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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Ninth Judicial Circuit

Honorable Mikell R. Scarborough
Master-in-Equity

Civil Action No.: 2022-CP-10-04952

Spartina Bay Plantation Property Owners' Association, Inc..... Appellant.

v.

Stephen C. Wells and Randi P. Wells. Respondents.

RECORD ON APPEAL - VOLUME III OF IV

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Charleston, SC 29402
843-577-6726

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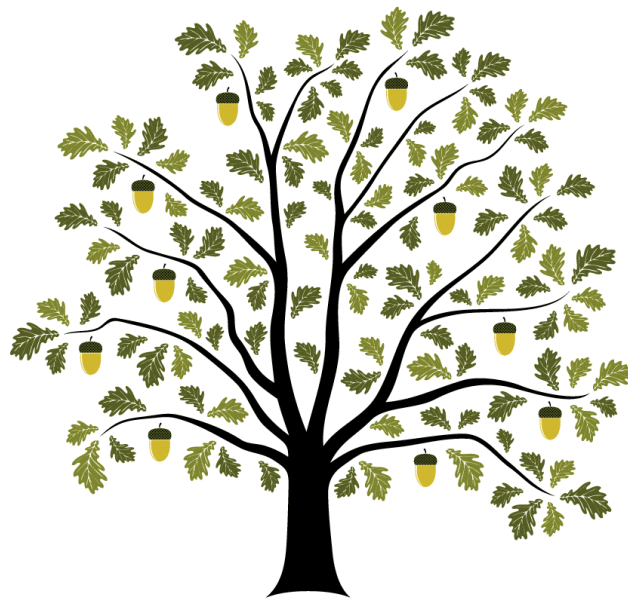
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Lawrence "Eddie" Evans, II - 30(b)(6)
Spartina Bay POA

September 5, 2024

Stephen C. Wells and Randi P. Wells v. Spartina Bay Property
Owners Association, Inc.



LIVE OAK

REPORTING

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2022-CP-10-04952
 STEPHEN C. WELLS AND)
 RANDI P. WELLS,)
)
 Plaintiffs,)
)
 vs.)
)
 SPARTINA BAY PROPERTY)
 OWNERS ASSOCIATION,)
)
 Defendants.)

* * * * *
 30 (b) (6) DEPOSITION OF SPARTINA BAY PROPERTY
 OWNERS ASSOCIATION, BY APPOINTED DESIGNEE:
 LAWRENCE EDWIN EVANS, II

DATE TAKEN: Thursday, September 5, 2024
 TIME: 10:05 a.m.
 PLACE: Rosen Hagood
 40 Calhoun Street, Suite 450
 Charleston, South Carolina
 REPORTED BY: EVE WILBANKS
 Registered Professional
 Reporter, Certified LiveNote
 Reporter and Notary Public

* * * * *

POST OFFICE BOX 21119
 CHARLESTON, SOUTH CAROLINA 29413

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A P P E A R A N C E S

REPRESENTING THE PLAINTIFFS:

TIMOTHY J.W. MULLER, Esquire
Rosen, Rosen & Hagood, LLC
40 Calhoun Street
Suite 450
Charleston, South Carolina 29401
Tmuller@rosenhagood.com

REPRESENTING THE DEFENDANT:

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Max.seferian@earhartoverstreet.com

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5 ** (This transcript may contain quoted material.
6 Such material is reproduced as read or quoted by
7 the speaker.)

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Eddie Evans, 30(b)(6) Spartina Bay POA
Deposition
Pg. 130

1 said, 'Yeah, we don't recognize the letter.'

2 So what was Mr. Wells trying to
3 communicate to the POA here about the parking in
4 the easement area?

5 A. I believe this was immediately after we
6 got the letter from you about the cease and
7 desist. And we had already asked -- Link was the
8 object; obviously, he's been at the center --
9 actually, he and Dill really have been at the
10 center of all of this.

11 But when Steve first objected to Link
12 being down there, we thought we could reduce the
13 discourse by allowing Link to just park on Chuck's
14 lot. Chuck said, Just bring your ATV, park on my
15 lot and just walk on in from there, and we'll try
16 to reduce the issues with it.

17 And of course, that presented whole
18 other issues that I know you're fully aware of
19 with regard to all of that, and that didn't work.
20 Then it -- then, of course, after that, and the
21 pedestrian thing, then it became everybody. You
22 know, nobody can park down there. And that was
23 the discussion that I had had with Steve at his
24 house. I went over to go see him and ask him, you
25 know, The rest of the community is concerned.

Eddie Evans, 30(b)(6) Spartina Bay POA
Deposition
Pg. 160

1 photos ahead of time.

2 Q. But the POA did not pay for the removal
3 of that deck?

4 A. Oh, no, no, no.

5 Q. And the POA did not reimburse Mr. Wells
6 for --

7 A. No.

8 Q. -- removal of the deck?

9 A. No.

10 Q. And does the POA intend to reimburse Mr.
11 Wells for removal of the deck?

12 A. No.

13 Q. And are you aware that upon partial
14 removal, it was discovered that the deck was
15 rotten underneath and not salvageable?

16 A. I'm aware that that is false, because I
17 showed up right after the deckboards had been
18 removed and the structure was intact.

19 Q. When was it built?

20 A. Probably 2000, the same time as the
21 dock. Close to the same time as the dock.

22 Q. So like 22 years?

23 A. The year 2000. Twenty years old.

24 Q. Was anybody else from the board there to
25 see the removal?

EXHIBIT K

On May 4, 2022, at 5:52 PM, EDDIE
EVANS <eddieandjosh@comcast.net>
wrote:

Hi Steve,

Along with the prior stated concerns,
any impediment to the area utilized for
ingress/egress of the Community Dock
is undesirable. The Community has a
great deal to resolve and reconcile with
regard to the area and adding additional
encumbrances is unwise at this time.

Hope that helps some.

Eddie

On 05/04/2022 8:51 AM Steve
Wells
<stevecwells100@gmail.com>
wrote:

Eddie,

Would you please provide
supporting reasons as to why
the fence is denied?

Steve

On May 4, 2022, at
8:47 AM, EDDIE
EVANS
<eddieandjosh@comcast.net>
wrote:

Good morning
Steve,

The Spartina Bay
ARB has
reviewed your
request for
construction of a
fence along your

property line
bordering Lot
12(Bennett) and
inside the
ingress/egress
area for the
Community Dock.

Additionally, input
was sought from
the POA Attorney
and the Board of
Directors.

Based on this
input, it is the
unanimous
decision of all
involved that your
request is denied.

L. E. Evans
President,
Spartina Bay
POA, INC

EXHIBIT L



July 14, 2022

CERTIFIED MAIL

ARTICLE NO.: 91 7199 9991 7030 0131 3222

Re: NOTICE TO COMPLY AI-0004400
Unauthorized Structure and Unauthorized Change in Use of Dock

Glen Dill
1424 Marsh Bluff Court
Edisto Island, SC 29438

Dear Glen Dill,

On June 20, 2022, an inspection was conducted by staff of the South Carolina Department of Health and Environmental Control's Office of Ocean and Coastal Resource Management (Department) at your property located on and adjacent to the tidelands and coastal waters critical areas of Store Creek at 1499 Marsh Bluff Court, Edisto Island, Charleston County, SC (PID 0250000038) (Site). Department staff observed the following in the tidelands critical area without authorization from the Department:

- 12' by 24' deck on upland extending over critical area

Additionally, Department staff has been made aware of an advertisement, via the website "Missin' Link Outdoors", for commercial fishing charters operating from the existing community dock at the Site, which was authorized by Critical Area Permit #99-1E-382 (Permit). This advertisement demonstrates a change in use from a community dock to a commercial dock.¹ This change in use is unauthorized and requires a permit from the Department.

The South Carolina Coastal Zone Management Act (Act) and Coastal Division Regulations (Regulations) require that any utilization/alteration of the critical area be permitted or otherwise legally authorized by the Department prior to performing the activity.² By way of this notice, the Department is asserting a violation of the Act. In order to be in compliance with the Act, Regulations and Permit, you must remove the portion of the 12' by 24' deck extending over critical area and cease all commercial activities associated with the dock.

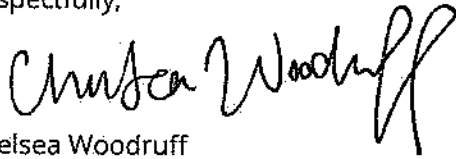
Please contact me at (803) 667-1314 or woodruck@dhec.sc.gov so that we can work to resolve this matter through the compliance assistance process. Failure to comply with this directive within 30 days of your receipt of this letter may result in an enforcement action being initiated by the Department which can include the assessment of civil penalties.³ Thank you for your cooperation and I look forward to hearing from you regarding the resolution of this matter.

¹ S.C. Code Ann. Regs. 30-12(A)(1)(r)

² S.C. Code Ann. §48-39-130(A) & S.C. Code Ann. Regs. 30-2(B)

³ S.C. Code Ann. §48-39-170

Respectfully,

A handwritten signature in black ink that reads "Chelsea Woodruff". The signature is written in a cursive, flowing style.

Chelsea Woodruff
Enforcement Project Manager
Office of Ocean and Coastal Resource Management

cc: Bobby "Link" Crapps, Owner, Missin' Link Outdoors.
Stephen C. and Randi Popp Wells

EXHIBIT M

----- Original Message -----
From: Steve Wells <stevecwells100@gmail.com>
To: eddieandjosh <eddieandjosh@comcast.net>
Date: 07/18/2022 3:31 PM EDT
Subject: Re: Community deck

Eddie,

I am not trying to restrict compliance with the dhec request. I want to comply as quickly as possible. Since I have owned this property, there were a couple of planks replaced after I gave permission to do so. The board at the time, asked me for permission to replace the boards; which were granted. It is my belief what you are referring to as a community deck; is not for open use by the community. The deck happens to be constructed in the easement area and not open for community use without the permission from the owners of lot B. The old lease and the current easement agreement allow for ingress and egress only in the easement area which further supports that there is not a community gathering area prior to reaching the walkway to the dock. It seems we both want to comply with dhec. Our current difference of opinion regarding ownership of the deck can be cleared up if the board can produce a record of ownership. I have a parcel, deed and plat that is on file in Charleston County showing that the area in question is owned by me. It may be beneficial for the board to produce a deed that states otherwise. I would encourage the board to seek proper ownership records prior to imposing any improper penalties on me regarding this situation.

On Mon, Jul 18, 2022 at 2:41 PM eddieandjosh <eddieandjosh@comcast.net> wrote:

Steve, I acknowledge your position but also understand that the Board does not believe you have authority to unilaterally destroy a structure that has been constructed, maintained and utilized for the Community benefit. Numerous documents reflect this position. Any action taken by you would be in direct violation of the Board's decision and result in penalties by the Board. Any penalties assessed by DHEC for non compliance would be your responsibility.

Since the POA has always maintained the Community deck within the ingress/egress easement we do not recognize your authority to restrict our actions to achieve compliance with dhec requirements.

Eddie Evans
Chairman, SBPPOA Board of Directors

EXHIBIT N

Spartina Bay Plantation Property Owners Association, Inc
1487 Marsh Bluff Ct
Edisto Island, SC 29438

2021 Officers
Eddie Evans, President
Janet Phillips, Secretary
Jamie Crapps, Treasurer

2021 Board Members
Eddie Evans, Chairman
Keith Phillips
Tyree Moore
Bobby Crapps
Teresa Roof

July 22, 2022

SENT VIA EMAIL AND REGISTERED MAIL

Steve & Rondi Wells
1499 Marsh Bluff Ct
Edisto Island, SC 29438

Steve/Rondi,

I send this letter to clarify the position of the Spartina Bay Board of Directors(the Board) on various issues with regard to the ongoing dispute over the ingress/egress access for the Community Dock.

As you are aware, there is a DHEC notice of non-compliance that has been negotiated for compliance requirements. Your request for a “deed of ownership” on the Community deck is inappropriate. Upon closing, you should have received a survey of the property indicating the ingress/egress access for the Community Dock. You do not have the right to assert domain and authority over this portion of your property. POA records show the deck was constructed and maintained for the benefit of the Community as a whole. The Board will determine the amount to be removed to reach compliance and accomplish same. Any action taken on your part to remove the structure will result in appropriate action by the Board.

Furthermore, no restrictions to access of the Community Dock are recognized. All Class A members will be afforded the same access in accordance with the lease agreement. This will end the need for Lot 12 to be ‘notified’ of offensive behavior by allowing access across his property.

I am available for a visual inspection this weekend if you would like to discuss further.

Sincerely,

Eddie Evans
President, SBPPOA, Inc

EXHIBIT O

Spartina Bay Plantation Property Owners Association, Inc
1487 Marsh Bluff Ct
Edisto Island, SC 29438

2022 Officers
Eddie Evans, President
Janet Phillips, Secretary
Jamie Crapps, Treasurer

2022 Board Members
Eddie Evans, Chairman
Keith Phillips
Tyree Moore
Bobby Crapps
Teresa Roof

September 24, 2022

SENT VIA REGISTERED MAIL

Steve & Rondi Wells
1499 Marsh Bluff Ct
Edisto Island, SC 29438

Steve/Rondi,

As a follow up to our letter of July 22, 2022 regarding the position of the Spartina Bay Board of Directors, a special meeting of the SBPPOA, INC Board of Directors was held on September 19, 2022 and unanimously decided upon the following action:

Background

While it was understood by all parties that DHEC conducted an inspection of the SBPPOA Community Dock and found non-compliance issues, the resolution to these items were disputed. As outlined below, the Board has determined that your unilateral act to remove all of the Deck constitutes a violation of the Declaration of Restrictive Covenants, Conditions and Restrictions of Spartina Bay Plantation Subdivision. Accordingly, the POA Board of Directors has determined through a special meeting that an Individual Assessment will be levied on the offending member.

Violation

The Covenants set forth the definition of "Common Area and Facilities" as "areas and structures designated for the common use of member by Class of Spartina Bay Property Owners Association, Inc. initially including the right of way for Marsh Bluff Court..., the community docks access easement..., and the community docks as described in the Dock Permit."

The deck was within the community ingress/egress access area and has at all times prior been for common use by members, the deck was a "Common Area and Facility" as defined in the Covenants.

Article VI clearly provides that the POA "shall own or lease the dock ... as well as the strip of land designated as Dock Easement..."

EXHIBIT P

December 28, 2009

Bruce,

I received and reviewed the letter from Holly Jensen. I concur with her observations on the terms of the lease. Any commitment that the POA has should be after the April 4, 2007 meeting. Until that time, Cookie Boyken was acting as the President of Spartina Bay POA. He was also acting as the Trustee for Peters Point Trust which had the rights to the access and as the principle owner of the lot B property which included the property. The lease (99 Years) was dated Oct. 12, 2001 and was signed by Boykin both as President of Spartina Bay POA and Trustee of Peters Point Trust. This included the 25% of property B tax burden pointed out by Holly. In 2001 there was no building on Lot B. The tax assessment on lot B now that there is a building on it is significantly higher than before and the 25% amount is exorbitant. There is, obviously, a significant conflict of interest with Cookie being the only signee on this document committing the POA to future payments.

We have not paid the ten dollar annual fee to Lot B since they have been in arrears in dues since the POA was reorganized. Nor have we paid any taxes on the property. We have maintained liability insurance on the POA which includes the dock. I would assume that we have no liability coverage on the access parcel since it is part of lot B. I also have no knowledge of the liability coverage that Lot B may have.

I agree that we should negotiate the 99 year limit on the lease as well as the tax liability. Let's go for 0 contribution to the tax. I assume that this negotiation would have to be with the government. You may want to talk to Bubba on this since he already has communication channels with them.

Jim from Bubba's office called me last week and said that he has received the payment for back dues and will be forwarding a check to me this week. I am holding payment to Holly until we get this since we only have about \$300 in the bank.

Let me know what I can do to help.

Ron Farrell

AS FAR AS THE DEBT TO COBO, I CAN'T MAKE ANY SENSE OF IT EXCEPT THAT IT LOOKS LIKE REIMBURSEMENTS TO COOKIE FOR MAINTENANCE. UNDER THE CIRCUMSTANCES I SUGGEST THAT WE JUST FORGET IT.

EXHIBIT Q

SPARTINA TSBAY

11/9/11

KAREN, IF THIS IS ACCEPTABLE LETS MAKE THE CHANGES + PROCEED,

Karen DeJong, Esq.

DeJong Law Firm, LLC

940 Johnnie Dodds Blvd, Ste 203

Mt. Pleasant, SC 29464

TSBAY

Dear Ms. DeJong,

I am in receipt of the Dock Easement you sent back in August and apologize that I am now just addressing the paperwork. There are a couple of items of concern.

First, in the Covenants and Restrictions there is a clause regarding should property owners abandon the dock, etc., that ownership would revert back to Lot B owners exclusively. I would like that language contained in this easement as well. Also, currently the HOA pays 25% of the tax bill for Lot Owners B because that owner is taxed on the property addressed in the easement. I would want to be sure that that, too, is made a part of any legal paperwork requiring my and my husband's signature.

I look forward to hearing from you. In the meantime, feel free to call me if you have any questions.

11/9/11

Bruce

Sincerely,

We have never paid 25% of the tax bill for Lot B. That just continued to stick by. Accordingly, I don't know

Cathy Waddell Cox - co-owner with husband of Lot B

843 437-0593

what kind of money we are talking about. Before we proceed with signing, I think we need to determine what 25% of the tax is. We also may want to discuss this with HOA members. I don't think there will be a problem with the easement reverting if we abandon.

EXHIBIT R

Spartina Bay Plantation

April 10, 2012

To: Spartina Bay POA Members

As you know we have been working on obtaining a perpetual easement to the Dock area to replace the 99 year term that has been in effect. The agreement has been agreed to and recorded. Attached is a copy for your information and records. *THE AGREEMENT IS DIGITIZED, PLEASE ASK RON FARRELL IF YOU WOULD LIKE TO RECEIVE A COPY BY EMAIL,*

We have not had a meeting for two years and in order to keep the Association legal and functioning, we must have one. One of the members has requested that we improve the roads by laying gravel and there are other items that need to be discussed. Accordingly, our President, Bruce is calling a meeting on May 12, 2012 at his home, 1440 Marsh Bluff Court. The agenda will be:

1:00 PM

1. Call to order
2. Approval of the Nov 6, 2010 minutes
3. Dock easement
4. Usage of dock by non owners
5. Financial Report
6. Road improvement.
7. Common property maintenance
8. New Business
9. Adjournment

If you are unable to attend please indicate your proxy by returning this to:

Spartina Bay POA
c/o Ron Farrell
42 Eel Island
Edisto Island, SC 29438
Or email to: ronfarrell@bellsouth.net

Voting Proxy for Spartina Bay May 12, 2012

I hereby authorize _____ to vote for lot _____ as she/he sees fit, without limitation or exception, on any business calling for a vote at the above meeting.

Signed: _____ Printed name _____ lot# _____

EXHIBIT S

BARR, UNGER AND MCINTOSH, L.L.C.

ATTORNEYS AT LAW
806 OYSTER PARK, SUITE B
EDISTO ISLAND, SOUTH CAROLINA 29438

CAPERS G. BARR, III
H. WAYNE UNGER, JR.
WILLIAM S. BARR
H. THOMAS MCINTOSH, JR.
ADAM E. BARR
W. SIAU BARR, JR.

TELEPHONE 843-869-2389
FAX 843-869-0110

CHARLESTON OFFICE
11 BROAD STREET
P. O. BOX 1037
CHARLESTON, SC 29402-1037
TELEPHONE 843-577-5083
FAX 843-723-9039

June 24, 2010

Mr. Bruce Matrisciani (wmatrisciani@yahoo.com)
1440 Marsh Bluff Court
Edisto Island, SC 29438

RE: Spartina Bay POA (Easement and Lease)
Our File No: 2009-3215

Dear Bruce:

I have reviewed my letter dated May 17th. After we get the plat completed from Lee Frank then there are a good many instruments we need to prepare and get implemented. Also, I think it would be a good idea to have a Special Meeting (get Proxies where possible) to confirm this action. I have no idea of knowing how long it will take but I suspect it will not cost over \$1,500.00 to get everything completed from this point forward. There is an outstanding balance from before. I will look to hear from you.

With kind regards, I am

Sincerely,
BARR, UNGER AND McINTOSH, LLC

H. Wayne Unger, Jr.

H. Wayne Unger, Jr.

HWUjr/jdj

Cc: Mr. Ron Farrell (Via E-mail only)

EXHIBIT T

Minutes of the October 17, 2009 Spartina Bay POA Meeting

The meeting was called to order at 11:07 AM by President Bruce Matriscini

In attendance: Bruce Matriscini, Pres.
Ron Farrell, Sec/ Treas
Carroll Griffin, Owner

Proxies: Bruce Matriscini was given the proxies of Tyree Moore and Charles Mock.

The first subject was the ownership and/or lease of the dock. There has been a good deal of discussion on the question of Spartina's ownership of the dock and the 99 year lease of the land giving dock access. General comments are surprise that Spartina Bay POA does not have deed to both. There is a question whether any owner was aware of the lease situation prior to closing on their property. Several owners indicate that they were not told of the lease.

Ron Farrell reported that it was his understanding from prior discussions that The dock was deeded to Spartina Bay POA (we cannot locate a copy of the recorded deed, however) and that the strip of land providing access to the dock was leased to the POA under a 99 year term. These discussions also indicated that the reason that the access was not deeded to the POA was that Charleston County would not approve the separation of the land from Lot B as a separate lot. The access land now belongs to Lot B and is leased to the POA until September 2100.

It was agreed that either a deed to the dock or a permanent easement should be pursued. The options forward were listed as:

1. Hire an "outside" attorney to do a title search and recommend a way forward.
2. Use Barr, Unger and Macintosh, who is currently working on recovering back dues from Lot B.
- 3.

Carroll Griffin indicated that he had a meeting with Bubba Unger on another matter recently, and the is subject arose. He stated that Bubba said the Charleston County may be willing to reconsider the deeding of the easement land. The discussion indicated that Bubba probably had instant access to the recorded dock deed and that he had all of the information and contacts to most readily pursue the easement deed/permanent lease issue.

It was agreed that Bruce would work with Barr, Unger and Macintosh to:

1. Provide a copy of the recorded deed to the dock,
2. to attain either a dock easement deed or a lease in perpetuity.
3. And that if fees are expected to exceed \$2,000, we have a check point going forward.

The five votes to proceed in this fashion carried.

FINANCIALS

The second item on the agenda was the financial report. The P&L and the Balance Sheet through Oct. 14, 2009 and the proposed 2010 Budget (attached) were presented. The largest expenditure was the

EXHIBIT U

Minutes of the Nov. 6, 2010 Spartina Bay POA Meeting

The meeting was called to order at 1:14 PM by President, Bruce Mastriscini.

In attendance: Bruce Mastriscini, Pres.
Ron Farrell, Sec/Treasurer
Carroll Griffin
Garland McWhirter
Jim Cox

Proxies: Ron Farrell was given the proxy of Kathryn Hitchings-Hill. The six votes represented signified a quorum.

1. **Approval of the Oct 1, 2009 minutes:** The minutes of the Oct 17, 2009 meeting were read. Carroll Griffin moved to accept them as written, Ron Farrell seconded the motion. The motion was accepted unanimously.
2. **Dock maintenance:** Bruce indicated that the following maintenance was suggested for the dock:
 - a. Pull all loose nails and replace them with screws. This would be a PPOA member volunteer project currently scheduled for Sat. Dec 4 at 12:00 noon. Bring your drill driver.
 - b. Pulling cross tie bolts and installing galvanized washers. Cost estimate: \$1995.
 - c. Pressure washing and sealing the dock. Cost estimate: \$1995.

It was decided to table this discussion until the financials and proposed were reviewed.

3. **Usage of dock by non owners:** There has been a boat at the dock for the past year. Original permission was given by owner, Charlie Mock to a friend. The Covenants were reviewed and it was agreed that any non owner was not permitted to have any long term use of the facility. After a good deal of discussion on who was responsible to enforce this, Ron Farrell made a motion that it should be the POA's responsibility and that Bruce should handle it any way he sees fit. Seconded by Jim Cox and approved unanimously.

During this discussion, dock assignment was discussed. Bruce produced a First amendment to the Restrictive Covenants dated March 22, 2005 which outlined assignments. Pat McWhirter indicated that he did not agree with his assignment under that document. This is a recorded document. Pat and Garland McWhirter will review their counter documentation and provide any required update.

4. **POA usage of outside contractors insurance:** Bruce asked if the POA was using contractors who were not bonded or did not carry Workman's Comp Insurance; would we be liable for any accidents or injuries. Pat McWhirter indicated that as long as they were contractors, not employees, the POA was not liable.
5. **Dock easement issue:** Two days prior to this meeting we were advised by Barr, Unger & McIntosh that contrary to their previous indication that the easement area to the dock could be

parceled off and deeded to the POA, Charleston County now indicated that they would not approve this action. Unger suggested that the next step was to approach the Cox's for a perpetual lease. It was pointed out that we have spent \$2,650 with Barr, Unger & McIntosh this year to accomplish the deeding of this property. After a good deal of discussion there was a general feeling of no confidence in Unger and a motion was made by Garland McWhirter to contact the Jensen Law Firm to get resolution to the perpetual lease issue and to get an estimate of cost to update the Restrictive Covenants if changes were needed to dock assignments or dock privilege language. The motion was seconded by Jim Cox and passed unambiguously.

6. **Financial Report and 2011 Budget Approval.** The attached documents: Profit & Loss vs. Budget 2010, Balance Sheet as of Nov 5, 2010, and Proposed 2011 Budget were reviewed. The only discussion was to indicate that the two \$1995 dock projects be shelved for the time being. Garland McWhirter motioned to accept the report and proposed budget. It was seconded by Carroll Griffin and approved unanimously. This indicates that dues will remain \$400 "A" members and \$300 "B" members for 2011.
7. **Adjournment:** There being no matters of new business, Garland motioned for adjournment, seconded by Jim Cox and so approved. Adjourned at 3:14 PM.

EXHIBIT V

Spartina Bay Plantation

Minutes of the POA meeting – May 12, 2012

President Bruce Matriscini called the meeting to order at 1:03 PM. In attendance were Bruce, Ron & Sandy Farrell, Glen Dill, Pat & Garland McWhirter, Ginger & Gary Lee. The Hills and the Coxs were not in attendance but submitted their proxies to Bruce. There being 6 votes represented, a quorum was established.

Ginger and Gary Lee introduced themselves as prospective purchasers of Lot 6 and indicated that closing should occur no later than early June.

Garland moved that the minutes of the Nov. 6, 2010 minutes be approved as written. Bruce seconded the motion and it was approved unanimously.

Dock Easement

The fact that the perpetual dock easement was finalized was announced and it was stated that it was available in digitized form for anyone who wanted a copy.

Usage of dock by non owners

The policy that dock usage was limited to owners and guests with non owners prohibited from leaving a boat at the dock when they were not a guest of the owner or for any unreasonable time was reviewed.

Financial Report

The following reports were reviewed:

2011 P&L and balance sheet

2012 YTD P&L

At the time of this report we had \$5,196.43 in the bank with \$1,300 dues outstanding. In the day subsequent to the report being written, \$1000 of the outstanding dues was collected. We now have \$6196.43 in the bank and \$300 outstanding.

A motion was made by Glen Dill to accept the report, seconded by Garland and approved.

Road Improvement

There is a request to pour gravel on the roadway to improve on the dust situation. A proposal for approx. \$6,000 was reviewed. A question relative to whether we could pay any of this out of general funds was answered by indicating that we budget frugally and normally spend most of the fund in the year on normal upkeep. Any significant new expenditure would require an

Spartina Bay Plantation

assessment. Gary Lee asked if we have considered carrying an emergency fund for such expenditures. It was stated that if we plan to do so, a dues increase would be required. Another way to handle it would be through the BOD's right to make special assessments.

After a good deal of discussion, it was suggested that we get additional estimates and recommendations for alternate approaches. Ginger Lee said that she would look in to options and get additional estimates and report back to the BOD.

Common Property maintenance

Bruce voiced dissatisfaction with the job that George Dossett was doing, primarily that he was not blowing off the common area by the dock. He asked if there was a written contract with George. The answer was no. Ron Farrell indicated that he would talk to George. There was a brief discussion of alternatives but no action was taken.

New Business

Ron Farrell indicated that after seven years as Secretary/Treasurer he was retiring. He also suggested that we reform the BOD so it could become more active.

Ginger Lee expressed interest in serving on the BOD in that position. The fact that they have not yet closed had become official owners makes that currently impossible. When they close in June she will be appointed to the BOD and assume the responsibility of Secretary/ Treasurer. Glen Dill has agreed to sit on the BOD as Vice President. Bruce has agreed to continue as President. As of the Lee closing the old BOD members Ron Farrell and Tyree Moore will be replaced as above.

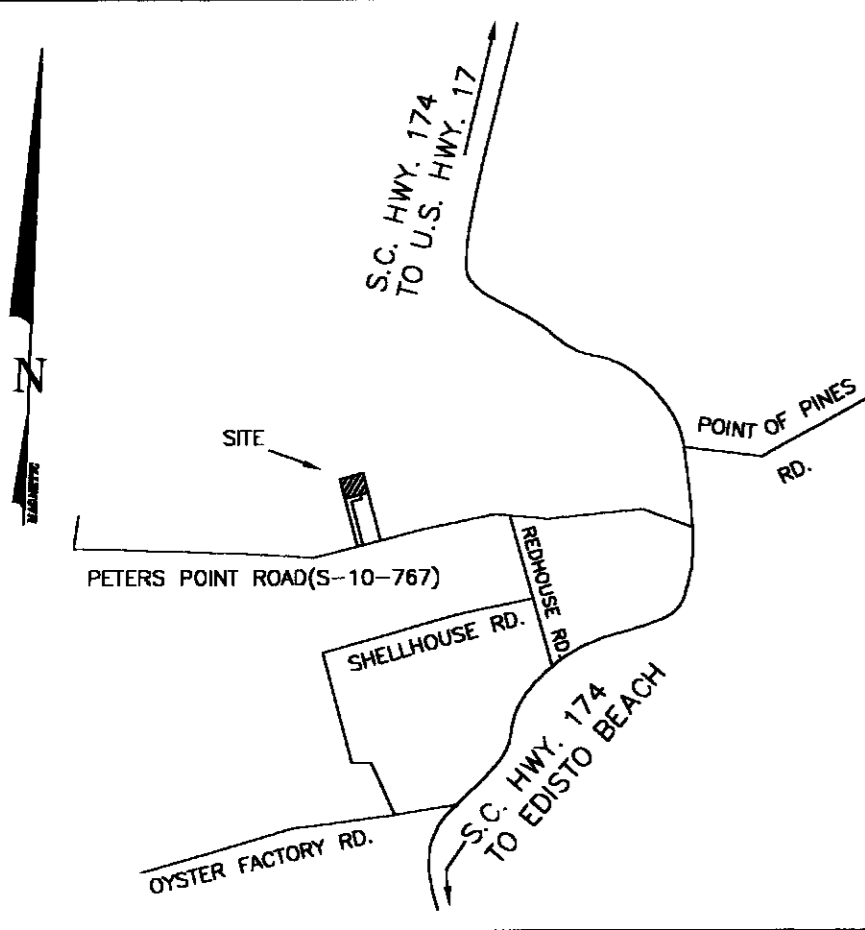
There was discussion of a work day to do dock repair. It was suggested that we delay this until after the summer heat.

There being no further business, the meeting was adjourned at 3:20 PM.

Submitted by Ron Farrell, Sec/ Treas.

EXHIBIT W

0 454-9186

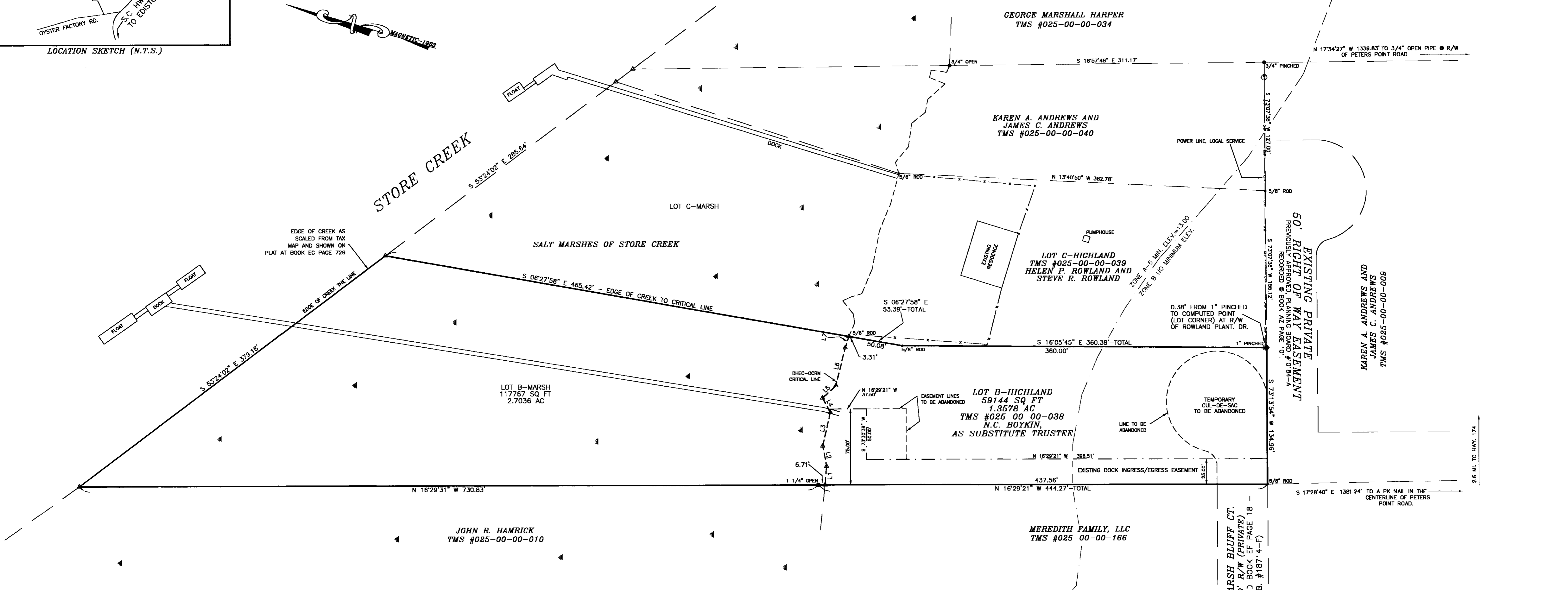


THE AREA SHOWN ON THIS PLAT IS A GENERAL REPRESENTATION OF DHEC-OCRM PERMIT AUTHORITY ON THE SUBJECT PROPERTY. CRITICAL AREAS BY THEIR NATURE, ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME. BY GENERALLY DELINEATING THE PERMIT AUTHORITY OF THE DHEC-OCRM IN NO WAY WAIVES THE RIGHT TO ASSERT PERMIT JURISDICTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREIN OR NOT.

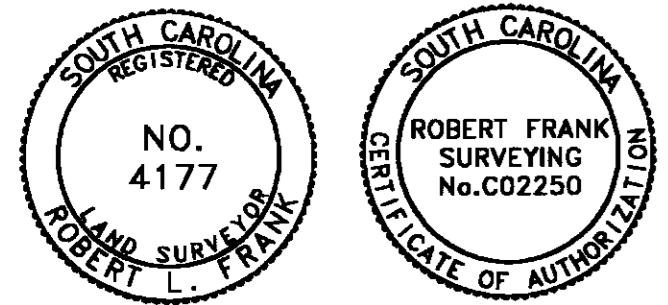
DHEC-OCRM CRITICAL LINE PREVIOUSLY CHECKED AND APPROVED BY DHEC-OCRM REPRESENTATIVE FRED WALLETT ON 3/21/02 AND RECORDED AT BOOK EF PAGE 485.
 SIGNATURE _____ DATE _____
 THE CRITICAL LINE SHOWN ON THIS PLAT IS VALID FOR THREE YEARS FROM THE DATE OF THIS SIGNATURE, SUBJECT TO THE CAUTIONARY LANGUAGE ABOVE.

1. THIS APPROVAL IN NO WAY OBLIGATES THE COUNTY OF CHARLESTON TO MAINTAIN THIS INGRESS-EGRESS EASEMENT UNTIL IT HAS BEEN CONSTRUCTED TO COUNTY STANDARDS AND ACCEPTED FOR MAINTENANCE BY CHARLESTON COUNTY COUNCIL.
2. ANY FURTHER SUBDIVISION OF THE PARCEL, OR ROAD CONSTRUCTION OR EXTENSION OF THE EXISTING ROADS SHOWN HEREON SHALL REQUIRE COMPLIANCE WITH THE CHARLESTON COUNTY ZONING AND SUBDIVISION REGULATIONS. BEFORE CHARLESTON COUNTY ACCEPTS ANY DEDICATION OF ROADS INTO THE COUNTY ROAD SYSTEM, THE PROPERTY OWNER SHALL CONSTRUCT THE ROADS TO THE COUNTY OF CHARLESTON ROAD STANDARDS.
3. IT IS HEREBY EXPRESSLY UNDERSTOOD BY THE PROPERTY OWNER, DEVELOPER OR ANY SUBSEQUENT PURCHASER(S) OF ANY LOTS SHOWN ON THE PLAT THAT THE COUNTY OF CHARLESTON IS NOT RESPONSIBLE FOR THE MAINTENANCE OF THE STREETS, ROADS, COMMON AREAS, DRAINAGE SYSTEMS AND ANY OTHER MUNICIPAL SERVICES WHICH INCLUDE BUT NOT LIMITED TO, GARBAGE DISPOSAL, PUBLIC WATER, PUBLIC SEWAGE, FIRE PROTECTION OR EMERGENCY MEDICAL SERVICE.
4. BE AWARE THAT THE COUNTY OF CHARLESTON IS NOT RESPONSIBLE FOR DRAINAGE AND FLOODING PROBLEMS RELEVANT TO THE REAL PROPERTY AND EMERGENCY VEHICLES MAY HAVE DIFFICULTY ACCESSING THE PROPERTY.
5. NO PUBLIC FUNDS SHALL BE USED FOR THE MAINTENANCE OF THE ROADS SHOWN ON THIS PLAT.

FLOOD ZONE AS SCALED FROM COMMUNITY-PANEL 455413-460-F. INDEX DATED 9/27/93.

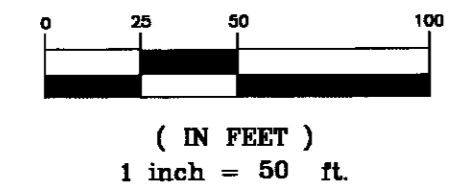


A BOUNDARY SURVEY, CUL DE SAC ABANDONMENT,
 AND DOCK EASEMENT ADJUSTMENT OF LOT B
 LOCATED ON EDISTO ISLAND
 CHARLESTON COUNTY, SOUTH CAROLINA



NOTE: THIS PLAT DOES NOT CONSTITUTE AN OFFICIAL SURVEY OF THIS PROPERTY UNLESS STAMPED WITH THE EMBOSSED SEAL OF THE SURVEYOR.
 I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS B SURVEY AS SPECIFIED THEREIN, ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

DATE : APRIL 2, 2003
 REVISED : JUNE 19, 2003
 GRAPHIC SCALE



- NOTES:
1. TMS #025-00-00-038.
 2. PLAT REFERENCES: BOOK EF PAGE 485.
 3. DEED REFERENCE: BOOK U-221 PAGE 586.
 4. EASTERN PROPERTY LINE SHOWN AS STRAIGHT ON REFERENCE PLATS. THIS SURVEY HONORS MONUMENTATION FOUND.
 5. IPS = IRON PIPE SET (5/8" ROD)
 6. Δ = COMPUTED POINT, NO IRON SET.
 7. TOTAL AREA = 4.0614 AC.

LINE TABLE

NUMBER	DIRECTION	DISTANCE
L1	N 78°19'45" E	18.41'
L2	N 83°05'40" E	20.52'
L3	N 86°20'02" E	33.93'
L4	N 45°25'08" E	16.24'
L5	S 59°00'37" E	17.95'
L6	N 87°22'25" E	38.47'
L7	S 87°55'49" E	11.92'

APPROVAL AND RECORDING STAMPS

Charleston, South Carolina
 Office of Register Mesne Conveyance
 Plat recorded this 26th day of June, 2003 at 3:21 o'clock in Plat Book EG Page 457, and tracing cloth copy filed in File 7, Drawer _____ Folder 79, Drawing No. 12.
 Original plat (a White Print) delivered to Chas Co Planning Board

APPROVED PLAT
 EXC 117 58.13 A
 [Signature]
 DIRECTOR OF PLANNING
 CHARLESTON COUNTY PLANNING COMMISSION
 19260 JUNE 26, 2003
 APP. # _____ DATE

[Signature]
 Register Mesne Conveyance

EXHIBIT X

Date	Approximate Time	Event	Evidence
4/28/2022	10:00pm	Between 8:30PM and 10:00PM numerous trips by ATV or UTV driving on Chuck's property. I could hear the vehicles and see the lights shining in my living room windows. At 10:00PM while setting on my back porch; I asked the folks who drove up and were talking and walking down the easement to please be quiet and wrap things up since it was after 10:00pm at night. Link's dog was outside of the easement area on my property.	Video
4/28/2022	10:33pm	A group drove another small vehicle to the same area and parked on Chuck's property. They shined the lights into my living room window. I stepped on to my back porch and asked them if they could please be quiet and wrap things up for the evening and that the vehicles were shining lights in my windows. Link responded that nothing was going to change. I had better not start with him or he would sue my ass for harassment. He was standing in the easement area on my property during this.	
4/21/2022	3:44pm	Barry Roof drove down the easement, crossed the easement into my driveway and parked for about an hour.	Video
4/29/2022	4:33am	A truck from Link's fishing group drove down the easement and parked for about 1.5 hours	Video
4/30/2022	8:34pm	Link's dog is outside of the easement area in my yard.	Video
4/30/2022	2:45pm	Barry Roof drove down the easement and parked for about 30 minutes. He hauled someone out on his tailgate. Two individuals from Link fishing group pulled an ATV onto the easement area from Chuck's property, hooked up a cart and hauled it	Video
4/30/2022	12:49pm	away.	Video
4/30/2022	10:24am	Link's dog is outside of the easement area in my yard.	Video
5/3/2022	11:03pm	Link's dog is outside of the easement area in my yard.	Video
5/4/2022	7:25pm	Link's dog is outside of the easement area in my yard.	Video
5/4/2022	6:54pm	Storing the guest stuff on my deck.	Video
5/4/2022	7:00pm	Storing the guest stuff on my deck.	Video
5/21/2022	6:19pm	Link's dog is outside of the easement area in my yard.	Video
5/22/2022	6:59pm	Link's dog is outside of the easement area in my yard.	Video
5/22/2022	8:02pm	Link's dog is outside of the easement area in my yard.	Video
5/22/2022	8:08pm	Link's dog is outside of the easement area in my yard.	Video
5/23/2022	5:27pm	Link's dog is outside of the easement area in my yard.	Video
5/24/2022	7:06pm	One of the crew members driving Link's golf cart pulling a wagon in the easement area.	Video
5/25/2022	3:11am	Link's dog is outside of the easement area in my yard.	Video
5/25/2022	7:59pm	Link's dog is outside of the easement area in my yard.	Video
5/26/2022	7:50pm	Link driving into the easement area on his golf cart with a passenger	Video
5/26/2022	8:52pm	Link's dog is outside of the easement area in my yard.	Video
5/27/2022	5:18pm	Link's dog is outside of the easement area in my yard.	Video
5/28/2022	11:04am	Storing of the cart and cooler in the easement area.	Video
5/28/2022	2:15am	Barry Roof driving and parking in the easement area.	Video
6/3/2022	8:21am	Link's dog is outside of the easement area in my yard.	Video
6/3/2022	2:09pm	Link's dog is outside of the easement area in my yard.	Video
6/4/2023	8:13pm	Link in the access area not properly clothed.	Video
6/27/2022	6:38pm	Link driving into the easement area to pull a cart.	Video
7/2/2022	8:55pm	UTV shining headlights into my living room and back porch. Ran over one of my fence post markers as it drove onto the easement.	Video & picture

7/3/2022 5:48pm	The Roofs and Phillips driving on an parking on the easement area.	Video
7/3/2022 6:05pm	The board president, board member and Secretary telling me I am wrong and they disagree about the ability to park in the easement.	Video
7/3/2022 6:53pm	Loitering in the easement area by the Roofs.	Video
7/3/2022 9:58pm	The Roofs and Phillips driving on the easement area.	Video
7/4/2022 7:05pm	The Roofs and Phillips driving on and parking on the easement area.	Video
7/4/2022 8:10pm	The Roofs and Phillips driving on the easement area.	Video
7/7/2022 10:39am	The Roofs driving on and parking on the easement area.	Video
7/7/2022 1:00pm	The Roofs driving on the easement area.	Video
7/7/2022 7:39pm	The Roofs and Phillips driving on and parking on the easement area.	Video
7/7/2022 8:22pm	The Roofs and Phillips driving on the easement area.	Video
7/8/2022 9:41am	The Roofs driving on and parking on the easement area.	Video
7/8/2022 10:44am	The Roofs driving on the easement area.	Video
8/12/2022 1:30pm	The Moores driving and parking in the easement area.	Video
8/12/2022 1:35pm	The Moores driving and parking in the easement area.	Video
8/12/2022 3:18pm	The Moores driving and parking in the easement area.	Video
8/12/2022 3:42pm	The Moores driving and parking in the easement area.	Video
9/17/2022 1:20pm	The Roofs driving on and parking on the easement area.	Video
9/17/2022 1:54pm	The Roofs driving on and parking on the easement area.	Video
9/17/2022 6:39pm	The Roofs driving on and parking on the easement area.	Video
9/17/2022 8:21pm	The Roofs driving on and parking on the easement area.	Video
9/18/2022 9:25am	The Roofs driving on and parking on the easement area.	Video
9/18/2022 11:16am	The Roofs driving on and parking on the easement area.	Video
9/18/2022 11:21am	The Roofs driving on and parking on the easement area.	Video
9/18/2022 12:31pm	The Roofs driving on and parking on the easement area.	Video
9/18/2022 4:09pm	Friends of the Roofs driving on and parking on the easement area.	Video
9/18/2022 8:06pm	Friends of the Roofs driving on and parking on the easement area and shining headlights into our living room.	Video
9/19/2022 9:08am	Friends of the Roofs driving on and parking on the easement area.	Video
9/19/2022 11:52am	Friends of the Roofs driving on and parking on the easement area. Not fully clothed.	Video
9/19/2022 12:03pm	Friends of the Roofs driving on and parking on the easement area. Not fully clothed.	Video
9/19/2022 3:26pm	Friends of the Roofs driving on and parking on the easement area.	Video
9/20/2022 7:55am	Friends of the Roofs driving on and parking on the easement area.	Video
9/20/2022 2:39pm	Friends of the Roofs driving on and parking on the easement area.	Video
9/21/2022 9:12am	Friends of the Roofs driving on and parking on the easement area.	Video
9/21/2022 5:49pm	Friends of the Roofs driving on and parking on the easement area.	Video
9/22/2022 11:30am	The Roofs driving on and parking on the easement area.	Video
9/22/2022 1:36pm	The Roofs driving on and parking on the easement area.	Video
9/22/2022 8:19pm	The Roofs driving on and parking on the easement area.	Video
9/22/2022 8:54pm	The Roofs driving on and parking on the easement area.	Video
9/23/2022 10:57am	The Roofs driving on and parking on the easement area.	Video
9/23/2022 12:11pm	The Roofs driving on and parking on the easement area.	Video
9/24/2022 8:51am	Friends of the Roofs driving on and parking on the easement area.	Video

9/24/2022 9:02am	Friends of the Roofs driving on and parking on the easement area.	Video
10/22/2022 5:48pm	Link and charter help driving and parking on the easement area.	Video
10/22/2022 6:13pm	Link and charter help with the Roofs loitering in the easement area.	Video
10/22/2022 6:15pm	Link and charter help driving and parking on the easement area.	Video
11/5/2022 11:12am	Barry Roof and guest driving and parking on the easement area.	Video
11/5/2022 1:43pm	Barry Roof and guest driving and parking on the easement area.	Video
11/5/2022 5:08pm	Barry Roof and guest driving and parking on the easement area.	Video
11/5/2022 6:55pm	Barry Roof and guest driving and parking on the easement area.	Video
1/21/2023 4:42pm	Link driving and parking on the easement area.	Video
4/14/2023 10:18pm	Two individuals from Link's driving the black golf cart on my property, running over a stake and leaving trash on the dock.	Video & picture
4/20/2023 8:25pm	Link and three individuals driving and parking the black golf cart on my property.	Video & picture
4/21/2023 7:50am	Link's golf cart driving and parking in the easement and leaving trash on the dock.	Pictures
4/21/2023 6:20pm	Link driving and parking on the easement area.	Video
4/21/2023 6:57pm	Link driving and parking on the easement area.	Video
4/21/2023 8:07pm	Link driving and parking on the easement area.	Video
4/22/2023 4:52pm	Link driving and parking on the easement area.	Video
4/22/2023 7:50pm	Link driving and parking on the easement area.	Video
4/23/2023 4:43pm	A person from Links driving and parking on the easement area.	Video
4/23/2023 4:57pm	A person from Links driving and parking on the easement area. This person claimed to be a minor and that videoing a minor was illegal. He appeared to be videoing the back of my house which I told him he needed to get off my property.	Video
4/28/2023 6:07pm	Link driving and parking on the easement area.	Video
4/29/2023 5:08am	Someone shining a spotlight on to my house from the dock area.	Video
4/30/2023 12:06pm	A person from Links driving and parking on the easement area.	Video
4/30/2023 12:24pm	A person from Links driving and parking on the easement area.	Video
4/30/2023 4:30pm	A person from Links driving and parking on the easement area.	Video
4/30/2023 4:42pm	A person from Links driving and parking on the easement area.	Video
5/3/2023 7:20pm	A group from Links driving and parking on the easement area. Hauling cart and coolers.	Video
5/3/2023 7:35pm	A group from Links driving and parking on the easement area. Hauling cart and coolers.	Video
5/3/2023 7:39pm	A group from Links driving and parking on the easement area. Hauling cart and coolers.	Video
5/3/2023 7:56pm	A group from Links driving and parking on the easement area. Hauling cart and coolers.	Video
5/4/2023 6:06pm	A group walking to the dock past the parked golf cart in the easement area.	Video
5/4/2023 7:00pm	A second vehicle from Links driving and parking on the easement area.	Video
5/4/2023 7:25pm	A group from Links driving and parking on the easement area. Hauling cart and coolers.	Video
5/4/2023 7:27pm	A second vehicle from Links driving and parking on the easement area. Hauling coolers.	Video
5/4/2023 7:53pm	A person from Links driving and parking on the easement area.	Video
5/4/2023 8:05pm	A person from Links driving and parking on the easement area.	Video
5/5/2023 4:36am	A person from Links driving and parking on the easement area.	Video
5/5/2023 6:39pm	Link driving and parking on the easement area.	Video
5/5/2023 7:03pm	A group from Links driving and parking on the easement area. Hauling cart and coolers.	Video
5/5/2023 7:44pm	A group from Links driving and parking on the easement area. Hauling cart and coolers.	Video

5/6/2023 7:23pm	A group from Links driving and parking on the easement area.	Video
5/6/2023 7:39pm	A group from Links driving and parking on the easement area.	Video
5/6/2023 7:47pm	Link driving and parking on the easement area.	Video
5/6/2023 8:11pm	Link driving and parking on the easement area.	Video
5/6/2023 8:19pm	A group from Links driving and parking on the easement area.	Video
5/7/2023 6:52pm	A person from Links driving and parking on the easement area. Crossing over the easement area onto my property	Video
5/12/2023 7:34pm	Link walking in the easement area giving my 85 year mother what appears to be "the bird" hand gesture.	Video
5/12/2023 7:42pm	A group from Links driving and parking on the easement area.	Video
5/12/2023 7:45pm	A group from Links driving and parking on the easement area.	Video
5/12/2023 7:57pm	A group from Links driving and parking on the easement area.	Video
5/12/2023 7:58pm	A group from Links driving and parking on the easement area.	Video
5/12/2023 8:44pm	A group from Links driving and parking on the easement area.	Video
5/12/2023 10:28pm	A group from Links driving and parking on the easement area.	Video
5/12/2023 10:41pm	A group from Links driving and parking on the easement area. Shining headlight on the back of my house.	Video
5/13/2023 12:08pm	A group from Links driving and parking on the easement area.	Video
5/13/2023 12:18pm	A group from Links loitering in the easement area.	Video
5/13/2023 12:20pm	A group from Links driving and parking on the easement area.	Video
5/13/2023 6:11pm	Link driving and parking on the easement area.	Video
5/13/2023 6:23pm	A group from Links driving and parking on the easement area. Hauling cart and coolers.	Video
5/13/2023 6:27pm	Link driving and parking on the easement area.	Video
5/13/2023 6:41pm	Link driving and parking on the easement area.	Video
5/13/2023 6:53pm	A group from Links loitering in the easement area.	Video
5/13/2023 7:08pm	A group from Links driving and parking on the easement area.	Video
5/13/2023 7:14pm	A group from Links driving and parking on the easement area.	Video
5/13/2023 7:45pm	A group from Links driving and parking on the easement area. Hauling cart and coolers. Loitering.	Video
5/13/2023 8:15pm	A group from Links loitering in the easement area.	Video
5/14/2023 10:50am	A group from Links driving and parking on the easement area. Link accessing the easement area from Chuck's	Video
5/14/2023 4:44pm	A group from Links driving and parking on the easement area with a truck pulling a waggon and loitering.	Video
5/14/2023 4:47pm	A group from Links driving and parking on the easement area with a truck.	Video
5/14/2023 4:51pm	A person from Links driving and parking on the easement area and loitering.	Video
5/14/2023 5:02pm	A group from Links driving and parking on the easement area.	Video
5/14/2023 5:38pm	A group from Links loitering in the easement area.	Video
5/14/2023 5:41pm	A group from Links driving and parking on the easement area.	Video
5/14/2023 5:59pm	A group from Links driving and parking on the easement area. Link loitering in the easement area.	Video
5/14/2023 6:01pm	A group from Links driving and parking on the easement area.	Video
5/14/2023 7:28pm	A group from Links driving and parking on the easement area. Link loitering in the easement area.	Video
5/14/2023 8:04pm	A group from Links driving and parking on the easement area.	Video
5/14/2023 8:05pm	A group from Links driving and parking on the easement area.	Video
5/20/2023 5:02am	Spotlight being shined on the back of my house from the dock area	Video
6/9/2023 4:44pm	Philips driving and parking in easement area	Video
6/10/2023 5:13pm	Philips driving and parking in easement area	Video
7/1/2023 7:00pm	A group from Links driving and parking on the easement area.	Video

7/1/2023 7:02pm	A group from Links driving and parking on the easement area.	Video
7/1/2023 9:58pm	A group from Links driving and parking on the easement area.	Video
7/2/2023 11:52am	A group from Links driving and parking on the easement area. Leaving cart and cooler in the easement area.	Video
7/2/2023 12:00pm	A group from Links driving and parking on the easement area. Leaving more items in the easement area.	Video
7/2/2023 12:05pm	A group from Links driving and parking on the easement area. Loitering.	Video
7/2/2023 5:26pm	A group from Links driving and parking on the easement area.	Video
7/2/2023 5:56pm	A group from Links driving and parking on the easement area.	Video
7/2/2023 6:02pm	A group from Links driving and parking on the easement area.	Video
7/2/2023 6:05pm	Link cussing and threating me. Loitering in the easement area.	Video
7/3/2023 12:05pm	A person from Links driving and parking on the easement area.	Video
7/3/2023 12:17pm	A person from Links driving and parking on the easement area.	Video
7/3/2023 8:04pm	A group from Links driving and parking on the easement area.	Video
7/4/2023 12:15pm	A group from Links driving and parking on the easement area.	Video
7/4/2023 12:16pm	A group from Links driving and parking on the easement area.	Video
7/4/2023 12:26pm	A group from Links driving and parking on the easement area.	Video
7/4/2023 4:34pm	A group from Links driving and parking on the easement area.	Video
7/4/2023 8:00pm	A person from Links driving and parking on the easement area.	Video
7/4/2023 8:08pm	A person from Links driving and parking on the easement area.	Video
7/5/2023 3:56pm	A group from Links driving and parking on the easement area. Loitering.	Video
7/5/2023 8:01pm	A group from Links driving and parking on the easement area. Loitering.	Video
7/6/2023 9:50am	Unknown group driving and extending beyond the easement area to turn around.	Video
7/8/2023 1:07pm	A person from Links driving and parking on the easement area.	Video
7/8/2023 1:20pm	A group from Links driving and parking on the easement area.	Video
7/8/2023 1:35pm	A group from Links driving and parking on the easement area.	Video
7/8/2023 2:06pm	A group from Links driving and parking on the easement area.	Video
7/8/2023 7:01pm	Link driving and parking on the easement area.	Video
7/8/2023 7:57pm	Link driving and parking on the easement area.	Video
7/13/2023 4:47pm	White truck from Links driving, parking and extending outside of the easement area. ARP sticker on back glass.	Video
7/15/2023 1:14pm	A person driving and parking in the easement area picking up a group from Links boat.	Video
7/15/2023 1:17pm	A person driving and parking in the easement area picking up a group from Links boat.	Video
7/19/2023 7:52pm	A person driving and parking in the easement.	Video
7/19/2023 7:59pm	A person driving and parking in the easement.	Video
7/21/2023 11:14am	A group from Links driving and parking on the easement area.	Video
7/21/2023 7:08am	White truck from Links driving and parking on the easement area.	Video
7/21/2023 7:09am	White truck from Links driving and parking on the easement area.	Video
7/29/2023 2:19pm	Unknown vehicle driving on the easement area.	Video
10/7/2023 6:55pm	White SUV from Links driving and parking in the easement area.	Video
10/7/2023 7:31pm	White SUV from Links driving and parking in the easement area. Backing outside of the easement area on my property.	Video
10/27/2023 6:21pm	White Truck from the Roofs driving and parking in the easement area.	Video
10/27/2023 8:12pm	White Truck from the Roofs driving and parking in the easement area.	Video
10/28/2023 8:23am	White Truck from the Roofs driving and parking in the easement area.	Video
10/28/2023 3:16pm	White Truck from the Roofs driving and parking in the easement area.	Video

10/28/2023 5:51pm
10/29/2023 11:10am
10/29/2023 1:36pm

White Truck from the Roofs driving and parking in the easement area.
White Truck from the Roofs driving and parking in the easement area.
Black SUV from the Moores driving and stopping in the easement area.

Video
Video
Video

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2022-CP-10-04952
)	
STEPHEN C. WELLS AND RANDI P. WELLS)	
)	
	)	PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT
Plaintiffs,)	
)	
v.)	
)	
SPARTINA BAY PLANTATION PROPERTY OWNERS' ASSOCIATION, INC.)	
)	
Defendant.)	
_____)	

TO: STEVE KROPSKI, ESQUIRE, AND MAX SEFARIAN, ESQUIRE, ATTORNEYS FOR DEFENDANT SPARTINA BAY PLANTATION PROPERTY OWNERS' ASSOCIATION, INC.

YOU WILL PLEASE TAKE NOTICE that the Plaintiffs, Stephen C. Wells and Randi P. Wells (“Plaintiffs”), by and through their undersigned counsel, will move before the Master-in-Equity for Charleston County, South Carolina, on the tenth (10th) day of the date of this Motion or as soon thereafter as may be heard, for Summary Judgment as to Plaintiffs’ claims and Defendant’s counterclaim.

This Motion for Summary Judgment is based upon the fact that there is no genuine issue as to any material fact and Plaintiffs are entitled to judgment as a matter of law. This Motion will be supported by Rule 56, SCRCF, the pleadings, exhibits to pleadings, affidavits to be subsequently filed, Memorandum of Law to be filed in support of Plaintiffs’ Motion for Summary Judgment, and the arguments of counsel, along with any additional information which the Court may accept at a hearing of this Motion.

[SIGNATURE ON FOLLOWING PAGE]

ROSEN HAGOOD, LLC

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ATTORNEYS FOR PLAINTIFFS

Charleston, South Carolina
November 21, 2024

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2022-CP-10-04952
)	
STEPHEN C. WELLS AND RANDI P. WELLS)	
)	
	)	PLAINTIFFS' MEMORANDUM OF
Plaintiffs,	)	LAW IN SUPPORT OF PLAINTIFFS'
	)	MOTION FOR SUMMARY
v.	)	JUDGMENT AND IN OPPOSITION TO
	)	DEFENDANT SPARTINA BAY
SPARTINA BAY PLANTATION	)	PLANTATION OWNERS'
PROPERTY OWERNS' ASSOCIATION, INC.	)	ASSOCIATION, INC.'S MOTION FOR
	)	SUMMARY JUDGMENT
)	
Defendant.)	
_____)	

This matter is before the Court on Plaintiffs Stephen C. Wells and Randi P. Wells' ("Plaintiffs") Motion for Summary Judgment and Defendant Spartina Bay Plantation Property Owners' Association, Inc.'s (hereinafter "Defendant" or "SBPOA") Motion for Summary Judgment. For the reasons set forth herein, Plaintiffs' Motion for Summary Judgment should be granted, and Defendant's Motion for Summary Judgment as to its counterclaim should be denied.

FACTUAL BACKGROUND

Plaintiffs are the owners of the real property situated at 1499 Marsh Bluff Court, Edisto Island, South Carolina (hereinafter "Property") by virtue of that certain Deed of James W. Dorn & Jan V. Dorn f/k/a Jan V. Hipp to Stephen C. Wells & Randi Popp Wells, dated March 9, 2020, and recorded with the Charleston County Register of Deeds ("ROD") on March 11, 2020, in Book 0865, Page 916 (hereinafter "Wells Deed"). **Ex. A**, Wells Deed. Defendant Spartina Bay Plantation Property Owners' Association, Inc. ("Defendant" or "SBPOA") is the property owners' association created for the residential community where Plaintiffs' Property is located and was created by virtue of a Declaration of Restrictive Covenants, Conditions, and Restrictions of

Spartina Bay Plantation Subdivision dated October 13, 2001, and recorded with the Charleston County ROD on October 16, 2001, in Book D385, Page 260 (hereinafter “Declaration”) **Ex. B**, Declaration. Defendant is the purported beneficiary on behalf of certain of its members for use of a community dock and a separate ingress/access easement located on the Plaintiffs’ Property. **Ex. B** at pp. 1; 6.

I. Background of Easement Agreement

In 2001, Article VI of the Declaration originally attempted to identify certain portions of the subject Property as intended to be owned or leased to Defendant, including a community dock, referenced as Exhibit C to the Declaration, and a strip of land designated as a dock easement for access to the community dock, referenced as Exhibit B to the Declaration. **Ex. B** at p. 6; Ex. B & C. The Declaration references a plat prepared by Jerry L Fowler RLS #15178, entitled “A BOUNDARY SURVEY OF 4.31 ACRES TMS 025-00-00-038 SURVEYED FOR: STORE CREEK TRUST.” *Id.* Notably absent from the Declaration is any recording information for such plat. Article VI memorializes that Defendant intended to receive a deed or lease for the strip of land designated as a dock easement and a bill of sale for the dock prior to sale of the first lot within the subdivision. *Id.* No bill of sale was ever known to be issued or recorded for the dock and no deed was issued for the land designated as the dock easement. **Ex. I**, Evans Dep. 223:15-224:16. On October 12, 2021, N.C. Boykin as Substitute Trustee of Peters Point Trust, entered into a ninety-nine (99) year lease as landlord with the Defendant (hereinafter identified as “Lease”) in an attempt to benefit Class A members of Defendant with the ability to use a 25-foot dock ingress/egress area and 2.95 acres of marshland located on the subject Property. **Ex. C**, Lease, at § 1-2; Ex. A. The Lease provided that all the terms, covenants and conditions shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of both

parties. *Id.* at § 10(b). The Lease represents the entirety of Defendant’s purported rights on the subject Property until 2012. *See Ex. I*, Evans Dep. 224:5-16 (Q: So is it the POA’s position that its right to the community dock is through the Lease Agreement? A: Correct.)

Following several conveyances of the subject Property as evidenced by duly recorded deeds in the chain of title with the Charleston County ROD, James S. Cox and Catherine T. Cox became owners of the Property more fully described in a deed from the Internal Revenue Service, Jeannine A. Hammet Special Agent in Charge, Criminal Investigations, Internal Revenue Service, Charlotte Field Office to James L. Cox and Catherine T. Cox (hereinafter identified as “Coxes”) dated March 29, 2010 and recorded on April 2, 2010 with the Charleston County ROD in Book 0115, Page 404. **Ex. D**, Coxes Deed. The Defendant and the Coxes negotiated the terms of an easement agreement to replace the Lease and prior plat references of the dock ingress/egress on the Property, ultimately culminating in the execution of the subject Easement Agreement by Defendant’s board president at the time, Bruce Matrisciani (“Matrisciani”), and the Coxes, with an effective date of January 25, 2012, and recorded with the Charleston County ROD on February 22, 2012, in Book 0234, Page 897. **Ex. E**, Matrisciani Am. Aff. ¶¶ 4 – 7; **Ex. F**, Easement Agreement (hereinafter “Easement Agreement”). Defendant and/or its agents, participated in the drafting and negotiation of the Easement Agreement and further directed its filing with the Charleston County ROD through Defendant’s legal counsel. *Id.*

II. Non-compliance

Shortly after Plaintiffs purchased the Property, Plaintiffs noticed numerous violations of the Easement Agreement. **Ex. G**, Stephen Wells Dep. 35:12-25; 36:1-24; 69:17-25; 70:1-25; 71:24-25; 72:1-13; 73:1-25. Plaintiffs witnessed multiple vehicles driving and parking both within and outside of the easement area identified by the Easement Agreement and on the Plaintiffs’

Property; a commercial fishing charter boat operation on the community dock located on Plaintiffs' Property; and members and non-members using a vacant wooded lot next to Plaintiffs' Property and not owned by Defendant as a parking lot resulting in access to the easement area through the woods from the side rather than from the intended entrance on Marsh Bluff Court. *Id.* The constant influx of individuals driving their vehicles and parking in the easement area resulted in a continuous nuisance of vehicle headlights shining into Plaintiffs' residence and noise during late night and early morning hours of darkness *Id.* Despite repeated demands of Plaintiffs to Defendant to acknowledge and comply with the terms and conditions of the Easement Agreement, Defendant took no action to restrict individuals from violating the Easement Agreement. **Ex. G**, Stephen Wells Dep. 67:1-25; 68:1-12. Vehicular use and parking within and outside the easement area on Plaintiffs' Property has continued, late night and early morning uses of the easement area by members, non-members, and commercial fishing charter boat customers has continued, and commercial fishing charter boat operations on the community dock has continued. **Ex. G**, Stephen Wells Dep. 35:12-25; 36:1-24; 69:17-25; 70:1-25; 71:24-25; 72:1-13; 73:1-25.

III. Procedural History

Plaintiffs filed this lawsuit on October 26, 2022, seeking a declaratory judgment with respect to the parties' rights and obligations under the Easement Agreement specifically relating to:

- (a) Plaintiffs' standing as successors-in-interest concerning the Easement Agreement as current owners of the subject Property and servient estate as evidenced by the Wells Deed and prior duly recorded deeds and based on the applicability of paragraph 15 of the Easement Agreement;
- (b) Defendant's obligation to comply with terms, conditions, and requirements of the Easement Agreement;
- (c) Defendant's limitation of use under the Easement Agreement for pedestrian and non-vehicular ingress and egress only on, over and across the easement

area and that Defendant shall have no other rights in and to any other portion of the Property except the easement area;

- (d) Defendant's obligations to pay twenty-five (25%) of the real estate tax assessed for the Property on an annual basis as consideration and just compensation for the easement rights granted to Defendant in the Easement Agreement;
- (e) the obligation of any non-prevailing party to this action for the enforcement of the terms and to declare the rights under the Easement Agreement to pay the prevailing party's court costs and reasonable attorney's fees associated with this action, including any appeal;
- (f) that the Easement Agreement extinguished any prior rights held by Defendant in the ingress/egress easement area identified as the Existing Dock Ingress/Egress Easement on the plat by virtue of the Easement Agreement's integration clause and by operation of law under the merger doctrine;
- (g) that Plaintiffs may reconstruct a fence on the western edge of their property line so long as it does not impede or hinder movement through the easement area; and
- (h) that in accordance with the DHEC Notice and the Easement Agreement, Plaintiffs were within their rights to remove the non-compliant deck located on Plaintiffs' Property and that Defendant may not construct a new deck within the easement area or otherwise impose the individual assessment levied against Plaintiffs in the Deck Assessment Notice for Plaintiffs' compliance with the DHEC notice.

Plaintiffs also brought claims for Breach of Easement Agreement and Temporary, Preliminary, and Permanent Injunction. On December 19, 2023, Plaintiffs filed a Motion for Judgment on the Pleadings. That motion was heard on February 22, 2024, and denied so the parties could conduct discovery. Pursuant to the scheduling order in this case, the parties conducted written discovery as well as numerous depositions. On November 21, 2024, both the Plaintiffs and Defendant filed Motions for Summary Judgment. For the reasons set forth herein, Plaintiffs' Motion for Summary Judgment should be granted, and Defendant's Motion for Summary Judgment should be denied.

STANDARD OF REVIEW

Summary judgment is appropriate where no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law. *Fender & Latham, Inc. v. First Union Nat'l Bank of S.C.*, 316 S.C. 48, 446 S.E.2d 448 (Ct. App. 1994). “The purpose of summary judgment is to expedite the disposition of cases which do not require the services of a fact finder.” *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 438 (2003). Summary judgment is properly regarded not as a procedural shortcut, but as an integral part of the rules of civil procedure which are designed to secure the just, speedy, and most inexpensive determination of every action. *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986).

The party seeking summary judgment has the burden of clearly establishing the absence of a genuine issue of material fact. *Bradley v. Doe*, 374 S.C. 622, 649 S.E.2d 153 (Ct. App. 2007); *McCall v. State Farm Mut. Auto. Ins. Co.*, 359 S.C. 372, 597 S.E.2d 181 (Ct. App. 2004). Summary judgment is appropriate where further inquiry into the facts of the case is not necessary to clarify the application of the law. *See Carolina Chloride, Inc. v. S.C. Dep't of Transp.*, 391 S.C. 429, 434, 706 S.E.2d 501, 504 (2011). Thus, it is appropriate “when the evidence is susceptible of only one reasonable interpretation[.]” *Holmes v. E. Cooper Cnty. Hosp., Inc.*, 408 S.C. 138, 154, 758 S.E.2d 483, 492 (2014) (internal quotations omitted). This occurs when “plain, palpable, and undisputable facts exist on which reasonable minds cannot differ.” *ABB, Inc. v. Integrated Recycling Grp. of SC, LLC*, 432 S.C. 545, 551, 854 S.E.2d 11, 174 (Ct. App. 2021), *reh'g denied* (Feb 12, 2021) (internal quotations omitted).

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. *Regions Bank v. Schmauch*, 354 S.C. 648, 582

S.E.2d 432 (Ct. App. 2003). The nonmoving party must come forward with specific facts showing there is a genuine issue for trial. *Rife v. Hitachi Constr. Mach. Co., Ltd.*, 363 S.C. 209, 214, 609 S.E.2d 565, 568 (Ct. App. 2005).

ARGUMENT

I. Plaintiffs are Entitled to Declaratory Judgment as a Matter of Law.

Pursuant to S.C. CODE ANN. § 15-53-30, “[a]ny person interested under a deed, will, written contract or other writings constituting a contract or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract or franchise may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.” Plaintiffs have rights or interests under the above-referenced Easement Agreement for which they can obtain a declaration of rights. Plaintiffs will address each of these rights in turn.

A. Plaintiffs are Entitled to Declaratory Judgment Declaring That Plaintiffs Have Standing as Successors-In-Interest Concerning the Easement Agreement.

Plaintiffs, by virtue of their current ownership of the Property and servient estate, are successors-in-interest concerning the Easement Agreement and have standing to seek Defendant’s compliance with the terms, conditions, and requirements of the Easement Agreement.

First, Plaintiffs are undeniably the owners of the subject Property and servient estate as evidenced by the Wells Deed and prior duly recorded deeds. *See Ex. A*, Wells Deed. As such, Plaintiffs have standing to seek Defendant’s compliance with the Easement Agreement as owners of the subject Property. Further, Plaintiffs have standing in this dispute as successors-in-interest based on the applicability of paragraph 15 of the Easement Agreement effecting Plaintiffs’ property executed by and between James L. Cox and Catherine T. Cox, as grantors and previous owners of the Plaintiffs’ property, and Defendant, as grantee. The Easement Agreement provides

that the terms, conditions, and requirements shall be binding on and inure to the benefit of the parties and their respective heirs, successors, and assigns. *See Ex. F* at § 15, Easement Agreement. Plaintiffs, through the Wells Deed and previously duly recorded property instruments within the chain of title, are successors-in-interest concerning the Easement Agreement as the current owners of the Property and servient estate.

Therefore, as a threshold matter, Plaintiffs are entitled to judgment as a matter of law that Plaintiffs have standing to seek Defendant's compliance with the terms, conditions, and requirements of the Easement Agreement as successors-in-interest to the grantors of the Easement Agreement and the Property.

B. Plaintiffs are Entitled to Judgment That The Easement Agreement is Legal, Valid, Binding, and Enforceable Obligations of the Defendant.

The Plaintiffs and Defendant can agree on one thing: the heart of this litigation is whether the Easement Agreement is valid. The Easement Agreement is legal, valid, binding, and enforceable obligations of the Defendant because: (1) the Easement Agreement was executed by the Coxes as grantors and previous owners of the Property and executed and duly recorded in the Charleston County ROD by Defendant as grantee; (2) the Easement Agreement was executed and recorded more than ten years prior to this action under S.C. CODE ANN. § 15-3-340 and no action was taken by Defendant to dispossess Plaintiffs or their predecessors-in-interests with the rights acquired in the real property identified in the Easement Agreement; (3) the terms, conditions and requirements of the Easement Agreement are unambiguous and enforceable obligations of Defendant; (4) by operation of law, the Easement Agreement merged and/or extinguished any prior property rights purportedly held by Defendant in the dock access easement area identified in all plats referencing the subject easement area, including, without limitation, the plat referenced in the Lease and recorded with the Charleston County ROD in Plat Book DD at Page 27; and (5)

because all evidence obtained in this case support that Defendant approved the Easement Agreement through the acts of its members and then Board president or, in the alternative, Defendant ratified the Easement Agreement.

It is important to note that the burden of proof for the invalidity of an agreement is on the party asserting its invalidity. *See Wilson v. South Carolina State Highway Dept.*, 264 S.C. 22, 26, 212 S.E.2d 61, 63 (1975) (“The burden of proof on this issue was upon the party asserting the invalidity of the easement contract.”). Here, Defendant has failed to offer any evidence or proof that the Easement Agreement was invalid and therefore Plaintiffs are entitled to summary judgment as a matter of law and their Motion for Summary Judgment should be granted and Defendant’s Motion for Summary Judgment should be denied.

i. The Easement Agreement Was Executed By The Coxes As Grantors And Previous Owners Of The Property And Executed And Duly Recorded In The Charleston County ROD By The SBPOA As Grantees.

The Defendant and the Coxes negotiated the terms of an easement agreement to replace the Lease and prior plat references of the dock ingress/egress on the Property, ultimately culminating in the execution of the subject Easement Agreement by Defendant’s board president at the time and the Coxes, with an effective date of January 25, 2012. *See Ex. E*, Masticiani Am. Aff. ¶¶ 4 – 10. Defendant and/or its agents, unquestionably participated in the preparation and recording of the Easement Agreement as evidenced by the signature of Defendant’s then Board president and the recording of the document with the Charleston County ROD by Defendant’s legal counsel. *See Ex. E*, Masticiani Am. Aff. ¶¶ 4 – 10; *Ex. F*. Notably, Defendant and its current board members challenge the validity of the Easement Agreement in response to this lawsuit but admit that it contains the signature of Defendant’s former Board President. *See Answer and Counterclaim at ¶ 47.*

Defendant now wishes to disregard the Easement Agreement. “A grant of an easement is to be construed in accordance with the rules applied to deeds and other written instruments.” *Binkley v. Rabon Creek Watershed Conservation Dist.*, 348 S.C. 58, 71, 558 S.E.2d 902, 909 (Ct. App. 2001) (quoting 28A C.J.S. Easements § 57 (1996)). As such, Plaintiffs are “entitled to rely on recorded deeds and plats to determine their rights in respect to property.” *Murrells Inlet Corp. v. Ward*, 378 S.C. 225, 236, 662 S.E.2d 452, 457 (Ct. App. 2008). Specifically, “[t]he purpose of the recording statute is to protect a subsequent buyer without notice; therefore, once recorded, deeds and easements are valid to subsequent purchasers without notice.” *Ward v. Evans*, 387 S.C. 401, 409-10, 693 S.E.2d 7, 11 (Ct. App. 2010); *see also O’Neal v. Pearson*, 2007 WL 8327921 at *3 (Ct. App. July 6, 2007) (citing *Davis v. Monteith*, 289 S.C. 176, 182, 345 S.E.2d 724, 727 (1986) (“When a deed is valid and regular on its face, it is presumed to be valid in all respects.”)). Since the ingress/egress dock easement area at issue and referenced in the Declaration is unquestionably located on Plaintiffs’ property, subsequent purchasers of SBPOA properties subject to the Declaration are on notice of the property rights of Defendant and its members following the Easement Agreement’s recording in 2012.

Moreover, the burden of proof is “upon the party asserting the invalidity of the easement contract.” *Wilson v. South Carolina State Highway Dep’t.*, 264 S.C. 22, 212 S.E.2d 61 (1975); *see also Hudson v. Leopold*, 288 S.C. 194, 196, 341 S.E.2d 137, 138 (1986) (citing *Wilson v. Wilson*, 117 S.C. 454, 112 S.E. 330 (1920) (“Generally, the party attacking the deed has the burden of proof.”)); *Wilson v. Wilson*, 117 S.C. 454, 112 S.E. 330, 332 (1920) (“A deed ordinarily, when properly executed, is presumed to be what it purports to be. And the party assailing it is charged with the burden of rebutting this presumption and proving his case. He who avers and charges must ordinarily prove. The burden of proof is on him.”). Here, the SBPOA has offered no evidence

to prove its assertion of invalidity. SBPOA, without any supporting proof, argues that Mr. Mastriciani, the president of the SBPOA at the time, did not have the authorization of the board to sign the Easement Agreement. However, the only evidence obtained in this case clearly points to the contrary.

a) There is No Genuine Issue of Material Fact that SBPOA President Mastriciani had the Capacity and Authority to Execute the Easement Agreement.

The SBPOA bylaws provide the following with respect to the general roles of the SBPOA President:

President. The president shall be the principal executive officer of the Association, and subject to the control of the directors, shall in general supervise and control all of the business and affairs of the Association. . . . He may sign, with the secretary, or any other proper officer of the Association thereunto authorized by the directors, certificates for membership of the Association, any deeds, mortgages, bonds, contracts, or other instruments which the directors have authorized to be executed,

Ex. B, at Book D385, pg. 294. However, more relevant to signing agreements specifically, Article X, Section 1, “Contracts” provides that the President may be authorized to sign agreements without additional officers: “[t]he directors may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the association, and such authority may be general or confined to specific instances.” **Ex. B**, at Book D385, pg. 298 (emphasis added).

First, Mr. Mastriciani has testified both in affidavit and deposition testimony that he had authorization from the SBPOA members and its directors to sign the Easement Agreement. *See Ex. E*, Mastriciani Am. Aff. ¶¶ 6-10 (“The members of SBPOA at the time of my presidency were aware of and approved the Easement Agreement with the Coxes in order to replace the 99-year lease.”). Mr. Mastriciani testified as follows:

Q: Okay. Do you remember any discussions about this term pedestrian in this January 25th, 2012 easement agreement?

A: Yes. Everybody read through it; and nobody had any disagreements with it. That's why we have it.

....

A: But every single board member agreed to this agreement. We voted on it.

Q: We'll get there. Was it your understanding that this easement agreement was replacing the 99-year lease?

A: Yes.

Ex. H, Mastriciani Dep. 48:1-5, 18-22. The SBPOA bylaws clearly state that the directors may authorize Mr. Mastriciani, as President of the SBPOA, to enter a contract or execute a document on behalf of the SBPOA. **Ex. B**, at Book D385, pg. 298. Contrary to the assertion of Defendant's counsel, nowhere do the bylaws provide that such authorization must be in writing, let alone memorialized in meeting minutes. Lawrence Evans ("Mr. Evans"), the corporate representative of the SBPOA, acknowledged and agreed to this fact:

Q: We're just about done with this document. Let's look at Section 1, "Contracts. The directors may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name of an on behalf of the association, and such authority may be general or confined to specific instances." Do you see that?

A: I do.

Q: Do you disagree with that?

A: No.

Q: Do you agree with me that this contemplates that the directors may authorize one or more officers to execute and deliver any contract or instrument in the name of an on behalf of Spartina Bay POA?

A: That's the way it reads.

Q: Does it say anywhere in this provision that this authorization has to be in writing?

A: No, it does not.

Ex. I, Evans Dep. 288:13-25, 289:1-7. Mr. Mastriciani is clear that he was authorized by the SBPOA to enter the Easement Agreement, discussed the Easement Agreement with all SBPOA members at the time, and that the members of SBPOA agreed to and approved the agreement. Mr. Mastriciani specifically testified:

Q: I'm asking you if they had - - prior to signing and record this, when you talked to them on the phone, had read through the complete draft of this document the exact form of which ended up being recorded?

A: Yes. To my knowledge. It was a long time ago.

Ex. H, Mastriciani Dep. 60: 1-4. His testimony was corroborated by Glenn Dill, another member of SBPOA at the time the Easement Agreement was executed. Mr. Dill testified to the following:

Q: But is it your understanding that the owners at that time had a general understanding that there was an effort obtain an easement on lot b, an access easement, to replace the 99-year lease provisions?

A: Yes.

Ex. J, Dill Dep. 103:4-8.

There is also no support in the SBPOA bylaws that all member and director actions must be conducted through in-person meetings. Article IV and Article V of the SBPOA bylaws permit procedures for member votes by mail, telephone or other form of communication. **Ex. B**, at Book D385, pg. 290-292. Former SBPOA President Mastriciani testified that such bylaws enabled voting by means other than annual in-person meeting. *See Ex. H*, Mastriciani Dep. 136: 10-12 (“[Q:] Do you think that this contemplates that members may vote by mail, telephone, or other form of communication? [A:] Yes.”). President Mastriciani also testified that he had spoken in-person and over the phone with the board of directors about the Easement Agreement and received

their approval. *Id.* at 136: 25-138:22. Article VI of the SBPOA bylaws allows the Board of Directors to adopt any rules and regulations as to the conduct and management of the Association and nowhere does it provide that director authorization must be confined to recorded, in-person meetings. **Ex. B**, at Book D385, pg. 292-293; 298.

Alternatively, SBPOA argues that, regardless of authority from the Board, the Easement Agreement required unanimous consent of Class A Members to be enforceable. Def't.'s Mem. Supp. Mot. Summ. J. at pp. 14-15. As stated above, Mr. Mastriciani testified that he did receive consent of all current owners, which would necessarily include Class A Members, to enter the Easement Agreement. Defendant offers no evidence to show that the Easement Agreement was not unanimously approved by Class A Members. The SBPOA did not obtain any testimony whether by affidavit or deposition from Class A Members from such time to support that the Easement Agreement was not unanimously approved nor has it presented any evidentiary support for this argument. Therefore, the SBPOA again has failed to meet its burden to prove the invalidity of the Easement Agreement.

Regardless, the section cited by Defendant requiring unanimous consent of Class A Members relates to abandoning “any repair, rebuilding or use of said walkway and dock.”¹ **Ex. B**, Declaration at Book D385, pg. 266 (Article VI “The Docks”, Section 4, titled “Abandonment of Dock”). The Easement Agreement in question does not abandon any repair, rebuilding, or use of the dock. Thus, the requirement that one hundred percent of all Class A Members vote in favor is inapplicable to the Easement Agreement and Plaintiffs are entitled to summary judgment that the Easement Agreement is a valid and binding agreement upon Defendant and its members.

¹ If Defendant is contending that “walkway and dock,” refers to the easement area and the dock – not just the dock, this is more evidence and proof in support of Plaintiffs’ argument that the easement area is limited to pedestrian ingress and egress.

b) SBPOA Members Approved the Easement Agreement to Replace the 99-Year Lease for the Dock Ingress/Egress Area.

There is also significant evidence in the SBPOA's own documents demonstrating that its members were aware of and approved the Easement Agreement both before and after the Easement Agreement was signed and recorded. For example, there is an April 10, 2012, letter to SBPOA members that states:

As you know we have been working on obtaining a perpetual easement to the Dock area to replace the 99 year term that has been in effect. The agreement has been agreed to and recorded. . . . The agreement is digitized, please advise Ron Farrell if you would like to receive a copy by email.

Ex K, April 10, 2012, Letter – Plaintiffs_0094. In fact, before the execution of the Easement Agreement by Defendant, there were no less than three sets of SBPOA meeting minutes evidencing member discussion and decisions to replace the 99-year lease with the permanent ingress/egress rights ultimately acquired by Defendant through the Easement Agreement, two of which included unanimously approved motions to resolve this precise issue. **Ex. L**, Meeting Minutes, at SBPOA_0163-0164; 0169 (SBPOA Meeting Minutes for Minutes of Nov. 6, 2010, Oct. 17, 2009, & Mar. 28, 2009). In a unanimous vote at the SBPOA meeting on October 17, 2009, SBPOA members adopted a motion specifically to have President Bruce Mastriciani work with SBPOA's legal counsel "**to attain either a dock easement or lease in perpetuity.**" **Ex. L**, at SBPOA_0167 (emphasis added). When questioned about this vote and authority of the SBPOA members, current President Evans critically did not dispute that this was a proper directive of the SBPOA under the Declaration and Bylaws but rather claimed it was insufficient merely because the SBPOA ultimately utilized a different attorney to complete the task. Mr. Evans stated the following after questioning concerning the October 17, 2009, minutes:

Q. So at this point, we have a directive from the POA to move forward with hiring a lawyer to potentially obtain a dock easement deed or a lease in perpetuity; is that correct?

A. Yes.

Q. And this would constitute a directive of the POA under the Declaration and Bylaws, correct?

A. Yes.

Q. And we'll go through it, but, ultimately, was Ms. DeJong -- but an Easement Agreement with the owners of Lot B for dock access easement is what was secured. And Bruce, as president of the POA, signed as POA president in early 2012; is that correct?

A. Do you want to say that one more time for me?

Q. Sure. I said, ultimately, it was Ms. DeJong, who was the POA's attorney at the time, had an Easement Agreement filed and recorded with the Charleston County ROD with the owner --then-owners of Lot B for the dock access easement, and that was signed by Bruce as president of the POA in early 2012; is that correct?

MR. SEFARIAN: Object to the form.

Q. You can still answer. Go ahead.

A. That's an accurate statement from my understanding that he signed it. It departs from the -- departs from the procedure that he was given approval to follow.

Q. Okay. And why is that?

A. Well, he was given approval to work with Barr, Unger & McIntosh, not to work with Karen DeJong.

Q. So your sticking point is the fact they moved to a different lawyer?

A. Yes.

Ex. I, Evans Dep. 95:25-97:10. However, Defendant has cited no evidence whatsoever that the substitution of legal counsel to complete the SBPOA's directive of replacing the 99-year lease and execution of the Easement Agreement somehow invalidated such authorization approved by

motion of the SBPOA membership. To the contrary, substitution of legal counsel for this task was addressed and adopted through unanimous motion at SBPOA's Nov. 6, 2010, meeting. **Ex. L**, at SBPOA_0163. Further, former President Masticiani testified that the SBPOA Board hired Karen DeJong, Esq. to replace the prior legal counsel then working on obtaining the perpetual easement rights.

Q: Okay.· And somewhere Wayne Unger was no longer involved; is that right?

A: Correct.

Q: And that was -- and then another lawyer, DeJong?

A: Karen DeJong.

Q: Karen DeJong.

A: Yes.

Q: How was she hired?

A: I hired her.· I reached out to her.

....

Q: Okay.· But you reached out to Karen--

A: I did.

Q: -- DeJong?· Did the board vote to hire Karen?

A: Yes.

Ex. H, Masticiani Dep. 43: 4-12; 21-24.

Q: How often did you communicate with Ms. DeJong -- without talking about the substance of those communications, I mean how often did you communicate with her regarding the easement agreement?

A: That's a long time ago. I contacted her that we needed an agreement -- an agreement -- an easement. She wrote it up. I looked at it. The Coxes looked at it. I think it came back once or twice. Coxes agreed. We, the community, agreed; and I think that was it.

Q: Okay. There wasn't any contention with the negotiations around the easement agreement?

A: No, actually the members in the community were quite happy that we were able to find an attorney that actually did something and didn't take thousand[s] of dollars from us, unlike another attorney that had represented the association.

Ex. H, Mastriciani Dep. 97:19- 98:11.

The very fact that all evidence received in this case, including SBPOA meeting minutes, show that multiple attorneys were retained by SBPOA and its members for the task of obtaining an easement or lease in perpetuity to replace the 99-year Lease is highly indicative that such actions were approved, to the extent such evidence is even necessary to refute the challenged validity of a recorded property document thirteen years later. Further, without any evidence to the contrary, it can be presumed that SBPOA's attorney would not have recorded the Easement Agreement had it been invalid.² Notably, despite this case having been filed since 2022, the SBPOA has not spoken with Ms. DeJong nor presented any testimony of Ms. DeJong via affidavit or deposition to support its baseless allegations that the Easement Agreement was invalid or lacked any necessary authorization before it was signed and recorded.³

In fact, the SBPOA offers no evidence to prove that the SBPOA did not authorize Mr. Mastriciani to execute the easement, that the Easement Agreement was not distributed to SBPOA

² Mr. Dill testified to the thoroughness of Ms. DeJong as an attorney stating: "And I have subsequently dealt with that attorney and required an amendment to our covenants. And that attorney was so thorough, I thought I was going to throw up with everything that she wanted as evidence of what was going - - what supported the change to those covenants. In fact, when I said, look, I have all the votes here, I will scan and send these votes to you from all the people; she said, I want the originals . . . And I hand carried the originals to her. And she - - so I know her activity then was probably - - I say probably, the way she always conducted her business, and she would have been very thorough with Mr. Mastriciani before she would have taken this and filed it. That's all I got to say on that." **Ex. J**, Dill Dep. 68:8-25.

³ SBPOA's testimony from Mr. Evans stated: "Q: As the POA's counsel during the time of recording - preparation and recording of the Easement Agreement - the 2012 Easement Agreement - you would agree with that, correct, that she was legal counsel related to the 2012 Easement? A: Yes. Q: Do you agree that Ms. DeJong potentially could have information with respect to the validity of the Easement Agreement? A: Yes. Q: And has anyone from the board spoken to her? A: No. I would have loved to talk to her about it." **Ex. I**, Evans Dep. 170:24-25, 171:1-13.

members, and that the SBPOA members at the time did not approve the Easement Agreement.

The corporate representative of SBPOA, Mr. Evans, testified to this fact:

Q: So here we have the POA confirming, at least in a meeting, that the dock easement had been finalized and was available for anyone who wanted a copy; is that right?

A: Yes.

Q: Are you aware of anyone that disputed the fact that the Easement Agreement had been finalized?

A: I cannot speak to that.

Q: Okay. You can't speak to that; you're here for the POA?

A: Right. And we don't have any records saying that anybody spoke out against it or anything else. We also don't have any records that – there's a document out there; the specifics of the documents weren't discussed at any time.

Q: I understand from the minutes. But sitting here today, as the POA representative, are you aware of any proof that the updates were not provided to POA members about the Easement Agreement during this time?

A: Only what – the only updates that we have are what we have. There was the – there was the – there was only the one reported concession of paying for 25 percent of the taxes.

Q: So sitting here today, do you have any proof that the POA members were not updated in terms of the specifics of the Easement Agreement during this time period?

A: I don't have any proof that they were not any more than I have any proof that they were.

Ex. I, Evans Dep. 100:11-25, 101:1-25, 102:1-4. Again, Mr. Evans testifies:

Q: You again reference the fact that the Easement Agreement wasn't distributed. But I asked you before, you don't have any proof, sitting here today, that the Easement Agreement was not distributed by POA members when it was negotiated back around 2011 or 2012, correct?

A: I don't have evidence in either direction.

Ex. I, Evans Dep. 126:8-15. Mr. Evans again testifies for SBPOA:

Q: And here it says, "Access to dock and common area: it was then reported that initially, when the lots were purchased, that there was a 99-year lease on the access to the docks for the property owners. A lawyer was hired to correct this, and the agreement was reached with Lot B property owners and changed the agreement as of December 2012 to a" - - and I believe that's a typo. I think it was before December, but it was 2012 - - "to a permanent access to the Spartina Bay Plantation dock and common area. This agreement contained the provision that the POA would pay 25 percent of Lot B property owner's taxes in exchange for this permanent access. This has all been recorded and all property owners agreed that they were aware of this amendment." There are the official minutes for 2014, correct?

A: Uh-huh.

Q: And this is disclosing that indeed the 99-year lease for dock access was replaced by an Easement Agreement?

A: Right.

Q: It also contains information that - - the provision that the POA would pay 25 percent of the Lot B property owner's taxes in exchange for this permanent access, correct?

A: Correct.

Q: It also says, "This has all been recorded, and all property owners agree that they were aware of this amendment," correct?

A: Yes.

Q: Are you aware, sitting here today, that anyone that - - that any of this information in here is incorrect?

A: No.

Ex. I, Evans Dep. 106:22-25, 107:1-25, 108:1-6. Defendant's claim of an alleged insufficiency of documentary evidence from thirteen or more years ago for authorization of the Easement Agreement – despite only the existence of evidence to the contrary – frankly does not meet the SBPOA's burden to prove invalidity of the Easement Agreement in this case and is fatal to Defendant's counterclaim. Thus, SBPOA has failed to show that Mr. Masticiani lacked authority to enter into the Easement Agreement with the Coxes on behalf of SBPOA.

SBPOA also argues that Mr. Masticiani lacked apparent authority to enter the Easement Agreement. Apparent authority is “when the principal knowingly permits the agent to exercise authority, or the principal holds the agent out as possessing such authority.” *Richardson v. P.V., Inc.*, 383 S.C. 610, 615, 682 S.E.2d 263, 265 (2009). The SBPOA’s argument against apparent authority hinges on its assertion that “the POA never represented to the Coxes that he [Mr. Masticiani] had authority to act on its behalf” and that the Coxes “had actual or constructive knowledge that Masticiani lacked authority to sign the Easement Agreement as members of the POA themselves who were aware of all POA decisions and had access to all necessary information regarding POA authority.” Def. Mot. Summ. J. & Memo Supp. Mot. Summ. J. at p. 11. This argument is a baseless assumption. Notably missing from SBPOA’s argument is any evidence. Despite this case having been pending since 2022, the SBPOA offers no affidavit from either of the Coxes, no deposition testimony from the Coxes, nor any documentary evidence. Arguments of counsel are not evidence. *S.C. Dep’t. of Transp. v. Thompson*, 357 S.C. 101, 105, 590 S.E.2d 511, 513 (“Arguments made by counsel are not evidence.”). Without any substantiating evidence to support its allegations, the SBPOA’s argument once again falls short of its burden to prove the invalidity of the Easement Agreement. *See Wilson v. South Carolina State Highway Dept.*, 264 S.C. 22, 26, 212 S.E.2d 61, 63 (1975) (“The burden of proof on this issue was upon the party asserting the invalidity of the easement contract.”).

Finally, the SBPOA argues that the Easement Agreement was not ratified by the SBPOA. Under South Carolina law, “[r]atification, as it relates to the law of agency, means the express or implied adoption and confirmation by [a principal] of an act or contract performed or entered into in his behalf by another who at the time assumed to act as his agent.” *Lincoln v. Aetna Cas. & Sur. Co.*, 300 S.C. 188, 191, 386 S.E.2d 801, 803 (Ct. App. 1989) (citing *Barber v. Carolina Auto Sales*,

236 S.C. 584, 115 S.E.2d 291 (1960)). “Ratification exists upon the concurrence of three elements; (1) acceptance by the principal of the benefits of the agent’s acts, (2) full knowledge of the facts, and (3) circumstances or an affirmative election indicating an intention to adopt the unauthorized arrangements.” *Id.* (citing 2A C.J.S. Agency § 71 (1972)). Here, the Easement Agreement was written and entered into in 2012. Since that time, the SBPOA has repeatedly ratified the Easement Agreement, despite its current assertion otherwise.

After the Easement Agreement was executed by the Coxes and Mr. Matriciani on behalf of the SBPOA, the Easement Agreement was recorded in the Charleston County ROD on February 22, 2012. On April 10, 2012, the SBPOA board issued a letter to all members of SBPOA informing them that the Easement Agreement had been recorded and a digitized version was available for their review. **Ex. E**, Matriciani Am. Aff. ¶ 8; *see also* **Ex. K**, Ron Farrell Letter. Further, at a SBPOA meeting held on May 12, 2012, then President Mr. Matriciani confirmed the Easement Agreement was finalized and available for review. **Ex. E**, Matriciani Am. Aff. ¶ 9; **Ex. L**, SBPOA Meeting Minutes SBPOA_0161 (“The fact that the perpetual dock easement was finalized was announced and it was stated that it was available in digitized form for anyone who wanted a copy.”). Thus, from April 2012 until present, the SBPOA and its members have been aware of the Easement Agreement and its pedestrian requirement. Even further, the SBPOA operating rules on the dock dated June 1, 2021, provided: “Dock access across Lot B is a pedestrian access only by easement agreement.” **Ex. M**, Dock Rules SBPOA_902 – SBPOA_903 (emphasis in the original). It was not until this dispute arose, and new purchasers bought vacant lots in SBPOA, that the new SBPOA Board crossed out dock rules in attempt to negate the pedestrian notation. *See* **Ex. J**, Dill Dep. 109:25, 110:1-14.

Because the Easement Agreement was executed by the Coxes as grantors and previous owners of the property and executed and duly recorded in the Charleston County ROD by Defendant as Grantees, the Easement Agreement is binding on Defendant and Plaintiffs are entitled to judgment declaring that the Easement Agreement is valid as a duly recorded property instrument. The SBPOA has failed to meet its burden to prove the invalidity of the Easement Agreement. Thus, Plaintiffs Motion for Summary Judgment should be granted, and Defendant's Motion for Summary Judgment and its counterclaim should be denied.

ii. The Easement Agreement Was Executed And Recorded More Than Ten Years Prior To This Action Under S.C. CODE ANN. § 15-3-340 And No Action Was Taken By Defendant To Dispossess Plaintiffs Or Their Predecessors-In-Interests With The Rights Acquired In The Real Property Identified In The Easement Agreement.

Pursuant to S.C. CODE ANN. § 15-3-340, “[n]o action for the recovery of real property or for the recovery of the possession of real property may be maintained unless it appears that the plaintiff, his ancestor, predecessor, or grantor was seized or possessed of the premises within ten years before the commencement of the action.” This action was filed on October 26, 2022, two years after Plaintiffs purchased the property and following their respectful, unsuccessful requested compliance with the Easement Agreement from Defendant. The Easement Agreement was recorded on February 22, 2012. However, Defendant filed its on counterclaim seeking declaratory judgment in a claim for the recovery of real property on December 30, 2022, nearly eleven years later. Specifically, Defendant's counterclaim seeks this Court's determination of the validity of an easement which is an issue of law while the determination of the scope of an easement is an action in equity. *See Gooldy v. Storage Center-Platt Springs, LLC*, 422 S.C. 332, 338, 811 S.E.2d 779, 782 (2018) (“**The question of whether an easement exists is a factual question in an action at law.**”) (emphasis added); *Inlet Harbour v. South Carolina Dep't of Parks, Recreation, and*

Tourism, 377 S.C. 86, 91, 659 S.E.2d 151, 154 (2008) (citing *Tupper v. Dorchester County*, 326 S.C. 318, 323, 487 S.E.2d 187, 190 (1997) (“Apart from the issue of an easement’s creation, however, the determination of the scope of an easement is an action in equity.”); *Tupper v. Dorchester County*, 326 S.C. 318, 323, 487, S.E.2d 187, 190 (1997) (“The determination of the existence of an easement is a question of fact in a law action and subject to any evidence standard of review when tried by a judge without a jury.”)).

The case of *Portside Owners Association, Inc. v. South Beach Racquet Club, Inc.*, although unpublished, is persuasive. 2008 WL 9837329 (Ct. App. 2008). In that case, on May 14, 1992, Beachside conveyed a “perpetual, non-exclusive easement and right of way for ingress and egress on, over and across the [50-foot tract] to South Beach in an ‘Access Easement.’” *Id.* at *1. The Easement was recorded on October 30, 1992. *Id.* Beachside conveyed the 50-foot tract to Portside in a quitclaim deed dated May 1, 1992, and recorded on November 6, 1992. *Id.* The deed stated that it was subject to “an easement for ingress and egress parking reserved to South Beach Racquet Club, Inc. in that certain document entitled Access Easement, dated May 14, 1992, by and between Grantor and South Beach Racquet Club, Inc.” *Id.*

Twelve years later, Portside filed a complaint alleging the easement was invalid and therefore South Beach’s use of the Tract constituted trespass. *Id.* However, the Court held:

The gravamen of Portside’s complaint is to remove any cloud on its title in the 50’ Tract and affirm its exclusive right to possession of the property. Portside attacked South Beach’s use of the property as a violation of Portside’s exclusive rights. As an action for the recovery of real property, the action is governed by section 15-3-340, which states that the action for the recovery of real property may not be maintained “unless it appears that the plaintiff, his ancestor, predecessor, or grantor, was seized or possessed of the premises in question within ten years before the commencement of the action.” S.C. Code Ann. § 15-3-340 (2005). Portside commenced this action to recover its exclusive rights in the property by filing its summons and complaint on February 20, 2004. Therefore, under section 15-3-340, Portside’s action may only be maintained if it was possessed of those exclusive

rights to the 50' Tract within ten years of February 20, 2004, i.e., at any time after February 20, 1994.

Id. at *2. Just as in *Portside*, Defendant is attempting to affirm its rights to the possession of the easement area and divest Plaintiffs of the property rights contained within the Easement Agreement and granted to Plaintiffs as successor-in-interest to the Property and Easement Agreement. Defendant failed to make any attempt to seize the property rights granted to Plaintiffs and their predecessors-in-interest in the Easement Agreement or otherwise challenge the Easement Agreement within ten years before the commencement of this action. *See* S.C. CODE ANN. § 15-3-340.

Defendant contends that there is no difference between its claims and the Plaintiffs and therefore it cannot be that section 15-3-340 bars Defendant's claims but not Plaintiffs. However, the statute clearly states: "[n]o action for the recovery of real property or for the recovery of the possession of real property may be maintained unless it appears that the plaintiff, his ancestor, predecessor, or grantor *was seized or possessed of the premises within ten years before the commencement of the action.*" S.C. CODE ANN. § 15-3-340 (emphasis added). Plaintiffs and their predecessors-in-interest, unlike the SBPOA, have continuously been "possessed of" the easement area since they purchased their property. Thus, Plaintiffs easily satisfy the requirements of the statute of limitations, and it does not bar their claims.

The Easement Agreement was executed and recorded more than ten years prior to this action. As such, under section 15-3-340, any challenge to the Easement Agreement's validity by Defendant through counterclaim, an action at law, is barred by the statute of limitations and this Court should grant Plaintiff's Motion for Summary Judgment and deny Defendant's Motion for Summary Judgment and counterclaim on this basis.

C. Plaintiffs Are Entitled To Declaratory Judgment Declaring That Defendant Is Obligated To Comply With The Terms, Conditions, And Requirements Of The Easement Agreement.

Defendant is a party to the Easement Agreement which it negotiated, prepared, executed, and recorded and therefore it must comply with the terms, conditions, and requirements of the Easement Agreement. Under South Carolina law, “[t]he language of an easement determines its extent.” *Plott v. Justin Enters.*, 374 S.C. 504, 513, 649 S.E.2d 92, 96 (Ct. App. 2007) (quoting *Binkley v. Rabon Creek Watershed Conservation Dist.*, 348 S.C. 58, 67, 558 S.E.2d 902, 906-07 (Ct. App. 2001)). “Clear and unambiguous language in grants of easement must be construed according to terms which parties have used, taken, and understood in plain, ordinary, and popular sense.” *S.C. Pub. Serv. Auth. v. Ocean Forest, Inc.*, 275 S.C. 552, 554, 273 S.E.2d 773, 774 (1981). “The general rule is that the character of an express easement is determined by the nature of the right and the intention of the parties creating it.” *Plott*, 374 S.C. at 514, 649 S.E.2d at 96 (quoting *Smith v. Comm’rs of Pub. Works of Charleston*, 312 S.C. 460, 467, 441 S.E.2d 331, 336 (Ct. App. 1994)). “The intention of the parties must be determined by a fair interpretation of the grant or reserve creating the easement.” *Springbob v. Farrar*, 334 S.C. 585, 595, 514 S.E.2d 135, 141 (Ct. App. 1999) (citing *Sandy Island Corp. v. Ragsdale*, 246 S.C. 414, 420, 143 S.E.2d 803, 807 (1965)).

i. Defendant Is Obligated To Pay Twenty-Five (25%) Of The Real Estate Tax Assessed For the Property on An Annual Basis As Consideration And Just Compensation For The Easement Rights Granted to Defendant in the Easement.

The Easement Agreement clearly provides:

As consideration and just compensation for this Easement, the Property Owners Association agrees to pay twenty-five (25%) of the real estate tax assessed for Lot B on an annual basis unless agreed otherwise in writing by both parties.

See **Ex. F**, Easement at ¶ 6. Thus, taken in its plain and ordinary meaning, paragraph 6 of the Easement Agreement requires Defendant to pay twenty-five (25%) percent of the real estate tax assessed for Plaintiffs' lot. Plaintiffs and Defendant have never agreed otherwise in writing. Additionally, Defendant has paid this portion of the property tax in the past to prior owners and to the Plaintiffs themselves which is admitted by Defendant's corporate representative Mr. Evans. **Ex. I**, Evans Dep. 164:17-19 ("Q: Since being on the board, has the POA paid the 25 percent tax bill of the entire Lot B? A: Yes."). Defendant cannot now ignore the terms, conditions, and requirements of the Easement Agreement simply because it now attempts to disregard past commitments made by Defendant and its prior directors and members. As further intent of this long-term obligation of Defendant, the 99-year Lease likewise contained a similar requirement for the ingress/egress rights on Plaintiffs' Property. **Ex. C**, Lease, at Book 390, pg. 258 ("The Tenant shall pay to the Landlord the sum of 25% of the total tax bill for said parcel"). However, because the Easement Agreement integrated the terms of the Lease with respect to the subject easement, it is critical that this ongoing recorded, contractual obligation is applied and enforced against Defendant in the form of declaratory judgment. Plaintiffs are entitled to summary judgment that Defendant is obligated to comply with the terms, conditions, and requirements of the Easement Agreement requiring that Defendant shall pay twenty-five percent (25%) of the real estate tax on Plaintiffs' lot annually.

ii. Defendant's Use Of The Easement Area Is Limited To Pedestrian And Non Vehicular Ingress And Egress Only On, Over And Across The Easement Area.

The Easement Agreement clearly states that use of the easement area is limited to pedestrian and non-vehicular use and that Defendant and its members have no other rights in and to any other portion of the Property except the easement area.

Paragraph 2 of the Easement Agreement provides as follows:

Access Easement: Grantors hereby grant, bargain, sell and release unto Grantee, its successors and assigns, for the benefit of the Grantee Property, a perpetual, exclusive, appendant, appurtenant, transferable easement (the “Access Easement”) on, over and across the Grantor Property **for pedestrian ingress and egress on, over and across the Easement Area**. This Easement Area is more fully shown as “Existing Dock Ingress/Egress Easement” on Plat by Robert Frank Surveying, dated April 2, 2003, revised on June 19, 2003 and recorded in the Charleston County RMC Office on June 26, 2003 in Book EG, Page 457. **Grantee shall have no other rights in and to any other portion of the Grantor Property except the Easement Area**. Grantors hereby reserve the right, for itself and its tenants, invitees, permittees, agents, representatives, successor and assigns, to use the Access Easement in common with Grantee for any purposes not inconsistent with Grantee’s rights under this Agreement.

Ex. F, Easement at 2 (emphasis added).

As such, the language of the Easement Agreement taken in its plain, ordinary, and popular meaning determines the rights created by the easement. Here, the easement is dedicated as an “Access Easement.” See **Ex. F**, Easement at ¶ 2. Courts can take judicial notice of the meaning of words or phrases. See *Brown v. Piper*, 91 U.S. 37, 42 (1875) (“Among the things of which judicial notice is taken are the laws of nations; the general customs and usages of merchants; the notary’s seal; **vernacular language**; the customary abbreviations of Christian names; the accession of the Chief Magistrate to office; and his leaving it.” (emphasis added)); *Nix v. Hedden*, 149 U.S. 304 (1893) (“There being no evidence that the words ‘fruit’ and ‘vegetables’ have acquired any special meaning in trade or commerce, they must receive their ordinary meaning. Of that meaning the court is bound to take judicial notice, as it does in regard to all words in our own tongue; and upon such a question dictionaries are admitted, not as evidence, but only as aids to the memory and understanding of the court.”); 29 AM. JUR.2D EVIDENCE § 91, *Judicial Notice of Meanings of Words and Phrases; Signs and Symbols* (Feb. 2024) (“In general, courts take judicial notice of the meaning of English words and phrases by consulting dictionaries or encyclopedias.”); 31A C.J.S. EVIDENCE § 136, *Judicial Notice Of Meaning Of Words And Phrases* (Aug. 2023) (“A judge may

take judicial notice of the ordinary meaning of English words as defined in standard works such as dictionaries[.]”). The Merriam-Webster Dictionary defines access as “permission, liberty, or ability to enter, approach, or pass to and from a place” and “a way or means of entering or approaching.” See **Ex. N**, “Access.” *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/access>. Last accessed 4 Feb. 2025. Thus, construing the terms of the Easement Agreement in its plain, ordinary, and popular meaning, “access” clearly limits the use of the easement area to coming and going to and from a place.

In *Snow v. Smith*, there were two easements at issue – Snow’s easement which conveyed “an easement for use and enjoyment . . . to the Lake Access Lot” and the Gehlkens’ easement which included “non-exclusive access to the water of Lake Murray through the lake access.” 416 S.C. 72, 784 S.E.2d 242 (Ct. App. 2016). At issue was whether access to the Lake Access Lot meant full use of the lot or was limited to ingress and egress on the lot. *Id.* The South Carolina Court of Appeals held “[a]ccess is defined in Black’s Law Dictionary as ‘[a] right, opportunity, or ability to enter, approach, [or] pass to and from.’” Therefore, while Snow was entitled to full use of the Lake Access Lot, all other homeowners were limited “to ingress and egress on the driveway/ramp.” *Id.*

Just as in *Snow*, the Easement Agreement at issue here refers to the easement as an “Access Easement.” See **Ex. F**, Easement Agreement. Thus, as the court held in *Snow*, the easement was created for the “right, opportunity, or ability to enter, approach, [or] pass to and from.” *Access*, Black’s Law Dictionary (11th ed. 2019). Therefore, like the homeowners in *Snow*, Defendant is limited to ingress and egress on the easement property.

Moreover, the Easement Agreement clearly provides that the easement area is for pedestrian *ingress* and *egress*. Ingress is defined in Black’s Law Dictionary as “the act of entering

[;] the right or ability to enter; access.” See **Ex. O**, Ingress, Black’s Law Dictionary (12th ed. 2024). Egress is defined as “the act of going out or leaving [;] the right or ability to leave; a way of exit.” See **Ex. P**, Egress, Black’s Law Dictionary (12th ed. 2024). Additionally, an ingress and egress easement is defined as “the right to use land to enter and leave another’s property.” See **Ex. Q**, Easement, Black’s Law Dictionary (12th ed. 2024). Therefore, the Easement Agreement is unambiguous that Defendant’s use of the easement area is limited to ingress and egress across the easement area.

Finally, any access, ingress, or egress on the easement area is limited to pedestrian use. As noted above, the Easement Agreement provides that the easement area is for *pedestrian* ingress and egress. The Merriam-Webster Dictionary defines pedestrian as “going or performed on foot,” “of, relating to, or designed for walking,” and “a person going on foot.” See **Ex. R**, Pedestrian, <https://www.merriam-webster.com/dictionary/pedestrian>. Last accessed 4 Feb. 2025. Thus, taken in its plain, ordinary, and popular meaning, “pedestrian” means by foot or person on foot. As a result, Defendant’s use of the easement area is limited to pedestrian, i.e., people on foot, use, and access utilized by other means, such as vehicular access, parking, or loitering, is violative of the terms of the Easement Agreement.

Based on the clear and unambiguous language of the Easement Agreement, Defendant’s use of the easement area is limited to pedestrian, non-vehicular use for access to and from the easement area. Therefore, Plaintiffs are entitled to a declaration that Defendant’s use of the easement area is limited to pedestrian and non-vehicular ingress and egress only on, over and across the easement area.

D. Plaintiffs Are Entitled to Declaratory Judgment Declaring That Through The Easement Agreement’s Integration Clause And By Operation of Law, All Prior Rights Held By Defendant In The Ingress/Egress Easement Area Were Merged Into The Easement Agreement.

Under South Carolina law, the Easement Agreement extinguished or merged any prior property rights purportedly held by the SBPOA in the same dock access easement depicted in previously prepared plats, such as those referenced in the Declaration, any amendments thereto, and the Lease. South Carolina has long recognized the merger doctrine since the case of *St. Philip's Church v. Zion Presbyterian Church*, 23 S.C. 297 (1885), which provides that a deed is absolute on its face and in its terms and any and all negotiations are merged into the deed. *See Hughes v. Greenville Country Club*, 283 S.C. 448, 450, 322 S.E.2d 827, 828 (Ct. App. 1984) (prior written agreements are merged into a subsequently recorded conveyance covering the same property). A party claiming that merger was not intended must prove so by clear and convincing evidence under South Carolina law. *Shoney's Inc. v. Cooke*, 291 S.C. 307, 353 S.E.2d 300 (Ct. App. 1987).

Furthermore, the subject Easement, executed by Defendant and consistent with an intended merger, also contains an integration clause, providing as follows: This Agreement is an integrated agreement and expresses the complete agreement and understanding of the Parties. **Any and all prior or contemporaneous oral agreement or prior written agreement regarding the Agreement will be merged herein.** *See Ex. F*, Easement at ¶ 13 (emphasis added). The Declaration, First Amendment to the Declaration, the Lease, and all referenced plats identified as the dock access easement pertain to the same easement area as the Easement Agreement. Because of this fact and since the Easement Agreement specifically includes an integration clause, there are no grounds to assert that the Defendant has any property rights in the easement area other than those expressly granted to the Defendant in the Easement Agreement. *See Wilson v. Landstrom*, 281 S.C. 260, 266, 315 S.E.2d 130, 134 (Ct. App. 1984) (“A merger clause expresses the intention of the parties to treat the writing as a complete integration of their agreement.”); 30 S.C. JUR. CONTRACTS § 38, *Integration and Merger* (Feb. 2024) (“A merger clause expresses the intention

of the parties to treat the writing as a complete integration of their agreement.”); *see also Rye v. Tahoe Truckee Sierra Disposal Co., Inc.*, 222 Cal. App. 4th 84 (2103) (where access easement identified the same area as 99-year lease, court found that the lease was abandoned).

Defendant argues that the integration clause does not merge the Lease because the Easement Agreement defines “the Agreement” as “this Easement Agreement” and therefore it only integrates prior or contemporaneous agreements regarding the document itself and apparently not the identical subject matter of the agreement, the underlying easement. However, once again, SBPOA has presented no evidence that the integration clause was intended to have such a non-sensical interpretation, particularly since the Easement Agreement and Lease grant vastly different and inconsistent property rights to Defendant in the same identical geographic area of the ingress/egress dock easement. In fact, the evidence points to the exact opposite – the SBPOA board and members specifically intended for the Easement Agreement to replace the Lease. SBPOA’s communications and meeting minutes unequivocally show this intent. For example, the April 10, 2012, letter from Ron Farrell states: “As you know, we have been working on obtaining a perpetual easement to replace the 99-year term that has been in effect.” **Ex. K**, Apr. 10, 2012, Letter. Another example is the November 6, 2014, SBPOA meeting minutes which state:

It was then reported that initially, when the lots were purchased, that there was a 99-year lease on the access to the dock for the Property Owners. A lawyer was hired to correct this and an agreement was reached with Lot B property owners that changed the agreement, as of December 2012, to a permanent access to the Spartina Bay Plantation dock and common area.

Ex. L, Nov. 6, 2014, Meeting Minutes, SBPOA_0146-47. Yet another example is the SBPOA annual meeting minutes of March 28, 2009:

The other issue is that this property owns the piece of common property along side which serves as access to the docks. Spartina Bay has a 99 year lease on that property. . . . In addition we will be pursuing a termination of that lease and deeding of the property to the POA.

Ex. L, Mar. 28, 2009, Meeting Minutes, SBPOA_0169.

The corporate representative of SBPOA has also testified to this fact. **Ex. I**, Evans Dep. 231:4-7 (“Q: So the idea was, whether it was a deed, lease or an easement, something perpetual rather than a lease that has a hard stop date? A: Correct.”); **Ex. I**, Evans Dep. 108:19-24 (“Q: All right. But this information was presented, and this is the fourth set of minutes where we’re talking about replacing the 99-year lease agreement with respect to the dock access area with some permanent access, correct? A: Correct.”). Former SBPOA President Masticiani also testified to this intended effect. **Ex. H**, Masticiani Dep. 48:1-5, 18-22. Thus, it was SBPOA’s intent and purpose of the Easement Agreement to replace the lease, and it did so via the integration clause. However, even if the integration clause were not deemed to merge such prior property rights into the more recent Easement Agreement, the merger doctrine does the same by operation of law. Therefore, Plaintiffs are entitled to summary judgment that the Easement Agreement merged and extinguished any prior rights held by Defendant in the easement area.

E. Under The Terms Of The Valid, Binding, And Enforceable Easement Agreement, Plaintiffs Are Entitled To Declaratory Judgment Declaring That Defendant Shall Pay Plaintiffs’ Court Costs And Reasonable Attorney’s Fees Associated With This Action, Including Any Appeal for Plaintiffs’ Enforcement Of The Terms and To Declare The Rights Under The Easement Agreement.

Plaintiffs are entitled to court costs and attorneys’ fees under the unambiguous terms of the Easement Agreement. “The law is clear in South Carolina that attorney fees are recoverable when authorized by contract or statute.” *Charleston Lumber Co., Inc. v. Miller Housing Corp.*, 318 S.C. 471, 483, 458 S.E.2d 431, 438 (Ct. App. 1995) (citing *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 427 S.E.2d 659 (1993)). “When the contract provides for ‘reasonable attorney’s fees’ without specifying a rate or amount, the amount of fees to be awarded is left to the discretion of the court.” *Id.* (citing *Dedes v. Strickland*, 307 S.C. 155, 414 S.E.2d 134 (1992)).

The Easement Agreement provides:

In the event that any party hereto shall bring an action to enforce the terms hereof or to declare rights hereunder, the prevailing party in any such action shall be entitled to its court costs and reasonable attorney fees to be paid by the non-prevailing party as fixed by the court of appropriate jurisdiction, including, but not limited to, attorney fees and court costs incurred in courts of original jurisdiction, bankruptcy courts, or appellate courts.

Ex. F, Easement Agreement at ¶ 8. Plaintiffs have brought an action against Defendant to enforce the terms of and declare rights under the Easement Agreement. Thus, if Plaintiffs are the prevailing party in having to enforce the terms and obligations of Defendant under the Easement Agreement, Plaintiffs are entitled to their court costs and reasonable attorney fees.

F. Plaintiffs Are Entitled to Declaratory Judgment Declaring That that in accordance with the DHEC Notice and the Easement Agreement, Plaintiffs were within their rights to remove the non-compliant deck located on Plaintiffs' Property and that Defendant may not construct a new deck within the easement area or otherwise impose the individual assessment levied against Plaintiffs in the Deck Assessment Notice for Plaintiffs' compliance with the DHEC notice.

There is no genuine issue of material fact that the Plaintiffs were within their rights to remove the non-compliant deck located on their Property. Thus, Plaintiffs are entitled to declaratory judgment that Plaintiffs were within their rights to remove the non-compliant deck, and that Defendant may not construct a new deck in the easement area or otherwise impose the individual assessment levied against Plaintiffs.

First and foremost, as discussed throughout this memorandum, the easement area from its inception was designated as an access easement for ingress and egress. As such, Defendant's rights to the easement area are limited to ingress and egress only. Defendant does not have a right to build or own any structures within the easement area and Defendant cannot cite to any recorded property instrument or other evidence providing Defendant with such rights. Nevertheless, Defendant contends that the Declaration allows it to issue assessments for the cost of maintenance

or repair of “common areas” and thus the assessment against the Plaintiffs was proper. Def’t.’s Mem. Supp. Mot. Summ. J. at pp. 16-17. However, the SBPOA has no evidence of proof of ownership in the deck. SBPOA concedes this fact through its corporate representative, Mr. Evans. **Ex. I**, Evans Dep. 202:15-19 (“Q: Did you represent to Ms. Woodruff that this was - - this deck was owned by the property owners association? A: I did not. I couldn’t say that with any - - I couldn’t say who it was owned by.”). Additionally, two former board presidents testified accordingly. **Ex. H**, Mastriani Dep. 125:17- 24 (“Q: Yeah. And you were not aware of the POA ever paying for construction of the deck platform located on the Wells’ property? A: No. Q: And you’re not aware of any bill, sale, deed, or any other document that transferred ownership of the deck platform to the POA? A: No.”); **Ex. J**, Dill Dep. 113:13-17 (“Q: And you’re not aware of any bill of sale, deed, or any document that would convey ownership of that deck that used to exist on the Wells’ property that was removed to the property owners’ association? A: I’m not.”). In order to be able to assess fines for common areas, the SBPOA must first own the “common area,” and it cannot prove that it owns the deck and therefore any assessment against Plaintiffs was improper. Moreover, it is inconsistent with the general principles of property law for the grantee of an easement to obtain fee simple property rights over structures located within an ingress and egress easement area.

Moreover, the South Carolina Department of Health and Environmental Control issued a letter to Plaintiffs stating that the deck extended above the critical line and needed to be removed. **Ex. S**, DHEC Letter. If the Plaintiffs did not comply with the DHEC notice, DHEC would issue them a fine. *Id.* Defendant contends that the DHEC notice only required a portion of the deck to be removed. First, it is unclear how Plaintiffs could feasibly remove only a “portion” of the deck. Further, as discussed previously, neither the Easement Agreement nor any other recorded property

instrument gives the SBPOA any rights to own or operate a structural deck unconnected with ingress and egress in the easement area and SBPOA offers no evidence or proof of ownership of the deck. Plaintiffs were required by a South Carolina governmental agency to remove the deck, which the SBPOA has no proof of ownership of, or face a fine for failure to comply with DHEC's notice. As such, there is no genuine issue of material fact that Plaintiffs are entitled to declaratory judgment that they were within their rights to remove the deck from their own Property, that the Defendant was not within its rights to determine that the deck was common property and assess an individual assessment against Plaintiffs, and that Defendant cannot construct a new deck, which Defendant has notified an intent to replace on Plaintiffs' property absent this Court's intervention. **Ex. T**, Ltr. from SBPOA to Plaintiffs, Sept. 24, 2022 ("The initial assessment shall be equal to the cost of the deck replacement approximately 10' x 24' determined to be \$2500").

II. Defendant And Its Members Should Be Temporarily and/or Permanently Enjoined From its Improper Use of the Easement Area.

Actions for injunctive relief are equitable. *Doe v. South Carolina Med. Malpractice Liab. Joint Underwriting Ass'n*, 347 S.C. 642, 645, 557 S.E.2d 670, 672 (2001). "The purpose of a preliminary injunction is to preserve the status quo and prevent irreparable harm to the party requesting it." *Compton v. S.C. Dep't of Corr.*, 392 S.C. 361, 366, 709 S.E.2d 639, 642 (2011). For a preliminary injunction to be granted, the plaintiff must establish that: (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. *Strategic Res. Co. v. BCS Life Ins. Co.*, 367 S.C. 540, 544, 627 S.E.2d 687, 689 (2006). "In evaluating whether a plaintiff is entitled to a preliminary injunction, the court must examine the merits of the underlying only to the extent necessary to determine whether the plaintiff has made a sufficient prima facie showing of entitlement to relief." *Compton*, 392 S.C. at 367, 709 S.E.2d at 642.

A. Plaintiffs are suffering and will continue to suffer irreparable harm if an injunction is not granted.

Defendant's failure and refusal to honor or perform Defendant's obligations under the Easement Agreement have caused and will continue to cause ongoing nuisances to Plaintiffs and have deprived and will continue to deprive Plaintiffs of the enjoyment and use of benefits derived from their Property. **Ex. G**, Stephen Wells Dep. 35:12-25; 36:1-24; 69:17-25; 70:1-25; 71:24-25; 72:1-13; 73:1-25. Plaintiffs are suffering and will continue to suffer irreparable harm by Defendant's failure to comply with the Easement Agreement including but not limited to, vehicular and non-pedestrian use and parking in the easement area by members and non-members of Defendant, their guests, and others; vehicular, non-pedestrian, and pedestrian use and parking on Plaintiffs' Property outside of the easement area by members and non-members of Defendant, guests, and others; continued and/or renewed use of the easement area by customers or guests of a commercial fishing charter boat that has operated from the community dock; ongoing nuisances to Plaintiffs arising from Defendant's permitted conduct described herein, including the construction of a deck in the easement area by Defendant; impairment of the marketability of Plaintiffs' Property; and diminution or loss of value of Plaintiffs' Property. **Ex. G**, Stephen Wells Dep. 35:12-25; 36:1-24; 69:17-25; 70:1-25; 71:24-25; 72:1-13; 73:1-25. Importantly, it is anticipated that Defendant and its members will continue such behavior unless injunctive relief is granted to enforce the requirements of the Easement Agreement.

B. Plaintiffs are likely to Succeed on the Merits of this Litigation.

"In evaluating whether a [party] is entitled to a preliminary injunction, the court must examine the merits of the underlying case only to the extent necessary to determine whether the [party] has made a sufficient prima facie showing of entitlement to relief." *Compton v. S. Carolina Dep't of Corrections*, 392 S.C. 361, 367, 709 S.E.2d 639, 642 (2011). The court must, based solely

on the allegations of the complaint, “determine only the *likelihood* of whether [the party] will prevail on the merits.” *Id.* (emphasis in original).

As set forth in this Memorandum, the Plaintiffs have rights or interests under the above-referenced Easement Agreement for which they can obtain a declaration of rights. For the reasons set forth above, Plaintiffs are likely to succeed on each of their declaratory judgment claims. Further, the Easement Agreement between Plaintiffs and Defendant constitutes a valid and enforceable agreement. Defendant materially breached the Easement Agreement as provided herein. As a direct and proximate result of Defendant’s breach, Plaintiffs have suffered damages including, but not limited to, ongoing nuisances to Plaintiffs arising from Defendant’s permitted conduct described herein. **Ex. G**, Stephen Wells Dep. 35:12-25; 36:1-24; 69:17-25; 70:1-25; 71:24-25; 72:1-13; 73:1-25. It is clear that Defendant was required to comply with the obligations of the Easement Agreement and failed to do so. Accordingly, the Court should find that Plaintiffs are likely to succeed on its declaratory judgment claims and its breach of Easement Agreement claim against Defendant.

C. Plaintiffs Have no Adequate Remedy at Law and the Injunction is Necessary to Preserve the Status Quo.

“An injunction is an equitable remedy; as such, it is available only where no remedy at law exists or where the legal remedy would fail to make the party whole.” *MailSource, LLC v. M.A. Bailey & Assoc.*, 356 S.C. 363, 369-70, 588 S.E.2d 635, 639 (Ct. App. 2003). “An ‘adequate’ remedy at law is one which is as certain, practical, complete, and efficient to attain the ends of justice and its administration as the remedy in equity.” *Santee Cooper Resort, Inc. v. S.C. Pub. Serv. Com.*, 298 S.C. 179, 185, 379 S.E.2d 119, 123 (1989).

An injunction is necessary in this case to preserve the status quo which is that Defendant is contractually required by the Easement Agreement to limit its use of the easement area to

pedestrian access use and to prohibit Defendant from constructing a new deck on Plaintiffs' Property and within the ingress and egress easement area. Without a permanent injunction and the ability to enforce the injunction, Plaintiffs are truly left without an adequate remedy at law. Injunctive relief is necessary in order to ensure that Defendant and its members do not use the easement area in violation of the Easement Agreement and to ensure that Plaintiffs can enjoy the Property peacefully and without constant nuisances. **Ex. G**, Stephen Wells Dep. 35:12-25; 36:1-24; 69:17-25; 70:1-25; 71:24-25; 72:1-13; 73:1-25; *see also* **Ex. U**, Video of Bobby Crapps. Additionally, injunctive relief is necessary to ensure that, in the future, should the Defendant or its members breach the Easement Agreement, Plaintiffs have a method of enforcement against Defendant. Therefore, injunctive relief is proper in this case.

III. There is No Genuine Issue of Material Fact That Defendant Breached the Easement Agreement And The Covenant of Good Faith And Fair Dealing And Plaintiffs Should Be Awarded Summary Judgment As To Such Claims.

The use of the easement for vehicular access, charter fishing, and large group gatherings is a clear violation of the Easement Agreement. To prove breach of an easement agreement, Plaintiffs must show: (1) an agreement; (2) breach of that agreement; and (3) damages caused by the breach.

Here, there is clearly an easement agreement between the Wells and Defendant. The Easement Agreement was executed on behalf of Defendant and recorded in the Charleston County ROD and Plaintiffs are a successor-in-interest to this agreement. The Easement Agreement includes specific terms and conditions, including the limitation of pedestrian use and that Defendant and its members shall have no other rights to Plaintiffs' Property except the easement area.

Ex. F, Easement at ¶ 2. Defendant has breached the Easement Agreement including, but not limited to, in the following manners:

- Permitting its members and non-members of Defendant to utilize the dock ingress/egress easement area for vehicle parking;
- Permitting commercial fishing charter boat operation at the dock on the easement area;
- Permitting commercial fishing charter boat operation customers to utilize the dock ingress/egress easement area by vehicle; and
- Permitting and/or failing to stop its members or non-members from entering Plaintiffs' Property outside the easement area.

Ex. G, Stephen Wells Dep. 35:12-25; 36:1-24; 69:17-25; 70:1-25; 71:24-25; 72:1-13; 73:1-25. The violations of the Easement Agreement have been admitted by SBPOA through their corporate representative, Mr. Evans. **Ex. I**, Evans Dep. 180:25, 181:1-4 (“And he’s out there and his buddies are trying to pull him away. He’s drunk, and he’s acting inappropriately and childish. And I hope that one got his attention. He did send an apology.”); **Ex. I**, Evans Dep. 112:13 – 17 (“Q: And as the POA representative, do you have any proof that those folks that were not Mr. Crapps were also not paying customers for a charter boat? A: I do not.”). As a result of these breaches of the easement agreement, Plaintiffs have suffered damages including, but not limited to, nuisances arising from the permitted conduct, impairment of the marketability of the Property, diminution, or loss of enjoyment of the Property, and loss of enjoyment of the Property. **Ex. G**, Stephen Wells Dep. 35:12-25; 36:1-24; 69:17-25; 70:1-25; 71:24-25; 72:1-13; 73:1-25. Therefore, Plaintiffs are entitled to judgment as a matter of law on their breach of easement cause of action.

Based on the actions and omissions of Defendant and its members as detailed in the filed pleading, this memorandum of law, and supporting exhibits, Defendant has unquestionably refused to comply with the terms of the Easement Agreement at issue, continues to allow vehicular use and parking within the easement area, and is in breach. Further, Defendant imposed an improper individual assessment against Plaintiffs for their removal of a deck within the ingress/egress

easement area that the Defendant neither owned nor maintained on Plaintiffs' property. Current SBPOA President Eddie Evans admitted that it imposed and deposited an individual assessment for the deck removal despite having no proof of SBPOA's ownership. Plaintiffs paid this fine in protest to avoid losing their member in good standing status.

Q: We can probably skip this next Exhibit with a few questions. Do you admit that the \$2,500 individual assessment was paid by the Wellses?

A: Yes.

Q.: And it was deposited by the POA?

A: Yes.

Q: Do you recall receiving a letter from our law firm, indicating that that -- that payment was being made, but it was being made under protest and the reasons why it was invalid?

A: I do remember getting that.

Q: Okay. Did you or anyone from the board seek legal advice before depositing that check?

A: I won't say specifically that we asked is it okay to deposit it; we had already sought legal action to actually make the assessment.

Q: Okay. All right. Essentially, the POA was confident enough that removal of that deck, even though it couldn't establish any record of ownership, that an -- that that individual assessment for \$2,500 was proper and properly retained by the POA?

A: Correct.

Q: If a Judge determines that that deck was not common property or facilities, as it's described in the Declaration, is the POA prepared to return that amount to the Wellses, the \$2,500, along with prejudgment interest?

A: If so ordered.

Q. And one last -- sorry. Since I have this in my outline for those documents before, but the special assessment that was imposed, in the communications --

A. Individual assessment.

Q. I'm sorry. Individual assessment, yes. In the letters about the individual assessment, it noted that failure to pay that would result in the Wellses no longer being members in good standing of the POA; is that right?

A. That's correct.

Q. That would result in them no longer having any voting rights in the POA, correct?

A. That's correct.

Ex. I, Evans Dep. 206:22-208:18.

Based on the foregoing and Defendant's refusal to recognize the terms of the Easement Agreement, Plaintiffs are entitled to an order granting summary judgment on their claim for breach of the easement agreement and the covenant of good faith and fair dealing and an award of money damages in the amount of \$2,500.00, plus pre-judgment interest, and the recovery of Plaintiffs' court costs and reasonable attorney's fees associated with this action, including any appeal. **Ex. F**, Easement Agreement at ¶ 8.

CONCLUSION

For the reasons set forth above, Plaintiffs respectfully requests that their Motion for Summary Judgment be granted, and that Defendant's Motion for Summary Judgment be denied.

ROSEN HAGOOD, LLC

/s/ Timothy J.W. Muller

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Charleston, South Carolina
February 6, 2025



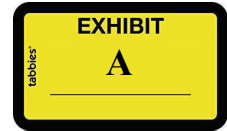
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STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
 COUNTY OF CHARLESTON)



KNOW ALL MEN BY THESE PRESENTS, THAT WE, **JAMES W. DORN & JAN V. DORN F/K/A JAN V. HIPP**, in the State aforesaid, for and in consideration of the sum of **SEVEN HUNDRED NINETY THOUSAND AND 00/100 (\$790,000.00) DOLLARS**, to us in hand paid at and before the sealing of these presents by **STEPHEN C. WELLS & RANDI POPP WELLS**, in the State aforesaid and the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do hereby grant, bargain, sell and release unto the said **STEPHEN C. WELLS & RANDI POPP WELLS, AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON**, their heirs and assigns forever, the following described real property, to wit:

SEE EXHIBIT "A" HERETO.

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said **STEPHEN C. WELLS & RANDI POPP WELLS, AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON**, their heirs and assigns forever.

And we do hereby bind ourselves, our heirs and assigns to warrant and forever defend, all and singular, the said Premises unto the said **STEPHEN C. WELLS & RANDI POPP WELLS, AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON**, their heirs and assigns, against us and our heirs and assigns, and all persons whomsoever lawfully claiming, or to claim, the same or any part thereof.

Wyckoff Law Firm, P.A.
 810 Travelers Blvd., Suite K
 Summerville, SC 29485

WITNESS our Hands and Seals, this 9 day of MARCH, 2020.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

[Signature]

[Signature]
JAMES W. DORN

[Signature]

[Signature]
JAN V. DORN F/K/A JAN V. HIPPI
F/K/A Jan V. Hipp

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

I, Megan Mitchum, do hereby certify that JAMES W. DORN & JAN V. DORN F/K/A JAN V. HIPPI personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

SWORN to and subscribed before me
this 9 day of MARCH, 2020.

[Signature]
Printed Name of Notary: Megan Mitchum
Notary Public for South Carolina
My Commission Expires: 4/16/2029

Exhibit "A"

All that certain lot, piece, or parcel of land, with improvements thereon, situate, lying and being in the County of Charleston, State of South Carolina, containing 1.3578 acres, more or less, of highland, and 2.7036 acres, more or less, of marsh, and being shown and designated as Lot B-Highland and Lot B-Marsh on a plat prepared by Robert L. Frank, RLS #4177, entitled, "A BOUNDARY SURVEY CUL DE SAC ABANDONMENT, AND DOCK EASEMENT ADJUSTMENT OF LOT B LOCATED ON EDISTO ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA," dated April 2, 2003, revised June 19, 2003, and recorded in the RMC Office for Charleston County in Plat Book EG, at Page 457.

Said lot having such size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

Subject to easements, restrictions, covenants, and conditions of record.

This being the same property conveyed to grantors by deed of Jan V. Hipp n/k/a Jan V. Dorn dated April 15, 2015, and recorded April 29, 2015, in the ROD Office for Charleston County in Book 0472, Page 585.

This being the identical property conveyed to Jan V. Hipp n/k/a Jan V. Dorn by deed of James L. Cox, Trustee and Catherine T. Waddell Cox, Trustee of the Trust Agreement dated May 25, 2011, dated November 13, 2012, and recorded November 14, 2012, in the ROD Office for Charleston County in Book 0291, Page 173; and by quit claim deed of Jan V. Hipp n/k/a Jan V. Dorn to James W. Dorn & Jan V. Dorn dated April 15, 2015, and recorded April 29, 2015, in the ROD Office aforesaid in Book 0472, Page 585.

TMS #: 025-00-00-038

Grantee's Address: 1499 Marsh Bluff Court
Edisto Island, SC 29438

CONSIDERATION AFFIDAVIT

County of Charleston

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

1. I have read the information on this Affidavit and understand such information.
2. The property being transferred is located at 1499 Marsh Bluff Court, Edisto Island, South Carolina 29438 bearing Charleston County Tax Map Number 025-00-00-038, was transferred by James W. Dorn and Jan V. Dorn f/k/a Jan V. Hipp to Stephen C. Wells and Randi Popp Wells on March 10, 2020.

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) is exempt from the deed recording fee because EXEMPTION# AND EXPLANATION FOR EXEMPTION. (If exempt, please skip item 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:
(a) x The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$790,000.00.
(b) The fee is computed on the fair market value of the realty which is \$
(c) The fee is computed on the fair market value of the realty as established for property tax purposes which is \$

5. Check Yes or No to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes" the amount of the outstanding balance of this lien or encumbrance is:

6. The deed recording fee if computed as follows:
(a) Place the amount listed in Item 4 above here: \$790,000.00
(b) Place the amount listed in Item 5 above here: \$ 0
(if no amount is listed, place zero here)
(c) Subtract Line 6(b) from 6(a) and place result here \$790,000.00.

7. The deed recording fee is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$2923.00.

8. As required by code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as the purchaser.

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.

Handwritten signatures of Stephen C. Wells and Randi Popp Wells with printed names and '- Buyer' labels.

Sworn to and subscribed before me this March 10, 2020. Notary Public State of South Carolina My Commission Expires: 4-11-28



RECORDER'S PAGE

NOTE: This page **MUST** remain with the original document



Filed By:

WYCKOFF LAW FIRM PA
810 TRAVELERS BLVD
STE K
SUMMERVILLE SC 29485 (BULLET)

RECORDED		
Date:	March 11, 2020	
Time:	3:18:10 PM	
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0865	916	Deed
Michael Miller, Register Charleston County, SC		

MAKER:

DORN JAMES W AL

RECIPIENT:

WELLS STEPHEN C AL

Original Book:

Original Page:

Note:

of Pages:

Recording Fee	\$ 15.00
State Fee	\$ 2,054.00
County Fee	\$ 869.00
Extra Pages	\$ -
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 2,938.00

DRAWER
CLERK

AUDITOR STAMP HERE
RECEIVED From ROD
Mar 18, 2020
Peter J. Tecklenburg
Charleston County Auditor

PID VERIFIED BY ASSESSOR
REP RJB
DATE 03/18/2020
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Section 5. “Lot” shall mean and refer to each of the lots (lots 1, 3, 4, 5, 6, 7, 8, 10, 11 and 12) shown on the plat by Jerry L. Fowler dated April 16, 1999 and last revised September 17, 2001 and recorded in the RMC Office for Charleston County, titled “FINAL PLAT SUBDIVISION, SPARTINA BAY PLANTATION SUBDIVISION” recorded in the RMC Office for Charleston County in Plat Book EF at Page 115 and the adjacent lot shown and designated as 4.31 Acres (TMS# 025-00-00-038) (hereinafter referred to as Lot B) on a plat prepared by Jerry L. Fowler RLS # 15178, entitled “A BOUNDARY SURVEY OF 4.31 ACRES TMS 025-00-00-038 SURVEYED FOR: STORE CREEK TRUST” dated September 17, 2001 and recorded in the RMC Office for Charleston County in Plat Book _____ at Page _____ to include the present configurations or any subdivision of these lots or any additions added to these lots of surrounding properties upon any future conveyances therein to include the surrounding marsh.

Section 6. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. “Members in good standing” shall mean and refer to a Member in good standing of the Spartina Bay Plantation Property Owners Association, Inc. as defined in the Bylaws of the Spartina Bay Plantation Property Owners Association, Inc.

Section 8. “Property” shall mean and refer to that certain real property located on Edisto Island, County of Charleston, State of South Carolina, known as Spartina Bay Plantation Subdivision which is composed of ten (10) lots as is more particularly described in detail in Exhibit “A” and one (1) additional lot with a dock access easement as is more particularly described in detail on Exhibit “B” and a dock as is more particularly described in detail in Exhibit “C”, each Exhibit is attached hereto and incorporated herein as a part of this definition.

Section 9. “Property Owners Association” shall mean the Spartina Bay Plantation Property Owners Association, Inc.

Section 10. “Restrictive Covenants” shall mean and refer to this document, specifically; the Declaration of Restrictive Covenants, Conditions and Restrictions of Spartina Bay Plantation Subdivision.

Section 11. “Single-Family Dwelling” shall mean and refer to a building containing one, and only one, living unit.

Section 12. “Architectural Review Board” (ARB) shall mean the ARB created and defined in Article VII hereinafter.

ARTICLE II

DURATION OF RESTRICTION

These covenants, conditions and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2031 at which time said covenants shall be automatically extended for successive periods of ten (10) years unless amended or revoked as set forth hereinafter.

ARTICLE III

PROPERTY OWNERS ASSOCIATION

The Declarants have created a property owners association known as Spartina Bay Plantation Property Owners Association, Inc., by filing of the Articles of Incorporation with the Secretary of State on July 30, 1999. A Member of said Property Owners Association shall be the Owner and holder of legal title of record of a Lot in Spartina Bay Plantation Subdivision as defined above. The Property Owners Association has adopted its Bylaws, a copy of which is attached hereto and incorporated herein as Exhibit "D". The Property Owners Association shall set forth the necessary rules and regulations which shall also be restrictions, covenants and agreements on the property known as Spartina Bay Plantation Subdivision as it now exists, or is hereafter configured in accordance with these Restrictive Covenants. The Bylaws to the Property Owners Association specifies membership classification, voting, officers, and other matters for the Property Owners.

ARTICLE IV

ASSESSMENTS

Section 1. The Right to Create Assessments. The Property Owners Association may levy, at any time or times assessments for the purpose of defraying, in whole or in part, the cost on any maintenance or repair of any common areas, roads, easements, community docks, community bulkhead, community floating docks, cost of enforcing restrictive covenants, and any other authorized activities or maintenance authorized by the Property Owners Association to include but not limited to insurance and other administrative costs. The Property Owners Association shall be responsible for maintenance of: (1) roads designated as Marsh Bluff Court as defined in Exhibit "A" and any additional roads approved by the Property Owners Association; (2) the erosion control devices to prevent the loss of any Common Area and Facilities; (3) the fixed walkway and dock for the community as is shown on Exhibit "C"; and (4) the floating docks as is shown on Exhibit "C". The Property Owners Association shall have no responsibility for erosion control other than Common Area and Facilities.

Section 2. Class of Membership. The amount of such assessments shall be prorated among the Lot Owners based upon their class of membership. There shall be two (2) classes of memberships:

a. Class "A" Members shall be the owners of Lots 1, 3, 4, 5, 6, 7, 8, 10 and Lot B and any additional lots created from the subdivision of existing lots of the Spartina Bay Plantation Subdivision, provided, however, if and when the owner of Lot 10 in the Spartina Bay Plantation Subdivision completes construction of a private dock running from his Lot 10 to Store Creek, the owner of Lot 10 shall no longer be a Class "A" Member of the Property Owners Association but shall become a Class "B" Member of the Property Owners Association. The Class "A" Members shall be entitled to full use of Marsh Bluff Court roadway, for ingress and egress to their individual lots, the dock easement as shown on a plat of Lot "B", and the Common Dock as shown on the Master Dock Permit attached hereto as Exhibit "C". The assessments are for the purpose of defraying such Members prorated share of the cost of any maintenance or any repairs of these Common Areas and Facilities and shall be prorated among the Lot Owners (Class A Members) equally, share and share alike, regardless of which items need repair; provided,

however, that any assessments for enforcement of restrictive covenants shall apply to that Lot Owner only for which a special assessment is made. The costs of any maintenance or repairs of the Common Area and Facilities shared with Class "B" members shall be prorated among all members of both classes. Class "A" members can vote on any issues affecting their memberships rights and responsibilities.

b. Class "B" Members shall be the owner of Lots 11 or 12 and possibly Lot 10 as provided above. The amount of such assessment for Class "B" Members shall be the pro-rata share of the costs of any maintenance of the roadway known as Marsh Bluff Court and any other Common Area and Facilities added at a later date excluding the Docks, as set forth above. This cost shall be shared equally for all of the lots, which the restrictions are imposed herewith which include the ten (10) lots in Spartina Bay Plantation Subdivision and Lot B (presently a total of eleven (11) lots). If Class "B" members secure Common Areas and Facilities which can be used exclusively for Class "B" members then the cost of same shall be prorated equally among the members of Class "B" only. Class "B" members can vote only on items affecting Common Area and Facilities which the Class "B" members has a right to use or responsible for.

Section 3. Creation of the Lien and Personal Obligation of Assessment. The Declarants for each Lot owned within the Property, hereby covenant, and each Owner of any Lot by acceptance of a deed, is deemed thereby, whether or not it shall be so expressed in such deed, to covenant and agree to pay to the Property Owners Association the aforesaid repair and maintenance assessments. Such assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Notice of such lien may be filed with the RMC Office in the county where said Lot is located at any time after an assessment becomes part past due, although the filing of such Notice shall not be necessary in order to perfect such lien. Said lien may be sold to a third party who shall become a holder in due course along with all rights of enforcement herein and each assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due. There will be a late charge of five (5%) percent of any assessment due but not paid within fifteen (15) days of the due date.

Section 4. Interest and Foreclosure. Any assessment not paid within thirty (30) days after the due date shall bear interest at the rate of eighteen (18%) per annum. The Property Owners Association or holder in due course may bring an action at law or equity against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot as if said lien was the same as a mortgage lien in the names of the Property Owners Association as provided by South Carolina Code of Laws. Any Member delinquent in payment of any assessments or dues due hereunder shall not be a member in good standing and shall not have a right to utilize any of the privileges of membership within the Members Class.

ARTICLE V

USE RESTRICTIONS

The following restrictions shall apply to all Property to which the Restrictive Covenants, or amendments hereto apply:

Section 1. Residential Use. All Lots are designated "residential, single family" and shall be restricted as to use for residential single family dwellings.

Section 2. Setbacks. All setbacks shall be as set by Charleston County Zoning Ordinances and other related ordinances as well as the setbacks that are shown on the plat of the Spartina Bay Plantation Subdivision referred to in Exhibit "A" hereto.

Section 3. Boats, Motor Homes and Campers. Boats, motor homes and travel trailers (also known as "R/V's") stored or parked on any Lot shall be located in an area to minimize its visibility from roads, common areas, and subdivision neighbors to the greatest extent possible.

Section 4. Signs. No sign or billboard of any kind shall be erected or allowed on any Lot other than one "For Sale" or one "For Rent" sign not larger than two (2) feet by two (2) feet. This provision shall not be deemed to exclude use by Declarant, or its assigns, of advertising signs which shall advertise the entire project. "For Sale" and "For Rent" signs shall be removed upon completion of sale or rent transaction.

Section 5. Re-subdivision of Lots. No lot or lots shall be divided or re-subdivided unless such division or re-subdivision yields buildable lots of at least one (1) acre in size. Also a lot may be divided into two parcels if each parcel is attached to an adjacent lot for purposes of making the adjacent lot larger, provided that once a lot is so subdivided it must remain as a part of adjacent lots.

Section 6. Easements. Declarant hereby reserves an easement or right of way for purposes of installation of water lines, sewer lines, telephone lines, electric lines, poles, wires, cables and all other equipment necessary for the installation, use and maintenance of utilities, including but not limited to water, sewer, electricity, telephone, or drainage. Said easement shall be fifteen (15) feet in width along the property lines as shown on the Subdivision Plat of Spartina Bay Plantation Subdivision referred to in Exhibit "A".

Section 7. Temporary Structures and Trailers. No trailer, mobile home (specifically including "double wide mobile home"), nor any shed, tent, shack, or barn shall be erected or placed on any Lot except that a trailer for construction office or outbuilding used in conjunction with construction may be used during construction on a limited, temporary basis.

Section 8. Animals. No animals or poultry of kind other than house pets shall be kept or maintained on any part of said property. All allowed pets shall be under the control and responsibility of their owner.

Section 9. Waste Matter and Water Wells. The disposal of waste matter, including garbage, refuse, etc., shall be in compliance with the regulations of the South Carolina Department of Health and Environmental Control (SCDHEC) or its successors and all other governing authorities which have jurisdiction thereover. All exterior garbage or other waste receptacles shall be placed and/or screened in such a manner so as not to be visible from subdivision roads, Common Areas, and Facilities or other subdivision Lots. Each Lot Owner is responsible for its own sewage waste disposal system (septic tank) as well as its own water system (water system/private wells). The Declarants will not furnish waste disposal or water for the Property or Lots therein.

Section 10. Tanks. Fuel tanks shall be enclosed in such a manner that it will not be visible from the road, Common Area and Facilities or adjacent Docks and such that a harmonious blending of the tanks with the Dwelling House shall be effectuated.

Section 11. "Vehicles, Antennas, etc. No wrecked or junked motor vehicles or vehicle without current license plates or truck larger than one ton shall be permitted to remain on a lot. No satellite or other receiving disc or antennas shall be permitted unless expressly approved by the Architectural Review Board (ARB).

Section 12. Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot or area within the property, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the neighborhood. There shall not be maintained any plants or animals, or device or thing of any sort, the normal activity of which is in anyway noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof. There shall be no discharging of firearms, guns, pistols, of any kind, caliber, or of any method of propulsion. There shall be no discharging of fireworks of any kind whatsoever.

ARTICLE VI

THE DOCKS

Section 1. The Ownership and Use of the Dock. The Property Owners Association shall own or lease the dock as shown on the permit attached hereto as Exhibit "C" as well as the strip of land designated as Dock Easement on a Plat referred to in Exhibit "B". The use of these portions of the Common Property and Facilities (Dock) shall belong to Class "A" Members of the Association and Declarants, only. The rights to use the walkway, fixed dock area, and the floating docks shall belong to the Class "A" Members only. The Property Owners Association shall receive a deed or a lease for the strip of land designated as Dock Easement and a Bill of Sale for the Dock prior to the sale of the first lot within the subdivision. The rights of the Class "A" Membership herein shall run with the ownership of Lots within the Class "A" and shall not be assigned or sold separately by any Lot Owner except as provided in Section 4 of this Article.

Section 2. Insurance. To the extent insurance can be reasonably obtained, the Property Owners Association shall maintain liability and casualty insurance on the dock, including walkway, fixed dock, floating dock, and any appurtenances for replacement value with an inflation guard endorsement adjusted annually.

Section 3. Repair and Maintenance of Dock. If the walkway and/or dock, as defined in Section 1 of Article VI above, are destroyed (in part or in whole), the Property Owners Association shall repair or rebuild said walkway and/or dock to their original size and configuration. The cost or expense of said repair or rebuild shall be an assessment against the Class "A" Membership of the Property Owners Association only and shall be assessed in accordance with the provisions of Article IV above. Provided, however, ONE HUNDRED (100%) PERCENT OF THE CLASS "A" MEMBERS OF THE PROPERTY OWNERS ASSOCIATION MAY VOTE, IN WRITING, NOT TO REPAIR OR REBUILD SAID DOCK FACILITY. Upon the unanimous vote, in writing, then the mandatory provision for rebuilding or repair shall be null and void.

Section 4. Abandonment of Dock. If one hundred (100%) percent of all of the Class "A" Membership of the Property Owners Association vote in writing to abandon any repair, rebuilding or use of said walkway and dock pursuant to Article VI, Section 3 above, then the Dock Easement as is shown on Exhibit "B" attached hereto, shall (at the option of the owner) be conveyed by the Property Owners Association to the Owner of Lot "B" (said Lot being defined above and said owner shall be that as is designated on the records in the RMC Office in the County where said property is located). Said Owner shall pay, in full, all of the costs of the Property Owners Association to Deed said parcel, and when deeded, shall become a part of Lot "B" with the provision that said Lot cannot be further subdivided without the unanimous consent of all Lot Owners. The Owner of Lot B shall have all rights to the Dock thereafter.

Section 5. Permit Restrictions. The Dock Permit attached as Exhibit "C" is subject to certain restrictions and limitations as well as certain rules and regulations, which are attached.

ARTICLE VII

ARCHITECTURAL REVIEW BOARD

Section 1. General. There is hereby created an Architectural Review Board (ARB) for Spartina Bay Plantation Subdivision. Said ARB shall consists of three (3) members. Until such time as Declarants own less than three (3) Lots in Spartina Bay Plantation Subdivision, the members of the ARB shall be appointed by Declarants, and need not be members of the Property Owners Association. After Declarants no longer owns three (3) Lots, as aforesaid, all members of the Committee shall be appointed by the Board of Directors of the Property Owners Association from its membership. A majority of the ARB shall be deemed a quorum and decisions of the ARB shall be by simple majority vote.

Section 2. Submission of Plans. No person shall commence construction of any fence, building, outbuilding, mailbox or other structure, until plans for same shall have been approved by the ARB as provided herein. All plans and specifications must be submitted to the ARB at least thirty (30) days prior to application for a building permit. The submissions shall show by plot plans, elevations, and perspective sketches, all proposed improvements including locations, architectural features and landscaping. In the event said ARB fails to act on a submission within thirty (30) days after the required plans have been submitted to it, this Article will be deemed to have been fully complied with. All plans shall be prepared in a professional manner. Construction must be done in a prompt and professional manner, as defined by the ARB.

Section 3. Approval. The ARB will review and shall approve the plans and specifications if the proposed improvements meet all of the requirements of these covenants and, if in its opinion, the exterior appearance of the improvements will be compatible with other development in the Subdivision or, at a minimum, will not be detrimental to future property sales or surrounding property values. No architectural "style" or materials will be excluded; however, all materials, features, and styles must be, in the opinion of the ARB, professionally and esthetically acceptable.

By acceptance of a Deed, purchasers agree that the actions of the ARB are in the best interests of all Owners within the subdivision and that they will abide by the decisions of the

ARB. Declarants, the ARB, or other Owners may seek injunctions to compel compliance with ARB decisions, or damages resulting from failure to act in accordance with directions of the ARB.

Section 4. Architectural Standards. Lot Owners and all subsequent owners agree that the desired level of architectural quality of the entire property shall be consistently maintained and each building or structural element shall be compatible with its natural surroundings, adjacent existing structures and with future adjacent structures. Structures should reflect an influence of traditional architectural forms for residential buildings. Avant-garde, highly-stylized, or thematic architecture is strongly discouraged. Building materials should be natural in character, color and the use of stained wood is strongly encouraged. Roof planes should not be less than 5 in 12 slopes as a general rule, with variations used for avoidance of monotony. Buildings should incorporate all energy-saving features as are possible within a reasonable architectural content. Orientation of windows, overhangs, porches and solar equipment should not however, be the total controlling factor in the layout and design of the structure.

Section 5. Site Standards. Lot owners and all subsequent owners agree to leave all vegetation and trees, in as near their natural state as is compatible with good building and land use practices. All hardwood trees over four (4) inches DBH (diameter breast height) shall be preserved when possible. The Architectural Review Board must approve the removal of all hardwood trees six (6) inches DBH or greater. Natural drainage and the project drainage systems shall be utilized to the fullest extent possible so as to minimize site disturbance to accommodate drainage. All site plans must show existing elevations and tree covers so that the ARB may determine if this provision has been adequately considered.

Section 6. Completion of Construction. Construction of any dwelling or other structure on property to which these restrictions, or amendments hereto, apply must be completed within twelve (12) months after commencement of construction. For purposes of this section, commencement of construction shall be deemed to be the first day on which materials are delivered to the site or labor commences with respect to said construction, whichever date shall occur first.

Section 7. Guidelines. The ARB may issue future guidelines as are needed

ARTICLE VIII

RESTRICTIONS ON MEMBERS RIGHTS OF USE

Section 1. General. Every Member in good standing shall have a right and easement of enjoyment in and to the Common Areas and Facilities afforded his/her or its class of membership set forth herein, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following restrictions:

a. The right of the Property Owners Association to suspend the voting rights and right to use of the Common Areas and Facilities by a Member:

i. For any period during which any assessment against his Lot remains unpaid, or the Member has not complied with other violations of the Restrictive Covenants, and for a period not to exceed 60 days for any infraction of its published rules and regulations.

b. The right of the Property Owners Association to dedicate or transfer all or any part of the Common Areas and Facilities to any agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by Members representing three-fourths (3/4ths) of all eligible votes agreeing to such dedication or transfer, has been recorded.

c. The Class "A" Membership and the Declarants shall have use of the described community floating dock on a first come, first served basis. In no event shall a Class "A" Member or Declarants be assigned or shall a Class "A" Member or Declarants assume a specific location on the dock for his or her exclusive use.

Section 2. Delegation of Use. Any Member in good standing may delegate, but not transfer, within reason his right or enjoyment to the Common Areas and Facilities of his Class Membership provided however, if OCRM grants permission for a boat lift, said users of the lift shall be exclusive to the owners of Lot B.

ARTICLE IX

MAINTENANCE AND IMPROVEMENTS

Section 1. Maintenance by Association. The Association shall provide for the maintenance, repair and replacement of the roads, common areas and community dock.

Section 2. Maintenance by Members. Lots and improvements, including any privately owned individual docks, shall be maintained in a good, clean condition and repair by their respective owners and members herein.

Section 3. Improvements. The membership shall provide for the making of such improvements to the roads, common areas community docks as may be approved from time to time by the members. The cost of such improvements shall be common expenses.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Property Owners Association, any Member, or Declarants shall have the right to enforce, by any proceeding at law or in equity, the Restrictions, Conditions, Covenants, Reservations, now or hereafter imposed by the provisions of this Declaration or amendments thereto. Failure to enforce any provisions of these Restrictive Covenants herein contained shall in no event be deemed a waiver of the right to do so thereafter. If the parties hereto, or any of them or their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property subject to these Restrictive Covenants to prosecute any proceedings at law or equity against the person or persons violating or attempting to violate any such covenants and either to prevent him or them from committing or continuing such violations to include but not limited to court costs and reasonable attorney's fees.

Section 2. Severability. Invalidation of any one of these Restrictive Covenants or by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 3. Amendment.

a. These Restrictive Covenants may be amended, [except for Article IV, Article VI and Article VIII,] by the Property Owner's Association by an instrument signed by no less than two-thirds (2/3) of the Members. Article IV, Article VI and Article VIII shall be amended by an unanimous vote of members by class affected. So long as Declarants own any Lot, any amendment to these Restrictive Covenants shall require Declarants' approval. Any amendment must be recorded.

b. Further, Declarants shall have the authority to amend these restrictions at any time to comply with the requirements of any governing body such as the Veteran's Administration, Federal Housing Administration, Department of Housing and Urban Development, Charleston County or the Federal National Mortgage Association or to correct typographical or scrivener's errors. Declarants shall not, by reason of the power herein reserved, have the right to alter the amount or method of making annual or special assessments unless a governmental body having jurisdiction over such matter requires a change.


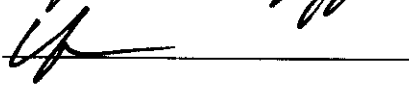
Section 4. Annexation. The Declarants reserve the right to subject to these Restrictive Covenants, additional properties and to dedicate or deed additional common area to the Property Owners Association, provided at the time such dedication or deeding, said additional common area shall be free and clear of all liens and encumbrances other than reasonable and normal restrictions or easements.

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, has hereunto set its hand and seal this 13th day of October, 2001.

N. C. BOYKIN as TRUSTEE FOR
THE STORE CREEK LAND TRUST

Signed, Sealed and Delivered
in the presence of::


BY:  (SEAL)
N.C. Boykin as Trustee

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

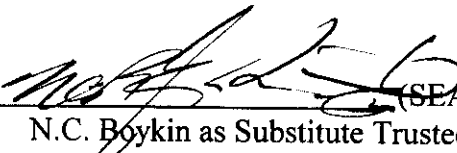
The foregoing instrument was acknowledged before me this 13th day of October, 2001 by N. C. Boykin as Trustee for The Store Creek Land Trust.

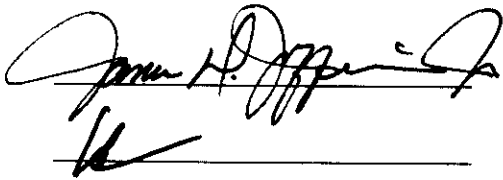


Notary Public for South Carolina
My commission expires: 8-11-10

N. C. BOYKIN as SUBSTITUTE TRUSTEE
FOR PETERS POINT TRUST

Signed, Sealed and Delivered
in the presence of::


BY:  (SEAL)
N.C. Boykin as Substitute Trustee



STATE OF SOUTH CAROLINA)
)
COUNTY OF Charleston)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 13th day of October, 2001 by N. C. Boykin as Substitute Trustee for Peters Point Trust.



Notary Public for South Carolina
My commission expires: 8-11-10

BKD 385PG271

EXHIBIT "A

PARCEL 1: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 1 containing 2.270 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast and Northeast by TMS #025-00-00-049, lands of Howard Bailey; on the Southeast by Peters Point Road 50' R/W; on the Southeast by Marsh Bluff Ct. (Private Road) 50' R/W; and on the Northwest by Lot 3.

PARCEL 2: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 3 containing 1.284 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 1; on the Southwest by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Northwest by Lot 4.

PARCEL 3: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 4 containing 1.262 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 3; on the Southwest by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Northwest by Lot 5.

PARCEL 4: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated

as Lot 5 containing 1.257 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 4; on the Southwest by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Northwest by Lot 6.

PARCEL 5: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 6 containing 1.251 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 5; on the Southwest by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Northwest by Lot 7.

PARCEL 6: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 7 containing 1.152 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 6; on the Southwest by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Northwest by Lot 8.

PARCEL 7: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 8 containing 2.551 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing

50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 7; and on the Southwest and Northwest by Marsh Bluff Ct. (Private Rd.) 50' R/W.

PARCEL 8: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 10 containing 1.515 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the North by marsh; on the Northeast by Lot 11; on the South by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Southwest by TMS #025-00-00-011, lands of Brian L. West.

PARCEL 9: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 11 containing 1.392 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lot being bounded now or formerly as follows: On the North by marsh; on the Northeast by Lot 12; on the South by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Southwest by Lot 10.

PARCEL 10: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 12 containing 1.308 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the North by marsh; on the Northeast by TMS #025-00-00-038, lands of Peters Point Trust; on the Southeast by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Southwest by Lot 11.

PARCEL 11: All that certain piece, parcel or strip of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as "MARSH BLUFF CT. (PRIVATE RD.) 50' R/W" on a plat prepared by Jerry L. Fowler, RLS #15178, entitled "FINAL PLAT SUUBDIVISION TMS 025-00-00-00 SEE

BKD 385PG274

TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said strip having such size, shape, dimensions, buttings and boundings as by reference to said plat will more fully and at large appear.

Parcels 1 - 11 being the same property conveyed to N. C. Boykin, as Trustee of the Store Creek Land Trust, by deed of Howard D. Bailey dated April 22, 1999, and recorded in the RMC Office for Charleston County in Book U326 at Page 017.

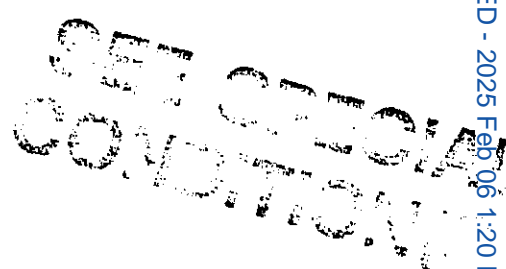
EXHIBIT "B"

JKD 385PG275

All that certain piece, parcel or tract of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, containing 1.36 acres, more or less, of highland, and 2.95 acres, more or less, of marsh, as shown and delineated on a plat prepared by Jerry L. Fowler, RLS #15178, entitled "A BOUNDARY SURVEY OF 4.31 ACRES TMS 025-00-00-038 SURVEYED FOR: STORE CREEK TRUST" dated September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book _____ at Page _____, said plat being incorporated herein as a part of this description and said tract being bounded now or formerly and measuring more or less as follows: On the Northeast by Store Creek and measuring thereon Four Hundred Five and Sixty-Three Hundredths (405.63') feet; on the East and Northeast by highland and marsh belonging to Steve R. and Helen P. Rowland and measuring thereon Five Hundred Forty-Six and Ninety-Six Hundredths (546.96') feet and Three Hundred Sixty and Five Hundredths (360.05') feet, respectively; on the Southeast by a 50' R/W Easement and measuring thereon One Hundred Thirty-Five and Seven Hundredths (135.07') feet; and on the Southwest by highland and marsh belonging to N. C. Boykin, as Trustee of the Store Creek Land Trust, and measuring thereon One Thousand Two Hundred Twenty-Five and Twenty-Two Hundredths (1,225.22') feet.

South Carolina Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management
CRITICAL AREA PERMIT/WATER QUALITY CERTIFICATION

Permittee: Store Creek Trust
Permit Number: 99-1E-382-P
Date of Issuance: October 31, 2000
Expiration Date: October 31, 2005
Location: On and adjacent to Store Creek at 8764 Peters Point Road, Edisto Island, Charleston County, South Carolina.



This permit/certification is issued under the provisions of S. C. Code Ann. Section 48-39-10, *et. seq.*, and R.30-1 through R.30-20. Additionally, as required by R.61-101, Department staff have reviewed plans for this project and determined there is a reasonable assurance the project will be conducted in a manner consistent with Certification requirements of Section 401 of the Clean Water Act. We also certify that this project, subject to the indicated conditions, is consistent with applicable provisions of Section 303 of the Federal Clean Water Act, as amended, that there are no applicable effluent limitations under Sections 301(b) and 302, and that there are no applicable standards under Sections 306 and 307.

Please carefully read the project description and any Special Conditions, which may appear on this permit/certification, as they will affect the work which is allowed. If there are no Special Conditions, then the work is authorized as described in the project description. The general conditions are also a part of this permit/certification and should be read in their entirety.

DESCRIPTION OF THE PROJECT

The plans submitted by you, attached hereto, show the work consists of constructing a timber pier with a 10' by 20' covered pierhead attached to highland by a 5' by 638' walkway. In addition, floating docks, each 10' by 45' are to be installed on each side of the fixed pierhead and attached to the fixed pierhead by ramps. The purpose of this work is for the private, recreational use of the future inland property owners (9 lots) of Spartina Bay Subdivision. The applicant has revised this project to delete the proposed 10' by 99' floating dock and install two (2) 10' by 45' floating docks, decreasing the length of the walkway, and reducing the fixed pierhead from 20' by 20' to 10' by 20'.

SPECIAL CONDITIONS

1. Provided an Operations and Maintenance Manual for the community dock facility is submitted to and approved by OCRM staff prior to construction. The Operation and Maintenance Manual will be made a part of this permit and must be followed in the operation of this community dock facility unless otherwise amended in writing by OCRM. The Operations and Maintenance Manual must be reviewed and revised to keep up-to-date with the community dock facility operations. This manual must be in accordance with R.30-12 (E)(6) the Rules and Regulations for Permitting in the critical area of the Coastal Zone and with OCRM's Marina Operations and Maintenance Manual requirements.

1 Of 9
SEE NEXT PAGE

2. Provided the permittee understands that the operation of the community dock facility shall be reviewed by the Department as deemed appropriate, but at least every five years. Based on this review, the Department may require, among other things, changes or additions to the Operations and Maintenance Manual to address any water quality or other environmental problems, and a reduction in the size of, or a change in the configuration of this community dock facility. Such action may be taken at any time the Department determines that significant state water quality compliance problems exist, at the time SCDHEC enlarges the closure area, or at the time of a review.
3. Provided a complete copy of the permit and the OCRM approved Operations and Maintenance Manual are made readily available at this community dock facility.
4. Provided the proposed community floating dock is reduced to 40' and the private floating dock is reduced to 10' by 30'.
5. Provided the community dock is constructed at least 20' from the extended property lines.
6. Provided anti-fouling paints are not used below mean high water or on any structure such as bulkheads, piling, docks, or dock supports around the community dock facilities.
7. Provided any sanding, scraping, painting, major engine repair, or other maintenance which may result in a discharge to the water must be performed in a designated upland site.
8. Provided the walkways and pierheads are constructed at least 4' above mean high water.
9. Provided the permittee implements best management practices during construction to minimize erosion and sediment run off. Any disturbed marsh areas adjacent to the construction site must be restored to original contours and conditions upon project completion. Once project construction is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to the environment.
10. Provided the dock shall not be any further channelward than other docks in the area and under no circumstances more than 60 feet from the edge of marsh vegetation.
11. Provided that no leasing of space for permanent boat moorage takes place at the proposed community dock facility. No more than ten (10) boats may be moored at this facility at any given time. These community dock facilities are to be used only by the residents of Spartina Bay Subdivision and their guests.
12. Provided that this community dock facility is used for water dependent uses only. No food service, vending machines, T-shirt sales or concessions are allowed on these docks.
13. Provided the community docks are located in such a manner so as to minimize disturbance to shellfish resources. Direct encroachment on any shellfish beds should be avoided.
14. Provided litter receptacles must be located near all docks and walkways.

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SEE NEXT PAGE

15. Provided that all necessary measures are taken to prevent oil, tar, trash, debris and other pollutants from entering the adjacent waters or wetlands.

16. Provided signs must be posted on all docks, piers and areas adjacent to the facility stating the following: "It is against both Federal and State Laws to discharge raw, untreated sewage from any description of watercraft into the waters of South Carolina." Signs should be at least 14" by 18" in size so they can be read clearly.

17. Provided that if archaeological or paleontological remains are encountered prior to or during construction, we request that work stop and the State Historic Preservation Office be notified at 803-734-8615. If these materials include any underwater archaeological or paleontological remains the permittee should also notify the SC Institute of Archaeology and Anthropology at 803-777-8170 pursuant to SC Code of Laws 54-7-400, et seq. Archaeological remains consist of any materials made or altered by man which remain from past historic or prehistoric times (i.e., older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, structures or nonrecent (i.e., older than 100 years) vessels ruins. Paleontological remains consist of old animal's remains, original or fossilized, such as teeth, tusks, bone or entire skeletons.

THE PERMITTEE'S ATTENTION IS DIRECTED TO GENERAL CONDITIONS NUMBERS FOUR (4) AND (5), BY ACCEPTANCE OF THIS PERMIT, PERMITTEE IS PLACED ON NOTICE THAT THE STATE OF SOUTH CAROLINA, BY ISSUING THIS PERMIT, DOES NOT WAIVE ITS RIGHTS TO REQUIRE PAYMENT OF A REASONABLE FEE FOR USE OF STATE LANDS AT A FUTURE DATE IF SO DIRECTED BY STATUTE.

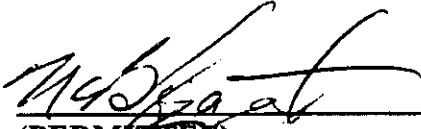
CAUTION: Section 48-39-150(D) allows any person adversely affected by the issuance of this permit to appeal the decision by filing a written Notice of Intent to Appeal within 15 days after notification of the permit's issuance. In the event of an appeal, the Department reserves the right to order a stay of any use or activity authorized herein pending a final decision, when, in the judgment of the Department, the interests of the public would be best served.

THE PERMITTEE, BY ACCEPTANCE OF THIS PERMIT AGREES TO ABIDE BY THE TERMS AND CONDITIONS CONTAINED HEREIN AND TO PERFORM THE WORK IN STRICT ACCORDANCE WITH THE PLANS AND SPECIFICATIONS ATTACHED HERETO AND MADE A PART HEREOF. ANY DEVIATION FROM THESE CONDITIONS, TERMS, PLANS AND SPECIFICATIONS SHALL BE GROUNDS FOR REVOCATION, SUSPENSION OR MODIFICATION OF THIS PERMIT AND THE INSTITUTION OF SUCH LEGAL PROCEEDINGS AS THE DEPARTMENT MAY CONSIDER APPROPRIATE,

3 Of 9
SEE NEXT PAGE

P/N# 099-1E-382-P

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

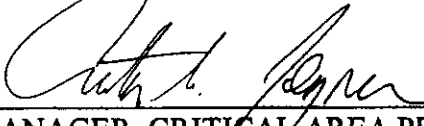


11-6-2000

(PERMITTEE)
Store Creek Trust

(Date)

This permit becomes effective when the State official, designated to act for the Office of Ocean and Coastal Resource Management, has signed below.



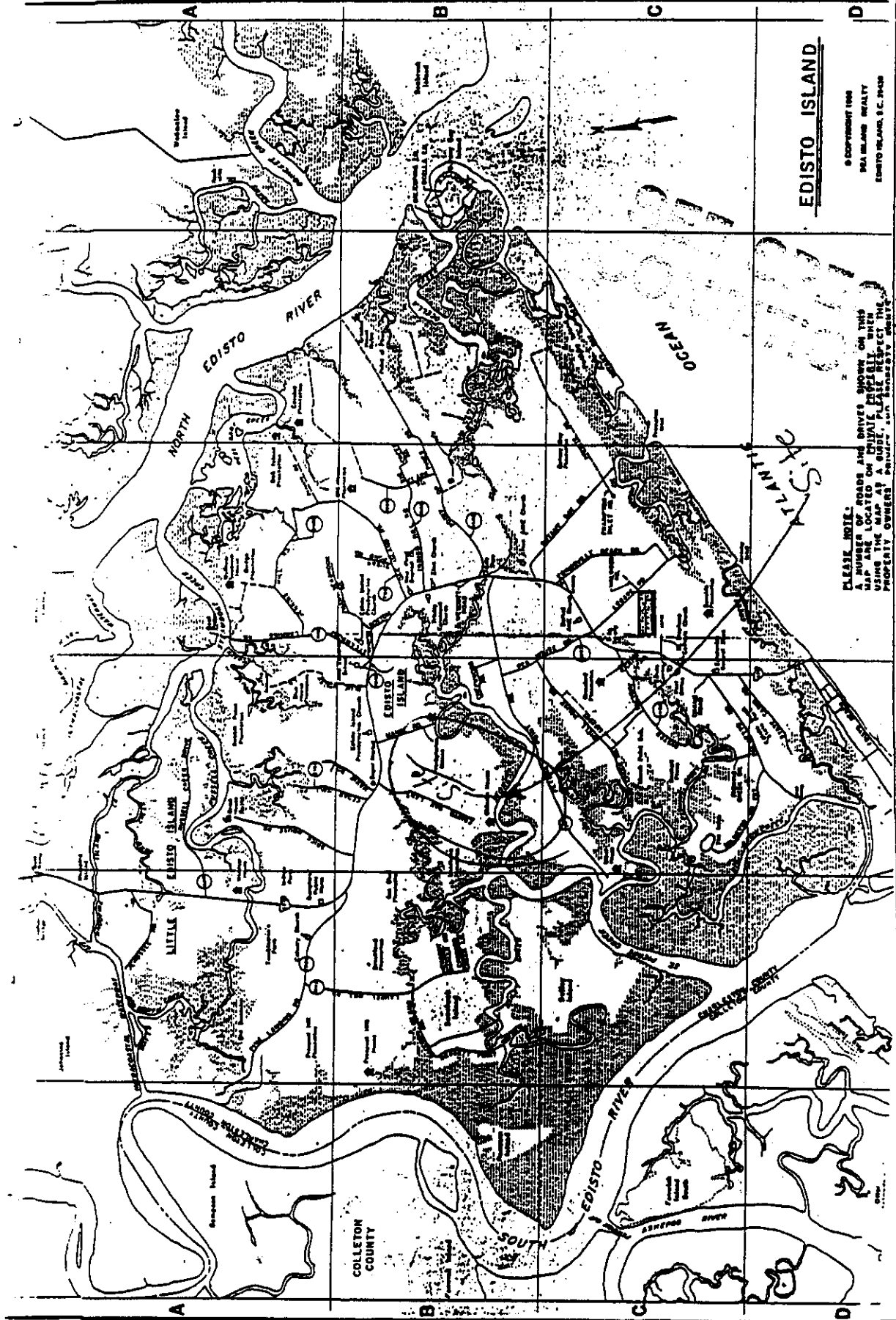
11/8/00

(MANAGER, CRITICAL AREA PERMITTING) (DATE)
Curtis Joyner, or his Designee
Authorized State Official

GENERAL CONDITIONS

This permit is expressly contingent upon the following conditions which are binding on the permittee:

1. That the permittee, in accepting this permit, covenants and agrees to comply with and abide by the provisions and conditions herein and assumes all responsibility and liability and agrees to save the South Carolina Department of Health and Environmental Control, OCRM, and the State of South Carolina, its employees or representatives, harmless from all claims of damage arising out of operations conducted pursuant to this permit.
2. That if the activity authorized herein is not constructed or completed within FIVE YEARS of the date of issuance, this permit shall automatically expire. A request, in writing, for an extension of time shall be made not less than sixty days prior to the expiration date.
3. That all authorized work shall be conducted in a manner that minimizes any adverse impact on fish, wildlife and water quality.
4. That this permit does not relieve the permittee from the requirements of obtaining a permit from the U. S. Army Corps of Engineers or any other applicable federal agency, nor from the necessity of complying with all applicable local laws, ordinances, and zoning regulations. This permit is granted subject to the rights of the State of South Carolina in the navigable waters and shall be subject, further to all rights held by the State of South Carolina under the public trust doctrine as well as any other right the State may have in the waters and submerged lands of the coast.
5. That this permit does not convey, expressly or impliedly, any property rights in real estate or material nor any exclusive privileges; nor does it authorize the permittee to alienate, diminish, infringe upon or otherwise restrict the property rights of any other person or the public; nor shall this permit be interpreted as appropriating public properties for private use.
6. That the permittee shall permit the Department or its authorized agents or representatives to make periodic inspections at any time deemed necessary in order to ensure that the activity being performed is in accordance with the terms and conditions of this permit.
7. That any abandonment of the permitted activity will require restoration of the area to a satisfactory condition as determined by the Department.
8. That this permit may not be transferred to a third party without prior written notice to the Department, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferred subscribing to this permit and thereby agreeing to comply.
9. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and special signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.
10. That SCDHEC-OCRM shall be notified in writing upon commencement of work and that a permit placed or a copy of the placard shall be posted in a conspicuous place at the project site during the entire period of work.
11. That the structure or work authorized herein shall be in accordance with the plans and drawing attached hereto, and shall be maintained in good condition. Failure to build in accordance with the plans and drawings attached hereto, or failure to maintained the structure in good condition shall result in the revocation of this permit.
12. That the authorization for activities or structures herein constitutes a revocable license. The Department may require the permittee to modify activities or remove structures authorized herein if it is determined by the OCRM that such activity or structures violates the public's health, safety, or welfare, or if any activity is inconsistent with the public trust doctrine. Modification or removal under this condition shall be ordered only after reasonable notice stating the reasons therefore and provision to the permittee of the opportunity to respond in writing. When the permittee is notified that SCDHEC-OCRM intends to revoke the permit, permittee agrees to immediately stop work pending resolution of the revocation.
13. That the Department shall have the right to revoke, suspend, or modify this permit in the event it is determined the permitted structure (1) significantly impacts the public health, safety and welfare, and/or is violation of Section 48-39-150, (2) adversely impacts public rights, (3) that the information and data which the permittee or any other agencies have provided in connection with the permit application is either false, incomplete or inaccurate, or (4) that the activity is not in compliance with the drawings submitted by the applicant. That the permittee, upon receipt of the Department's written intent to revoke, suspend, or modify the permit has the right to a hearing. Prior to revocation, suspension, or modification of this permit, the Department shall provide written notification of intent to revoke to the permittee, and permittee can respond with a written explanation to the Department. (South Carolina Code Section 1-023-370 shall govern the procedure for revocation; suspension or modification herein described).
14. That any modification, suspension or revocation of this permit shall not be the basis of any claim for damages against the Department or the State of South Carolina or any employee, agent, or representative of the Department the State of South Carolina.
15. That all activities authorized herein shall, if they involve a discharge or deposit into navigable waters or ocean waters, be at all times consistent with all applicable water quality standards, effluent limitations and standards of performance, prohibitions, and pretreatment standards established pursuant to applicable federal, state and local laws.
16. That extreme care shall be exercised to prevent any adverse or undesirable effects from this work on the property of other. This permit authorizes no invasion of adjacent of private property, and SCDHEC-OCRM assumes no responsibility or liability from any claims of damage arising out of any operations conducted by the permittee pursuant to this permit.



ADJACENT PROPERTY OWNERS:
 1. Brian West

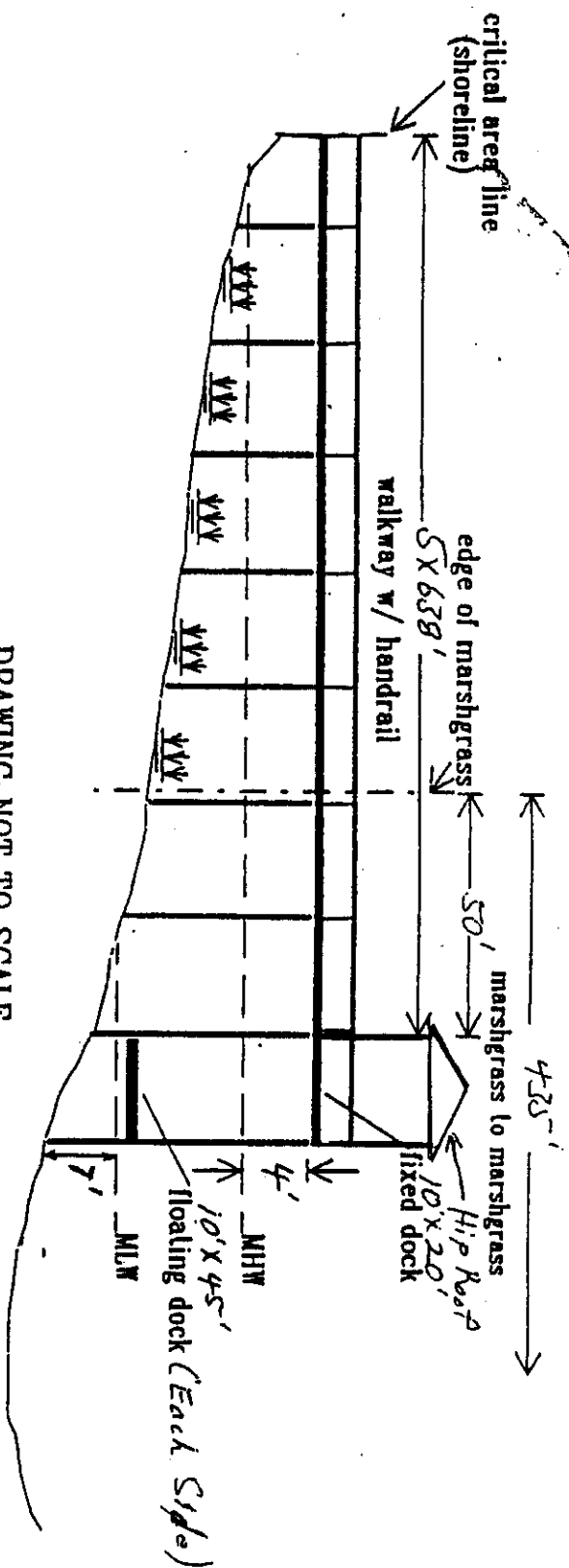
LOCATION: 8764 Peters Point Road
 Edisto Island, SC 29438
 Charleston

APPLICANT: Store Creek Trust
ACTIVITY: Community dock Spartina Bay

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 5 of 10 Sheet
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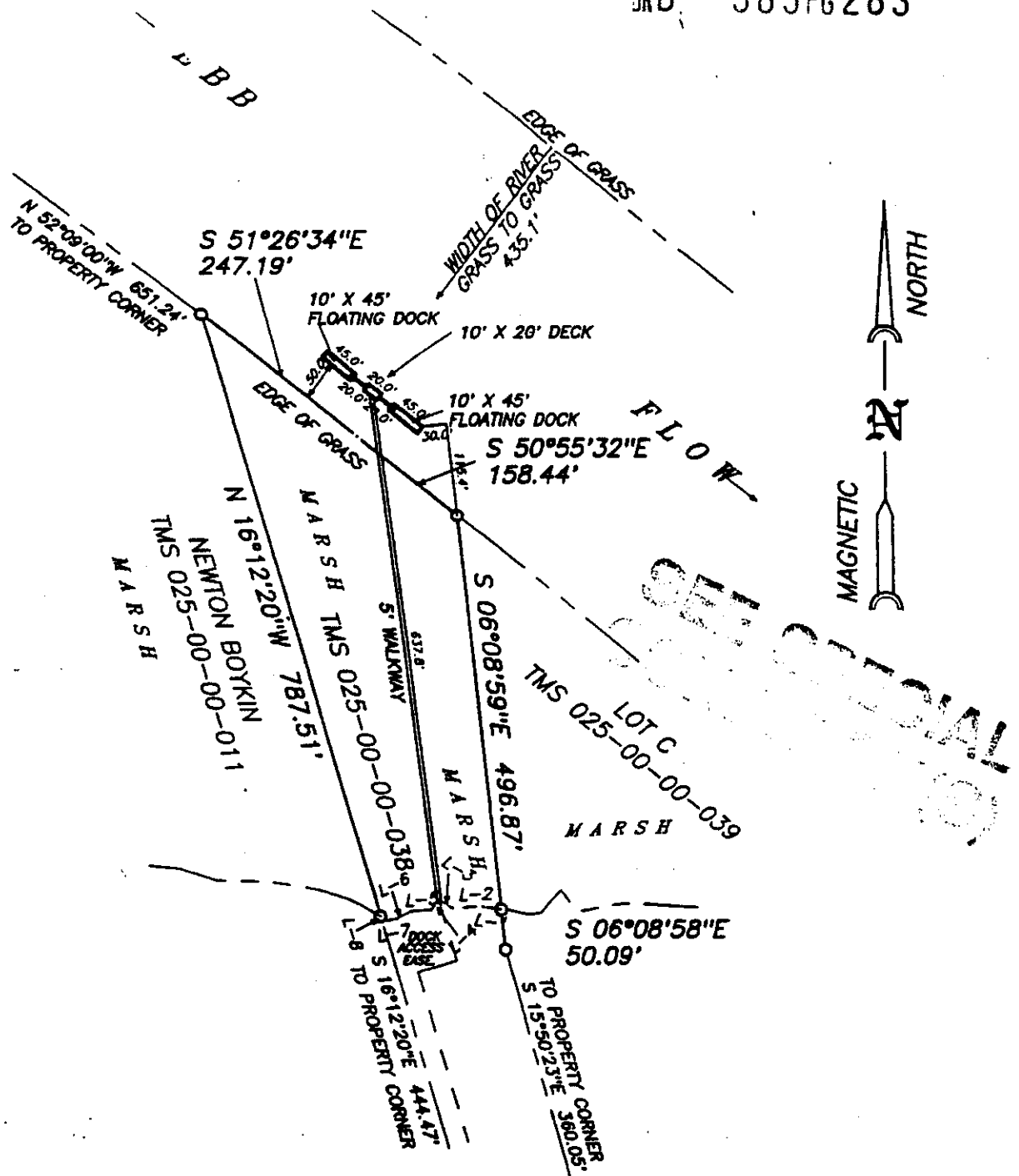
P/N : 99-1E-382

BKD 385PG282



DRAWING NOT TO SCALE

<p>APPLICANT: <i>Stone Creek Trust</i></p> <p>ACTIVITY: <i>Spartina Bay</i></p> <p>P/N # <i>99-1E-382</i></p>	<p>LOCATION: <i>8764 Peters Point Road</i></p> <p>COUNTY: <i>Charleston</i></p> <p>DATE: <i>4/30/2000</i></p> <p><i>Sheet 5 of 5</i></p>	<p>ADJACENT PROPERTY OWNERS:</p> <p>① <i>Brian West</i></p> <p>② <i>Steve Rowland</i></p>
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FOWLER LAND SURVEYING
 769-B JEFFERIES BLVD.
 WALTERBORO, S. C. 29488
 (843)549-2854

PROPOSED WALKWAY & DOCK
SURVEYED FOR :
STORE CREEK TRUST
 APRIL 17, 2000
 EDISTO ISLAND
 CHARLESTON COUNTY - SOUTH CAROLINA

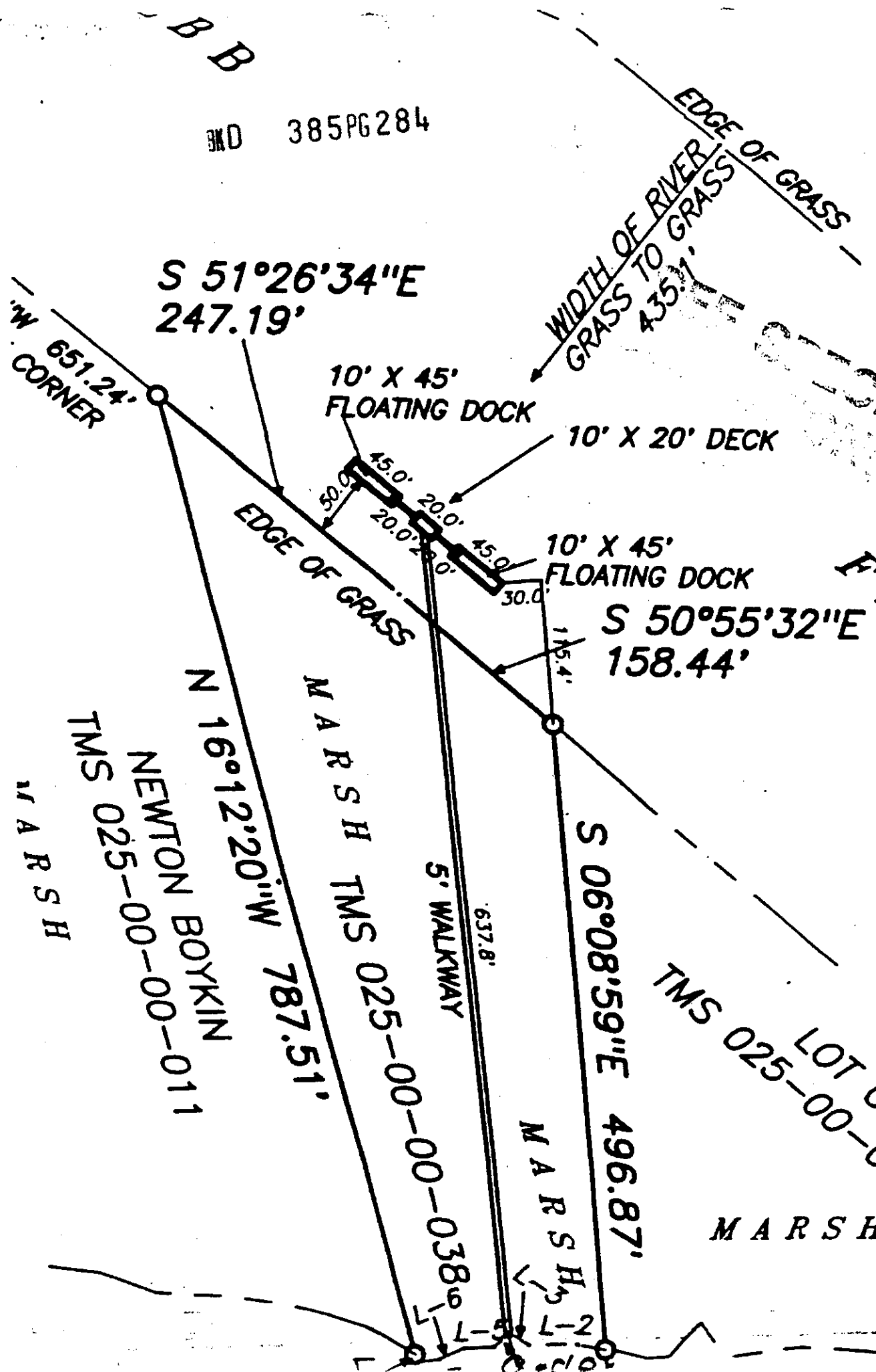
APPLICANT: <i>Store Creek Trust</i> ACTIVITY: <i>Spartina Bay</i> P/N # 99-1E-382	LOCATION: <i>8764 Peters Point Road Edisto Island, S.C 29438</i> COUNTY: <i>Charleston</i> DATE: <i>4/30/2000</i>
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Sheet 3 of 5



JERRY L. FOWLER
 RLS NO. 15178

INR NO 00013-D



385PG284

<p>ADJACENT PROPERTY OWNERS: ① Brainer West ② Steve Rowland</p>	<p>LOCATION: 8764 Peters Point Road Edisto Island, S.C. 29438 COUNTY: Charleston</p>	<p>APPLICANT: Stone Creek Trast ACTIVITY: Spartina Bay P/N/ 282-31-66 # N/</p>
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BKD 385PG285

**Operations and Maintenance Manual
for
Community Dock Facilities
Located on Store Creek
Edisto Island
Charleston County,
South Carolina**

**for
Store Creek Trust
8764 Peters Point Road
Edisto Island, South Carolina 29438**

**November 15, 2000
PN# 99-IE-382-P**

Table of Contents

Part I OPERATIONS

- A. General Facility Description
- B. Regulatory Permits
- C. Operations

Part II WATER QUALITY MANAGEMENT AND POLLUTION PREVENTION

- A. Water Quality Monitoring
- B. Stormwater Management

Attachments:

- A. South Carolina Department of Health Ocean and Coastal Resource Management (SC DHEC OCRM) PN 99-1E-382-P

BKD 385PG287

Part I

OPERATIONS

A. General Facility Description:

The Store Creek Trust Community Dock consists of constructing a timber pier with a 10' by 20' covered pierhead attached to highland by a 5' by 638' walkway. In addition, a 10 by 40' community floating dock and a 10 by 30' private floating dock are to be installed on each side of the fixed pierhead and attached to the fixed pierhead by ramps. The purpose of this work is for the private, recreational use of the future inland property owners (9 lots) of Spartina Bay Subdivision.

1. All Community Dock Facilities are privately owned, operated and maintained by Store Creek Trust.
2. The Community Dock Facility is located on Store Creek at 8764 Peters Point Road, Edisto Island, Charleston County, South Carolina.
3. Given the total linear footage of mooring space on each side of the two (2) floating docks, no more than ten (10) boats will be allowed to be moored at the two (2) floating docks at one time.
4. All boats at the floating docks are owned and operated by property owners in Spartina Bay Subdivision. Use of the Community Dock facilities is restricted solely to property owners and their invited guests.
5. Trash receptacles will be provided on the Community Dock and on the pierhead.

B. Regulatory Permits:

1. SC DHEC OCRM PN 99-1E-382-P (See Attachment A).

C. Operations:

- A. Store Creek Trust is responsible for the operation and maintenance of the community dock. The owner of the private floating dock will be responsible for its maintenance.
- B. Overnight occupancy of temporarily moored boats and "Live Boards" are prohibited at the Community Dock facilities.

Part II

WATER QUALITY MANAGEMENT AND
POLLUTION PREVENTION MEASURES

A. Water Quality Monitoring:

Neither of the regulatory permits currently require water quality monitoring programs.

B. Stormwater Management:

Stormwater will be managed in compliance with the requirements of Store Creek Trust's United States Army Corps of Engineers permit as issued for said project.

BY - LAWS

BKD

385PG289

OF

SPARTINA BAY PLANTATION PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE I - DEFINITIONS

1. The terms "Restrictive Covenants" and "Restrictions" as used in the Bylaws shall refer to the Declaration of Restrictive Covenants, Conditions and Restrictions of Spartina Bay Plantation Property Owners Association, Inc. governing and controlling certain lots, roads, common areas and community docks dated 13 October 2001 and a copy of these Bylaws shall be attached thereto.

2. All other definitions set forth in the Restrictive Covenants are adopted herein as if totally re-written.

ARTICLE II - PURPOSES AND OBJECTIVES

In amplification of the purposes for which the corporation has been formed as set forth in the Articles of Incorporation, the purposes and objectives of the Association are as follows:

1. To develop a community designed for safe, healthful, and harmonious living.

2. To promote the collective and individual property and civic interests and rights of all persons, firms, and corporations owning property within Property and which is located on Edisto Island in the County of Charleston, and State of South Carolina.

3. To care for the improvements and maintenance of the facilities of any kind dedicated to the community use and open spaces and other ornamental features of the Property, which now exist or which may hereafter be installed or constructed therein with the consent of this Association.

4. To the extent insurance can be reasonably obtained, to acquire and maintain liability and casualty insurance on all common areas, docks, and easements and any appurtenances for replacement value with an inflation guard endorsement adjusted annually.

5. To cooperate with the owners of all vacant and unimproved Lots now existing or that hereafter shall exist within the perimeters of Property in keeping them in good order and condition, in preventing them from becoming a nuisance and detriment to the beauty of the Property and to the value of the improved property therein, and to take any action with reference to such vacant and unimproved Lots as may be necessary or desirable to keep them from becoming such nuisance and detriment.

6. To aid and cooperate with the members of this Association and all property owners within the Property in the enforcement of such conditions, covenants, and restrictions on and appurtenant to their property as are now in existence, as well as any other conditions, covenants, and restrictions as shall hereafter be approved by the Association and to counsel with the

Planning Commission of Charleston County having jurisdiction in relation to any zoning that may affect any portion of the Property.

7. To make rules and regulations for property owners in the Property to maintain and assure the quality of life in the Property which the property owners desire and which the Restrictive Covenants and Rules of the Association have been ordained to protect.

8. In general, but in connection with the foregoing, to do any and all things necessary to promote the general rules and quality of life of the residents and owners of any portions of the Property and their property interests therein.

9. To acquire, own, or lease such real and personal property as may be necessary or convenient for the transaction of its business and fulfillment of its purposes and objects, and to exercise all rights, powers, and privileges of ownership to the extent as natural persons might or could do.

10. To exercise any and all powers that may be delegated to it from time to time by the owners of real property in the tract.

11. The Association shall not engage in political activity or pursue political purposes of any kind or character.

ARTICLE III – OFFICES

The initial office of Association, shall be located at the offices of N. C. Boykin, 2410 Highway 174, Edisto Island, SC. The membership of the Association is authorized and empowered to change the exact address of the Association from time to time as it deems fit and proper.

ARTICLE IV – MEMBERS

(1) Membership. The qualifications and rights of members of the Association shall be as follows:

(a). The owner of legal title of record in the Office of the Clerk of Court for Charleston County, South Carolina, of a Lot in the Property on Edisto Island, County of Charleston, State of South Carolina, shall be a member and agrees by his ownership to the undertaking in (b) below.

(b). Membership shall include an undertaking to comply with and be bound by the Articles of Incorporation, these Bylaws, Restrictive Covenants and amendments thereto, and the policies, rules, and regulations or guidelines at any time adopted by the Association and/or the Architectural Review Board in accordance with these Bylaws including payment of all dues and assessments.

(c). Membership in this Association shall terminate on such member’s ceasing to be the legal owner of record of a Lot in the Property.

(2) Member in Good Standing. A member current in payment of the assessments and in compliance with these Bylaws, Restrictive Covenants and amendments thereto, and the policies,

rules, and regulations or guidelines of the Association and/or Architectural Review Board shall be considered a member in good standing.

(3) Voting Rights. Each member in good standing shall be entitled to vote on each matter submitted to a vote of the members by Class. The Association shall have two (2) classes of voting membership.

(a). Class A. A Class "A" members shall be the owner of record of Lots 1, 3, 4 5, 6, 7, 8, 10, and Lot B (9 Lots) of the Property. A Class "A" member shall have one (1) vote for each Lot of which he is the legal owner of record for all matters before the Association.

(b). Class B. The Class "B" Members shall be the owner of record of Lots 11 or 12 (2 Lots) of the Property initially and possibly hereafter Lot 10 (1 Lot) for a total of three (3) Lots maximum under the present configuration. The Class "B" member shall have one (1) vote for each Lot of which he is the legal owner of record.

(c). At membership meetings all votes shall be cast in person or by proxy registered with the Secretary.

(d). The membership is authorized to establish procedures providing for voting by mail, telephone, or other form of communication.

(e). A Class "A" member may vote on any issue, which comes up before the Association dealing with its rights of use or assessments against same. A Class "B" member may not vote on any issue dealing with the Dock or the Dock Easement as defined in Exhibit "B" & "C" of the Restrictive Covenants but may vote on any issue dealing with its rights of use or assessments against same.

(f). Where two or more owners or a partnership or corporation or other legal entity own a Lot, only one vote on each Lot owned shall be allowed and such joint owners, partnership, corporation or other legal entity shall designate and register with the Secretary of the Association in writing the name of that person entitled to cast such single vote or the vote will not be allowed.

ARTICLE V – MEETING OF MEMBERS

(1) Annual Meeting. An annual meeting of the members for the purpose of hearing reports from all officers and standing committees shall be held in October of each year, beginning with the year 2001. The time and place shall be fixed by the Board of Directors.

(2) Regular Meetings. In addition to the annual meetings, regular meetings of the members may be held at such time and place as shall be determined by the Board of Directors.

(3) Special Meetings. A special meeting of the members must be called by the President of the Association or, if requested, by any three (3) members in good standing within twenty (20) days.

(4) Notice of Meetings. Written notice stating the place, day, and hour of any meeting of members shall be delivered either personally or by mail to each member entitled to vote at such meeting, not less than twenty (20) days before the date of such meeting or at the direction of the Secretary.

(5) Quorum. The members holding fifty-one (51%) percent of the votes that may be cast at any meeting shall constitute a quorum at any meeting of the members. In the absence of a quorum, a majority of the members present may adjourn the meeting from time to time without further notice.

(6) Proxies. At any meeting of the members, a member entitled to vote may vote by proxy executed in writing by the member. No proxy shall be valid after six (6) months from the date of its execution, unless otherwise provided in the proxy.

(7) Voting by Mail, Telephone, or Other Form of Communication. Where there is an act requiring the vote of the members, such election or vote on such proposed action may be conducted by mail, telephone, or other form of communication in such manner as the Board of Directors shall determine.

ARTICLE VI - BOARD OF DIRECTORS

(1). General Powers. The business and affairs of the Association shall be managed by its Board of Directors, to include the right to establish dues and assessments as set forth hereinafter. The directors shall in all cases act as a board, and they may adopt such rules and regulations for the conduct of their meetings and the management of the Association, as they may deem proper, not inconsistent with these by-laws and the laws of this State.

(2). Number Tenure and Qualifications. The Board of Directors shall consist of three (3) members initially. The Declarants shall have the right to appoint or remove any member or members of the Board of Directors until Declarants sell three-fourths (3/4) of the lots within the Subdivision. Beginning with the first annual or special meeting of the Association following the expiration of the Declarants rights, the members (including the Declarants if Declarants then own one or more Lots) shall elect one (1) Director for a term of one (1) year, one (1) Director for a term of two (2) years and one (1) Director for a term of three (3) years; and at each annual meeting thereafter, the members shall elect, upon majority vote, one (1) Director for a term of three (3) years. Each Director shall hold office until his successor is elected, or until his death, or until he shall resign or be removed from office. A Director must be a member of the Association to hold office, except for the Directors appointed by the Declarants.

(3). Regular Meetings. A regular meeting of the directors, shall be held without other notice immediately after, and at the same place as, the annual meeting of Members. The directors may provide, by resolution, the time and place for the holding of additional regular meetings without other notice.

(4). Special Meetings. Special meetings of the directors may be called by or at the request of the president or any two directors. The person or persons authorized to call special meetings of the directors may fix the place for holding any special meeting of the directors called by them.

(5). Notice. Notice of any special meeting shall be given at least five (5) days previously thereto by written notice delivered personally, or by telegram to each director at his

business address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

(6). Quorum. At any meeting of the directors two (2) shall constitute a quorum for the transaction of business.

(7) Manner of Acting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the directors.

(8). Newly Created Directorships And Vacancies. Newly created directorships resulting from an increase in the number of directors and vacancies occurring in the board for any reason except the removal of directors with cause may be filled by a vote of a majority of the directors then in office, although less than a quorum exists. Vacancies occurring by reason of the removal of directors with cause shall be filled by vote of the Members. A director elected to fill a vacancy caused by resignation, death or removal shall be elected to hold office for the unexpired term of his predecessor.

(9). Removal of Directors. Any or all of the directors may be removed for cause by vote of the Members only.

(10). Resignation. A director may resign at any time by giving written notice to the board, the president or the secretary of the corporation. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof by the board or such officer, and the acceptance of the resignation shall not be necessary to make it effective.

(11). Compensation. No compensation shall be paid to directors, as such, for their services, but by resolution of the board a fixed sum and expenses for actual attendance at each regular or special meeting of the board may be authorized. Nothing herein contained shall be construed to preclude any director from serving the Association in any other capacity and receiving compensation therefor.

(12). Presumption of Assent. A director of the Association who is present at a meeting of the directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

ARTICLE VII - OFFICERS

(1). Number. The officers of the Association shall be a president, vice-president, a secretary and a treasurer, each of whom shall be elected by the directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the directors. The Board of Directors at any time, may decide to eliminate or not fill the office of Vice President and/or consolidate the offices of Secretary and Treasurer.

(2). Election And Term Of Office. The officers of the Association to be elected by the directors shall be elected annually at the first meeting of the directors held after each annual meeting of the Members. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or shall have been removed in the manner hereinafter provided.

(3). Removal. Any officer or agent elected or appointed by the directors may be removed by the directors whenever in their judgment the best interests of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

(4). Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the directors for the unexpired portion of the term.

(5). President. The president shall be the principal executive officer of the Association and, subject to the control of the directors, shall in general supervise and control all of the business and affairs of the Association. He shall, when present, preside at all meetings of the Members and of the directors. He may sign, with the secretary or, any other proper officer of the Association thereunto authorized by the directors, certificates for membership of the Association, any deeds, mortgages, bonds, contracts, or other instruments which the directors have authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the directors or by these by-laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the directors from time to time.

(6). Vice-President. In the absence of the president or in event of his death, inability or refusal to act, the vice-president shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. The vice-president shall perform such other duties as from time to time may be assigned to him by the President or by the directors.

(7). Secretary. The secretary shall keep the minutes of the Members' and of the Directors' Meetings in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of these by-laws or as required, be custodian of the Association's records and of the seal of the Association and keep a register of the post office

address of each member which shall be furnished to the secretary by such member, have general charge of the membership transfer books of the Association and in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the president or by the directors.

(8). Treasurer. If required by the directors, the treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the directors shall determine. He shall have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for moneys due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with these by-laws and in general perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the president or by the directors.

(9). Salaries. The salaries of the officers shall be fixed from time to time by the directors and no officer shall be prevented from receiving such salary by reason of the fact that he is also a director of the Association.

ARTICLE VIII - DUES AND ASSESSMENTS

(1). Dues.

a. Purpose. Dues may be established for the purpose of paying for the administrative functions of the Association to include any management fees, salaries, accounting, or other related administrative fees, property taxes and insurance. This shall hereafter be referred to as assessments.

b. Imposition. The annual dues as established by the Board of Directors shall be the same for each member of both Classes.

(2). Annual Assessments.

a. Purpose. Annual assessments shall be levied for the purpose of repairing and maintaining roads, lighting, the common areas, easements, community docks, community floating dock, and erosion control devices of the common property or other areas of common usage in and adjacent to the Property as designated by the members of this corporation from time to time and shall be established by class of memberships. There shall be two assessments; one for each class.

b. Imposition. The annual assessments proposed by the Board of Directors shall be submitted for approval by two-thirds (2/3) of the votes of members of the Association entitled to vote by class of membership. In the absence of approval by members, the assessments shall be set at the prior year's amount plus five percent (5%) until such time as the membership shall approve a different amount.

(3). Special Assessments.

a. Purpose. Special assessments may be levied for the purpose of improving or constructing improvements such as additions to the community docks, erosion control devices or

further improvement of common areas or amenities for the Property. Special assessment may also be levied to cover correction, repair or replacement of existing roads, common areas or community docks suffering unforeseen damage not covered by insurance or annual assessment. There shall be two special assessments; one for each class.

b. Imposition. Special assessments proposed by the Board of Directors shall state specific purpose, annual amount, and the term of years over which it will be assessed. Approval must be by two-thirds (2/3) of the votes of members of the corporation entitled to vote by class of membership. Once approved, no further vote must be taken as long as the purpose, amount, and term of the special assessment remains as originally voted upon. Any other need arising and requiring a special assessment vote shall be treated as separate and shall not be cause to require a vote on already approved special assessments.

(4). Uniform Rate Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots by class of membership and may be collected on an annual, monthly or other basis as determined by the membership. Initial amounts shall be annually. Class "B" members shall not pay any costs or assessments for the Dock Easement or Dock.

(5). Individual Assessment. Individual assessments shall be levied on members of the Association where the provisions of the Bylaws or the Restrictive Covenants have been violated.

(6). Date of Commencement of Dues and Annual Assessments and Initial Due Date. The dues and annual assessments provided for herein shall commence as to all Lots upon the first day of the month following the sale of the first Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year and due upon thirty (30) day written notice.

(7). Due Date of Annual Dues and Assessments. The annual due date of dues and assessments shall be January 1 of each calendar year. Notwithstanding, the Board of Directors may propose alternative dates for approval by a majority vote of the membership. Once established the due dates shall remain the same from year to year unless and until a new due date or dates is approved by the membership. Written notice of the dues, assessment amount and due date shall be sent to each member at least thirty (30) days in advance of each annual dues and assessment period.

(8). Certificate Of Standing. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of the assessments on the Lot is binding upon the Association as to the date of its issuance.

(9). Default in Payment of Dues or Assessments.

a. When any member shall be in default in the payment of fees or assessments for a period of thirty (30) days from the date on which such fees or assessments become payable, he shall, for purposes of voting, not be considered as a member in good standing. In addition, such member shall be dropped from active membership and placed on the inactive list. Such member shall not be reinstated until he has paid his dues and assessments in full, and until such time as such member is reinstated, he shall have no rights of any kind arising out of membership in the Association.

b. There will be a late charge of five (5%) percent of any assessment due but not paid within fifteen (15) days of the due date.

c. If any member shall fail to pay his dues or assessments on or before the date on which the same becomes due, the amount of the unpaid dues or assessment shall become a lien on such member's Lot, with or without improvements thereon, in favor of the Association, and the Association shall have the right to record a notice of claim of lien, as a mortgage lien, and to proceed thereon in accordance with the laws of South Carolina for the foreclosure and enforcement of the lien; provided however, that the failure by the Association to record a notice of lien shall not affect the validity of its lien; or, in the event the Association shall not record a lien, it shall have the right to commence an in personam action against such member for the collection of the assessment in any court of competent jurisdiction; provided that in the event that the Association brings legal proceedings to foreclose the lien or brings an in personam action against such member there shall be added to the amount of the dues or assessments due, the costs for preparing and filing the complaint in such action, and in the event that the money judgment or judgment of foreclosure is obtained, such judgment shall include interest at the highest legal rate on the dues or assessments due as provided in the assessment and a reasonable attorney's fee together with the cost of the action. Said lien or judgment may be sold to a third party along with all rights of enforcement herein and under South Carolina law.

(10). Assignment of Dues and Assessments. In the event that any member whose dues and assessments are paid in full, shall, during the year in which such dues or assessments are paid, terminate his or her membership by the sale of his or her Lot in the Property, he or she shall be entitled to assign to the buyer of such Lot the benefit of the paid up dues and assessments.

(11). Option of the Declarants Concerning Assessments. Until such time as the Declarants have sold more than seventy-five (75%) percent of the total number of lots, the Declarants shall have the option, with respect of the lots owned by the Declarants of either paying the Association the annual and special assessments set forth herein or paying to the Association in lieu of all annual and special assessments, an assessment in an amount equal to the amount by which annual costs and expenses of the Association exceed the amount of money collected from all Class "A" and "B" Members. Said assessments shall be due and payable on the same day as the other annual assessments, and shall be a lien on the lot of the Declarants, and the Association shall be entitled to collect said assessments in the same manner as provided herein for the enforcement of annual and special assessments.

(12). Receipt of Membership Dues and Assessments. Any funds received from the Membership by the Association shall be applied as follows: 1) Any late fees due, 2) to any other fees or costs of collection due, 3) to the interest due, and 4) the remainder to the dues and assessments past due.

ARTICLE IX - MANAGING AGENT

(1) Employment. The Board of Directors may appoint a Managing Agent entirely of its own choosing.

(2) Qualification. The Managing Agent may be a natural person or a corporation or other legal entity.

(3) Authorities and Duties. The Managing Agent shall, on behalf of and as directed by the Board of Directors, provide the following:

(a). Surveillance of the property, the maintenance repair and replacement of the roads, common areas and community docks, and the designation and dismissal of the personnel necessary to accomplish the same;

(b). The collection of dues and assessments from the members;

(c). The procuring and keeping in force of insurance on the property and the adjusting (including the execution and delivery of releases upon payment) of claim against such policies as are obtained;

(d). The enactment of reasonable regulations governing the operation and use of the roads, common areas and community docks;

(e). The enforcement of the terms of the Deeds, these Bylaws, the Restrictive Covenants and any Regulations promulgated pursuant to the Bylaws;

(f). To otherwise administer the Association on behalf of and for the benefit of the members;

(g). To provide such other services and perform such other duties as authorized and directed from time to time by the Board of Directors;

(h). The Managing Agent shall confer fully and freely with the membership and shall attend meetings of the corporation.

ARTICLE X - CONTRACTS, LOANS, CHECKS AND DEPOSITS

(1). Contracts. The directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

(2). Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the directors. Such authority may be general or confined to specific instances.

(3). Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the directors.

(4). Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the directors may select.

ARTICLE XI- FISCAL YEAR

The fiscal year of the Association shall begin on the 1st day of January in each year.

ARTICLE XII - SEAL

The directors shall provide an Associations Seal which shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation, year of incorporation and the words, "Corporate Seal".

ARTICLE XIII - WAIVER OF NOTICE

Unless otherwise provided by law, whenever any notice is required to be given to any member or director of the Association under the provisions of these by-laws or under the provisions of the articles of incorporation, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

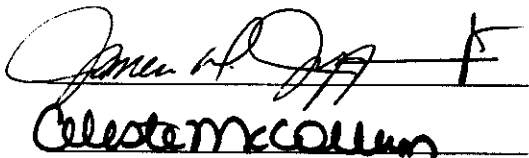
ARTICLE XIV - AMENDMENTS

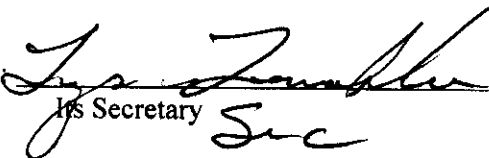
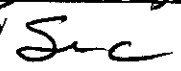
These by-laws may be altered, amended or repealed and new by-laws may be adopted by a two-thirds (2/3) vote of the Members representing a majority of all the memberships issued and outstanding, at any annual Members' meeting or at any special Members' meeting when the proposed amendment has been set out in the notice of such meeting. If an amendment of these Bylaws or any provision of these Bylaws are in conflict with the Restrictive Covenants the Restrictive Covenants shall control and be binding on the Membership.

IN WITNESS WHEREOF, the undersigned has hereunto authorized his name and affixed the seal of the corporation this 12th day of October, 2001.

ATTEST:

SPARTINA BAY PLANTATION PROPERTY OWNERS ASSOCIATION, INC.


Celeste McCollum

BY:  (SEAL)
Its Secretary 

BARR, UNGER & McINTOSH, L.L.C.

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REGISTER
CHARLESTON COUNTY SC

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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

LEASE



THIS LEASE is made and executed on the 12th day of October, 2001, by and between PETERS POINT TRUST (hereinafter referred to as "Landlord"), and the SPARTINA BAY PLANTATION PROPERTY OWNERS ASSOCIATION, INC., (hereinafter referred to as "Tenant").

SECTION ONE

DEMISE

Landlord leases to Tenant the property more particularly described on Exhibit "A" attached hereto and incorporated herein, located on Edisto Island, County of Charleston, State of South Carolina.

SECTION TWO

TERM

The term of this Lease shall be ninety nine (99) years and shall commence as of the 1st day of October, 2001, and shall continue through the last day of September, 2100. The Tenant may have this Lease recorded if it so desires.

SECTION THREE

TRIPLE NET LEASE

Tenant shall pay all utilities, maintenance, taxes, insurance, liability insurance, and any and all expenses incurred on behalf of the property. This is a triple net lease.

SECTION FOUR

RENT

a. Tenant shall pay to Landlord for the demised premises a rent in the amount of Ten and 00/100 (\$10.00) Dollars per year, which rent shall be due and payable on the first day of January each year.

b. As additional rent the Tenant shall pay for all property taxes, and special assessments against the property for both the real and personal property located thereon. This includes the common dock attached to the property. The leased property is presently taxed as a part of a larger tract of land. The Tenant shall pay to the Landlord a sum of 25% of the total tax bill for said parcel. If the Landlord or its successors or assigns construct improvements on the larger parcel the percentages shall be adjusted based upon values of the property.

SECTION FIVE

USE OF PREMISES

The demised premises may be used by the Tenant for the purpose of access to the common dock for the Class "A" members. The dock is attached to subject property and owned by the Trust. The Tenant may make improvements as needed to support the common dock. Tenant further agrees that it will not engage in any unlawful or illegal activity, nor allow or suffer any activity upon the premises, creating a hazard to subject property or tending to cause a breach of the peace. Tenant shall at all times keep the premises in a neat and orderly maintained manner, free of trash, debris, rubbish and the emission of odors or gases. Landlord shall have the right, upon giving Tenant reasonable notice, to inspect the premises for such purpose.

SECTION FIVE

UTILITIES

Tenant shall pay all cost of utilities, to include electricity, gas, water and telephone, for the adjacent dock during the period of the lease or any improvements added to the property.

SECTION SIX

DEFAULT

If Tenant shall fail or neglect to observe, keep or perform any of the covenants, terms or conditions herein contained on its part to be observed, kept, or performed, and such default shall

BK 390PG259

continue for a period of thirty (30) days after written notice from Landlord setting forth the nature of Tenant's default, then and in any such event, Landlord shall have the right at its option without forthwith to terminate this Lease and all rights of the Tenant thereunder shall cease, and the Landlord shall have the right immediately to enter the demised premises and take possession thereof with or without process of law and to remove all personal property from the premises and all persons occupying the premises and to use all necessary force therefor and in all respects to take the actual, full and exclusive possession of the premises and every part thereof as of Landlord's original estate, without incurring any liability to Tenant or to any person occupying or using the premises for any damage caused or sustained by reason of such entry on the premises or such removal of such persons or property therefrom.

SECTION SEVEN

QUIET ENJOYMENT

Landlord covenants that Tenant upon performing the covenants aforesaid, shall and may peacefully and quietly have, hold and enjoy the said leased premises for the terms aforesaid subject to revisions thereof.

SECTION EIGHT

MAINTENANCE AND UPKEEP

Tenant hereby accepts the dock on the demised property "as it exists" without any warranties, obligation, or commitments on behalf of Landlord. Tenant further agrees to be fully responsible for all maintenance, upkeep, and improvements of the dock and grounds. Landlord shall not be responsible for any maintenance, cosmetically or structurally.

SECTION NINE

INDEMNIFICATION & INSURANCE

(a) Tenant agrees to indemnify and save harmless the Landlord from any claim or loss by reason of an accident or **damage** to any person or property happening on or about the demised premises.

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(b) Tenant further agrees to carry, and will furnish to the Landlord a certificate of insurance prior to occupancy on the demised premises, at its expense, providing public liability insurance coverage, with a contractual liability endorsement on the policy, in a company qualified to transact business in the State of South Carolina, in which the demised premises are located, stipulating limits of liability of not less than One Million and 00/100 (\$1,000,000.00) Dollars for an accident affecting any one or more persons and Fifty Thousand and No/100 (\$50,000.00) Dollars property damage. The certificate of such coverage from the insurer must provide for thirty (30) days' notice to Landlord prior to cancellation or termination.

SECTION TEN

GENERAL PROVISIONS

(a) All signs placed on said premises shall be subject to the approval of the Landlord.

(b) This Lease and all the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of both parties hereto in like manner as if each had been enumerated in every instance in which said parties are mentioned herein.

(c) If the said premises shall be destroyed by fire, elements of unavoidable casualty, totally or partially, either party may terminate this Lease by notice in writing to the other.

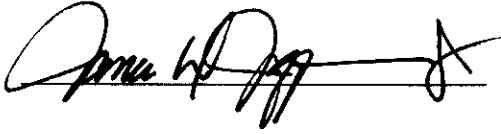
(d) If the Tenant dissolves, becomes inactive, or is no longer an operative property owners association, the lease shall be automatically null and void and occupancy of the property shall revert back to the Landlord. If the Tenant votes to abandon the dock as provided in the Restrictive Covenants, then this lease shall be null and void.

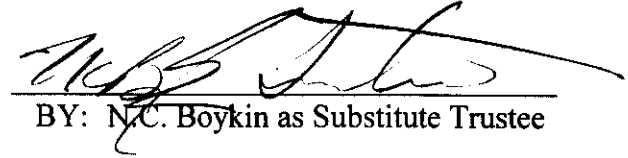
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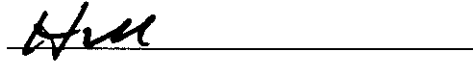
IN WITNESS WHEREOF, the parties have executed this Lease at Edisto Island, South Carolina.

Signed, Sealed and Delivered
in the Presence of:

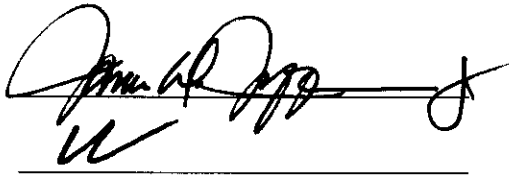
N.C. BOYKIN as SUBSTITUTE TRUSTEE
PETERS POINT TRUST
"LANDLORD"

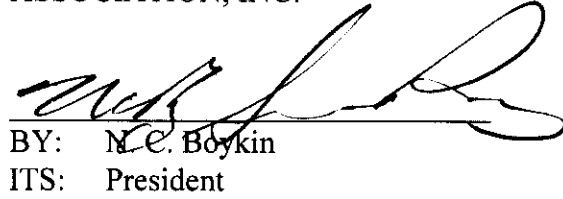



BY: N.C. Boykin as Substitute Trustee



SPARTINA BAY PLANTATION
PROPERTY OWNERS
ASSOCIATION, INC.




BY: N.C. Boykin
ITS: President

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) ACKNOWLEDGMENT

The foregoing instrument was acknowledged by me this 12th day of October by N. C. Boykin as Substitute Trustee Peters Point Trust and N. C. Boykin as President of the Spartina Bay Plantation Property Owners Association, Inc.

Charlotte D. Noh (SEAL)
Notary Public for South Carolina

My Commission Expires: 5/21/02

EXHIBIT "A"

TRACT 1: All that certain piece, parcel or strip of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as "25' DOCK INGRESS/EGRESS EASEMENT" on a plat prepared by Jerry L. Fowler, RLS #15178, entitled "A BOUNDARY SURVEY OF 4.31 ACRES TMS 025-00-00-038 SURVEYED FOR: STORE CREEK TRUST" dated September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book DD at Page 27, said strip having such size, shape, dimensions, buttings and boundings as by reference to said plat will more fully, and at large appear.

TRACT 2: All that certain piece, parcel or tract of marshland situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as "2.95 ACRES MARSH" on a plat prepared by Jerry L. Fowler, RLS #15178, entitled "A BOUNDARY SURVEY OF 4.31 ACRES TMS 025-00-00-038 SURVEYED FOR: STORE CREEK TRUST" dated September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book DD at Page 27, said tract of marshland having such size, shape, dimensions, buttings and boundings as by reference to said plat will more fully and at large appear.

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BARR, UNGER & McINTOSH, L.L.C.



FILED

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CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

13.00
C



BP0115404

PREPARED BY:

Weeks Foti & Irvine, LLC
106 W. 7th North Street
Summerville, SC 29483



MAIL TAX STATEMENTS TO:

INTERNAL REVENUE SERVICE DEED

KNOW ALL MEN BY THESE PRESENTS:

That **THE UNITED STATES OF AMERICA**, acting by and through the Internal Revenue Service, as grantor, Jeannine A. Hammett Special Agent in Charge, Criminal Investigation, Internal Revenue Service, Charlotte Field Office, in consideration of the bid of **FOUR HUNDRED FIFTY THOUSAND AND NO/100 (\$450,000.00)** to the Grantor in hand paid at and before the sealing of these presents by James L. Cox and Catherine T. Cox, the Grantees whose address is set forth herein below, has granted, bargained, sold and transferred and by these presents does grant, bargain sell and transfer unto grantee all right, title and interest in and to the following property:

SEE EXHIBIT "A" FOR LEGAL DESCRIPTION OF PROPERTY

Grantees' Address: P.O. Box 1986 Summerville, SC 29484

No warranties, expressed or implied, with reference to marketability, salability, transferability or insurability of title are included herein and the grantee expressly agrees to accept whatever quality of title the United States may possess at this time.

TO HAVE AND TO HOLD THE SAME together with all singular the appurtenances thereunto belonging or in any wise appertaining, and all the estate, right, title, interest and claim whatsoever in the said property either in law or equity, to the use, benefit and behoove of the Grantee, its successors and assigns forever. Said property has been in custody and control of the United States of America, and pursuant to the order of this Court in Criminal No. 3:07-929, in the District Court of the United States for the District of South Carolina, the **SPECIAL AGENT IN CHARGE**, Criminal Investigation, Internal Revenue Service, has been directed to dispose of said property.

SV10-0151CW Cox
Weeks Foti & Irvine, LLC
106 W. 7th North Street
Summerville, SC 29483

This deed is executed to consummate the sale made by the SPECIAL AGENT IN CHARGE, Criminal Investigation, Internal Revenue Service, Charlotte Field Office, in accordance with the terms of the Final Order of Forfeiture entered by the United States District Court for the District of South Carolina, in the case of the United States of America v. Charlene Corley, C&D Distributors, LLC, with all appurtenances and improvements thereon, et al, which the Grantee was the successful bidder for the property herein described.

IN WITNESS WHEREOF, I have signed and sealed these presents

this 29th day of March, 2010.

Kathy G. Hout
WITNESS

Kathy G. Hout
PRINTED NAME

Elliott Cone
WITNESS

ELLIOTT CONE
PRINTED NAME

THE UNITED STATES OF AMERICA,
ACTING BY AND THROUGH THE
INTERNAL REVENUE SERVICE

[Signature]
Jeannine A. Hammett
Special Agent in Charge
Criminal Investigation
Internal Revenue Service
Charlotte Field Office

STATE OF)
COUNTY OF)

Before the undersigned authority, this day, personally appeared Jeannine A. Hammett, SPECIAL AGENT IN CHARGE, who acknowledged to me that he/she executed the foregoing instrument for the purpose and consideration therein expressed and who is personally known to me or who produced a driver's license or _____ as identification.

WITNESS my hand official seal at Guilford County,

this 29 day of March, 2010.

Sharon Smith
Notary Public

Sharon Smith
Printed Name

My commission expires: April 29th, 2013

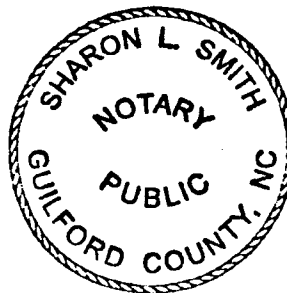


EXHIBIT "A"
Legal Description

All that certain piece, parcel or tract of land, with buildings and improvements thereon, situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, containing 1.3578 acres, more or less, of highland, and 2.7036 acres, more or less, of marsh, and being shown and designated as "LOT B-HIGHLAND" and "LOT B-MARSH" on a plat prepared by Robert L. Frank, RLS #4177, entitled "A BOUNDARY SURVEY, CUL DE SAC ABANDONMENT, AND DOCK EASEMENT ADJUSTMENT OF LOT B LOCATED ON EDISTO ISLAND CHARLESTON COUNTY, SOUTH CAROLINA" dated April 2, 2003, revised June 19, 2003, and recorded in the RMC Office for Charleston County in Plat Book EG at Page 457, said plat being incorporated herein as a part of this description and said tract being bounded now or formerly and measuring more or less as follows: On the Northeast by Store Creek and measuring thereon Three Hundred Seventy-nine and Eighteen Hundredths (379.18') feet; on the East and Northeast by marsh and by highland belonging to Steve R. and Helen P. Rowland and measuring thereon Four Hundred Sixty-five and Forty-two Hundredths (465.42') feet and Four Hundred Thirteen and Seventy-seven Hundredths (413.77') feet, respectively; on the Southeast by a 50' R/W Easement and measuring thereon One Hundred Thirty-four and Ninety-six Hundredths (134.96') feet; and on the Southwest by highland and by marsh belonging to Meredith Family, LLC, and measuring thereon Four Hundred Forty-four and Thirty-seven Hundredths (444.37') feet and Seven Hundred Thirty and Eighty-three Hundredths (730.83') feet, respectively.

AND BEING the same property conveyed to C&D Distributors, LLC from Newton Cooke Boykin by Title to Real Estate (General Warranty Deed) dated August 21, 2006 and recorded August 23, 2006 in Deed Book R595, Page 555; AND FURTHER CONVEYED to United States of America by Amended Final Order of Forfeiture recorded June 19, 2009 in Deed Book ~~63~~, Page 669.

0062

Tax Parcel No. 025-00-00-038

STATE OF SOUTH CAROLINA)

Date of Transfer of Title

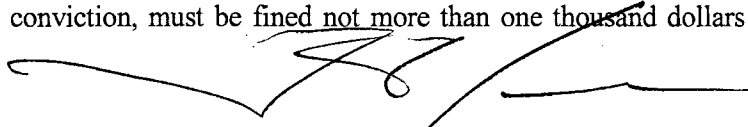
) AFFIDAVIT

March 25, 2010

COUNTY OF Charleston)

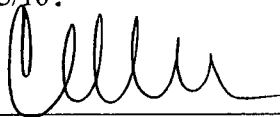
PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and I understand such information.
2. The property is being transferred by Unites States of American, acting by and through the Internal Revenue Service TO James L. Cox and Catherine T. Cox ON 03/25/10.
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 (Exemption n/a) (Explanation, if required: n/a If exempt please skip items 4-6 and go to Item #7 of this affidavit.
4. Check one of the following if either item 3(a) or item 3(b) above has been checked.
 - (a) x The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$450,000.00
 - (b) The fee is computed on the fair market value of the realty, which is n/a
 - (c) The fee is computed on the fair market value of the realty as established for property tax purposes which is n/a
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 n/a.
6. The DEED Recording Fee is computed as follows:
 - (a) \$450,000.00 the amount listed in Item #4 above
 - (b) 0.00 the amount listed on Item #5 above (no amount, please zero)
 - (c) \$450,000.00 subtract Line 6(b) from Line 6(a) and place the result here.
7. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as closing attorney.
8. 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.



 Grantor, Grantee or Legal Representative
 Connected with this Transaction

SWORN to before me this
03/25/10.

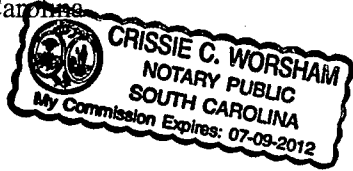


 Notary Public for South Carolina

JOSEPH F. HAND JR.

Print or Type Name Here

My Commission expires:



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RECORDER'S PAGE

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Filed By:

WEEKS, FOTI & IRVINE

RECORDED

Date: April 2, 2010

Time: 2:42:13 PM

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0115	404	Deed

Charlie Lybrand, Register
Charleston County, SC

MAKER:

US OF AMERICA

of Pages: 5

Note:

RECIPIENT:

COX JAMES L AL

Recording Fee \$ 10.00

State Fee \$ 1,170.00

County Fee \$ 495.00

Extra Pages \$ -

Postage \$ -

Chattel \$ -

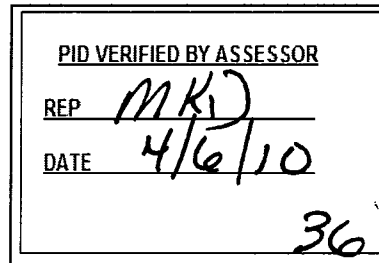
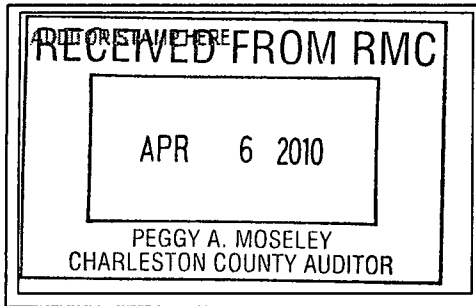
TOTAL \$ 1,675.00

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	COUNTY OF CHARLESTON
COUNTY OF CHARLESTON	)	CASE NO. 2022-CP-10-04952
)	
STEPHEN C. WELLS AND RANDI P. WELLS)	
)	
Plaintiffs,)	
)	
v.	)	AFFIDAVIT OF BRUCE MATRISCIANI
)	
SPARTINA BAY PLANTATION)	
PROPERTY OWNERS' ASSOCIATION, INC.)	
)	
Defendant.)	
_____)	

PERSONALLY APPEARED before me Bruce Matrisciani who, being duly sworn, deposes and says as follows:

1. I have personal knowledge of the facts set forth in this Affidavit. I believe any such facts are true and accurate to the best of my knowledge, except those matters stated upon information and belief.
2. I am over the age of 18 and a resident of South Carolina, County of Charleston.
3. I am the owner of Lot 5 in the Spartina Bay Plantation Subdivision on Edisto Island, South Carolina and have resided at this property since 2006.
4. I served as President of the Spartina Bay Property Owners Association, Inc. ("SBPOA") from approximately 2009 to 2014.
5. During my term as President of the SBPOA and with the knowledge of SBPOA members during such time, I contacted James and Catherine Cox ("the Coxes") on behalf of SBPOA to negotiate an easement agreement to replace the 99-year lease on the strip of land designated for access to the community dock for all Class A members.

6. After I contacted the Coxes and negotiated the terms of an easement agreement, I reached out to all of the then members of SBPOA by telephone to inform them of the potential easement agreement and to get their approval. Every member I spoke with approved of the Easement Agreement. Thereafter, the SBPOA retained Karen DeJong, Esq., to draft and record the Easement Agreement subject to the approval of the Coxes and their respective attorney.

7. On January 25, 2012, I signed the Easement Agreement as the President of the SBPOA to replace the 99-year Lease and to grant Class A members permanent pedestrian use of the easement area to access the community dock. The Easement Agreement was recorded February 22, 2012, with the Charleston County Register of Deeds in Book 0234, Page 897.

8. On April 10, 2012, the SBPOA Board issued a letter to all members informing them that the easement agreement had been recorded, further offering a copy of the digitized version for review. A copy of the April 10, 2012 letter is attached as EXHIBIT A.

9. At a SBPOA meeting held May 12, 2012, I also confirmed that the easement agreement was finalized and available for review. No SBPOA member or anyone else ever requested a copy of the Easement Agreement in response to my knowledge.

10. The members of SBPOA at the time of my presidency were aware of and approved the Easement Agreement with the Coxes in order to replace the 99-year lease.

11. I am also aware of a deck/platform that was previously located on property currently owned by Plaintiffs Stephen C. Wells and Randi P. Wells and partially located within the ingress/egress easement area that was removed in 2022.

12. To my knowledge, the deck/platform was located at its location before removal since at least 2007.

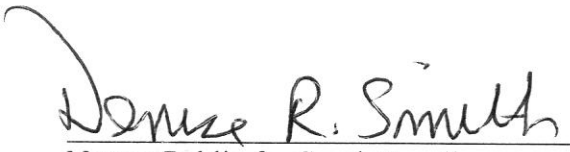
13. To my knowledge, the deck/platform was not owned by the SBPOA and the SBPOA did not construct nor pay for the construction of the deck/platform located on the Wells' property. I am also unaware of any bill of sale, deed, or other document that transferred ownership of the deck/platform to the SBPOA.

FURTHER AFFIANT SAYETH NOT.



Bruce Matrisciani

SWORN TO BEFORE ME
This 13th day of May, 2024



Notary Public for South Carolina
My Commission Expires: 5-23-29

FILED
FEB 6 2025
CLERK OF COURT
CHARLESTON, WV



BP0234897



STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
_____)

EASEMENT AGREEMENT

This Easement Agreement (the "Agreement") is made, entered into, and effective this 25th day of January, 2012, by and between James L. Cox and Catherine T. Cox ("the Grantors") and Spartina Bay Plantation Property Owners Association, Inc. (the "Grantee").

WITNESSETH

WHEREAS, the Grantors are the owners of the real property situated in Charleston County, South Carolina, and more fully described in Deed from Internal Revenue Service, Jeannine A. Hammett Special Agent in Charge, Criminal Investigation, Internal Revenue Service, Charlotte Field Office to James L. Cox and Catherine T. Cox dated March 29, 2010 and recorded on April 2, 2010 in the Charleston County RMC Office in Book 0115, Page 404;

WHEREAS, the Grantee is the owner of property located near the Grantors' property; and

WHEREAS, the parties hereto desire to enter into the within agreement with regard to an easement;

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, along with the mutual covenants and agreements contained herein, the Parties covenant and agree as follows:

1. Incorporation of Recitals: The Parties acknowledge that the foregoing recitals are true and correct and are incorporated into this Agreement as if fully set forth herein.

ELERON-EB-0234-EP-997-EP-1 2025 Feb 06 1:20 PM - CHARLESTON - COMMON PLEAS - CASE#2022CP1004952

2. Access Easement: Grantors hereby grant, bargain, sell and release unto Grantee, its successors and assigns, for the benefit of the Grantee Property, a perpetual, exclusive, appendant, appurtenant, transferable easement (the ‘Access Easement’) on, over and across the Grantor Property for pedestrian ingress and egress on, over and across the Easement Area. This Easement Area is more fully shown as “Existing Dock Ingress/Egress Easement” on Plat by Robert Frank Surveying, dated April 2, 2003, revised on June 19, 2003 and recorded in the Charleston County RMC Office on June 26, 2003 in Book EG, Page 457. Grantee shall have no other rights in and to any other portion of the Grantor Property except the Easement Area. Grantors hereby reserve the right, for itself and its tenants, invitees, permittees, agents, representatives, successors and assigns, to use the Access Easement in common with Grantee for any purposes not inconsistent with Grantee’s rights under this Agreement.

3. Easement Appurtenant. The Access Easement shall not be an easement in gross but shall be an easement appurtenant to the Grantee Property and shall be enforceable by the Grantee and its’ successors, heirs, and assigns. The Access Easement shall run with the land and title to the Grantee Property as a burden on the Grantor property and a benefit to the Grantee Property.

4. No Impediments. No barriers, impediments or obstructions of any kind shall be erected, built or placed within the Easement Area which may impede or hinder the free flow of traffic through the Easement Area, except with the prior written consent of the Grantee, or except for temporary interruptions or relocations relating to routine maintenance or repairs which do not materially impair the rights of ingress and egress granted hereby. Any trees or other impediments currently within the easement area at the

action shall be entitled to its court costs and reasonable attorney fees to be paid by the non-prevailing party as fixed by the court of appropriate jurisdiction, including, but not limited to, attorney fees and court costs incurred in courts of original jurisdiction, bankruptcy courts or appellate courts.

9. Amendment. This Agreement may be modified or amended, in whole or in part, only by the written consent of all the parties involved in this Agreement.

10. Severability. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to the extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each such term, covenant or condition of this Agreement shall be valid and enforceable to the full extent permitted by law.

11. Construction. As used in this Agreement, the masculine, feminine or neuter gender and the singular or plural number shall each include the others whenever the context so indicates. This Agreement shall be construed as a whole and in accordance with its fair meaning and without regard to any presumptions or other rule regarding and construction against the person or entity preparing the Agreement or any part thereof.

12. Governing Law. The terms of this Agreement shall be construed in accordance with and governed by the laws of the State of South Carolina.

13. Integration. This Agreement is an integrated agreement and expresses the complete agreement and understanding of the Parties. Any and all prior or contemporaneous oral agreement or prior written agreement regarding the Agreement will be merged herein.

14. Notice. Any notices given pursuant to this Agreement shall be in writing, and shall be personally delivered or deposited in the United States certified mail, postage prepaid, return receipt requested, at the following addresses:

Grantors: James and Catherine Cox

1499 Marsh Bluff Court

Edisto Island, SC 29438

Grantee: Spartina Bay Plantation Property Owners Association, Inc.

2410 Highway 174

Edisto Island, SC 29438

15. Successors and Assigns. The terms, conditions and requirements of this Agreement shall be binding on and inure to the benefit of the Parties and their respective heirs, successors and assigns.

16. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one Agreement.

17. Time of Essence. Time is of the essence of this Agreement. However, if the final date of any period which is set out in any provision of this Agreement falls on a Saturday, Sunday or legal holiday under the laws of the United States or the State of South Carolina, then, in such event, the time of such period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. As used herein, the term “business day” shall mean any day which is not a Saturday, Sunday or legal holiday.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

WITNESSES:

Jaqueline Burns
Jaqueline Burns
Molly E. McKelvey

GRANTORS:

James L. Cox
Catherine T. Cox

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 23rd day of January, 2012, by James L. Cox and Catherine T. Cox.

MOLLY E. MCKELVEY
Notary Public of South Carolina
My Commission Expires: 3/30/2019

RECORDER'S PAGE



NOTE: This page **MUST** remain with the original document

Handwritten initials

Filed By:

DEJONG LAW FIRM, LLC
 940 JOHNNIE DODDS BLVD.
 SUITE 203
 MT. PLEASANT SC 29464

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Time:	11:29:02 AM	
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Charlie Lybrand, Register Charleston County, SC		

MAKER:

COX JAMES L AL

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 # of References:

RECIPIENT:

SPARTINA BAY PLTN POA

Note:

Recording Fee	\$ 10.00
Extra Reference Cost	\$ -
Extra Pages	\$ 3.00
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 13.00

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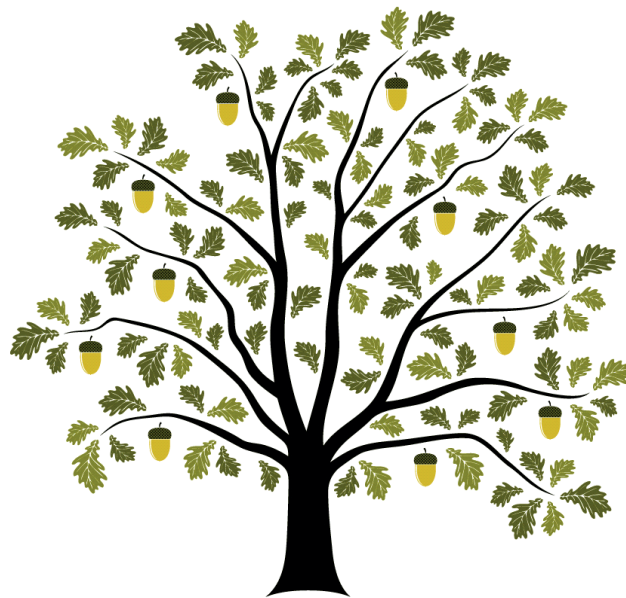


Transcript of the Testimony of

Stephen Wells

March 27, 2024

Wells v. Spartina Bay Plantation POA, Inc.



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

STEPHEN C. WELLS and RANDI P.)
WELLS,)
)
Plaintiffs,)
)
-versus-)
)
SPARTINA BAY PLANTATION PROPERTY)
OWNERS' ASSOCIATION, INC.,)
)
Defendant.)

Case No.:
2022-CP-10-04952

THE DEPOSITION OF STEPHEN C. WELLS was taken as a witness on behalf of the Defendant, pursuant to South Carolina Rules of Civil Procedure, at 10:00 a.m. on Wednesday, the 27th day of March, 2024, at the offices of Rosen Hagood, 40 Calhoun Street, Suite 450, Charleston, South Carolina, before Janice O. Darby, Registered Professional Reporter and Notary Public in and for the State of South Carolina.

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1 A Yes.

2 **Q Do you remember when you stopped being**

3 **treasurer?**

4 A I resigned -- I'm really not sure. I

5 think it was August of 2020.

6 **Q August 14, 2020?**

7 A It was a very short time frame.

8 **Q So you were treasurer for probably less**

9 **than a year?**

10 A Correct.

11 **Q What was the reason that you resigned as**

12 **treasurer?**

13 A Liability concerns.

14 **Q What were those liability concerns?**

15 A That there was an insurance policy that

16 covered the officers and directors, and there were

17 things going on in the neighborhood that was putting

18 that at liability risk. It was brought before the

19 homeowners' association, and the homeowners'

20 association voted to continue. And so I resigned my

21 position because of concerns that -- what I felt

22 like was putting our insurance policy at risk, I did

23 not want to be a part of that. I did not want to be

24 an officer under that condition.

25 **Q That's the same day that Glenn stopped**

35

1 **being president. Right?**

2 A Correct. Well, I think. There might

3 have been a day or two lag in there. I'm not sure.

4 **Q Same time. Right?**

5 A Yes.

6 **Q Can you tell me a little bit more**

7 **about -- or explain to me the liability risks and,**

8 **in particular, what the D&O, directors and officers**

9 **insurance, which is I think what you're talking**

10 **about?**

11 A Mm-hmm.

12 **Q What were these liability risks?**

13 A There was, in my opinion, a commercial

14 fishing operation happening from the dock and our

15 insurance doesn't cover that.

16 **Q That was it?**

17 A Correct.

18 **Q And you've alleged that there was a**

19 **commercial fishing operation run by Mr. Crapps off**

20 **the dock. Right?**

21 A Correct.

22 **Q I might as well ask you now. What is the**

23 **evidence that there was a commercial fishing**

24 **operation by Mr. Crapps operating off of the dock?**

25 A I saw the number of people going down

36

1 there and the different groups of people going down

2 through there. Mr. Crapps put things on social

3 media of those people and the catches on our

4 community dock. And he got cited for it from DHEC

5 because our community dock is not rated for

6 professional fishing.

7 **Q We'll get there. Don't worry about that.**

8 **I'm saying, what is your evidence that he**

9 **was running a commercial dock? And he wasn't cited**

10 **by DHEC. So let's take that one out. What evidence**

11 **do you have?**

12 A So the evidence -- I guess it's

13 evidence -- whatever evidence is the number of

14 different faces that would come drive down and park

15 on our property asking for the commercial boat

16 captain.

17 **Q They would ask you for the commercial**

18 **boat captain?**

19 A Yeah. Where is the commercial boat

20 captain? And then they would look out on the dock.

21 Oh, we see his boat.

22 **Q They would use the term, "Where is the**

23 **commercial boat captain?"**

24 A Yeah.

25 **Q They would use the term "commercial"?**

37

1 A Yes.

2 **Q I've watched a lot of videos. I didn't**

3 **see anyone doing that. When was this?**

4 A That happened early on. I would say

5 April/May of 2020.

6 **Q April/May of 2020. Did anyone else have**

7 **conversations with these people where they were**

8 **asking, Where is the commercial boat captain?**

9 A I'm not sure. "Any people" meaning?

10 **Q Did anyone -- Bruce, Glenn, anyone else?**

11 A Oh, I don't know.

12 **Q That's what I mean. Any other person**

13 **that was asked about commercial boat captain?**

14 A Yeah.

15 **Q So basically you came to that conclusion**

16 **based on what you witnessed and then heard some**

17 **people say?**

18 A Mm-hmm.

19 **Q Did you have any further discussions with**

20 **these individuals that asked you where the**

21 **commercial boat captain was?**

22 A No. I answered their question.

23 **Q What did you say?**

24 A I said I don't know who you're referring

25 to.

66

1 A No, I'm not. I wasn't there at the time.

2 **Q Right. I'm asking you what you know.**

3 **But you agree with me that Bruce would**

4 **have to be authorized by the board of directors to**

5 **sign this Easement Agreement at some point?**

6 A Mm-hmm.

7 **Q When you first moved into Spartina Bay,**

8 **did Glenn tell you anything about Mr. Crapps, or did**

9 **he -- Did you know if they had any sort of**

10 **relationship prior to you moving in?**

11 A No. We didn't know anybody when we moved

12 in.

13 **Q I'm asking were you aware of whether**

14 **Glenn or Crapps had any sort of friendly or**

15 **adversarial relationship?**

16 A No.

17 **Q They do. Right? You would agree with me**

18 **that they have an adversarial relationship?**

19 A Yeah, I would agree with that.

20 **Q When did that start?**

21 A I don't know when it started. I mean,

22 when we moved in -- When we moved in, everything was

23 fine. I don't know when it started.

24 I know that probably around May or June

25 of 2020 I asked Mr. Crapps to please quit driving

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1 and parking his vehicles on my property and asked

2 him to please not allow any of his guests to do the

3 same thing, which it continued to happen.

4 And I made a complaint to the president

5 then, Glenn Dill. And the president sent a letter

6 and said, Hey, you know, the owners of this lot

7 don't want you to drive and park down through there.

8 It continued. I made another complaint

9 to the board president, Glenn Dill. And I know he

10 sent a second notice to Mr. Crapps that said, If

11 this continues, you may find yourself not a member

12 in good standing and no one wants to see that.

13 And it continued. Okay. And I called

14 the sheriff's department because I had received

15 cussing from Mr. Crapps, a threat from Mr. Crapps.

16 So I called the sheriff's department. I called the

17 president then, Glenn Dill, and said, Hey, I just

18 want to let you know that you're going to see some

19 patrol cars coming down here. Mr. Crapps has got a

20 bunch of people down here. I don't know how many

21 times this has been, but, you know, I've called the

22 police just to see if something can happen.

23 And I told the president, Mr. Dill, you

24 know, he's cussed at me, he's threatened me. And

25 Mr. Dill came down as a representative of the board

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1 to see what was going on.

2 And before the police -- before the

3 sheriff's department got there, we were on my

4 property -- or I say "mine." We were in my

5 driveway, my easement area. And Mr. Crapps comes up

6 and starts cussing both of us. Just unbelievable

7 the things that were being said.

8 And that was the first time that I heard

9 Mr. Crapps actually refer to history with he and

10 Glenn Dill. You know, he made comments about, This

11 isn't the first time you've tried to do this to me,

12 and blah, blah, blah.

13 That was probably the first time that I

14 noticed that there was probably some previous

15 tension going on.

16 **Q What did the police say? What did they**

17 **do?**

18 A I explained to the police. I said, you

19 know, Here's what's going on. This is an easement

20 area. My understanding is there's not supposed to

21 be any parking. There's not supposed to be any

22 driving. It's pedestrian. We've asked this

23 gentleman not to do this on our property. He is a

24 class A member, which means he is allowed, you know,

25 out on the dock. But he is not using this easement

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1 in a correct manner.

2 I told them, you know, He's threatened

3 me. He's been cussing at me.

4 And the police -- the sheriff's

5 department said, You know, you really should be

6 making a complaint to your homeowners' association

7 because the sheriff doesn't really -- We uphold the

8 laws of South Carolina.

9 But they told me, they said, We'll stop

10 by and just ask him to behave himself.

11 Now, whether they did that or not, I

12 don't know.

13 **Q You said cussing. I don't need you to**

14 **repeat the words. But what was the threat?**

15 A The threat was he was going to sue me and

16 kick my ass.

17 **Q You discussed parking on your property.**

18 **I want to distinguish between the ingress/egress**

19 **pathway and when you say "your property." Is that**

20 **specifically referring to the pathway that leads to**

21 **the dock, or are you talking about your property**

22 **outside of that easement pathway zone?**

23 A So the majority of the parking is within

24 the easement area or with the pathway. It's within

25 the pathway. We have had occasions where they would

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1 park in my driveway outside of the pathway.
 2 **Q For how long?**
 3 A 30, 40 minutes. I politely said, Please
 4 don't do that.
 5 **Q And there's no question that's not**
 6 **permitted by either the lease or the easement or any**
 7 **agreement. Right?**
 8 A Well, I don't think parking is allowed,
 9 period.
 10 **Q I'm just saying there is no dispute**
 11 **between anyone, right, that cars can't park on your**
 12 **property?**
 13 A Well, I consider the pathway our
 14 property.
 15 **Q That's what I want to distinguish when we**
 16 **talk about the pathway.**
 17 A Yeah.
 18 **Q So if there's parking outside of the**
 19 **pathway, how many times did that occur?**
 20 A Just a couple, and it was early on. It
 21 hasn't occurred probably since the first year.
 22 But what does continue to occur is when
 23 the driving down to the pathway and the parking,
 24 vehicles will back up and come into the non-pathway
 25 part of it to turn around.

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1 **Q Have you ever used someone's driveway to**
 2 **turn around in a street or something?**
 3 A No, not really.
 4 **Q You've never done that?**
 5 A No.
 6 **Q I have plenty of times.**
 7 **When was the last time that you noticed**
 8 **someone parking outside of the pathway but on your**
 9 **property?**
 10 A It's been a while. The most recent has
 11 been, you know, backing up into the -- across the
 12 pathway easement line, I guess you would say.
 13 **Q Into your driveway?**
 14 A (Witness nodded.)
 15 **Q So as far as stationary parking, that has**
 16 **been, for the most part, resolved over the past at**
 17 **least year. Right?**
 18 A Not within the pathway.
 19 **Q I'm talking outside of the pathway.**
 20 A Correct.
 21 **Q We certainly have a dispute over whether**
 22 **it's just walking or vehicular access. I get that.**
 23 A Yeah.
 24 **Q If I understand correctly, there was a**
 25 **period of time where the adjacent property owner --**

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1 **his name is Chuck?**
 2 A Yes.
 3 **Q What's his last name?**
 4 A I think Bennett, Chuck Bennett.
 5 **Q We'll just call him Chuck, though. --**
 6 **where Chuck was allowing people to drive and park in**
 7 **his lot?**
 8 A Well, they were parking there. They quit
 9 driving down the pathway. But they would drive into
 10 his property. And where his property adjoins, okay,
 11 they were parking on his property with headlights
 12 facing towards us and accessing the property
 13 there -- or accessing the pathway from there.
 14 **Q And the pathway, does your property**
 15 **extend beyond where the pathway stops?**
 16 **The pathway is described as 25 feet.**
 17 **Right?**
 18 A Yeah, and it's basically from the
 19 property line between Chuck Bennett and us, from the
 20 terminus of Marsh Bluff, straight down all the way
 21 to basically the critical line.
 22 **Q Right. What I'm getting at is, Chuck's**
 23 **property abuts right up to the pathway?**
 24 A Mm-hmm.
 25 **Q You testified you don't know if Chuck was**

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1 **allowing them to do that?**
 2 A They were doing it. Okay? And at night
 3 they would come in on golf carts, UTVs, sometimes
 4 trucks, and they would pull right up to that
 5 abutment and stop and the lights would shine into
 6 either our house or the back.
 7 And I sent Chuck a notice and said,
 8 Chuck, I just want to let you know that there's
 9 somebody parking on your property that's accessing
 10 the pathway from your property and they are shining
 11 the lights into our house. Is there anything you
 12 can do to help resolve this?
 13 That was one thing that I asked of Chuck.
 14 The other time that I asked Chuck is just
 15 basically the comings and goings, 9:30 until
 16 midnight, sometimes after that, and the multiple
 17 trips and the noise. I just asked him, Is there
 18 anything that you can do about the people that's
 19 utilizing your property for parking that's accessing
 20 the pathway?
 21 **Q Do you know who those people are that**
 22 **were using Chuck's lot and driving through and**
 23 **parking in Chuck's lot?**
 24 A I know Mr. Crapps was one of them. I
 25 know that a couple of his deckhands, or some of



Page 1		Page 3	
1	STATE OF SOUTH CAROLINA)IN THE COURT OF COMMON COUNTY OF CHARLESTON)PLEAS	1	E X H I B I T S
2	)NINTH JUDICIAL CIRCUIT	2	EXHIBIT DESCRIPTION PAGE
3	)CASE NO. 2022-CP-10-04952	3	P1 10/17/2009 meeting minutes 27
4	STEPHEN C. WELLS AND) RANDI P. WELLS,)	4	P2 Letter dated 6/24/2010 35
5	)DEPOSITION OF: PLAINTIFFS,)BRUCE MATRISCIANI	5	P3 Restrictive covenants 37
6	vs.)	6	P4 Easement agreement 44
7	)	7	P5 Letter dated 4/10/2012 53
8	SPARTINA BAY PLANTATION) PROPERTY OWNERS')	8	P6 Text messages 74
9	ASSOCIATION, INC.,)	9	P7 Survey map 94
10	DEFENDANT.)	10	P8 3/28/2029 meeting minutes 98
11	DATE: Tuesday, April 30, 2024	11	P9 Affidavit of B. Matrisciani 116
12	TIME: 10:28 a.m.	12	P10 Restrictive covenants 129
13	LOCATION: Earhart Overstreet 878 Whipple Road, Suite 200	13	P11 SBPPOA operating rules 144
14	Mount Pleasant, South Carolina 29464	14	P12 Lease dated 10/12/2001 156
15	REPORTER: Michele Darling Neville, RPR	15	
16		16	
17		17	
18		18	
19		19	
20		20	
21		21	
22		22	
23		23	
24		24	
25		25	
Page 2		Page 4	
1	A P P E A R A N C E S	1	P R O C E E D I N G S
2	For Plaintiff: Earhart Overstreet	2	Thereupon, BRUCE MATRISCIANI, the Deponent, called for
3	By: Steven R. Kropski, Esquire	3	examination by Counsel for Defendants and, after having
4	By: Maxwell J. Seferian, Esquire	4	been duly sworn by the notary, was examined and
5	878 Whipple Road, Suite 200	5	testified as follows:
6	Mount Pleasant, South Carolina 29464	6	EXAMINATION BY COUNSEL FOR THE DEFENDANT
7	E-mail: steve.kropski@earhartoverstreet.com	7	BY MR. KROPSKI:
8	E-mail: max.seferian@earhartoverstreet.com	8	Q All right, Mr. Matrisciani. I will call you Bruce
9	For Defendant: Rosen Hagood	9	from now on.
10	By: Timothy J.W. Muller, Esquire	10	A Okay.
11	40 Calhoun Street, Suite 450	11	Q My name is Steve Kropski. We just met. I'm a
12	Charleston, South Carolina 29401	12	lawyer for the Spartina Bay POA. And we're here -- you are
13	E-mail: tmuller@rosenhagood.com	13	a witness, third party -- not a party to the lawsuit, but a
14		14	third party in lawsuit that was brought by Steve and Randi
15		15	Wells against the POA. Are you familiar with that or
16		16	understand that's--
17		17	A I'm familiar with this lawsuit --
18		18	Q -- why you're here?
19		19	A Uh-huh.
20		20	Q Okay. And you received a subpoena from my office
21		21	to attend today?
22		22	A Did not.
23		23	Q Okay. Well, you -- but you knew, you are here
24		24	today, so I appreciate you --
25		25	A Yeah. Yeah.
11	WITNESS PAGE		
12	Bruce Matrisciani		
13	Examination by Mr. Kropski.....4		
14	Examination by Mr. Muller.....88		
15	Examination by Mr. Kropski.....149		
16	Examination by Mr. Muller.....165		
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1 Q Okay. Let's go back to -- let's see. Page six of
 2 the covenants and restrictions, which we actually have page
 3 numbers on. So that's going to be page six of the exhibit
 4 3. And I'm going to ask you about just section one under
 5 that. It says the docks. And let me know when you've read
 6 through.
 7 Was this some -- something you were looking at in
 8 2009 when these discussions about a perpetual deed or
 9 perpetual use of the ingress/egress path was brought up in
 10 that meeting?
 11 A You're asking me if I specifically remember
 12 reading page six of this back in 2009?
 13 Q If you consulted this when dealing with Wayne
 14 Unger to try to--
 15 A Yes.
 16 Q -- work out a solution?
 17 Okay. "The property owners' association shall own
 18 or lease the dock, as shown on the permit attached hereto as
 19 exhibit C, as well as the strip of land designated as dock
 20 easement on a plat referenced to in Exhibit B."
 21 And says the use of this is for class A members;
 22 right?
 23 A Yes.
 24 Q Okay. I'm going to down go down another two
 25 sentences. And it says: "The property owners' association

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1 shall receive a deed or a lease for this strip of land
 2 designated as dock easement and a bill of sale for the dock
 3 prior to the sale of the first lot within the subdivision."
 4 Did you ever talk to Wayne or another lawyer about
 5 what this section in the covenants might provide as far as a
 6 permanent right to use the pathway?
 7 A No.
 8 Q Okay. Just never had a discussion about it?
 9 A No. It was my assumption that the attorneys were
 10 representing us and would do the due diligence to secure
 11 this information.
 12 Q Okay. But we're all in agreement that the
 13 covenants and restrictions which are recorded, does
 14 reference that class A members will have a right to use that
 15 strip of land; is that right?
 16 A Yes.
 17 Q Okay. And when we go to Exhibit C, if you don't
 18 mind, which is right -- well, we might be missing Exhibit C.
 19 Are we? That's all right. One less question for you. Put
 20 that to the side for now.
 21 So do you recall how -- we had talked earlier
 22 about when you said the lease -- the lease you -- or I said
 23 it was recorded. That was what you understood to be the
 24 document that gave access to the pathway leading to the
 25 dock; right?

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1 A Yes.
 2 Q Prior to 2012?
 3 A Correct.
 4 Q Okay. And somewhere Wayne Unger was no longer
 5 involved; is that right?
 6 A Correct.
 7 Q And that was -- and then another lawyer, DeJong?
 8 A Karen DeJong.
 9 Q Karen DeJong.
 10 A Yes.
 11 Q How was she hired?
 12 A I hired her. I reached out to her.
 13 Q How do you know Ms. DeJong?
 14 A How do I know Karen? She's my attorney. I forget
 15 how I initially met Karen.
 16 Q Was she your closing attorney when you purchased?
 17 A No. No.
 18 Q Do you recall who that was?
 19 A I don't. But maybe that's who referred Karen. I
 20 really don't remember.
 21 Q Okay. But you reached out to Karen--
 22 A I did.
 23 Q -- DeJong? Did the board vote to hire Karen?
 24 A Yes.
 25 Q Okay. I'm going to put this -- let's see.

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1 Easement agreement we'll do as number 4.
 2 [Plaintiff's Exhibit Number 4 was marked for
 3 identification.]
 4 BY MR. KROPSKI:
 5 Q What's marked as exhibit 4 is entitled easement
 6 agreement. You can take a look through, but I -- before we
 7 go through this, somewhere before -- somewhere after Wayne
 8 was involved, Karen was hired?
 9 A Yes.
 10 Q And what were your discussions about with Karen as
 11 far as a permanent access solution to the dock?
 12 A Karen, I feel like I'm an idiot if I own this home
 13 and generations from now can't use the dock. They're going
 14 to think their great grandfather is an idiot. What can we
 15 do?
 16 Q Okay.
 17 A There's the conversation.
 18 Q And she said your option was to do a perpetual
 19 easement? Or did she offer some options that you weighed?
 20 A I don't recall.
 21 Q You don't recall if there was discussions of--
 22 A I asked Karen--
 23 Q -- a deed--
 24 A I'm sorry. Please continue.
 25 Q Yeah. A deed or an easement? Or did she just say

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1 this is going to be your best solution?
2 A Again, she's the attorney. It's up to her to come
3 up with the proper phraseology.
4 Q Okay.
5 A My concern for myself and the property owners was
6 to secure a permanent access to the dock.
7 Q Okay. And that ultimately resulted in an easement
8 agreement dated the 25th day of January, 2012?
9 A Yes.
10 Q Okay. And that's between James Cox and Catherine
11 Cox and Spartina Bay Plantation Owners, Inc.?
12 A Yes.
13 Q Which is the POA.
14 A And that's inclusive of the property; not just the
15 Coxes. The agreement is binding whether or not the Coxes
16 lived there or not.
17 Q Okay. Okay. Well, I'm -- understood. I
18 understood what you're saying.
19 The parties to the easement agreement that signed
20 this contract, at the front it's stated as James L. Cox,
21 Catherine T. Cox and Spartina Bay Property Owners, Inc.;
22 right?
23 A Yes.
24 Q Okay. And then if we go to the -- let's see. The
25 third last page.

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1 A You're looking at the Coxes signature?
2 Q There are signatures by James L. Cox, Catherine T.
3 Cox. It looks like a witness who signed twice. Jacqueline
4 Russo. And Molly McKelvey, who also notarized the Cox'
5 signatures on January 23rd, 2012; is that correct?
6 A Uh-huh. I mean yes.
7 Q The next page. It says grantee, Spartina Bay
8 Plantation Property Owners' Association, Inc. And then by
9 Bruce Matrisciani, as president. That's what it says;
10 right?
11 A Yes.
12 Q And is that your signature?
13 A It is.
14 Q Okay. And do you remember who these folks that
15 witnessed it are?
16 A I do not.
17 Q Okay. And then there is a notary section here
18 that says that you signed it on the 25th day of January?
19 A Uh-huh. Yes.
20 Q Okay. So did Mr. Farrell sign this anywhere?
21 A I cannot see his signature.
22 Q Okay.
23 A Or a place for him to sign.
24 Q What was your understanding of the significance of
25 this agreement when you signed it on January 25th, 2012?

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1 A It was my understanding, and all of the property
2 owners at the time, that we would have a permanent
3 pedestrian easement to the dock.
4 Q And how did that term pedestrian pop into here?
5 A I don't know. It was never an issue. It was
6 never questioned.
7 Q Did you insert pedestrian personally?
8 A I did not.
9 Q Did the Coxes ask for pedestrian to be placed in
10 here?
11 A I do not know.
12 Q Are you aware that the term pedestrian has
13 significant legal differences from the language in the
14 lease?
15 A Yes.
16 Q So how did pedestrian get into this agreement?
17 A I don't know.
18 Q Did Karen put it?
19 A If Karen wrote the agreement.
20 Q At the request of the POA?
21 A I don't know.
22 Q Were you the only one dealing with Karen at that
23 time?
24 A Karen, myself, Ron. Any correspondence to me was
25 shared with all the property owners.

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1 Q Okay. Do you remember any discussions about this
2 term pedestrian in this January 25th, 2012 easement
3 agreement?
4 A Yes. Everybody read through it; and nobody had
5 any disagreements with it. That's why we have it.
6 Q Well, we'll get there. I'm talking about prior to
7 you signing it. Who read through this before you signed it?
8 A Everybody did.
9 Q You brought it to everybody and they read through
10 it?
11 A Everybody had the opportunity to get a copy of it.
12 Q That's not what I asked.
13 A Well, I don't know.
14 Q Did you take a draft of this easement agreement to
15 every single member and--
16 A I did not.
17 Q Okay.
18 A But every single board member agreed to this
19 agreement. We voted on it.
20 Q We'll get there. Was it your understanding that
21 this easement agreement was replacing the 99-year lease?
22 A Yes.
23 Q Okay. And why did -- where did that understanding
24 come from?
25 A I made the assumption that the agreement usurped

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1 of directors authorized you to sign and record the easement
2 agreement dated January 25th, 2012 prior to January--
3 A I don't know. I know we had a meeting, but I
4 don't remember the date. Remember, back then it was Ron,
5 myself -- and who were the other -- Tyree Moore. I don't
6 remember the other one.
7 Q Okay. Did the board of directors authorize you,
8 in a meeting with a quorum using Robert's Rules, to execute
9 the easement agreement dated January 25th, 2012?
10 A I don't recall a meeting in person.
11 Q Okay. And we already agreed that Ron Farrell did
12 not sign the easement agreement; right?
13 A We saw that.
14 Q Okay. Under the bylaw that we read before, you
15 would agree with me that the easement agreement is not in
16 compliance with the bylaws of Spartina Bay?
17 MR. MULLER: Object to the form.
18 THE WITNESS: I don't understand it.
19 BY MR. KROPSKI:
20 Q Let's go back to--
21 MR. SEFERIAN: 3.
22 BY MR. KROPSKI:
23 Q Exhibit 3, which is the bylaws. The thick stack.
24 MR. SEFERIAN: 294.
25 BY MR. KROPSKI:

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1 Q And it's going to be that little page, 294, in the
2 bylaws, section five.
3 A Go ahead.
4 Q Remember when we read the -- let's see, third
5 sentence -- starting on the third sentence there? It says:
6 "He may sign with the secretary or any other proper officer
7 of the association thereunto authorized by the directors,
8 certificates of membership of the association, any deeds,
9 mortgages, bonds, contracts, or other instruments which the
10 directors have authorized to be executed, except in cases
11 where the signing and execution thereof shall be expressly
12 delegated to the directors or by these bylaws to some other
13 officer or agent of the association."
14 Wouldn't that read that Mr. Farrell needed to sign
15 the easement agreement?
16 A I would have to get counsel on this question,
17 because I -- I don't feel I'm--
18 Q Okay.
19 A -- educated enough to answer that.
20 Q Wouldn't -- wouldn't you -- don't you agree that
21 that also states the directors need to authorize the
22 president to sign contracts?
23 A The directors authorized me to do that.
24 Q How did the directors act in any way that's not in
25 a meeting following the proper procedures laid out in the

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1 bylaws?
2 A Like I said, we did it via phone calls.
3 Q So you did not have a meeting with the directors
4 with a quorum present using Robert's Rules where you were
5 approved to sign the 2012 easement agreement?
6 MR. MULLER: Object to the form.
7 THE WITNESS: Correct.
8 BY MR. KROPSKI:
9 Q Okay. Let's see. When you said that you called
10 all of the members regarding the easement agreement, did you
11 read them the exact -- everything from the exact language of
12 the document that is signed January 25th, 2012?
13 A I read this agreement.
14 Q Verbatim from start to finish?
15 A As far as I recall. I mean, I don't know why I
16 would not read it verbatim.
17 Q And it was this exact wording? Because it would
18 have had to be before January 25th, 2012; right?
19 A This is the agreement that Ms. DeJong provided me.
20 Q Okay. And you read it from start to finish to
21 each member when you called them?
22 A Each member -- well, let's see. I don't know if I
23 read -- it's a long time ago. What you're asking me is did
24 I read them the word pedestrian--
25 Q I'm asking you if they had -- prior to signing and

Page 60

1 recording this, when you talked to them on the phone, had
2 read through the complete draft of this document the exact
3 form of which ended up being recorded?
4 A Yes. To my knowledge. It was a long time ago.
5 Q How do you know that?
6 A How do I know that I made the phone calls?
7 Q Right. I'm not saying the phone calls. I'm
8 saying how do you know that every member read a document
9 verbatim the same as the January 25th, 2012 signed easement
10 agreement?
11 A Well, nobody -- nobody complained about the
12 agreement after it was registered. Recorded, I mean.
13 Q Okay. I'm talking about the phone calls. I
14 assume the phone calls happened before; right?
15 A The phone calls happened.
16 Q All right.
17 A I called everybody. I said, we have an easement
18 agreement. A pedestrian easement agreement. We have access
19 to the dock. This is very -- I was told yes. But why --
20 why -- why would anybody agree with this if they were
21 uncomfortable with it? I know your point. I know where
22 you're going with this.
23 Q I don't think you do.
24 A Okay. Tell me where you're going with this.
25 Q I'm trying to get a timeline. You're saying a lot

Page 97

1 is, too, I believe.

2 Q Do you have any opinion of what would happen if

3 the POA stopped paying that property tax?

4 A Even after all the years of living there and

5 everything that's been said to me and interpretations that

6 if -- you mean if the dock wasn't maintained? Is that the

7 question?

8 Q No, if the property taxes were not paid by the--

9 A No, I -- I don't know. I would assume we'd lose

10 the right to have the egress. I really don't know.

11 Q Okay. And I believe you testified earlier it was

12 your understanding that this easement agreement replaced the

13 99-year lease?

14 A That's what I thought.

15 Q Correct?

16 A Uh-huh.

17 Q I'll just scratch that. We'll go through this in

18 the minutes when we get there.

19 How often did you communicate with Ms. DeJong --

20 without talking about the substance of those communications,

21 I mean how often did you communicate with her regarding the

22 easement agreement?

23 A That's a long time ago. I contacted her that we

24 needed an agreement -- an agreement -- an easement. She

25 wrote it up. I looked at it. The Coxes looked at it. I

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1 think it came back once or twice. Coxes agreed. We, the

2 community, agreed; and I think that was it.

3 Q Okay.

4 A It was pretty straightforward.

5 Q Okay. There wasn't any contention with the

6 negotiations around the easement agreement?

7 A No, actually the members in the community were

8 quite happy that we were able to find an attorney that

9 actually did something and didn't take thousand of dollars

10 from us, unlike another attorney that had represented the

11 association.

12 Q Understood. Now let's just dive right into the

13 minutes here. I have a bunch of different date -- minutes

14 from different dates. So I'd like to just mark this as a

15 separate exhibit even though we have one of -- I think it's

16 one of these as a prior exhibit.

17 [Plaintiff's Exhibit Number 8 was marked for

18 identification.]

19 BY MR. MULLER:

20 Q Okay. So what we've marked as exhibit 8, I'll

21 represent to you is a series of minutes from Spartina Bay

22 POA. The first one is dated March 28th, 2009, and it's

23 Bates labeled SBPOA_0169. That's just a marking that's

24 indicated it was produced by the POA itself so we can keep

25 track of the documents.

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1 And it appears that this meeting was called to

2 order by you as the president back on that date. Do you see

3 that?

4 A I do.

5 Q And in attendance it's you and Ron Farrell. And

6 it says not in attendance everybody else.

7 A That's Ron. Yep.

8 Q Yeah. And that gets back to my question before.

9 So was this kind of the regular experience during this time

10 frame, that when you did have in-person meetings they were

11 not well attended?

12 A Yes.

13 Q Okay. And I'd like to look down under 1499 Marsh

14 Bluff. It talks about Cookie's old home, which I believe

15 we've determined here is the Wells' house. But the next

16 paragraph, it states: The other issue is that this property

17 owns this piece of common property alongside which serves as

18 access to the docks. Spartina Bay has a 99-year lease on

19 the property."

20 And then it skips down. It says: "In addition,

21 we will be pursuing a termination of that lease and deeding

22 of the property to the POA."

23 Do you see that?

24 A I do.

25 Q Okay. So the concept of replacing that 99-year

Page 100

1 lease with some other form of instrument for access for the

2 POA was at least contemplated back in March 2009; correct?

3 A Yes.

4 Q And every member and/or board member and everyone

5 out there at Spartina Bay would have access to this

6 information; correct?

7 MR. KROPSKI: Object to the form.

8 THE WITNESS: Yes.

9 BY MR. MULLER:

10 Q All right. Let's skip to the next one. And this

11 will be SBPOA_0167. And these are the meeting minutes of

12 Spartina Bay from October 17, 2009.

13 A Show me.

14 Q Yeah.

15 A It's this one?

16 Q Yep.

17 A Okay.

18 Q You've got it. And we may of looked--

19 Was this the one that we looked at earlier?

20 MR. KROPSKI: Yeah.

21 MR. MULLER: Yeah, I think it is.

22 BY MR. MULLER:

23 Q Okay. And, again, now we have in attendance

24 yourself, Ron and Caroll, that we've looked at before. And

25 under the first -- the paragraph that starts: With the

Page 125

1 removed in 2022."
 2 We talked about this just for a second earlier.
 3 And I think we were talking about it as the deck. And
 4 you're familiar with that deck--
 5 A Yes, that's what you referenced before.
 6 Q And if your affidavit -- and I know that our firm
 7 asked you some questions about this, whether you had any
 8 information about when you knew that that deck or platform
 9 was owned by the POA.
 10 And I believe it was your impression, based on
 11 your affidavit here, that you were not aware that that deck
 12 was ever owned by the POA. Is that correct?
 13 A That's correct.
 14 Q And since having lived there since when? Was it
 15 2006? Is it 2006?
 16 A Six.
 17 Q Yeah. And you were not aware of the POA ever
 18 paying for construction of the deck platform located on the
 19 Wells' property?
 20 A No.
 21 Q And you're not aware of any bill of sale, deed, or
 22 any other document that transferred ownership of the deck
 23 platform to the POA?
 24 A No.
 25 Q Okay. Were there ever like a -- were there ever

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1 any meetings that were held on that deck?
 2 A No.
 3 Q No? Not that you remember? Okay.
 4 Were you aware that the POA -- well, were you
 5 aware that DHEC had directed the POA and the Wells to remove
 6 that deck at one point in time?
 7 A I probably wondered why the deck was missing.
 8 Q Okay.
 9 A So I guess I would of asked Steve or Randi.
 10 Q Okay.
 11 A Since their house is the closest house to the
 12 deck.
 13 Q Were you aware that they had been threatened --
 14 the Wells -- probably shouldn't say threatened. They had
 15 been notified by DHEC that they could be fined if that deck
 16 was not relocated?
 17 A Was I aware of that?
 18 Q Yeah.
 19 A No, no one told me they could be -- no.
 20 Q Okay. Were you aware that the POA imposed a
 21 special assessment, a fine, against the Wells for removing
 22 that deck to comply with the DHEC order?
 23 A Yeah, I think Steve told me that.
 24 Q Okay. Do you have any opinion about -- as a
 25 former board president, whether it would be appropriate for

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1 the POA to impose a special assessment against the Wells to
 2 remove the deck that was not owned by the POA?
 3 MR. KROPSKI: Object to the form.
 4 THE WITNESS: Yes, I would object. So basically
 5 what you're asking me, is it okay for the POA to fine the
 6 Wells for something they don't own?
 7 BY MR. MULLER:
 8 Q Correct.
 9 A It's ridiculous. Of course I would object to
 10 that.
 11 Q Okay. All right. We're going to look at the
 12 covenants.
 13 A And as far as I know, nobody has any idea where
 14 that deck came from. Now, if I speculate, I would speculate
 15 that Mr. Boykin put that there.
 16 Q And Mr. Boykin owned lot B; correct?
 17 A Yes.
 18 Q So he would have been a predecessor in interest to
 19 the Wells' property?
 20 A Yeah.
 21 Q Okay.
 22 A I mean, that deck was there ever since I was -- I
 23 was there.
 24 Q And it's -- and it's located in -- I think we can
 25 all recognize it's located in the area that's the

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1 ingress/egress easement area for the dock; correct?
 2 A Yeah. Didn't DHEC -- did you just tell me that
 3 DHEC told them -- said it had to be removed?
 4 BY MR. MULLER:
 5 Q I was asking you if you knew about that.
 6 A Oh, okay. I'm just curious. I don't know if it
 7 has anything to do with this.
 8 Q Right. All right. So you have a copy of the --
 9 what's been marked as exhibit--
 10 MR. SEFERIAN: Three.
 11 MR. MULLER: Is it three? The declaration?
 12 BY MR. MULLER:
 13 Q I have a bigger copy if you would like it for
 14 reference.
 15 A Are you insinuating that my old eyes can't read
 16 this?
 17 MR. MULLER: Actually, you know what, can we mark
 18 this one fresh? Because this one--
 19 I think this one you guys didn't have the exhibit;
 20 right?
 21 MR. SEFERIAN: Yeah.
 22 MR. MULLER: Yeah, this one does have the exhibit.
 23 MR. KROPSKI: Okay.
 24 MR. MULLER: I'm sorry it's still small.
 25 MR. SEFERIAN: That's the way it is.

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1 A Yes.

2 Q How about drunk and inebriated people yelling at
3 the Wells' property?

4 A Yelling at the property?

5 Q Or at their house. Towards their house.

6 A Oh, yeah, definitely.

7 Q How about flipping the Wells off?

8 A Oh, I've witnessed that.

9 Q Okay. How about trucks parked on the Wells'
10 property for hours at a time?

11 A Absolutely.

12 MR. KROPSKI: Object. Object to the form.

13 BY MR. MULLER:

14 Q How about trucks parked on the Wells' property
15 outside the dock easement access area?

16 A Yes. Wait. Stop. Outside?

17 Q How about -- yeah, how about trucks being parked
18 outside the dock access easement area on the Wells'
19 property?

20 A Oh, yes. Yes.

21 MR. KROPSKI: Wait. Wait. Object to the form.

22 Sorry.

23 BY MR. MULLER:

24 Q And how about vehicle or UTV lights shining into
25 the Wells' home from people coming and going from the dock

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1 at night?

2 A I haven't witnessed that. I've been made aware of
3 that.

4 Q Sure. And would you consider that as violative of
5 this section?

6 A Yes. Absolutely.

7 Q Okay. Is the POA responsible for enforcing this
8 prohibition in article three, section 12, if it's reported
9 by the Wells?

10 A Yes.

11 Q Does the POA have any responsibility if the Wells
12 have reported any and all of this offensive activity on the
13 lot and the POA has failed to stop the activity?

14 A You're asking me--

15 MR. KROPSKI: Object to the form.

16 THE WITNESS: -- has it been brought up to the
17 board and has to board not acted?

18 BY MR. MULLER:

19 Q Correct.

20 A Yes, they have not acted.

21 MR. KROPSKI: Object to the form to the questions.

22 BY MR. MULLER:

23 Q Let's turn to article ten. So that's--

24 A 268.

25 Q Yeah. 385, page 268.

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1 A Okay.

2 Q In reading the first sentence -- I'll let you read
3 that for a second.

4 A Letter B?

5 Q I'm sorry, yeah, article ten --

6 A Oh, I'm sorry.

7 Q -- general provisions, section one, enforcement.

8 A Okay. Okay.

9 Q Based on this sentence, would you agree with me
10 that a member can enforce the rights, restrictions,
11 conditions, covenants and reservations?

12 A That's what it says. So yes.

13 Q All right. Now we're going to turn to the bylaws,
14 which are -- this is page 385 -- or I'm sorry, book 385,
15 page 289. It's references exhibit D.

16 A Yes, I'm there.

17 Q All right. All right. So let's look under first
18 article four, members, which is a couple of pages down. So
19 that's page 290.

20 A Okay. Article four.

21 Q All right. So this section -- this article has to
22 do with members. And then if you turn to the next page,
23 there's a section called voting rights. "Each member in
24 good standing shall be entitled to vote on each matter
25 submitted to a vote of the members by a class. The

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1 association shall have two classes of voting membership
2 described as class A and Class B."

3 It references in section 3C that at membership
4 meetings, all votes shall be cast in person or by proxy
5 registered with the secretary. It also says in D that the
6 membership is authorized to establish procedures providing
7 for voting by mail, telephone, or other form of
8 communication. Do you see that?

9 A I do.

10 Q Do you think that this contemplates that members
11 may vote by mail, telephone, or other form of communication?

12 A Yes.

13 MR. KROPSKI: Object to the form.

14 BY MR. MULLER:

15 Q And then going on to article five, meeting of
16 members, let's look at sections -- well, paragraph seven
17 under article five. And here it says voting by mail,
18 telephone or other form of communication again. It says:
19 "Where there is an act requiring a vote of the members, such
20 election or vote on such proposed action may be conducted by
21 mail, telephone or other form of communication in such a
22 manner of the board of directors shall determine."

23 Do you see that?

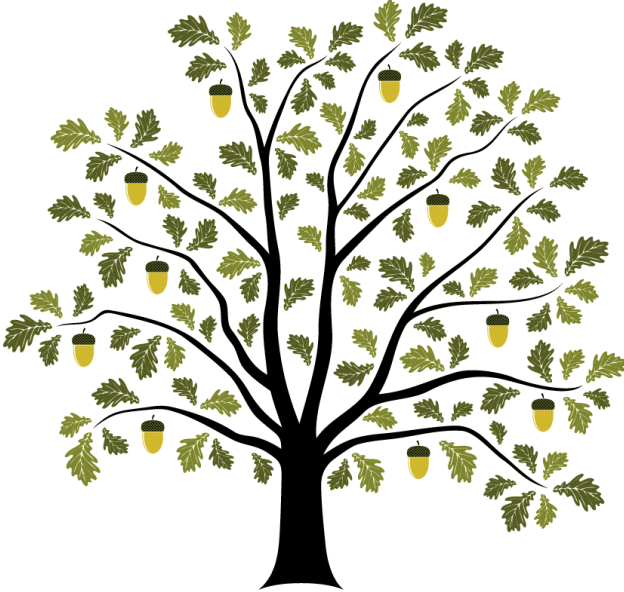
24 A I do.

25 Q You spoke with the board of directors about the

Transcript of the Testimony of
Lawrence "Eddie" Evans, II - 30(b)(6)
Spartina Bay POA

September 5, 2024

Stephen C. Wells and Randi P. Wells v. Spartina Bay Property
Owners Association, Inc.



LIVE OAK

REPORTING

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2022-CP-10-04952
 STEPHEN C. WELLS AND)
 RANDI P. WELLS,)
)
 Plaintiffs,)
)
 vs.)
)
 SPARTINA BAY PROPERTY)
 OWNERS ASSOCIATION,)
)
 Defendants.)

* * * * *
 30 (b) (6) DEPOSITION OF SPARTINA BAY PROPERTY
 OWNERS ASSOCIATION, BY APPOINTED DESIGNEE:
 LAWRENCE EDWIN EVANS, II

DATE TAKEN: Thursday, September 5, 2024

TIME: 10:05 a.m.

PLACE: Rosen Hagood
40 Calhoun Street, Suite 450
Charleston, South Carolina

REPORTED BY: EVE WILBANKS
Registered Professional
Reporter, Certified LiveNote
Reporter and Notary Public

* * * * *

POST OFFICE BOX 21119
CHARLESTON, SOUTH CAROLINA 29413

94	<p>1 couple of proxies. Bruce was given the proxy of 2 Tyre Moore and Charles Mock. It says -- Bruce is 3 the president, correct? 4 A. Correct. 5 Q. In the highlighted section it says, 6 first -- 7 A. Highlighted? 8 Q. I'm sorry. It's highlighted on mine. 9 In the first paragraph, "The first subject was the 10 ownership and/or lease of the dock. There has 11 been a good deal of discussion on the question of 12 Spartina's ownership of the dock and the 99-year 13 lease of the land giving dock access. General 14 comments are surprise that Spartina Bay POA does 15 not have a deed to both. There is a question 16 whether any owner was aware of the lease situation 17 prior to closing on their property. Several 18 owners indicate that they were not told of the 19 lease." 20 And if you head down, "Ron Farrell 21 reported that it was his understanding" -- it says 22 "form," but I believe it was "from prior 23 discussions that the dock was deeded to Spartina 24 Bay POA. We cannot locate a copy of the recorded 25 deed, however. And that the strip of land</p>	96	<p>1 from the POA to move forward with hiring a lawyer 2 to potentially obtain a dock easement deed or a 3 lease in perpetuity; is that correct? 4 A. Yes. 5 Q. And this would constitute a directive of 6 the POA under the Declaration and Bylaws, correct? 7 A. Yes. 8 Q. And we'll go through it, but, 9 ultimately, was Ms. DeJong -- but an Easement 10 Agreement with the owners of Lot B for dock access 11 easement is what was secured. And Bruce, as 12 president of the POA, signed as POA president in 13 early 2012; is that correct? 14 A. Do you want to say that one more time 15 for me? 16 Q. Sure. I said, ultimately, it was Ms. 17 DeJong, who was the POA's attorney at the time, 18 had an Easement Agreement filed and recorded with 19 the Charleston County ROD with the owner -- 20 then-owners of Lot B for the dock access easement, 21 and that was signed by Bruce as president of the 22 POA in early 2012; is that correct? 23 MR. SEFARIAN: Object to the form. You 24 can still answer. Go ahead. 25 A. That's an accurate statement from my</p>
95	<p>1 providing access to the dock was leased to the POA 2 under a 99-year term. These discussions also 3 indicated that the reason for the access was not 4 deeded to the POA was that Charleston County would 5 not approve the separation of the land from Lot B 6 as a separate lot. The access land now belongs to 7 Lot B and is leased to the POA until September 8 2100. 9 "It was agreed that either a deed to the 10 dock or a permanent easement should be pursued. 11 The options forward were listed as" -- and you can 12 see there's, hire an outside attorney to do a 13 title search, and then, use Barr, Unger & 14 McIntosh, currently working on the back dues. Or 15 3 is another option. 16 And if you skip down, it says, "It was 17 agreed that Bruce would work with Barr, Unger & 18 McIntosh to (1) provide a copy of the recorded 19 deed to the dock; to obtain either a dock easement 20 or a lease in perpetuity; and if the fees are 21 expected to exceed \$2,000, we have a checkpoint 22 going forward. 23 "The five votes to proceed in this 24 fashion carried." 25 So at this point, we have a directive</p>	97	<p>1 understanding that he signed it. It departs from 2 the -- departs from the procedure that he was 3 given approval to follow. 4 Q. Okay. And why is that? 5 A. Well, he was given approval to work with 6 Barr, Unger & McIntosh, not to work with Karen 7 DeJong. 8 Q. So your sticking point is the fact they 9 moved to a different lawyer? 10 A. Yes. 11 Q. All right. Let's go to 163 and 164. I 12 think this is the next sequential minutes. All 13 right. These are the minutes of November 6, 2010, 14 Spartina Bay POA. Look -- now we have in 15 attendance: Bruce, as president; Ron Farrell, 16 secretary/treasurer; Carroll Griffin; Garland 17 McWhirter; and Jim Cox. And would you agree with 18 me that Jim Cox and his wife were the former 19 owners of Lot B or the Wellses' property? 20 A. I would assume with the name of Cox. I 21 don't know -- I didn't know his first name. 22 Q. All right. Well, let's take a look at 23 section 5. It says, "Dock easement issue: Two 24 days prior to this meeting we were advised by 25 Barr, Unger & McIntosh that contrary to their</p>

98	<p>1 previous indication that the easement area to the</p> <p>2 dock could be parceled off and deeded to the POA,</p> <p>3 Charleston County now indicated that they could</p> <p>4 not approve this section. Unger suggested that</p> <p>5 the next step was to approach the Coxes for a</p> <p>6 perpetual lease. It was pointed out that we have</p> <p>7 spent \$2,650 with Barr, Unger & McIntosh this year</p> <p>8 to accomplish the deeding of this property. After</p> <p>9 a good deal of discussion, there was a general</p> <p>10 feeling of no confidence in Unger, and a motion</p> <p>11 was made by Garland McWhirter to contact the</p> <p>12 Jensen Law Firm to get resolution to the perpetual</p> <p>13 lease issue and to get an estimate of cost to</p> <p>14 update the Restrictive Covenants if changes were</p> <p>15 needed to dock assignments or dock privilege</p> <p>16 language. A motion was seconded by Jim Cox and</p> <p>17 passed unambiguously." That might be unambiguously;</p> <p>18 I don't know. Unambiguously is fine.</p> <p>19 Would you agree with me, at least here,</p> <p>20 that there is a POA directive to move away from</p> <p>21 Barr, Unger & McIntosh to -- now to Jensen Law</p> <p>22 Firm; but for the same purpose, to get some</p> <p>23 perpetual property rights in the dock access area?</p> <p>24 A. Yes.</p> <p>25 Q. And you understand a perpetual property</p>	100	<p>1 themselves as prospective purchasers of Lot 6,"</p> <p>2 and the closing was no later than early June.</p> <p>3 They adopted the minutes from 2010; those were</p> <p>4 passed unanimously.</p> <p>5 Then we go down to "Dock Easement: The</p> <p>6 fact that the perpetual dock easement was</p> <p>7 finalized was announced, and it was stated that it</p> <p>8 was available in digitized form for anyone who</p> <p>9 wanted a copy." Do you see that?</p> <p>10 A. I do.</p> <p>11 Q. So here we have the POA confirming, at</p> <p>12 least in a meeting, that the dock easement had</p> <p>13 been finalized and was available for anyone who</p> <p>14 wanted a copy; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. Are you aware of anybody that requested</p> <p>17 a copy of the easement?</p> <p>18 A. I'm not.</p> <p>19 Q. Are you aware of anyone that disputed</p> <p>20 the fact that the Easement Agreement had been</p> <p>21 finalized?</p> <p>22 A. I can't speak to that.</p> <p>23 Q. Okay. You can't speak to that; you're</p> <p>24 here for the POA?</p> <p>25 A. Right. And we don't have any records</p>
99	<p>1 right is different than a 99-year lease, right?</p> <p>2 A. Yes. Not to me or you, but --</p> <p>3 Q. What's that?</p> <p>4 A. Not to me or you, but it is different.</p> <p>5 Q. And this is the second meeting in a row</p> <p>6 where the POA members at least directed the board</p> <p>7 or officers to secure a lease or easement from the</p> <p>8 owners of Lot B and for the purpose of replacing</p> <p>9 the 99-year lease?</p> <p>10 A. Where are we? Which one?</p> <p>11 Q. I'm just saying, this represents the</p> <p>12 second set of minutes where they have that same</p> <p>13 directive; different law firms, but same</p> <p>14 directive?</p> <p>15 A. Yes, yes.</p> <p>16 Q. Let's go to SBPOA 0161 and 162. And</p> <p>17 these are the meeting minutes from May 12, 2012.</p> <p>18 And here we have, President Bruce...called the</p> <p>19 meeting to order at 1:03 p.m. In attendance were</p> <p>20 Bruce, Ron & Sandy Farrell, Glenn Dill, Pat &</p> <p>21 Garland McWhirter, Ginger & Gary Lee. The Hillses</p> <p>22 and Coxes were not in attendance but submitted</p> <p>23 their proxies to Bruce. There being six votes</p> <p>24 represented, a quorum was established." And it</p> <p>25 looks like "Ginger and Gary Lee introduced</p>	101	<p>1 saying that anybody spoke out against it or</p> <p>2 anything else. We also don't have any records</p> <p>3 that -- there's a document out there; the</p> <p>4 specifics of the document weren't discussed at any</p> <p>5 time.</p> <p>6 Q. There's a document out there that --</p> <p>7 which document?</p> <p>8 A. The perpetual dock easement was</p> <p>9 finalized; let's move on to other business. You</p> <p>10 know, we won't get into the terms of said</p> <p>11 agreement, yeah.</p> <p>12 Q. Sitting here today, are you -- do you</p> <p>13 have --</p> <p>14 A. That's what I'm reading.</p> <p>15 Q. I understand from the minutes. But</p> <p>16 sitting here today, as the POA representative, are</p> <p>17 you aware of any proof that updates were not</p> <p>18 provided to POA members about the Easement</p> <p>19 Agreement during this time?</p> <p>20 A. Only what -- the only updates that we</p> <p>21 have are what we have. There was the -- there was</p> <p>22 the -- there was only the one reported concession</p> <p>23 of paying for 25 percent of the taxes.</p> <p>24 Q. So sitting here today, though, do you</p> <p>25 have any proof that POA members were not updated</p>

102	<p>1 in terms of the specifics of the Easement</p> <p>2 Agreement during this time period?</p> <p>3 A. I don't have any proof that they were</p> <p>4 not any more than I have any proof that they were.</p> <p>5 Q. Okay. Would we have to rely, I guess,</p> <p>6 on POA members at that time for that information?</p> <p>7 A. You would.</p> <p>8 Q. And, then, let's look at page 2; I guess</p> <p>9 it's 0162. It's the same set of minutes, but it's</p> <p>10 just the second page. It provides under "New</p> <p>11 Business" that Ron Farrell indicates --</p> <p>12 A. There you go.</p> <p>13 Q. -- that he's retiring. That's what we</p> <p>14 were talking about earlier. "He also suggested</p> <p>15 that we reform the BOD so it could become more</p> <p>16 active." And you said you believe Ron has passed</p> <p>17 away now; is that right?</p> <p>18 A. Yes.</p> <p>19 Q. How did you learn that information?</p> <p>20 A. Hearsay.</p> <p>21 Q. From -- you heard it from somebody else?</p> <p>22 A. Yeah. Ron Farrell's name has come up a</p> <p>23 number of times; he's in a lot of documents. And</p> <p>24 I know that I heard Link say nice things about</p> <p>25 him. But I am fairly certain it was Link that</p>	104
103	<p>1 told me he had passed away.</p> <p>2 Q. And you don't know where Ron Farrell</p> <p>3 last lived?</p> <p>4 A. I do not.</p> <p>5 Q. I think we can put that one down. Let's</p> <p>6 go to --</p> <p>7 A. Now, we spoke earlier. I'm sorry, if I</p> <p>8 could go back.</p> <p>9 Q. Sure.</p> <p>10 A. We did speak earlier about, you know, if</p> <p>11 anybody had protested. There was one -- it</p> <p>12 appears that Ron and Bruce did a lot by way of</p> <p>13 fax. And there was one fax that Bruce had told</p> <p>14 Ron that the owners were requesting the 25 percent</p> <p>15 tax concession. And Ron responded saying, This is</p> <p>16 something we need to pass through to the</p> <p>17 membership.</p> <p>18 And the next line item was where Bruce</p> <p>19 told Karen DeJong to go ahead and proceed with the</p> <p>20 document. And there's no indication that Ron's</p> <p>21 advice was ever followed.</p> <p>22 Q. And when you say -- so who raised this?</p> <p>23 A. Who --</p> <p>24 Q. Ron raised this?</p> <p>25 A. Ron did. Bruce -- it appears that Bruce</p>	105
104	<p>1 was speaking to Ron, saying that the Coxes now --</p> <p>2 I believe it was the Coxes that signed this</p> <p>3 document. That they had requested a 25 percent</p> <p>4 tax payment, you know, to the house. I think the</p> <p>5 original document was to pay 25 percent on the</p> <p>6 land.</p> <p>7 Q. When you say -- sorry to interrupt.</p> <p>8 When you say the original document, are you</p> <p>9 talking about the lease?</p> <p>10 A. The original lease. I'm sorry. The</p> <p>11 original lease. And so they had asked for this 25</p> <p>12 percent concession to pay for their taxes. And</p> <p>13 that's when Ron advised him, You need to pass this</p> <p>14 to the membership. And the next action item was</p> <p>15 for Bruce to go to Karen DeJong and say, Proceed</p> <p>16 with the agreement.</p> <p>17 Q. And we'll take a look -- just so we</p> <p>18 know, we'll take a look at the lease and the</p> <p>19 Easement Agreement about the 25 percent payment</p> <p>20 terms. We'll come to that.</p> <p>21 A. There's nothing we can find that</p> <p>22 supports that the membership was ever --</p> <p>23 Q. Either way --</p> <p>24 A. Right.</p> <p>25 Q. -- yes or no? So let's go to --</p>	105
105	<p>1 A. Sorry.</p> <p>2 Q. You're fine. Thank you for clarifying.</p> <p>3 Let's go to 145. And this is a longer one. It</p> <p>4 says SBPOA 145, and it goes all the way up to 155.</p> <p>5 I'll represent to you this appears to be the</p> <p>6 meeting minutes for November 6, 2014. It's dated</p> <p>7 November 6, 2014, but it's --</p> <p>8 A. November 1st was the meeting.</p> <p>9 Q. Yeah, November 1, 2014, annual minutes,</p> <p>10 prepared by Ginger Lee, secretary/treasurer. And</p> <p>11 following that, were present at the annual meeting</p> <p>12 was Bruce, president; Glenn Dill, vice president;</p> <p>13 and Jackie Dill; Ginger Lee, secretary and</p> <p>14 treasurer, and Gary Lee; Karen and Steven Rhodes;</p> <p>15 Mr. and Mrs. Bobby Crapps. So it looks like we</p> <p>16 have an appearance by Bobby Crapps for the first</p> <p>17 time.</p> <p>18 A. Yeah.</p> <p>19 Q. Mr. and Mrs. McWhirter; Mr. and Mrs. Jim</p> <p>20 Dorn; Mr. and Mrs. Judy Bessinger were via proxy</p> <p>21 given to Bruce; Mr. and Mrs. John Hamrick, Lot</p> <p>22 10-B, and Mr. and Mrs. Tyre Moore were not</p> <p>23 represented in person or by proxy.</p> <p>24 So again, we have Bruce still as</p> <p>25 president, at least now in November of 2014; is</p>	105

106

1 that right?

2 A. Correct.

3 Q. And then let's look at the second

4 sentence of the next page, "Report of the ARB."

5 It says, "Mr. Dill informed the property owners

6 that he had contacted the original developer and

7 was informed the developer had destroyed all

8 documentation." I was going to ask you about this

9 before I had heard about your phone call today.

10 This is where I saw this in the minutes, that Mr.

11 Boykin had represented that the original developer

12 had destroyed all documentation, and it appears

13 that has been re-confirmed by you.

14 A. Yeah. I wasn't calling him to answer

15 your question about it.

16 Q. Understand. I was going to ask it

17 anyway. And then's let's go -- you can see

18 there's assignments of dock slips. We're not

19 going to need to talk about that. If we could

20 skip down to 147.

21 A. Okay.

22 Q. And here it says, "Access to dock and

23 common area: It was then reported that initially,

24 when the lots were purchased, that there was a

25 99-year lease on the access to the docks for the

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1 property owners. A lawyer was hired to correct

2 this, and an agreement was reached with Lot B

3 property owners and changed the agreement as of

4 December 2012 to a" -- and I believe that's a

5 typo. I think it was before December, but it was

6 2012 -- "to a permanent access to the Spartina Bay

7 Plantation dock and common area. This agreement

8 contained the provision that the POA would pay 25

9 percent of Lot B property owner's taxes in

10 exchange for this permanent access. This has all

11 been recorded and all property owners agreed that

12 they were aware of this amendment." These are the

13 official minutes for 2014, correct?

14 A. Uh-huh.

15 Q. And this is disclosing that indeed the

16 99-year lease for dock access was replaced by an

17 Easement Agreement?

18 A. Right.

19 Q. It also contains information that -- the

20 provision that the POA would pay 25 percent of the

21 Lot B property owner's taxes in exchange for this

22 permanent access, correct?

23 A. Correct.

24 Q. It also says, "This has all been

25 recorded, and all property owners agree that they

108

1 were aware of this amendment," correct?

2 A. Yes.

3 Q. Are you aware, sitting here today, that

4 anyone that -- that any of this information in

5 here is incorrect?

6 A. No. I would just represent that it

7 could be misleading.

8 Q. That it could be misleading?

9 A. Because me, as a new property owner, you

10 can tell me that this is what occurred last year

11 and everybody agreed to it and we all voted on it

12 and accepted that this is what we were going to

13 do, and now I'm stuck with it. Okay. But it

14 doesn't mean that it was done properly at the

15 time.

16 Q. Okay. Do you know whether anybody asked

17 questions or challenged this or --

18 A. Huh-uh, I do not.

19 Q. All right. But the information was

20 presented, and this is the fourth set of minutes

21 where we're talking about replacing the 99-year

22 lease agreement with respect to the dock access

23 area with some permanent access, correct?

24 A. Correct. Which I'll add is something

25 that everyone would desire, a permanent access

109

1 versus a 99-year lease. We certainly have no

2 argument with that.

3 Q. Fair enough. And let's go to -- there's

4 talk on 153 about some new board members being

5 elected, but I don't know that we need to get into

6 that. We can go to the next section, which is

7 SBPOA 362 to 366.

8 I'll represent to you that this is the

9 special meeting agenda and speaking notes for

10 August 14, 2021. We're getting -- we're fast

11 forwarding quite a few years now. We can agree

12 with that?

13 A. Yes.

14 Q. Now this appears to be the meeting that

15 -- you owned your lot, but it was before you were

16 on the board, correct?

17 A. Correct.

18 Q. Or shortly before you were on the board?

19 A. Shortly.

20 Q. This is the agenda and speaking notes.

21 There are a set of minutes, but I just have a

22 couple of questions on this first.

23 Let's look at New Business, item C.

24 A. Sorry. I was looking at something else.

25 Q. Take your time.

110

1 A. Okay.

2 **Q. So it references a handout. It says**

3 **"See handout 2" under "Dock Permit." And some**

4 **specific language about a dock being a community**

5 **dock facility and for private recreational use.**

6 **Do you see that?**

7 A. Yes.

8 **Q. On the next page, under item 4, it's**

9 **discussing the DHEC investigation into the**

10 **Spartina Bay POA community dock, which could**

11 **result in a loss of a permit and/or fines. And**

12 **there's a list of evidence that has been collected**

13 **thus far under 4(a). Do you see that?**

14 A. Yes.

15 **Q. And it looks like there's a handout that**

16 **had to do with that. "The quantity of**

17 **non-repeating, non-residents using the dock for**

18 **either departure/arrival or fish cleaning after**

19 **fishing, both with and without a property owner**

20 **present; commercial website photo posts and**

21 **commercial fishing fee structure posts; Facebook**

22 **commercial photos, fee and message posts; multiple**

23 **owners' interaction with non-residents either**

24 **looking for their boat charter captain or defiling**

25 **a private owner's property by urinating on it**

111

1 **(both verbal and photographic)" -- there's a photo**

2 **in handout 6. And then "Memorandums for record**

3 **concerning noise (some from existing property**

4 **owners and some from outside the community)." And**

5 **so that's, I guess, on that handout. You were not**

6 **at this meeting, correct?**

7 A. I was not.

8 **Q. You're familiar with this issue, though,**

9 **and what this was about, correct?**

10 A. Yes.

11 **Q. And essentially, the majority of this**

12 **stemmed from, I suppose, Mr. Crapps or perhaps**

13 **guests of Mr. Crapps and using the community dock;**

14 **is that correct?**

15 A. Correct.

16 **Q. Mr. Crapps has run a fishing charter**

17 **business in the past; is that correct?**

18 A. He still does.

19 **Q. Still does. Okay. And briefly -- or**

20 **for some period of time, it was -- was it**

21 **operating off the Spartina Bay community dock?**

22 A. Not to our knowledge, no.

23 **Q. Not to your knowledge.**

24 A. The boat was docked there.

25 **Q. It was docked there.**

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1 A. Yes. Which is permitted by DHEC.

2 **Q. But what was not permitted was allowing**

3 **a charter boat to run business off of the**

4 **community dock; is that right?**

5 A. You are not allowed to embark and

6 disembark paying guests.

7 **Q. Right. And I believe this issue stemmed**

8 **from -- it wasn't just Mr. Crapps; there were also**

9 **other people that were with Mr. Crapps or without**

10 **Mr. Crapps going to and from his boat during this**

11 **time period, correct?**

12 A. Correct.

13 **Q. And as the POA representative, do you**

14 **have any proof that those folks that were not Mr.**

15 **Crapps were also not paying customers for a**

16 **charter boat?**

17 A. I do not.

18 **Q. Let's look at D. It says -- this is**

19 **"Pedestrian Access Agreement."**

20 A. I could go back to the last question and

21 say I do not have any information or

22 representation that they were not paying guests

23 any more than I have any evidence that they were.

24 **Q. Right. And there's an e-mail or**

25 **something, but I think you said you would take Mr.**

113

1 **Crapps' word for it.**

2 A. Right.

3 **Q. That's right? So let's go to section D.**

4 **It says the -- they acknowledge that the access to**

5 **the community dock is for pedestrian only. Do you**

6 **see that, under D-2?**

7 A. I do.

8 **Q. And then under No. 3, it says, "In the**

9 **past, the owners of Lot B have, as a courtesy and**

10 **at their sole discretion," in all caps, "allowed**

11 **all the owners of property in Spartina Bay to**

12 **drive down their driveway (the pedestrian access)**

13 **and park in the vicinity of the walkway to the**

14 **pierhead on their private property," again all in**

15 **caps.**

16 **Do you know -- I know you weren't at**

17 **this meeting, but you gave your proxy to Janet; is**

18 **that right?**

19 A. I did.

20 **Q. Did Janet tell you about what the**

21 **response was --**

22 A. Yes.

23 **Q. -- from any of this?**

24 A. Yeah. It was -- I think it was pretty

25 rapid that folks had never seen the document

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1 **Q. They were not there anywhere near the**
 2 **timeframe when the Easement Agreement was**
 3 **negotiated or signed?**
 4 A. No.
 5 **Q. Or even several years after, they**
 6 **weren't there?**
 7 A. Right.
 8 **Q. You again reference the fact that the**
 9 **Easement Agreement wasn't distributed. But I**
 10 **asked you before, you don't have any proof,**
 11 **sitting here today, that the Easement Agreement**
 12 **was not distributed by POA members when it was**
 13 **negotiated back around 2011 or 2012, correct?**
 14 A. I don't have any evidence in either
 15 direction.
 16 **Q. When you're talking about it not being**
 17 **distributed, you're talking about it not being**
 18 **distributed in the timeframe we're talking about,**
 19 **more like 2020; is that right?**
 20 A. I'm just talking about a conversation I
 21 had that the owner of the property didn't know --
 22 **Q. Right.**
 23 A. -- what was in it. And you would have
 24 thought that at least the owner -- forget the
 25 Class A members, but the owner of the property

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1 would have -- especially when he had asked that
 2 they restrict overnight parking, you know, in a
 3 number of cases where they had asked the POA to
 4 step in.
 5 **Q. The Dorns -- obviously, they would have**
 6 **the option to enforce this Easement Agreement or**
 7 **not?**
 8 A. Correct.
 9 **Q. And apparently they -- we don't know**
 10 **when the Dorns became aware of the Easement**
 11 **Agreement, do we?**
 12 A. It appears to me, from what he said, it
 13 was very recent to that conversation we had
 14 because of the manner in which he presented it to
 15 me. It was almost like he was reading it for the
 16 first time.
 17 **Q. They had issues, though, with the access**
 18 **easement area -- dock access easement area also,**
 19 **did they not?**
 20 A. They had some concerns about golf carts
 21 and ATV's going on the walkway itself out to the
 22 pierhead. They didn't want that happening. I
 23 don't know if anybody actually did it or they just
 24 preemptively asked for a restriction on that.
 25 **Q. I'll represent to you, I saw in some of**

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1 **the minutes the Dorns also complaining about there**
 2 **being lots of truck action from Mr. Crapps and his**
 3 **guests.**
 4 A. Didn't hear -- I haven't seen anything
 5 with regard to that other than restriction of
 6 overnight parking. They didn't want to have
 7 trucks parked down there. And I think at one
 8 point they asked that they restrict the size of
 9 the truck so that maybe a dually wouldn't be going
 10 down there or something, a big truck.
 11 **Q. And there's a lot of discussion in here**
 12 **about the -- let's see. I think we already**
 13 **cleared this up, but under the "Summary and Voting**
 14 **Issues," what they're talking about, the**
 15 **complaints I guess were about Mr. Crapps; is that**
 16 **correct?**
 17 A. I'm sorry. Where is it?
 18 **Q. The issues that they're talking about is**
 19 **the removal of Mr. Crapps --**
 20 A. Well, yeah. Right, yeah.
 21 **Q. -- the discussions leading up to that.**
 22 A. Sure.
 23 **Q. And then, finally, it says, Mr. Dill**
 24 **brought the discussion to an end. The vote**
 25 **recorded six not in favor of dismissing Mr. Crapps**

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1 **and four in favor of dismissing." So the motion**
 2 **did not carry, correct?**
 3 **And then, as you said, an election or**
 4 **volunteers were requested to serve on the board.**
 5 **It says no one stepped forward to serve, at least**
 6 **at this point. But then, at the close, Mr. Tyre**
 7 **Moore stated he would serve on the board of**
 8 **directors.**
 9 A. Right.
 10 **Q. Let's go to the next one, which that**
 11 **will be -- 22. So it might be at the very front**
 12 **of your packet. And this will be the last page in**
 13 **this that we need to look at. So this is board of**
 14 **directors, July 6, 2022: Yourself; Mr. Crapps via**
 15 **FaceTime; Mr. Moore via FaceTime; Teresa Roof and**
 16 **Keith Phillips. And it says, "With the recent**
 17 **notice sent to Eddie regarding the easement, Steve**
 18 **now expects no one to use the ingress/egress**
 19 **easement, and our attorney rebutting that the POA**
 20 **recognizes the original 99-year lease on the**
 21 **easement and will abide by this document until**
 22 **this matter is settled. While a couple of POA**
 23 **members were on the property today before Mr.**
 24 **Wells threw up his WTH arms, Eddie said, 'What's**
 25 **up, Steve?' Steve replied, 'Parking,' and Eddie**

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1 into a huge discussion about property law. But
 2 you understand that even when you have an easement
 3 on your property, you still own that property?
 4 A. Sure. You're still paying taxes on it.
 5 Q. Correct. So that property, even the
 6 access -- the dock access area is still the
 7 Wellses' property? Yes?
 8 A. I'll concede that.
 9 Q. So your opinion is, by his removal, you
 10 couldn't lob off a portion of the deck instead of
 11 the entire deck?
 12 A. Correct.
 13 (Deposition Exhibit No. 9, 1292-1294,
 14 was marked for identification.)
 15 BY MR. MULLER:
 16 Q. What has been marked as Exhibit 9 is
 17 SBPOA 1292 to 1294. This is a -- what appears to
 18 be a better version of the e-mail between you and
 19 Steve, where he is requesting documentation that
 20 the POA owns the deck. And your response is
 21 that -- for starters, you begin with an e-mail
 22 with Mr. Dill -- from Mr. Dill that mentions that
 23 community dock. And that was your -- that was one
 24 of your bases, I guess, in terms of --
 25 A. That was just easy picking because it

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1 was recent.
 2 Q. Okay. And you also say --
 3 A. It was just understood that way.
 4 Q. And you're also saying here, I'm not
 5 saying anyone wants to keep it?
 6 A. Right.
 7 Q. So that's a little inconsistent with
 8 wanting to remove a portion of it?
 9 A. I'm just saying, let's take a chance to
 10 meet down there and let's have a discussion about
 11 it and let's see if it truly is deteriorated, if
 12 it needs to be -- if it needs to go. But the
 13 board would at least like to look at it because
 14 some of the board would like to think about being
 15 able to have gatherings down there for the
 16 community. That doesn't just mean for Class A or
 17 Class B or, you know, not -- there still was this
 18 hope that maybe we could mend the fracture. And
 19 then everybody would be down there, and it would
 20 be a good area for everybody to be able to get
 21 together. So let's take a look at it and let's
 22 see.
 23 Q. But in response to this, again, you
 24 didn't provide him any documentation that showed
 25 ownership of it?

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1 A. Obviously there is none.
 2 Q. All right. You can put that aside.
 3 Thank you.
 4 (Deposition Exhibit No. 10, SBPOA 216,
 5 was marked for identification.)
 6 BY MR. MULLER:
 7 Q. This is -- what has been marked as
 8 Exhibit 10 is SBPOA 216. It's an e-mail dated
 9 November 23rd, 2022, from Steve Wells to yourself,
 10 "Eddie, attached is the property tax bill for 1499
 11 Marsh Bluff Court for the 2022/2023 season. Per
 12 the Easement Agreement, the POA is to reimburse 25
 13 percent of this bill. Could you kindly try to get
 14 the payment to me by the end of December of 2022?"
 15 Did the POA pay this tax bill?
 16 A. We did pay it.
 17 Q. Since being on the board, has the POA
 18 paid the 25 percent tax bill of the entire Lot B?
 19 A. Yes.
 20 Q. That's all I needed on that one.
 21 A. I'm not sure if we put -- what's the
 22 term that you use if you're looking to maybe get
 23 it back with prejudice or something? I don't
 24 know. I'm not going to worry about that right
 25 now.

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1 Q. Getting what back?
 2 A. The money back; like we don't
 3 necessarily -- now it's come to our understanding
 4 that maybe if this Lease Agreement is not prudent,
 5 you know, the -- I say not prudent, not viable or
 6 supportable, that we could get the money back
 7 again later on. It seems like we started with
 8 some language about that as of late. I could be
 9 wrong about that.
 10 (Deposition Exhibit No. 11, SBPOA 227,
 11 was marked for identification.)
 12 BY MR. MULLER:
 13 Q. What has been marked as Exhibit 11 is
 14 SBPOA 227. This is an e-mail from Kristen Keller
 15 to yourself. It looks like a bunch of documents
 16 attached. And it says, "Good morning, Mr. Evans.
 17 Attached is the information requested regarding
 18 Spartina Bay community dock. Please let me know
 19 if you need anything else." Did anyone from the
 20 board send a FOIA to DHEC?
 21 A. Yes.
 22 Q. Were these the documents that were
 23 produced by FOIA?
 24 A. I'm pretty certain they are. I think it
 25 was me that sent the FOIA request.

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1 **Q. No, I have not seen that e-mail. So**
 2 **you've never had a conversation with Karen DeJong**
 3 **or anyone from DeJong Law Firm?**
 4 A. Like I said, we spoke when she answered
 5 the phone. And it was a matter of, I'll have to
 6 get back to you. And that was it.
 7 **Q. That was it. In your effort to try to**
 8 **reach out to her, what were you trying to find**
 9 **out?**
 10 A. I wanted to make sure, number one, that
 11 all current documents that were in process were
 12 stopped. And that was the biggest thing I wanted
 13 to get to her. And then I wanted to see, Okay,
 14 what do we have that is actually -- what are you
 15 working on? And, you know, this -- you no longer
 16 work for -- you might work for Glenn Dill, but you
 17 don't work for him as the POA president. And so,
 18 you know, if we had anything -- I wanted to make
 19 sure we weren't obligated for anything. We had a
 20 buffer zone agreement going on at the time. We
 21 had a couple of different things that were
 22 happening. I wanted to make sure I responded to
 23 it.
 24 **Q. As the POA's counsel during the time of**
 25 **the recording -- preparation and recording of the**

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1 **Easement Agreement -- the 2012 Easement Agreement**
 2 **-- you would agree with that, correct, that she**
 3 **was legal counsel related to the 2012 Easement**
 4 **Agreement?**
 5 A. Yes.
 6 **Q. Do you agree that Ms. DeJong potentially**
 7 **could have information with respect to the**
 8 **validity of the Easement Agreement?**
 9 A. Yes.
 10 **Q. And has anyone from the board spoken to**
 11 **her?**
 12 A. No. I would have loved to have talked
 13 to her about it.
 14 **Q. All right. I guess -- in terms of the**
 15 **discussions that -- or knowledge that she may have**
 16 **with respect to that 2012 Easement Agreement and**
 17 **the authority to have it recorded and signed and**
 18 **all that good stuff, I would need to talk to Ms.**
 19 **DeJong about that?**
 20 A. Correct.
 21 **Q. Let's see if I need this one.**
 22 A. And Mr. Dill had extended conversations
 23 with her, I'm sure, about different things. So
 24 whether he would have anything to offer about it,
 25 I don't know.

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1 **Q. And presumably, Bruce would as well?**
 2 A. And Bruce too.
 3 **Q. Because Bruce was president at the time**
 4 **of the Easement Agreement?**
 5 A. Right.
 6 **Q. We're almost done with e-mails.**
 7 **(Deposition Exhibit No. 13, SBPOA 271,**
 8 **was marked for identification.)**
 9 BY MR. MULLER:
 10 **Q. This is Exhibit 13, Bates stamped SBPOA**
 11 **271. This is a follow-up e-mail to Mr. Wells on**
 12 **denying the fence repair; is that correct?**
 13 A. It appears to be, yes.
 14 **Q. Was the reason for the denial of Mr.**
 15 **Wells' fence request based on the existence of the**
 16 **dispute over the access easement?**
 17 A. There were two things. Number one is
 18 the continued use of being a repair versus the
 19 construction. But secondly would be the
 20 construction of anything in the easement area --
 21 the ingress/egress area while this dispute is
 22 being discussed.
 23 **Q. Did Mr. Wells submit plans for that**
 24 **fence repair -- or whatever you want to call it,**
 25 **replacement, to the ARB?**

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1 A. I would have to go back and look and
 2 see. The style and structure of the structure was
 3 of less importance. I'll concede that.
 4 **Q. Did the ARB review those plans, or was**
 5 **this summarily denied, based on the fact that**
 6 **there was a dispute about this access easement?**
 7 A. The disapproval was not because of the
 8 style of the fence. It was more a matter of
 9 denying it because there's no methodology to
 10 postpone it until such time as the dispute is
 11 settled.
 12 **Q. If this dispute is settled, could Mr.**
 13 **Wells approach the ARB with his request to repair**
 14 **or replace that fence again?**
 15 A. No. He could approach the ARB with a
 16 request to erect a fence.
 17 **Q. And I believe there's some wording in**
 18 **one of these e-mails -- and it may not be that**
 19 **one -- where he asks -- specifically asks if him**
 20 **changing it to --**
 21 A. I understand. He did.
 22 **Q. -- a replacement to a repair, if that**
 23 **would change the analysis of the ARB. Would it?**
 24 A. Not for now. Not at this point, no, it
 25 would not.

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1 received a different version of the encounter and
 2 certainly cannot engage in determination of
 3 'guilt.' I understand that loud activity late at
 4 night is unacceptable, but there is no restriction
 5 on dock access at any hour. I am unsure as to how
 6 the lights from an ATV could be directed into the
 7 windows of an elevated home. Not trying to be
 8 funny; just comes across as 'embellished.'"
 9 And he responds, "Eddie, I am not
 10 surprised you received a different version as this
 11 seems to be the case with situations involving
 12 Link. Next time you are down and have time, let
 13 me know and I will show you the video of the
 14 lights and noise caused by the vehicles."
 15 The next time you were down, did you go
 16 over to Steve and get the video?
 17 A. I think he e-mailed it to me.
 18 Q. Okay.
 19 A. Because I remember seeing it. And it --
 20 in my opinion, it didn't support what he was
 21 talking about.
 22 Q. You didn't think there were lights
 23 shining in his windows?
 24 A. There were lights down on the ground
 25 level, not shining up into the house. I mean, I

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1 didn't see it.
 2 Q. You're aware that the Wellses have two
 3 different Ring video cameras?
 4 A. Sure.
 5 Q. I think --
 6 A. I think one -- that's where it came
 7 from.
 8 Q. Right. And one faces that area, I
 9 guess, of Mr. Bennett's property --
 10 A. Right.
 11 Q. -- kind of along the dock access area.
 12 So that automatically captures movement?
 13 A. Sure.
 14 Q. And I'll represent to you that we've
 15 produced this to your legal counsel, a log of all
 16 videos and photos that's automatically recorded.
 17 It's not like Mr. Wells is out there taking the
 18 time to record all of this, but the Ring does it
 19 automatically. So to the extent there are lights
 20 shining in his house or people swearing at his
 21 house and things like that, would you agree with
 22 me that's probably the best evidence is a video of
 23 that?
 24 A. It can be. What I found interesting on
 25 this was that we had a video of lights, but we

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1 didn't have any video of this supposed altercation
 2 and the cussing and the yelling and the loud
 3 voices; that that was surprisingly omitted. So I
 4 don't -- I would suspect that there really wasn't
 5 any of that or it went in the other direction.
 6 Q. Did you see the video of Link --
 7 A. I did.
 8 Q. -- cursing at his house?
 9 A. Oh, yeah.
 10 Q. You saw that one?
 11 A. Oh, yeah.
 12 Q. Because there's proof of that one?
 13 A. No question. No question. I'm not here
 14 supporting Link's actions. But I also feel like
 15 it's Link and he's easy pickings a lot of times,
 16 that everybody will believe that he's doing bad
 17 when maybe necessarily he's not doing bad. He
 18 does enough bad anyway. And I get it.
 19 Q. That required, I think, your
 20 involvement, right, that time that -- I believe
 21 the Wellses weren't even home.
 22 A. They weren't there.
 23 Q. Their mother --
 24 A. Yeah, she was there. Well, she was
 25 inside. It was the Ring. And he's out there and

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1 his buddies are trying to pull him away. He's
 2 drunk, and he's acting inappropriately and
 3 childish. And I hope that one got his attention.
 4 He did send an apology.
 5 Q. Was that at your request that he send an
 6 apology?
 7 A. I won't say it was my request. I just
 8 told him, You need to put on your big-boy pants
 9 and grow up. I said, You need to send an apology,
 10 and you need to stop with all that behavior. He's
 11 got -- he feels provoked. And there's been a lot
 12 that goes back and forth. I'll go back to the
 13 chicken and the egg. That was completely
 14 inappropriate. I don't care what the provocation
 15 is; that's unacceptable and inappropriate. And he
 16 did send the e-mail. And I do believe that he is
 17 getting better.
 18 MR. MULLER: What do you think? Do you
 19 want to take a quick break?
 20 MR. SEFARIAN: I think a break sounds
 21 good.
 22 (The deposition went off the record.)
 23 BY MR. MULLER:
 24 Q. I have one document I want to talk
 25 about. It's a couple of questions, really. This

202	<p>1 A. An extension?</p> <p>2 Q. Yes. There's a deadline.</p> <p>3 A. Oh, there's a deadline, but we were</p> <p>4 still well in front of the deadline. But I called</p> <p>5 her on the phone and talked to her about it. She</p> <p>6 said, Just keep me informed of your progress. It</p> <p>7 was a very nice conversation. She wasn't being</p> <p>8 combative; she wasn't like real hard line about,</p> <p>9 It's gotta be this date. She said, Just keep me</p> <p>10 aware of how we're moving forward. She said, The</p> <p>11 biggest thing is you don't have to remove the</p> <p>12 entire deck; just the part that's in the marsh. I</p> <p>13 said, I'm hoping to meet with the property owner,</p> <p>14 and we'll sit down and talk about it.</p> <p>15 Q. Did you represent to Ms. Woodruff that</p> <p>16 this was -- this deck was owned by the property</p> <p>17 owners association?</p> <p>18 A. I did not. I couldn't say that with any</p> <p>19 -- I couldn't say who it was owned by. I said, We</p> <p>20 consider it to be a community deck, is what I told</p> <p>21 her. I said, The property owner maintains that</p> <p>22 it's his deck. And I said, We're going to try to</p> <p>23 have some resolution with it. We would like to be</p> <p>24 able to keep a portion of it possibly. I said, I</p> <p>25 won't know until -- I'm out of town when I called</p>	204
203	<p>1 her. I said, I'm just getting on a plane to head</p> <p>2 out of town on vacation.</p> <p>3 And we had our conversation. She said,</p> <p>4 That's fine. Just keep me in the loop. She said,</p> <p>5 You'll be fine. So it wasn't like there was some</p> <p>6 imminent fine that was coming down. If it would</p> <p>7 have happened and it would have been our delay,</p> <p>8 yes, we would have paid it.</p> <p>9 Q. You don't know what Ms. Woodruff or</p> <p>10 anybody from DHEC spoke to or told Mr. Wells in</p> <p>11 terms of their deadline --</p> <p>12 A. I don't know -- sorry.</p> <p>13 Q. -- with their deadline for compliance</p> <p>14 with removal?</p> <p>15 A. I knew of the deadline. I don't know</p> <p>16 what they told him, but I did know of the</p> <p>17 deadline. And we were in front of the deadline</p> <p>18 even after the time that he took it out. We still</p> <p>19 had time available.</p> <p>20 Q. Right. But at the time he took it out,</p> <p>21 he had already asked you, as the POA president,</p> <p>22 for any documentation establishing that this was</p> <p>23 in fact owned or constructed by the POA, correct?</p> <p>24 A. Correct.</p> <p>25 Q. And there was no documentation provided?</p>	205
204	<p>1 A. That's correct. I say there was no</p> <p>2 documentation provided. The only thing that I</p> <p>3 provided were the references to the minutes and</p> <p>4 the announcement for the special meeting and all</p> <p>5 that. Not property records.</p> <p>6 Q. Not property records. You provided a</p> <p>7 comment that Mr. Dill had made in -- I don't know</p> <p>8 if that was a meeting announcement.</p> <p>9 A. It was a special meeting.</p> <p>10 Q. They were meeting on a community deck;</p> <p>11 that Mr. Wells then followed up with you and</p> <p>12 mentioned that he, Mr. Dill, had approached Mr.</p> <p>13 Wells for consent to have a meeting on that</p> <p>14 community deck, right?</p> <p>15 A. Yes.</p> <p>16 (Deposition Exhibit No. 20, Plaintiffs</p> <p>17 108-109 - 12/27/22 DHEC letter, was marked for</p> <p>18 identification.)</p> <p>19 BY MR. MULLER:</p> <p>20 Q. Let's look at what has been marked as</p> <p>21 Exhibit 20. Exhibit 20 is a marked Plaintiffs</p> <p>22 108. This is a letter from DHEC to you now, dated</p> <p>23 October 27, 2022. Is there any reason this was in</p> <p>24 Mr. Wells' document production but not the POA's?</p> <p>25 A. No, sir.</p>	205

206	<p>1 been removed from the various websites as 2 required. As such, this compliance action is now 3 closed. Thank you for your attention to this 4 matter." 5 And then it says in the second to last 6 sentence of this letter, "Any further impacts to 7 the critical area without the required permit or 8 authorization will be considered a repeat 9 violation and may result in an enforcement action, 10 which can include the assessment of civil 11 penalties up to \$1,000 per day of violation." 12 Do you take that meaning that if there's 13 more commercial activities -- or that they deem 14 commercial activities occurring on the community 15 dock, that the POA will get assessed a thousand 16 dollars per day fine? 17 A. They could. 18 Q. The same for a deck that was on the 19 Wellses's property that's extending over the 20 critical line? 21 A. It was beyond the critical line. 22 Q. We can probably skip this next Exhibit 23 with a few questions. Do you admit that the 24 \$2,500 individual assessment was paid by the 25 Wellses?</p>	208	<p>1 A. If so ordered. 2 (Deposition Exhibit No. 21, Plaintiffs 3 45-54, was marked for identification.) 4 BY MR. MULLER: 5 Q. And one last -- sorry. Since I have 6 this in my outline for those documents before, but 7 the special assessment that was imposed, in the 8 communications -- 9 A. Individual assessment. 10 Q. I'm sorry. Individual assessment, yes. 11 In the letters about the individual assessment, it 12 noted that failure to pay that would result in the 13 Wellses no longer being members in good standing 14 of the POA; is that right? 15 A. That's correct. 16 Q. That would result in them no longer 17 having any voting rights in the POA, correct? 18 A. That's correct. 19 Q. That would also eliminate any privileges 20 to the common facilities or common property, 21 correct? 22 A. I'm not certain, and I would have to 23 seek legal advice with regard to restricting 24 access. I'm not sure that we can do that. Voting 25 rights, yes. Limiting access, restricting use,</p>
207	<p>1 A. Yes. 2 Q. And it was deposited by the POA? 3 A. Yes. 4 Q. Do you recall receiving a letter from 5 our law firm, indicating that that -- that payment 6 was being made, but it was being made under 7 protest and the reasons why it was invalid? 8 A. I do remember getting that. 9 Q. Okay. Did you or anyone from the board 10 seek legal advice before depositing that check? 11 A. I won't say specifically that we asked 12 is it okay to deposit it; we had already sought 13 legal action to actually make the assessment. 14 Q. Okay. All right. Essentially, the POA 15 was confident enough that removal of that deck, 16 even though it couldn't establish any record of 17 ownership, that an -- that that individual 18 assessment for \$2,500 was proper and properly 19 retained by the POA? 20 A. Correct. 21 Q. If a Judge determines that that deck was 22 not common property or facilities, as it's 23 described in the Declaration, is the POA prepared 24 to return that amount to the Wellses, the \$2,500, 25 along with prejudgment interest?</p>	209	<p>1 I'm not sure we can do that. 2 Q. And I'm including the community dock 3 there. 4 A. Right, right, right. I'm not 5 comfortable saying that we can restrict access by 6 way of good member status. 7 Q. Okay. 8 A. Any more than we could keep them from 9 getting to their house and utilizing our road. I 10 don't believe -- 11 Q. What is your road? 12 A. Marsh Bluff Court, the same as 13 everybody's. I'm not sure it's appropriate that 14 you can restrict anybody, by not paying whatever 15 it is, from their properties. I would consider an 16 assigned boat slip a property. I would. 17 Q. And the community dock, in your opinion, 18 is common property? 19 A. I would have to seek legal advice before 20 I could say. I'm not an expert on that by any 21 stretch. But the fact that you've got a slip -- 22 assigned slip, I... 23 Q. Okay. Let's move on to the next 24 document, then. 25 (Deposition Exhibit No. 22, Lease, was</p>

222	<p>1 (Deposition Exhibit No. 25, First 2 Amendment to Declaration of Restrictive Covenants, 3 Conditions and Restrictions of Spartina Bay 4 Plantation Subdivision, was marked for 5 identification.) 6 BY MR. MULLER: 7 Q. Small font again, so sorry. What has 8 been marked as Exhibit 25 is the First Amendment 9 to Declaration of Restrictive Covenants, 10 Conditions and Restrictions of Spartina Bay 11 Plantation Subdivision; is that correct? 12 A. Correct. 13 Q. Have you seen this document before? 14 A. I have. 15 Q. And it appears that this was made March 16 -- this is in the first paragraph, March 17, 2005, 17 by N.C. Boykin, as Trustee of the Store Creek Land 18 Trust, and N.C. Boykin, as Substitute Trustee of 19 the Peters Point Trust, Barry McRoy, Mark McRoy 20 and Keith McRoy, as owners of Lot 3 of Spartina 21 Bay Subdivision, Ronald F. Farrell, as owner of 22 Lot 4 Spartina Bay Subdivision, hereinafter 23 collectively referred to as declarant; is that 24 right? 25 A. That's right.</p>	224	<p>1 A. We haven't been able to find it. We're 2 not sure that he -- that Cookie actually did it, 3 didn't do it, it's in somebody's locker, or if it 4 got executed at all. 5 Q. And you'll agree with me that in terms 6 of the land designated the strip as the dock 7 easement, there's -- although there may have been 8 an attempt at one point, there's nothing to 9 indicate that the POA owns that property? 10 A. For the strip of land? 11 Q. Right. 12 A. Correct. 13 Q. So is it the POA's position that its 14 right to the community dock is through the Lease 15 Agreement? 16 A. Correct. 17 Q. And I'm sorry. The next page, page 2, 18 that's where it has that language, it says, 19 "Property Owners Association shall receive a deed 20 or a lease for the strip of land designated as the 21 dock easement and a bill of sale for the dock 22 prior to the first sale of the first lot within 23 the subdivision." That's what I was hoping to 24 read. And obviously, there was no -- initially, 25 anyway, there was no deed for that strip of land</p>
223	<p>1 Q. And the purpose of this Declaration, if 2 you look down in No. 1 -- do you see that? 3 A. Right. 4 Q. "Amend Article VI, Section 1, as stated 5 in the Original Declaration of Restrictive 6 Covenants, Conditions and Restrictions of Spartina 7 Bay Plantation Subdivision, dated October 13, 8 2001, and recorded in the RMC Office for 9 Charleston County in Book D-385 at page 260 to 10 read as follows." So essentially, they're 11 substituting the language in the original 12 Declaration and incorporating this language; is 13 that right? 14 A. That's right. 15 Q. And some of it is similar to what is -- 16 what was in the original version, but Section 1 is 17 about ownership and use of the dock. "The 18 Property Owners Association shall own or lease the 19 dock, as shown on the permit attached to the 20 Original Declaration of Restrictive Covenants." 21 And skipping forward, it says "As 22 Exhibit C, as well as the strip of land designated 23 as dock easement on a plat referred to in Exhibit 24 B." Did the POA ever obtain a bill of sale for 25 the dock?</p>	225	<p>1 designated as a dock easement? 2 A. Correct. 3 Q. And there is an amendment to Exhibit B 4 in the second part, do you see that, No. 2? 5 A. Yes. 6 Q. "Amend Exhibit B as referred to in the 7 original Declaration of Restrictive Covenants" as 8 follows. And then they -- what's included here, 9 I'll represent to you, we'll look at the 10 Declaration next, but this is a different plat 11 reference. This is reference to the plat of 12 Robert L. Frank, RLS No. 4177, entitled "Boundary 13 Survey Abandonment and Dock Easement Adjustment of 14 Lot B," located on Edisto Island, again, recorded 15 in Plat Book EG at 457; is that right? 16 A. Isn't that the last one we looked at? 17 Q. Bingo. Essentially what I am getting at 18 here is that the POA, through adopting this First 19 Amendment, Exhibit B, it modified the physical 20 easement area from the initial Declaration and 21 that plat from Fowler to the easement area being 22 the plat from Robert L. Frank; would you agree 23 with that? 24 A. It appears so. 25 Q. Let's jump back to the lease real quick.</p>

230	<p>1 Q. The IRS got involved?</p> <p>2 A. That's what prompted the consideration</p> <p>3 of the 99-year lease, because they thought that</p> <p>4 the IRS or federal government or the U.S.</p> <p>5 Marshals, or whoever it was, was going to take the</p> <p>6 property and deny all access to the community</p> <p>7 dock. And then it got -- I think Bruce looked in</p> <p>8 a little deeper, and realized the 99-year lease</p> <p>9 and he worried that his kids' kids' kids might not</p> <p>10 be able to use it and whatever. So I believe</p> <p>11 that's what all prompted it.</p> <p>12 Q. Right. Because if the federal</p> <p>13 government was owed money or something like that,</p> <p>14 they could do what they want?</p> <p>15 A. Right. That's why they wanted a deed.</p> <p>16 Q. That's why they wanted something</p> <p>17 perpetual rather than a 99-year lease?</p> <p>18 A. They wanted a deed. Because even with a</p> <p>19 perpetual, it doesn't matter if it's leased; it's</p> <p>20 leased. If the federal government is going to</p> <p>21 come in and take it, they're going to take it.</p> <p>22 Q. Right. But I saw reference in those</p> <p>23 minutes -- not just a deed but they also mention a</p> <p>24 perpetual --</p> <p>25 A. Secondary.</p>	232	<p>1 Q. But considering all these discussions</p> <p>2 and all these property owners have happened since</p> <p>3 Cookie Boykin's ownership in -- whenever that was,</p> <p>4 in mid 2000's, correct?</p> <p>5 A. But then you look around at all the</p> <p>6 other properties and they've swapped around an</p> <p>7 awful lot as well. So I can't say it's really</p> <p>8 anything out of the norm.</p> <p>9 Q. And I'm not saying it's out of the norm.</p> <p>10 I guess I'm looking at a -- I'm trying to</p> <p>11 understand why the owner of Lot B wouldn't have</p> <p>12 come to the POA and say, Listen, you know 25</p> <p>13 percent of this -- 25 percent of the tax is under</p> <p>14 this Lease Agreement, and I'm just saying, could</p> <p>15 that have been a factor in the fact that there</p> <p>16 were a lot of owners, it was in receivership for a</p> <p>17 while, so potentially they may not have known?</p> <p>18 A. I don't think the owners of Lot B maybe</p> <p>19 knew that they were --</p> <p>20 Q. That's what I mean.</p> <p>21 A. -- owed any money.</p> <p>22 Q. That's what I'm getting at. Maybe not</p> <p>23 the POA, but the Lot B owners?</p> <p>24 A. And I don't think the POA recognized</p> <p>25 that they even needed to pay it to them.</p>
231	<p>1 Q. -- or a perpetual easement as well; is</p> <p>2 that right?</p> <p>3 A. That's correct.</p> <p>4 Q. So the idea was, whether it was a deed,</p> <p>5 lease or an easement, something perpetual rather</p> <p>6 than a lease that has a hard stop date?</p> <p>7 A. Correct.</p> <p>8 Q. Do you agree that that was a fair</p> <p>9 concern?</p> <p>10 A. Not particularly.</p> <p>11 Q. Well, in looking at hindsight somewhat?</p> <p>12 A. Well, it's on the radar. It would be a</p> <p>13 concern to me. But a whole lot less --</p> <p>14 Q. Do you think the fact that that property</p> <p>15 was in receivership status or whatever it was, in</p> <p>16 limbo, I guess, for a while, could that have</p> <p>17 factored in on why the owner of Lot B was not</p> <p>18 insisting on a payment of their tax -- of the</p> <p>19 POA's tax obligations under the Lease Agreement?</p> <p>20 A. I think it wasn't known. I think it</p> <p>21 just wasn't a consideration.</p> <p>22 Q. And to be fair, Lot B did switch</p> <p>23 ownership quite a bit over the years?</p> <p>24 A. Right. Well, I don't know how many</p> <p>25 times, but --</p>	233	<p>1 Q. If nobody is asking...</p> <p>2 A. I think if they would have known, they</p> <p>3 would have looked at the clause too that said --</p> <p>4 (inaudible).</p> <p>5 THE COURT REPORTER: I'm sorry. What</p> <p>6 was to be adjusted?</p> <p>7 A. That if they had looked at the clause</p> <p>8 that the tax payment needed to be adjusted because</p> <p>9 of improvements to the property long past due.</p> <p>10 Q. And as -- in the POA's perspective, what</p> <p>11 would that look like for adjustment based upon</p> <p>12 property values?</p> <p>13 A. I don't know.</p> <p>14 Q. It's fairly ambiguous.</p> <p>15 A. It is. It is. But obviously, the tax</p> <p>16 bill for a completed house is significantly more</p> <p>17 than just raw land. So you would probably look to</p> <p>18 adjust it to a percentage that maintained the tax</p> <p>19 at a certain level. You know, it would go up.</p> <p>20 But let's just say you were paying a hundred</p> <p>21 dollars before you built the house on it, and now,</p> <p>22 all of a sudden, the property tax goes from being</p> <p>23 -- because the \$100 represented \$400 in taxes.</p> <p>24 Now, all of a sudden, the tax bill goes to \$3,000.</p> <p>25 Well, you're still looking to pay a hundred</p>

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1 **Q. So let's look at this broad -- let's**
 2 **look at this from a broad perspective. For any**
 3 **property owners association in the State of South**
 4 **Carolina, be it Kiawah Island Community**
 5 **Association, Wild Dunes, any of these big**
 6 **associations, we have to go through every single**
 7 **set of meeting minutes to determine what was done**
 8 **and that there was a vote to make sure that those**
 9 **actions were approved; otherwise, we could go back**
 10 **and negate any contract, any deed. Does that make**
 11 **sense? Going back, what, 50 years, 75 years? How**
 12 **far do you want to go back?**
 13 A. Sure.
 14 **Q. We could challenge things back from as**
 15 **long as these POA's have existed?**
 16 A. That's you all's arena, not mine. I
 17 don't want anything to do with that. But, you
 18 know, when you start getting into the finer
 19 details, it is like how far do you go? I mean,
 20 and that extends -- I don't mean to be
 21 philosophical, but it extends to all of this land
 22 grab that's been going on through all these
 23 decades and centuries.
 24 **Q. I guess what I'd like to ensure, a lack**
 25 **of minutes on a particular action doesn't**

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1 **invalidate the action? Do you understand what I'm**
 2 **asking?**
 3 A. I do. But I also contend that -- you
 4 know, a lot of these things carry huge
 5 consequences. So just because somebody says it
 6 happened, doesn't mean it did, any more than it
 7 doesn't mean that it didn't. And so that's why I
 8 know you guys in particular want to document
 9 everything that you possibly can. Because, if you
 10 don't, it very likely didn't happen, especially
 11 when you've got folks out there looking to do
 12 things for their own interest. And so I don't
 13 have a better answer for you.
 14 **Q. But essentially, it is -- I'm just**
 15 **trying to clarify the POA's position for the**
 16 **record, is that any action from a property owner**
 17 **association in South Carolina has to be reflected**
 18 **in the minutes from the board of directors or it**
 19 **is invalid?**
 20 A. I can't say that. I mean, I can't say
 21 that's our position. It's the way we want to
 22 carry out our business. We think it's proper and
 23 prudent that we maintain records of everything
 24 that we do and make sure that we have a vote and
 25 all the rest of it, we're all having a consensus.

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1 **Q. Fair enough. But you'll agree with me**
 2 **that it doesn't say that in this Declaration or**
 3 **Bylaws, that failure to keep minutes invalidates**
 4 **an act?**
 5 A. It doesn't say a lot of things. So, you
 6 know...
 7 **Q. Would you agree with me?**
 8 A. It doesn't say that.
 9 **Q. Thank you. Look at Article X. That's**
 10 **"Contracts, Loans, Checks and Deposits." It's**
 11 **Book D-385, page 298.**
 12 A. Got it.
 13 **Q. We're just about done with this**
 14 **document. Let's look at Section 1, "Contracts.**
 15 **The directors may authorize any officer or**
 16 **officers, agent or agents to enter into any**
 17 **contract or execute and deliver any instrument in**
 18 **the name of and on behalf of the association, and**
 19 **such authority may be general or confined to**
 20 **specific instances." Do you see that?**
 21 A. I do.
 22 **Q. Do you disagree with that?**
 23 A. No.
 24 **Q. Do you agree with me that this**
 25 **contemplates that the directors may authorize one**

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1 **or more officers to execute and deliver any**
 2 **contract or instrument in the name of and on**
 3 **behalf of Spartina Bay POA?**
 4 A. That's the way it reads.
 5 **Q. Does it say anywhere in this provision**
 6 **that this authorization has to be in writing?**
 7 A. No, it does not.
 8 **Q. You can put that aside for a second.**
 9 **(Deposition Exhibit No. 28, 4/10/22**
 10 **letter - Plaintiffs 94, was marked for**
 11 **identification.)**
 12 BY MR. MULLER:
 13 **Q. What's been marked as Exhibit 28 is a**
 14 **letter from April 10, 2012, Bates stamped**
 15 **Plaintiffs 0094. Have you seen this document**
 16 **before?**
 17 A. I have not.
 18 **Q. You have not?**
 19 A. I don't believe so.
 20 **Q. Well, take just a second to look that**
 21 **over.**
 22 A. I do have a recollection, though, of "We
 23 have not had a meeting for two years." So maybe I
 24 have seen this.
 25 **Q. I guess the first question again, any**



<p style="text-align: right;">Page 1</p> <p>1 STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON COUNTY OF CHARLESTON) PLEAS 2) NINTH JUDICIAL CIRCUIT 3) CASE NO. 2022-CP-10-04952 4 STEPHEN C. WELLS AND) RANDI P. WELLS,) 5) DEPOSITION OF: PLAINTIFFS,) GLENN DILL 6 vs.) 7 SPARTINA BAY PLANTATION) PROPERTY OWNERS') 8 ASSOCIATION, INC.,) DEFENDANT.) 9 10 11 DATE: Thursday, August 22, 2024 12 TIME: 9:58 a.m. 13 LOCATION: Earhart Overstreet 878 Whipple Road, Suite 200 14 Mount Pleasant, South Carolina 29464 15 REPORTER: Michele Darling Neville, RPR 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 2</p> <p>1 A P P E A R A N C E S 2 For Plaintiffs: Rosen Hagood By: Timothy J.W. Muller, Esquire 3 40 Calhoun Street, Suite 450 Charleston, South Carolina 29401 4 E-mail: tmuller@rosenhagood.com 5 For Defendants: Earhart Overstreet By: Steven R. Kropski, Esquire 6 By: Maxwell J. Seferian, Esquire 878 Whipple Road, Suite 200 7 Mount Pleasant, South Carolina 29464 E-mail: steve.kropski@earhartoverstreet.com 8 E-mail: max.seferian@earhartoverstreet.com 9 10 I N D E X 11 WITNESS PAGE 12 Glenn Dill 13 Examination by Mr. Kropski.....4 14 Examination by Mr. Muller.....87 15 Examination by Mr. Kropski.....114 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 3</p> <p style="text-align: center;">E X H I B I T S</p> <table border="1"> <thead> <tr> <th>EXHIBIT</th> <th>DESCRIPTION</th> <th>PAGE</th> </tr> </thead> <tbody> <tr> <td>3 D1</td> <td>Letter dated 8/1/2024</td> <td>4</td> </tr> <tr> <td>4 D2</td> <td>E-mails</td> <td>26</td> </tr> <tr> <td>5 D3</td> <td>E-mail dated 7/23/2022</td> <td>40</td> </tr> <tr> <td>6 D4</td> <td>Complaint form</td> <td>56</td> </tr> <tr> <td>7 D5</td> <td>Easement agreement</td> <td>64</td> </tr> <tr> <td>8 D6</td> <td>Restrictive covenants</td> <td>74</td> </tr> <tr> <td>9 D7</td> <td>Letter dated 4/10/2012</td> <td>100</td> </tr> <tr> <td>10 D8</td> <td>Meeting minutes-5/12/2012</td> <td>101</td> </tr> <tr> <td>11 D9</td> <td>SBPPOA operating rules</td> <td>103</td> </tr> <tr> <td>12</td> <td></td> <td></td> </tr> <tr> <td>13</td> <td></td> <td></td> </tr> <tr> <td>14</td> <td></td> <td></td> </tr> <tr> <td>15</td> <td></td> <td></td> </tr> <tr> <td>16</td> <td></td> <td></td> </tr> <tr> <td>17</td> <td></td> <td></td> </tr> <tr> <td>18</td> <td></td> <td></td> </tr> <tr> <td>19</td> <td></td> <td></td> </tr> <tr> <td>20</td> <td></td> <td></td> </tr> <tr> <td>21</td> <td></td> <td></td> </tr> <tr> <td>22</td> <td></td> <td></td> </tr> <tr> <td>23</td> <td></td> <td></td> </tr> <tr> <td>24</td> <td></td> <td></td> </tr> <tr> <td>25</td> <td></td> <td></td> </tr> </tbody> </table> <p style="text-align: right;">Page 4</p> <p>1 P R O C E E D I N G S 2 Thereupon, GLENN DILL, the Deponent, called for 3 examination by Counsel for Defendants and, after having 4 been duly sworn by the notary, was examined and 5 testified as follows: 6 EXAMINATION BY COUNSEL FOR THE DEFENDANT 7 BY MR. KROPSKI: 8 Q All right. Good morning, Mr. Dill. We just met. 9 My name is Steve Kropski. This is my colleague Max 10 Seferian; we are lawyers for the Spartina Bay POA. 11 And you are here under a subpoena you received; is 12 that correct? 13 A Yes. 14 Q Okay. And that was from -- with respect to a 15 lawsuit filed by Stephen Wells and Randi Wells against the 16 Spartina Bay Property Owners' Association? 17 A Correct. 18 Q You're aware of that? 19 A I am. 20 Q All right. We'll mark this real quick as exhibit 21 A or exhibit 1. 22 [Defendant's Exhibit Number 1 was marked for 23 identification.] 24 BY MR. KROPSKI: 25 Q Before we get going on the deposition, have you</p>	EXHIBIT	DESCRIPTION	PAGE	3 D1	Letter dated 8/1/2024	4	4 D2	E-mails	26	5 D3	E-mail dated 7/23/2022	40	6 D4	Complaint form	56	7 D5	Easement agreement	64	8 D6	Restrictive covenants	74	9 D7	Letter dated 4/10/2012	100	10 D8	Meeting minutes-5/12/2012	101	11 D9	SBPPOA operating rules	103	12			13			14			15			16			17			18			19			20			21			22			23			24			25		
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1 Bay Plantation Property Owners' Association, Inc. This was
 2 signed two months or so after you bought your lot; right?
 3 Or bought your house?
 4 A After we closed, yes.
 5 Q Closed.
 6 A Yeah.
 7 Q Right. Were you involved in the negotiation of
 8 this purported easement agreement?
 9 A I was not.
 10 Q Were you involved in any meetings in which this
 11 was approved by the members or the board?
 12 A I was not.
 13 Q Are you aware whether this was approved by the
 14 member of the board of directors, this specific document?
 15 When it was signed?
 16 A Only from a verbal statement. I'm not aware -- I
 17 don't have any documentation on that. And I received this
 18 document, I mean, within -- within a couple of months of
 19 when it was signed. Ron Ferrell sent it to me, okay? And
 20 he said, I know you closed. We didn't know you were in the
 21 process or something.
 22 Anyway, I know you were -- you just closed your
 23 house, and you may not be familiar with this, and I wanted
 24 to provide it to you. And my wife and I sat down and read
 25 it.

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1 And I said, Look, we've got an option here. We
 2 can object or we can agree. And we both said, we don't find
 3 any problem with that, let's just do what that easement
 4 agreement says. We're fine with it.
 5 Q Okay. You were not -- you were not part of a vote
 6 on this easement agreement; right?
 7 A No.
 8 Q When it was signed by Mr. Matrisciani.
 9 Okay. And you have no opinion on whether this is
 10 enforceable or not; is that a fair statement?
 11 A No.
 12 Q You think it's enforceable?
 13 A I do.
 14 Q Okay. As a stickler for the rules--
 15 A My position--
 16 Q -- are you aware that Mr. Matrisciani testified
 17 there was no meeting regarding this document?
 18 A I don't know what he did.
 19 Q Okay.
 20 A What he testified.
 21 Q If it was never approved by--
 22 A Would that be--
 23 Q If this was not approved by the board or the
 24 members--
 25 A The membership would have had to approve it.

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1 Q Correct.
 2 A And I rather doubt that he would have testified
 3 that the membership didn't approve it.
 4 Q Well, you're a stickler for the rules; right?
 5 A That's right.
 6 Q We had a meeting; right?
 7 MR. MULLER: Object to the form.
 8 THE WITNESS: You don't have to have a meeting in
 9 person.
 10 BY MR. KROPSKI:
 11 Q You need someone -- you need an agreement of the
 12 members to this specific--
 13 A I'll give you an example. I wanted to carry out
 14 an action as -- well, maybe I won't give it to you then,
 15 okay.
 16 Q No, I'm just saying--
 17 A You can mail out, ask for an affirmative vote.
 18 You can call. You can get an e-mail. There are lots of
 19 ways to communicate. I don't know what was done there
 20 because it was before -- BM. Before me, you know? But...
 21 Q It was after you.
 22 A I mean, the activity leading to it was before me.
 23 Q Okay.
 24 A Okay? As I understand it. But I don't have any
 25 firsthand knowledge of that, all right? All I have is

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1 assertions from others, okay? But I believe it's valid.
 2 There's a couple of reasons why, since you're pressing the
 3 issue, I believe it's valid.
 4 Number one, because I know Bruce, I know he's an
 5 honest man, and he wouldn't have falsified this or forged it
 6 it or made it up. And I knew Ron Ferrell, okay, as well,
 7 because I met him later.
 8 The other reason is because this document was
 9 prepared by an attorney who practices right here, and it was
 10 duly recorded. And I have subsequently dealt with that
 11 attorney and required an amendment to our covenants. And
 12 that attorney was so thorough, I thought I was going to
 13 throw up with everything that she wanted as evidence of what
 14 was going -- what supported the change to those covenants.
 15 In fact, when I said, Look, I have all the votes
 16 here, I will scan and send these votes to you from all the
 17 people; she said, I want the originals.
 18 Q Okay.
 19 A And I hand carried the originals to her. And she
 20 -- so I know her activity then was probably -- I say
 21 probably, the way she always conducted her business, and she
 22 would have been very thorough with Mr. Matrisciani before
 23 she would have taken this and filed it. That's all I got to
 24 say on that.
 25 Q Do you know what speculation is?

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1 it says: As you know, we have been working on obtaining a
2 perpetual easement to the dock area to replace the 99-year
3 term that has been in effect. This agreement has been
4 agreed to and recorded. Attached is a copy for your
5 information and records. The agreement is digitized.
6 Please advise Ron Ferrell if you would like to receive a
7 copy by e-mail.
8 And it does also recognize that they haven't had
9 an in-person meeting for a while. But do you -- have you
10 seen this document before?
11 A Yes.
12 Q Did you receive this back in April of 2012 or
13 there around?
14 A Yes.
15 Q Okay. By conclusion, I can assume that -- strike
16 that.
17 Do you -- during your -- around that time frame,
18 did anyone express any comments or concerns that they had
19 not received a copy of this easement agreement or disagreed
20 with the contents of the easement agreement?
21 A No.
22 Q Okay.
23 [Defendant's Exhibit Number 8 was marked for
24 identification.]
25 BY MR. MULLER:

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1 Q Mr. Dill, what's been marked as exhibit 8 are the
2 minutes of the POA meeting from May 12th, 2012. I believe
3 this is probably the first, you know, annual meeting
4 following the recording of the pedestrian easement at issue
5 in this case that was recorded earlier in 2012.
6 A Right.
7 Q It says at the top that the president,
8 Matrisciani, called the meeting to order. In attendance
9 were Bruce, Ron and Sandy Ferrell, yourself, and the
10 McWhirters and the Lees. The Hills and the Coxes were not
11 in attendance but submitted their proxy to Bruce. Do you
12 recall this meeting at all?
13 A Yes.
14 Q It says, down below, docks easement. The fact
15 that the perpetual dock easement was finalized was
16 announced, and it was stated it was available in digitized
17 form for anyone who wanted a copy.
18 Do you have any knowledge, being in attendance at
19 this meeting, that they had been trying to work on that for
20 a while, trying to get an easement to replace that 99-year
21 lease with respect to the access area for the dock?
22 A I don't know how long. My impression was that it
23 took a while -- took a while to get -- sort of get the
24 thoughts together and then present them to the people and
25 get the votes back from the people. I don't know how long

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1 that took, though. But I know that it took a little effort
2 to get ahold of a lot of absentee owners and that sort of
3 thing.
4 Q But is it your understanding that the owners at
5 that time had a general understanding that there was an
6 effort to obtain an easement on lot B, an access easement,
7 to replace the 99-year lease provisions?
8 A Yes.
9 MR. KROPSKI: Objection to the form.
10 BY MR. MULLER:
11 Q If you recall, was there any objections at this
12 meeting, this being the first annual meeting about the
13 recording of the access easement, by the board president on
14 lot B?
15 A There were no objections.
16 Q Okay. Just one more here, and we'll be done with
17 documents. This is 9.
18 [Defendant's Exhibit Number 9 was marked for
19 identification.]
20 BY MR. MULLER:
21 Q Mr. Dill, what's been marked as exhibit 9 in your
22 deposition is something called Spartina Bay Property Owners'
23 Association, SBPPOA, Incorporated operating rules, with a
24 date of June 1, 2021. The Bates stamp in the bottom right
25 hand corner is SBPOA 09902. I'll represent to you that that

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1 was -- that these are a set of documents that were produced
2 by the POA in discovery in this case.
3 Have you ever seen this document?
4 A Yes.
5 Q Can you just tell me generally, just generally
6 speaking -- let me say, starting at 904, it looks like
7 there's a different version of these rules, but they're
8 dated from July 17th, 2019. So if you skip back, it looks
9 like there's a different version starting on--
10 A Yeah.
11 Q But just generally speaking, what are we looking
12 at here?
13 A We're looking at covenant compliant set of
14 operating rules that the board has the authority to
15 implement if they wish. And predominantly precipitated by
16 -- precipitated by malconduct on the part of Mr. Crapps, and
17 in which put us at substantial risk as an association of
18 being -- could be at risk of being sued.
19 Late night activity. Lots of drinking. Lots of
20 noise. Real loud noise. Those kinds of things that --
21 particularly the people that suffered the most on that were
22 Jim and Jan Dorn. You know? Because they were right there
23 adjacent to the dock.
24 But also we -- and also we had issues with boat
25 length and our insurance coverage. We had boats that

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1 operating and maintenance manual. Which is a requirement of
 2 the permitting process. And back when DHEC inspected our
 3 dock, they said this is the first one we ever went to where
 4 you were actually complying with the permit requirement.
 5 You know? And posting this stuff.
 6 Q What happened to those set of operating rules that
 7 were posted on the community dock? Are they still there
 8 today?
 9 A No.
 10 Q What happened to them?
 11 A Well, after the new board was comprised, Mr.
 12 Crapps tore them down. And the permit. Tore it out of its
 13 holder. And wadded -- rolled it up and was done with it.
 14 And I went back to the new board and showed them the
 15 requirement within the dock permit to have these things
 16 posted, you know?
 17 And begrudgingly, I'm sure, but nonetheless, it
 18 magically -- an old, wadded up copy of the ones they tore
 19 off the dock appeared in my mailbox. I don't know who put
 20 it there. And I went to the computer and pulled the file
 21 up, reprinted it and put it back. And it's still out there
 22 today.
 23 Q And you're talking about the permit?
 24 A Yeah.
 25 Q Okay. Are the operating rules--

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1 A No.
 2 Q -- still out there?
 3 A No.
 4 Q They're not.
 5 A They rescinded the operating rules.
 6 Q They did rescind them? By vote?
 7 A By vote.
 8 Q Okay. When was that, do you know?
 9 A Shortly after they took office. I'm going to say
 10 whenever they -- maybe the meeting -- once they all self-
 11 appointed, okay, themselves to the board, okay?
 12 Q And could it be that some of those current board
 13 members just don't like these rules?
 14 A It could be.
 15 Q Right. Okay.
 16 A Which by the way, I think they're perfectly
 17 reasonable. But the fact that -- I mean, if you find
 18 something in here not in compliance with the covenants, I'd
 19 like to know. Or the permit for the dock. Man, I'd be the
 20 first one to say let's strike that. But I don't think we
 21 have it.
 22 Q And I guess the last thing, and we can stop
 23 talking about this. But I think you also said earlier today
 24 you believe -- your current understanding is that you
 25 believe that the lease is in effect; is that right? At

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1 least to the -- at least as to the community dock area, the
 2 POA's lease of the community dock; is that right?
 3 A That's right.
 4 Q And you believe that the Wells own the community
 5 dock as part of their property?
 6 A I do.
 7 Q Okay. Do you know what the consequence would be
 8 for the POA if they violate a term of that 99-year lease?
 9 A Well, if it were me, and that's the only way I
 10 know how to answer that, is if it were me, I'd give them
 11 notice, give them a right to cure the violation, and in the
 12 absence of curing it, I would seek legal grounds to have it
 13 rescinded.
 14 Q And finally, one last thing I wanted to talk
 15 about. Briefly brought up the deck. I don't think we've
 16 really talked about it. But there was a deck or a platform
 17 that used to previously exist, at least partially within
 18 that access easement area on the Wells' property. Are you
 19 familiar with that deck?
 20 A I am.
 21 Q All right. You agree with me that that deck was
 22 removed; is that correct?
 23 A That's correct.
 24 Q As part of that DHEC -- those DHEC communications,
 25 are aware that they required removal of that deck because it

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1 was over the critical line?
 2 MR. KROPSKI: Object to the form.
 3 THE WITNESS: I am.
 4 BY MR. MULLER:
 5 Q All right. Do you have any information or
 6 knowledge of whether the POA itself built, owned, or paid
 7 for the materials that were part of that deck?
 8 A I don't know. But I know who the leadership of
 9 the POA has been since I've been there. And that deck was
 10 there before that, but the leadership was in place before
 11 that. So before it was removed -- or before we arrived.
 12 And none of them -- and when I say "them," I mean
 13 Karen, who was president for a while, she didn't put any
 14 money in it. She didn't oversee putting any money in it.
 15 Bruce didn't oversee putting any money in it. And so I
 16 don't know beyond that. It's my view that the developer
 17 built that as a sales tool. If I were developing property,
 18 as I have over the years, I would have enjoyed building
 19 that. But I don't know who actually put the money up for
 20 it.
 21 Q And I was going to say, is it possible that any of
 22 the owners subsequent -- of lot B subsequent to the
 23 developer could have put that deck in?
 24 A It is. Possibly. Possible. It is possible, I
 25 suppose.

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1 Q Would you agree with me that that deck is within
2 the -- is on the Wells -- or was, excuse me, on the Wells'
3 property?
4 A It was. And it was structurally not sound. It
5 was at the point where the major support portions of it were
6 compromised due to constant exposure of water and so forth.
7 So in other words, they were rotting out.
8 And it was on their -- and it was on their
9 property. And I have -- any number of surveys over the --
10 that I've seen, that none of which reflect that deck on any
11 of them. On the surveys. So I don't -- I think it was on
12 their property and...
13 Q And you're not aware of any bill of sale, deed, or
14 any document that would convey ownership of that deck that
15 used to exist on the Wells' property that was removed to the
16 property owners' association?
17 A I'm not.
18 Q All right. Are you aware that the Wells were
19 fined a special assessment of \$2,500 for removing that deck
20 on their own property?
21 A I am.
22 Q Are you aware that they paid that in protest?
23 A I've heard that. I don't know -- I'm not sure
24 where, but I have heard that they got fined and had to pay
25 an assessment, you know.

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1 Q Do you have any knowledge of the fact that they
2 were threatened with being revoked their members in good
3 standing as part of POA if they didn't pay a \$2,500 fine for
4 removing a deck on their own property?
5 A No, I didn't know.
6 MR. MULLER: I think that's all I have for you.
7 Unless you've got some crazy amount of additional
8 questions.
9 EXAMINATION BY COUNSEL FOR THE PLAINTIFFS
10 BY MR. KROPSKI:
11 Q Just on number 8, this exhibit, if you don't mind,
12 taking a look at it.
13 A Yeah.
14 Q When we look at number 8, the third paragraph
15 down, it says: Garland moved that the minutes of November
16 6th, 2010 be approved as written?
17 A Yeah.
18 Q Bruce seconded it, and it was approved
19 unanimously; right? You see that?
20 A I see it.
21 Q Then there's -- down in the financial report: A
22 motion was made by Glenn Dill to -- at the bottom. To
23 accept the report, seconded by Garland, and approved; right?
24 A Right.
25 Q If you look at the dock easement, there's no

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1 motion for a vote or anything. Are you aware of any
2 document within the POA in which a motion for a vote on the
3 dock easement was ever conducted?
4 A No.
5 MR. KROPSKI: Okay. That's all I have.
6 MR. SEFERIAN: I think we're good.
7 MR. MULLER: I think we're good.
8 MR. KROPSKI: Thank you, Mr. Dill, for coming in.
9 MR. SEFERIAN: Thank you very much for your time.
10
11 Deposition concluded at 1:01 p.m. and the deponent
12 reserved his right to read and sign his deposition
13 testimony.]
14
15
16
17
18
19
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21
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24
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1 ESQUIRE ERRATA SHEET
2
3 Esquire Job ID: j11579315
4 Case Caption: Stephen C. Wells and Randi P. Wells vs.
5 Spartina Bay Plantation Property Owners' Association, Inc.
6
7
8 DECLARATION UNDER PENALTY OF PERJURY
9 I declare under penalty of perjury that I have read the
10 entire transcript of my deposition taken in the
11 above-captioned matter or the same has been read to me and
12 the same is true and accurate, save and except for changes
13 and/or corrections, if any, as indicated by me on the
14 DEPOSITION ESQUIRE ERRATA SHEET hereof, with the
15 understanding that I offer these changes as if still under
16 oath. Signed on the ____day of _____, 20____
17
18 _____
19 Glenn Dill
20
21
22
23
24
25

Spartina Bay Plantation



April 10, 2012

To: Spartina Bay POA Members

As you know we have been working on obtaining a perpetual easement to the Dock area to replace the 99 year term that has been in effect. The agreement has been agreed to and recorded. Attached is a copy for your information and records. *THE AGREEMENT IS DIGITIZED, PLEASE ASK RON FARRELL IF YOU WOULD LIKE TO RECEIVE A COPY BY EMAIL,*

We have not had a meeting for two years and in order to keep the Association legal and functioning, we must have one. One of the members has requested that we improve the roads by laying gravel and there are other items that need to be discussed. Accordingly, our President, Bruce is calling a meeting on May 12, 2012 at his home, 1440 Marsh Bluff Court. The agenda will be:

1:00 PM

1. Call to order
2. Approval of the Nov 6, 2010 minutes
3. Dock easement
4. Usage of dock by non owners
5. Financial Report
6. Road improvement.
7. Common property maintenance
8. New Business
9. Adjournment

If you are unable to attend please indicate your proxy by returning this to:

Spartina Bay POA
c/o Ron Farrell
42 Eel Island
Edisto Island, SC 29438
Or email to: ronfarrell@bellsouth.net

Voting Proxy for Spartina Bay May 12, 2012

I hereby authorize _____ to vote for lot _____ as she/he sees fit, without limitation or exception, on any business calling for a vote at the above meeting.

Signed: _____ Printed name _____ lot# _____



The motion was made to accept the minutes and Treasurer's report and seconded, the motion carried.

Report of the ARB

Mr. Glenn Dill was called upon to give the Report on the ARB Committee. Mr. Dill informed the property owners that he had contacted the original developer and was informed the developer had destroyed all documentation. The Current Board of Directors ended up serving as the ARB Board Members since no one else was available to serve. Mr. Dill reported that that the directors were tasked with establishing policy for the POA defining body. He explained that it was also the responsibility of the officers to implement that policy. Mr. Dill stated that the covenants and by laws were written to benefit the developer, not the property owners, at the onset. There are many outdated references that need to be corrected as well as vague statements that allow variable interpretations. Glenn prepared detailed documentation concerning the ARB guidelines for our consideration.

Clarification of dock slip assignments:

Dr. Steven Rhodes asked a question as to when the last amendment was made to our documents. It was determined that November of 2006 was the last recorded date. The 1st amendment to the declaration of Covenants was then determined to be on March 17th, 2005. This amendment assigned deeded dock slips to individual lot owners.

The following was reviewed:

Mr. Matriscini ,	Lot 5 assigned Slip H
Mr. & Mrs. Dill,	Lot 3 assigned Slip G
Mr. & Mrs. McWhirter	Lot 7 assigned Slip A
Mr. & Mrs. Moore	Lot 8 assigned Slip D

Mr. & Mrs. Dorn	Lot B assigned Slip B
Mr. & Mrs. Lee	Lot 6 assigned Slip E
Mr. & Mrs. Crapps	Lot 4 assigned Slip C
Drs. Rhodes	Lot 1 assigned Slip F

Access to dock and common area:

It was then reported that initially, when the lots were purchased, that there was a 99-year lease on the access to the dock for the Property Owners. A lawyer was hired to correct this and an agreement was reached with Lot B property owners that changed the agreement, as of December 2012, to a permanent access to the Spartina Bay Plantation dock and common area. This agreement contained the provision that the POA would pay 25% of Lot B property owner's taxes in exchange for this permanent access. This has all been recorded and all property owners agreed that they were aware of this amendment.

Collection of Dues

Mr. Dill then reported that we only bill for dues and that our documentation says that we cannot use our dues for any purpose other than administration purposes. We have been using them for other purposes such as dock repair and regular maintenance of the road. The goal is to bring us into compliance with our governing documents and collect monies for specific purposes rather than have a community fund for all activities. We have a collective goal to bring the association into compliance with our governing documents.

It was then asked if there was any old unfinished business. None was stated.

Spartina Bay Plantation

Minutes of the POA meeting – May 12, 2012

President Bruce Matriscini called the meeting to order at 1:03 PM. In attendance were Bruce, Ron & Sandy Farrell, Glen Dill, Pat & Garland McWhirter, Ginger & Gary Lee. The Hills and the Coxs were not in attendance but submitted their proxies to Bruce. There being 6 votes represented, a quorum was established.

Ginger and Gary Lee introduced themselves as prospective purchasers of Lot 6 and indicated that closing should occur no later than early June.

Garland moved that the minutes of the Nov. 6, 2010 minutes be approved as written. Bruce seconded the motion and it was approved unanimously.

Dock Easement

The fact that the perpetual dock easement was finalized was announced and it was stated that it was available in digitized form for anyone who wanted a copy.

Usage of dock by non owners

The policy that dock usage was limited to owners and guests with non owners prohibited from leaving a boat at the dock when they were not a guest of the owner or for any unreasonable time was reviewed.

Financial Report

The following reports were reviewed:

2011 P&L and balance sheet

2012 YTD P&L

At the time of this report we had \$5,196.43 in the bank with \$1,300 dues outstanding. In the day subsequent to the report being written, \$1000 of the outstanding dues was collected. We now have \$6196.43 in the bank and \$300 outstanding.

A motion was made by Glen Dill to accept the report, seconded by Garland and approved.

Road Improvement

There is a request to put gravel on the roadway to improve on the dust situation. A proposal for approx. \$6,000 was reviewed. A question relative to whether we could pay any of this out of general funds was answered by indicating that we budget frugally and normally spend most of the fund in the year on normal upkeep. Any significant new expenditure would require an

Minutes of the Nov. 6, 2010 Spartina Bay POA Meeting

The meeting was called to order at 1:14 PM by President, Bruce Mastriscini.

In attendance: Bruce Mastriscini, Pres.
 Ron Farrell, Sec/Treasurer
 Carroll Griffin
 Garland McWhirter
 Jim Cox

Proxies: Ron Farrell was given the proxy of Kathryn Hitchings-Hill. The six votes represented signified a quorum.

1. **Approval of the Oct 1, 2009 minutes:** The minutes of the Oct 17, 2009 meeting were read. Carroll Griffin moved to accept them as written, Ron Farrell seconded the motion. The motion was accepted unanimously.
2. **Dock maintenance:** Bruce indicated that the following maintenance was suggested for the dock:
 - a. Pull all loose nails and replace them with screws. This would be a PPOA member volunteer project currently scheduled for Sat. Dec 4 at 12:00 noon. Bring your drill driver.
 - b. Pulling cross tie bolts and installing galvanized washers. Cost estimate: \$1995.
 - c. Pressure washing and sealing the dock. Cost estimate: \$1995.

It was decided to table this discussion until the financials and proposed were reviewed.

3. **Usage of dock by non owners:** There has been a boat at the dock for the past year. Original permission was given by owner, Charlie Mock to a friend. The Covenants were reviewed and it was agreed that any non owner was not permitted to have any long term use of the facility. After a good deal of discussion on who was responsible to enforce this, Ron Farrell made a motion that it should be the POA's responsibility and that Bruce should handle it any way he sees fit. Seconded by Jim Cox and approved unanimously.

During this discussion, dock assignment was discussed. Bruce produced a First amendment to the Restrictive Covenants dated March 22, 2005 which outlined assignments. Pat McWhirter indicated that he did not agree with his assignment under that document. This is a recorded document. Pat and Garland McWhirter will review their counter documentation and provide any required update.

4. **POA usage of outside contractors insurance:** Bruce asked if the POA was using contractors who were not bonded or did not carry Workman's Comp Insurance; would we be liable for any accidents or injuries. Pat McWhirter indicated that as long as they were contractors, not employees, the POA was not liable.
5. **Dock easement issue:** Two days prior to this meeting we were advised by Barr, Unger & McIntosh that contrary to their previous indication that the easement area to the dock could be

parceled off and deeded to the POA, Charleston County now indicated that they would not approve this action. Unger suggested that the next step was to approach the Cox's for a perpetual lease. It was pointed out that we have spent \$2,650 with Barr, Unger & McIntosh this year to accomplish the deeding of this property. After a good deal of discussion there was a general feeling of no confidence in Unger and a motion was made by Garland McWhirter to contact the Jensen Law Firm to get resolution to the perpetual lease issue and to get an estimate of cost to update the Restrictive Covenants if changes were needed to dock assignments or dock privilege language. The motion was seconded by Jim Cox and passed unambiguously.

6. **Financial Report and 2011 Budget Approval.** The attached documents: Profit & Loss vs. Budget 2010, Balance Sheet as of Nov 5, 2010, and Proposed 2011 Budget were reviewed. The only discussion was to indicate that the two \$1995 dock projects be shelved for the time being. Garland McWhirter motioned to accept the report and proposed budget. It was seconded by Carroll Griffin and approved unanimously. This indicates that dues will remain \$400 "A" members and \$300 "B" members for 2011.
7. **Adjournment:** There being no matters of new business, Garland motioned for adjournment, seconded by Jim Cox and so approved. Adjourned at 3:14 PM.

Minutes of the October 17, 2009 Spartina Bay POA Meeting

The meeting was called to order at 11:07 AM by President Bruce Matriscini

In attendance: Bruce Matriscini, Pres.
Ron Farrell, Sec/ Treas
Caroll Griffin, Owner

Proxies: Bruce Matriscini was given the proxies of Tyree Moore and Charles Mock.

The first subject was the ownership and/or lease of the dock. There has been a good deal of discussion on the question of Spartina's ownership of the dock and the 99 year lease of the land giving dock access. General comments are surprise that Spartina Bay POA does not have deed to both. There is a question whether any owner was aware of the lease situation prior to closing on their property. Several owners indicate that they were not told of the lease.

Ron Farrell reported that it was his understanding from prior discussions that The dock was deeded to Spartina Bay POA (we cannot locate a copy of the recorded deed, however) and that the strip of land providing access to the dock was leased to the POA under a 99 year term. These discussions also indicated that the reason that the access was not deeded to the POA was that Charleston County would not approve the separation of the land from Lot B as a separate lot. The access land now belongs to Lot B and is leased to the POA until September 2100.

It was agreed that either a deed to the dock or a permanent easement should be pursued. The options forward were listed as:

1. Hire an "outside" attorney to do a title search and recommend a way forward.
2. Use Barr, Unger and Macintosh, who is currently working on recovering back dues from Lot B.
- 3.

Carroll Griffin indicated that he had a meeting with Bubba Unger on another matter recently, and the subject arose. He stated that Bubba said the Charleston County may be willing to reconsider the deeding of the easement land. The discussion indicated that Bubba probably had instant access to the recorded dock deed and that he had all of the information and contacts to most readily pursue the easement deed/permanent lease issue.

It was agreed that Bruce would work with Barr, Unger and Macintosh to:

1. Provide a copy of the recorded deed to the dock,
2. to attain either a dock easement deed or a lease in perpetuity.
3. And that if fees are expected to exceed \$2,000, we have a check point going forward.

The five votes to proceed in this fashion carried.

FINANCIALS

The second item on the agenda was the financial report. The P&L and the Balance Sheet through Oct. 14, 2009 and the proposed 2010 Budget (attached) were presented. The largest expenditure was the

Minutes of the Spartina Bay Annual POA Meeting

March 28, 2009

The meeting was called to order by the President, Bruce Mastriscini at 1:10 PM.

In attendance: Bruce Mastriscini, Ron Farrell

Not in attendance: Everybody else.

Subjects discussed:

Security: There has been some non-resident traffic in Spartina and in one instance, some personal property stolen from the dock area. One approach to attempt to control this is to erect a Private Property sign at the entrance. Bruce will pursue at a cost of approximately \$50.00.

Maintenance:

Common property: Grass cutting will continue at \$60 per mow as needed and road leveling at \$150 per time.

Dock: Reply from members indicates that there is no support for spending on dock repair. Bruce and Ron will volunteer to hammer down protruding nails. Any other volunteers are most welcome.

1499 Marsh Bluff: This is Cookie's old home. It was purchased by C&D Distributors of Lexington, SC. The principle of C&D was indicted by the US Government on contract fraud and a US Gov lien was placed on the property. The property is three years (\$1100) in arrears on dues. The Govt lien precludes any additional liens being placed on the property. It appears that the only recourse that we have is to plead with the court to recognize our liability and attempted to have it collected at the closing assuming the house is sold. We have asked an attorney to so plead.

The other issue is that this property owns the piece of common property along side which serves as access to the docks. Spartina Bay has a 99 year lease on that property. In addition to the pleading for back dues, we wish to make the court and any potential buyer remindful of that issue. In addition we will be pursuing a termination of that lease and deeding of the property to the POA. This was originally rejected by Charleston County. They would not agree to allow that small piece of land be separately deeded.

There being no matters of new business the meeting was adjourned at 1:50 PM.

Respectfully submitted,

Ron Farrell

Treasurer & Secretary,

Spartina Bay Plantation Property Owners Association (SBPPOA), Inc.
1424 Marsh Bluff Court
Edisto Island, S.C. 29438



June 1, 2021

Note: These Operating Rules of the SBPPOA Inc. are established in accordance with the Covenants and Restrictions of the SBPPOA Inc., Exhibit D, ByLaws, Article VI and such other multiple references establishing their validity and the authority of the Board of Directors to establish same.

SBPPOA Inc. OPERATING RULES

1. **DOCK HOURS:** Normal operating hours for the docks and walkway to the docks are hereby established to be the hours between one hour before sunrise and one hour after sunset with the intent to provide for the safety of the owners since there are no lights on the walkway and limited rails on the dock access gangplanks and docks themselves. Another intent of this operating rule is to provide for the harmonious and safe enjoyment of the common elements by all property owners in accordance with the provisions of the Declaration of Restrictive Covenants of the SBPPOA Exhibit D, By Laws, Article II (Purposes and Objectives), Section 1. and Article V, (Use Restrictions) Section 12 (Noxious Activity), of the Declaration of Restrictive Covenants of the SBPPOA. Access during hours other than normal operating hours by property owners and their accompanied guests must be with the highest possible degree of caution and with the greatest possible effort to be quiet and considerate of others. Property owners and their accompanied guests accessing the walkway and docks after normal operating hours bear and accept total responsibility for both safety and quiet, considerate behavior.

2. **DOCK ACCESS/USAGE:**
 - A. Dock access across Lot B is a pedestrian access only by easement agreement. SBPPOA owners enjoy access by vehicle at the discretion of the Property Owners of Lot B. At this time the Property Owners of Lot B are permitting access by vehicular traffic limited at any one time to a single automobile, single axle pickup truck of one ton or less, single axle ATV or golf cart per property owner. No commercial vehicles and no dual and/or tandem axle vehicles may be taken to or left at the dock walkway access point. Any vehicle not owned by a property owner must be accompanied by the property owner. No motorized vehicle may be driven onto the walkway or dock except for small handicap scooters. No vehicle of any type will be parked within 12 feet directly in front of the outswing side of the access gate to the Lot B owner's back yard. The owners of Lot B retain their right to rescind, at their sole discretion, all vehicular access or vehicular access for any individual property owner or guest at any time by written notice to the Board of Directors, SBPPOA Inc. Clearly it is imperative for each of us conscientiously comply with this paragraph if we wish to retain this vehicular access privilege.
 - B. Additionally, the docks and pier head are for joint use of the property owners and no private dock boxes, carts, boat or water sports equipment or other items may be left on the docks except that carts used to move items to a boat for a day trip may be left on the dock until the boat returns or 18 hours, whichever is less. Trash will be removed daily from the trash container and properly disposed of by the owner/guest who placed it there.

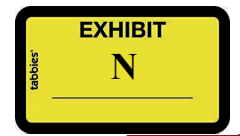
3. **BOAT LENGTH:** No watercraft hull greater than 1/3 longer than its assigned slip length may be moored at the dock in such a way that it encroaches into another slip or projects longitudinally more than 1/3 of the slip length beyond the outermost edge of the floating dock to which it is moored. Notwithstanding the previous, if the

owner of a slip which is not being used provides the SBPPOA, Inc. written permission for a contiguous slip's watercraft to encroach into the unused slip, a watercraft greater than 1/3 longer than its slip length allocation may be moored on the two slips combined providing said watercraft does not exceed the total length of the two slips combined. The owner of the slip being used by another owner, assumes joint liability for the conduct of the owner using said slip. See (Article II, Sec.7 of Exhibit D, By Laws of the Declaration of Restrictive Covenants, of the SBPPOA, Inc.) and (Article III, Sec.3 of Exhibit D, By Laws of the Declaration of Restrictive Covenants, of the SBPPOA). Watercraft which exceed their assigned slip length by more than 1/3 of the slip length may be moored solely in the Property Owner's assigned slip providing the Property Owner which owns the watercraft provides an engineering report to the SBPPOA Inc. Board of Directors executed by a structural engineer licensed in South Carolina which stipulates that the loads imposed on the SBPPOA Inc. dock are not greater than the structural capability of the dock.

4. **COMMERCIAL ACTIVITIES:** No SBPPOA, Inc. property owner or guest may advertise or conduct commercial activities of any nature from any portion of the common elements or their lot, IAW Article V, Sec.1 of the Declaration of Restrictive Covenants, of the SBPPOA and the DHEC permit/operations manual for the dock both of which limit dock usage to private residential use only. The intent of this operating rule is to insure that all owners can harmoniously and safely enjoy both their private lots and the common elements of Spartina Bay Plantation as a single family residential neighborhood while complying with the provisions of our liability insurance and the DHEC dock permit.

5. **PENALTIES:** For the first violation of these operating rules or the Covenants of the SBPPOA, Inc., the Board of Directors will have the President or Vice President issue a written notice to the violating property owner requesting that the owner cease and desist with the violation. A second violation will result in a \$100 violation penalty assessment, a third violation will result in a \$500 violation penalty assessment and a fourth will result in a suspension of the owner's right to use all the common elements (see Article VIII, the Declaration of Restrictive Covenants, of the SBPPOA) except Marsh Bluff Ct. road to the point of intersection with the SBPPOA owner's property or driveway. Any penalty assessment remaining unpaid 30 days past the date of issuance will result in the owner being placed in "not in good standing" status and the immediate suspension of the property owner's right of use of the common elements except for Marsh Bluff Ct. road to the intersection of their property or driveway. The suspension of the owner's right to use may remain in effect without limitation of time should the violation be uncured or the penalty assessment(s) or any portion thereof remain unpaid.

6. **ROAD:** Marsh Bluff Ct. is a private road owned and maintained by SBPPOA Inc. Its maintenance generally represents one of SBPPOA Inc.'s largest expenses on annual basis. With the exception of critical life safety issues, operation of a vehicle of any type by owners and/or their guests must be at a speed equal to or less than 15 miles per hour as posted at the entrance to Spartina Bay. Vehicle speed above this figure tends to cause the gravel on the road to be displaced onto the landscaped shoulder of the road which then damages the mowing equipment used by the SBPPOA Inc. landscape contractor. Rapid acceleration and deceleration while driving on Marsh Bluff Ct., particularly at the junction of Marsh Bluff Ct. and Peters Point Road is prohibited. Penalties for failure to comply with this provision are identical to those stated in Para. 5, PENALTIES, above.



< access

Dictionary

Thesaurus

access 1 of 2 noun

ac·cess ('ak-,ses ◀▶) *also* (ik-'ses ◀▶)

[Synonyms of access >](#)

- 1 a** : permission, liberty, or ability to enter, approach, or pass to and from a place or to approach or communicate with a person or thing
 Investigators wanted to get *access* to his home.
 consultants who have easy *access* to the president

b : freedom or ability to obtain or make use of something
 paying for *access* to the Internet

c : a way or means of entering or approaching
 A canal provides *access* to the river.
 a building that provides wheelchair *access* [=a way for people in wheelchairs to enter]

d : the act or an instance of [accessing](#) something
- 2 a** : **ONSET sense 2**
 an *access* of illness

b : a fit of intense feeling : **OUTBURST**
 If it had been in Tito's nature to feel an *access* of rage, he would have felt it against this bull-faced accomplice.
 — George Eliot
- 3** : an increase by addition
 a sudden *access* of wealth



Dictionary

Thesaurus

: to get at : to gain access to: such as

a : to be able to use, enter, or get near (something)

accessed the computer by phone

a system that makes it easier to *access* the money in your bank account

b : to open or load (a computer file, an Internet site, etc.)

a file that can be *accessed* by many users at the same time

Noun

attack

bout

case

fit

seizure

siege

spell

turn

Verb

enter

penetrate

pierce

[See all Synonyms & Antonyms in Thesaurus >](#)

Noun



Dictionary

Thesaurus

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Noun

Join Fox News for **access** to this content Plus special access to select articles and other premium content with your account - free of charge.

– Chris Massaro, *Fox News*, 31 Jan. 2025

Getting **access** to the job is the biggest role of DEI.

– Phillip Molnar, *The Mercury News*, 31 Jan. 2025

Verb

Griggs did acknowledge recent innovation in the private sector has allowed companies to **access** more liquidity and continue to raise funds without launching an IPO.

– Emily Glass, *CNBC*, 1 Feb. 2025

The best way to safeguard yourself from malicious links that install malware, potentially **accessing** your private information, is to have antivirus software installed on all your devices.

– Kurt Knutsson, *Cyberguy Report*, *Fox News*, 1 Feb. 2025

[See all Example Sentences for access](#) >



Dictionary

Thesaurus

Noun

Middle English, "entrance, approach, attack of illness, fever, lovesickness," borrowed from Anglo-French & Latin; Anglo-French *accēs* "attack of illness," (Old French also "liberty to approach"), borrowed from Latin *accessus* "approach, means of entry, right of approach, onset (of fever or illness)," action noun derived from *accēdere* "to approach" — more at [ACCEDE](#)

Verb

derivative of [ACCESS entry 1](#)

First Known Use

Noun

14th century, in the meaning defined at [sense 2a](#)

Verb

1953, in the meaning defined [above](#)

Time Traveler

The first known use of *access* was in the 14th century

[See more words from the same century](#)

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[access time](#)

[gain/get access to](#)

[grant/deny access to](#)

[limited-access](#)

[public access](#)



Dictionary

Thesaurus

Commonly Confused Words Quiz

A List of Most Commonly Confused Words

'Access' and 'Excess'

accept the fact that

access

access clerk

See More Nearby Entries >

Style

MLA

"Access." *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/access>. Accessed 4 Feb. 2025.



Dictionary

Thesaurus



Facebook



Twitter

access 1 of 2 noun

ac·cess ('ak-,ses )

- 1 : permission or power to enter, approach, or make use of
access to secret information
 Internet *access*
- 2 : a way or means of approach
 a nation's *access* to the sea

access 2 of 2 verb

: to get at : gain access to

access noun

ac·cess ('ak-,ses )

often attributive



Dictionary

Thesaurus

- 2** : opportunity for sexual intercourse
- 3** : a landowner's legal right to pass from his or her land to a highway and to return without being obstructed
- 4** : freedom or ability to obtain, make use of, or participate in something
the right to equal treatment holds with respect to a limited set of interests — like voting — and demands that every person have the same *access* to these interests
— L. H. Tribe
- 5 a** : a way by which a thing or place may be approached or reached
- b** : passage to and from a place
provide a means of *access* to the land
- 6** : opportunity to view or copy a copyrighted work

English: [Translation of *access* for Spanish Speakers](#)

Britannica English: [Translation of *access* for Arabic Speakers](#)

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Dictionary

Thesaurus

Quordle

W	O	R	D	Y
L	O	V	E	R
P	L	A	Y	S
D	A	I	L	Y

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Birds Say the Darndest Things

10 Words from Taylor Swift Songs (Merriam's Version)

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Dictionary

Thesaurus

Quordle

Can you solve 4 words at once?

Play

Blossom Word Game

Pick the best words!

Play

Missing Letter

A daily crossword with a twist

Play

Odd Word Out: Phrases Quiz

Spot the word that doesn't fit

Take the quiz

Learn a new word every day.
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SUBSCRIBE



Dictionary

Thesaurus

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Black's Law Dictionary (12th ed. 2024), ingress

INGRESS

Bryan A. Garner, Editor in Chief

[Preface to the Twelfth Edition](#) | [Guide to the Dictionary](#) | [Legal Maxims](#) | [Bibliography of Books Cited](#)

ingress (in-gres) (15c) **1.** The act of entering. **2.** The right or ability to enter; access. Cf. [EGRESS](#).

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Black's Law Dictionary (12th ed. 2024), egress

EGRESS

Bryan A. Garner, Editor in Chief

[Preface to the Twelfth Edition](#) | [Guide to the Dictionary](#) | [Legal Maxims](#) | [Bibliography of Books Cited](#)

egress (ee-gres) (16c) **1.** The act of going out or leaving. **2.** The right or ability to leave; a way of exit. Cf. [INGRESS](#).

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Black's Law Dictionary (12th ed. 2024), easement

EASEMENT

Bryan A. Garner, Editor in Chief

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easement (eez-mənt) [Old French *aisement* “convenience, comfort, ease, right to use a thing,” fr. *aisier* “to ease, to give what is necessary.”] (14c) *Property*. **1.** An interest in land owned by another person, consisting in the right to use or control the land, or an area above or below it, for a specific limited purpose (such as to cross it for access to a public road). • The land benefiting from an easement is called the *dominant estate*; the land burdened by an easement is called the *servient estate*. Unlike a lease or license, an easement may last forever, but it does not give the holder the right to possess, take from, improve, or sell the land. The primary recognized easements are (1) a right-of-way, (2) a right of entry for any purpose relating to the dominant estate, (3) a right to the support of land and buildings, (4) a right of light and air, (5) a right to water, (6) a right to do some act that would otherwise amount to a nuisance, and (7) a right to place or keep something on the servient estate. **2.** A document granting such an interest; specif., an easement deed or easement agreement. **3. EASEMENT AREA.** — Also termed *private right-of-way*; *easement agreement*. See [SERVITUDE \(2\)](#). Cf. [PROFIT À PRENDRE](#).

“An easement creates a nonpossessory right to enter and use land in the possession of another and obligates the possessor not to interfere with the uses authorized by the easement.” [Restatement \(Third\) of Property: Servitudes § 1.2\(1\)](#), at 12 (2000).

- **access easement** (1933) An easement allowing one or more persons to travel across another's land to get to a nearby location, such as a road. • The access easement is a common type of easement by necessity. — Also termed *easement of access*; *easement of way*; *easement of passage*.
- **adverse easement** See [prescriptive easement](#).
- **affirmative easement** (1881) An easement that forces the servient-estate owner to permit certain actions by the easement holder, such as discharging water onto the servient estate. — Also termed *positive easement*. Cf. [negative easement](#).

“Positive easements give rights of entry upon the land of another, not amounting to profits, to enable something to be done on that land. Some are commonplace, examples being rights of way across the land of another and rights to discharge water on to the land of another. Others are more rare, such as the right to occupy a pew in a church, the right to use a kitchen situated on the land of another for the purpose of washing and drying clothes, and the right to use a toilet situated on the land of another.” Peter Butt, *Land Law* 305 (2d ed. 1988).

- **agricultural-preservation easement** See [land-conservation easement](#).
- **ancillary easement** See [secondary easement](#).
- **apparent easement** (1851) A visually evident easement, such as a paved trail or a sidewalk.
- **appendant easement** See [easement appurtenant](#).
- **appurtenant easement** See [easement appurtenant](#).
- **avigational easement** (1962) An easement permitting unimpeded aircraft flights over the servient estate. — Also termed *avigation easement*; *aviation easement*; *flight easement*; *navigation easement*.
- **blanket easement** (1917) See [floating easement](#).

- **common easement** (18c) An easement allowing the servient landowner to share in the benefit of the easement. — Also termed *nonexclusive easement*.
- **conservation easement** (1965) *Property*. A real-estate covenant binding a parcel of land in a way that preserves a native plant or animal, a natural or physical feature of the land, or some aspect of the land that has some historical, cultural, or scientific significance. • The easement is a recorded, perpetual, individually tailored agreement creating a nonpossessory interest in real property, the interest being held by a government entity or by a qualified nonprofit. It permanently restricts or imposes affirmative obligations on the property's owner or lessee to retain or protect natural, scenic, or open-space values of real property, ensure its availability for agricultural, forest, recreational, or open-space use, protect natural resources and habitat, maintain or enhance air or water quality, or preserve the historical, architectural, archeological, or cultural aspects of the real property while allowing the landowner to continue to own and use the land, sell it, or transfer it to heirs. — Also termed *conservation agreement*; *conservation covenant*; *conservation servitude*; *conservation restriction*.
- **construction easement** (1938) The right to use another's property as a staging area for a construction project, usu. including the right to move onto and keep on the property, for use on the project, equipment, supplies, and materials. • Construction easements are usu. temporary. — Also termed *laydown easement*; *construction laydown easement*.
- **construction laydown easement** See *construction easement*.
- **continuous easement** (1863) An easement that may be enjoyed without a deliberate act by the party claiming it, such as an easement for drains, sewer pipes, lateral support of a wall, or light and air. — Also termed (in Louisiana) *continuous servitude*. Cf. *discontinuous easement*.
- **customary easement** (1838) An easement that belongs to the public in general as established by traditional use. — Also termed *easement by custom*.
- **determinable easement** (1889) An easement that terminates on the happening of a specific event.
- **discontinuous easement** (1867) An easement that can be enjoyed only if the party claiming it deliberately acts in some way with regard to the servient estate. • Examples are a right-of-way and the right to draw water. — Also termed *discontinuing easement*; *noncontinuous easement*; *nonapparent easement*; (in Louisiana) *discontinuous servitude*. Cf. *continuous easement*.
- **easement appurtenant** (1810) An easement created to benefit another tract of land, the use of easement being incident to the ownership of that other tract. — Also termed *appurtenant easement*; *appendant easement*; *pure easement*; *easement proper*. Cf. *easement in gross*.
- **easement by custom** See *customary easement*.
- **easement by estoppel** (1907) A court-ordered easement created from a voluntary servitude after a person, mistakenly believing the servitude to be permanent, acted in reasonable reliance on the mistaken belief.
- **easement by express grant** See *express easement*.
- **easement by express reservation** See *express easement*.
- **easement by grant** (1852) An easement that is created for or transferred to another person.
- **easement by implication** See *implied easement*.
- **easement by implication from description of land** See *implied easement*.
- **easement by implied grant** See *implied easement*.
- **easement by implied reservation** See *implied easement*.
- **easement by necessity** (1865) An easement created by operation of law because the easement is indispensable to the reasonable use of nearby property, such as an easement connecting a parcel of land to a road. — Also termed *easement of necessity*; *necessary way*.
- **easement by prescription** See *prescriptive easement*.
- **easement by reservation** (1871) An easement that is retained by someone who transfers land.
- **easement for air** See *light-and-air easement*.
- **easement for light** See *light-and-air easement*.
- **easement for light and air** See *light-and-air easement*.
- **easement for support** (1845) An easement prohibiting a landowner from depriving the adjoining land and the structures on it of the land's vertical or horizontal support.
- **easement in gross** (1866) An easement benefiting a particular person and not a particular piece of land. • The beneficiary need not, and usu. does not, own any land adjoining the servient estate. Cf. *easement appurtenant*.

- **easement of access** See *access easement*.
- **easement of convenience** (1880) An easement that increases the facility, comfort, or convenience of enjoying the dominant estate or some right connected with it.
- **easement of natural support** See *lateral support* under **SUPPORT** (4).
- **easement of necessity** See *easement by necessity*.
- **easement of passage** See *access easement*.
- **easement of prior use** See *prior-use easement*.
- **easement of way** See *access easement*.
- **easement proper** See *easement appurtenant*.
- **equitable easement** (1869) **1.** An implied easement created by equity when adjacent lands have been created out of a larger tract. • Such an easement is usu. created to allow implied privileges to continue. **2.** See *restrictive covenant* (1) under **COVENANT** (4).
- **exclusive easement** (1848) An easement that the holder has the sole right to use. Cf. *common easement*.
- **express easement** (1867) An easement that is voluntarily created by a written instrument to serve a specified purpose. — Also termed *easement by express grant*; *easement by express reservation*.
- **façade easement** (1971) A recorded agreement between the owner of a building and a land trust or government agency permanently prohibiting alteration of the building façade to protect its historic value while allowing the owner to continue to own and use the building, sell it, or transfer it to heirs.
- **flight easement** See *avigational easement*.
- **floating easement** (1878) An easement that, when created, is not limited to any specific part of the servient estate. • Floating easements are often infrastructure easements. The document creating a floating easement might describe at least one fixed characteristic of the easement's location without being determinate. For example, the document might specify that the easement is to extend across a certain tract or that the easement is to extend 50 feet to each side of a pipeline's or powerline's centerline. These descriptions are insufficient to make the easement's location definite because they are consistent with more than one location, at least until the infrastructure whose centerline defines the easement's location is actually built. The building of the infrastructure can fix the easement's location between the parties. — Also termed *blanket easement*; *general easement*; *global easement*; *roving easement*. Cf. *specific easement*.
- **flowage easement** (1894) A common-law easement that gives the dominant-estate owner the right to flood a servient estate, as when land near a dam is flooded to maintain the dam or to control the water level in a reservoir.
- **gas-line easement** (1959) An easement that permits the entry or crossing of property to install, inspect, operate, and maintain piping and associated equipment for transporting natural gas. — Also termed *gas-pipe easement*; *gas-line right-of-way*; *gas-pipe right-of-way*.
- **gas-pipe easement** See *gas-line easement*.
- **general easement** (1847) **1.** A public easement, esp. the right of the public to use a public road or to navigate a river. **2.** See *floating easement*.
- **global easement** (2004) See *floating easement*.
- **implied easement** (1867) An easement created by law after an owner of two parcels of land uses one parcel to benefit the other to such a degree that, upon the sale of the benefited parcel, the purchaser could reasonably expect the use to be included in the sale. — Also termed *easement by implication*, *way of necessity*; *easement by implied grant*; *easement by implied reservation*.
- **inchoate easement** (1859) The use of another person's land never having ripened into a right because the landowner interrupted the use or no evidence supports the view that the landowner knew of and acquiesced to the use. — Also termed *inchoate prescriptive easement*.
- **infrastructure easement** (1983) An easement that permits the entry or crossing of property to install, inspect, operate, and maintain infrastructure, esp. roadway or utility infrastructure, such as a pipeline or powerline. — Also termed *infrastructure right-of-way*.
- **ingress-and-egress easement** (1928) The right to use land to enter and leave another's property.
- **intermittent easement** (1965) An easement that is usable or used only from time to time, not regularly or continuously.
- **land-conservation easement** (1984) An easement arising from an agreement between a landowner and a land trust to provide for the protection of the land in its natural state while perhaps also allowing the property to be used for agricultural or low-impact

recreational activities. • The easement runs with the land. — Also termed *land-conservation agreement*; *land-preservation easement*; *agricultural-preservation easement*.

- **laydown easement** See *construction easement*.

- **light-and-air easement** (1940) A negative easement that prevents an adjoining landowner from constructing a building that would prevent light or air from reaching the dominant estate. — Also termed *air-and-light easement*; *easement for light and air*; *air easement*; *light easement*. See *negative easement*. Cf. *solar easement*.

- **mineral easement** (1888) An easement that permits the holder to enter the property to remove minerals from it.

- **navigation easement** (1950) **1.** An easement giving the federal government the right to regulate navigable waters, even when the regulation interferes with private water rights. **2.** See *avigational easement*.

- **negative easement** (1861) An easement that prohibits the servient-estate owner from doing something, such as building an obstruction. Cf. *affirmative easement*.

“Negative easements ... confer no right of entry, but consist essentially of the right to prevent something being done; examples are the right to the flow of air through defined aperture, the right to receive light for a building, the right to the support of a building, and (possibly) the right to require a neighbouring landowner to repair fences.” Peter Butt, *Land Law* 305 (2d ed. 1988).

- **noise easement** (1961) An easement that allows the dominant estate's owner to generate noise that travels onto the servient estate.

- **nonapparent easement** See *discontinuous easement*.

- **noncontinuous easement** See *discontinuous easement*.

- **nonexclusive easement** See *common easement*.

- **permanent easement** (1834) An easement of potentially unlimited duration. • A permanent easement is often named using the form *permanent x easement*, where *x* is a descriptor that identifies the easement's purpose <permanent access easement>. A document creating an easement described as “permanent” might, in fact, specify a condition under which the easement will end, such as nonuse for a specified period. — Also termed *permanent right-of-way*; *perpetual easement*; *perpetual right-of-way*. Cf. *temporary easement*.

- **perpetual easement** See *permanent easement*.

- **pipeline easement** (1895) An easement that permits the entry or crossing of property to install, inspect, operate, and maintain piping and associated equipment for transporting oil, gas, or other substances.

- **positive easement** See *affirmative easement*.

- **prescriptive easement** (1838) An easement created from an open, adverse, and continuous use over a statutory period. — Also termed *easement by prescription*; *adverse easement*. See **PRESCRIPTION (5)**; **ADVERSE POSSESSION**.

- **primary easement** (1907) An easement that is supplemented by a secondary easement. Cf. *secondary easement*.

- **prior-use easement** (1990) An implied easement arising from reasonable necessity for enjoyment and use of the property, and previous usage for those purposes. — Also termed *easement by prior use*; *easement from prior use*; *easement of prior use*.

- **private easement** (1805) An easement whose enjoyment is restricted to one specific person or a few specific people.

- **public easement** (1803) An easement for the benefit of an entire community, such as the right to travel down a street or a sidewalk.

- **pure easement** See *easement appurtenant*.

- **quasi-easement** (1860) **1.** An easement-like right occurring when both tracts of land are owned by the same person. • A quasi-easement may become a true easement if the landowner sells one of the tracts. **2.** An obligation or license that relates to land but that is not a true easement — for example, a landowner's obligation to maintain the fence between the landowner's tract and someone else's tract.

- **reciprocal negative easement** (1897) An easement created when a landowner sells part of the land and restricts the buyer's use of that part, and, in turn, that same restriction is placed on the part kept by the landowner. • Such an easement usu. arises when the original landowner creates a common scheme of development for smaller tracts that are carved out of the original tract.

- **reserved easement** (1925) An easement created by the grantor of real property to benefit the grantor's retained property and to burden the granted property.
- **roving easement** (1944) See *floating easement*.
- **secondary easement** (1843) An easement that is appurtenant to the primary or actual easement; the right to do things that are necessary to fully enjoy the easement itself. — Also termed *ancillary easement*; *appurtenant rights*. Cf. *primary easement*.
- **shadow easement** (1896) An easement that allows the dominant estate's owner to erect a structure that casts a shadow on the servient estate.
- **solar easement** (1982) An easement created to protect the dominant estate's exposure to direct sunlight. • A solar easement is often created to prevent the servient-estate owner from constructing any building that would cause shadows on the dominant estate, thus interfering with the use of a solar-energy system. Cf. *light-and-air easement*.

“Solar easements ... remain difficult to describe because of the relationship of the sun to the earth. Shadow variables include land slope, terrain, solar orientation, latitude, time of day, and height of potential obstructions. Lawyers, engineers, land planners, title companies and others have expressed concern over the complexity required to write a solar easement containing highly detailed, technical information often included in these easements.” Sandy F. Kraemer, *Solar Law* 42 (1978).

- **specific easement** (1987) An easement whose location is fixed by the document that creates it. Cf. *floating easement*.
- **statutory easement** (1882) An easement created by a legislative body to accommodate the public good, as for utility services.
- **temporary easement** (1840) An easement of limited duration. • A temporary easement is often named using the form *temporary x easement* where *x* is a descriptor that identifies the easement's purpose <temporary construction easement>. — Also termed *temporary right-of-way*. Cf. *permanent easement*.
- **timber easement** (1982) An easement that permits the holder to cut and remove timber from another's property. — Also termed *timber rights*.
- **utility easement** (1929) An easement that permits the entry or crossing of property to install, inspect, operate, and maintain utility infrastructure, such as a pipeline or powerline. — Also termed *utility right-of-way*.
- **water-line easement** (1955) An easement that permits the entry or crossing of property to install, inspect, operate, and maintain piping and associated equipment for transporting water. — Also written *waterline easement*. — Also termed *water-pipe easement*; *water-line right-of-way*; *water-pipe right-of-way*.
- **water-pipe easement** See *water-line easement*.

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pedestrian



adjective 2

Did you know?



Synonyms

Example Sentences

Word History

pedestrian 1 of 2 adjective

pe-des-tri-an (pə-'de-strē-ən)

Synonyms of *pedestrian*

1 : COMMONPLACE, UNIMAGINATIVE

his sentences and phrases are too often *pedestrian*, commonplace, and flat
— *The Times Literary Supplement* (London)

2 a : going or performed on foot

pedestrian traffic

a *pedestrian* tour of the village

b : of, relating to, or designed for walking

a *pedestrian* mall

a *pedestrian* bridge

pedestrian 2 of 2 noun

: a person going on foot : **WALKER**



How should you use *pedestrian*?

Most of us know *pedestrian* as a noun meaning someone who travels on foot. But the adjective sense of *pedestrian* as defined here is actually its original meaning. To



adjective 2 Did you know? Synonyms Example Sentences Word History

qualities, or possessions. In comparison with the elaborate stage shows put on by today's rock artists, for instance, most of the stage presentations of 1960s rock stars seem pedestrian.

Adjective

- arid
- colorless
- dreary
- dry
- dusty
- heavy
- humdrum
- jejune
- mind-numbing
- monotonous
- old
- slow
- stodgy
- stupid
- tedious
- tiring
- wearisome
- boring
- drab
- drudging
- dull
- flat
- ho-hum
- jading
- leaden
- monochromatic
- numbing
- ponderous
- stale
- stuffy
- tame
- tiresome
- uninteresting
- wearv



adjective 2 Did you know? Synonyms Example Sentences Word History

Adjective

He lived a **pedestrian** life, working at the paper mill and living in his trailer.

pedestrian concerns like paying the bills and getting the kids to school on time

Noun

The car slid off the road and almost hit a group of **pedestrians**.

Recent Examples on the Web

Examples are automatically compiled from online sources to show current usage. [Read More](#)

Adjective

Android 15's second beta release has other notable additions today that didn't make it to the relatively **pedestrian** first release.

– Umar Shakir, *The Verge*, 15 May 2024

Yet New England's 14-2 record and a defense that allowed the league's fewest points were not necessarily indicative of true dominance, as the team displayed a pattern of frequently doing just enough to win, the average margin of victory a fairly **pedestrian** 10.3 points.

– Nate Davis, *USA TODAY*, 11 Jan. 2024

Noun

However, **pedestrians** and bicyclists need to obey the rules of the road that apply to them.



adjective 2 Did you know? Synonyms Example Sentences Word History

— Ariane Lange, *Sacramento Bee*, 18 Jan. 2025

[See all Example Sentences for *pedestrian*](#) >

Etymology

Adjective and Noun

Latin *pedestr-*, *pedester*, literally, going on foot, from *ped-*, *pes* foot — more at [FOOT](#)

First Known Use

Adjective

1716, in the meaning defined at [sense 1](#)

Noun

1770, in the meaning defined [above](#)

Time Traveler

The first known use of *pedestrian* was in 1716

[See more words from the same year](#)

[pedestrian crossing](#)

[pedestrian/foot traffic](#)



adjective 2

Did you know?

Synonyms

Example Sentences

Word History

Taking a Walk with 'Pedestrian'

pedestrial

pedestrian

pedestriante

[See More Nearby Entries >](#)

Style

MLA

"Pedestrian." *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/pedestrian>. Accessed 4 Feb. 2025.

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Facebook



Twitter



adjective 2

Did you know?

Synonyms

Example Sentences

Word History

pedestrian

 1 of 2 adjectivepe·des·tri·an pə-'des-trē-ən ◀▶1 : not interesting : **ORDINARY**2 **a** : going on foot**b** : of, relating to, or designed for walking*pedestrian* traffic*a pedestrian* mall-trē-ə-, niz-əm **noun**

pedestrian

 2 of 2 noun

: a person who is walking

Etymology

Adjective

from Latin *pedestr-*, *pedestris* "going on foot," from *ped-*, *pes* "foot" — related to [CENTIPEDE](#), [IMPEDE](#), [PAWN](#) entry 1, [PEDAL](#)

English: [Translation of *pedestrian* for Spanish Speakers](#)

Britannica English: [Translation of *pedestrian* for Arabic Speakers](#)



adjective 2

Did you know?

Synonyms

Example Sentences

Word History

advanced search — ad free:

MERRIAM-WEBSTER UNABRIDGED

Quordle

W	O	R	D	Y
L	O	V	E	R
P	L	A	Y	S
D	A	I	L	Y

Can you solve 4 words at once?

Play





adjective 2

Did you know?

Synonyms

Example Sentences

Word History

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Your email address

Plural and Possessive Names: A Guide

What's the difference between 'fascism' and 'socialism'?

More Commonly Misspelled Words

Words You Always Have to Look Up



adjective 2

Did you know?



Synonyms

Example Sentences

Word History

You vs. You re: How to Use Them Correctly

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12 Words Whose History Will Surprise You

8 Words for Lesser-Known Musical Instruments

Birds Say the Darndest Things



adjective 2

Did you know?

Synonyms

Example Sentences

Word History

10 words from Taylor Swift songs (Merriam's version)

[See All](#)

Quordle

Can you solve 4 words at once?

[Play](#)

Blossom Word Game

Pick the best words!

[Play](#)



adjective 2

Did you know?

[Synonyms](#)

[Example Sentences](#)

[Word History](#)

[Play](#)

[Take the quiz](#)

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July 14, 2022

CERTIFIED MAIL
ARTICLE NO.:

91 7199 9991 7030 0131 3239

Re: NOTICE TO COMPLY AI-0004400
Unauthorized Structure and Unauthorized Change in Use of Dock

Stephen C. and Randi Popp Wells
1499 Marsh Bluff Court
Edisto Island, SC 29438

Dear Stephen C. and Randi Popp Wells,

On June 20, 2022, an inspection was conducted by staff of the South Carolina Department of Health and Environmental Control's Office of Ocean and Coastal Resource Management (Department) at your property located on and adjacent to the tidelands and coastal waters critical areas of Store Creek at 1499 Marsh Bluff Court, Edisto Island, Charleston County, SC (PID 0250000038) (Site). Department staff observed the following in the tidelands critical area without authorization from the Department:

- 12' by 24' deck on upland extending over critical area

Additionally, Department staff has been made aware of an advertisement, via the website "Missin' Link Outdoors", for commercial fishing charters operating from the existing community dock at the Site, which was authorized by Critical Area Permit #99-1E-382 (Permit). This advertisement demonstrates a change in use from a community dock to a commercial dock.¹ This change in use is unauthorized and requires a permit from the Department.

The South Carolina Coastal Zone Management Act (Act) and Coastal Division Regulations (Regulations) require that any utilization/alteration of the critical area be permitted or otherwise legally authorized by the Department prior to performing the activity.² By way of this notice, the Department is asserting a violation of the Act. In order to be in compliance with the Act, Regulations and Permit, you must remove the portion of the 12' by 24' deck extending over critical area and cease all commercial activities associated with the dock.

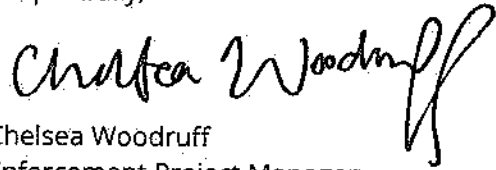
Please contact me at (803) 667-1314 or woodruck@dhec.sc.gov so that we can work to resolve this matter through the compliance assistance process. Failure to comply with this directive within 30 days of your receipt of this letter may result in an enforcement action being initiated by the Department which can include the assessment of civil penalties.³ Thank you for your cooperation and I look forward to hearing from you regarding the resolution of this matter.

¹ S.C. Code Ann. Regs. 30-12(A)(1)(r)

² S.C. Code Ann. §48-39-130(A) & S.C. Code Ann. Regs. 30-2(B)

³ S.C. Code Ann. §48-39-170

Respectfully,



Chelsea Woodruff
Enforcement Project Manager
Office of Ocean and Coastal Resource Management

cc: Glen Dill, President, SBPPOA Inc.
Bobby "Link" Crapps, Owner, Missin' Link Outdoors



**Spartina Bay Plantation Property Owners Association, Inc
1487 Marsh Bluff Ct
Edisto Island, SC 29438**

2022 Officers
Eddie Evans, President
Janet Phillips, Secretary
Jamie Crapps, Treasurer

2022 Board Members
Eddie Evans, Chairman
Keith Phillips
Tyree Moore
Bobby Crapps
Teresa Roof

September 24, 2022

SENT VIA REGISTERED MAIL

Steve & Rondi Wells
1499 Marsh Bluff Ct
Edisto Island, SC 29438

Steve/Rondi,

As a follow up to our letter of July 22, 2022 regarding the position of the Spartina Bay Board of Directors, a special meeting of the SBPPOA, INC Board of Directors was held on September 19, 2022 and unanimously decided upon the following action:

Background

While it was understood by all parties that DHEC conducted an inspection of the SBPPOA Community Dock and found non-compliance issues, the resolution to these items were disputed. As outlined below, the Board has determined that your unilateral act to remove all of the Deck constitutes a violation of the Declaration of Restrictive Covenants, Conditions and Restrictions of Spartina Bay Plantation Subdivision. Accordingly, the POA Board of Directors has determined through a special meeting that an Individual Assessment will be levied on the offending member.

Violation

The Covenants set forth the definition of "Common Area and Facilities" as "areas and structures designated for the common use of member by Class of Spartina Bay Property Owners Association, Inc. initially including the right of way for Marsh Bluff Court..., the community docks access easement..., and the community docks as described in the Dock Permit."

The deck was within the community ingress/egress access area and has at all times prior been for common use by members, the deck was a "Common Area and Facility" as defined in the Covenants.

Article VI clearly provides that the POA "shall own or lease the dock ... as well as the strip of land designated as Dock Easement..."

Article VIII provides that “Every Member in good standing shall have the right and easement of enjoyment in and to the Common Areas and Facilities afforded his/her or its class of membership.”

Additionally, **Article IX** of the Covenants states that “the Association shall provide for the maintenance, repair and replacement of roads, common areas and community dock.” Your actions in the destruction of a common element, without prior approval by the Association is a direct and willful violation of the Covenants.

POA Assessment

The Bylaws (Art. III) allow the POA to “set forth the necessary rules and regulations...” which govern the members’ use of the subdivision.

Article V, Section 13

Article IV, Section 1 of the Covenants gives authority to the POA to “levy ... for the purpose of defraying ... the cost on any maintenance or repair of any common areas...”

Article V, Section 13(Second Amendment) of the Covenants state “No action of any type will be unilaterally taken by any Spartina Bay Plantation Subdivision Property Owner which will, in the judgement of the SBPPOA, INC Board of Directors, increase or have the potential to increase the costs of the SBPPOA, Inc.”

The Bylaws (Art. VIII) – Dues and Assessments, Section 5 (“Individual Assessment”), provide those individual assessments “shall be levied on members of the Association where the provisions of the Bylaws or Restrictive Covenants have been violated.”

The initial Assessment shall be equal to the cost of deck replacement approximately 10’ x 24’ determined to be \$2500.

You are hereby given notice that you have thirty (30) days from the date of this notice on which to pay the assessment, after which time you may “not be considered as a member in good standing” unless reinstated pursuant to Bylaws Art. VIII, Section 9.

Bylaws Art. VIII, Section 9. “Such member shall not be reinstated until he has paid his dues and assessments in full, and until such time as such member is reinstated, he shall have no rights of any kind arising out of membership in the Association.”

The Covenants provide for assessment of interest at a rate of 18% per annum on any assessment not paid within thirty (30) days of the due date (**Covenants, Art. IV, Section 4**), and the **Bylaws** provide for assessment of a 5% late charge for any assessment due but not paid within fifteen (15) days.

Finally, a member of the POA who is not a "member in good standing" may have his or her voting rights and rights of use of the common areas, including the dock, suspended.

(Covenants, Art. VIII, Section 1(a)(i))

Sincerely,



Eddie Evans

President, SBPPOA, Inc

Exhibit U

Video of Bobby Crapps

(Provided on thumb drive and marked MEAB33312023-11-27)