, Type me
24 up my letter of resignation. I've had enough of
25 this. I don't need this. Because

1 what some of the people were talking about there.

2 Q. But in your email specifically you
3 mentioned, It seems to me that there is no HOA
4 board when the developer and a person not on the
5 board makes decisions without other board members
6 asked to attend, what did you mean by that?

7 A. Well, I think that referred to Leigh
8 Ann.

9 Q. The developer or --

10 A. Well, and somebody not on the board. I
11 don't know who else -- I don't remember who that
12 would have been.

13 Q. Well, the email from Leigh Ann mentions
14 Art.

15 A. Well, Art Biggs -- but he was never on
16 there when -- Art was on for years, and now he's
17 moving back. He wants to be back on it. But
18 that was Art. He was not on when I was there.
19 He was already off the board.

20 Q. Okay. So did you feel like this
21 decision about the assessment was made by the
22 developer as opposed to being a joint board
23 decision?

24 A. The developer and whoever else. I don't
25 remember the exact incident, but I felt like

1 Duane did. It should be voted on by the whole
2 board.

3 Q. And it wasn't?

4 A. Evidently not.

5 MR. MAJOR Object to form.

6 Q. All right. If you could flip to the
7 next tab, which is 52. And the emails I'm going
8 to ask about are in the middle of the page and
9 the top of the page. So the middle of the page,
10 you can see right here starting on
11 September 20th, it's an email from Leigh Ann
12 Keels. Again, I believe it's to Duane, you, and
13 Mr. Raiford because that's who the top cc and
14 to-lines reflect.

15 So the email from Ms. Keels says, Golf
16 Gem has asked if we would make a commitment
17 concerning the assessment. In the board meeting
18 a few weeks ago, we committed to an assessment of
19 400 and then decided to ask Art for his
20 assistance on how to do this following procedure.
21 Of course it took another direction. After
22 talking to Wayne, another suggestion was made,
23 and I have had no additional suggestions. As the
24 HOA representative for Golf Gem, it is my
25 responsibility to pass along the information from

1 Q. So you and Mr. Dotta did not want that
2 300,000 to become a loan?

3 A. No.

4 Q. And then I believe that was your last
5 meeting as a board member. If you flip to
6 page 73, I believe -- sorry. I'm trying to find
7 the meeting minutes where your resignation was
8 accepted. Actually, it's page 71. I'm sorry.

9 A. Yeah.

10 Q. It's November 21st, 2019, in the middle
11 of that first paragraph. It says, The board
12 voted to accept the resignation of Duane Dotta
13 and Bill Johnston?

14 A. Right.

15 Q. So that meeting where you-all disagreed
16 on the 300,000 and the way to treat it was your
17 and Duane's final meeting?

18 A. It seemed like to me I went to one after
19 that, but I can't remember for sure. But he had
20 a different -- I mean, like I say, mine was not
21 basically resigning over that. It was just
22 resigning over homeowners hounding me. You know,
23 you couldn't play golf without somebody hounding
24 you because they wanted to know this and how you
25 do that. And I just felt like I don't need that.

1 Q. From your experience of being on the
2 board, did you feel comfortable expressing
3 disagreement with ideas that either Mr. Raiford
4 or Ms. Keels would present?

5 A. Yes. If I didn't agree with it, I said
6 so.

7 Q. Okay. It is my understanding that when
8 this lawsuit began, there was a petition that was
9 circulated among homeowners to see if folks
10 wanted to opt out of participating in the
11 lawsuit. Do you recall signing that petition?

12 A. No, I don't.

13 Q. Would it surprise you to learn that you
14 had signed a document that suggested that you did
15 not want to participate in any class action
16 against the homeowners association or
17 Mr. Raiford?

18 A. I --

19 MS. McCANN Object to the form.

20 A. I could have because I was not for it.

21 Q. How about now? Are you for the lawsuit
22 or not for the lawsuit?

23 A. Absolutely not. We're suing ourselves.

24 Q. Do you know -- have you talked with
25 other homeowners about how they feel about the

EXHIBIT

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In the Matter Of:

ELIZABETH M. FERRARO vs J. WAYNE RAIFORD

2021-CP-19-00050

ELIZABETH M. FERRARO

March 07, 2023



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IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
EDGEFIELD COUNTY

DEPOSITION OF ELIZABETH FERRARO

ELIZABETH M. FERRARO, JAMES T.
FERRARO, EDWARD J. PRZYBYL,
MARCELLA GLEIE, JOHN E. GLEIE, JR.,
THOMAS BOWES, CONNIE BOWES,
MOATAZ ALASADI, VIRGINIA KIRKWOOD,
BOB KIRKWOOD, PAUL VICHROSKI, NYDZA
VICHROSKI, JAMES MONTELLESE,
ROXANN MONTELLESE, AND JULIE
WILLIAMS, Individually, Derivatively, and on
Behalf of all the Mount Vintage Homeowners
Association Members,

Plaintiffs,

Case No. 2021-CP-19-00050

vs.

J. WAYNE RAIFORD, INDIVIDUALLY AND
AS PRESIDENT OF THE BOARD OF
DIRECTORS OF MOUNT VINTAGE
PLANTATION HOMEOWNERS ASSOCIATION,
INC., LL OF SC, LLC, RAIFORD TOPSAIL
ISLAND INVESTMENTS, LLC, MOUNT
VINTAGE PLANTATION HOMEOWNERS
ASSOCIATION, INC. a/k/a MOUNT VINTAGE
HOMEOWNERS ASSOCIATION, INC., GREGG
KARLBERG, JERRY SCHAEFER, LEIGH ANN
KEELS, and JOHN DOE,

Defendants.

1 DEPONENT: ELIZABETH FERRARO
2 DATE: March 7, 2023
3 TIME: 2:01 p.m.
4 LOCATION: Holiday Inn Express
5 North Augusta, SC
6 REPORTED BY: JESSICA BOLANOS
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1 A. Because I felt it was not going to do
2 the community justice. This is something he did
3 not want, and he would not -- I just felt that he
4 wasn't going to try to bring back Mount Vintage
5 to what it was originally meant to be.

6 Q. Do you continue to feel that way today?

7 A. Yes.

8 Q. Why is that?

9 A. Well, first of all that we have -- our
10 values of our properties have not -- went down.
11 Of course, I realize you're going to say about
12 the recession that, yes, everybody's values went
13 down. But everyone around us, the value of their
14 homes have come up. Ours have not, and that's
15 distressing to us -- to me. I shouldn't say to
16 us, but to me. You'd have to ask my husband how
17 he feels, because real estate is supposed to be
18 an investment to your future. When we came down
19 here, we invested a good part of our life savings
20 to come down here and build this house and live
21 in Mount Vintage thinking that Mount Vintage was
22 going to only go up and the price of our home
23 would only go up, and it has not.

24 So to me -- and he -- the building that
25 is going on -- yes, he has brought in a

1 developer -- a builder, not a developer, to
2 build, Stanley Martin Homes. I'm stuck in the
3 middle of those Stanley Martin Homes. Those
4 Stanley Martin Homes are not custom homes, and
5 Mount Vintage was a custom home community. Our
6 home was a custom home, and the homes that are
7 being built are not doing anything to help the
8 value of my -- of our home. They're nothing more
9 than glorified tract homes, frankly.

10 And I say I'm in Stanley Martinville
11 because where we are on the new nine, a great
12 many of the Stanley Martin Homes have been built.
13 So we have Stanley Martin Homes up there. I go
14 around the corner, I've got all Stanley Martin
15 Homes down there, and it's me and my next door
16 neighbor who built around the same time as we did
17 a custom home in the middle. And it's very
18 obvious when somebody comes into the community to
19 see the differences in the houses. You can tell
20 that they're two different builders. I mean,
21 that's just the way that it is.

22 We have no security. They took our
23 security away. I wasn't asked this as to why we
24 came down Mount Vintage, but one of the reasons
25 we chose Mount Vintage was because it did have

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
EDGEFIELD COUNTY

EXHIBIT

N

DEPOSITION OF
CHARLES L. "RICK" ATKINS, JR.
VOLUME 2
AUGUST 14, 2023

ELIZABETH M. FERRARO, JAMES T. FERRARO,
EDWARD J. PRZYBYL, MARCELLA GLEIE,
JOHN E. GLEIE, JR., THOMAS BOWES, CONNIE BOWES,
MOATAZ ALASADI, VIRGINIA KIRKWOOD, BOB KIRKWOOD,
PAUL VICHROSKI, NYDZA VICHROSKI, JAMES
MONTELLESE, ROXANN MONTELLESE, AND JULIE
WILLIAMS, Individually, Derivatively, and on
Behalf of all the Mount Vintage Homeowners
Association Members,

Plaintiffs,

Case No. 2021-CP-19-00050

vs.

J. WAYNE RAIFORD, INDIVIDUALLY AND AS
PRESIDENT OF THE BOARD OF DIRECTORS OF
MOUNT VINTAGE PLANTATION HOMEOWNERS ASSOCIATION,
INC., LL OF SC, LLC, RAIFORD TOPSAIL
ISLAND INVESTMENTS, LLC, MOUNT VINTAGE PLANTATION
HOMEOWNERS ASSOCIATION, INC. a/k/a MOUNT VINTAGE
HOMEOWNERS ASSOCIATION, INC., GREGG KARLBERG,
JERRY SCHAEFER, LEIGH ANN KEELS, and JOHN DOE,

Defendants.

TIME: 12:01 P.M.

LOCATION: VIA REMOTE VIDEOCONFERENCE

REPORTED BY: KELLY B. BAEKELANDT, RPR,
CSR (GA)
CLARK BOLEN
CHARLESTON, SC 29405
843-762-6294
WWW.CLARKBOLEN.COM
Office@ClarkBolen.com

1 MS. MCCANN: I have a couple
2 follow-ups. It shouldn't take very long.

3 THE WITNESS: Uh-oh.

4 MS. MCCANN: Sorry. It shouldn't
5 take very long.

6 EXAMINATION

7 BY MS. MCCANN:

8 Q. Sir, you testified last week that the
9 property values of the custom homes in the new
10 nine diminish as a result of the Stanley Martin
11 construction there. Do you recall that?

12 A. Yeah. I'm not sure that -- I guess --
13 the Stanley Martin home values do have an impact
14 on all other home values. Their square-foot
15 prices are lower than some of the resale homes
16 and the custom homes.

17 Q. Especially if it's -- if a custom home
18 is surrounded by new Stanley Martin builds,
19 right?

20 A. Yes.

21 Q. All right.

22 A. It would have an impact on a new custom
23 home, yes.

24 Q. I believe you testified last week that
25 Meybohm found Essex for the development; is

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
EDGEFIELD COUNTY

DEPOSITION OF WAYNE RAIFORD
30(b)(6) TR PLANTATION SALES

APRIL 19, 2024

EXHIBIT

O

ELIZABETH M. FERRARO, et al.,

Plaintiffs,

vs.

CASE NO. 2021-CP-19-00050

J. WAYNE RAIFORD, INDIVIDUALLY AND
AS PRESIDENT OF THE BOARD OF
DIRECTORS OF MOUNT VINTAGE
PLANTATION HOMEOWNERS ASSOCIATION,
INC., LL OF SC, LLC, RAIFORD TOPSAIL
ISLAND INVESTMENTS, LLC, MOUNT
VINTAGE PLANTATION HOMEOWNERS
ASSOCIATION, INC. a/k/a MOUNT VINTAGE
HOMEOWNERS ASSOCIATION, INC., GREGG
KARLBERG, JERRY SCHAEFER, LEIGH ANN
KEELS, and JOHN DOE,

Defendants.

TIME: 9:30 AM

LOCATION: MALCHOW JOHNSON
AUGUSTA, GA

REPORTED BY: J. LYNN CLARK, RMR, CSR (IA)
CLARK BOLEN
P.O. Box 73129
Charleston, SC 29415
843-762-6294
WWW.CLARKBOLEN.COM

1 because of Social Security and tax purposes
2 because he's got Parkinson's disease, so he did
3 it that -- some reason for that. I don't know
4 exact points on it, but that's the reason we did
5 it.

6 Q. Now, is -- the employment of all
7 personnel and managers and administrative staff,
8 bookkeeping, what have you, does all that take
9 place in TR Sales for convenience, for ease of
10 filing and to just have one payroll instead of
11 four or five different payrolls?

12 A. That's the way it was arranged by my
13 CPA, so that's the way we do it.

14 Q. So LL of South Carolina itself didn't
15 have any employees.

16 A. None.

17 Q. Has never had any employees.

18 A. Well, like right now I've got me a --
19 they're patching holes in the driveway and all,
20 but do I it -- I pay for every bit of it myself.

21 Q. Those people are receiving a paycheck
22 from TR Sales, correct?

23 A. Correct.

24 Q. LL of South Carolina has never had a
25 human employee, correct?

1 A. No.

2 Q. Corporations, as we all know, they're
3 not living beings. They can't do anything by
4 themselves, right? They need humans?

5 A. Right.

6 Q. So LL of South Carolina uses the human
7 beings employed by TR Sales.

8 A. Uses me.

9 Q. Who's employed by TR Sales, correct?

10 MR. BUCKINGHAM: Object to the
11 form.

12 A. Correct.

13 Q. To get its work done, correct?

14 A. Right, but it does most of it itself
15 with the golf course crew. We do very little
16 except things that they can't handle. Like right
17 now on the rut holes in the road, we're fixing
18 them for them.

19 Q. Do you have the HOA buying any of the
20 materials?

21 A. I have had before, but not on this.

22 Q. Have you had the HOA buy the materials
23 for the road repairs previously?

24 A. Yes, I have had, and water leaks that
25 we've had to fix for them.

1 Q. And when you purchased these three lots
2 on 45.13 in behalf of LL of South Carolina, you
3 were on the payroll of TR Sales, correct?

4 A. I've been on the payroll for TR Sales
5 since it was created.

6 Q. And the Deer Track Farms purchase of
7 P-45 --

8 A. I don't know anything about it.

9 Q. Do you know if P-45 is a buildable lot?

10 A. I don't know.

11 Q. Are you aware that Deer Track Farms is
12 using P-45 as a driveway to use Mount Vintage
13 roads?

14 A. I do not know that.

15 Q. Do you know if that's permitted under
16 the covenants?

17 A. I don't.

18 Q. Did you pay attention to the discussion
19 at the 2024 annual Mount Vintage homeowners
20 meeting?

21 MR. BUCKINGHAM: Object to the
22 form.

23 A. Apparently not.

24 Q. You're unaware that that driveway was
25 discussed at the meeting.

1 foreclosed on the lots there in late 2013?

2 MR. BUCKINGHAM: Object to the
3 form.

4 A. Basically, yes.

5 Q. Basically a little over 10 years now, 11
6 years?

7 A. Yeah.

8 Q. And during the second half of those 11
9 years or more, you were getting your paycheck
10 from TR Sales, correct?

11 A. Always have got it from them.

12 Q. And during that entire 11 years you have
13 served as the president of the HOA board,
14 correct?

15 A. Right. Yes.

16 Q. And you're unable to tell me about any
17 efforts that the HOA board has made to secure the
18 orphan parcels other than what you and I have
19 already discussed.

20 MR. BUCKINGHAM: Object to the
21 form.

22 A. Correct.

23 Q. What is your understanding of what
24 Blackston is going to do with that 39 acres?

25 A. I don't have an understanding. I don't

1 A. Correct.

2 Q. -- correct?

3 A. Yes.

4 Q. Do you deny being employed by TR Sales?

5 A. I own TR Sales, and I was getting a
6 salary before I even started TR Sales. It was
7 coming through Georgialina. And it's a small
8 salary, by the way.

9 MR. LUCEY: Read my question back
10 to the witness, please.

11 (The pending question was read by
12 the reporter.)

13 A. I draw a salary from TR Sales.

14 Q. Which means you're employed by them,
15 correct?

16 A. No, it don't mean that.

17 Q. And every year your company, TR Sales,
18 files a return with the United States government
19 that says you're employed by TR Sales; does it
20 not?

21 A. I don't know.

22 Q. And if we go to Exhibit 46.21, we have
23 the TR Sales 2021 tax returns, correct?

24 A. Are you going to show me every tax
25 return I've done?

1 MR. LUCEY: Read my question back
2 to the witness, please.

3 (The pending question was read back
4 by the reporter.)

5 A. Yes.

6 Q. And on the same line, compensation of
7 officers, it reads \$503,401, correct?

8 A. Yes.

9 Q. And if we turn to Bates stamp 184, we'll
10 see the tax return identifies you personally as
11 the officer who received \$503,401 in the year
12 2021 in salary and wages from your employer, TR
13 Sales, correct?

14 A. Right. We drew it as a tax pay.

15 MR. LUCEY: What was the question
16 he was asked before he denied being an employee
17 of TR Sales, please?

18 (The following questions and
19 answers were read back by the court reporter:

20 Question: And during those five
21 years you were employed by TR Sales, correct?

22 Answer: I'm not employed by TR
23 Sales. I own TR Sales.

24 Question: TR Sales pays you a
25 salary, correct?

1 MR. BUCKINGHAM: Object to the
2 form.

3 A. I don't know how the tax accountant did
4 that.

5 Q. Do you see the third line from the top
6 on Bates stamp 156 in Plaintiff's Exhibit 46.21
7 that says management fees, HH and LL?

8 A. Yeah, I see that.

9 Q. And do you see the \$600,000 on that
10 line?

11 A. I do.

12 Q. And do you recall half of those were
13 paid by HH and half of those were paid by LL,
14 correct?

15 A. I don't recall that. I see that it was.

16 Q. So you do not deny --

17 A. I don't deny it.

18 Q. -- that TR Sales managed LL, correct?

19 A. It does not.

20 Q. You still -- you do deny it.

21 A. I deny that -- it does not manage LL of
22 South Carolina.

23 Q. Do you deny telling the federal
24 government --

25 MR. BUCKINGHAM: Object to the

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
EDGEFIELD COUNTY

DEPOSITION OF CHARLES FLIFLET

EXHIBIT

P

exhibitstick.com

ELIZABETH M. FERRARO, JAMES T.
FERRARO, EDWARD J. PRZYBYL,
MARCELLA GLEIE, JOHN E. GLEIE, JR.,
THOMAS BOWES, CONNIE BOWES,
MOATAZ ALASADI, VIRGINIA KIRKWOOD,
BOB KIRKWOOD, PAUL VICHROSKI, NYDZA
VICHROSKI, JAMES MONTELLESE,
ROXANN MONTELLESE, AND JULIE
WILLIAMS, Individually, Derivatively, and on
Behalf of all the Mount Vintage Homeowners
Association Members,

Plaintiffs,

Case No. 2021-CP-19-00050

vs.

J. WAYNE RAIFORD, INDIVIDUALLY AND
AS PRESIDENT OF THE BOARD OF
DIRECTORS OF MOUNT VINTAGE
PLANTATION HOMEOWNERS ASSOCIATION,
INC., LL OF SC, LLC, RAIFORD TOPSAIL
ISLAND INVESTMENTS, LLC, MOUNT
VINTAGE PLANTATION HOMEOWNERS
ASSOCIATION, INC. a/k/a MOUNT VINTAGE
HOMEOWNERS ASSOCIATION, INC., GREGG
KARLBERG, JERRY SCHAEFER, LEIGH ANN
KEELS, and JOHN DOE,

Defendants.

1 DEPONENT: CHARLES FLIFLET
2 DATE: January 19, 2023
3 TIME: 8:59 a.m.
4 LOCATION: Hawk Law Group
 Aiken, SC
5 REPORTED BY: JESSICA BOLANOS
6 CLARK BOLEN
7 PO Box 12189
 Charleston, SC 29405
8 843-762-6294
 WWW.CLARKBOLEN.COM

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1 question.

2 Q. Okay. We'll take a look at that. Now,
3 were you part of the team or the discussion as to
4 whether or not to put RTI into LL?

5 A. I would say not.

6 Q. Okay. You don't recall that occurring
7 at one of your meetings with Wayne Raiford?

8 A. No. You know, I -- there might have
9 been a very brief discussion that -- you know,
10 that Wayne may have thought it made sense
11 to -- you know, to acquire them through -- you
12 know, through RTI as a single member LLC -- you
13 know, single member LLC owned by an LLC, but that
14 was the extent of it. It was just a very
15 short -- short statement in effect.

16 Q. Okay. What was the benefit, if any, of
17 putting RTI into LL?

18 A. Liability perhaps.

19 Q. And can you explain that to me.

20 A. Well, I'm just saying perhaps. I don't
21 know exactly what the -- you know, exactly what
22 the thinking would be. But, yeah, I'm not sure
23 exactly where the --

24 Q. I mean, LL is already a corporate entity
25 by itself?

1 A. I'm not sure. Right. That's why I
2 said, you know, perhaps. I'm not sure what the
3 benefit ultimately is from -- you know, certainly
4 from a tax point of view.

5 Q. Okay. You're unaware of any benefit?

6 A. I'm not aware of what the benefit would
7 be.

8 Q. Ignoring taxes for a second, is there
9 any other advantage or disadvantage or any other
10 consideration you can think of as to why RTI
11 would be put into LL?

12 A. In terms of, you know, acquiring
13 property through a -- you know, perhaps through a
14 subsidiary entity. I don't know, you know, what
15 that -- you know, in this case what that benefit
16 would be.

17 Q. Okay. So the only activities you're
18 aware of LL having -- excuse me. I'm going to
19 start the question over. I misspoke.

20 The only activity that you're aware of
21 that RTI ever engaged in was the development of
22 one or more beach houses in Topsail North
23 Carolina, and then sale of those and separately
24 acquiring title for some period of time to some
25 lots in Mount Vintage?

1 through an LLC, taxed either as a single -- as a
2 sole proprietorship or as a partnership, not as a
3 C corporation. So that was -- you know, that was
4 the recommendation, and I think it got initially
5 set up as the corp incorrectly, and then we
6 realized they could go back and correct it
7 immediately.

8 Q. And what do you understand to be the
9 business of LL of South Carolina, LLC?

10 A. Well, it's the acquisition of the Mount
11 Vintage properties and the further development
12 for those properties.

13 Q. Okay. And isn't -- do you understand LL
14 of South Carolina, Inc., to be the developer of
15 Mount Vintage?

16 A. I think that's fair at this point.
17 They're obviously not the original developer, but
18 I think they -- you know, there were certain
19 aspects of the property that still had to be
20 developed, as I understand it.

21 Q. Okay. And what does developing Mount
22 Vintage -- what does LL developing Mount Vintage
23 contemplate, if you can tell me, from what you've
24 observed in LL's activities? What does that
25 contemplate?

1 A. Well, I think it's, you know, making the
2 existing lots saleable and enhancing the
3 saleability of existing lots, you know, working
4 with the homeowners association, making repairs
5 and improvements to -- I think there were some
6 aspects of the development that weren't
7 completely built out, if you will, in terms of
8 the roadways and so forth. I mean, I think
9 that's -- you know, and make -- sort of bringing
10 the development back to life, if you will, to
11 allow them to sell lots effectively.

12 Q. So if I'm hearing you, the business of
13 LL is to profitably sell lots and take whatever
14 steps are necessary to do that?

15 MR. MAJOR: Object to form.

16 MR. BUCKINGHAM: Same objection.

17 A. Well, it's --

18 Q. So we'll go to the third not quite
19 rule-making session. Okay?

20 A. Okay.

21 Q. So the third thing is is that any
22 attorney participating in a deposition can object
23 to any question I ask.

24 A. Okay.

25 Q. And what they're doing is they're

1 preserving a right to tell a judge later that I
2 misasked a question and I shouldn't be able to
3 use your answer.

4 A. Okay.

5 Q. So it doesn't concern you unless an
6 attorney were to direct you not to answer a
7 question because of some privilege or something.
8 You will proceed with answering the question.
9 They're just preserving their rights and their
10 client's rights to object to portions of the
11 deposition later with the judge.

12 So since I've now distracted you with
13 that explanation, we will get the court reporter
14 to read you back the question.

15 A. Thank you.

16 (Question read back.)

17 Q. If I'm hearing you, the business of LL
18 is to profitably sell its lots in Mount Vintage
19 and to take whatever steps are necessary to do
20 that; is that correct?

21 MR. MAJOR: Object to form.

22 MR. BUCKINGHAM: Same objection.

23 A. Take -- yeah, take reasonable steps to
24 do that, yes.

25 Q. Whether it's lot clearing or road

1 RTI?

2 A. It owns 50 percent or more of the
3 voting -- of the units of RTI.

4 Q. Correct. So on that alone, that would
5 be an affirmative answer, yes, it owns more than
6 50 percent?

7 A. Well, I'm not -- it's ignored for income
8 taxes and income tax return.

9 Q. Okay.

10 A. So my opinion is that it would be -- it
11 would be no. It would be no.

12 Q. The question -- the factual question,
13 the answer is yes, correct?

14 A. Well, if you're saying does -- did -- I
15 mean, I don't know whether the LLC owned them at
16 that time, number one. Okay? Number two, if it
17 did own it, yes, it would own 100 percent of the
18 units of the single member LLC.

19 Q. Okay. And if we go to 6.6, Exhibit 6.6,
20 we'll find your transmittal of the 2014 annual
21 federal tax return for LL of South Carolina,
22 correct?

23 A. Correct.

24 Q. And again, we'll see that on page 2 of
25 the tax return, question 4A regarding the

1 ownership of 50 percent or more is answered in
2 the negative, correct?

3 A. Correct.

4 Q. And do you -- are you able to tell us
5 whether or not -- in 2014 whether or not LL of
6 South Carolina owned any part of RTI?

7 A. I can't tell you, no.

8 Q. In answering these questions, did you
9 ever consider whether or not RTI was, in fact --

10 A. Probably not at that time.

11 Q. And if we go to the back of the 2014 LL
12 tax returns, we'll see that -- excuse me. Did I
13 say the back -- page 5 of the tax return, page 6
14 of the exhibit. We see the similar balance sheet
15 showing the Mount Vintage lots in the LL of South
16 Carolina entity as assets in the beginning of the
17 year and the end of the year, correct?

18 A. Correct.

19 Q. And if we flip forward to Exhibit 6.7,
20 we'll see various similar information as that
21 which we saw in 2014 for the 2015 return,
22 correct?

23 A. Yeah. I'm sorry. What are you
24 referring to?

25 Q. 6.7. Question 4A is answered the same

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
EDGEFIELD COUNTY

EXHIBIT

Q

DEPOSITION OF J. WAYNE RAIFORD, VOLUME 2

ELIZABETH M. FERRARO, JAMES T. FERRARO, EDWARD J.
PRZYBYL, MARCELLA GLEIE, JOHN E. GLEIE, JR.,
THOMAS BOWES, CONNIE BOWES, MOATAZ ALASADI,
VIRGINIA KIRKWOOD, BOB KIRKWOOD, PAUL VICHROSKI,
NYDZA VICHROSKI, JAMES MONTELLESE,
ROXANN MONTELLESE, AND JULIE WILLIAMS,
Individually, Derivatively, and on
Behalf of all the Mount Vintage Homeowners
Association Members,

Plaintiffs,

vs.

CASE NO. 2021-CP-19-00050

J. WAYNE RAIFORD, INDIVIDUALLY AND AS PRESIDENT
OF THE BOARD OF DIRECTORS OF MOUNT VINTAGE
PLANTATION HOMEOWNERS ASSOCIATION, INC.,
LL OF SC, LLC, RAIFORD TOPSAIL ISLAND
INVESTMENTS, LLC, MOUNT VINTAGE PLANTATION
HOMEOWNERS ASSOCIATION, INC. a/k/a MOUNT VINTAGE
HOMEOWNERS ASSOCIATION, INC., GREGG KARLBERG,
JERRY SCHAEFER, LEIGH ANN KEELS, and JOHN DOE,

Defendants.

DEPONENT: J. WAYNE RAIFORD

DATE: FEBRUARY 7, 2023

TIME: 9:15 A.M.

LOCATION: HAWK LAW FIRM
AIKEN, SOUTH CAROLINA

REPORTED BY: TERI L. KENNELLY, RPR, CRR
NCRA CERTIFIED REPORTER
CLARK BOLEN
CHARLESTON, SC 29415
843-762-6294
WWW.CLARKBOLEN.COM
Office@ClarkBolen.com

1 have them on my mind right now.

2 Q. If I heard you correctly, the two duties
3 you enumerated for a director of an HOA is to
4 handle the finances and handle the decisions.

5 A. Correct.

6 Q. Is there any other duty?

7 A. I have no idea what all the duties are
8 included.

9 Q. Are you aware of whether or not a board
10 of directors -- an HOA board of director member
11 has a duty of loyalty to the HOA and its members?

12 MR. BUCKINGHAM: Object to form.

13 A. Yes, and I have always been exactly
14 that.

15 Q. Are you aware of whether an HOA director
16 owes a duty of full and complete disclosure to
17 the HOA and its members?

18 MR. BUCKINGHAM: Same.

19 A. I am aware to do that.

20 Q. You agree with that?

21 A. I do.

22 MR. MAJOR: Object to the form of
23 that question.

24 Q. Are you aware of whether an HOA director
25 has a duty not to place the developer's interest

1 the homeowners. I take care of the homeowners,
2 but you can't please every homeowner there is
3 because every one of them has got quirks. You
4 can't please everybody. You can please a lot of
5 people, but you can't please everybody.

6 Q. We're going to get to those details,
7 sir, but first I want to find out if you agree
8 with me that a developer board member has a duty
9 not to put the developer's interests in front of
10 the association and its members' interests?

11 MR. BUCKINGHAM: Object to form.

12 A. I do.

13 Q. Tell me what, if anything, you recall
14 about the initial meeting between LL and the
15 association?

16 A. I don't remember anything about LL and
17 the association.

18 Q. In January of 2014, after the
19 foreclosure, you went on the board of Mount
20 Vintage as a representative of the developer, LL
21 of South Carolina, correct?

22 A. Correct.

23 Q. And you remained on that board as
24 president through today, correct?

25 A. Correct.

EXHIBIT

R

STATE OF SOUTH CAROLINA

COUNTY OF EDGEFIELD

ELIZABETH M. FERRARO, JAMES T.

FERRARO, EDWARD J. PRZYBYL,

MARCELLA GLEIE, JOHN E. GLEIE, JR.,

THOMAS BOWES, CONNIE BOWES, MOATAZ

ALASADI, VIRGINIA KIRKWOOD, BOB

KIRKWOOD, PAUL VICHROSKI, NYDZA

VICHROSKI, JAMES MONTELLESE,

ROXANN MONTELLESE, Individually,

Derivatively, and on Behalf of all the Mount

Vintage Homeowners Association Members,

Plaintiffs,

vs.

LL OF SC, LLC, RAIFORD TOPSAIL ISLAND

INVESTMENTS, LLC, T R SALES

PLANTATION, LLC, AND MOUNT VINTAGE

PLANTATION HOMEOWNERS

ASSOCIATION, INC. A/K/A MOUNT VINTAGE

HOMEOWNERS ASSOCIATION, INC.,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH JUDICIAL CIRCUIT
CASE NO. 2021-CP-19-00050

**BUSINESS COURT CASE,
ASSIGNED TO:**

**THE HONORABLE R. LAWTON
MCINTOSH**

DECLARATION OF (Paul E. Goldhorn)

DECLARATION OF (Paul E. Goldhorn)

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. My name is Paul E. Goldhorn.
2. I am a homeowner in Mount Vintage. Along with my wife, Martha R. Goldhorn.
3. I wish to remove my name from the August 13, 2020, Petition Promulgated by Daniel Binz and others regarding the above-captioned lawsuit because I have learned more details. Originally, I believed that the potential loss of reputation of Mount Vintage, the cost of litigation and a low probability of financial gain for the HOA were not worthy of the effort. However, I now believe that we were misled by the originators of the petition, recognition of the potential

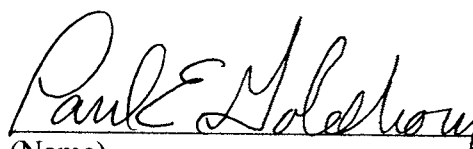
damages caused by the defendants was not adequately disclosed. Further to this, through my own knowledge and research I am more convinced that the actions of the defendants while maybe not illegal are definitely unethical and do not serve the interests the HOA. A few examples are:

- Self-dealing by moving lots between LL of SC and Raiford Topsail and then not paying HOA dues on the lots owned under the name Raiford Topsail and other Raiford controlled properties.
- Self-dealing by having his daughter serve as the accountant/treasurer of the HOA although she is not a member of the HOA. While she may be an officer of LL of SC the covenants, by my reading, state only one individual of a corporate owner can serve. If not illegal, then unethical.
- Self-serving by cancelling past due HOA fees when Raiford acquires lots owned by third parties. Truly a financial impact to the HOA.
- Allowing developers/builders/private individuals to merge lots to avoid paying HOA fees while representing to the public that individual lots which have been merged can be purchased separately from the whole of the merged lots. HOA loss of income.
- Mismanagement of the finances. This has been brought home in that there is no full budget or actual cost details provided for the Golf Course for the past several years.
- Mismanagement of the reserve fund. The reserve fund is now a lower sum than when Raiford took control of the development.
- Self-serving by converting HOA assets to his own accounts at far less than the fair market value. Examples include the Yeoman properties in the Village, the yard

debris drop site, and a few other assorted properties within the development. This category includes those properties for which the HOA was pursuing foreclosure due to non-payment of HOA fees.

- Complete and total inaction to incorporate 'orphan' parcels into the framework covenants of Mount Vintage or purchase the parcels on behalf of the HOA to protect the development. Due to this inaction we have a home outside Mount Vintage accessing our roads – if we had incorporated one parcel of land we could have stopped the access. Another large lot, about 11 acres, was purchased and is not included in the covenants. It is completely surrounded by Mount Vintage properties and does not pay HOA fees. There are two parcels which were designated as "Common Area" which were sold to a private individual and have now been incorporated into land parcels that the individual owns. Raiford had been informed of these 'orphan' parcels by Norm Lopez and myself at a meeting in his office.
 - And finally, failure to enforce and covenants and restrictions. Examples are too numerous to detail here but the clear cutting being allowed is evident from satellite images of the lots before and after building.
4. Based upon the foregoing, I wish to have my name removed from the petition.
 5. I declare under penalty of perjury, that the foregoing is true and correct.

Executed this 26th day of August 2024 at Edgefield, South Carolina


(Name)