

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS FOR  
) THE NINTH JUDICIAL CIRCUIT  
) CASE NO.: 2024-CP-10-01489

Michael D. Royal,

Plaintiff,

v.

Ashley House Council of Co-Owners, Inc.,

Defendant.

**ORDER GRANTING TEMPORARY  
RESTRAINING ORDER, RESTRAINING  
ORDER, AND PERMANENT INJUNCTION**

**RECEIVED**

**Jun 25 2025**

**SC Court of Appeals**

THIS MATTER CAME BEFORE THE COURT on April 23, 2025, for a hearing of the Defendant Amended Motion for a Temporary Restraining Order and Motion for a Restraining Order and Motion for a Permanent Injunction, to have this Court determine the composition of the Board of Directors for the Ashley House Council of Co-Owners, Inc. Present at the hearing were Plaintiff, Michael D. Royal, *pro se*, and Skyler C. Wilson and G. Hamlin O’Kelley, III, for the Defendant. After hearing the parties, reviewing the submissions to the Court, including the parties’ Memoranda and Exhibits, and considering the applicable governing documents, statutes, and case law, the Defendant’s Motion is **GRANTED**.

**STANDARD OF REVIEW**

TROs and temporary injunctions are drastic remedies to be applied with caution in the Court’s discretion only when reasonably necessary to protect a plaintiff’s rights and prevent irreparable injury while litigation is pending. *See* Rule 65, SCRPC; *see also Strategic Resources Co. v. BCS Life Ins. Co.*, 367 S.C. 540, 544, 627 S.E.2d 687, 689 (2006); *Scratch Golf Co. v. Dunes West Residential Golf Prop., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 907 (2004); *Thornton v.*

*Alford*, 274 S.C. 1, 260 S.E.2d 179 (1979). For a preliminary injunction to issue, a party must establish “(1) it would suffer irreparable harm if the injunction is not granted; (2) it will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law.” *Scratch Golf Co.*, 361 S.C. at 121, 603 S.E.2d at 908. The Court must also balance the equities of the parties in deciding whether to grant or deny the injunction. *Strategic Res. Co.*, 367 S.C. at 544, 627 S.E.2d at 689; *see* S.C. Jur. *Equity* § 19. Whether “a wrong is irreparable, in the sense that equity may intervene, and whether there is an adequate remedy at law, are questions that are not decided by narrow and artificial rules.” *Peek v. Spartanburg Reg'l Healthcare Sys.*, 367 S.C. 450, 455, 626 S.E.2d 34, 36 (Ct. App. 2005).

#### **FINDINGS OF FACT AND CONCLUSION OF LAW**

This matter is before the Court on the Defendant’s Amended Motion for a Temporary Restraining Order, Restraining Order, and Permanent Injunction to stop the Plaintiff from conducting his own meeting of the Ashley House Council of Co-Owners, Inc., from submitting motions Numbers 1 through 691 attached to the Defendant’s Motion at that meeting or a special meeting to be called, and from submitting matters which would require amendments to the governing documents all while a motion to reconsider an Order from the Honorable Milton Kimpson dated March 17, 2025, is pending.

This matter was filed by the Plaintiff in March 20, 2024. (Summons & Complaint). On the same day, the Plaintiff filed a motion for a temporary restraining order and injunction. The Honorable Bentley Price heard that motion on March 28, 2024, and denied the motion by his Order dated April 8, 2024 (Order, 4/8/24). The Plaintiff moved to have Judge Price reconsider that Order which was denied by Judge Price’s Order of June 8, 2024. (Order, 6/8/24) Judge Price ruled that the Plaintiff could not establish a likelihood on the success of the merits of the underlying action

(Order, 4/8/24). He also ruled that a Co-Owner cannot raise an issue for a vote without prior notice and without circulating that notice and any resolutions regarding them to the entire ownership prior to any meeting according to the Master Deed and Bylaws. (Order, 4/8/24).

On August 21, 204, the Plaintiff filed what he styled as a “Motion for Declaratory Judgment”. On August 29, 2024, the Honorable Milton Kimpson heard that motion. (Order, 3/17/2025) That motion was denied by Judge Kimpson by Order dated March 17, 2025, which made reference to Judge Price’s earlier Orders. (Order, 3/17, 25). The Plaintiff has since moved to have Judge Kimpson reconsider his Order of March 17, 2025.

This Court adopts the Factual Background in Judge Kimpson’s Order.

The Court also makes the following findings of its own:

The Defendant Ashley House Council of Co-Owners, Inc., is the owners’ association for the horizontal property regime known as the Ashley House located at 14 Lockwood Drive in downtown Charleston, established by that Master Deed from March 20, 1980, recorded in Book Z121 at Page 231 in the Office of the ROD for Charleston County. (Master Deed). The Council of Co-Owners, Inc., acts through its Board of Directors pursuant to the Master Deed and those Amended and Restated Bylaws from dated May 3, 2017, and recorded in Book 0638 at Page 549 in the ROD for Charleston County. (Bylaws) The Defendant is also governed by the South Carolina Horizontal Property Act, S.C. Code Ann. §27-31-10, *et seq.* As a nonprofit corporation, the Defendant is also governed by the South Carolina Nonprofit Corporation Act of 1994, S.C. Code Ann. §33-31-101, *et seq*

According to the By-laws, the Board of Directors for the Ashley House is made up of three to nine members, all of whom must be Co-Owners.

The Board of Directors as currently composed was confirmed by Judge Kimpson in his March 17, 2025, Order as being made up of the following Directors: Lisa Burbage, Connie McElhaney, Sherri Greenburg, Janice Georget, Kevin Gaskins, Frank Broccolo, Thomas Lydon, and Gwendolyn Smith.

While this matter was pending, after Judge Kimpson's entry of his Order, and after the Plaintiff moved to reconsider Judge Kimpson's Order, at 2:51 a.m. on April 14, 2025, the Plaintiff emailed the Board members and their lawyers a notice of motions which he intended to bring to the floor during the Ashley House's annual meeting originally scheduled for April 28, 2025. The original list contained Motions Numbers 1 through 668. At 1:40 p.m. that same day, the Plaintiff sent in a supplemental list of Motions Numbers 669 through 691. As a result, the Defendant cancelled the Annual Meeting and filed a Motion for a Temporary Restraining Order, Restraining Order, and Permanent Injunction on April 15, 2024, which it amended by way of its Amended Motion filed the same day, which was heard by this Court on April 23, 2025. The next day, April 16, 2025, the Plaintiff also sent in another set of motions to the Board numbering motions with Numbers 1 through 57, meaning there are a total of 748 potential "motions" pending by the Plaintiff.

In its Amended Motion, the Defendant filed its motions based on the following grounds:

1. The Plaintiff has failed to comply with the governing documents for the Ashley House;
2. The Plaintiff has failed to comply with the Orders of Judge Price and Judge Kimpson;
3. The Plaintiff has submitted an excessive amount of potential motions;
4. The Plaintiff has submitted motions which would require amendments of the Master Deed and By-laws which both require 66 2/3% of the Co-Owners affirmative vote to amend;

5. The Plaintiffs' attempt to remove the Board of Directors would not be proper due to Judge Kimpson's Order and the pending motion to reconsider; and
6. The excessive length of any potential meeting to address all 691 motions.
7. The motions, if allowed, would render the Ashley House ungovernable for an entire year in violation of the Master Deed, Bylaws, the South Carolina Horizontal Property Act, S.C. code Ann. §27-31-10, *et seq.* and the South Carolina Nonprofit Corporations Act. S.C. Code Ann. §33-31-101, *et seq.*

(Amended Motion)

The Court agrees.

The Defendant has no adequate remedy at law to prevent these "motions" which are not in compliance with the governing documents and the prior Court orders and the applicable statutes.

The "motions" the Plaintiff sent were defective and improper by the governing documents and by the statute seeking mainly to remove the current Board of Directors where that Board has been confirmed by Court Order and where the Plaintiff is seeking to have that Order reconsidered and vacated.

By granting the Defendant's Amended Motion, the Court is preserving the status quo pending Judge Kimpson's ruling on the Plaintiff's Motion.

There was no proof offered that the "motions" had been sent to all Co-owners as required by the statutes and governing documents.

To allow these motions to go forward would be an end-run around Judge Kimpson's Order which cannot be done by one Circuit Court Judge over another Circuit Court Judge, especially where the Plaintiff has exercised his rights to have Judge Kimpson's Order reconsidered under Rule 59 SCRCivP.

To allow these motions to go forward would also be to circumvent the amendment requirements of the Maser Deed and Bylaws, both of which require a vote 66 2/3% of the Co-Owners to be amended.

The Plaintiff's "motions" numbers 11 through 668 relate to the Board and cannot be allowed to go forward where Judge Kimpson has already ruled that the current Board is indeed the Board and the Plaintiff has moved to have him reconsider his Order, which motions cannot be used as a *de facto* nullification of Judge Kimpson's ruling.

Further, there can be no meeting of the Council of Co-owners on April 28, 2025, called by the Plaintiff as he has presented no proof that he has met the statutory requirements for such a meeting. The applicable portion of the Non-profit Corporations Act require at least five (5%) of the voting power to call a meeting. S.C. Code Ann. §33-31-702(a)(2).

To allow these motions and a special meeting called to vote on them would constitute irreparable harm as there is no adequate remedy at law for the Defendant whose Board has been confirmed by Court order, and, yet, the Plaintiff seeks to have that Order reconsidered. To allow these motions could overturn Judge Kimpson's ruling which is not the proper way to challenge a court order. By enjoining these motions temporarily and permanently, the Court is preserving the status quo pending Judge Kimpson's ruling and pending compliance with the governing documents and applicable statutes. Therefore it is hereby:

ORDERED, that the Plaintiff is temporarily and permanently restrained and enjoined from bringing all 748 motions pending in his correspondences from April 14 and 16, 2025; and it is further

ORDERED, that the Plaintiff is temporarily and permanently restrained and enjoined from calling a special meeting of Co-owners on April 28, 2025; and it is further

ORDERED, that the Plaintiff is temporarily and permanently restrained and enjoined from calling any special meetings or bringing any motions to be considered or resolutions without showing compliance with the Master Deed, By-laws, and the applicable statutes referenced herein; and it is further

ORDERED, that the Board of Directors shall remain the Board of Directors as determined by Judge Kimpson in his March 17, 2025, order until such time as Judge Kimpson may or may not reconsider, reverse, alter, or amend his Order as this Court may not do so nor may the Plaintiff do so by the motions dated April 14 and 16, 2025, especially where the Plaintiff has moved to reconsider that Order of March 17, 2025; and it is further

ORDERED that this Order may be enforced by the contempt powers of this Court; and

IT IS SO ORDERED!

Charleston, South Carolina  
\_\_\_\_\_, 2024

\_\_\_\_\_  
The Honorable Alex Kinlaw, Jr.  
Presiding Judge



Charleston Common Pleas

**Case Caption:** Michael D Royal VS Ashley House Council of Home Owners ,  
defendant, et al  
**Case Number:** 2024CP1001489  
**Type:** Order/Permanent Injunction

So Ordered

s/Alex Kinlaw, Jr., #2763