

THE STATE OF SOUTH CAROLINA

In The Supreme Court

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APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

Thomas Kemmerlin, Jr , Special Referee

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Case No 2004-CP-07-2036  
Court of Appeals Unpublished Opinion No 2012-UP-217

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Forest Beach Owner's Association, Inc ,  
and Trevor Howard

Respondents,

VS

Carolyn S Austin, formerly known as  
Carolyn S Bair,

Petitioner

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**APPENDIX - VOL 2 OF 3**

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JUN 13 2012

**S.C. Supreme Court**

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Attorneys for Petitioner, Carolyn S Austin

Beaufort South Carolina  
June 11, 2012

1 opposite side of a concrete wall? On the Sea Crest side  
2 of a concrete wall?

3 A I think it is

4 Q All right Well, let's turn to page --

5 Exhibit 77

6 A (Witness complied )

7 Q And if you'll look at photo 1B Is that lady  
8 walking down the pathway of the existing walkway that  
9 Mr Graves built?

10 A Yes

11 Q And is -- if you'll turn a couple of photos  
12 to 6A, on Exhibit 77 Is that the photograph of the  
13 wall on the other side, on Mr Graves' property?

14 A That appears to be, yes

15 Q All right

16 A And this also shown the heavy wind prune oak  
17 vegetation along this side

18 Q All right And now I want you to look at a  
19 more recent as-built survey, Exhibit 74

20 A (Witness complied )

21 Q All right Is -- I'll represent to you that  
22 that is an as-built survey, dated -- the last revision  
23 is August of 2002

24 A Right

25 Q All right So now we're five years past

1 where the first survey you were looking at a minute ago?

2 A Right

3 Q And does that survey show the concrete block  
4 wall that Mr Graves constructed that we just saw the  
5 photograph of?

6 A Yes It does

7 Q And is that block wall actually on the  
8 property line between Mr Graves and the Avocet Street  
9 extension?

10 A It appears to be, yes

11 Q And the sidewalk would be to the left of  
12 that?

13 A Yes

14 Q And so would you now agree with me that  
15 anyone walking on that sidewalk is 100 percent on Mr  
16 Graves property?

17 A Well, I think they've been walking that way  
18 for 40 years So --

19 Q But my question is, the sidewalk that is on  
20 the other side of the concrete wall that was built, is  
21 that on the Sea Crest property according to this survey?

22 A Is this is the boundary, yes

23 Q All right

24 A If that's the property line, then yes it is

25 Q Well, looking at this survey do you believe

1 it accurately shows the boundary with all the  
2 information shown on there?

3 A I believe it does, yes

4 Q Okay And so would you now agree with me  
5 that what is presently there today, the people are  
6 walking -- or not walking on the Avocet Street  
7 extension, but are actually walking on Mr Graves  
8 property?

9 A They are But he built the walkway

10 Q I understand that All right When the  
11 property went into bankruptcy, prior to that, you  
12 worked, or had worked formally, with the Sea Pines Land  
13 Control Company -- Land Control Department?

14 A Yes I did

15 Q And Mr Womble worked for who?

16 A He worked for the Hilton Head Company in  
17 their asset control department

18 Q Okay So between the combination of you  
19 working with the Sea Pines Land Control Company, and Mr  
20 Womble with the Hilton Head Company, you all had a lot  
21 of special knowledge about the assets in -- that were in  
22 the bankruptcy of those two entities?

23 A I believe we did

24 Q At the time of the bankruptcy filing, the  
25 Hilton Head Company did not own any lots in Hilton Head



1 Beach subdivision number 1, did you, residential lots?

2 A No single family residential lots, no

3 Q The only property they owned, which you ended  
4 up buying, or arguably they owned, depending on what  
5 this -- the Judge does with the statute of uses, is the  
6 street extensions and the beach trust property

7 A And all of the roads

8 Q And all of the roads Excuse me Correct

9 All right At the time of your bid for the  
10 residual assets in the bankruptcy, you would have to  
11 have discussions by a group led by Ms Bair to buy all  
12 of the, commonly called the common property, the roads,  
13 the street extensions, and the trust property in Hilton  
14 Head number 1?

15 A When we were talking about the strand  
16 property and the street extensions, but not the roads

17 Q Okay For the strand property and the street  
18 extensions in number 1, you were talking to Ms Bair,  
19 who was representing the group, to buy all that  
20 property?

21 A Yes

22 Q And that was for \$50,000 00?

23 A That's correct

24 Q And you also had discussions with the Forest  
25 Beach Association, Inc

1 A Yes

2 Q About buying that same property?

3 A Yes

4 Q And then you also had discussion with Ms  
5 Bair just about buying the individual street extension  
6 and strand block next to her house for \$5,000 00

7 A That's correct

8 Q All right And, finally, you had discussions  
9 with Mr Graves, who owned the Sea Crest, about buying  
10 either the Avocet Street extension or an easement over  
11 it for \$2,000 00

12 A When he started his redevelopment of the Sea  
13 Crest, he realized that this was tight on this side

14 He also wanted to create an easement in favor of  
15 the Sea Crest Surf and Racquet Club, the time share  
16 units on the lagoon, because he had an obligation under  
17 an easement agreement, for which he was receiving an  
18 annual payment, to allow them to come through the Sea  
19 Crest Motel, and to use any facilities that were to be  
20 developed in the future I believe this started in June  
21 1980 It started off at \$37,000 some odd dollars a  
22 year, with a TPI escalator

23 So when he was redeveloping the Sea Crest Motel as  
24 a -- as an exclusive condominium project, then he wanted  
25 to be sure that he could provide a legal easement for

1 the Sea Crest Surf and Racquet people

2 The easement in Hilton Head Beach number 1,  
3 according to the covenants, accesses to the beach, park  
4 areas, or road extensions, or whatever you want to call  
5 them, said that they are for -- that those open areas  
6 between lots, and subdivisions of the lots, are for the  
7 access for the beach for lot owners in the subdivision,  
8 and it simply stopped at that, just the subdivision

9 So he was aware that his Sea Crest Surf and Racquet  
10 people did not have an easement to come down Avocet  
11 Street There had been a previous situation in Hilton  
12 Head Beach subdivision number 2 with Port-O-Call going  
13 down Driftwood Lane, and the Driftwood Lane people  
14 objected to all of those timeshare people coming out of  
15 Port-O-Call and coming down So they entered into  
16 litigation, and ultimately Port-O-Call executed an  
17 easement -- agreed to an easement with Hilton Head Beach  
18 access number 2, to go down Sandpiper

19 So they gave them an alternative route, and they  
20 are still making an annual payment there And to my  
21 knowledge Sea Crest Surf and Racquet is still making an  
22 annual payment to Robert Graves to access the beach,  
23 although his development makes it very uninviting to go  
24 through the pool area now

25 Q To kind of move forward, you didn't reach a

1 deal with Mr Graves, you didn't sell him any rights for  
2 -- on to Avocet Street?

3 A I did not He offered \$2,000 00, and Ms  
4 Bair was talking about \$5,000 00 So --

5 Q Okay And based upon your review and the  
6 study of covenants, at the time that you got served in  
7 1998 with the quiet title action, which is Exhibit 38,  
8 did you believe other lot owners had the right to use  
9 the Avocet Street extension?

10 A I believe the four lots behind Ms Bair's lot  
11 had the right to use it, yes

12 Q All right And did you -- as I understand  
13 from Mr Austin's testimony earlier, you had numerous  
14 discussions with Mr Austin about the title to various  
15 properties, including the strand block and the street  
16 extensions

17 A I wouldn't characterize it as numerous  
18 discussions We had a couple of discussions about the  
19 property that Property Research Holdings acquired

20 Q All right Did you ever tell Mr Austin that  
21 you felt that other property owners, or at least the  
22 four property owners marked on Exhibit 10, 1 through 4,  
23 have easement rights through the Avocet Street  
24 extension?

25 A I don't recall that we ever discussed who had

1 rights to what

2 Q All right But you were aware that, at least  
3 as of 1982, that there was a path that was being used by  
4 various property owners to access the beach down Avocet  
5 Street?

6 A It appeared to be Avocet extending straight  
7 on down and then narrowing down to go to the beach

8 Q Okay

9 A I believe that that narrowing down occurred  
10 at about Dune Lane, and I believe that's where it  
11 entered upon the Sea Crest property and went on down on  
12 the Sea Crest side of that boundary, as it's depicted on  
13 this later plat

14 Q All right And you also live in North Forest  
15 Beach?

16 A Yes I do

17 Q All right Have you ever seen a, prior to  
18 Ms Bair putting up the gate and the wall, have you ever  
19 seen -- I think you testified you saw cars down at the  
20 end of Avocet Street?

21 A I did, yes

22 Q Have you ever seen people drop off their  
23 family or things to the beach down Avocet Street  
24 extension?

25 A No, sir

1 Q All right How many times have you seen cars  
2 down the Avocet Street extension?

3 A I've seen cars parked in that area off and on  
4 since I became familiar with North Forest Beach

5 Q And at the --

6 A I don't -- excuse me I can't put a number  
7 on it

8 Q Okay At the time the Sea Crest was  
9 constructed did -- was there a lot of construction  
10 traffic at the end of Avocet Street?

11 A Yes There was

12 Q And were cars and trucks parked at the end of  
13 Avocet Street?

14 A They were parked all over the place

15 Q All right And included at the end of Avocet  
16 Street

17 A They were parked at the lot across the street  
18 on lot number 4 Parked in the rights of way of Avocet  
19 Street, Dune Lane

20 Q Were cars parked at the end of Avocet Street,  
21 and trucks, the extension?

22 A I don't recall whether any of them parked in  
23 the extension of Avocet Street itself

24 Q Okay Just a few questions about the deed  
25 that -- on March 8, 2000, Exhibit 73A, that you signed

1 to Ms Bair

2 Did Mr Austin approach you after the lawsuit and  
3 ask you to sign a quitclaim deed?

4 A No He did not

5 JUDGE KEMMERLIN What was your answer?

6 WITNESS No, Your Honor

7 JUDGE KEMMERLIN Okay

8 WITNESS He did not

9 BY MR PATTERSON

10 Q Do you recall your deposition taken on  
11 September 6<sup>th</sup> -- September 26<sup>th</sup>, 2006, in this matter?  
12 And I'll hand you a copy of it

13 A I do recall Yes

14 Q All right If you'll turn to page 35, line

15 15

16 A (Witness complied )

17 Q And tell me when you're there

18 A Okay

19 Q The question is

20 "What was the next thing  
21 that happened involving these  
22 properties and Ms Bair?"

23 And what was your answer?

24 A I said

25 "Her husband, Robert

1 Austin, came to us, and this  
2 was after the order and  
3 sometime later, as a matter of  
4 fact, and asked us if we would  
5 be willing to sign a quitclaim  
6 deed to help confirm the fact  
7 that, or to reinforce the fact  
8 that the Court had decided in  
9 her favor regarding the  
10 quieting of the title "

11 Q All right Does that refresh your  
12 recollection as to who -- did Mr Austin approach you  
13 about signing the deed?

14 A Apparently I testified that he did

15 Q Do you have different recollection today?

16 A I don't recall the specific discussion, but -  
17 -

18 Q Well, I note Exhibit 73A says it was prepared  
19 by Mr Hale Was -- Mr Chet Williams was your  
20 attorney, is that correct?

21 A He was, but Jim Hale called me -- I remember  
22 talking to Jim Hale about it, and the legal description

23 Q All right Who was Mr Hale representing to  
24 you, as best as you recall?

25 A As far as I know he was representing Ms



1 Austin

2 Q Okay Now one thing I wanted to straighten  
3 up, when Mr Stepp was asking you a question, he said  
4 the first whereas provision of 73A referenced the  
5 complaint in the Bair quiet title action

6 Can you look at -- is that 73A?

7 A Okay

8 Q And actually the first paragraph doesn't  
9 reference the complaint, it references the final  
10 judgment, doesn't it?

11 A It does reference the judgment

12 Q The final judgment And the final judgment -  
13 -

14 MR STEPP Wait a minute He's not  
15 finished, Russell

16 MR PATTERSON I'm sorry

17 WITNESS Okay

18 BY MR PATTERSON

19 Q All right So it doesn't reference the  
20 complaint, it references the final judgment, and it's --  
21 I think the final judgment is Exhibit 52, which the  
22 surveyor was talking about Do you recognize that  
23 document?

24 A It does reference the complaint in the above  
25 referenced action The last words of the sentence

1 Q Okay But the first part of it references  
2 the final judgment?

3 A Yes

4 Q And the final judgment has a metes and bounds  
5 property description, Exhibit 52?

6 A It does Yes

7 Q Okay And you signed that deed because you  
8 believed that the Court had already awarded the property  
9 to Ms Bair under a properly completed quiet title  
10 action?

11 A Yes I did

12 Q Did she ever pay you any money for signing  
13 the deed?

14 A We have never found where she did or didn't  
15 We can't confirm it either way

16 Q Well, you never found that she did?

17 A No Dan Womble was the secretary/treasurer  
18 of Property Research Holdings at the time I had asked  
19 him to go back and take a look I recall some  
20 discussions about the payment, but he told me that he  
21 was not able to find where it was paid

22 Q All right Now I want to -- you said, in  
23 describing of the -- why you thought there was an error  
24 in the deed, Property Research Holdings to the  
25 Association, and that is Exhibit Number 24

1 A Okay

2 Q All right I think, without -- I don't want  
3 to misconstrue what you said, but I think the gist of  
4 what you said, as far as the property description on  
5 this deed, is that A and AA should not have been on  
6 Exhibit A, and the reason you say that is that you took  
7 that -- those parcels out of a set of covenants that you  
8 subsequently recorded at the -- recorded at the same  
9 time

10 A Those parcels were not actually in the  
11 covenants The covenants -- had A and AA still been in  
12 there they would have started with lot 5 or 5A

13 Q Okay

14 A But we started at lot 6 So everything west  
15 of lot 6, which was lot 5, A, and AA, and 5A, were to  
16 have been excluded, and why they were not here, I don't  
17 know

18 Q Well, that's -- I think you're making my  
19 point for me You then referenced on direct examination  
20 the covenants of Exhibit 30, and you said those  
21 covenants didn't have parcels A and AA in it, because  
22 you had asked your attorney to take them out

23 A We had asked the attorneys to take out those  
24 areas, yes

25 Q Okay But in fact --

1 A West of lot 6A

2 Q In fact if I look at Exhibit 30, the legal  
3 description is on page 2, recorded page 837 Is that  
4 not the legal description on recorded page 837?

5 A 836

6 Q Excuse me 836?

7 A It's on both of them

8 Q All right On recorded page 836, that shows  
9 the lots that these covenants are applicable to, doesn't  
10 it?

11 A Yes It does

12 Q All right And none of the street  
13 extensions, and none of the strand blocks in front of  
14 the street extensions, are listed on any of these lots  
15 in that property description, are they?

16 A No They're not

17 Q All right So just because it's not in this  
18 property description doesn't mean that you made an error  
19 in the deed, because none of the other street extensions  
20 that you said are correct on Exhibit 24 are referenced  
21 in these covenants either, are they?

22 A No The only point that I was trying to make  
23 was that we did have a discussion when these documents  
24 were prepared that A, AA, and 5A were no longer owned by  
25 Property Research Holdings, that they had been conveyed

1 Q I understand --

2 A And that's the reason it starts with 6A here,  
3 and A and AA should have been removed from the  
4 conveyance of the roadway -- or the road extensions to  
5 Forest Beach Owners' Association

6 Q All right Now you've had a good bit of  
7 litigation filed against you by the Forest Beach  
8 Association and the Forest Beach Owners' Association

9 A I have Yes

10 Q Okay And just to kind of go through some of  
11 that In 1992 the Forest Beach Association sued your  
12 company in Hilton Head Beach number 2 trying to prevent  
13 the sale of certain streets and beach strand blocks to  
14 lot owners Do you recall that?

15 A Yes I do

16 Q And I think the order in that case -- the  
17 pleadings -- or some of the pleadings in that case are  
18 Exhibit 61 in this case, and by order, under 61C, Judge  
19 Kemmerlin issued an Order on January 31<sup>st</sup>, 1995 -- and  
20 I'll let you get to 61C

21 A All right

22 Q And before there are any objections, I'll go  
23 ahead and say that the Judge later said there wasn't any  
24 standing, 10 months later

25 But on 61C he, basically, said that you could not

1 sell either those beach trust properties or the streets,  
2 and that they were held in trust for all of the property  
3 owners

4 A In this order he did, but we asked him to  
5 reconsider, prior to the fact that Forest Beach was  
6 considered not to have standing, Judge Kemmerlin looked  
7 at his order again and said that certainly if he said we  
8 could not sell property, he was wrong, and he would  
9 correct that statement

10 And he went on to discuss that one can own a skunk  
11 farm, and can sell a skunk farm, but what he gets for it  
12 is what the market will pay

13 Q Are you aware of any written order of what  
14 you just said, because I'm not aware of any --

15 A Yes I am

16 Q Okay Do you happen to have that with you  
17 today?

18 A I do not

19 Q Okay All right In 1996, shown by Exhibit  
20 70, did Property Research Holdings enter into a property  
21 exchange agreement with the Forest Beach Association?

22 A Yes

23 Q All right And under that property exchange  
24 agreement the Forest Beach Association was to receive  
25 title for the street -- for the street extensions and

1 strand blocks in front of the street extensions

2 A I believe that's correct

3 Q There's actually a diagram that's attached to  
4 that, Bates Number 315 on that exhibit, the darkest  
5 print is the property to go to Forest Beach Association

6 A Yes

7 Q And actually that included the Avocet Street  
8 extension and the trust property in front of Avocet  
9 Street?

10 A It did, at this time, yes

11 Q Okay And the dispute arose about -- under  
12 that agreement, and both the Forest Beach Association  
13 and the town filed suit against your company in 1999 and  
14 2000?

15 A Yes

16 Q And then there was -- I think the -- a  
17 settlement agreement you referred to, which is Exhibit  
18 23, was entered into by the --

19 63A might be closer to where you are

20 63A Was that entered into by the parties to  
21 resolve those lawsuits? Was 63A the settlement  
22 agreement to those two lawsuits?

23 A It appears to be Yes

24 Q Take a minute and read it

25 A (Witness complied )

1 Q Is that a copy of the settlement agreement  
2 that was reached?

3 A It appears to be, yes

4 Q All right And under that settlement  
5 agreement, under section 6 it describes a conveyance  
6 that you agreed to make to the Forest Beach Owners'  
7 Association to settle the lawsuit that the association  
8 had filed against you -- your company?

9 A Right

10 Q All right And in fact there is a proposed  
11 deed that's attached to the settlement agreement in the  
12 form and manner in which you were going to convey that  
13 property to the association

14 A Yeah I believe there was -- or there is

15 Q Tell me when you find that proposed deed  
16 I thought it was Exhibit B

17 MR PATTERSON Your Honor, if I can  
18 have one second --

19 JUDGE KEMMERLIN Take your time

20 MR PATTERSON I think that document  
21 is missing a page in that Exhibit

22 (WHEREUPON, a brief break was taken off  
23 the record )

24 BY MR PATTERSON

25 Q Mr Guscio, looking at Exhibit 63, on page 4,



1 section 6, does it refer to a conveyance of property by  
2 Property Research Holdings to Forest Beach Owners'  
3 Association?

4 A Page 4?

5 Q Yes

6 A Yes It does

7 Q All right And there is supposed to be  
8 attached to the settlement agreement a proposed  
9 quitclaim deed, which in the form attached says it is  
10 Exhibit E, third line

11 A I see Exhibit D, or is that E Okay That's  
12 E

13 Q Exhibit E

14 A Okay

15 Q And during the break both you and I have  
16 looked for Exhibit E to the settlement agreement And  
17 were you able to find Exhibit E?

18 A I didn't see it here No

19 Q All right Is it your understanding that  
20 there does exist an Exhibit E?

21 A I don't know

22 Q All right Do you have copies of this  
23 document in your archives that you keep forever?

24 A I should have

25 MR PATTERSON Your Honor, I believe

1           that there is -- there is an Exhibit E that I  
2           thought I had, which was a copy of the deed, and I  
3           would ask --

4                       JUDGE KEMMERLIN    Okay

5                       MR   PATTERSON    -- that Mr   Guscio be  
6           allowed to submit that to the Court

7                       JUDGE KEMMERLIN    Yeah.   If he finds  
8           it, submit it, with carbon copies, of course, to  
9           counsel

10                      WITNESS    I will, Your Honor

11                      MR   PATTERSON    Your Honor, the purpose  
12           of my spending so much time looking for that is  
13           that I believe that that deed, as attached to the  
14           settlement agreement, included A and AA as part of  
15           the settlement agreement

16   BY MR   PATTERSON

17           Q       Mr   Guscio, do you know if the deed attached  
18           to the settlement agreement included the property  
19           parcels A and AA that were to be conveyed to Forest  
20           Beach Association?

21           A       I don't know

22           Q       Okay   But there's no question, looking at  
23           the deed that you actually signed, Exhibit 24, did  
24           include A and AA to the association?

25           A       It did

1 Q Okay

2 A But it is the quitclaim deed

3 Q I understand that But pursuant to the  
4 settlement of the lawsuit, and the settlement agreement,  
5 whatever Exhibit E says, if you promised on Exhibit E to  
6 convey A and AA to the association, then Exhibit 24 is  
7 just completing your obligations under the settlement  
8 agreement, and I know we need to look at it to see what  
9 Exhibit E says?

10 MR STEPP Objection, Your Honor,  
11 that's a legal conclusion

12 JUDGE KEMMERLIN What was your answer  
13 Frank?

14 WITNESS I think at this time I knew  
15 that we had already conveyed A and AA, and that was  
16 the reason that I had the discussion with Chet  
17 Williams to remove that from the Exhibit It  
18 apparently did not get removed --

19 JUDGE KEMMERLIN Right

20 WITNESS -- because it's in the deed  
21 But I had already conveyed those parcels two years  
22 prior

23 MR PATTERSON Okay

24 WITNESS Or three years prior, I  
25 think

1 MR PATTERSON I don't think I have  
2 anything else

3 JUDGE KEMMERLIN Okay Anything else  
4 on re-cross?

5 MR PATTERSON I don't have anything  
6 else

7 MR STEPP No Nothing else Thank  
8 you so much

9 JUDGE KEMMERLIN Okay

10 WITNESS Thank you, Your Honor

11 MR PATTERSON Go back to your  
12 retirement Frank

13 WITNESS You don't need me to stand  
14 by?

15 MR STEPP No I don't think so

16 JUDGE KEMMERLIN Good to see you

17 WITNESS Okay You to Judge

18 MR PATTERSON Your Honor, it may be that I also  
19 have a -- I believe I have a copy of that at my office,  
20 and even though I brought boxes of stuff, I did leave a  
21 few

22 JUDGE KEMMERLIN All right

23 MR PATTERSON And I would like to supplement the  
24 record, and honestly I don't mind Mr Guscio  
25 authenticating that that's the right exhibit

1 MR PATTERSON That's fine with me

2 JUDGE KEMMERLIN 9 30 is fine

3 (WHEREUPON, this proceeding was  
4 concluded at approximately 4 00 p m to be  
5 continued at 9 30 a m on October 15, 2008 )

6 CAROLYN S AUSTIN, called as a witness,  
7 having been first duly sworn, was examined and  
8 testified as follows

9 DIRECT EXAMINATION

10 BY MR STEPP

11 Q State your name for the record, please

12 A Carolyn Songer Austin

13 Q Okay Ms Austin, you're the owner of the  
14 house at -- on lot 5, Forest Beach subdivision number 1?

15 A I am

16 Q And what is the address of that property?

17 A Number 1 Dune Lane

18 Q And when did you buy that property?

19 A I think in was in 1983

20 Q All right Let's look at Plaintiff's Exhibit  
21 Number 9 I'll try to turn here for you, since this  
22 notebook is --

23 And who did you buy the house from?

24 A Rock Purdy?

25 Q Is that the same thing as H Klugh Purdy,

1 III?

2 A That's it, H Klugh Purdy, III

3 Q Let me show you Plaintiff's Exhibit 9, which  
4 is a deed from H Klugh Purdy, III, to Carolyn S Bair,  
5 and it is dated the 25<sup>th</sup> day of April, 1984 Do you see  
6 that?

7 A Okay All right

8 Q Would that be the --

9 A That would be it

10 Q -- date that you acquired the property?

11 A If that's what it says, '84, then it's '84

12 Q All right When you bought the property, was  
13 the house already built?

14 A Yes

15 Q And I want you to describe for the Court  
16 please what the house and surrounding property looked  
17 like and consisted of And so for that purpose I want  
18 to show you Plaintiff's Exhibit 67, although we have a  
19 version of it that's all taped together and not cut up

20 A Okay

21 Q And I'll put that that way so that the Judge  
22 can see it too

23 Tell me what this is, Ms Austin

24 A This is the original landscaping plans of  
25 Robert Graves when he was building the house

1 Q Okay And --

2 A And I was given this at closing

3 Q All right And Mr Graves had owned the --

4 built the house at some point, is that right?

5 A He built the house for himself

6 Q All right And you see this date, 1971?

7 A Yes

8 Q Is that about the date the house was built?

9 A I thought it was in '69

10 Q Well, this plan is dated '71, but at or about

11 that time?

12 A Yes

13 Q Okay Now when you bought the property in

14 1984, this area shown on the landscape plan, it's

15 divided in two, and we've been referring to this as the

16 street extension You see that?

17 A That's right

18 Q And there's part of it blank, and part it

19 says, "Multi-use play area " Do you see that?

20 A Yes

21 Q Is that the way it was when you bought the

22 property?

23 A Actually, there was not a separate play area

24 All of this was paved as a driveway

25 Q Okay

1           A       See Robert -- the lot line, he built almost  
2       up to the lot line   This is Avocet Street here, and  
3       this is Dune going down here (indicating)

4           Q       Okay   And so was there any separation  
5       between these two areas?

6           A       No    It was just one long piece, as it is  
7       today

8                   JUDGE KEMMERLIN   This barrier was not  
9       there?

10                  WITNESS   Well, it's really not a  
11       barrier, that is a brick --

12                  JUDGE KEMMERLIN   Brick   Okay   It  
13       shows a --

14                  WITNESS   This is all brick flooring

15                  JUDGE KEMMERLIN   All right   And you  
16       are referring to what now?

17                  MR   STEPP   Plaintiff's Exhibit 67,  
18       Your Honor

19                  JUDGE KEMMERLIN   Okay   All right

20                  WITNESS   But it had been -- if there's  
21       -- there's brick underneath it, there's asphalt

22       And this road was all dirt road at that time

23                  JUDGE KEMMERLIN   Sure   Okay

24       BY MR   STEPP

25           Q       So Avocet Street was not paved?



1           A       No    Avocet came right up to here, and Robert  
2       paved the driveway, or Rock did, or somebody did  
3       Anyway, it was paved

4           Q       All right    There has been reference to a  
5       basketball goal on the property    Can you -- on Exhibit  
6       67, will you point out where that goal is located?

7           A       It's right here (indicating)

8                   JUDGE KEMMERLIN    Can the witness mark  
9       it with an "X"?

10                  MR   STEPP    Well, we've got to send  
11       this back to --

12                  JUDGE KEMMERLIN    Okay

13       BY MR   STEPP

14           Q       All right    Towards the end, if you're  
15       looking at this right side up, with the legend at the  
16       lower right hand corner, at the right hand side of the  
17       multi-use play area, there's some indication of a wall  
18       Was there some kind of wall there?

19           A       There is a wooden plank wall, like, here, to  
20       hold this property back, because this is elevated  
21       somewhat

22           Q       All right    So the property to -- the same  
23       orientation    The property to the right of the wall is  
24       higher than the property to the left, is that right?

25           A       Yes

1 Q Okay And were there any steps or anything  
2 as a part of that wall?

3 A No steps, but there's a gate and a fence -- a  
4 little fence like right here (indicating)

5 Q Okay Let's -- let me see

6 MR STEPP Russell, can I have your  
7 pictures?

8 MR PATTERSON Okay And I went ahead  
9 and marked these 91 and 92

10 MR STEPP Without objection

11 JUDGE KEMMERLIN Without objection,  
12 offered and received are what numbers?

13 MR STEPP Plaintiff's 91 and 92

14 JUDGE KEMMERLIN Okay

15 (WHEREUPON, documents were marked as

16 Plaintiff's Exhibit Numbers 91 and 92 for

17 identification into the case of Forest Beach

18 Owners' Association, Inc and Trevor G Howard vs

19 Carolyn S Bair)

20 BY MR STEPP

21 Q Ms Austin, I want to show you Plaintiff's  
22 Exhibit 92, which is a photograph of the street  
23 extension, and there's a little wooden gate, sort of, in  
24 the middle of that picture?

25 WITNESS Can you see that gate (toward

1 Judge Kemmerlin)?

2 JUDGE KEMMERLIN Uh-huh

3 WITNESS Okay

4 BY MR STEPP

5 Q Is that the gate you're --

6 A That's the gate

7 Q -- talking about here?

8 A Yeah It's always been there

9 Q Okay Now, there's also -- this also shows a  
10 basketball goal Is that goal in the same place it was?

11 A Correct

12 MR STEPP And I think this photograph  
13 indicates, for the record, it was taken in 1995  
14 Is that right, Russell?

15 MR PATTERSON Yes That's our  
16 information

17 BY MR STEPP

18 Q So the basketball goal is still there, and  
19 was there in 1995?

20 A Right

21 Q Now right here there's a planter Do you see  
22 that?

23 A That's right

24 Q Who put that planter in there?

25 A We put that planter there It, at one time,

1 had some -- all kinds of pretty flowers, and there was  
2 some shrubs, and things like that When they started  
3 building --

4 I don't know how it got empty looking like that,  
5 because it was landscaped at one time

6 Q Okay All right So there used to be  
7 shrubbery where the planter is, is that right?

8 A Right

9 Q And what happened to the shrubbery?

10 A Well, the planter was my son's idea He was  
11 always doing things like that I guess he wanted to  
12 plant something higher up to make it beautiful, I guess  
13 That's what he was always trying to do

14 Q All right Let's, kind of, keep this out  
15 here And let's look at Exhibit 76, which I'm going to  
16 try to dig out of this book for you All right This,  
17 Exhibit 76, Ms Austin, is another photograph This one  
18 purports to be from 1991

19 A Uh-huh

20 Q Do you see that?

21 A Yes

22 Q Is that the same planter?

23 A That's the same

24 Q Is that the same gate?

25 A Yes Same gate Same basketball goal See

1 all this brick walk down here

2 Q Okay Now there's some shrubbery, and trees,  
3 and stuff, sort of, behind where this red car is Do  
4 you see that?

5 A Yes

6 Q And was that there when you bought the  
7 property?

8 A Yes

9 Q Between 1984 and 1991 did you change that  
10 landscaping back on that part of the lot at all?

11 A No It just kept growing

12 Q Okay

13 A Yesterday Frank was referring to trees that  
14 grow slowly that were all back in here

15 Q Back behind the planter in the picture, so to  
16 speak?

17 A Yeah Yeah Going down that walkway

18 Q Okay Now let's look at Exhibit 77, which  
19 are some --

20 MR STEPP What, are these 8/06?

21 MR PATTERSON Hold on a second and  
22 I'll tell you Those are '05, November, '05

23 MR STEPP All right

24 BY MR STEPP

25 Q And here, look at Exhibit 77, photo 1A, Ms

1 Austin You see that? And it shows the gate, and it  
2 shows the wall But I want to call your attention to  
3 this shrubbery and trees in the back Are those the  
4 same -- is that the same --

5 A Same stuff

6 Q Is that the same shrubbery, same trees, that  
7 were in the picture in 1991?

8 A That's right

9 Q And have they just --

10 A They just kept growing

11 Q -- grown up in the meanwhile?

12 A Right

13 Q Now, I'm going to come back to these pictures  
14 in a minute, but when you bought the -- when you bought  
15 the property in 1984 - and I'm going back to Exhibit 67  
16 - was it possible to drive a car from Avocet Street down  
17 the street extension to get to the beach?

18 A No

19 Q Okay

20 A Never has been

21 Q All right Was it possible to walk down  
22 through there?

23 A Not without getting a -- going through a lot  
24 of shrubbery, and sandspurs, and things like that

25 Q Was there -- when you bought the property in

1 1984, was there any path that you ever saw or noticed  
2 though the street extension through any part of the  
3 strand block, or any part of this property on Exhibit  
4 67?

5 A No The path always went around this shrub  
6 and down this way

7 Q All right Now here you're talking about,  
8 again, orienting Exhibit 67 with the legend on the right  
9 bottom, you're talking about going below the landscaping  
10 indicated at the bottom of the multi-use play area,  
11 correct?

12 A Right Uh-huh

13 Q All right Did you ever -- in 1984, did you  
14 move into the house?

15 A I moved into the house in '84, correct

16 Q And how many years between 1984 and the  
17 present was that house your primary residence?

18 A All but about -- well, I would say until the  
19 present Let's see, I got married in '98, and so that  
20 takes off 10 years, and I lived at 57 Dune while they  
21 were building the Sea Crest, and that was another 3 or 4  
22 years

23 Q Well, it -- during the time that you stayed  
24 in this house as your -- you used this house as your  
25 principle residence

1 A Uh-huh

2 Q Okay Did you ever see anybody walk across  
3 the Avocet Street extension, or across this property  
4 that's the strand block, or whatever it is, toward the  
5 ocean, seaward of the house, to get to the beach?

6 A No All -- when we first bought the house I  
7 had three children, and my nephew lived with me, and we  
8 had about five dogs, and several cats, and an alligator,  
9 and a couple mice, and everything Anybody that was --  
10 any kind of animal my kids wanted, they had And this  
11 house was filled with kids all the time That's the  
12 reason I bought the house was because I was working 16  
13 hours a day, and I had four children I was trying to  
14 take care of

15 And there are doors, sliding glass doors, all the  
16 way down -- all around the house Kids were in and out  
17 of the house, and they all had friends My kids were  
18 like Pied Pipers, you know, they invited the whole  
19 school

20 But this was a wonderful house for these children  
21 to live in, to be able to be right there on the beach  
22 But anytime that anybody went to the beach they would  
23 come right down here, right to the edge of that  
24 driveway, and go around all this shrubbery area

25 I can understand that -- I don't think that -- what



1 was his name, yesterday?

2 Q Mr Howard

3 A Howard He's traveled this path He never  
4 went across my -- you know

5 This was all landscaped as my yard When I bought  
6 the house I thought I owned all of this That was what  
7 was purported to me You know, here was my driveway I  
8 didn't look at a plat I didn't even know what a plat  
9 was

10 Q All right Let's look --

11 A I didn't know until years later

12 WITNESS Oh, I might add something  
13 else that was interesting, Judge

14 JUDGE KEMMERLIN Okay

15 WITNESS You see this right here  
16 (indicating)

17 JUDGE KEMMERLIN I see that

18 WITNESS That was a platform deck out  
19 on the beach that they had sunk PVC pipes filled  
20 with cement down in it And it was an elevated --  
21 it was the same level as the beach, with a walkway  
22 to it

23 And remember in '84 we had -- no Was  
24 it -- yeah I guess I hadn't lived in the house  
25 very long when we had that horrible storm and the

1 ocean ate up about 50 feet or so And that was  
2 still standing there, and all of this, you know,  
3 washed away, and we built the rock revetment

4 And then when they pushed all that sand  
5 up, when they renourished the beach and pushed all  
6 that sand up, and then it created, you know, dunes  
7 all the way out here

8 JUDGE KEMMERLIN Okay

9 WITNESS And when the Sea Crest built  
10 this, the platform and all was, basically, gone  
11 So they just pulled the PVC pipes out

12 JUDGE KEMMERLIN All right And who  
13 put that platform in?

14 WITNESS Robert Graves

15 JUDGE KEMMERLIN When he built the  
16 house?

17 WITNESS Uh-huh

18 JUDGE KEMMERLIN Okay

19 BY MR STEPP

20 Q All right Let me show you Exhibit 78, some  
21 more photographs Let's see if I can find -- oh, here  
22 it is right here Exhibit 77, photograph 2A You see  
23 that?

24 A Yeah

25 Q Tell us what that is we're looking at?

1 A All right My house is back here

2 Q Uh-huh

3 A The rock revetment is along here

4 JUDGE KEMMERLIN All right

5 WITNESS And this is the land that  
6 they pushed up when -- after the rock revetment was  
7 built and they started renourishing, they pushed  
8 all of this sand up and filled up all along here

9 And these steps go up to this platform  
10 area across the front of my lawn, where people can  
11 put their lawn chairs out there and see the ocean,  
12 because you see, this is below the ocean You  
13 don't see the ocean when you're on my grass

14 And this is the area that we looked at  
15 with, you know, all the foliage there

16 JUDGE KEMMERLIN Okay Is there -- is  
17 it still that way, in the sense of land levels?

18 WITNESS Yes Uh-huh

19 JUDGE KEMMERLIN Today?

20 WITNESS Today Uh-huh

21 BY MR STEPP

22 Q Thank you Now, look at -- here's 77, 3A  
23 Is this also your backyard?

24 A Yes Uh-huh

25 Q All right And that's a picture of Mr

1 Snodgrass, and he's standing in front of some  
2 landscaping?

3 A Right

4 Q Where is that landscaping on the lot?

5 A Well, the Avocet extension would be  
6 everything in back of him that is all foliage now

7 Q Okay And how long is this landscaping --  
8 so, in other words, if you looked behind this foliage  
9 you would see Avocet Street extension, is that right?

10 A Yeah You'd see all of that foliage back  
11 there

12 Q Okay How long has all that --

13 A It's always been there

14 Q -- foliage and vegetation been there?

15 A Always been there

16 Q Okay

17 A And I might say it's elevated This goes up  
18 several -- it's probably five feet higher in here

19 Q The street extension?

20 A Uh-huh Than the ground part is

21 JUDGE KEMMERLIN Okay

22 MR STEPP All right

23 WITNESS I might also add, I recycle  
24 compost stuff there to make good rich soil That's  
25 where I do my composting

1 BY MR STEPP

2 Q Let me show you Exhibit 77, 4C, and there's  
3 some closed gates You see that?

4 A Uh-huh

5 Q And there's Mr Snodgrass standing at the  
6 sign

7 A Uh-huh

8 Q All right Do you ever close both your  
9 gates?

10 A No I have maybe closed them twice in all  
11 the time -- and, you know, I don't know what to say  
12 about Mr Snodgrass testifying that he went by -- at  
13 least once a week they were closed

14 In '01, my son died, and I was under such  
15 tremendous stress the doctor gave me Lipitor, and  
16 between the Lipitor and the stress I already had, it  
17 paralyzed me And I could hardly walk And for three  
18 years I just lay in the bed I lost 36 pounds I  
19 couldn't eat more than a tablespoon of food at a time

20 And the only activity I did at all was to get up  
21 and walk my dogs And I -- for months and months I  
22 couldn't even walk but about 25 feet down the road to  
23 walk my dogs

24 Now, I could not handle these gates These gates  
25 are heavy Not only that -- see, they're on rollers?

1 JUDGE KEMMERLIN Uh-huh

2 WITNESS And when they're rolled back,  
3 that roller goes down into a hole, and it takes  
4 somebody strong to pick that gate up and move it  
5 out that way And, I mean, if -- I have more  
6 strength now, but for four or five years I didn't  
7 have enough strength to have ever closed those  
8 gates

9 Anybody who rented the house may have,  
10 at some time, because, you know, we don't talk to  
11 everybody that comes to rent the house in the  
12 summer, which I have to rent my house to cover my  
13 taxes now

14 But those gates were not closed when  
15 Mr Snodgrass was standing there They must have  
16 closed them to take a picture of it

17 BY MR STEPP

18 Q All right Now the area behind that gate, is  
19 that where -- is that the parking area for the house?

20 A It's this way

21 Q Oh, yeah I'm on the wrong side

22 A Yeah

23 Q This area, the front of 4C, that's the  
24 parking area for the house

25 A This is the driveway

1 Q All right Did you always use this area as a  
2 parking area for the house from 1984 forward?

3 A Yes That was the designated parking area  
4 And there was no place else to park

5 Q Are you aware of anybody else in Forest Beach  
6 subdivision parking there and going through the property  
7 to go to the beach?

8 A No I'm not aware of anybody, as far as I  
9 ever noticed In fact, I think my testimony back in --  
10 long, long time ago said that people went down the side  
11 of the planter, along that path, and around that path  
12 down to the beach

13 Q Yeah Let's talk about that while we're  
14 here Let's move back and find a good picture of the  
15 planter

16 Let's go back to Plaintiff's Exhibit 76

17 A Uh-huh

18 Q And this shows the planter and the car in the  
19 driveway You see that?

20 A Uh-huh

21 Q Now at some time in the past, did you testify  
22 that people walked down the property to get to the  
23 beach?

24 A Yes I did But I also testified to the  
25 fact that they went to the right of the driveway and

1 down that path

2 Q All right And who do you understand that  
3 property to be to the right of this planter?

4 A That belongs to the Sea Crest

5 Q Have you ever testified, to your knowledge or  
6 understanding, that people went across the Avocet Street  
7 extension, or any part of lot 5, or any part of the  
8 strand block in front of lot 5, to get to the beach?

9 A No

10 Q Okay

11 A If I did, I stand corrected

12 Q Okay

13 A But I don't think I did

14 Q I've got a few more pictures, while we're  
15 just doing pictures This is Defendant's Exhibit 15

16 MR PATTERSON Can I look at that I  
17 want to see if mine is the same

18 MR BARNES There's no -- let me just  
19 say, for the record, I misunderstood Bobby, I  
20 numbered the whole packet, which is why we've now  
21 skipped from Defendant's Exhibit 17 to 15

22 MR PATTERSON Okay

23 MR STEPP We'll straighten that out

24 MR PATTERSON I've got the same set

25 of --



1 MR STEPP Yeah You've got the same  
2 ones that --

3 MR PATTERSON Okay

4 MR STEPP These are the ones I intend  
5 to use I gave you a whole set of them, but I'm  
6 only going to use these few Okay?

7 MR PATTERSON Yeah

8 BY MR STEPP

9 Q All right So what we've marked as  
10 Defendant's Exhibit 15, that shows the driveway with one  
11 gate open and one gate closed, is that right?

12 A That's correct

13 Q Is that the way it usually works?

14 A That's the way it looks And I have that  
15 beware of the dog sign, because sometimes my dogs are  
16 out in the yard, and the liability of having dogs, and  
17 someone walking into your yard I was just putting them  
18 on notice that my dogs may be around

19 Q Okay Now here is Defendant's Exhibit 20,  
20 and is this a photograph that accurately depicts what  
21 the sidewalk down to the beach currently looks like?

22 A Yes

23 Q Okay

24 A And that is over seven feet wide

25 Q The width of the walkway?

1 A Right

2 Q Okay And then here is Defendant's Exhibit  
3 32, there was some testimony yesterday about a sidewalk  
4 from Dune Lane up to Forest Beach Drive Do you  
5 remember that?

6 A Right

7 Q Is that a picture of the sidewalk?

8 A That's a picture of the sidewalk

9 Q And this is Avocet Street over here on the  
10 right, correct?

11 A That's right And then Avocet goes on across  
12 Forest Beach, and that sidewalk is over on this side,  
13 next to the timeshares, not on this side

14 Well, it's not relevant to this case, but --

15 Q Okay

16 JUDGE KEMMERLIN Well, now let me see  
17 That sidewalk is on the motel side?

18 WITNESS Now, see this is the -- this  
19 is where the old motel was

20 JUDGE KEMMERLIN Right Right

21 WITNESS And this is the condo And  
22 this is the sidewalk

23 JUDGE KEMMERLIN Right

24 WITNESS Now North Forest Beach runs  
25 along here

1 JUDGE KEMMERLIN Okay

2 WITNESS And then Robert has a  
3 timeshare over here, which I own a unit in that  
4 timeshare

5 JUDGE KEMMERLIN Okay

6 WITNESS And the sidewalk on the other  
7 side of Forest Beach goes down this side of the  
8 street, down by the timeshare

9 JUDGE KEMMERLIN Okay

10 BY MR STEPP

11 Q All right And here, Exhibit 21, another  
12 view of the sidewalk But if you came -- of the walkway  
13 to the beach But if you came down that sidewalk would  
14 you end up going straight into that walkway?

15 A Uh-huh

16 Q Okay And Exhibit 16 is just another picture  
17 of the parking area with one gate opened and one gate  
18 closed, correct?

19 A Uh-huh

20 Q All right Ms --

21 A Where are the pictures for -- from the beach  
22 side of this foliage?

23 Q Right

24 A I know we've got some I took some from the  
25 beach

1 Q All right Let me see All right While --  
2 while we look for those let me ask you, in the back of  
3 Defendant's Exhibit 16 there -- there's shrubbery and  
4 trees back --

5 A Right

6 Q -- back behind the parking area Do you see  
7 that?

8 A Uh-huh

9 Q Is that the same shrubbery and trees --

10 A Same shrubbery --

11 Q -- that have always been there?

12 A -- that's been growing there ever since

13 Robert built the house

14 Q All right And, let me see, you find the one  
15 that's looking the other way

16 A Well, here is the street, now, which shows  
17 there is no place where anybody can park It's illegal  
18 to park on the street there

19 Q All right

20 MR STEPP This is Defendant's Exhibit

21 24

22 MR PATTERSON Okay

23 MR STEPP You got them?

24 MR PATTERSON Got it

25 ///

\\

1 BY MR STEPP

2 Q This is Dune Lane, right, Ms Austin?

3 A Yes

4 Q Okay

5 A This is not the set of pictures There are  
6 more pictures some place that I took from the beach

7 Q All right Hold on Look at Defendant's  
8 Exhibit 6, are any of these the ones that you're talking  
9 about?

10 A No No No

11 WITNESS These are pictures that I  
12 just took the other day that you brought up from  
13 Florida (toward Mr Austin)

14 MR AUSTIN Yeah I sent them to him  
15 He's got them If not I can go -- give me about a  
16 minute and I'll go walk out and go get them

17 MR STEPP Now hold on

18 WITNESS That's all the construction

19 MR STEPP This is during the --  
20 Defendant's Exhibit 6 is during the construction at  
21 Sea Crest

22 WITNESS Right

23 MR STEPP And there's that -- on  
24 Defendant's 6, page 1, there is the gate, and there  
25 is the basketball goal

1 WITNESS Right

2 MR AUSTIN All right If you give me  
3 five minutes I'll go and get those others, or just  
4 two -- two -- can we take a break for a second and  
5 I'll go pick up those other pictures I thought he  
6 had them

7 MR STEPP Well, I thought I did too  
8 All right

9 MR AUSTIN I'll be right back

10 MR STEPP Okay

11 MR AUSTIN The car's right outside

12 JUDGE KEMMERLIN Take a short break  
13 then, off the record

14 (WHEREUPON, a brief break was taken off  
15 the record )

16 BY MR STEPP

17 Q Ms Austin, I want to hand you some  
18 additional photographs that we've now marked as Exhibits  
19 36 -- Defendant's Exhibits 36 through 47, and I want you  
20 to just, sort of, for each one, tell me what it is

21 We're going to start with Defendant's Exhibit 36  
22 What does that show?

23 A That shows my lawn, and the area that is in  
24 question in this lawsuit

25 Q All right The shrubbery you mean?

1           A       Uh-huh   And the wall, which holds back the -  
2       -

3           Q       The Dunes?

4           A       The dune part there   Which I now understand  
5       that they consider all of this dune   And we put the  
6       pampas grass up there to, sort of, hide the wall

7           Q       Okay   So if somebody was to come down the  
8       street extension, and use the street extension to get to  
9       the beach, would they have to -- would they walk --

10          A       They'd have to walk through all that  
11       shrubbery

12          Q       Okay   Is that --

13          A       Which you can't get through it   but -- as  
14       Drew said one day, you couldn't get through that with a  
15       machete

16          Q       Okay   And is that anything that you planted,  
17       or has that grown up naturally, or been there?

18          A       No   That's just natural stuff

19                   JUDGE KEMMERLIN   And who put up the  
20       pampas grass?

21                   WITNESS   Huh?

22                   JUDGE KEMMERLIN   Who put up the pampas  
23       grass?

24                   WITNESS   Oh, I -- that's across the  
25       front   I put the pampas grass there to hide the

1 wall

2 BY MR STEPP

3 Q Let's look at 37 now What does that show?

4 A That shows the walkway up to my living room,  
5 and how -- we're trying to encourage this foliage here,  
6 because this is what looks over into my house

7 Q All right And now, and you're saying what's  
8 looking -- that's a picture of the Sea Crest That's  
9 Exhibit 38, is that right?

10 A Yes

11 Q And that's the -- the condominiums looking  
12 right over your lot line?

13 A Right All of these condos go all the way  
14 down here, and all of these balconies look right into my  
15 house I have no privacy whatsoever

16 Q All right And that's Defendant's Exhibit  
17 38 Now on 39, tell me what that is please

18 A That's just another view of all of that  
19 indigenous growth that is in the road extension

20 Q And that is where that is, it's in the road  
21 extension?

22 A Yeah That's what covers all of it

23 Q All right And here is Exhibit 40 What is  
24 that, please?

25 A That's just another view from the lawn toward



1 the Sea Crest, and if you go right around behind this  
2 shrub is where that gate and little fence is

3 Q All right And 41 is what?

4 A That's just -- that's Robert Graves' condo up  
5 there He said he built it to look over in the yard of  
6 where his children grew up

7 Q Okay And this is 42 What is this?

8 A This is from the beach And this is how --  
9 this is how this covers the entire 36 feet of that road  
10 extension So it goes from the end of my driveway all  
11 the way out to the dunes, the original dunes

12 Q Okay And 43 is some shrubbery Where is  
13 that?

14 A Yeah That's some -- out at the same point  
15 Excuse me That raised part is like over here where the  
16 pampas grass is, and that grows all the way down to that  
17 dune

18 Q All right This is 44 you're going to talk  
19 about now

20 A Now that's on the Sea Crest Motel side

21 Q All right

22 A And all those trees, all of that is still  
23 looking over that big road extension

24 Q All right And then here is 45

25 A That is the path going from --

1 JUDGE KEMMERLIN I know exactly what

2 it is Yeah I got it

3 BY MR STEPP

4 Q And 46?

5 A That's just another one to show how wide

6 And the walkway between my wall --

7 JUDGE KEMMERLIN That's upside down,

8 isn't it?

9 WITNESS No

10 JUDGE KEMMERLIN Or sideways Okay

11 No It's right Okay

12 WITNESS And here's the Sea Crest

13 JUDGE KEMMERLIN I got it now

14 WITNESS Okay

15 BY MR STEPP

16 Q All right 47?

17 A And this is farther out on the -- I walked  
18 out farther on the beach for you to see how massive this  
19 is And, you know, this is a good buffer if we ever  
20 have a storm for these properties, which every year we  
21 expect to get a storm, and that -- it's going to really  
22 help protect that property at that time

23 Q All right Thank you very much

24 A Hopefully we don't ever have on, but --

25 Q And these pictures that we just looked at,

1 when were they taken?

2 A Last week

3 Q Okay

4 JUDGE KEMMERLIN Recently?

5 WITNESS Yeah Last week

6 BY MR STEPP

7 Q All right Ms Austin, back in 1998 did you  
8 bring an action to quiet title to the street end, and  
9 the strand block, and the property in front of the  
10 street end?

11 A Yes

12 Q And are you a lawyer?

13 A No

14 Q Who was helping you with that?

15 A I guess I probably have more litigation than  
16 anybody in Beaufort County

17 Q Well, was your husband Bob helping you with  
18 that?

19 A Yes

20 Q Did you have any idea what to do, other than  
21 what he recommended that you do?

22 A Like what?

23 Q Well, anything I mean, did you just do --  
24 follow his advice, with respect to who you named, how  
25 you proceeded, and all that sort of stuff?

1 A Right

2 Q Okay Does your husband have any interest in  
3 lot 5?

4 A No

5 Q Was that quiet title action a secret? Were  
6 you trying to keep it a secret?

7 A No

8 Q Okay Did you ever discuss it with anybody?

9 A No

10 Q Okay Why not?

11 A I had no reason to Plus I was dealing with  
12 a business that was keeping me going around in circles

13 I was still reeling from what was happening at the  
14 Sea Crest, because that really -- that upset my life so  
15 much, and changed that whole property, you know, from  
16 just a nice quiet little neighborhood when the motel was  
17 there There was never any noise There wasn't  
18 congestion There wasn't anything It was just a  
19 sleepy little motel where people came and went  
20 unobtrusively, and there was just never -- never any  
21 problem with the motel there And then after the --  
22 they built that condo -- condominium complex it's like  
23 New York City moved in on our block

24 Q Okay There was some testimony yesterday,  
25 and some photographs of some sheds that are on lot 5

1 Are you familiar with those?

2 A Yes

3 Q Photograph 7C, is that one of them?

4 A Yes

5 Q Exhibit 78, 7C?

6 A Yes

7 Q How long have they been there?

8 A Well, part of it's been there since right  
9 after we bought the house There was a free standing  
10 shed, like, there And I was just trying to tidy it up  
11 And there's no place to keep lawn tools, paint, anything  
12 like that

13 You know, all those houses are built lot to lot  
14 There's just not any place like a normal house And I  
15 didn't think my neighbor would like looking over in my  
16 yard and seeing wheelbarrows, and lawnmowers, and paint  
17 cans, and hedge trimmers, and all of that stuff So we  
18 just extended the roof and put the same kind of wood on  
19 the outside that was on the house, to try to make it in  
20 keeping -- I mean, it was all used, you know, to store  
21 stuff

22 Q Okay And those have been there since  
23 shortly after you bought the house?

24 A Yes In fact Charley, at the town, was over  
25 here all the time actually giving advice of what could

1 be done

2 Q Is that somebody at the Town of Hilton Head?

3 A Yeah Yeah He was with the building  
4 department

5 Q Okay Let me go back Look at 77 We'll  
6 just look at 1B And I see this gate here When was  
7 that gate put in, do you remember?

8 A Maybe -- I don't know '03, '04

9 WITNESS Bobby, do you remember the  
10 exact date?

11 MR STEPP Well, if you don't remember  
12 you can just say you don't remember exactly

13 WITNESS I don't know the exact date  
14 I was still -- I was sick at that time

15 MR STEPP Okay

16 BY MR STEPP

17 Q Who made the gate and installed it?

18 A The gate was made by the guy who lived in one  
19 of those four lots

20 Q One of the four lots behind lot 5?

21 A Uh-huh See there are only four lots from my  
22 house down to North Forest Beach

23 Q Okay

24 A And one is strictly -- one house is strictly  
25 an investment house, the next house was occupied, and

1 had been for ever and ever by the guy who built the  
2 gate, which by the way, he told me that he called and  
3 that there was no --

4 MR PATTERSON Your Honor, I'd object  
5 to the hearsay

6 JUDGE KEMMERLIN Okay It would be  
7 hearsay

8 WITNESS Okay And then the next  
9 house was owned by my doctor, who had it strictly  
10 as an investment, and he didn't care what I did  
11 And, you know, it made no difference to him how  
12 people got to the beach

13 BY MR STEPP

14 Q Did you get any objection when you put up the  
15 gate from any of the owners of the four lots behind lot  
16 5?

17 A No In fact people would come down and tell  
18 me how beautiful it looked I've had people all over  
19 town say, "I went down that street, and I can't tell you  
20 how beautiful that looks How much improved, and how  
21 much it adds to the neighborhood "

22 Q Okay Ms Austin, are you a member of the  
23 Forest Beach Owners' Association?

24 A No I am not

25 Q Why are you not?

1           A       Because in '89 I was a member, and I went to  
2       their meeting, and I was asking for permission to build  
3       a pool   And at that time we had -- that's when we had  
4       the dead zone coming down North Forest Beach, and Buz  
5       Stulac, I think was president of the Forest Beach  
6       Association at that time

7           And my yard where I wanted to -- my lot was not  
8       touched by that dead zone   And so there was no problem  
9       with building a pool -- you know, the dead zone was the  
10      only thing that would keep you from building a pool, and  
11      I wasn't building on the strand block, I was building on  
12      my property   And Buz said, "No   We can't have a pool,  
13      so you can't have a pool "   And they would not give me  
14      permission to build a pool

15          Q       Is that why you didn't join up, or did you  
16      resign at that point

17          A       Well, at that I thought, you know, anybody  
18      that's sour grapes like that, I don't want to be a part  
19      of it

20          Q       Have you had other disputes with Forest Beach  
21      Association, or Forest Beach Owners' Association, since  
22      then?

23          A       Well, they've sued me more than anybody on  
24      North Forest Beach   Every time I turn around they've  
25      got another suit coming after me   And I wonder why they



1 don't sue somebody else

2 Q Okay Look at Exhibit 77 We see the front  
3 side of this wall that's now between your property and  
4 the Sea Crest property

5 A Uh-huh

6 Q Did you build a wall?

7 A Yes I didn't personally build it

8 Q Yeah But you caused it to be built

9 A Yes

10 Q Why did you want to build a wall between that  
11 property and the Sea Crest property?

12 A Well, because we've got about a thousand  
13 people that walk down that walk

14 Q And are they a thousand people from Forest  
15 Beach subdivision?

16 A No They are people from the timeshare, and  
17 from -- from Sea Crest timeshare, and from Waterside I  
18 think -- and people from all over the place will drive  
19 up here, and people get out and walk down that walk I  
20 mean, they come from other parts of the island to go  
21 there

22 And they would walk down there with their Coke  
23 cans, their coffee cups, their cigarettes, and they just  
24 throw it over into my yard I mean, it made my yard  
25 look like a trash heap all the time Everyday, you

1 know, somebody had to be out there cleaning up all their  
2 trash

3 And first we talked to Kevin, who was going to put  
4 wrought iron fencing down there And then we said,  
5 "Well, that wouldn't do any good, because they would  
6 just throw it between the pickets, or throw it over "  
7 So we decided to build this kind of a wall

8 Now I was pretty certain that I had called North  
9 Forest Beach Association to see about a permit I know  
10 I called the city, and they said that there was no  
11 permit that was necessary

12 Q Okay

13 A And -- and the only thing that I knew was a  
14 wall could not be higher than seven feet, and it is not  
15 It is exactly seven feet high

16 Q Okay

17 MR STEPP That's all the questions I  
18 have for you Ms Austin Please answer any that  
19 Mr Patterson may have

20 WITNESS Okay

21 MR PATTERSON Give me one second

22 (WHEREUPON, a brief break was taken off  
23 the record )

24 MR STEPP Let's go back on

25 COURT REPORTER Yes, sir

1 MR STEPP Just to clean up the  
2 record, because we marked some photographs that we  
3 ended up not using, and so there will be some gaps  
4 in the exhibit numbers, but just so we'll have a  
5 record of that There is no Defendant's Exhibit  
6 12, 11, 10, 9, 8, 14, 13, 31, 30, 29, 28, or 26

7 JUDGE KEMMERLIN Correct, Mr  
8 Patterson?

9 MR PATTERSON Well, I -- yes

10 MR BARNES We'll also read into the  
11 record what we got.

12 MR STEPP All right For photographs  
13 this morning that we have introduced, in no  
14 particular order, unfortunately, would be  
15 Defendant's Exhibits 25, 23, 24, 15, 20, 32, 21,  
16 16, 47, 46, 45, 44, 43, 42, 41, 40, 30, 39, 38, 37,  
17 36, 27, 33, 34, 17, 18, 22, and 19

18 (WHEREUPON, photographs were marked as  
19 Defendant's Exhibit Numbers 25, 23, 24, 15, 20, 32,  
20 21, 16, 47, 46, 45, 44, 43, 42, 41, 40, 30, 39, 38,  
21 37, 36, 27, 33, 34, 17, 18, 22, and 19 for  
22 identification into the case of Forest Beach  
23 Owners' Association, Inc and Trevor G Howard vs  
24 Carolyn S Bair)

25 MR PATTERSON Okay

1 MR STEPP Can we have a quick break,  
2 Your Honor?

3 JUDGE KEMMERLIN Sure Fine

4 (WHEREUPON, a brief break was taken off  
5 the record )

6 BY MR STEPP

7 Q Ms Austin, you told me that when you bought  
8 that land, you bought lot 5, you thought that the street  
9 extension and the property in front of the lot was part  
10 of what you were buying, is that right?

11 A Correct

12 Q And have you, since 1984, asserted ownership,  
13 possession, and control over that property consistently?

14 A Yes

15 Q And is that consistent with your  
16 understanding of what your predecessors in interest,  
17 Robert Graves and Rock Purdy, had done as well?

18 A Right

19 MR STEPP Thank you That's all I've  
20 got

21 CROSS EXAMINATION

22 BY MR PATTERSON

23 Q Ms Bair, you, as I believe you testified --  
24 you've testified that you purchased your property in  
25 1984 from Rock Purdy, and Exhibit 9 is your deed that

1 I've got in front of you

2 A That's what it says

3 Q All right And that deed has a property  
4 description on it, and refers to the plat book 9 at page  
5 4

6 A Yes I see it right there

7 Q All right And this Exhibit 10 is 9 at page  
8 4?

9 A Where does it say that?

10 Q Well, I'll represent to you that that's plat  
11 book 9 at page 4, which is Exhibit 10

12 A Okay

13 Q And that shows your property, lot 5, on that  
14 plat?

15 A It does

16 Q And it clearly shows A street next to your  
17 plat -- your lot

18 A That's what this plat says

19 Q Yes, ma'am

20 A Yes

21 Q And if you look at your deed and the plat  
22 that's referenced in there, it's clear today that you  
23 did not buy the Avocet Street extension from Mr Purdy,  
24 you bought just lot 5

25 A Well, I --

1 MR STEPP I object to the extent that  
2 that calls for a legal conclusion, but I don't mind  
3 the witness testifying as to who her understanding

4 JUDGE KEMMERLIN Well, the deed says  
5 whatever it says

6 WITNESS Well, let me point this out  
7 I, as a mother, not a business woman, who's husband  
8 walked out and left me with three kids, and I was  
9 sole supporter of my kids, that's the reason I was  
10 working 16 hours a day And I never borrowed a  
11 penny from anybody but a bank in all of that time  
12 I did not read this I did not know what it was  
13 I only trusted what I was told by Rock Purdy

14 BY MR PATTERSON

15 Q All right Rock Purdy is the man that has  
16 the video poker machines that's --

17 A No That's Henry Ingram And that's --

18 Q Okay

19 A Let me tell you, when I bought this house the  
20 three people involved in it was Rock Purdy, Henry  
21 Ingram, and Otto Ferine. And long story short, those  
22 three got me to buy the house, they even dropped the  
23 price down to where it was something that I felt I could  
24 afford And they took my condo in trade, and when --  
25 and Rock loaned me \$25,000 00 interest free for two

1 years, and during those two years they sued me three  
2 times, I believe it was

3 The first suit was over a mistake that Ferine had  
4 made on his closing statement, and he -- the pleadings  
5 said that I was being charged with \$25,000 00 punitive  
6 damages

7 I went to Ted Meyer, and he ran up a bill of  
8 \$7,000 00 so fast, and this was back in '84 now, so  
9 \$7,000 00 was a heck of a lot of money And I came over  
10 here to a judge and said, "Please help me I cannot  
11 take fees like this " And the Judge called them all in  
12 and gave Ted Meyer a good dressing down

13 And I then realized, because Henry Ingram's wife  
14 ended up being a friend of mine, and she -- we were  
15 talking about what happened, and she said, "Well, you  
16 know, Henry was supposed to get \$25,000 00 out of that  
17 deal " I said, "Linda, that was only -- because what  
18 they did, they sold me the property, they thought they'd  
19 put so much pressure on me I couldn't afford it, and  
20 they would get my condo and the house back And I  
21 worked hard and paid all my bills, and they were not  
22 able to do it So Henry didn't get his \$25,000 00

23 Now at that, Judge, I should have packed up and  
24 left Hilton Head, because that's been the story of my  
25 life with unsavory people like that ever since I've been

1 on that island

2 JUDGE KEMMERLIN Okay

3 BY MR PATTERSON

4 Q All right In fact, Ms Bair, you are a real  
5 estate agent, aren't you? Have been for --

6 A I was not in '89 I had a cleaning company  
7 I came to the island to support my kids I went into  
8 the cleaning business I was a maid I cleaned ever  
9 toilet on that island

10 Q You were a maid though that was buying an  
11 ocean front house on Hilton Head Island

12 A That's right I was Is there anything wrong  
13 with that?

14 Q Not a thing

15 A I had one -- I handled all of the banks,  
16 because they knew they could trust me I did most of  
17 the major office buildings, and I had a -- and I cleaned  
18 175 units for rental companies

19 Q You were a very successful business woman

20 A I worked hard

21 Q Yes, ma'am

22 A I mean, you know, I worked all the time I  
23 went for one three year period that I didn't have one  
24 day off I worked Christmas Eve, Christmas Day, New  
25 Years Eve, New Years Day And I was in my office almost



1 every morning by 5 30 or 6 00

2 Q And looking at your deed, which is Exhibit 9,  
3 it also referenced, on the face of the deed, three sets  
4 of covenants that applied to your property

5 A I didn't even know what a covenant was then

6 Q Yes, ma'am But you do know what it is  
7 today, don't you?

8 A I -- believe me, I have been pretty well  
9 educated

10 Q All right And those are Exhibits 11, 12,  
11 and 13 are the covenants specifically referenced in your  
12 deed

13 A Well, I don't know Where does it say what  
14 the covenants are?

15 MR STEPP It's not going to say  
16 there

17 WITNESS Okay

18 MR PATTERSON It's going to say,  
19 "Said property is subject to the restrictions --  
20 I'll point it out to you

21 MR STEPP Russell, I'll stipulate  
22 that those were the --

23 MR PATTERSON Okay All right

24 BY MR PATTERSON

25 Q And I'll represent to you that Exhibits 11,

1 12, and 13 are the covenants that are referenced --  
2 specifically referenced on the face of your deed

3 A Okay

4 Q Okay Would you agree with me that those  
5 sets of covenants require ARB approval for the  
6 construction of improvements on your lot?

7 A I don't think -- I read so many different  
8 covenants, because I -- as far as I know there are two  
9 or three different sets of covenants

10 Q I'm just talking about the covenants on your  
11 ocean front house

12 A Well, see I would not have even known what  
13 was on the -- I had not seen this deed I don't even  
14 think I saw it at closing

15 Q Well, I'm talking about today, in this --

16 A Well, I don't know

17 Q -- in this lawsuit

18 A I don't know You know, you're asking me  
19 something that, unless you want me to go sit down  
20 someplace quiet for a couple of hours and try to digest  
21 all of this, I -- that's something that I can't answer

22 Q Okay Do you know that those covenants  
23 required a five foot setback for any improvements to  
24 adjoining property owners?

25 A No I don't know that Robert Graves built

1 his service wall right over the line

2 Q I'm just asking what you know Did you know  
3 that when you bought the property?

4 A No

5 Q Okay But you know it now, don't you?

6 A No

7 Q Okay Haven't you filed suits against other  
8 people in North Forest Beach for violation of the same  
9 covenant?

10 A No Not the same covenants They took a lot  
11 and split it in two, and the covenants say, "No lots  
12 shall be less than 60 feet," and they built on two 55  
13 foot lots

14 Q All right

15 A They also -- you're supposed to be 20 feet  
16 behind the lot line, and they moved their properties  
17 down to the lot line

18 Q All right

19 A And those are the violations that I know of  
20 that I sued them on

21 And they also were, even though they're no view  
22 violations in South Carolina, I understand, but they had  
23 blocked the views of the abutting land owners' houses

24 Q All right At the time of the -- your  
25 purchase, in 1984, people accessed the beach going down

1 a path that started on Avocet Street, near your  
2 property, and then veered over to the Graves' property?

3 A That's correct

4 Q In fact at the time of their purchase there  
5 was an obvious path to the beach?

6 A I don't remember what was obvious at that  
7 time

8 Q All right Do you --

9 A But I can --

10 Q Do you recall --

11 MR STEPP I'm not sure she's  
12 finished

13 MR PATTERSON Go ahead

14 WITNESS I can say that it was a known  
15 fact that everybody went through the Sea Crest  
16 property to get to the beach

17 BY MR PATTERSON

18 Q Do you recall the -- your deposition being  
19 taken in the case of Investors Title vs Carolyn Bair,  
20 on December 28<sup>th</sup>, a copy of which has been marked as  
21 Exhibit 66A(1) in this case? Do you recall that? And  
22 I'll show you a copy of it Can you -- Exhibit 66A(1)  
23 If you look to page 82, which is at the top

24 A (Witness complied )

25 Q And --

1 A Well, that's just what I just now said

2 Q All right The question was

3 "Would you say, in your

4 judgment, that a neighbor

5 coming down Avocet Street, when

6 he got to Dune Lane, would feel

7 like he was now in your yard

8 once he crossed over Dune

9 Lane?"

10 And your answer was? If you'll read it

11 A "There -- there would be

12 no reason for him to because it

13 was obvious that there was a

14 little path there If he was

15 going to the beach, he'd just

16 walk along that path "

17 "That path" being the path which I testified to, in

18 another case back in '94 that you so aptly brought out,

19 that I said the path goes to the right of the planter,

20 and around the shrubs, down to the beach

21 Q Okay And let's look at the path we're

22 talking about Exhibit 76 is a photograph of it in

23 1991 Would you agree with me?

24 A That -- the path went down here and veered

25 around these shrubs this way, it's over on the Sea

1 Crest's property, which is where Robert now has the  
2 walkway The walkway nearest where that path was

3 Q Is Exhibit 76 a photo of the street extension  
4 in 1991?

5 A I cannot say what date it would be

6 Q Whose car is that?

7 A That looks like my daughter's car

8 Q All right And the planter is clearly on  
9 your -- on the street extension, on your property -- on  
10 the property you claim?

11 A On my property

12 Q The property you claim?

13 A That's right

14 Q And it's part of the street extension?

15 A The property's always been my property, I  
16 think

17 Q But the planter's on the street extension

18 A Yeah That's right

19 Q And so the people walked on to your property,  
20 on to the street extension, past your house, past the  
21 planter --

22 A They didn't go past my house My house is  
23 sitting over here (indicating)

24 Q Isn't that a picture of your house right here  
25 (indicating)?

1           A       Well, but that's over there   We're talking  
2       about 40 feet over here

3           Q       I'm talking about, is this your house right  
4       here?

5           A       That's right

6           Q       Across from your house is a planter, is it  
7       not?

8           A       Well, they didn't go past my house   If you  
9       go past my house you would be going that way  
10      (indicating)

11          Q       But they walked into the street extension,  
12      past your house, past the planter, to the right of the  
13      planter, on past the shrubs, to the beach?

14          A       That's right   They went right down by this  
15      shrub, and then the path veered right around all of  
16      those shrubs

17               All of those plantings that we now look at where  
18      the walkway is where the path went

19          Q       Okay

20          A       And then veered back, at the very end, across  
21      the toe of my property

22          Q       All right   And Exhibit 92 is another  
23      photograph -- do you think -- was that taken about 1995?

24          A       I have no idea what year it was   It's a  
25      picture of our property though

1 Q All right And this looks to be a photograph  
2 that shows the old Sea Crest Hotel

3 A Yes That is true

4 Q And there is shrubbery right up against the  
5 building by the old Sea Crest Hotel, in Exhibit 92?

6 A Yeah But the building stopped right there

7 Q All right So there's no way -- the people  
8 had to walk next to the planter on the pavement to get  
9 to the beach, because there wasn't enough room --

10 A No No No There's all kinds of paths  
11 Back here where the motel is you could walk all  
12 different paths right straight through the motel  
13 property

14 Q I'm talking about -- if you wanted to walk  
15 though the hotel part, but if you wanted to walk  
16 straight down Avocet, you had to walk next to your  
17 planter that --

18 A Robert Graves established that I didn't

19 Q I didn't ask you who established it I just  
20 --

21 A Well, I'm just saying, that's what Robert  
22 Graves established That's where it was when I moved  
23 there That's where -- Rock Purdy even told me that's  
24 where people walked to the beach

25 Q All right So you knew that people walked to



1 the beach down that --

2 A Down that path

3 Q That's right

4 A On the property of the Sea Crest, which is  
5 now a nice walk While --

6 You know, everybody immediately just started using  
7 that walk Nobody's going to walk through burs and  
8 woods when they can walk down a nice sidewalk

9 Q And in fact as late as August 1994 people  
10 went beside the planter to the beach everyday, is that  
11 true?

12 A I don't know that I can say everyday, but  
13 that's the way they were going until Robert started  
14 building the Sea Crest

15 Q All right Well, let me show you Exhibit  
16 61A I'll represent to you is your testimony in the  
17 case brought by Forest Beach Association and Property  
18 Research Holdings on August 31<sup>st</sup>, 1994 And if you'll  
19 turn to page 77

20 A (Witness complied )

21 Q And on page 77 --

22 A Let's start back on 76

23 Q No, ma'am If I can ask you --

24 A Well, I'd like to read on what's on page 76

25 JUDGE KEMMERLIN Let him -- your

1 lawyer will take care of that, you just do what Mr  
2 Patterson tells you

3 WITNESS Okay All right

4 BY MR PATTERSON

5 Q The question on page 77, line 13

6 "Haven't you put a rather  
7 large planter made of railroad  
8 ties or something right in  
9 there?"

10 And read your answer please

11 A "Not in the beach access  
12 That has always been our  
13 driveway, Mr Laughlin Since  
14 early '70's that has been --  
15 that's the only driveway we  
16 have If we couldn't park  
17 there, we would have no place  
18 to park The only reason we  
19 put the planter there was to  
20 try to divide the beach access  
21 from my driveway And people  
22 go down the side of that  
23 planter to the beach,  
24 absolutely every day "

25 Q Yes, ma'am And, in fact, people have been

1 coming down the beach path down Avocet for ever and for  
2 ever, haven't they?

3 A I guess that's been established

4 Q Is Mr Frank Guscio a friend of yours?

5 A He is an acquaintance

6 Q All right And he's one of the most  
7 knowledgeable people about property rights in North  
8 Forest Beach?

9 A I suppose I don't qualify people It's  
10 been -- I have learned a long time ago that unless I see  
11 it in writing by an authority, don't believe it

12 Q All right Didn't Mr Guscio tell you that  
13 people that own the lots behind you in Hilton Head  
14 number 1 had the legal right to access the beach down  
15 the Avocet Street extension?

16 A I'm sure there were times that we talked,  
17 because I think I asked him one time, "Who has the right  
18 to go to the beach?" And he said, "Only the lots  
19 directly behind you "

20 Q And he was talking through the beach access  
21 right next to your house, was he not?

22 A No Because the path was there It wasn't -  
23 -

24 Q All right Do you recall in your deposition  
25 in this case, on March 30<sup>th</sup>, 2006 -- and I'll hand you a

1 copy of it And if you will turn to page 47  
2 A (Witness complied )  
3 Q All right On line 18 the question is  
4 "Are you telling me today  
5 that people do not walk on the,  
6 as you are looking at Exhibit  
7 5, to the right of the planters  
8 box and walk to the beach?"  
9 And your answer was? If you'll read that  
10 A "Well, from my  
11 understanding what Frank --  
12 What year was this?  
13 Q If you'll just read it, please  
14 A Well, could I ask --  
15 JUDGE KEMMERLIN No Just read your  
16 answer  
17 WITNESS "Well, from my  
18 understanding of what Frank  
19 told me, access to the beach  
20 was for the lot owners directly  
21 behind the ocean front lots "  
22 BY MR PATTERSON  
23 Q So Mr Guscio did tell you that people behind  
24 you had access down the street access next to your  
25 house?

1           A       He's just telling me that they had access,  
2       which they did have access   Nobody's denied anybody  
3       access   That path was established by Robert as the --  
4       for the access

5           Q       And you would agree with me that, at least as  
6       to the lot owners behind your house, that they could use  
7       the Avocet Street access?

8           A       Yes   But I also just testified to my lawyer  
9       that one was my doctor, and he wasn't concerned about  
10      where they went   One was the guy who put up the gate,  
11      and he liked the walk that Robert built, because he  
12      could walk down there without having to go through the -  
13      - what he used to have to go through   And the other  
14      person who own -- there are only three houses there, and  
15      the other house is strictly an investment house   I've  
16      never seen anybody there

17          Q       Okay   And the same type of access that is  
18      next to your house that's shown on Exhibit 10 is found  
19      throughout Hilton Head Beach subdivisions number 1, 2,  
20      and 3, is it not?

21          A       No   Not the same access

22          Q       They have the same types of streets that  
23      provide access between lots?

24          A       Well, they're different   Most of these  
25      accesses -- well, actually, people used to drive all the

1 way down to the beach on most of these accesses But  
2 you were never able to drive all the way down at my  
3 house

4 Q But people use to drive, as you mentioned --  
5 you said one of the reasons you put the gate up was  
6 because people used to drive down into your driveway and  
7 drop people off at the beach all the time

8 A No No No I didn't say in my driveway  
9 Just drove down to that area to let people out They  
10 did not drive into my driveway

11 Q Okay Around 1990, you -- I think you  
12 mentioned you tried to put in a pool

13 A Yes No '89

14 Q 1989?

15 A Uh-huh

16 Q And let me clarify one thing

17 MR PATTERSON Where is the Exhibit 67  
18 of the landscaping plan that you all had?

19 JUDGE KEMMERLIN That's the big one  
20 taped together Yeah It shows a pool Yeah  
21 All right We're looking at what now?

22 MR STEPP Well, it doesn't have a  
23 sticker on it, but it's Plaintiff's Exhibit Number  
24 67 This is a put together copy of Plaintiff's  
25 Exhibit 67

1 JUDGE KEMMERLIN I gotcha

2 BY MR PATTERSON

3 Q This isn't actually what was -- all these  
4 improvements on this landscaping plan weren't in place  
5 when you bought the property, were they?

6 A Not the pool Everything else -- and the  
7 playground was not there

8 Q Yes, ma'am And the tables weren't there,  
9 because that's actually asphalt

10 A That's right Uh-huh

11 Q And a lot of this landscaping that's shown on  
12 this plan wasn't in also, was it?

13 A I don't -- there wasn't any -- well, I don't  
14 know what was there, to tell you the truth, because the  
15 ocean ate this part up

16 Q Yes, ma'am

17 A And I don't remember what was there But  
18 this was all here

19 Q Okay

20 A All this landscaping was here And the pool  
21 --

22 MR STEPP She's pointing to the  
23 bottom of the document

24 BY MR PATTERSON

25 Q And the pool was not in when you bought the

1 house

2 A No My pool I put this way (indicating),  
3 because Robert's pool would have gone into the strand  
4 block, and I did not put my pool in the strand block  
5 My pool is right up to the edge of the strand block  
6 But my pool is across the front

7 Q Okay So in 1989 I think you testified you  
8 did contact the association to obtain approval for a  
9 pool, and they denied it

10 A Right

11 Q So you knew, at least as early as 1989, that  
12 there was an owners' association, and that they claim  
13 rights to the architectural review control

14 A Well, they didn't have rights

15 Q Yes, ma'am But they claimed the rights

16 A Well, that doesn't mean that they have them

17 Q Yes, ma'am But you knew that they claimed  
18 the rights

19 A No That does not --

20 MR STEPP While -- while -- while --  
21 while -- excuse me

22 WITNESS And besides --

23 MR STEPP Excuse me

24 JUDGE KEMMERLIN Wait a minute

25 MR STEPP Your Honor, I ask counsel



1 to let her finish.

2 MR PATTERSON I'm sorry

3 JUDGE KEMMERLIN Yeah

4 MR STEPP All right Thank you

5 WITNESS Besides, everybody doesn't  
6 belong to that organization That organization  
7 started out as a social and religious organization  
8 It is not -- I mean, just because it has the name  
9 Forest Beach Owners' Association doesn't mean that  
10 every owner approves, likes, or wants that  
11 association

12 MR PATTERSON Yes, ma'am

13 WITNESS And as I walk up the beach  
14 and have talked to people, I think I've only found  
15 about two to three people who actually belong to  
16 that organization

17 MR PATTERSON Okay

18 WITNESS And of course I walk up the  
19 beach talking to most of the people on Dune Lane  
20 So an organization that is a property owners'  
21 organization should be for the good of the  
22 neighborhood I've never known Forest Beach  
23 Association to be interested in beautification,  
24 which is something that I'm certainly interested  
25 in, because that raised my property values

1 I've never known them to be interested  
2 in safety, which I'm certainly interested in,  
3 because I spend a lot of time in my house alone,  
4 and I have a certain amount of comfort knowing that  
5 there's a wall there, that there's a gate there,  
6 that at least gives the pretense of security,  
7 because Forest Beach Association is certainly not  
8 interested in my security

9 They are -- you know, the road is  
10 littered with trash all the time One time I  
11 walked up Dune Lane in a -- less than a quarter of  
12 a mile I picked up 96 pieces of trash When I  
13 called the city, they say call Forest Beach  
14 Association I've never one time seen anybody from  
15 Forest Beach Association out picking up trash

16 They're not interested in lighting,  
17 which is for safety

18 They were not interested in the sewage  
19 problem that we had up there for years

20 The only thing I have ever known that  
21 Forest Beach Association has done in that  
22 neighborhood is to sue people And I think that if  
23 they really wanted to work for the owners, not for  
24 themselves, they would be up there trying to do  
25 things that would enhance the property, and would

1 improve the livelihood of the people who are  
2 residents and owners in that part of the island

3 BY MR PATTERSON

4 Q Okay Have you finished?

5 A Yes

6 Q Okay How long -- you were a member of the  
7 association in 1988?

8 A I don't remember when I was a member

9 Q Well, I think you testified on direct  
10 examination you were a member until they denied your  
11 pool

12 A Well, I was --

13 Q When they denied your pool --

14 A Well, I was --

15 Q If I can finish my question

16 A I'm sorry

17 Q They denied your pool in 1989 And I thought  
18 you said you were a member in 1988

19 A I was a member at that time I don't know  
20 how long I was a member

21 Q So at least in 1988 you were a member of the  
22 association and knew of its existence

23 A As far as I know But that's not the same  
24 organization that's there today

25 Q Right That's called Forest Beach

1 Association, Inc , is that correct?

2 A And this was --

3 Q If you'll answer that question please, ma'am

4 A I don't know

5 Q Okay Go ahead You can say whatever you

6 want to say now

7 A Let's see When was the bankruptcy?

8 Q in 1987

9 A Okay Everything was pretty much in turmoil

10 at that time, I think I don't think they really knew

11 what to do, because I do remember Buz Stulac telling me

12 that Forest Beach Association had authorized him to pay

13 \$50,000 00 for all of that property, and he did not have

14 the authority to go above it, so he did not purchase it

15 for the Forest Beach Association Frank Guscio outbid

16 him

17 Q And you mentioned the wall and the gate that

18 made you feel secure Those really -- those

19 improvements are designed to keep people out, aren't

20 they?

21 A To keep what people out? My friends come by

22 Q Not your friends, but other than your family

23 and friends it's designed to keep everybody else out,

24 isn't it?

25 A Well, wait a minute Let me see Is it

1 designed to keep -- if somebody wanted to walk in --  
2 I've had people say, "Your plants are beautiful May I  
3 come in and take a look at them?" And I say, "Sure  
4 I'd be happy for you to " And I walk around the lawn

5 Because the lawn is absolutely beautiful in the  
6 summertime My son planted most of the flowers and  
7 things like that

8 Q It's -- okay

9 A And it's -- it's really a very -- a very  
10 lovely place to be

11 Q Yes, ma'am But the wall and the gate are  
12 designed, other than your friends, and family, and  
13 people that want to admire your yard, it's designed to  
14 keep anybody else trying to get to the beach out of your  
15 yard

16 A No That's not true Russell Why do you  
17 want to put words in my mouth?

18 Q I'm just asking a question

19 A No I want people to have a way to go to the  
20 beach They have a way to go to the beach They have a  
21 wonderful way, it's nice, and clean, the -- a tenant  
22 blows it off all the time They all keep it maintained

23 Forest Beach Association owns these road ends, they  
24 certainly don't go cut the grass, and pull the weeds,  
25 and trim the shrubs, or plant anything nice It's baron

1 and ugly Mine is beautiful I have spent a lot of  
2 money trying to make it beautiful, because I grew up in  
3 a beautiful home, in a beautiful place I want to leave  
4 a beautiful place when I leave this world

5 And that wall was put there to keep the trash from  
6 being thrown into my yard It had -- I had no intent of  
7 -- I don't know that I was thinking about what it was  
8 All I knew was that all of those timeshare people were  
9 coming down, throwing their coffee cups, throwing their  
10 beer cans, throwing their cigarettes, and all of that  
11 right over into my yard, every single day

12 Q And the path that you keep saying that exists  
13 today, that's on the other side of the brick wall you  
14 built that is on the Sea Crest property?

15 A It's where the path was from the time that  
16 Robert ever built the house

17 Q Looking at Exhibit 74, and I'll have to turn  
18 this over and let you look at Exhibit 74 Is Exhibit 74  
19 an as-built of your house? Here's a better -- why don't  
20 you look -- is that an as-built of your house  
21 (indicating) that you had prepared?

22 A It is

23 Q All right And that's in 2002? If you look  
24 at the bottom right it says it was revised August 2002

25 A Yes

1 Q All right And does that show the concrete  
2 block wall on the Graves' side of the property where it  
3 exists?

4 A There's a concrete block wall -- yes  
5 Because Robert has a wall --

6 Q All right Isn't that --

7 A -- and that concrete block wall is the one  
8 that I -- that we constructed

9 Q All right And so the concrete block wall  
10 that is right along the property line between Avocet  
11 Street extension and Sea Crest is the block wall --  
12 seven foot block wall you built, right?

13 A You know, you don't have to look at me with  
14 such disdain

15 Q If you could answer --

16 A I built the wall Yes I built the wall

17 Q And that's the wall --

18 A I didn't personally build the wall, but --

19 Q Yes, ma'am

20 A -- I had it built

21 Q All right And you've said, two or three  
22 times, that that -- so the path, the concrete walkway  
23 and the path you say is something else is actually, as  
24 shown in your own survey, on the Sea Crest Motel  
25 property?

1 A Part of it is on my property

2 Q Which part, looking at this exhibit, is on  
3 your property?

4 A There's a very fine line down by the concrete  
5 wall, because we made sure that the concrete wall was on  
6 our property, and here at the end it cuts across on my  
7 property The wall veers this way and cuts across the  
8 toe of my property

9 Q You're talking about a few inches?

10 A No No A good foot or so

11 Q Okay And that -- the surveyor didn't show  
12 that, you'd agree with me, on Exhibit 74?

13 A No Because he was trying to show where the  
14 -- actually, the whole path, the corner of that is over  
15 on the corner of his front wall

16 WITNESS Judge, there's a wall that  
17 goes across here (indicating), and my property is  
18 actually over on his wall If you'll show me a  
19 picture of the -- I can show you what I'm talking  
20 about About where the wall is

21 MR PATTERSON I can let you look at  
22 Exhibit 77 If you want to look at those  
23 photographs

24 WITNESS (Witness complied ) None of  
25 these show that I'm talking -- how about some of



1           these though?

2                   MR PATTERSON    Okay

3                   MR STEPP    Here are the ones I think I  
4           just looked at this morning

5                   WITNESS    Actually, can we add another  
6           picture as an exhibit, because I have one here?

7           Okay    Here    All right    As this path goes down  
8           here, this corner of my survey --

9                   JUDGE KEMMERLIN   Which --

10                   WITNESS   No    This one right here  
11           That corner is over here on this wall, because the  
12           surveyor marked it for me on this wall    So all of  
13           this property right here, the pathway as you step  
14           down to go to the beach, is on my property    It's  
15           right here (indicating)    See the surveyor, I  
16           guess, could not show the path turning, and where  
17           this goes on to his wall, but that's where -- where  
18           he marked it for me

19   BY MR PATTERSON

20           Q       Okay    And so that I can understand that  
21           Looking at Exhibit 74, at the south western corner,  
22           which is the ocean side corner of your lot that adjoins  
23           Sea Crest, you say that part of the current beach path  
24           cuts back across in front of your lot?

25           A       Correct

1 Q Okay Now you've said numerous times --

2 MR STEPP Shall we mark this

3 photograph she used?

4 JUDGE KEMMERLIN Oh, yeah

5 MR STEPP Plaintiff's something?

6 MR PATTERSON Which defendant's

7 exhibit number are they on?

8 COURT REPORTER I believe 47 was the

9 last one

10 MR PATTERSON All right So this

11 would be 48

12 COURT REPORTER Yes, sir

13 JUDGE KEMMERLIN Received without

14 objection

15 (WHEREUPON, a photograph was marked as

16 Defendant's Exhibit Number 48 for identification

17 into the case of Forest Beach Owners' Association,

18 Inc and Trevor G Howard vs Carolyn S Bair)

19 MR PATTERSON But that's what she was

20 looking, the photograph, has been marked as its --

21 Defendant's Exhibit 48

22 BY MR PATTERSON

23 Q But you've said numerous times that the path

24 that we just looked at that's on the Sea Crest property

25 that is on the other side of the seven foot wall that

1       you built was in the same location that it had always  
2       been in the past, is that correct?

3           A       Pretty much so     Uh-huh

4           Q       All right     We already established, looking  
5       at Exhibit 76 and 92, that the people walk on the right  
6       side of your planter and then cut toward the Graves'  
7       property through the shrubs, correct?

8           A       No     You know, it's not through shrubs     You  
9       -- where's that plat?

10          Q       Let me rephrase the question then

11          A       Okay

12          Q       They, at least, walk past your planter and  
13       then went somewhere else to the beach, correct?

14          A       No     They walked past the planter, around  
15       that shrub --

16          Q       Yes, ma'am

17          A       -- and all of these shrubs down here, they  
18       stayed to the right of those shrubs going all the way to  
19       the beach

20          Q       All right     And you've never redone the  
21       paving on your driveway

22          A       No     I have not

23          Q       All right     And this survey, Exhibit 74,  
24       shows --

25          A       Well, wait a minute     I can't say I haven't

1       There may have been some time that we topped that  
2       surface

3           Q       I'm not talking putting coating on it    You  
4       never expanded it or made it smaller    The driveway, the  
5       paved part, has always stayed the same

6           A       I think so

7           Q       All right    And Exhibit 74 shows the location  
8       of the paving on your lot, does it not, it says asphalt  
9       paving?

10          A       Yeah    But this paving, I don't think he was  
11       accurate on that, because I know that we tried to plant  
12       some trees along here and we were hitting asphalt    So I  
13       don't know    I don't know what's under that thing

14          Q       If the surveyor is accurate in Exhibit 74,  
15       then the existing path is not anywhere close to where it  
16       is today, because it used to be at least 10 or 15 feet  
17       to the northeast    Would you agree with me?

18          A       No    I wouldn't    Because all of this was  
19       just like -- this over here was the edge of the driveway  
20       (indicating)    See how the driveway is --

21          Q       Yes, ma'am    I see grass about two feet on  
22       the other side of that planter box on Exhibit 76

23                   JUDGE KEMMERLIN    Let me ask a  
24       question    Suddenly I'm confused

25                   WITNESS    Me too

1 JUDGE KEMMERLIN All right This is  
2 the paved part, right?

3 WITNESS Right

4 JUDGE KEMMERLIN All right And as  
5 relation to this where is that bench?

6 WITNESS That's over here  
7 (indicating)

8 JUDGE KEMMERLIN It's in here?

9 WITNESS Uh-huh

10 JUDGE KEMMERLIN And that's not paved  
11 That's asphalt? I mean, is that -- is there a  
12 distinction in the surface here between your  
13 driveway and the rest of it?

14 WITNESS You know, as I say -- see,  
15 we've got a planter that is about three feet wide -  
16 -

17 JUDGE KEMMERLIN Right

18 WITNESS -- along here that those  
19 trees are planted in

20 JUDGE KEMMERLIN Okay

21 WITNESS And when I tried to put some  
22 trees right up in here, we were hitting asphalt  
23 So I don't know --

24 JUDGE KEMMERLIN All right Excuse  
25 me

1 WITNESS I think the asphalt goes over  
2 farther than what was visual to the --

3 JUDGE KEMMERLIN All right Well, how  
4 far on out this way does the asphalt go?

5 WITNESS I would stop there  
6 (indicating)

7 JUDGE KEMMERLIN Okay But from here,  
8 this area is not asphalt?

9 WITNESS Underneath I think there is  
10 asphalt

11 JUDGE KEMMERLIN When you say  
12 underneath, what's on top of it?

13 WITNESS Grass, dirt, because we built  
14 that planter -- I mean, the wall that now has the  
15 trees in it

16 JUDGE KEMMERLIN Find me, if somebody  
17 will, a copy of the entrance, where it shows the  
18 motel and a person standing there by what is  
19 claimed to be the walk going by the motel

20 MR PATTERSON Yes, sir I've got  
21 that right here That's Exhibit 77 (1) (B)

22 JUDGE KEMMERLIN Right Okay Now --  
23 okay That's the concrete wall (indicating)?

24 MR STEPP Brick wall Yes

25 JUDGE KEMMERLIN Brick wall?

1 MR STEPP Yeah But that's a post,  
2 it's --

3 WITNESS Stone -- stone -- it's a  
4 stone wall

5 JUDGE KEMMERLIN All right Now all  
6 of this (indicating) is shown in here -- I think  
7 it's shown as paved somehow

8 WITNESS It is

9 JUDGE KEMMERLIN In this area?

10 WITNESS Yes

11 JUDGE KEMMERLIN All right

12 WITNESS And I don't know how he --  
13 unless he --

14 JUDGE KEMMERLIN And this whole area  
15 over here (indicating) is not paved

16 WITNESS Well, that's because all of  
17 this was built there on top of it

18 JUDGE KEMMERLIN On top of the paved  
19 area?

20 WITNESS Yeah Yeah

21 JUDGE KEMMERLIN Okay Okay

22 WITNESS We put all of this  
23 (indicating) on top

24 JUDGE KEMMERLIN Okay

25 WITNESS See that (indicating)?

1           There's a wall that's about three or four feet high  
2           that we put the palm trees up in, because --  
3                   JUDGE KEMMERLIN   All right   And we're  
4           looking at 1C of Exhibit 77   Okay  
5                   WITNESS   And then there is more dirt  
6           that was put here --  
7                   JUDGE KEMMERLIN   Okay  
8                   WITNESS   With this little wall  
9           (indicating) around to hold that dirt, and  
10          underneath that dirt --  
11                  JUDGE KEMMERLIN   I'm beginning to --  
12          I'm beginning to understand  
13                  WITNESS   -- was asphalt   And when the  
14          surveyor did that it looked to him like this was  
15          the way it was --  
16                  JUDGE KEMMERLIN   Okay   All right  
17          All right  
18                  WITNESS   -- but the asphalt went all  
19          the way over --  
20                  JUDGE KEMMERLIN   Okay   Okay  
21                  WITNESS   -- underneath  
22                  JUDGE KEMMERLIN   Okay   Thank you  
23                  MR   PATTERSON   Your Honor, we don't  
24          agree with that interpretation --  
25                  JUDGE KEMMERLIN   Okay   All right



1 MR PATTERSON -- but I understand  
2 what she said

3 WITNESS Well, that's the truth,  
4 Russell, and if you want to make it something else  
5 it will not be the truth

6 JUDGE KEMMERLIN Well, nobody's  
7 debating It is like it is It's a question of  
8 what it should be, I guess Okay

9 BY MR PATTERSON

10 Q You own another ocean front house on Jacana  
11 Street at lot 23, don't you?

12 A I do

13 Q And it's also next to a platted street on the  
14 ocean

15 A Right

16 Q Jacana?

17 A Uh-huh

18 Q And we're now in 1994, the same year that you  
19 testified for Mr Guscio that people walked down the  
20 beach access path next to your house everyday That  
21 Forest Beach Association filed suit against you for  
22 violating covenants

23 A For violating planting trees and shrubs, and  
24 building a planter, again, in the access way

25 Q Right On the street extensions, what we've

1       been calling the street extensions?

2           A       Okay    Street extension    And I think after -  
3       - well, I mean, I think you should have known that you  
4       didn't have standing, or whoever the lawyer was at that  
5       time, and you brought the suit, and Judge Kemmerlin  
6       believed what you said, and he ordered me to take it  
7       out, and I took out over \$10,000 00 worth of  
8       landscaping, and things like that

9           And then he found out you didn't have standing and  
10       the suit was dropped, after I went to all that trouble  
11       and all that expense

12          Q       No, ma'am    That suit wasn't dropped, was it,  
13       because you were found in contempt of court two  
14       different times in that suit for not complying with the  
15       order, weren't you?

16          A       But after that they found they did not have  
17       standing, which I'm saying the lawyers should have known  
18       that they didn't have standing in the beginning    You  
19       should never have brought that lawsuit against me

20          Q       Exhibit 79 is the subdivision plat for Hilton  
21       Head number 2?

22          A       Right

23          Q       And your lot is number 23    Can you highlight  
24       that in yellow?

25          A       (Witness complied )

1 Q And at a reference hearing, which is 62B,  
2 there is attached an as-built survey of your property,  
3 that I've handed you?

4 A Yes

5 Q All right And that shows Jacana Street and  
6 the various improvements that you put in to Jacana  
7 Street?

8 A That's right

9 Q And that street, and the streets in Hilton  
10 Head Beach subdivision number 2, and the beach accesses,  
11 are set up just like Hilton Head number 1?

12 A No You can drive all the way down to the  
13 beach, or at least to the rock revetment, by this  
14 street

15 Q On that particular -- go ahead

16 A And this street has always -- has lots of  
17 traffic that comes down here, pedestrian traffic and  
18 cars Rusty Mead just built, a few months ago, a brick  
19 wall here to keep the cars from coming down, because the  
20 cars would come down here

21 In fact, at one time -- there's a driveway here  
22 into this house, but there's also a driveway here, and  
23 the predecessor drove down here and drove into his --  
24 underneath the house here

25 But this is quite different This is all open

1 There's really nothing between these two houses except  
2 limited shrubbery and trees And as I say, cars could  
3 go all the way down to the rock revetment

4 Q Okay As part of that case Judge Kemmerlin  
5 issued an order that not only required you to remove  
6 certain improvements, but to seek architectural review  
7 approval for other items from the Forest Beach  
8 Association

9 A I don't know the sequence of all that But  
10 again I say that Forest Beach Association did not have  
11 standing I know Judge Kemmerlin fined me \$500 00, and  
12 after the suit was -- I'm sure it was dropped, because I  
13 remember asking the Judge if you were going to return my  
14 \$500 00

15 Q All right

16 A And just for the record, I haven't gotten my  
17 \$500 00

18 Q Because the Judge never issued an order  
19 saying you had to return the \$500 00 is why you didn't  
20 get the -- so your recollection --

21 WITNESS Well, Judge, you should have  
22 ordered yourself to return that \$500 00

23 BY MR PATTERSON

24 Q Since you don't remember what happened, if  
25 you'll look at Exhibit 62C, and is that not an order

1 that says that you were to submit --

2 A That was before --

3 Q If you would just let me finish the question  
4 If you'll let me finish the question Ms Bair

5 Is Exhibit 62C an order by Judge Kemmerlin, dated  
6 November 2<sup>nd</sup>, 1994, requiring you to remove certain  
7 improvements from Jacana, and get approval from the  
8 Forest Beach ARB for other improvements? Yes or no, and  
9 then you can explain

10 A Yes And I did remove a great portion of it  
11 I tore out all that landscaping I had put in there And  
12 as I say, it was over \$10,000 00 worth of stuff that we  
13 had put in there We removed that

14 Q And then the Forest Beach Association felt  
15 that you didn't comply with the order, and Judge  
16 Kemmerlin agreed, and you were held in contempt and paid  
17 \$500 00

18 A That's right That's right

19 Q Okay

20 A And after that he ruled that they did not  
21 have standing And again I say, to me that was a  
22 frivolous lawsuit You should have known what you were  
23 doing to begin with, instead of suing me, and costing me  
24 all of that money, and all of that stress, and --

25 You know, I -- people just go around suing people

1 just to be suing people, and it affects people's lives

2 Q You've already identified Exhibit 92 as a  
3 photo of your street extension

4 A Correct

5 Q Do you ever recall seeing the sign that is  
6 shown on Exhibit 91?

7 A I don't think I ever saw that But this is -

8 -

9 WITNESS Now, Judge, when the Sea  
10 Crest was built, Robert Graves built a covered  
11 wooden pathway down to the beach so that nobody  
12 would be kept out of going to the beach Now, you  
13 know, he didn't come over here and build it on my  
14 property, he built it down the path that had always  
15 been there, and he put this sign up, and it says,  
16 "Access for Forest Beach Property Owners or  
17 Occupant," because, you know, we were occupants in  
18 the --

19 JUDGE KEMMERLIN All right

20 WITNESS -- in the timeshare And --

21 but that's his sign That's not my sign

22 BY MR PATTERSON

23 Q Is it possible that that was put up by the  
24 Forest Beach Owners' Association on the gate that is  
25 shown to the left of the basketball goal on Exhibit 92 -

1 -

2 A No That's not my gate (indicating)

3 Q -- in 1995?

4 A Not my gate at all That is the wood of the  
5 shed, or the covered access way that Robert put for  
6 everybody to get to the beach

7 Q All right

8 A And that is on that path that -- to the right  
9 of the planter that went around that shrub He built  
10 that all the way down there

11 I mean, you know, I'm sure he felt there was going  
12 to be a certain amount of liability if anybody got hurt  
13 And he was not -- he didn't want to be accused of  
14 keeping people from going to the beach either

15 Q All right So that -- you finished?

16 A So they built that as a way for them to  
17 safely get to the beach

18 Q So that I can be clear, in late '94 or April  
19 '95 you knew the existence of the Forest Beach  
20 Association, is that correct?

21 A '84 and --

22 Q 1994 and '95, you knew the existence of the  
23 Forest Beach Owners' Association?

24 A Yeah They're the ones that sued me

25 Q And you knew that the Forest Beach

1 Association claimed the rights to enforce the covenants,  
2 because they --

3 A Well -- what they claimed was they had no  
4 right to do it And the Judge ruled that

5 Q And they also claimed the ARB approval  
6 rights, because they had dealt with you on your pool,  
7 and in the lawsuit over Jacana

8 A They did not deal with me over my pool

9 Q I though Mr Stulac -- you said one of the  
10 reasons you quit the association is because they turned  
11 down your pool request

12 A That's right But the town gave me a permit  
13 to build the pool They brought the whole group over  
14 there, along with the town, to try to make the town stop  
15 me from building my pool, and the town wouldn't do it  
16 They said, "We gave her a permit She has a right to do  
17 it ' And they would not cooperate with what the  
18 association was trying to do

19 Again, trying to hurt a property owner That's not  
20 what associations are supposed to be for They're  
21 supposed to help you, not hurt you

22 Q Right And you knew in August of '94,  
23 because you testified in a lawsuit shown as Exhibit 61A,  
24 you testified on Mr Guscio in a lawsuit brought by the  
25 association So you knew that they were filing



1 litigation and trying to enforce certain rights, is that  
2 correct?

3 A Let me preface all of this with something

4 Q If you could say yes or no, and then explain

5 A Yes

6 Q Okay

7 A And now my explanation Lawyers have been  
8 dealing with this same litigation ever since I came on  
9 North Forest Beach One of the biggest problems, Judge,  
10 has been that they didn't find out what was really  
11 right, and they were arguing the wrong points, and the  
12 wrong law And the average person who lives on North  
13 Forest Beach, they have a clue as to what all of this  
14 stuff is

15 And this is pretty complicated stuff for a -- I  
16 mean, for you lawyers, yeah, it's understandable

17 JUDGE KEMMERLIN It's complicated to  
18 us

19 WITNESS Yeah But for the average  
20 person it's beyond their comprehension, really  
21 And I can tell you, in '94 -- let me see

22 In '94 I had a woman that was working  
23 for me who was stealing my money from Hilton Head  
24 Island Realty, and when I discovered it I had her  
25 arrested, and she was indicted, and she went to the

1 IRS and said that we were laundering money, and  
2 nine IRS agents burst into my office, and packed up  
3 every record I had, and walked out -- even took my  
4 computers

5 Now, it's kind of hard for anybody to  
6 run a real estate office when they have no records,  
7 because you deal with records like that

8 So what was going on in my life at that  
9 time was very significant, and much of this -- you  
10 know, you want to go back to all of these things  
11 that I testified to I tried to testify the truth,  
12 because -- I want this to be on record I do not  
13 lie I do not steal My mother raised me that  
14 way My mother said, "If you'll lie, you'll  
15 steal " And I raised my children the very same  
16 way And I am always going to tell the truth to  
17 the best of my ability I will never tell a lie,  
18 or tell a shady truth to try to win a lawsuit I  
19 tell the truth about everything

20 Now, if I said something back in '94  
21 that is today understood differently than when I  
22 understood it in '94, then I don't think I should  
23 be penalized for it, because this is complicated  
24 It was complicated for me back then I didn't  
25 really understand everything that was going on I

1 don't think I even really understood when Judge  
2 Kemmerlin ordered me to do all of that what was  
3 going on Why was I having to do that?

4 And, you know, as I say, it may be  
5 simple to you all, but as he says, it's still  
6 complicated But if it was so simple I don't know  
7 why people didn't get it right the first time And  
8 I don't understand why Forest Beach Association  
9 didn't know they didn't have standing the first  
10 time to put me through all of that, when I was  
11 trying to run a business, and raise my children,  
12 and deal with a thief within my company I need  
13 some water

14 MR PATTERSON Let's take a break and  
15 get her some water

16 JUDGE KEMMERLIN You want to take a  
17 break?

18 (WHEREUPON, a brief break was taken off  
19 the record )

20 JUDGE KEMMERLIN Back on the record

21 BY MR PATTERSON

22 Q One thing I want to clarify I ask you to  
23 look -- the basketball goal has never been moved, has  
24 it?

25 A No

1 Q All right I want you to look at two  
2 photographs If you'll look at Exhibit 76, would you  
3 agree with me that the edge of the basketball goal  
4 almost lines up with the edge of your planter?

5 A I have no idea The perspective of a picture  
6 like that could be quite different

7 Q Yes, ma'am But it's -- it's fairly close  
8 that the planter is just to the right of the basketball  
9 goal?

10 A In that picture it appears to be

11 Q Okay And we already confirmed that people  
12 walked to the right side of the planter, and then made  
13 their way to the beach under whatever way they did

14 A Uh-huh

15 Q Now if you'll look at the -- Exhibit 77 is a  
16 current photograph, and it shows the same basketball  
17 goal, doesn't it?

18 A Same Yes

19 Q All right And so the planter, if you'll  
20 look at Exhibit 77, would be -- if you look at 77C,  
21 would be just about where those green -- that green pot  
22 is, wouldn't it, in your photograph?

23 A I would say it would be -- no Because that  
24 pot, pretty much, lines --

25 JUDGE KEMMERLIN I thought we had a

1 plat that showed the planter I'm sorry We  
2 don't?

3 MR PATTERSON Well, we do have one  
4 I -- I -- let me -- maybe I --

5 WITNESS No The planter, I think, is  
6 over more to the right than what that -- I mean,  
7 that pot -- I can't say that I don't know

8 BY MR PATTERSON

9 Q Is Exhibit 72, I'll represent to you, is a  
10 copy of the survey that you attached, and your husband  
11 attached, to the 1988 [sic] quiet title action you  
12 filed

13 A I assume that, yes

14 Q Okay And that survey shows a, what's called  
15 a wall, and isn't that wall the same planter that was in  
16 existence in 1998 that's shown on Exhibit 76?

17 A Now say that again

18 Q Exhibit 72 shows what is called "a wall" with  
19 a beach path right on the other side of it Is that  
20 wall shown on Exhibit 72 the same as the planter that's  
21 shown on Exhibit 76?

22 A I don't -- I cannot answer that I do not  
23 know

24 Q Okay But that would be consistent with your  
25 recollection of where people walked, which was right to

1 the right of the planter, and is shown as a existing  
2 beach access path on Exhibit 72, would it not?

3 A You see, beyond this wall there were shrubs  
4 I mean, I don't -- I don't understand what the  
5 difference is

6 Q Yes, ma'am Because, in fact, on Exhibit 76  
7 there is no wall, there is just a planter

8 A Okay

9 Q All right And so I'm asking you, is --  
10 where it says, "Wall," is that the planter on Exhibit  
11 72?

12 A I don't know

13 Q Okay

14 A I can't say that

15 JUDGE KEMMERLIN Well, it shows a  
16 fairly short wall cut -- I assume these marks  
17 indicate an end of a wall, or a beginning of a wall  
18 (indicating)

19 MR PATTERSON Yes, sir

20 BY MR PATTERSON

21 Q Now, at the time you filed the 1988 [sic]  
22 quiet title action it was obvious that there was an  
23 existing beach access path on the property that you were  
24 claiming, is it not? Because it's shown on the survey  
25 you used with your complaint, Exhibit 72, right?

1 A If this survey is correct I guess so

2 Q Well, you attached it to your complaint I  
3 assume you --

4 A I am saying, assuming I don't know I'm  
5 not -- I cannot verify that I don't know I was sort  
6 of surprised when I saw this as it is, but I didn't stop  
7 to question it

8 Q You're not the kind of person that would  
9 attach something that is not correct if you had any  
10 question about it in something with the Court with your  
11 name it?

12 A No But I didn't -- I was -- I was extremely  
13 busy and under a tremendous amount of pressure at that  
14 time

15 Q Yes, ma'am You said you were so busy -- you  
16 in fact had over 45 lawsuits in Beaufort County since  
17 you've moved here?

18 A That's what I said

19 Q Okay

20 A You know, and you know what Russell? I  
21 didn't file those lawsuits, everybody filed them against  
22 me

23 Q Not all of them, you filed this lawsuit in  
24 1988 didn't you?

25 A Yeah

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1 Q All right

2 A But up until that time everybody was suing  
3 me

4 Q And you filed the lawsuit against W J  
5 Enterprises on Jacana, did you not?

6 A But until that time I never sued anybody  
7 And let me tell you, the amount of money that was owed  
8 me that I never sued over, because I really, believe it  
9 or not, I don't really like confrontation I wish that  
10 everybody could just live peacefully, and blissfully,  
11 and in harmony, but when we have organizations like we  
12 have, and lawyers that want to twist and turn things,  
13 it's kind of difficult

14 Q Okay

15 A But anyway, the lawsuits that I was in was  
16 actually trying to protect somebody else, and I got sued  
17 because I was trying to protect other people

18 Q All right You would agree with me that when  
19 you filed a quiet title action in 1998, and attached  
20 Exhibit 72, there must have been a fairly well worn  
21 beach path for the surveyor to show where it's located  
22 on the survey you used?

23 A I would assume so, Russell I would assume  
24 that he would go there and look at the property and look  
25 for a path

1 Q All right And let's talk about --

2 A And what -- wait a minute When was this  
3 done?

4 Q 1998 is when you filed the quiet title  
5 action

6 A But '98 all of this had been torn up The --  
7 the wall -- the surveyor couldn't have done this, Judge,  
8 in '98, because in '98 the Sea Crest wall -- the wall  
9 was finished

10 JUDGE KEMMERLIN When does it show the  
11 plat was made?

12 WITNESS It says it was made in --

13 MR PATTERSON 1997

14 JUDGE KEMMERLIN Okay

15 WITNESS But he just made a conjecture  
16 of this, because the sidewalk was built by '98

17 JUDGE KEMMERLIN Okay

18 BY MR PATTERSON

19 Q When was the Sea Crest -- when did they start  
20 construction on the Sea Crest?

21 A In '96

22 Q All right

23 A '95 or '96

24 Q Let me see if I can help you with the date  
25 You filed suit against Sea Crest in -- for damages?

1 A Yeah After -- after --

2 Q All right About how long after construction  
3 had started did you file a lawsuit?

4 A I don't know I'd have no idea I was very,  
5 very, very -- extremely ill during that time

6 Q I guess this is the third lawsuit you filed  
7 against somebody as a plaintiff, is the one against the  
8 Sea Crest, right?

9 A I'd like to take a picture of your  
10 countenance

11 Q Yes, ma'am

12 A I mean, why do you want to look at me this  
13 way?

14 Q Well, I'm just confused You said you don't  
15 ever sue anybody This is the third lawsuit you've --

16 A I didn't -- you pointed out I had been sued  
17 40 some times I didn't sue people back then --

18 Q All right But isn't --

19 A -- but I'm beginning to learn to stand up for  
20 myself, because if I don't you're going to run over me

21 Q Okay The -- prior to filing the lawsuit --  
22 the quiet title action in --

23 A Wait a minute Let's get back to this We  
24 haven't finished here I want Judge to understand that  
25 the surveyor had to do this by conjecture, because the

1 sidewalk had been built by that time People were going  
2 down the sidewalk to the beach, and what he did was, you  
3 know, from pictures, or something like that He did not  
4 physically see that

5 JUDGE KEMMERLIN I understand what  
6 you're saying

7 WITNESS Okay

8 BY MR PATTERSON

9 Q All right Prior to filing the quiet title  
10 action in 1998, you had discussions with Property  
11 Research Holdings and Frank Guscio to buy this very  
12 property for \$7,000 00, is that right?

13 A Yes I did

14 Q And you were also part of a group trying to  
15 buy all of the street extension and strand blocks in  
16 Hilton Head number 1 for \$50,000 00 is that correct?

17 A We talked about it, but it was never anything  
18 that came to --

19 Q But you had discussions with Mr Guscio about  
20 buying everything for \$50,000 00

21 A We had discussions, but I will, again, say, I  
22 discuss a lot of things, but because I discuss it does  
23 not mean that I do it

24 Q Yes, ma'am I didn't say you did it

25 A Okay

1 Q I just asked you if you had discussions

2 A I just want you to understand why I had  
3 discussions Because I'm open to listening to anything  
4 anybody has to offer I will discuss anything that you  
5 want to discuss, but it does not mean that I'm going to  
6 put my name on the dotted line

7 One of the reasons that I was certainly not serious  
8 about this is because I thought it looked like such a  
9 can of worms that I didn't need to get into something  
10 like that I had enough on my plate taking care of  
11 three children and a business

12 Q Yes, ma'am Then you married Mr Austin in  
13 1998, right?

14 A Yeah You want to know where we live again?

15 Q And instead of buying the property from  
16 Property Research Holdings, you filed a quiet title  
17 action in November of '98, which is Exhibit 38, right?

18 A Uh-huh

19 Q And your husband, as I understand it, came up  
20 with the idea, and he drafted the pleadings, and he did  
21 the research, and he spoke with Frank Guscio, and he  
22 handled the quiet title action, is that right?

23 A Is there anything wrong with that?

24 Q No, ma'am I just asked you yes or not, and  
25 then you can explain

1 Q But you knew it was a, what you called a  
2 friendly suit What is a friendly suit?

3 A I don't know

4 Q All right Let me -- do you recall your  
5 deposition in Investors Title vs Austin, taken on  
6 December 28<sup>th</sup>, 2005, which is Exhibit 66A(1)? If you'll  
7 look at line 106

8 A You know, that's a question --

9 Q Hold a minute, Ms --

10 A Okay

11 Q If you'll just wait one second, and then you  
12 can explain -- and we're talking -- and the attorney is  
13 asking you about the quiet title action, and the  
14 question on page 106, line 20 -- 22

15 "Was it a friendly suit?"

16 And your answer was?

17 A "Was it a friendly suit  
18 that --"

19 Q And your answer was?

20 A "Yeah "

21 Q Okay

22 A But you'd brought -- but --

23 JUDGE KEMMERLIN You don't have to  
24 explain I understand it People answer things  
25 differently over time

1 WITNESS I don't think I even  
2 understood what he meant by a friendly suit

3 BY MR PATTERSON

4 Q You and your husband wanted to keep --

5 WITNESS How can anything be friendly  
6 and be a suit?

7 JUDGE KEMMERLIN Let me say this  
8 We've plowed this ground before We know what  
9 happened, and I don't thing we need to rehash it  
10 beyond a point In England the Judge has a right  
11 to say, "I've heard all I want to hear " I'm -- I  
12 don't have that right here I have to hear  
13 everything you all offer

14 But I think you all have touched on  
15 every issue, and we've dealt with every issue But  
16 I'm not going to cut your short Russell, but I'm  
17 not sure -- sure that you're -- that you need to  
18 cross examine, but I'll -- I'll leave it to you

19 MR PATTERSON All right I'll try to  
20 speed things along, based upon that

21 JUDGE KEMMERLIN Okay

22 BY MR PATTERSON

23 Q Was it your desire to keep the quiet title  
24 action quiet so that not many people would know about  
25 it?

1           A       I don't think that doing a quiet title suit  
2       is something that you want to invite trouble for    I  
3       mean, I didn't do it to try to have more confrontation  
4       I only wanted to do it to acquire what, I believe, was  
5       legally mine

6           Nobody had ever asserted an interest in that  
7       property other than me, and from what I was able to  
8       understand about the law, I had a right to it, and I  
9       just wanted to tidy things up and get things settled,  
10      and beautify my property, and be able to live there the  
11      rest of my life until they carry me out feet first

12          Q       Can you tell me why the Forest Beach  
13      Association and the lot owners 1 through 4 behind you  
14      were not named as parties?

15                   MR STEPP    To her understanding  
16      Legal question, whether they need to be or not  
17      But if the question is   What was her understanding  
18      about whether they needed to be, I'll let that --

19                   JUDGE KEMMERLIN   As I say, I think  
20      we've already plowed this

21                   WITNESS    I think we have to

22                   JUDGE KEMMERLIN   Wait a minute    I  
23      decide whether we have or not, not you

24                   WITNESS    I like that Judge   Quick  
25      trial



1 MR STEPP Carolyn has the plow

2 WITNESS All right

3 JUDGE KEMMERLIN Again, I'm not going  
4 to tell you Russell, but I understand all that had  
5 happened --

6 WITNESS Yeah

7 JUDGE KEMMERLIN -- and why it  
8 happened Whether it's excusable or not and all,  
9 I'll decide, but although whether if true it still  
10 makes a difference It still wasn't done right  
11 So -- so, you know, I understand her feelings about  
12 it, that she didn't mean to do anything wrong, and  
13 all those thing, but that title suit was not done  
14 right So let's

15 MR PATTERSON All right

16 WITNESS Well, Forest Beach  
17 Association did not have an interest at that time,  
18 and Forest Beach Association -- Forest Beach  
19 Owners' Association was not in operation at that  
20 time

21 JUDGE KEMMERLIN Well, you go on ahead  
22 and talk with it then I'm going let him ask you  
23 more -- I've already said -- suggested now --

24 WITNESS All right I just wanted him  
25 to know --

1 JUDGE KEMMERLIN He may still want to  
2 ask some questions, because he certainly had the  
3 right to do so But let's let him do it, and then  
4 you answer them truthfully, as you will of course

5 BY MR PATTERSON

6 Q After the quiet title action was finished in  
7 1999 did your husband tell you not to do anything for  
8 three years so that certain statutes could pass?

9 A I'm not sure what we discussed, or if I was  
10 even ready to try to do anything

11 JUDGE KEMMERLIN Well, haven't I  
12 already heard here today -- I mean, yesterday --

13 WITNESS Yeah

14 JUDGE KEMMERLIN That somebody had  
15 said that Okay

16 WITNESS That's what Russell said

17 MR PATTERSON Mr Austin said that,  
18 to my recollection

19 JUDGE KEMMERLIN Right

20 BY MR PATTERSON

21 Q Are the -- let's talk about the two storage  
22 sheds that were built on your property Are they  
23 accessible from inside of your house?

24 A No

25 Q Okay You would agree then that both of

1 those are built within five feet of the lot line?

2 A Yes Again, I will say that the reason I did  
3 it was so my neighbor wouldn't have to look down on all  
4 the trash -- that's the only place there is to put  
5 anything

6 Q Well, the brick wall that you built, the  
7 seven foot brick wall, the iron gate, the brick columns,  
8 the palmetto trees, the railroad ties, and the two  
9 storage sheds that you've discussed, you did not seek or  
10 obtain ARB approval from the Plaintiff, did you?

11 A No I didn't think ARB had anything Forest  
12 Beach Association, again, was not in operation at the  
13 time of the wall, that I knew of I was not aware of  
14 Forest Beach Owners' Association until I was sued, I  
15 guess

16 Q All right

17 A And I knew Frank had Forest Beach  
18 Association, and that he was going to take the declarant  
19 rights, or had the right to, or something I don't --

20 Q The deed you obtained from Mr Guscio,  
21 Exhibit 73A, you didn't ask Property Research Holdings  
22 to give you that deed, did you?

23 A I don't really know anything about that deed

24 Q But you didn't ask Mr Guscio to give you the  
25 deed, right?

1 A I said I don't know anything about that deed

2 Q All right You don't know why he gave it to  
3 you, and you didn't --

4 A I don't know anything about the deed

5 Q Okay Prior to the wall being constructed, I  
6 think you said in 2003 or 2004, the seven foot wall, you  
7 never stopped anyone from going down the beach path that  
8 ran down Avocet, did you?

9 A We've been down that 25 times already

10 Q Well, ma'am, I've never asked you that  
11 question

12 JUDGE KEMMERLIN The date and time --

13 BY MR PATTERSON

14 Q My question is --

15 JUDGE KEMMERLIN Yeah Go ahead

16 BY MR PATTERSON

17 Q Prior to the wall being constructed in 2003  
18 or 2004, you never stopped anyone from going down the  
19 beach path that ran down Avocet?

20 A No It didn't ran down Avocet, it ran around  
21 over on Sea Crest

22 Q All right Well, I'm talking about the beach  
23 path, looking at Exhibit 76, that you said they walked  
24 to the right of the planter

25 A Yes

1 Q That's what I'm talking about Prior to the  
2 wall going up, you never stopped anyone from walking  
3 down to --

4 A No I --

5 Q -- the right of your planter?

6 A No I didn't

7 Q Okay

8 A And now Robert has replaced that wall, that  
9 walk, that path, with a nice flat, safe, wall -- walk  
10 I mean, wouldn't that be kind of ridiculous to have two  
11 paths going down to the beach when you can have one  
12 really nice one

13 Q And in fact until the gate went up you never  
14 wanted to keep any lot owners from accessing the beach  
15 down --

16 A I never --

17 Q -- down Avocet?

18 A I've never wanted to keep anybody from going  
19 to the beach

20 Q All right

21 A They had a way to go to the beach, down the  
22 path

23 Q How long -- when did you start renting the  
24 Avocet Street house?

25 A Oh, I don't know

1 Q Was it as early as 1992 and '93, you rented  
2 it out during the summer rental season?

3 A I've never rented it very much I only  
4 rented enough to try to pay my taxes and my insurance

5 Q All right Do you recall your deposition in  
6 the Sea Crest case? I will hand you as an Exhibit --

7 MR PATTERSON Your Honor, so you will  
8 understand and not get too more frustrated with me  
9 --

10 JUDGE KEMMERLIN All right

11 MR PATTERSON These questions relate  
12 to her claim for adverse possession

13 JUDGE KEMMERLIN Go ahead on that

14 MR PATTERSON One second

15 BY MR PATTERSON

16 Q Your deposition on page -- taken in the  
17 Austin vs Sea Crest case, taken Thursday, April 20<sup>th</sup>,  
18 2006 I'll show you -- and I need to look at it just  
19 for a second so I can read the question, and then I'll  
20 let you have it The question on page 27

21 "So let me rephrase From  
22 1997 through the present, and  
23 the present would have been  
24 2006, 1 Dune Lane has not been  
25 your primary residence?"

1 And your answer was?

2 A "That is correct "

3 Q All right Let me see if I can speed some  
4 things along Tell me if you can identify, and I'll  
5 provide a copy to you, what this document is -- these  
6 documents are

7 A These are rental amounts

8 Q And those are documents that you prepared for  
9 1 Dune Lane, which is on Avocet Street -- your office  
10 prepared?

11 A That's correct

12 MR PATTERSON All right I offer  
13 those into evidence, Your Honor, as Exhibit 93

14 MR STEPP No objection

15 JUDGE KEMMERLIN Without objection,  
16 offered into evidence

17 MR PATTERSON If I can put a sticker  
18 on there Ms Bair

19 (WHEREUPON, a document was marked as  
20 Plaintiff's Exhibit Numbers 93 for identification  
21 into the case of Forest Beach Owners' Association,  
22 Inc and Trevor G Howard vs Carolyn S Bair)

23 BY MR PATTERSON

24 Q And does that reflect the time periods that  
25 you rented this house to third parties for 1995, 1996,

1 '96, '97, '98, '99, and 2000?

2 A That's correct

3 Q Okay And in addition to those rentals there  
4 was one period of time for eight straight months that  
5 you rented the property to the Golf Academy

6 A That's correct

7 Q And what year was that? Do you -- if you  
8 remember

9 A I don't remember It was when they started  
10 the Sea Crest, because Paul Long called and asked me if  
11 I would do him a favor and help out his friend --

12 Q Well, I don't -- I'm going to interrupt you,  
13 because I don't need the explanation of how the rental  
14 took place

15 A Well, I don't understand why the rental is  
16 important --

17 Q Yes, ma'am

18 A -- unless you want to know why it took place

19 Q No, ma'am I don't want to know why it took  
20 place

21 When was the Sea Crest -- when do you think the Sea  
22 Crest was started, so we can know what time that rental  
23 was, approximately?

24 A I think the Sea -- well, no The Sea Crest  
25 started before the rentals ever came along



1           You see, they built the Sea Crest in three  
2       different phases, and the first phase was not over on my  
3       side, so it really didn't affect me and my family   It  
4       was only when the second phase --

5           Q       And when was the second phase?

6           A       I don't know, Russell   I nonestly do not  
7       know

8           Q       You would agree with me that for substantial  
9       periods of time starting in, at least, 1995, up until  
10      the present, you didn't reside at 1 Avocet -- I mean, at  
11      1 Dune Lane?

12          A       Since what now?

13          Q       Since, at least, from 1995 to the present,  
14      for substantial periods of time, you did not live on  
15      this property?

16          A       Well, in '95 I think I lived there

17          Q       Except --

18          A       I moved up to 57 when they started phase two,  
19      when there was so much traffic and so much noise

20          Q       You moved out of the house, I assume, during  
21      the rental periods shown on Exhibit 93

22          A       Yeah   I moved -- those weeks I lived on  
23      another property

24          Q       And in December of '98, after your got  
25      married, you moved to Florida, is that correct?

1 A Well, my residence then became in Florida  
2 Q Okay And you've -- that's been your  
3 residence since you've been married in '98 has been  
4 Florida, has it not?

5 A That's correct

6 Q Okay

7 A I'm glad you refreshed me on these rents,  
8 because I can't get rents like this now that the Sea  
9 Crest has been built That has ruined by house

10 Q The -- you mentioned that the association had  
11 sued you I hand you Exhibit 65A Is that a copy of  
12 the lawsuit the association brought against Mr Farmer  
13 involving a setback on Heron Street, in which you were  
14 named a party, along with all the other property owners  
15 along the ocean?

16 A Yes

17 Q And I'll just represent to you that that  
18 lawsuit was about whether there was a setback of five  
19 foot or ten foot on a street extension, just to refresh  
20 your memory

21 Do you recall filing an answer, which has been  
22 marked as Exhibit 65B, in that lawsuit? Is that your  
23 signature on that document?

24 A It is

25 Q All right If you'll read for me the last

1 sentence on page 2, starting with "notwithstanding " If  
2 you'll read that out loud

3 A I'm looking for it On what page?

4 MR STEPP Page 2

5 MR PATTERSON Page 2, the fourth line  
6 from the bottom Notwithstanding

7 WITNESS "Notwithstanding  
8 assertions to the contrary, the  
9 segments of the streets lying  
10 between Dune Lane and the seaward  
11 boundary of the subdivisions are  
12 "streets" as they appear on plats of  
13 the subdivision "

14 BY MR PATTERSON

15 Q Okay And Heron Street, looking at Exhibit  
16 10, is in Hilton Head Beach subdivision number 1, about  
17 four streets down from where Avocet Street is?

18 A Seven streets down

19 Q Seven streets down And so in the lawsuit --  
20 in the answer that you filed in February of 2007, 65B,  
21 you asserted that all of the streets shown on the plats  
22 are actually streets as they appear on the plats, is  
23 that correct?

24 A All except mine

25 Q No, ma'am Your answer doesn't say all

1       except yours    You say --

2           A       Well, let's correct that then   All except  
3       mine

4           Q       Yes, ma'am   But what you filed with the  
5       Court is -- you said everything -- all the streets on  
6       the subdivision plat, which is Exhibit 10, are streets

7           A       That was an error there on my part

8           Q       Yes, ma'am   And in fact you and your  
9       husband, as your attorney, argued throughout the trial  
10      that all of the streets shown --

11          A       But Heron wasn't --

12          Q       If I could finish the question   You and your  
13      husband argued at trial, that you attended, that all of  
14      the streets in Hilton Head Beach subdivision number 1 on  
15      the plats were actually streets, did you not?

16          A       I don't think I argued anything

17          Q       But did your husband, as your attorney, argue  
18      that for you?

19          A       I don't think -- I don't know

20          Q       Okay   And you made the same argument,  
21      without replotting the ground, in your suit against W J  
22      Enterprises, that Jacana was a street -- a platted  
23      street, correct?

24          A       We've been through that   Yes

25          Q       Yes, ma'am   I think the last question I have

1 is -- this is the last question that I have for you  
2 Plat book -- Exhibit 10 shows your subdivision, Hilton  
3 Head number 1, and your lot, number 5

4 A Uh-huh

5 Q If I can just -- I'm going to highlight  
6 number 5 Isn't that where your lot is?

7 A Right

8 Q And I show you what's been marked as Exhibit  
9 84 Does your subdivision, Hilton Head Number 1, lie  
10 right next to another Hilton Head Company platted  
11 subdivision called Forest Beach subdivision, as shown on  
12 Exhibit 84?

13 A Now what? Say that again

14 Q Does your subdivision, shown on Exhibit 10,  
15 lie right next to another Hilton Head Company  
16 subdivision called Forest Beach subdivision, shown on  
17 Exhibit 84?

18 A Are you talking about this?

19 Q Yes, ma'am Forest Beach subdivision

20 A You're asking, does my property --

21 Q Lie right next to another subdivision

22 A -- lie right next to the Sea Crest property?

23 Q No, ma'am Does it lie right next to Forest  
24 Beach subdivision, as shown on Exhibit 84, platted by  
25 the Hilton Head Company?

1 A I don't know I've never seen that before

2 Q Yes, ma'am Doesn't that show, as --  
3 highlighted in -- part of yellow, is Avocet Street,  
4 which runs right next to your house?

5 A Are you saying that this is my property right  
6 here (indicating)?

7 Q No, ma'am I'm representing to you that the  
8 street that's partially marked in yellow is Avocet  
9 Street

10 A Well, what was platted and what was the use  
11 of it are two different things

12 Q No, ma'am I didn't ask you what the use  
13 was

14 A Well, I'm just saying that it did not appear  
15 to be a street beyond my driveway

16 Q But my point is, Avocet Street actually is a  
17 street that could be used for beach access between two  
18 platted subdivisions by the Hilton Head Company, is that  
19 not correct?

20 A Back in '50 something when they platted it it  
21 --

22 Q Yes, ma'am

23 A -- it may have been I don't know

24 Q Okay

25 A Robert Graves had it then I don't --

1 MR PATTERSON Give me one second,  
2 Your Honor, to check with my client I don't think  
3 I have any other questions

4 MR STEPP I have a couple of  
5 questions for you

6 REDIRECT EXAMINATION

7 BY MR STEPP

8 Q I want to show you again Plaintiff's Exhibit  
9 91, which is this photograph of the no trespassing sign  
10 And Mr Paterson asked you if that sign wasn't attached  
11 to the gate on your property Do you remember that?

12 A I do not I've never seen that

13 Q Are you confident that is not the gate on  
14 your property?

15 A I am very certain it is not

16 Q And you see there is a long --

17 A Fence

18 Q -- fence, or wall, picket wall, picket fence

19 --

20 A Right

21 Q Do you have any such fence like that, or  
22 wall, as part --

23 A I do not have any

24 Q -- of your property?

25 A I've never had any kind of fence like that

1 Q All right Thank you All right Ms  
2 Austin, we looked at a lot of pictures of vegetation  
3 that's grown up along and in front of the street  
4 extension and the piece of property in front of the  
5 street extension extending all the way to the dunes,  
6 correct?

7 A Right

8 Q If that had to be removed, do you think that  
9 would have any affect upon the protection of the dunes  
10 from erosion?

11 A Absolutely In fact it's my understanding it  
12 would be against the law to remove any of that

13 Q All right

14 MR STEPP No further questions

15 JUDGE KEMMERLIN All right

16 MR PATTERSON I don't have any other  
17 questions, Your Honor

18 MS AUSTIN Come here (toward Mr Stepp)

19 MR STEPP We can't -- we cannot talk

20 MS AUSTIN I know that there is something that  
21 you have not put in

22 MR STEPP Well, you know Excuse me, let me talk  
23 to my co-counsel a minute

24 (WHEREUPON, a brief break was taken off  
25 the record )



1 MR STEPP No further questions

2 JUDGE KEMMERLIN Okay Thank you Gentleman --

3 I'm going to ask both lawyers a question here Suppose

4 -- and I'm just saying, suppose, that it affects my

5 judgment - I assign it as a reason any number of things

6 - I say, "Well, after all they can go down this path "

7 How do I know that these people won't stop that path at

8 any moment?

9 MR PATTERSON Can you repeat that again? How do  
10 you know what?

11 MS AUSTIN I understand that

12 JUDGE KEMMERLIN Wait, wait, wait I'm asking  
13 lawyers

14 MR STEPP I think because they have an agreement  
15 with an off-site development to use that that they  
16 wouldn't be able to close it up

17 MR PATTERSON Can you repeat your question again,  
18 Judge, because I didn't understand it?

19 JUDGE KEMMERLIN My question was Assuming that I  
20 put some great weight and considered in what I -- any  
21 conclusion I make, some importance to the fact that,  
22 "After all, they can go this way " What assurance is  
23 there that they wouldn't close it up anyway, anytime  
24 they wanted to?

25 MR STEPP I think it's part of their PUD [sic]

IN THE DISTRICT COURT OF THE UNITED STATES  
DISTRICT OF SOUTH CAROLINA  
BEAUFORT DIVISION

|                    |   |                |
|--------------------|---|----------------|
| INVESTORS TITLE    | ) |                |
| INSURANCE COMPANY, | ) | 9 05-CV-1434   |
|                    | ) |                |
| Plaintiff          | ) | Charleston,    |
|                    | ) | South Carolina |
| VS                 | ) | March 8, 2007  |
|                    | ) |                |
| CAROLYN BAIR,      | ) |                |
|                    | ) |                |
| Defendant          | ) |                |

TRANSCRIPT OF BENCH TRIAL  
BEFORE THE HONORABLE P MICHAEL DUFFY  
UNITED STATES DISTRICT JUDGE

APPEARANCES

For the Plaintiff MR ROBERT P WOOD, ESQ  
Rogers Townsend  
and Thomas  
P O Box 100200  
Columbia SC 29202

For the Defendant MR MARK WESTON HARDEE, ESQ  
1426 Richland Street  
Columbia SC 29201

Court Reporter Amy C Diaz RPR CRR  
P O Box 835  
Charleston South Carolina 29402

Proceedings recorded by mechanical shorthand  
transcript produced by computer-aided transcription

AMY C RUEMELIN, RPR, CRR OFFICIAL COURT REPORTER

1 THE WITNESS Robert E Austin Jr

2 THEREUPON

3 Robert E Austin, Jr ,  
4 called in these proceedings and being first duly sworn  
5 testifies as follows

6 THE CLERK Thank you sir You may take the  
7 witness stand

8 DIRECT EXAMINATION

9 BY MR WOOD

10 Q Good morning, Mr Austin I think we've met

11 A Good morning Mr Wood

12 Q You are married to Carolyn Songer Austin?

13 A That is correct

14 Q She is formerly known as Carolyn Bair?

15 A That is correct

16 Q She's the defendant in this case?

17 A That's correct

18 Q I know you met her a long, long time ago, but you started  
19 dating her in 1998?

20 A Um, that would be possible, yes That s fine

21 Q Okay At that time, you were living in Florida but she  
22 was living in Number 1 Dune Lane?

23 A Um, I don t know actually where she was living She nas  
24 several houses

25 Q Okay She lived on Hilton Head somewhere?

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1 A That's correct

2 Q Right And you married her in December 1998?

3 A That's correct

4 Q Now, Mr Austin, you are a lawyer?

5 A That's correct

6 Q And you have been a lawyer for a long time?

7 A Yes

8 Q A successful lawyer?

9 A Well, some say I am

10 Q Yes, sir

11 With general practice?

12 A Um, yes

13 Q That general practice includes doing real estate work?

14 A Um limited only Um, my real estate practice, um has  
15 waned in many years I do real estate litigation, but I m  
16 generally acquainted with real estate in that area

17 Q Right

18 And I should have said your practice has included  
19 real estate litigation in the past?

20 A Yeah, it has

21 Q And it has actually included some real estate  
22 transactional work in the past, too?

23 A That is also correct

24 Q Mr Austin, you know how to search a title, don't you?

25 A Yes

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1 Q And you know how to read complex legal documents?

2 A Um, yes

3 Q You are familiar with quiet title actions in particular?

4 A Um, I am

5 Q Now, as I understand, Mr Austin, and correct me if I m  
6 wrong, but when -- you had learned sometime in 1998 that  
7 there were issues regarding the title to some property at  
8 Hilton Head Beach Subdivision Number 1 now known as Forest  
9 Beach Subdivision Number 1, true?

10 A That s also correct

11 Q I forgot my last question specifically but there were  
12 issues regarding the Strand lots, we call them, and the beach  
13 access lots?

14 A Um, yes

15 Q And to help Judge Duffy understand and I m not sure I  
16 have a good exhibit to show you but looking at my foam board  
17 exhibit here, the Strand lots would be some lots that are  
18 really between Lots 5 through 18 and the beach is that  
19 right?

20 A Not necessarily Do you want me to stand up and I'll --

21 Q Yes sir

22 THE COURT Go right ahead

23 A Your Honor, I m going to give a little bit of historical  
24 perspective, but I think there are some other things that we  
25 have coming up

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1 Q That would be fine

2 A There were three oceanfront subdivisions on Hilton Head  
3 Island that were formed by the Hilton Head Company back in  
4 the mid-50s

5 Subdivision 1 2 and 3 1 and 2 were substantially  
6 the same 2 was the end of the other two and it has much  
7 larger lots, and it did not have the same complexity as this  
8 one

9 This particular plat was placed of record in 1953  
10 And after that time the Hilton Head company started selling,  
11 sort of offering for sale an oceanfront subdivision, the  
12 Strand

13 In 1954, the Hilton Head Company filed what is  
14 called a declaration of trust that states that they shall  
15 forever hold in trust for the land owners the land located  
16 between the seaward edge of the subdivision and the -- that  
17 being between Lots 5 and 18 etcetera

18 Now this is where the glitch comes with regard to  
19 the Hilton Head Beach Subdivision Number 1 The trust did  
20 not begin until at this corner of Lot 5 And it only went  
21 along there for 500 feet Hilton Head Beach Number 2 went to  
22 the entire breadth of the subdivision

23 So actually, there has been some questions about  
24 that, whether or not there was a scriber s error or  
25 otherwise but the Strand property according to the

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1 declaration, started right here at the -- this particular  
2 corner Lot 5 and extended 500 feet

3 The -- this one -- now I got past your question

4 Q Get back to the plat -- and I've made some  
5 representations to the Court -- is that yellow area the  
6 approximate location of Sea Crest Condominiums?

7 A Approximately

8 Q And is my blue mark there the approximate location of the  
9 sidewalk on the Sea Crest Condominiums?

10 A Approximately

11 Q Okay It parallels Avocet Street on the Sea Crest  
12 property?

13 A Actually, no It's actually -- it, um -- no it's not  
14 that far up because there is -- it's only after it passes the  
15 corner here

16 Q Of Dune Lane?

17 A Of Dune Lane

18 Q Let's scratch it out May I scratch it out?

19 A Sure

20 Q So you are saying that it really ends about right there,  
21 (indicating)?

22 A Well it goes from here to -- yeah

23 Q Right

24 So if I scratch out this we've got a bit --

25 A That would be the --

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1 Q All right

2 A That s fine All right

3 Q And I've accurately depicted where Dune Lane is?

4 A Yes

5 Q And Avocet Street?

6 A That s correct

7 Q Avocet Street being the same thing as A Street?

8 A That s correct

9 Q And North Forest Beach Drive is formerly known as Baynard  
10 Drive?

11 A That's correct, also

12 Q And Coligny Circle, I ve got that right?

13 A As far as I know

14 Q Okay Thanks

15 You can have a seat again, and I m going to oet back  
16 to my questions

17 A All right

18 Q I got off my script a little bit Mr Austir

19 When you started dating Ms Austin who is now Ms  
20 Austin, that's when you began to educate yourself on the  
21 legal issues and factual issues regarding Forest Beach  
22 Subdivision Number 1 true?

23 A Fair

24 Q You also educated yourself on those same sort of issues  
25 as they deal with Subdivision Number 2?

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1           A   Um, perhaps, but not at that particular time   That sort  
2           of crept in later

3           Q   You also educated yourself about the facts and  
4           circumstances of these title issues as to Subdivision Number  
5           1 by talking to a fellow named Frank Guscio, true?

6           A   That would also be correct

7           Q   Now   Frank Guscio probably knows more than anybody else  
8           about title issues and real estate issues and local lore and  
9           history of these subdivisions?

10          A   That s my understanding

11          Q   Right

12                   And it's your belief too isn't it   Mr Austin?

13          A   I think that s fair

14          Q   You got to know him and you talked to him about all this  
15          stuff^

16          A   That's also correct

17          Q   And as a lawyer   you know what questions to ask to  
18          challenge somebody politely to check up on their accuracy of  
19          the information they are giving to you?

20          A   I could   but I never challenged Mr   Guscio like that

21          Q   Because he met your smell test   he seemed to know what he  
22          was talking about?

23          A   Well   I think that's fair

24          Q   And what he was talking about was consistent with what  
25          you learned on your own regarding documents and plats and so

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1           forth?

2           A Well let me be careful about that because I did not go  
3 out, um, and look at anything other than just what came my  
4 way just -- I didn't make any specific inquiry going over  
5 looking for anything other than looking at what these  
6 particular lots were, and as far as in general goes And I  
7 don't even know where I got the source of the documents  
8 there Perhaps I got them from Carolyn I don't know

9           Q But some of the documents themselves came from  
10 Mr Guscio didn't they?

11          A That's also correct

12          Q In fact, I think it would be an honest fair statement to  
13 say that Frank Guscio is a wealth of information regarding  
14 these issues that we are discussing today?

15          A Absolutely

16          Q And he's reliable?

17          A As far as I know he's reliable

18          Q And reasonably trustworthy?

19          A Both counts

20          Q Now, as a part of your learning about these title issues  
21 did you study up on your soon to be wife's litigation from  
22 1994 involving Jacana Street?

23          A I knew about it, but I didn't study it

24          Q Jacana Street is over on Subdivision Number 2?

25          A That's correct

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1 Q And her litigation over there involved some landscaping  
2 and a pool, I believe, regarding her use of some property  
3 that might not have been exactly in her lot over there?

4 A That was what was stated

5 Q And you generally got familiar with that sort of  
6 litigation?

7 A Yes

8 Q So you learned in 1998 that your, I guess fiancée at that  
9 time, had been involved in litigation involving similar  
10 issues but they were Subdivision Number 2?

11 A I don't want to say 1998 I don't know when I learned  
12 about that It was some time after that but the date I  
13 couldn't tell you

14 Q Part of your investigation into what's going on in  
15 Subdivision Number 1 was to look into the beach access  
16 issues, Mr Austin beach access who had legal title to the  
17 beach access areas?

18 A Um somewhat

19 Q And you did a lot of studying on that didn't you,  
20 Mr Austin?

21 A Well, I don't know that I would say a lot but, I mean,  
22 I did

23 Q Maybe my question was bad, so I'll re-state my question

24 Mr Austin you became generally familiar with the  
25 remnants of the Hilton Head company bankruptcy?

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1 A Yes

2 Q During that familiarization process, you learned who  
3 acquired what, when and how?

4 A Basically

5 Q And you learned this by talking to people in part?

6 A Yes

7 Q And you did a lot of studying up on that issue didn't  
8 you, Mr Austin?

9 A Well studying is kind of a vague term I acquainted  
10 myself is better

11 Q Okay I think -- and I'm going to go -- I know you know  
12 how to do this I'm going to go easy on this But in your  
13 deposition I believe I asked you

14 Question And you learned about this by shooting  
15 the ball talking with people?

16 And your answer was

17 Answer No I did a lot of studying on it

18 And I said

19 Question Did you really?

20 And you said

21 Answer Absolutely

22 A Well --

23 Q You will give me that today?

24 A Yeah

25 Q Okay So absolutely, you did a lot of studying on these

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1 issues?

2 A Yes, I did

3 Q Okay Thank you Mr Austin

4 A Studying is a relative term however

5 Q But you absolutely did a lot of it, whatever that is?

6 A Yes I've known a lot of people that did a lot of  
7 studying and could never pass the test, though

8 Q In fact --

9 THE COURT Was this the Baudgen bankruptcy?

10 MR WOOD Yes, sir He was involved in it, yes,  
11 sir

12 BY MR WOOD

13 Q And the -- that bankruptcy was as complicated as any  
14 bankruptcy South Carolina has ever seen wouldn't you say,  
15 Mr Austin?

16 A Well it's basically -- it's my understanding that one of  
17 the judges up here took it over and that was his project

18 THE COURT It wasn't me You are right

19 MR WOOD That's right

20 A That was what I understood

21 Q He withdrew the reference and took -- a federal district  
22 judge withdrew the federal bankruptcy reference and took it  
23 by himself I think it was about a full-time --

24 A Judge Blatt, wasn't it?

25 THE COURT Absolutely

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1 BY MR WOOD

2 Q Now, your studying up included a talking to Mr Guscio  
3 talking to people in general Um, you went to the  
4 courthouse?

5 A Yes

6 Q You studied other lawsuits involving Subdivisions 1 and  
7 2, didn't you Mr Austin?

8 A I think so

9 Q Okay You studied -- now, do you know Judge Kemmerlin  
10 the former master in equity for Beaufort County?

11 A Yes

12 Q He s an interesting man isn't he Mr Austin?

13 A Yes

14 Q Quite intelligert man?

15 A Yes

16 Q He had issued a number of rulings about title issues in  
17 Subdivision Number 1 by 1998 had he not Mr Austin?

18 A I don t think he issued a number Number 1 I think he  
19 had Number 2

20 Q Now Number 2 is vely, very similar to Number 1 in terms  
21 of title issues and beach access isn t it?

22 A No, it's not because Number 1 had a limitation of the  
23 Strand property And Number 2 it had -- let s go back for a  
24 second

25 The reason why there is some differences of opinior

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1 or differences, is that up at Number 2, when Mr Guscio  
2 bought the residual assets from the bankruptcy trustee he  
3 in turn, re-conveyed those to another firm called Assets  
4 Holding which conveyed it And they did some other items  
5 that are different

6 Now, with regard to Subdivision Number 1 Mr Guscio  
7 did not make any subsequent transfers to anyone else

8 Q By this time?

9 A By that time

10 And secondly, as I've said earlier, there was a  
11 difference in the Strand property at 1 and 2

12 Q In general terms though, we are talking about very  
13 similar issues are we not, Mr Austin?

14 A Yes sir Generally similar

15 Q And you read some of Judge Kemmerlin's rulings about  
16 Subdivision 2 by 1998?

17 A Not by 1998 some time, well, at or about that time

18 Q Thank you At or about that time, okay

19 And through all your studying, I believe you told me  
20 that it all fit together it was complicated, but it all fit  
21 together?

22 A Well I didn't find it too complicated I mean it's  
23 just after you took a little bit of time and weeded it out, I  
24 thought it was reasonably discernable

25 Q Right Reasonably discernable

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1                   And, in fact, it ultimately did all fit together?

2           A   Certainly

3           Q   Now it was you, Mr Austin, wasn't it who drafted Mrs  
4   Alston's quiet title lawsuit?

5           A   That's correct

6           Q   You did the factual investigation to do that lawsuit?

7           A   Yes

8           Q   And you did the legal investigation?

9           A   Yes

10          Q   You drafted it for her signature?

11          A   Yes

12          Q   By that time you were not quite yet married I'm not  
13   getting into any kind of wrongdoing on your part Mr Austin  
14   You drafted it for her signature she reviewed it and she  
15   signed it and you filed it?

16          A   Well, I think I drafted it after we were married We  
17   were married December 1998

18                   What's the date of the lawsuit?

19          Q   I don't know that it's a big deal, but I know when you  
20   served the lawsuit personally, you were not yet married

21                   Let me -- this may just take a second, Your Honor  
22   It might not be a big deal

23                   THE COURT   Okay While y'all are doing that I'm  
24   going to take two minutes So everybody, I'll be right back

25                   (Thereupon, there was a brief recess )

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1 A To answer your question about the lawsuit I think it  
2 commenced in November of '98 That was before we were  
3 married  
4 Q Okay And, again I don't think it's a big deal  
5 A I can't remember every one of those dates  
6 Q I do want to make sure this -- your filing this lawsuit  
7 for Ms Austin, that's not something you did on your own, you  
8 did it for her?  
9 A Yes  
10 Q With her knowledge and consent?  
11 A She signed the complaint  
12 Q With your knowledge and consent?  
13 A Yes  
14 Q And she knew what she was doing because you explained  
15 things to her as much as she needed to know them?  
16 A That would be correct  
17 Q I believe you served Frank Guscio with a copy of the  
18 lawsuit?  
19 A He was the president of the Property Research Holdings  
20 Q Which is the only named defendant in the lawsuit, other  
21 than unknowns?  
22 A That's correct  
23 Q When you personally served him, was he angry at you?  
24 A No  
25 Q The truth is it was a friendly lawsuit wasn't it,

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1 Mr Austin?

2 A I don't -- that s your word that s not mine It was a  
3 lawsuit I have never known a friendlv lawsuit period in  
4 my 40-plus years of practice

5 Q He didn t help you with the background investigation to  
6 help you sue him?

7 A I don t understand the question

8 Q Okay Mr Austin, here's a fax that y'all gave to me in  
9 discovery I ve labelled it Exhibit 15B Would you take a  
10 look at that?

11 A All right

12 Q Mr Austin, is this a fax that Mr Guscio sent to you on  
13 November 18th, 1998 just before you filed this lawsuit?

14 A It would appear to be

15 Q Does it have --

16 MR WOOD Your Honor we would offer this into  
17 evidence as Plaintiff's Exhibit 15B

18 THE COURT Without objection

19 May I see it? Thank you

20 BY MR WOOD

21 Q In his fax, does he attach a proposed quitclaim deed to  
22 you that's got some blanks, like a draft quitclaim deed?

23 A It appears to be

24 Q Okay To prove this, he helped you with this lawsuit,  
25 didn t he?

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1 A No 'Helped me how do you define help ?

2 Q He helped you with the background investigation he  
3 helped you um, come up with what it is you were asking for  
4 in this lawsuit, in your quiet title lawsuit?

5 A Well, I got information from him I don't know if  
6 that's -- I guess anything, I guess, helped

7 Q Did he follow-up with a plat as he said he was going to  
8 by sending you this plat that's been marked Exhibit 15B?

9 And actually, Mr Austin I don't want to mislead  
10 you Here is what he faxed to you, I believe so

11 Let me just ask Is Exhibit 15A the fax -- a fax of  
12 a plat that he sent to you shortly after the fax of the 18th?

13 A Mr Wood I don't know This has a date on it of  
14 November 18th from them That's looking at the fax date, so  
15 it would appear to be

16 Q If you would read it What does the handwritten stuff  
17 about in the upper, left-hand corner say?

18 A To Bob Austin I hope you can read this

19 Q Signed?

20 A Frank

21 Q And the date of that is November 18, 1998?

22 A That's correct

23 Q Which is the very same day this fax we just put into  
24 evidence as 15B?

25 A That would appear to be correct

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1 MR WOOD Your Honor, offer Exhibit 15A, the fax  
2 into evidence

3 Actually I've come into a numbering issue here  
4 Your honor, I need to make this 15C it would be the version  
5 with the handwritten fax on it

6 THE COURT All right

7 MR WOOD So I'm going to make that 15C There is  
8 15C Your Honor

9 THE COURT All right Thank you

10 MR WOOD Now Your Honor also I would like to  
11 offer into evidence an official tested copy of the very same  
12 plat It's easier to read and follow a large version

13 THE COURT All right And that will be  
14 Exhibit 15A

15 BY MP WOOD

16 Q Mr Austin does Exhibit 15A show Avocet, what is Avocet  
17 Road and Ms Austin's lot?

18 A It appears to

19 Q And that's down at the bottom, left-hand corner of that  
20 exhibit?

21 A That's correct

22 Q It designates one lot as Lot 5 You see that?

23 A That's correct

24 Q And then next to it, just to the west of it, there is a  
25 part of Avocet Street it says A Can you see that?

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1 A Yes

2 Q Then the Strand lot right in front of her lot is called

3 5A Do you see that?

4 A That s -- yes That's correct

5 Q That s all Thank you You can keep that if you would

6 like

7 A Um-hum

8 Q we have it in evidence now

9 It was you, Mr Austin, who decided who to name as  
10 defendants in the quiet title suit?

11 A Yes

12 Q It was you who decided not to name lot owners of Lots 1  
13 2, 3 and 4 in the lawsuit?

14 A That is correct

15 Q All right It was you who decided not to name Forest  
16 Beach Association as a defendant in a lawsuit?

17 A Never gave it consideration, including Forest Beach  
18 Association Forest Beach Association was not an owner of my  
19 investigation in those premises ever

20 As a matter of fact, when you go back and look at  
21 it, in one of the lawsuits up at Number 2, Judge Kemmerlin  
22 made a specific finding that the Forest Beach Association did  
23 not have standing to bring any suits to enforce the covenants  
24 because they were not a land owner in the subdivision

25 Q Property Research Holdings conveyed an easement or I'm

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1           sorry, quitclaim deed to all of its property in Subdivision  
2           Number 1, didn't it Mr Austin?

3           A I do not know that

4           Q Okay Later Forest Beach Association conveyed its  
5           ownership interest in the easements and what all to Forest  
6           Beach Owners Association, didn't it?

7           A I learned that later

8           Q So if Forest Beach Owners Association who is a plaintiff  
9           in the underlying lawsuit, derives its claims from Forest  
10          Beach Association then had you wiped out any interest had  
11          you wiped out an interest to Forest Beach Association then  
12          you would not have to deal with Forest Beach Owners  
13          Association today, true?

14          A No, that's not true Mr Wood, you are making a quantum  
15          leap that is not correct

16                 First of all these documents that you are referring  
17          to as the plat I have no understanding that they were ever  
18          executed It was my understanding that any documents that  
19          Mr Guscio had at or about the time we were filing this  
20          lawsuit had not -- they were totally, had not gone through

21                 At the time we filed our lawsuit, there was no such  
22          thing as Forest Beach Owners Association

23          Q Right

24          A And we did not even learn about that until way after the  
25          time that Mrs Austin had her loan and this policy was

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1 not resurrect themselves until later

2 THE COURT All of the plats that you have put into  
3 evidence have been executed and recorded of record?

4 MR WOOD Yes, sir

5 THE COURT Okay

6 Go ahead

7 THE WITNESS That's not exactly correct Not the  
8 one that he showed me They were not put into record until  
9 2001

10 MR WOOD Then you just taught me something  
11 That's exactly right, Your Honor And I apologize

12 THE COURT I just need to keep myself straight  
13 that's why I asked the question Okay

14 BY MR WOOD

15 Q Okay But while we are on that topic Mr Guscio did  
16 send you this plat back in 1998 before it was of record?

17 A No, that s not exactly right My understanding was this  
18 was -- let s go back to the one that you showed me and I ll  
19 tell you the history

20 THE COURT Here it is

21 MR WOOD Thank you Your Honor

22 A All right When the property came out of bankruptcy and  
23 Mr Guscio acquired the residual assets of the Filton Head  
24 company, there was a question about the Strand and  
25 Mr Guscio had prepared a draft of a plat, is my

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1 understanding, for both 1 and 2

2 Q That's preliminary, too?

3 A That's correct. But to my understanding, this was  
4 strictly preliminary, and it wasn't recorded until later.

5 It would appear that the one that ultimately was  
6 recorded is similar to this. I have not compared them  
7 exactly with the numbers.

8 Q All right. Thank you.

9 MR. WOOD: And I did not mean to mislead the Court.

10 Q So what you did is you had some inside information on a  
11 preliminary plat that was not even recorded?

12 A Well, I don't call it inside information. Apparently  
13 it was information that all of them knew about because there  
14 had been negotiations prior to 1998, at least from early on  
15 between Assets Holding, which was the corporation that  
16 acquired the assets of Number 2, and Mr. Guscio and many of  
17 these people.

18 And as you discerned from Ms. Austin the other day  
19 at her deposition, a lot of talk was going on, a lot of talk  
20 no action. And as is the proverbial saying, talk is cheap.

21 Q Right.

22 But you were involved in the talk? You had the --  
23 you were able to listen to what the talkers were saying and  
24 you could converse with them because you understood the  
25 issues?

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1 A Mr Wood, I lister to everybody in whatever they say

2 Q All right Back to Forest Beach Association I think  
3 you and I both agree on Exhibit 2 the Secretary of State's  
4 office that describes the history of Forest Beach  
5 Association?

6 A I think it is

7 Q You found that in your investigation for the quiet title  
8 suit, I believe?

9 A I don t know when I acquired this Because if this came  
10 from the -- this has a dissolve date of 9-20-99 I was  
11 acquainted with something similar to this, but the actual  
12 date I don't know

13 Q Right The old version?

14 A We -- we did do a search of the Forest Beach Association  
15 and the Forest Beach Owners Association later

16 Q After the 1998 quiet title suit?

17 A Yes Yes

18 Q Okay

19 MR WOOD Your Honor we would offer Exhibit Number  
20 2 into evidence

21 THE COURT Without objection

22 BY MP WOOD

23 Q Now Mr Austin just for the record it states that  
24 Forest Beach Association filed its registration information  
25 on --

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1 A I know nothing other than what's on the document

2 MR WOOD Your Honor for the record, I ll state  
3 that this document provides that the articles of  
4 incorporation were filed on October 24 1974 for Forest Beach  
5 Association and it was dissolved on September 20, 1999 just  
6 for the record

7 THE COURT Thank you

8 BY MR WOOD

9 Q Now, to keep -- what I m -- what I would like to do,  
10 Mr Austin, is go through the investigation that you did I  
11 think I have been able to figure out what you did before you  
12 brought this quiet title suit

13 Did you find Mrs Bair's deed to Dune Lane that was  
14 from 1984 as a part of your investigation into this case?

15 A I don t think so I don t know if I even ever saw that  
16 deed I relied on what I was told by her

17 Q Okay

18 MR WOOD Your Honor, we have an attested copy of  
19 the deed into Mrs Austin, then known as Mrs Bair, from Mr  
20 Purdy P U R D Y, dated April 26, 1984 And I would like to  
21 offer that into evidence

22 THE COURT All right Without objection

23 BY MR WOOD

24 Q So you brought the quiet title lawsuit Mr Austin  
25 without checking the title?

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1           A I had some reasonable evidence that she owned the  
2           property

3                   MR WOOD   Number 3 --

4           A As far as actually seeing the deed, I don't recall seeing  
5           the deed before I filed a lawsuit

6           Q As a part of filing your lawsuit you named Property  
7           Research Holdings as a defendant Is it fair to say,  
8           Mr Austin that the reason why you named them was because of  
9           that quitclaim deed from the bankruptcy trustee into Property  
10          Research Holdings --

11                   MR WOOD For the record, Your Honor, that's marked  
12          as Number 4

13                   THE COURT Thank you

14          A Probably I can't recall the first time I saw this  
15          again

16          Q Did you learn Mr Austin, that Property Research  
17          Holdings assigned a number of its rights to Forest Beach  
18          Association on April 14 1989?

19                   This is Exhibit 5 I would like you to take a look  
20          at

21          A I think so I don't recall exactly when

22          Q All right And here is Number 6

23                   THE COURT how about state for the record what 5  
24          is?

25                   MP WOOD I apologize, Your Honor

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1                   Your Honor Exhibit 5 is an assignment recorded on  
2                   April 14, 1989 from Property Research Holdings, Inc , to  
3                   Forest Beach Association And it describes a nonexclusive  
4                   assignment of its right to enforce the declarant rights it  
5                   holds including, but not limited to a variety of declarant  
6                   rights

7                   THE COURT Thank you

8                   MR WOOD The more relevant one will be Number 6  
9                   coming up Your Honor

10                  THE COURT Okay

11                  BY MR WOOD

12                  Q Mr Austin, I accidentally highlighted my tested copy of  
13                  Exhibit Number 6, but if you would take a look at Number 6  
14                  and tell the Court whether you would have reviewed that as  
15                  part of your investigation into your quiet title lawsuit?

16                  A I may have

17                  Q All right

18                  MR WOOD Your Honor, we would offer Exhibit Number  
19                  6 into evidence This is a tested copy I apologize for  
20                  having highlighted it but it's all I have Your Honor

21                  THE COURT All right

22                  MR WOOD Thank you

23                  And for the record this is a document recorded on  
24                  May 1, 1990 It's entitled assignment of rights It s  
25                  actually dated April 11, 1990 And it s an assignment of

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1 rights between Property Research Holding Inc and Forest  
2 Beach Association Inc , wherein Property Research Holdings  
3 Inc assigns to Forest Beach Association Property Research  
4 Holdings's rights, if any, under the terms and provisions of  
5 the declaration and the amendments

6 And those declarations I need to put those into  
7 evidence too Your Honor, but they have been admitted to by  
8 the parties

9 THE COURT All right

10 MR WOOD I think they are attached to our Summary  
11 Judgment Motions too And I forgot to make them a part of  
12 our case today

13 BY MR WOOD

14 Q As a part of your investigation into the facts of this  
15 case, you read up on a lawsuit called Forest Beach  
16 Association vs Property Research Holdings, and involved  
17 Subdivision Number 2, didn't you, Mr Austin?

18 A At or about the time, somewhere, all of it together this  
19 was over an extended period of time, as you can see from the  
20 time of November of 1998 until the ultimate judgment was  
21 entered later

22 Q About six months later?

23 A Something like that

24 Q Here is Plaintiff's Exhibit 9 Mr Austin I believe  
25 this is a transcript of a reference hearing before Judge

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1 Kemmerlin that occurred on August 31, 1994

2 And do you recognize that?

3 A No, I don't I never knew much about it I never saw  
4 this transcript until sometime recently And I think it was  
5 only until it was called the other day to Carolyn's  
6 attention I did know that the lawsuit was ultimately  
7 dismissed because of lack of standing And when I learned  
8 about that, I couldn't tell you

9 Q So you deny that you knew about the case called Forest  
10 Beach Association vs Property Research Holdings?

11 A No, I'm not saying I deny it I'm not certain when I  
12 learned of it

13 Q I apologize Mr Austin That's exactly what you said

14 MR WOOD I'm not going to offer that at this time  
15 Your Honor I don't think I've laid a foundation for it  
16 I'll get it in later

17 THE COURT All right

18 BY MR WOOD

19 Q You are familiar with Ms Austin's -- and in 1998, you  
20 were familiar with Ms Austin's order signed by Judge  
21 Kemmerlin, later withdrawn, whereby she was required to move  
22 some heavy landscaping?

23 A There again, I don't know when I learned of this

24 Q But it would have been before the end of the final quiet  
25 title judgment in 1999?

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1 A Not necessarily This relates to, up to Subdivision  
2 Number 2

3 Q Right I'm asking when did you learn about it And --

4 A I don't know

5 Q Okay I will withdraw that one too and I'll ask your  
6 wife about that one She s a party in this case, right?

7 A Yes

8 Q And for the record --

9 A She's named as a defendart, I guess generally a party

10 Q I'll ask her about that

11 MR WOOD For the record Your Honor, I'm referring  
12 to Plaintiff s Exhibit 10, which is an order signed by Judge  
13 Kemmerlin, again later withdrawn for lack of standing in a  
14 case called Civil Action 94-CP-07-925 but I ll come back to  
15 that

16 BY MR WOOD

17 Q Now Exhibit 11 Mr Austin in your research, you became  
18 familiar with another order signed by Judge Kemmerlin that  
19 I've labelled Exhibit 11, did you not?

20 A Yes, I became aware of this when again, I don't know  
21 This was a constantly evolving process

22 Q Right

23 But you learned about this in the process of quiet  
24 title in 1998 and 1999?

25 A Not necessarily I don't know

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1 Q You learned about this years ago didn't you, Mr Austin?

2 A Well, yes, years ago, but I couldn't tell you -- pinpoint  
3 the date I couldn't even give you a bracket

4 MR WOOD Your Honor we would like to offer  
5 Exhibit 11 into evidence

6 THE COURT Without objection

7 MR WOOD And Your Honor just for the record I  
8 will state that Judge Kemmerlin dismissed that case and  
9 withdrew his order on the grounds of lack of standing I m  
10 not trying to mislead the Court about that order being a  
11 valid order today I m just trying to show that Mr Austin  
12 knew about that order

13 THE COURT Thank you

14 BY MR WOOD

15 Q When you say you learned about this order Exhibit which  
16 I believe is Exhibit 11?

17 A 11

18 MR WOOD Was it 11 Your Honor? I m sorry

19 THE WITNESS 11 is here, Mr Wood

20 MR WOOD Yes, sir Exhibit 11

21 BY MR WOOD

22 Q That was long before 2003, wasn't it Mr Austin?

23 A That's relative I don't know when I learned about it  
24 I would venture to guess that I learned about it -- I don't  
25 know when I learned about it Mr Wood

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1 Q Was a part of your quiet title lawsuit that you brought  
2 for Mrs Austin, did you prepare for her a petition and  
3 affidavit regarding unknown persons that were defendants in  
4 that case?

5 A Yes

6 Q I'll hand you what's been marked as Exhibit 17, and  
7 that's Page 2 of Exhibit 17, and ask if you can identify  
8 that

9 A All right

10 MR WOOD Your Honor, we offer Exhibit 17 into  
11 evidence

12 THE COURT All right State again on the record  
13 what it is

14 MR WOOD This is -- I apologize -- this is a  
15 petition and affidavit signed by Carolyn Bair and filed with  
16 the Court in Beaufort County Court of Common Pleas on January  
17 25, 1999 in the case of Bair vs Property Research Holdings,  
18 called a quiet title lawsuit

19 BY MR WOOD

20 Q And is that indeed the petition and affidavit that she  
21 signed Mr Austin?

22 A It would appear to be

23 Q Now in that paperwork, she talks about some unknown  
24 persons whose interests cannot be determined And again,  
25 you have not named any other lot owners in Subdivision Number

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1 1, nor have you named Forest Beach Association Tell the  
2 Court why you did not name any other lot owner in Subdivision  
3 Number 1?

4 A Because I didn't feel it was necessary

5 Now, you need to look at a little bit about what we  
6 are talking about at Lot Number 1

7 Q Subdivision Number 1?

8 A Subdivision Number 1

9 There had been no claims by anyone to use the  
10 property adjacent to Lot 5 by anyone, which was the street of  
11 Avocet

12 Q People walked on that to get to the beach There was a  
13 path there, right?

14 A Didn't know who they were

15 Q According to Plat Book 9, Page 4, it's a street which  
16 would make at least some people think that that was a way of  
17 public access to the beach true?

18 A No

19 Q Okay I'll take your word for it

20 A You know why? Because the subdivision ends Then there  
21 is a parcel of property between the extension of Avocet and  
22 the beach

23 Now, you know as well as I do that the title to  
24 Avocet is vested in the abutting landowners

25 Q I'm talking about easement rights

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1 A I'm getting there

2 Subject to the rights of abutting land owners,  
3 perhaps as to their lots for access to their lots from the  
4 paved highway to public access not to the beach

5 MR WOOD Your Honor, I ll cite the case law that's  
6 referred in my trial brief, and I m not sure he's got the  
7 case law right I'm not going to debate with him on South  
8 Carolina law

9 THE WITNESS That's fine I'll just stop there  
10 BY MR WOOD

11 Q You said 'abutting landowners I think what you meant  
12 is anybody in the subdivision who buys pursuant to this plat  
13 as an easement, true?

14 A Not necessarily

15 Q Okay

16 MR WOOD Again I m getting in a matter of law  
17 that s covered by a case in my trial brief, Your Honor

18 THE COURT That's fine

19 MR WOOD As a matter of law, anybody in the  
20 subdivision who buys pursuant to that plat has the right to  
21 use those roads

22 THE COURT What I m interested in is the witness s  
23 belief or knowledge at the time he was dealing with the  
24 lawsuit and how about phrase the question that way Did he  
25 believe at the time he brought the suit or what did he

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1 believe at the time he brought the suit regarding those  
2 property owners?

3 BY MR WOOD

4 Q At the time you brought the suit the reason why you were  
5 not concerned about Avocet Street you are saying is because  
6 of what some people called the scriber's error?

7 A No No That's not what I m saying

8 I brought the suit and named those people that I  
9 thought were necessary to accomplish the relief sought under  
10 the complaint That s all I am saying

11 Q So it's your testimony that people within Lots 1 2 3, 4  
12 and anybody else in the subdivision they did not have the  
13 right to use Avocet Street?

14 A I didn t say that I didn't feel they needed to be a  
15 necessary part of the lawsuit

16 Q Because?

17 A Because I didn t know who they were

18 Q Okay It's pretty easy to find out who they are though,  
19 isn t it, Mr Austin?

20 A That s a relative term

21 Q You are a lawyer Mr Austin How long would it take me  
22 Bob Wood a lawyer in South Carolina with access to an  
23 abstracting service to find out today who owns Lot 1 in this  
24 subdivision?

25 A I don t know Mr Wood

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1 Q It would take me one day wouldn't it?

2 A That s your testimony not mine

3 Q Is it your testimony that it was so difficult to find out  
4 who owns Lot 1 that you didn't go to the trouble to do it it  
5 was just too much trouble to find that out?

6 A Mr Wood I made the decision to join tne only party that  
7 I knew that claimed an interest in the extension to Lot 5,  
8 which is the property adjacent to -- I mean Avocet Street --  
9 and that was Property Research Holdings

10 Q And you did not name anybody else in the subdivision, you  
11 are saying because you didn t know who else owned the  
12 property?

13 A I didn't feel they were necessary

14 Q No I think what I heard you said was you didn t know  
15 who they were?

16 A I didn t know who they were

17 Q You did not know who they were?

18 A I did not

19 Q Okay And it's your sworn testimony that you could not  
20 have learned who they were?

21 A That s not mv sworn testimony That s not what I said  
22 I could learn a lot of things, Mr Wood

23 Q You just chose not to learn that?

24 A I made the decision not to do that

25 Q Okay That's fine I think we are square

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1                   You also chose not to name the State of South  
2           Carolina?

3           A   Obviously

4           Q   When it came to publishing the notice to unknown persons  
5           you chose to publish in the Beaufort Gazette is that what I  
6           understand?

7           A   That s correct

8           Q   Now, this property is on Hilton Head Island true?

9           A   That's correct

10          Q   Hilton Head Island has a newspaper of its own called the  
11          Island Packet, true?

12          A   I understand that

13          Q   You made the decision to publish in the Beaufort Gazette  
14          rather than the Island Packet?

15          A   I did I don t even know if the Island Packet was a  
16          qualified paper The Beaufort Gazette was a paper of general  
17          circulation which legal advertisements can be published

18          Q   The quieter you can keep this quiet title action as long  
19          as you crossed your T s and dotted your I s, the better for  
20          the Austin family, true or false?

21          A   Obviously, it s discernable And I think when I  
22          testified earlier in my deposition I always like quiet title  
23          suit's to be quiet

24          Q   That's the point I m trying to establish

25                   And you wanted to keep this quiet title suit quiet?

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1 A I follow the law, Mr Wood

2 Q That was a yes or a no You wanted to keep this quiet  
3 title suit quiet?

4 A That s a fair statement

5 Q You will also give me won t you, Mr Austin that at the  
6 time you were handling this quiet title lawsuit, you and  
7 Frank Guscio knew more about the beach access issues we have  
8 been discussing today than anybody else that you know of?

9 A Well, I think I may have been a little more general  
10 There may be some other people that know more about it now or  
11 as much

12 Q But back in 1998 or 1999?

13 A He was the one that I understood knew as much as anybody

14 Q And the person who was the second in line in terms of  
15 amount of knowledge was one Robert Austin?

16 A I felt like I learned a lot I did my due diligence

17 Q The number two person in line was you?

18 A Oh, I thought so Of course I have never been short on  
19 ego

20 Q Well, you are a lawyer

21 A I could have said I was number one, but I didn t go that  
22 far

23 Q I didn't ask you to go that far

24 THE COURT Frank would have never spoken to him  
25 again

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1 BY MR WOOD

2 Q After you got your quiet title judgment which is in the  
3 record already you got a quit claim deed from Mr Guscio  
4 Do you recall that?

5 A I want to stress I did not get a quitclaim deed from  
6 Mr Guscio

7 Q Ms Austin got a quitclaim deed?

8 A No, Ms Austin didn't get one And I want that to be  
9 clear That quitclaim deed was a voluntary act with  
10 Mr Guscio And it is my understanding that he delivered the  
11 quitclaim deed to Mr Hale and bypassed Carolyn totally I  
12 don't think she ever -- that that deed was ever delivered to  
13 her

14 Q All right Is this the deed, Exhibit 22 --

15 A Um --

16 Q -- that shows a reference of it going back to Mr Hale?

17 A Yes I think that appears to be a copy of the deed

18 MR WOOD Thank you, Your Honor We offer  
19 Exhibit 22 into evidence

20 THE COURT All right Without objection

21 BY MR WOOD

22 Q And I want to make something really really clear If we  
23 can find the hale --

24 MR WOOD Your Honor, do you have the Hale  
25 stipulation?

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1 THE COURT Everything we have is right here on this  
2 counter If you can identify it, go ahead

3 MR WOOD Thank you, Your Honor Here it is

4 BY MR WOOD

5 Q Mr Austin, the date of Mr Hale's letter to Ms Austin  
6 is what?

7 A March 7, 2000

8 Q And the date of the quitclaim deed that was delivered to  
9 Mr Hale was March 8, 2000 is that correct?

10 A That is the date I -- as I said I know nothing about  
11 that I would have to rely on whatever the document says

12 Q I'll just state for the record that the quitclaim deed  
13 was recorded March 8, 2000 and it was to be returned to Hale  
14 and Hale's attorneys

15 But it's your testimony that you had nothing to do  
16 with that quitclaim?

17 A I did not

18 Q Okay So you only learned about it from me when I took  
19 your deposition or --

20 A No No No I knew about the quitclaim deed, I just  
21 didn't know -- I didn't have anything to do with securing it,  
22 executing it, delivering it or having anything to do with it  
23 until after the fact It was a voluntary act with

24 Mr Guscio

25 Q Now 18A, I found this odd fax it's Exhibit 18A, and I

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1 would like you to tell me Mr Austin, if you can identify  
2 Plaintiff's Exhibit 18A?

3 A Yes After I served Mr Guscio --

4 Q With the quiet title suit?

5 A -- with the quiet title suit, I did not have any contact  
6 with him I treated him as any pro se litigant I did not  
7 know whether he was going to make an appearance or otherwise  
8 and he did not commit one way or the other

9 Q And that was in November '98?

10 A That's correct

11 Q Okay Go ahead

12 A Um other than that I don't know -- frankly, I can't  
13 even remember what brought this about

14 Q All right Tell the judge, if you would what Exhibit 22  
15 is the fax to you dated January 25th

16 A No It's Exhibit 18A -- or this is a different number

17 THE COURT 18A is what you were talking about

18 MR WOOD I'm talking about 18A I'm sorry

19 BY MR WOOD

20 Q What is Exhibit 18A?

21 A Apparently it's a fax that was sent to me from Frank  
22 Guscio

23 Q Dated January 25 1999?

24 A That would appear to be correct

25 Q Right in the middle of the quiet title lawsuit?

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1 A That is also correct And he says here, 'I will let you  
2 know who will be representing us and I will also send you a  
3 copy of the contract later

4 Q Right

5 A Because I assumed he would secure counsel, or that was  
6 just an assumption on my part And he never made, um, any  
7 statement or, one way or the other to my recollection, and  
8 then this came in Then he didn't do anything

9 MR WOOD We offer Exhibit 18A into evidence

10 THE COURT Okay Without objection

11 BY MR WOOD

12 Q So he's talking about sending you a contract and he's  
13 talking about who is going to represent us, to use his word  
14 right in the middle of the quiet title suit?

15 A Yeah

16 Q Okay

17 A I assumed he was going to get somebody to represent him  
18 in the quiet title suit

19 Q But it reads -- okay I think we covered that

20 THE COURT Excuse me one second

21 (Pause in proceedings )

22 THE COURT I'm not rushing anybody, I'm inquiring  
23 how many witnesses do you have?

24 MR WOOD One more witness

25 THE COURT How many --

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1 MR WOOD She'll be very short

2 THE COURT How many will the defendants call?

3 MR HARDEE Probably none

4 THE COURT Okay If y all want to indulge me, and

5 I hate to do this, I was late this morning because my sister,

6 who lives by herself, had a heart catheterization this

7 morning, and I was waiting for the doctor to get back in and

8 he did It s not going well and she's in ICU so I would

9 like to take a recess and come back at 2 00 And I hate to

10 interrupt this hearing but I won't be paying much attention

11 if I sit and listen

12 Does that suit anybody?

13 MR HARDEE And this is, I guess my fault for

14 planning, as you know I got th s this very late I ve got

15 serious child care issues this afternoon So I don t know

16 what to do I guess I could try to resolve it but it would

17 be very difficult My wife is a lawyer also and --

18 THE COURT What time do you need to be somewhere?

19 MR HARDEE By five And I live in Columbia

20 THE COURT You've got to get back to Columbia by

21 five?

22 MR HARDEE I'm sorry to have this -- I mean, if

23 I -- and then this was kind of unexpected It happened this

24 morning, where I was -- we were having car problems and which

25 has caused me a lot of problems

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1 THE COURT All right I tell you what let's do,  
2 let s recess for lunch and be back at one, and we ll see if  
3 we can get you out of here on time

4 MR HARDEE Thank you

5 MR WOOD Can I ask you to instruct them not to  
6 discuss your testimony?

7 THE COURT Please do not discuss the testimony in  
8 the case until we get back

9 Thank you

10 (Thereupon, there was a lunch recess )

11 THE COURT Everybody ready to go? Come on back up  
12 to the witness stand, if you would, Mr Austin

13 THE WITNESS Yes sir

14 THE COURT You may proceed

15 MP WOOD Thank you Your honor

16 I think at this point, I was about to offer into  
17 evidence Plaintiff s Exhibit 24 which is an absolute  
18 assignment recorded at Page 13 -- I'm sorry in the deed book  
19 1345 Page 720, Beaufort County

20 MR HARDEE Yes

21 MR WOOD This is an assignment, Your Honor, whereby  
22 Forest Beach Association assigns various rights to Forest  
23 Beach Owners Association, and the document will speak for  
24 itself

25 THE COURT Thank you

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1 BY MR WOOD

2 Q Mr Austin you will be the first to admit that after  
3 this title policy was issued, you took the position in other  
4 litigation on behalf of Mrs Austin that streets, and in a  
5 platted subdivision create easements for landowners in the  
6 subdivision?

7 A I don't recall when I took that position, but --

8 Q Would you agree with that position, with that statement  
9 or law?

10 A Under certain circumstances, yes

11 Q And the reason why you took that position is because it  
12 helped Mrs Austin in her litigation in Subdivision Number 2  
13 true?

14 A I don't think I could go that far And I'm not certain  
15 exactly what my thought process was if I were to make that  
16 statement

17 Q Okay

18 A My thought process for a case is, in fact for that case  
19 only and not from a general statement

20 Q I ll bring to your attention to the plaintiff's  
21 post-trial brief in Case Number 02-CP-07-1526 and ask if you  
22 can identify that

23 MR WOOD Your Honor, it's been marked as Exhibit  
24 Number 5

25 A Yes I can identify that

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1 Q Is that your brief?

2 A Yes, it is

3 Q Tell Judge Duffy if you would the nature of that  
4 litigation that was going on in Subdivision Number 2 That s  
5 one we have not discussed yet today

6 A In between Mrs Austin is the owner of Lot 23 of Hilton  
7 Head Beach Subdivision Number 2, which abuts on a street  
8 called Jacana Street Across Jacana Street is lot called Lot  
9 18 The owners of Lot 18 subdivided that lot, which we felt  
10 in violation of the covenants into two lots equally of, I  
11 think, 55 and 45 feet

12 We took the position that the lot could not be  
13 subdivided under certain -- under those conditions

14 Between the two is a street called Jacana Street  
15 The owners of that subdivision took the position that it was  
16 a park As a matter of fact, we just had oral argument on  
17 that very same case in Columbia yesterday

18 The Court held with us and our position that the  
19 street was a street and that nothing that the owners could  
20 do voluntarily could abandon that street or vacate the  
21 street

22 Q Because once a street always a street --

23 A Not necessarily

24 Q -- unless abandoned?

25 A No No That s not true, either You can t abandon a

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1 street You may vacate the street by either except by due  
2 process of law, which would be a court action or the County  
3 Commission or the ruling body of the local government can  
4 vacate it

5 Q All right And with respect to the Subdivision Number 1,  
6 nobody has ever vacated or abandoned the end of Avocet  
7 Street, have they?

8 A No that s not true

9 All right If you will look at the statute of  
10 abandonment of streets the only thing you have to do is  
11 bring an action, give notice and notify the abutting land  
12 owners That s all that s required

13 Q Okay And then this particular case the abutting land  
14 owners would be you -- Mrs Austin I should say^

15 A She's the only abutting land owner

16 Q There is no abutting land owner on the other side of the  
17 street?

18 A No, that s a different subdivision And when you are at  
19 the end of the subdivision you own the entire right of way

20 Q And the owner of the dirt in front of Lot 5 in front of  
21 Avocet Street here you would say is nobody or the State of  
22 South Carolina or the original developer?

23 A No Mr Guscio had that because that would have been the  
24 Hilton Head Company And he acquired the interests in the  
25 Hilton Head Company And he was -- and he also voluntarily

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1 gave a quitclaim deed to Mrs Austin But that's properly  
2 included within the quiet title action

3 Q You will certainly agree with me that the end of Avocet  
4 Street is a street and not a park area, true?

5 A The end of Avocet?

6 Q Yes The part of it next to Mrs Austin's house it's  
7 not a park area, is it?

8 A No it's not a park area

9 Q It's a street?

10 A It was a street until we had the action

11 Q Until Mrs Austin took adverse possession of it for ten  
12 years?

13 A She didn't take adverse possession she already owned it  
14 She owned -- the absolute to that property was vested in her  
15 She took an action against people who made a claim,  
16 Mr Guscio He had recorded a quitclaim deed which  
17 encompassed that property

18 Q Right after this lawsuit over in Subdivision 2 regarding  
19 the house being too close to the line --

20 A Right

21 Q -- on Jacana Street that ruling came down from Judge  
22 Kemmerlin, and I've got the date right here on March 10,  
23 2004 Is that what you recall?

24 A That's correct

25 Q And then about six months later on November 9 2004,

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1 Forest Beach Owners Association sued Mrs Bair Ms Austin in  
2 the underlying action?

3 A I don't recall the date or that right now

4 Q Okay

5 A Whatever the -- whatever it was it was

6 MR WOOD Your Honor, I think for the record,  
7 Exhibit 37 is a copy of -- is a copy of the complaint in the  
8 underlying action And it is dated November 9, 2004

9 THE COURT Okay Thank you

10 MR WOOD And, Your Honor I would offer into  
11 evidence Exhibits F and G from my complaint They have been  
12 admitted by the defendant

13 And that is all the questions I have for Mr Austin

14 THE COURT Thank you

15 Before you sit down y'all remind me, if you would  
16 at the time that Mr Guscio gave his quitclaim deed who was  
17 the owner of the yellow property there next to Avocet Street?

18 MR WOOD You can answer

19 THE COURT If you know

20 THE WITNESS Sea Crest Well put it this way I  
21 couldn't tell you the actual owner because I don't know, but  
22 it was -- the property was originally -- let me go back to a  
23 little bit of history with the situation

24 The Sea Crest originally had a small motel on it  
25 that was the yellow all right that was owned by, I'll use

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1 the Graves family, because I don't know what their corporate  
2 entity was

3 The interesting point is, is that the Lot Number 5,  
4 that house, the house that Carolyn has, was built by  
5 Mr Graves But the yellow piece is over in another  
6 subdivision and it was owned And since the time that he  
7 sold it's been converted to a condominium development

8 THE COURT Okay And they never had claimed any  
9 interest?

10 THE WITNESS No they never have

11 THE COURT Okay Thank you That's all I have

12 BY MR WOOD

13 Q And Mr Austin, that would be the type of information  
14 that's not part of the chain of title at all to Lot 5 you  
15 would agree with that?

16 A Well nobody has ever -- nobody has ever claimed that Sea  
17 Crest cares anything about who owns Avocet Street no

18 THE COURT I didn't even mean to bring up the  
19 question Okay

20 MR WOOD I would ask if I could ask one more  
21 question

22 THE COURT Go ahead The famous one more question

23 MR WOOD I'll try to make it indeed one question

24 BY MR WOOD

25 Q Mr Austin were you acting in a rogue kind of a fashion

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1           doing this on your own, or were you doing all of these  
2           actions regarding quiet title action on behalf of and at the  
3           request of your wife, Mrs Austin?

4           A Most of what -- you asked me that once before

5           Q I thought I had but I wanted to make sure

6           A All right Mrs Austin is my wife my family, my client,  
7           and confidante And to how I would draw that would be a very  
8           distinct situation, other than we are friends

9           Q I just want to make sure that you are doing this on her  
10          behalf and she knew what you were doing?

11          A I think she knew all the time what I was doing I think  
12          I don't know You would have to ask her that

13          Q All right But y'all were a team and you were working  
14          with her on this?

15          A Well, to the extent that we did -- I mean she's there  
16          but as far as what she knew I did, I can't tell you what she  
17          knew and didn't know

18          Q Okay

19                 MR WOOD Thank you very much

20                 THE COURT Thank you, sir You can step down You  
21          had some questions?

22                 MR HARDEE A little bit

23                 THE COURT I thought you said you didn't

24                 Go right ahead

25                 MR HARDEE Just a little bit

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1 CROSS-EXAMINATION

2 BY MR HARDEE

3 Q Bob these landowners who lived behind Carolyn he asked  
4 you about, that were not served with the quiet title action,  
5 have they ever brought a claim against her for a title?

6 A No

7 Q That s not a problem with the title never has been?

8 A Never has been

9 Q This Forest Beach Homeowners Association, at the time of  
10 the quiet title action did you have any inkling that they  
11 had any claims to this property?

12 A They weren't in existence

13 Q Okay And at the time that the insurance policy was  
14 bought, did you know that they had or would ever claim any  
15 title or any claim to this property?

16 A Did not It was the furthest from my knowledge until all  
17 of this came about at or about the time of the lawsuit

18 Q And he asked you about some other lawsuits and some  
19 positions you have taken Was that before or after this  
20 title insurance was purchased --

21 A Well, let's see --

22 Q -- in 2004?

23 A Well let's see The title insurance was 2003, um, the  
24 lawsuit that we had here started in 2002, but that's up on  
25 Avocet

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1 Q What's the date of the brief?

2 A The date of the brief is 2005

3 Q Okay And are the issues the same regarding Number 1 of  
4 Avocet and the --

5 A No, not at all Let me tell you why

6 Q Okay

7 A All right First of all Avocet was never used as any  
8 kind of conveyance or access by anybody It was there It  
9 was Carolyn's driveway People didn't go in there didn't  
10 cross it

11 Up on Jacana, on the other hand it was access from  
12 the interior lots that everyone used and surfers and  
13 everyone It's been a pain in the neck with a number of  
14 people that went on Avocet -- and excuse me -- on Jacana,  
15 because going to the beach and surfers would come in and  
16 break into the house and all sorts of things

17 So it's an entirely different situation

18 One that was used Avocet was not

19 Q Okay And the property, the Avocet property that we are  
20 talking about today, what's your understanding of how it was  
21 used by Ms Austin?

22 A Part of her yard the driveway

23 Q Okay If she didn't have that, where would her driveway  
24 be?

25 A She wouldn't have a driveway

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1 Q That was her only driveway?

2 A That s the only driveway

3 MR HARDEE That's all I have Thank you

4 RE-DIRECT EXAMINATION

5 BY MF WOOD

6 Q Jst to make sure we all understand, Mr Austin, Forest  
7 Beach Owners Association is a successor in interest to Forest  
8 Beach Association, true?

9 A No

10 Q All right Well, we have an exhibit that will tell us  
11 the truth about that That s all

12 A You would have to define what an exhibit successor in  
13 interest is

14 Q I'll show you

15 MR WOOD Your Honor it's one of the --

16 THE COURT Go right ahead

17 MR WOOD -- most recent exhibits, I believe

18 BY MR WOOD

19 Q We have an absolute assignments Exhibit 24 here um,  
20 where it reads, For and in consideration of the sum of \$10  
21 paid in hand to assignor by assignee the assignor, who is  
22 Forest Beach Association absolutely and irrevocably grants,  
23 bargains sets over and assigns absolutely to assignee any  
24 and all of assignor's right title and interest to any and  
25 all existing contracts drainage rights, utility allegations,

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1 contract rights, approvals easements, riparian rights,  
2 rights to accretion land, covenants -- so forth and so on?

3 A May I see that document, please?

4 Q Sure

5 A All right There are two things wrong with this  
6 Document

7 First of all in October of 2000 I believe that  
8 Forest Beach Association had been dissolved

9 Q They had been dissolved in, I think, September of '99

10 A All right So they weren't in corporate existence then

11 Q They were dissolving their affairs?

12 A All right

13 And then the second one is this does not  
14 necessarily make them a successor in interest, as I would  
15 describe a successor in interest under the corporate statutes  
16 of any state This is an assignment by a dissolved  
17 corporation to someone else

18 Q Okay Thank you very much

19 MR WOOD That s all I have, Mr Austin

20 MR HARDEE I want to clarify one thing

21 RECROSS-EXAMINATION

22 BY MR HARDEE

23 Q The Forest Beach Association not the homeowners  
24 association the association, did you have any knowledge at  
25 the time you were bringing the quiet title action that that

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1 organization had any claims?

2 A None whatsoever

3 Q Okay And that organization has actually never filed a  
4 claim?

5 A Never has nor have they ever asserted a claim

6 Q Okay

7 MR WOOD I don't want to argue I would like to  
8 point out, Your Honor, with the Court's permission briefly,  
9 um, there is a recital of this Exhibit 24, that states that  
10 The assignor was formed as a nonprofit mutual benefit  
11 corporation to protect and --

12 THE COURT Just a second She's got to take it  
13 down as you read it

14 MR WOOD Exactly right I apologize

15 To protect and preserve the rights of property  
16 owners throughout those certain subdivisions on Hilton Head  
17 Island known as Forest Beach and since its incorporation  
18 has obtained the right to enforce certain covenants and  
19 restrictions which were recorded by the original developer,  
20 has instituted litigation to enforce such covenants has  
21 obtained real property and has entered into certain  
22 agreements to facilitate the enforcement of said covenants  
23 and restrictions

24 And I'll skip a little bit Then it says Due to  
25 an administrative dissolution, the assignor' -- that would be

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1 Forest Beach Association -- 'was dissolved And immediately  
2 following the dissolution, the corporate name was obtained by  
3 certain parties who are hostile to the interest of the  
4 assignor And therefore the members of the assignor have  
5 formed the assignee to fulfill the mission of assignor

6 A little complicated, but I think that explains some  
7 of the background here And that's why I'm asking Mr Austin  
8 if he recognized Forest Beach Owners Association as the  
9 successor in interest of Forest Beach Association And  
10 that s the purpose of my reading that for the Court

11 THE WITNESS Which I would again respond that  
12 letter is a self-serving document of which there is no way to  
13 confirm anything in it It s -- and you will notice, Your  
14 Honor, that the same signatory of the one first corporation  
15 was the second one Mr Snodgrass was the prime mover in  
16 that And as far as the authenticity or validity of anything  
17 in there I couldn't say one way or the other

18 BY MR HARDEE

19 Q Let me ask you this Do they own properties in 1?

20 A No

21 Q So they are not even landowners?

22 A Not that I know of

23 Q Okay

24 THE COURT Last bite at the apple Go ahead

25 RE-DIRECT EXAMINATION

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1 BY MR WOOD

2 Q Had you sued Forest Beach Association in your quiet title  
3 action, we wouldn't have this issue at all would we?

4 A I don't have a clue, to answer that question For me to  
5 project what may or may not happen if I didn't do something,  
6 would be probably the silliest statement for a lawyer to ever  
7 make

8 Q You knew they cared, didn't you, Mr Austin?

9 A No, sir, I -- that is not -- that is not even here That  
10 is simply a way for somebody to try to sneak through  
11 something That is irrelevant to whether or not they had any  
12 interest at the time we did it And as I said, I sued the  
13 people that had asserted a claim

14 The Forest Beach Association had never asserted a  
15 claim against this property for any reason And whatever  
16 they may or may not have had would have had nothing to do --  
17 and as has been pointed out there are many threats of  
18 litigation which never come into fruition And if you were  
19 to take a deck action against everybody who ever made a  
20 threat the courts would be filled up and we couldn't meet  
21 Rule 11 requirements

22 Q The Courts would be filled up

23 How many lawsuits has Ms Austin been involved in in  
24 Beaufort County alone, 45?

25 MR HARDEE I don't think this is relevant to

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1 anything

2 THE COURT Yeah This is way beyond the scope  
3 Let us just say all questions hereafter are exempt as jury  
4 argument, and this gentleman can step down Thank you

5 THE WITNESS Thank you, Your Honor I appreciate  
6 the time and indulgence

7 MR WOOD Your Honor, I would call Ms Austin to  
8 the stand now It won t be nearly as long

9 THE COURT Okay Ms Austin

10 THE WITNESS Let me turn in the documents

11 THE COURT Just put them up here He'll find them

12 THE WITNESS Nothing worse than losing exhibits

13 THE COURT Exactly

14 THE CLERK State your full name please

15 THE WITNESS Carolyn Songer Austin

16 THEREUPON

17 Ms Carolyn Austin  
18 called in these proceedings and being first duly sworn  
19 testifies as follows

20 THE CLERK Thank you ma am You may take the  
21 witness stand

22 DIRECT EXAMINATION

23 BY MR WOOD

24 Q Ms Austin I think this is going to be pretty short

25 A I hope so

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1 Q Ms Austin, you are a licensed real estate broker in  
2 South Carolina?

3 A I am

4 Q You have been licensed here for over two decades?

5 A No

6 Q A long time?

7 A Um, I got a South Carolina license in 89

8 Q Okay I'm sorry Almost two decades

9 You are not a stranger at all -- I'm sorry I  
10 apologize You are not a stranger to litigation issues that  
11 involve real estate, are you?

12 A Yes, I am The only real estate litigation I have ever  
13 been involved in is that pertaining to my personal  
14 properties

15 Q You deny that you have been involved in 45 lawsuits in  
16 Beaufort County alone?

17 A They all have to do with real estate

18 Q There was a point I was trying to make with Mr Austin  
19 and he said for me to ask you so I ll ask you

20 When you brought the quiet title action that we have  
21 been talking about was that something that you and your  
22 husband did or was that something he was doing strictly on  
23 his own?

24 A No, he wasn't doing it strictly on his own But I think  
25 that you need to go back to -- I moved to Forest Beach in

AMY C RUEMELIN, RPR, CRR OFFICIAL COURT REPORTER

1           84 I thought it was 83, but that document said it was '84  
2           When I bought my house I thought the driveway belonged to my  
3           property

4                     Now, you know you want to try to make me out as  
5           some expert on real estate I was a real estate salesman I  
6           sold mostly condominiums And we never got into the legal  
7           part of a piece of property I mean that was not our --  
8           what we were supposed to do A lawyer had to answer that

9                     A real estate agent doesn't do anything but get a  
10          client, show some property, write a contract, and turn it  
11          over to a mortgage person and a lawyer

12                    You know I mean, it -- the -- I've never even  
13          probably been asked any legal questions in selling real  
14          estate

15          Q Okay I think maybe I misunderstood something or maybe  
16          you misunderstood me I was asking whether or not you and  
17          Mr Austin were a team on this case?

18          A Oh, I'm sorry I'm sorry Yes, you know we have been  
19          through all these depositions about what I knew and what I  
20          didn't know

21                    I think you thought that I knew a lot more about  
22          what was going on than I did And I repeated many many  
23          times to you I was a single mother raising three teenagers  
24          and owned a business that I worked seven days a week in

25                    You know, I didn't have the time to find out about a

AMY C RUEMELIN, RPR CRR OFFICIAL COURT REPORTER

1 lot of these things I heard comments from people, or I  
2 talked to somebody, and they would tell me something

3 Well, you know, a long time ago I was inclined to  
4 believe them, just like Judge Kemmerlin was inclined to  
5 believe the lawyers that told him and then I think he  
6 finally decided, This isn't adding up and he started  
7 researching it himself

8 And I think I got to that point also That you  
9 know, somebody will say so and so and such and such, and such  
10 and such is a street and such and such is a park How would  
11 I know? I mean, this was a very, very complicated situation

12 Q And the way you learned whether it was a street or a park  
13 is you had your husband look into that on your behalf?

14 A Well, Bobby is by nature, a curious person that likes to  
15 get to the bottom of things, and he does a lot of research

16 Q So that was a yes? To get to the bottom of it, you asked  
17 your husband to take care of that and look into it for you?

18 A Well at the time Frank -- a long time ago I had talked  
19 with Frank about that property Because if I didn't have  
20 that property, I literally had no place to park Robert  
21 Grace built a house that was over 58 feet wide The lot was  
22 only 60 or 65 feet wide So Robert used the whole property  
23 just for the house

24 When I bought the house, the driveway was there I  
25 did not know really what a plat was I was depending on my

AMY C RUEMELIN RPR CRR OFFICIAL COURT REPORTER

1 lawyer to take care of all of this

2 Q Right So to answer my question --

3 A And I had assumed that driveway had belonged to me  
4 Nobody ever said anything to me about it that it didn't  
5 belong to me It wasn't until many years later that I found  
6 out all I found out about it

7 And so when -- I think when we -- at least I knew  
8 the difference in a quitclaim deed and a warranty deed And  
9 I knew that I would much rather have a warranty deed than a  
10 quitclaim deed

11 Q You asked Mr Austin to bring the quiet title action for  
12 you?

13 A Yes

14 Q And the actions he took preparing to bring that lawsuit  
15 were on your behalf?

16 A Yes

17 Q And the actions he took during the lawsuit were on your  
18 behalf?

19 A Yes

20 Q He kept you generally apprised of developments in that  
21 lawsuit?

22 A We talked about them just like anybody else would talk  
23 about things over dinner

24 Q Right

25 Sort of a combination of lawyer/client and

AMY C RUEMELIN, RPR, CRR OFFICIAL COURT REPORTER



1 husband/wife?

2 A That's right

3 Q He wasn't holding anything back from you maliciously, was  
4 he?

5 A No, he wouldn't hold anything back from me

6 Q Right

7 And when he asked you to sign an affidavit, you  
8 looked it over you read it, you were satisfied with it and  
9 you signed it?

10 A Yes

11 Q Okay Your overall goal in the quiet title suit was to  
12 get a court order saying that you owned that end of Avocet  
13 Street?

14 A Well naturally I was interested in owning the property  
15 so that I would have a place to park

16 Q So the answer --

17 A Because I can tell you that how -- you could never market  
18 a house that did not have a parking space You cannot park  
19 on the street There is signs all over the place, every  
20 15 feet on Forest Beach No Parking And so there wasn't  
21 anyplace else to park, if I didn't have that driveway

22 Q The goal of the quiet title suit was to get a court order  
23 saying that you owned that end of Avocet Street?

24 A I guess it was

25 Q Okay And you got your goal, you got the Court order?

AMY C RUEMELIN, RPR, CRR OFFICIAL COURT REPORTER

1 A Yes I got a deed a general warranty deed

2 Q These three people, four lot owners who lived behind you  
3 you will -- you do recognize that their official legal way to  
4 the beach was along Avocet Street?

5 A Actually, when that took place it was only a house on 1  
6 and 2 It has been -- I think has been built since then

7 Q And the official way, legal way for these people to get  
8 to the beach was down Avocet Street?

9 MR HARDEE Object to the term legal or  
10 official She's not qualified to say that

11 THE COURT All right I'll sustain the objection  
12 Just ask her what she knew about the access

13 A There was a path to the beach that started on Avocet but  
14 wandered over to Robert Graves's property The Robert Graves  
15 property when he built the Sea Crest he built a walk on his  
16 property, so that everybody -- except the walk veers over to  
17 my property on the end of it

18 Q Right

19 A And he built that for everybody to walk to the beach

20 Q Right The walk -- well, the path wanders from the, what  
21 I'll call your part of Avocet Street --

22 A Um-hum

23 Q -- and also wanders over to the Sea Crest parking?

24 A Right

25 Q And then it finally makes it to the beach?

AMY C RUEMELIN, RPR CRR OFFICIAL COURT REPORTER

1 A Right

2 Q Okay

3 A But see, but when Robert finished the Sea Crest Robert  
4 does things like that, he built a sidewalk all the way down  
5 to the beach, which would be much safer for people to go to  
6 the beach than wandering through the shrubbery that you would  
7 have to wander through if you went down through my property

8 Q You also know, Ms Austin, that the best way to get a  
9 successful result in your quiet title lawsuit was to keep it  
10 quiet?

11 A Well, it's called a quiet title I am not a lawyer I  
12 don't know the different terminology of different lawsuits,  
13 um, and where it came from, the derivation of it I don't  
14 know I don't know you know that's -- I can't answer  
15 that But I, as Bob said I don't think I would want to go  
16 around suing my enemies and I don't want to sue somebody  
17 that's never sued me or doesn't have an interest in it --

18 Q Now --

19 A -- because I certainly know I can't do that

20 Q Now, before you brought the quiet title suit, you never  
21 did anything to run somebody off your end of Avocet Street,  
22 did you?

23 A Before Robert Graves started the litigation, which was  
24 in like '92 or '93 that path was a natural path to the  
25 beach

AMY C RUEMELIN, RPR, CRR OFFICIAL COURT REPORTER

1 Part of it was on my property part of it was on  
2 Robert's property

3 Q I think my question was Before you brought the quiet  
4 title lawsuit, you never did anything to keep people from  
5 walking on your end?

6 A I didn't have to The covenants say that the only people  
7 that have the right to come down that path are the people who  
8 are in that subdivision directly behind my house And that s  
9 only two houses there

10 Q And that's what you knew?

11 A What?

12 Q You knew that?

13 A No, I learned that

14 Q You talked about that at your deposition

15 A I learned that at some point I never said anything,  
16 that I remember I don't know who else may have said  
17 anything if anybody said anything at all because that was a  
18 very sleepy little neighborhood Nobody -- there wasn't a  
19 lot of traffic People at the Sea Crest didn't go down that  
20 path because they were already at the Sea Crest

21 Nobody said anything If a stranger came up there,  
22 nobody was going to say anything they weren't being a  
23 bother

24 Q You knew Frank Guscio for a long time?

25 A I met Frank, um, I guess 15 18 years ago or something

AMY C RUEMELIN, RPR, CRR OFFICIAL COURT REPORTER

1 like that

2 Q And you stayed in touch with him?

3 A No I didn't really stay in touch I would see him  
4 occasionally, um might meet him on the beach or see him at  
5 the post office We are not -- I never socialized with him  
6 um I never had any business dealings with him um, he was  
7 just somebody, like maybe I'll see you in a year

8 Q At 82 Queen?

9 A Well, Frank -- Hilton Head for people that are in  
10 business, they are in business They are not there to  
11 socialize And I just -- if I saw Frank I either ran into  
12 him or maybe he came by to tell me something

13 Q He would drop in to see you sometimes?

14 A Occasionally But I would say he was not in my office  
15 more than two or three times in the entire time I knew him

16 MR WOOD Just a moment Your Honor

17 (Pause in proceedings )

18 Q Ms Austin, there was a time when you were interested in  
19 buying the Strand property from Property Research Holdings,  
20 that is from Mr Guscio do you remember that?

21 A Well yeah, I remember Mr Guscio talking about people  
22 buying that property And when Bobby came along and started  
23 researching it and said, Well you know, Frank got from the  
24 Court, from the bankruptcy court, exactly what they had, and  
25 he wasn't sure that they really had anything And it was not

AMY C RUEMELIN, RPR, CRR OFFICIAL COURT REPORTER

1 something that I would have seriously done

2 That was -- would have been a lot of money to get  
3 into something that I don't have the expertise to know what  
4 I'm doing I'm not a gambler When I bought a piece of  
5 property, it was usually a good piece of property

6 Q But at one point, and I know you did not do it but at  
7 one point you were considering buying the property for  
8 \$50,000?

9 A You know the way you like to use considering is not so  
10 There was some talk I know you brought out a document that  
11 said that I went to court to testify to that

12 Q Yes, ma'am

13 A Well, because I may have been considering it that day  
14 didn't mean that I wouldn't take another look at it the next  
15 day

16 You know, in real estate, we always say nothing is  
17 a sure thing until you sign a contract

18 Q Your testimony was that you were considering paying  
19 \$50,000 for the Strand property?

20 A On that particular day that's what I said

21 Q And in order to do that, you were considering putting  
22 together a group of your friends to raise the money to pay  
23 that kind of money to buy this land?

24 A I've lived on Hilton Head 20 some years, close to  
25 30 years I probably can count the number of friends I have

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1 on one hand

2 Q Is that because of your 45 lawsuits Ms Austin?

3 A No

4 MR HARDEE Your Honor --

5 THE COURT Wait Wait Wait I sustain the  
6 objection

7 Go ahead Next question

8 A No, because I was left as a single mother when I had  
9 three little children I had no way of --

10 THE COURT You don't have to answer that Go to  
11 your next question

12 MR WOOD That's all I have for Ms Austin Your  
13 Honor

14 CROSS-EXAMINATION

15 BY MR HARDEE

16 Q Ms Austin the people who live behind you, have they  
17 ever sued you for this property on Avocet?

18 A No

19 Q Have you ever asked the title insurance to defend any  
20 lawsuits brought by those people?

21 A No

22 Q Are those people even members of the organization that is  
23 suing you as far as you know?

24 A I have no idea I would say probably certainly one of  
25 them probably wouldn't be

AMY C RUEMELIN, RPR CRR OFFICIAL COURT REPORTER

1 Q Would not or would?

2 A Would not But I just -- I don't really know

3 Q And at the time that you bought the policy in question,  
4 did you know that the Forest Beach Owners Association had a  
5 claim to this property?

6 A No

7 MR HARDEE That's all I have Your Honor

8 MR WOOD Your Honor I have nothing further for

9 Ms Austin



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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

Thomas Kemmerlin, Jr  
Special Referee

---

Case No 2004-CP-07-2036

---

Forest Beach Owner's Association,, Inc ,  
and Trevor Howard,

Respondents,

v

Carolyn S Austin, formerly known as  
Carolyn S Bair,

Appellant

---

RECORD ON APPEAL  
Volume III

---

Robert E Stepp  
Sowell, Gray, Stepp &  
Laffitte, L L C  
1310 Gadsden St  
Columbia, SC 29211  
(803)929-1400

Russell P Patterson  
Russell P Patterson, P A  
P O Box 8047  
Hilton Head Island, SC 29938  
(843)341-9300

Attorney for Respondents

Robert E Austin, Jr  
Law Offices of Robert E  
Austin, Jr  
P O Box 490200  
Leesburg, FL 34749-2000  
(352)728-1020

Attorneys for Appellant

# STATE OF SOUTH CAROLINA

COUNTY OF ...

KNOW ALL MEN BY THESE PRESENTS, THAT ...

... of the County of ...

... of the County of ...

000105

KNOW ALL MEN BY THESE PRESENTS, that E. E. Cowart, Jr., of Chatham County, Georgia, for and in consideration of the sum of Eleven Hundred and no/100 Dollars (\$1,100.00) to him in hand paid, at and before the sealing and delivery of these presents, by E. E. Cowart, Jr., of Chatham County, Georgia, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and released, and by these presents does grant, bargain, sell and release unto the said E. E. Cowart, Jr., his heirs, executors and assigns, all the following described property, to-wit:

ALL that certain lot, tract or parcel of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, shown and designated as Lot Number Five (5) in Hilton Head Beach Subdivision Number One (1) on a map or plat thereof made by Fred C. Hack, Land Surveyor, June 1952, recorded on Page 4, Plat Book 9, of the records of Beaufort County, South Carolina, said Lot is more particularly described as being bounded Northwardly by Dune Lane; Eastwardly by Lot Number Six (6) of said subdivision; Southwardly by lands of Hilton Head Company known as the Beach; and Westwardly by A Street; and being rectangular in shape, fronting Sixty-eight and seventy-four hundredths (68.74) feet on the Beach with a depth Northwardly of One Hundred (100) feet, said above described lot being a beach front lot and subject to these certain restrictions and covenants running with the land as contained in the records of Beaufort County, South Carolina.

TOGETHER WITH ALL and singular the rights, tenements, hereditaments and appurtenances to the said premises belonging or in any wise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the above premises before mentioned, unto the said E. E. Cowart, Jr., his heirs, executors and assigns, forever, Subject however, to the restrictions and covenants above referred to.

AND, the said grantor does hereby bind himself, his heirs, executors and assigns, to warrant and forever defend unto all and singular the said premises unto the said E. E. Cowart, Jr., his heirs, executors and assigns, against him and his heirs, executors and assigns, and all other persons or persons lawfully claiming, or to claim the same or any part thereof.

IN WITNESS WHEREOF, the said E. E. Cowart, Jr., has caused these presents to be signed and sealed, this 16th day of September, 1957, and in the one hundred and eightieth year of the Sovereignty and Independence of the United States of America.

E. E. Cowart, Jr.

As to the signature of E. E. Cowart  
signed, sealed and delivered in the  
presence of:

William S. McDaniel  
Abner R. Smith

STATE OF GEORGIA :  
COUNTY OF CHATHAM:

523

Personally appeared before me Helen A. Smith  
and made oath that she saw the within named E. E. Cowart sign,  
seal and as his act and deed, deliver the within written deed and  
that she with Virius J. Maxwell witnessed the  
execution thereof.

Helen A. Smith

Sworn to before me this 16th  
day of September, 1957.

John W. Hagner  
Notary Public, Chatham County, Georgia



STATE OF GEORGIA :  
COUNTY OF CHATHAM :

1. John W. Hagner a Notary Public of Chatham County Ga  
do hereby certify unto all whom it may concern that LENA MAE  
COWART, wife of the within named E. E. Cowart, did this day  
appear before me and upon being privately and separately ex-  
amined by me did declare that she does freely and voluntarily  
and without any compulsion, dread, or fear of any person or  
persons whatsoever renounce, release and forever relinquish  
unto the within named E. E. COWART, JR., his heirs, and assigns,  
all her interest and estate and also all her right and claim  
or power every in or to all and singular the premises within  
mentioned and released.

Lena Mae Cowart (L.S.)

Given under my hand and seal this 16th day of

September, 1957.

John W. Hagner

Notary Public, County of  
Chatham, State of Georgia

SOUTH CAROLINA, BEAUFORT  
COUNTY

WARRANTY DEED

E. E. COWART

TO

E. E. COWART, JR.





KNOW ALL MEN BY THESE PRESENTS, that E. E. COWART, JR.,

of Chatham County, Georgia, for and in consideration of the sum of Thirty-One Hundred and no/100 Dollars (\$3,100.00) to him in hand paid, at and before the sealing and delivery of these presents, by DOCTOR A. D. GNANN and MRS. A. D. GNANN, of Effingham County, Georgia, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and released, and by these presents does grant, bargain, sell and release unto the said Doctor A. D. Gnann and Mrs. A. D. Gnann, their heirs, executors and assigns, all the following described property, to-wit:

ALL that certain lot, tract or parcel of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, shown and designated as Lot Number Five (5) in Hilton Head Beach Subdivision Number One (1) on a map or plat thereof made by Fred C. Hack, Land Surveyor, June 1952, recorded on Page 4, Plat Book 9, of the records of Beaufort County, South Carolina, said lot is more particularly described as being bounded Northwardly by Dune Lane; Eastwardly by Lot Number Six (6) of said subdivision; Southwardly by lands of Hilton Head Company known as the Beach; and Westwardly by A Street; and being rectangular in shape, fronting Sixty-eight and seventy-four hundredths (68.74) feet on the Beach with a depth Northwardly of One Hundred (100) feet, said above described lot being a beach front lot and subject to these certain restrictions and covenants running with the land as contained in the records of Beaufort County, South Carolina.

TOGETHER WITH ALL and singular the rights, members, hereditaments and appurtenances to the said premises belonging, or in any wise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said premises before mentioned, unto the said Doctor A. D. Gnann and Mrs. A. D. Gnann, their heirs, executors and assigns, forever, subject however, to the restrictions and covenants above referred to.

AND, the said grantor does hereby bind himself, his heirs, executors, and assigns, to warrant and forever defend, all and singular, the said premises unto the said Doctor A. D. Gnann and Mrs. A. D. Gnann, their heirs, executors and assigns, against him and his heirs, executors and assigns, and all other persons or person lawfully claiming, or to claim the same or any part thereof.

IN WITNESS WHEREOF, the said E. E. Cowart, Jr. has caused these presents to be signed and sealed, this 25<sup>th</sup> day of September, 1957, and in the one hundred and eightieth year of the Sovereignty and Independence of the United States of America.

Edwin E. Cowart, Jr. (U.S.)

As to the signature of E. E. Cowart, Jr.  
signed, sealed and delivered in the  
presence of:

Stephen B. Long  
Mary Ann Ketchum

STATE OF GEORGIA :  
COUNTY OF CHATHAM :

211

Personally appeared before me Stephanie B. Long  
and made oath that she saw the within named E. E. Cowart, Jr.  
sign, seal and as his act and deed, deliver the within written  
deed and that she with Mary Anne Holcomb  
witnessed the execution thereof.

Stephanie B. Long

Sworn to before me this 25<sup>th</sup>  
day of September, 1957.

John W. Hogner  
Notary Public, Chatham County, Georgia

STATE OF GEORGIA :  
COUNTY OF CHATHAM :

I, John W. Hogner  
do hereby certify unto all whom it may concern that LAURA M.  
COWART, wife of the within named E. E. Cowart, Jr. did this  
day appear before me and upon being privately and separately  
examined by me did declare that she does freely and voluntar-  
ily and without any compulsion, dread, or fear of any person  
or persons whosever renounce, release and forever relinquish  
unto the within named Doctor A. D. Gnann and Mrs. A. D. Gnann,  
their heirs, and assigns, all her interest and estate and also  
all her right and claim or sever ever, in or to all and singu-  
lar the premises within mentioned and released.

Laura M. Cowart (L.S.)

Given under my hand and seal this 25<sup>th</sup> day of  
September, 1957.

John W. Hogner, Notary Public, County of  
Chatham, State of Georgia







of Chatham County, Georgia, for and in consideration of the sum of Thirty-One Hundred and no/100 Dollars (\$3,100.00) to him in hand paid, at and before the sealing and delivery of these presents, by DOCTOR A. D. GNANN and MRS. A. D. GNANN, of Effingham County, Georgia, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and released, and by these presents does grant, bargain, sell and release unto the said Doctor A. D. Gnann and Mrs. A. D. Gnann, their heirs, executors and assigns, all the following described property, to-wit:

All that certain lot, tract or parcel of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, shown and designated as Lot Number Five (5) in Hilton Head Beach Subdivision Number One (1) on a map or plat thereof made by Fred C. Hack, Land Surveyor, June 1952, recorded on Page 4, Plat Book 9, of the records of Beaufort County, South Carolina, said lot is more particularly described as being bounded Northwardly by Dune Lane; Eastwardly by Lot Number Six (6) of said subdivision; Southwardly by lands of Hilton Head Company known as the Beach; and Westwardly by A Street; and being rectangular in shape, fronting Sixty-eight and seventy-four hundredths (68.74) feet on the Beach with a depth Northwardly of One Hundred (100) feet, said above described lot being a beach front lot and subject to those certain restrictions and covenants running with the land as contained in the records of Beaufort County, South Carolina.

TOGETHER WITH ALL and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in any wise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said premises before mentioned, unto the said Doctor A. D. Gnann and Mrs. A. D. Gnann, their heirs, executors and assigns, forever, subject however, to the restrictions and covenants above referred to.

AND, the said grantor does hereby bind himself, his heirs, executors and assigns, to warrant and forever defend, all and singular, the said premises unto the said Doctor A. D. Gnann and Mrs. A. D. Gnann, their heirs, executors and assigns, against him and his heirs, executors and assigns, and all other persons or person lawfully claiming, or to claim the same or any part thereof.

IN WITNESS WHEREOF, the said E. E. Cowart, Jr. has caused these presents to be signed and sealed, this 25<sup>th</sup> day of September, 1957, and in the one hundred and eightieth year of the Sovereignty and Independence of the United States of America.

E. E. Cowart, Jr.  
(Notary Public, State of Georgia)

As to the signature of E. E. Cowart, Jr.  
signed, sealed and delivered in the  
presence of

Doctor A. D. Gnann  
Mrs. A. D. Gnann

STATE OF GEORGIA :  
COUNTY OF CHATHAM :

Personally appeared before me Stephanie B. Long  
and made oath that she saw the within named E. E. Cowart, Jr.  
sign, seal and as his act and deed, deliver the within written  
deed and that she with Mary Ann Kelenchinski  
witnessed the execution thereof.

Stephanie B. Long

Sworn to before me this 25th  
day of September, 1957.

John W. Hogues  
Notary Public, Chatham County, Georgia

STATE OF GEORGIA :  
COUNTY OF CHATHAM :

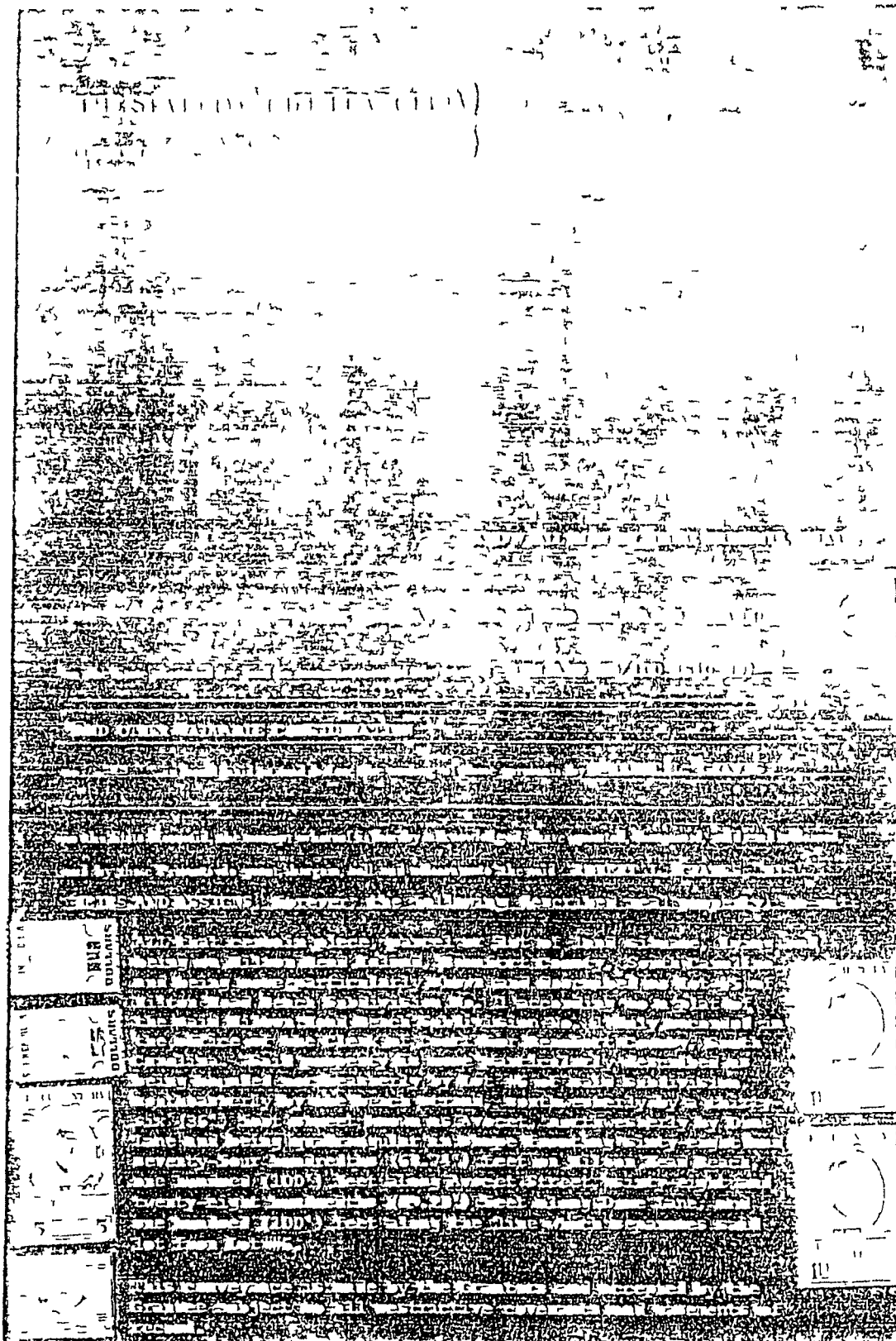
I, John W. Hogues  
do hereby certify unto all whom it may concern that LAURA M.  
COWART, wife of the within named E. E. Cowart, Jr., did this  
day appear before me and upon being privately and separately  
examined by me did declare that she does freely and voluntar-  
ily and without any compulsion, dread, or fear of any person  
or persons whatsoever renounce, release and forever relinquish  
unto the within named Doctor A. D. Gnann and Mrs. A. D. Gnann,  
their heirs, and assigns, all her interest and estate and also  
all her right and claim or power over, in or to all and singu-  
lar the premises within mentioned and released.

Laura M. Cowart (L.S.)

Given under my hand and seal this 25th day of  
September, 1957.

John W. Hogues, Notary Public, County of  
Chatham, State of Georgia







# THE STATE OF SOUTH CAROLINA,

242,782 810

County of Beaufort



1 (HILTON HEAD) CR 115



Revenue Stamp  
Collected  
\$152.50  
Beaufort County, S. C.

in the State of South Carolina and in accordance with the words of the Statute of the State of South Carolina Chapter 115  
Eight thousand Six Hundred and No/100 (\$106,600.00) -- Dollars  
to the said Grantor and to the said Grantee of these Presents on

CRUICKSHANK CONSTRUCTION CO., INC.

in the State of South Carolina

(the receipt whereof is hereby acknowledged)

has granted, sold and released and by these Presents do grant, sell and release unto the said

CRUICKSHANK CONSTRUCTION CO., INC., ITS SUCCESSORS  
AND ASSIGNS

that certain piece, parcel or lot of land with improvements thereon situate, lying and being in Hilton Head Beach Subdivision Number One on Hilton Head Island, Beaufort County, South Carolina and being more particularly shown and described as LOT FIVE (5) OF HILTON HEAD BEACH SUBDIVISION NUMBER ONE on plat recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Plat Book 9 at Page 4 and more particularly described as to the clauses, metes and bounds of the said Lot Five (5) of Hilton Head Beach Subdivision Number One, reference may be had to the above referred to plat of record

and the same property, conveyed to the Grantor herein by deed recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Deed Book 134 at Page 277 (\$66,200.00)

AND SO

that certain piece, parcel or lot of land with improvements thereon situate, lying and being on Hilton Head Island, Beaufort County, South Carolina known as a portion of Block 9 Forest Beach Subdivision as more particularly described in a plat thereof as recorded in Deed Book 163 at Page 216 in the records of the Office of the Clerk of Court for Beaufort County, South Carolina According to said plat the property is bounded as follows: On the North by South Forest Beach and on the East by the property of Paul D. Collier formerly known as Trade Tract on the South by Strawn Block 8 on the West by Block 9

being the same property, conveyed to Robert L. Craves, Willis D. Corbarn and Donald C. Peterson by deed recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, in Deed Book 143 at Page 218 (\$70,400.00)

Granted and sold Post Office Box 5126  
Hilton Head Island, SC 29929

R-506

000112

TOGETHER with all and singular the Rights Members Privileges and / f, c- e so th said Premises  
belonging to n r- e s incident or appertaining

TO HAVE AND TO HOLD all and singular the said premises before mentioned unto the said

Graves Construction Co Inc

its successors and assigns forever

And I do hereby bind myself and my heirs Executors and administrators to warrant and  
forever defend all and singular the said premises unto the said

Graves Construction Co Inc  
its successors and assigns against myself and my heirs Executors administrators  
and assigns and any person whomsoever lawfully claiming or to claim the same or any part  
thereof

WITNESS my Hand and Seal this 12th day of November in the year  
of our Lord one thousand nine hundred and fifty and in the  
two hundred and fifth year of the Sovereignty and Independence of the United  
States of America

Signed Sealed and Delivered  
in the Presence of  
*Richard S Woods*  
*John W Minor*

*Robert L Graves* (L S)  
ROBERT L GRAVES  
(L S)  
(L S)

THE STATE OF SOUTH CAROLINA, }

811

*Beaumont* COUNTY, }

PERSON ALLS appeared before me

*Richard S. Woods*

on more oath that s/he saw the within named Robert L Graves

own seal and as his act and deed deliver the

written instrument to said s/he in the presence of *John W. Minor*

attested the execution thereof

My Office is located at this 12

day of November A D 1976

*Richard S. Woods* (Seal)

*John W. Minor* (Seal)  
Notary Public for S.C.

My Commission expires 2/7/81

THE STATE OF SOUTH CAROLINA, }

*Beaumont* COUNTY, }

RENEWAL OF DOWER

*John W. Minor* Notary Public for S.C.

do hereby certify

in and to whom it may concern that Mrs. Mabelle Graves

is the wife of the within named Robert L. Graves

did this day

renew her dower and after being properly examined by me and declare that she does so freely and

without any compulsion or dread or fear of any person or persons and her own free will and force relinquish into the within named *Greene Construction Co. Inc.*

all her interest and estate and also all her right and claim of Dower of in or to all and

situate on the premises within hereinafter released

Witness my Hand and Seal this 12th day of November

Annular Date 1976

*Mabelle Graves* (S)  
MABELLE GRAVES

*John W. Minor* (Seal)  
Notary Public for S.C.

My Commission expires 2/7/81

STATE OF SOUTH CAROLINA,

COUNTY OF BEAUFORT

ROBERT RAY

TO

CARLS CONSTRUCTION CO., INC

815

TITLE TO REAL ESTATE

Filed 10 h day

of October 4 D 1916

00 01 1 1

and record in Book 242

Page 812 Fee \$ 3 75

*Marion H. Linder*  
Clerk of Court C P & G S  
Beaufort County S C

Returned this day

of 19

in Book Page

Fee \$

auditor Comm S C



# THE STATE OF SOUTH CAROLINA,

REV. 3-1-61

3/17/45

816

COUNTY OF BEAUFORT



EACH CLAIMANT IS HEREBY ADVISED THAT



RECEIVED ST. CLERK  
Collected

4/17/45

Beaufort County, S. C.

in the State of South Carolina for and in consideration of the sum of Ten dollars and

no receipt of debt in the sum of \$379,170 41 ----- Dollars

is at hand paid to and before the sealing and delivery of these Presents by

THE CITIZENS AND SOUTHERN NATIONAL BANK

in the State of South Carolina

(the receipt whereof is hereby acknowledged)

have agreed to grant, sold and released and by these Presents do grant, sell and release unto the said

THE CITIZENS AND SOUTHERN NATIONAL BANK ITS SUCCESSORS AND ASSIGNS

ALL that certain piece parcel or lot of land with improvements thereon situate, lying and being in Hilton Head Beach Subdivision Number One on Hilton Head Island Beaufort County, South Carolina, as being more particularly shown and described as LOT FIVE (5) OF HILTON HEAD BEACH SUBDIVISION NUMBER ONE, on a plan recorded in the Office of the Clerk of Court for Beaufort County South Carolina, Plat Book 9 at Page 4 For a more detailed description as to the courses, metes and bounds of the said Lot Five (5) of Hilton Head Beach Subdivision Number One, reference may be had to the above referred to plat of record

Being the same piece, conveyed to the Grantor herein by deed recorded in the Office of the Clerk of Court for Beaufort County South Carolina in Deed Book 242 at Page 12

ALSO

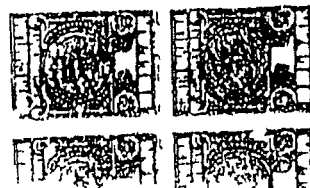
ALL of its undivided interest in and to that certain tract, lot or parcel of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina known as a portion of Block 8, Forest Beach Subdivision as more particularly described in a plat thereof as recorded in Deed Book 63 at Page 218 in the records of the Office of the Clerk of Court for Beaufort County South Carolina according to said plat the property is bounded as follows On the North by South Forest beach Drive on the East by the property of Harold Deplin formerly known as Tract on the South by Strand Block 9 on the West by Block 9

Being the same undivided interest conveyed to the Grantor herein by deed recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, in Deed Book 242 at Page 12

Witness my Hand and Seal this 17th day of April, 1945, Savannah, Georgia 31402

Notary Public in and for the State of South Carolina  
C. S. P. No. 10224 P. No. 2000 Dist. 260

R-510



000116

APPENDIX00588

TOGETHER with all and singular the Rights Members hereunto and appurtenances to the said Premises  
before a or various in order of performance

TO HAVE AND TO HOLD all and singular the said premises before mentioned unto the said

The Citizens and Southern National Bank

its successors and assigns forever

and it does hereby bind itself its successors and assigns  
to warrant and  
forever defend all and singular the said premises to the said

The Citizens and Southern National Bank

its successors and assigns against itself and its successors and assigns

and any person whomsoever lawfully claiming or to claim the same or any part

thereof

WITNESS Its Hand and Seal this 12<sup>th</sup> day of November in the year  
of our Lord one thousand nine hundred and seventy-six and in the one  
hundred and first year of the Sovereignty and Independence of the United  
States of America

Signed Sealed and Delivered  
in the presence of

*John W. Adams*  
*Richard S. Woods*

GRAVES CONSTRUCTION CO., INC

By *W. J. Graves* (1 S)  
125 President (1 S)  
(1 S)

THE STATE OF SOUTH CAROLINA,

815

*Spencer* COURT

PERSONALLY appeared before me

*Richard S Woods*

and made oath that he saw the within named *Robert L. Graves* Construction Co Inc by

*Robert L. Graves* is *President* sign seal and as it act and deed deliver the

minutes then read and to *John W. Minor*

attested his execution thereof

Subscribed for me this *12<sup>th</sup>*

day of *November* A D 19 *76*

*Richard S Woods*

*John W. Minor* (Seal)  
Notary Public for S.C.

My Comm. expires *9/7/81*

THE STATE OF SOUTH CAROLINA,

COUNTY

NO PENALTY OF ...  
GRANTOR A CORPORATION

do hereby certify

that on this day I have been personally

and of the within named

did this day

appear before me and upon being privately and separately examined, he did declare that he acted freely voluntarily  
and without any compulsion, dread or fear of any person or persons whomsoever to execute, release and forever relinquish  
unto the within named

his entire interest in all her interest and estate and also all her right and claim of Dower of in or to all and  
under the premises with her interest and released

Given under my Hand and Seal this

and Domain

(15)

Notary Public (Seal)

R-512

000118

STATE OF SOUTH CAROLINA,

COUNTY OF BEAUFORT

Graves Construction Co., Inc

TO

The Citizens and Southern  
National Bank

TITLE TO REAL ESTATE

Filed 19th day

of November A D 1976

5 00 o'clock P M

and recorded in Book 267

Page 816 for \$ 5.15

*Morgan* *Seider*  
H. C. or Clerk Court C. P. & C. S.

*Seider*  
Beaufort County S C

Proced this day

of 19

in Book Page

Fee \$

Juditor Court S C

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

THIS INDENTURE made this 20 day of September,  
 1976, HUNDRED AND SEVENTY-FIVE between: The Citizens and  
 Southern National Bank a corporation organized and existing  
 under the laws of the United States of America hereinafter re-  
 ferred to as 'Grantor' and ROBERT I. GRAVES of 1 Dune Lane,  
 Hilton Head Island South Carolina 29928 hereinafter referred  
 to as Grantee.

## W I T N E S S E T

That Grantor, for and in consideration of the sum of TEN  
 and NO/100 DOLLARS (\$10.00) and other good and valuable consideration,  
 in hand paid at and before the sealing and delivery of these  
 presents, receipt whereof is hereby acknowledged, has granted,  
 bargained, sold and conveyed, and by these presents does hereby  
 grant, bargain, sell and convey unto Grantee, his heirs and  
 assigns, the following described property, to-wit:

ALL that certain piece, parcel or lot of land with  
 improvements thereon situate, lying and being in  
 Hilton Head Beach Subdivision #1 on Hilton Head  
 Island, Beaufort County, South Carolina, and being  
 more particularly shown and described as Lot Five  
 (5) of Hilton Head Beach Subdivision #1 on the Plat  
 thereof recorded in the Office of the Clerk of Court  
 for Beaufort County, South Carolina in Plat Book 9  
 at Page 4. For a more detailed description as to  
 the courses, metes and bounds of the said Lot 5 of  
 the Hilton Head Beach Subdivision #1, reference  
 may be had to the above-referred to plat of record.

BEING the same property conveyed to the within Grantor  
 by Deed of Graves Construction Co., Inc., dated November  
 17, 1976 and recorded in the Office of the Clerk of  
 Court of Beaufort County on November 19, 1976 in Deed  
 Book 242, Page 816.

TO HAVE AND TO HOLD the said bargained premises unto the  
 said Grantee, his heirs and assigns forever, together with  
 all and singular the rights, members and appurtenances, thereof,  
 to the same being, belonging or in anywise appertaining.

AND GRANTOR will warrant and forever defend the right and  
 title to the said bargained premises unto Grantee against  
 the claims of all persons owning, holding, or claiming by, through,  
 or under Grantor which claims are based upon matters occurring  
 subsequent to Grantor's acquisition of the bargained premises  
 on November 12, 1976.

IN WITNESS WHEREOF, Grantor has caused its duly authorized  
 officers to execute this Special Warranty Deed, and affix its  
 corporate seal hereto, the day and year first above written.

Signed, sealed and delivered,  
 in the presence of

Mary K. Linton  
Betty Gray

THE CITIZENS AND SOUTHERN  
 NATIONAL BANK

By W. B. Davis Jr.  
 Vice President  
 Attest [Signature]  
 Vice President

R-514

000120

APPENDIX00592

Beaufort County Tax Map Reference  
 Book 1/2 of vol. 11, 11-12-76



STATE OF GEORGIA  
COUNTY OF CHATHAM

## PROBATE

PERSONALLY appeared before me Mary K. Tuten  
who, on oath, says that she saw the within named THE CITIZENS  
AND SOUTHERN NATIONAL BANK BY Al B. Pace, Jr.  
its Vice President sign the within SPECIAL WARRANTY  
DEED and Tracy A. Dixon its Vice  
President attest the same and the said Corporation,  
by said officer, seal said SPECIAL WARRANTY DEED, and, as  
its act and deed deliver the same, and that he with Betty  
Gray, witnessed the execution thereof

Mary K. Tuten

SWORN to before me this  
20 day of September 1978

Betty Gray (SEAL)  
Notary Public for GEORGIA

My Commission Expires 1

|                               |         |             |
|-------------------------------|---------|-------------|
| FILED                         | SEPT 21 | RECORDED    |
| 11 00                         | CL      | IN BOOK 270 |
|                               | 5:12    | P           |
| A. R. W. B. 549               |         |             |
| CLERK OF CLU T CH COMON PLEAS |         |             |

RECORDED T. J. 2071  
OF Supd 175  
IN BOOK Q 112 965  
L. J. W. G. 110 1

R-515

000127  
APPENDIX00593

7 April

551

Revenue Stamps  
Collected

\$ 231 <sup>00</sup> / <sub>100</sub> ---  
Beaufort County S C

All that certain piece parcel or lot of land with all the improvements thereon situate lying and being in Hilton Head Beach Subdivision No 1 on Hilton Head Island Beaufort County South Carolina and being more particularly shown and described a Lot Five (5) of Hilton Head Beach Subdivision No 1 on a plat recorded in the Office of the Clerk of Court for Beaufort County South Carolina in Plat Book 9 at Page 4 For a more detailed description as to the courses rates and bounds of the said Lot 5 of Hilton Head Beach Subdivision No 1 reference may be had to the above referred to plat of record

This being the same property conveyed to Grantor herein by  
Deed of Citizens and Southern National Bank dated September 20  
1978 and recorded in the Office of the Clerk of Court for  
Beaufort County South Carolina in Deed Book 270 at Page 549

This deed was prepared in the Law Offices of McNair Konduros  
Corley Singletary and Dibble P O Box 5914 Hilton Head  
Island SC 29928 by Robert E Stepp Esquire

*1054* Said property being subject to the Covenants, Reservations, Conditions and Restrictions recorded in the Office of the Clerk of Court for Beaufort County South Carolina in Deed Book 77 at Page 11, Deed Book 74 at Page 20 Deed Book 78 at Page 306

B- Fort County Tax Map Reference  
Map 15A Parcel 221 Blk      Dist 060



**R-516**

000131

BEFORE ME, the undersigned authority, on this day personally appeared

H. KLUGH PURDY JR and H. KLUGH PURDY III their

He said as follows:

and I, the undersigned, myself my

Notary Public

of the County of Beaufort and for her husband and heirs, he and promise unto the said

H. KLUGH PURDY JR and H. KLUGH PURDY III their

that he and his heirs, assigns, and assigns forever, shall and lawfully shall

here and against every

person, firm, or corporation, or to the said or to the said or to the said

on this 25th day of September

at the County of Beaufort and the said

and the said

year of the Seventy eighth

of Independence of the United States of America

SUBSCRIBED AND DELIVERED

IN THE PRESENCE OF

Robert L. Graves  
Margaret B. Wilson

Robert L. Graves

(SEAL)

(SEAL)

STATE OF SOUTH CAROLINA  
BEAUFORT COUNTY

I, the undersigned, do hereby certify

Robert E. Stepp

and that he and his heirs, assigns, and assigns forever, shall and lawfully shall

sign and seal this deed and deed in the within written Deed for the use and purposes therein men

tioned and that he with Margaret B. Wilson witnessed the

execution hereof

on this 25th day of September 1978

Margaret B. Wilson (L.S.)

My Commission expires 3/2/88

STATE OF SOUTH CAROLINA

BEAUFORT COUNTY

RENUNCIATION OF DOWER

I, Margaret B. Wilson Notary Public for S. C. do hereby certify  
unto all whom it may concern that Mrs. Manelle H. Graves  
the wife of the within named Robert L. Graves

did this day appear before me and upon being personally and carefully examined by me did declare that she does freely  
voluntarily and without any compulsion, dread or fear of any person or persons whomsoever renounce release and for  
ever relinquish unto the within named

H. KLUGH PURDY JR and H. KLUGH PURDY III their

heirs

and assigns all her right and claim of Dower of in or to all and singular the premises  
within mentioned and released

Given under my Hand and Seal this 25th day of September 1978

Margaret B. Wilson (L.S.)

Notary Public for S. C.

My Commission expires 3/2/88

Manelle H. Graves  
Manelle H. Graves

RLStepp/mw MKCSD

State of South Carolina

County of BEAUFORT

ROBERT L. GRAVES

TO

H. KLUGH PURDY JR and

H. KLUGH PURDY III

TITLE TO REAL ESTATE

I hereby certify that the within Deed is filed for  
record in my office at 11:00 A.M. on the 25th day of September  
1978 and was immediately entered upon the prop  
erties and duly recorded in Book 270

of Deeds page 551

Beaufort w. Beaufort Dep  
Beaufort w. Beaufort

Beaufort County S. C.

I hereby certify that the within Deed has been  
recorded in the day of

25th day of September 1978

in Book 270 of Deeds page 551

Manelle H. Graves Auditor

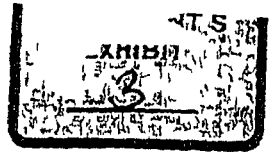
County

000132

APPENDIX00595



STATE OF SOUTH CAROLINA )  
 ) QUIT CLAIM DEED  
COUNTY OF BEAUFORT )



to all whom these presents may come, J Wilton Graves and  
Graves Apartments Inc send greetings

WHEREAS, J Wilton Graves and Graves Apartments, Inc have  
initiated a lawsuit against Citizens & Southern National Bank of  
Georgia Graves Construction Company Inc and Robert L Graves

AND WHEREAS, as a part of the aforesaid lawsuit, J Wilton  
Graves and Graves Apartments, Inc have claimed an interest in  
the real property hereinbelow described, and further, have sought  
to have certain prior conveyances of the below described property  
set aside, and further have sought a judgment for damages  
against the defendants therein

AND WHEREAS Robert L Graves has caused certain property  
with an equity value of ONE HUNDRED FIFTY THOUSAND AND NO/100  
(\$150 000 00) DOLLARS to be mortgaged to J Wilton Graves and  
Graves Apartments, Inc for the purpose of securing the permanent  
release of all claims by J Wilton Graves, Graves Apartments, Inc  
and all the stockholders of Graves Apartments Inc to the  
property hereinbelow described

AND WHEREAS, in consideration of the receipt of the mortgage  
to them delivered by Robert L Graves, it is the intention of  
J Wilton Graves and Graves Apartments, Inc, by this instrument  
to forever release, discharge and quit claim any and all right,  
title, and/or interest claimed by them in and to the below  
described property

NOW KNOW ALL MEN BY THESE PRESENTS, that J Wilton Graves,  
Graves Apartments Inc and all stockholders thereof for and in  
consideration of the further sum of THREE AND NO/100 (\$3 00)  
DOLLARS to them in hand paid by Robert L Graves at or before the  
making of these presents (the receipt of which is hereby  
acknowledged) have remised, released and forever quit claimed,

000133

R-518

2045 / 1539  
ITIC195

and by these presents do remise release and forever  
quit claim unto the said

Robert L Graves H Klugh Purdy, Jr  
and H Klugh Purdy III their heirs  
successors and assigns forever

the following described real property

ALL that certain piece, parcel or lot of land  
with the improvements thereon situate, lying and  
being in Hilton Head Beach Subdivision No 1 on  
Hilton Head Island, Beaufort County, South Carolina,  
and being more particularly shown and described as  
Lot 5 of Hilton Head Beach Subdivision No 1, on a  
plat recorded in the Office of the Clerk of Court  
for Beaufort County, South Carolina, in Plat Book 9  
at Page 4 For a more detailed description as to  
the courses, metes and bounds of the said Lot 5 of  
Hilton Head Beach Subdivision No 1 reference may  
be had to the above referred to plat of record

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 Robert L Graves,  
H Klugh Purdy, Jr and H Klugh Purdy, III, their  
heirs, successors and assigns forever, so that neither  
J. Wilton Graves, nor Graves Apartments, Inc, their heirs,  
successors or assigns, nor any other person or persons, claiming  
under us or them, shall at any time hereafter, by any way or  
means, have, claim or demand any right title or interest  
to the aforesaid premises or appurtenances, or any part or  
parcel thereof forever

WITNESS our hands and seals this 25<sup>th</sup> day of  
September, in the year of our Lord One Thousand

2045 / 1539  
ITIC-196

000134

R-519

APPENDIX00597

Nine Hundred and Seventy-eight and in the two hundred and  
third year of the Sovereignty and Independence of the United  
States of America

WITNESS

Robert E. Stepp  
Margaret B. Wilson  
Robert E. Stepp  
Margaret B. Wilson  
Robert E. Stepp  
Margaret B. Wilson  
Robert E. Stepp  
Margaret B. Wilson

GRAVES APARTMENTS, INC

By J. Wilton Graves  
J. Wilton Graves, President

Attest Ed Crosby  
Ed Crosby Secretary

J. Wilton Graves  
J. Wilton Graves, Individually  
and as Stockholder of Graves  
Apartments, Inc

Ed Crosby  
Ed Crosby, Stockholder of  
Graves Apartments, Inc

Sadie Graves  
Sadie Graves, Stockholder of  
Graves Apartments, Inc

STATE OF SOUTH CAROLINA )

COUNTY OF BEAUFORT )

PROBATE

PERSONALLY APPEARED before me

Robert E. Stepp

who made oath that (s)he saw the within named J. Wilton Graves,  
sign, seal, and as his act and deed deliver the within  
instrument and (c)he with Margaret B. Wilson  
witnessed the execution thereof

Robert E. Stepp

SWORN TO before me this

25<sup>th</sup> day of September, 1978

Margaret B. Wilson L S  
Notary Public for South Carolina  
My Commission Expires 3/2/88

STATE OF SOUTH CAROLINA )

COUNTY OF BEAUFORT )

PROBATE

PERSONALLY APPEARED before me

Robert E. Stepp

who made oath that (s)he saw the within named Graves Apartments,  
Inc by J. Wilton Graves, its President, and Ed Crosby, its  
Secretary, sign, seal, and as its act and deed deliver the

2045 / 1539  
ITC-197

R-520

000135

within instrument and (s)he with  
witnessed the execution thereof

Margaret B Wilson

1196

Robert E Stepp

SWORN TO before me this

25<sup>th</sup> day of September, 1978

Margaret B Wilson L S  
Notary Public for South Carolina  
My Commission Expires 3/2/88

STATE OF SOUTH CAROLINA )

COUN OF BEAUFORT )

PROBATE

PERSONALLY APPEARED before me

Robert E Stepp

who made oath that (s)he saw the within named Ed Crosby, sign,  
seal, and as his act and deed deliver the within instrument  
and (s)he with Margaret B Wilson witnessed the  
execution thereof

Robert E Stepp

SWORN TO before me this

25<sup>th</sup> day of September, 1978

Margaret B Wilson L S  
Notary Public for South Carolina  
My Commission Expires 3/2/88

STATE OF SOUTH CAROLINA )

COUNTY OF BEAUFORT )

PROBATE

PERSONALLY APPEARED before me

Robert E Stepp

who made oath that (s)he saw the within named Sadie Graves,  
sign, seal, and as her act and deed deliver the within  
instrument and (s)he with Margaret B Wilson  
witnessed the execution thereof

Robert E Stepp

SWORN TO before me this

25<sup>th</sup> day of September, 1978

Margaret B Wilson L S  
Notary Public for South Carolina  
My Commission Expires 3/2/88

2045 / 1539  
ITIC198

000136

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

RENUNCIATION OF DOWER

1197

I, Margaret B. Wilson, Notary Public for  
South Carolina, do hereby certify unto all whom it may concern,  
that this Sadie Graves, the wife of the within named  
J. Wilton Graves, did this day appear before me, and upon  
being privately and separately examined by me, did declare that  
she does freely, voluntarily and without any compulsion, dread,  
of fear of any person or persons whomsoever, renounce, release  
and forever relinquish unto the within named Robert L. Graves,  
H. Klugh Purdy, Jr. and H. Klugh Purdy, III, their heirs,  
successors and assigns forever all her interest and estate,  
and also all her right and claim of Dower of, in or to all and  
singular the premises within mentioned and released.

Given under my hand and seal this 25<sup>th</sup> day of  
September 1978  
Margaret B. Wilson  
Notary Public for South Carolina  
My Commission Expires 3/2/80

Sadie Graves

FILED IN RECORDED  
A Y S C IN  
400 BOOK  
PAGE  
1978  
1193  
Margaret B. Wilson  
Notary Public for South Carolina

RECORDED THIS 25<sup>th</sup> DAY  
OF SEP 1978  
IN BOOK 400 PAGE 1193

R-522

2045 / 1539  
ITIC199

000137

State of South Carolina,

FILED IN DEED BOOK 39 PAGE 192  
FILED AT 123000 ON 04/26 84

393/192

I, H KLUGH PURDY, III,

KNOW ALL MEN BY THESE PRESENTS THAT

in the State aforesaid \_\_\_\_\_ for and \_\_\_\_\_ in consideration of the sum of  
Ten and 0/100 \_\_\_\_\_ DOLLARS  
and other valuable consideration  
to \_\_\_\_\_ in hand paid at and before the sealing of these presents by \_\_\_\_\_ CAROLYN S. BAIR

in the State aforesaid \_\_\_\_\_ for which \_\_\_\_\_ the receipt whereof is hereby  
acknowledged have granted, bargained sold and released, and by these Presents do grant, bargain sell and  
release unto the said \_\_\_\_\_ CAROLYN S. BAIR, her heirs and assigns forever the  
following described property, to-wit

ALL my right, title and interest in and to that certain  
piece, parcel or lot of land with all the improvements  
thereon, situate, lying and being in Hilton Head Beach  
Subdivision No 1 on Hilton Head Island, Beaufort County,  
South Carolina, and being more particularly shown and described  
as Lot Five (5) of Hilton Head Beach Subdivision No 1, c- a  
plat recorded in the Office of the Clerk of Court for Beaufort  
County, South Carolina in Plat Book 9 at Page 4 For a  
more detailed description as to the courses, metes and  
bounds of said Lot 5 of Hilton Head Beach Subdivision No  
1, reference may be had to the above referred to plat of  
record

Said property being subject to the Covenants, Reservations,  
Conditions, and Restrictions recorded in the Office of the  
Clerk of Court for Beaufort County, South Carolina in Deed  
Book 77, at Page 11, Deed Book 74, at Page 20, and Deed Book  
78, at Page 306

This being the same property conveyed to the grantor by deed  
recorded in the Office of the Clerk of Court for Beaufort  
County, South Carolina in Deed Book 77, at Page 551 and  
Deed Book 271, at Page 484

This deed was prepared by the Law Offices of Ferrene & Bird  
P A , P O Box 5923, Hilton Head Island, S C 29938

BEAUFORT COUNTY TAX MAP REFERENCE

| Dist | Map | Sub p | Parcel | Block |
|------|-----|-------|--------|-------|
| 540  | 15  | A     | 224    | -     |

R-523

000122

77  
131

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 Premise before mentioned unto the said  
Carolyn S. Bair, her \_\_\_\_\_ Heirs and Assigns forever

FILED IN DEED BOOK 373 PAGE 103  
FILED AT 123000 ON 04/26/84

R-524

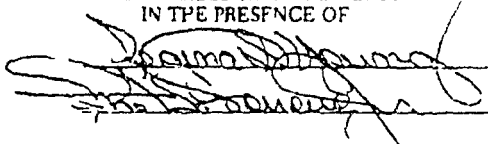
00-01.28

AND I do hereby bind \_\_\_\_\_ heirs  
Executors and Administrators to warrant and forever defend all my singular the said premises unto the said  
Carolyn S Bair, her

Heirs and assigns against \_\_\_\_\_ and myself \_\_\_\_\_ heirs and all persons who  
ever \_\_\_\_\_ lawfully claiming or to claim the same or any part hereof

WITNESS me \_\_\_\_\_ Hand \_\_\_\_\_ and Seal \_\_\_\_\_ this 25th day of April  
in the year of our Lord one thousand nine hundred and eighty-four and in the two hundred and  
eighth year of the Sovereignty and independence of the State of South Carolina

SIGNED SEALED AND DELIVERED  
IN THE PRESENCE OF

 (L S)  
H Klugh Purdy, III (L S)

The State of South Carolina  
Beaufort

FILED IN DEED BOOK 3931 PAGE 194  
FILED AT 123800 ON 04/26/84

PERSONALLY appeared before me \_\_\_\_\_  
and made oath that he/she \_\_\_\_\_ saw the within named H Klugh Purdy, III  
\_\_\_\_\_ sign seal and as his act and deed deliver the within written Deed  
and that he/she with \_\_\_\_\_  
\_\_\_\_\_ witnessed the execution thereof

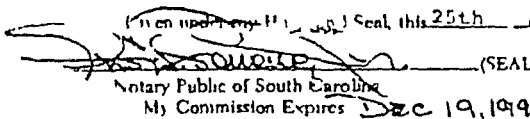
SWORN to before me, this 25th  
day of April A D 19 84  
 (SEAL)  
Notary Public of South Carolina  
My Commission Expires 4-9-89

RENUNCIATION OF DOWRY

The State of South Carolina  
BEAUFORT

I, \_\_\_\_\_ a Notary Public for South Carolina  
do hereby certify unto all whom it may concern that Mrs Catherine Ann Purdy  
\_\_\_\_\_ the wife of the within named H Klugh Purdy, III  
did this day appear before me and upon being privately and separately examined by me did declare that she does  
freely voluntarily and without any compulsion dread or fear of any person or persons whomsoever renounce re-  
lease and forever relinquish unto the within named Carolyn S Bair her

Heirs and assigns all her interest and estate and also all her right and claim of cover of in to all and singular  
the premises within mentioned and released

Given under my Hand and Seal this 25th day of April Anno Domini 19 84  
 (SEAL) Catherine Ann Purdy  
Notary Public of South Carolina  
My Commission Expires Dec 19, 1990 Catherine Ann Purdy

R-525

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County of Guilford, Virginia,

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Filed \_\_\_\_\_ day \_\_\_\_\_

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Mary (Anna) Hayes  
Auditor of County C

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FILED IN DEED BOOK 393 PAGE 195  
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COUNTY STAMPS 251 90  
TOTAL FEES 713 90  
HENRY JACKSON  
CLERK OF COURT BFT CNTY SC

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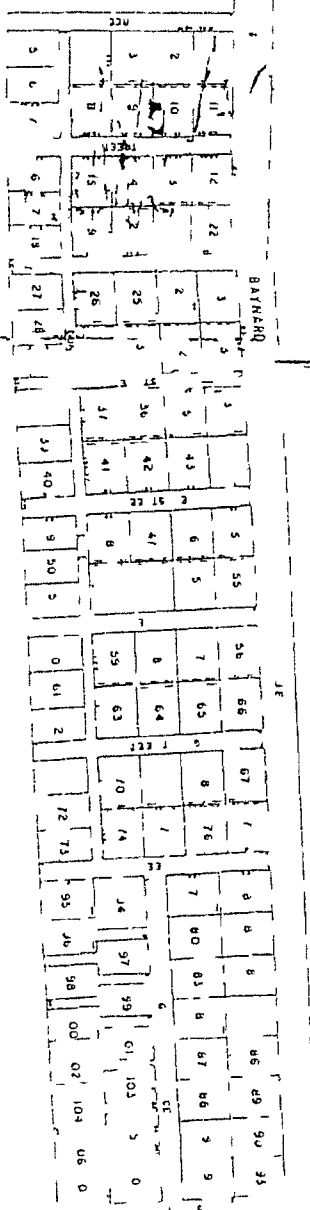
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STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

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ON KNOW ALL MEN BY THESE PRESENTS that on or about  
November 24 1986 G- liner- Matthews Plantation Company (86-  
03801, Hill Head Holdings Corporation 86-03802) Hilton Head  
Hotel Company (86-03803) Vantage Resorts Holding Inc (86-  
03804) Vacation Resorts Inc (86-03805) Sea Pines Company (86-  
03806, The - for sea Company Inc (86-03808) Hilton Head  
Holdings Corporation f/x/a Ginn Holding Corporation (86-03868)  
Hilton Head Company a Delaware corporation (86-03869) Sea Pines  
Plantation (86-03870) Hilton Head Holdings Corporation formerly  
known as Ginn Holdings Corp (86-03871) Hilton Head Company a  
Delaware Corp (86-03884) and Sea Pines Plantation Company (86-  
03885) filed for bankruptcy under Chapter 11 of the United States  
Bankruptcy Code On November 24 1986 United States District  
Court Judge SOL BLATT JR withdrew the reference of the above-  
stated cases to the United States Bankruptcy Court and the cases  
were retained and reserved in the United States District Court  
pursuant to 28 U S C Section 157 and 1334

WHEREAS by Order of the District Court entered November 24  
1986 John F. Curry was appointed Interim Trustee for the above-  
named Debtors and by Order entered December 23 1986 was  
appointed Trustee pursuant to 11 U S C Section 1104 authorized  
to manage the affairs and operate the businesses of those Debtors  
pursuant to U S C Section 1108

WHEREAS by Order of the Bankruptcy Court on the District

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|----------------|---------|----------|-------|
| BANKRUPT COURT |         | RECEIVED |       |
| DATE           | FILE    | CLERK    | CLERK |
| 11/30/89       | 11-1940 |          |       |

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R-532

APPENDIX00610

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to the effect that the assets of the corporation are to be sold and the proceeds are to be distributed to the shareholders. The court found that the corporation was not insolvent at the time of the sale and that the sale was for the best interest of the creditors.

The court also found that the sale was for the best interest of the creditors and that the proceeds were distributed to the shareholders in accordance with the terms of the charter.

The court further found that the sale was for the best interest of the creditors and that the proceeds were distributed to the shareholders in accordance with the terms of the charter.

The court also found that the sale was for the best interest of the creditors and that the proceeds were distributed to the shareholders in accordance with the terms of the charter.

The court further found that the sale was for the best interest of the creditors and that the proceeds were distributed to the shareholders in accordance with the terms of the charter.

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WITNESSES

and paid a and be ore to sea ing o these p ese t by  
\_\_\_\_\_ a t 401 re \_\_\_\_\_ he na er re er d as Gr n re  
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\_\_\_\_\_ have res and re e \_\_\_\_\_ and former q t-c almed  
\_\_\_\_\_ do ore er d \_\_\_\_\_ and ore er q t-c almed  
e sa \_\_\_\_\_ Grantee \_\_\_\_\_ sors and assigns he re  
next described on at tached Exr t A

WITNESSES W t a \_\_\_\_\_ and s \_\_\_\_\_ he r ghts \_\_\_\_\_ members  
the agents and \_\_\_\_\_ the \_\_\_\_\_ o the a d premises belonging u  
any w be incident or appertaining there o

TO HAVE AND TO HOLD a \_\_\_\_\_ and singular the premises  
mentioned u to the sa d Grantee \_\_\_\_\_ successors and assigns  
re a so that neither the said grantors \_\_\_\_\_ successors and  
\_\_\_\_\_ no any the person or persons claiming under \_\_\_\_\_  
\_\_\_\_\_ any \_\_\_\_\_ o \_\_\_\_\_ a n way o \_\_\_\_\_ have a d m or  
\_\_\_\_\_ any \_\_\_\_\_ o \_\_\_\_\_ the aforesaid premises or  
\_\_\_\_\_ references or any part or portion thereof \_\_\_\_\_ are er

WITNESSES W t hand and seal this \_\_\_\_\_ day, of \_\_\_\_\_

\_\_\_\_\_ and \_\_\_\_\_ a d hine hundred Eighty Nine

WITNESSES  
\_\_\_\_\_ a t tached u to the Grantee \_\_\_\_\_  
\_\_\_\_\_ a t tached u to the Grantee \_\_\_\_\_  
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THE HILTON HEAD

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TSSIS

HILTON HEAD OLD CO CORPORATION

Georgann's World  
Full

By R. Geoffrey Levy its Trustee

TSSIS

HILTON HEAD LIQUIDATION CORP  
formerly The Hilton Head Company  
Inc

Georgann's World  
Full

By R. Geoffrey Levy its Trustee

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R-535

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APPENDIX00613

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Notarized and de

STATE OF SOUTH CAROL  
COUNTY OF BEAUFORT

NOTAR

PERSONALLY appeared before me the undersigned witness  
be being duly sworn depose and says that s/he saw th-  
- named H LTON HEAD - DU OAT ON COPT - other y known as Sea  
Pres P ar - on - ny by R Geoffrey Levy is Trustee sign  
seal and as "s act and deed deliver the foregoing Quit-Claim  
Deeds and that s/he together with the other witness whose name  
appears as a witness witnessed the execution thereof

G. Rogers Hecht  
(Notary)

SWORN to and subscribed before me  
this 14 day of April, 1988

1 Notary Public for South Carolina  
My Comm. No. or Expiration 15841

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R-536

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APPENDIX00614

green MUC2 and 2

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1000 SOUTH CAPO

1000 SIALFOOT

PERSONALLY appeared before me the undersigned witness  
to be duly sworn deposes and says that she saw the  
subscribed WILTO HART who was accompanied by a Geoffrey  
and a Thelma sign sea and at the same time did not  
be ongoing Quat-Cat deers and that she together with the  
other persons whose name appears on the press witnessed the  
event on the day

Gertrude J. Necht  
Witness

SWORN to and subscribed before me  
this day of June

1969

June 21  
Notary Public for South Carolina  
My Commission Expires June 21

000013

R-537

7191

APPENDIX00615

1 2 3 4 5

22 -

PERSON appeared before me the undersigned witness  
and did swear that he or she (s)he saw the  
person named in the QUADRA DEED after the Hailor Head  
was taken down from the monument to the monument sign  
as to a land area of the ongoing QUADRA DEED and  
as to a together with the other witness whose name appears as  
a witness to the deed hereof.

Jerome H. Wright  
(witness)

STATE OF NEW YORK  
IN SENATE  
JANUARY 11, 1911.

**R-538** 7192

\_\_\_\_\_

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[illegible][illegible]

APPENDIX00618

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522/1309

STATE OF SOUTH CAROLINA )

COUNTY OF BEAUFORT )

ASSIGNMENT OF RIGHT

This Assignment of Rights (the "Assignment") is made and executed this 20th day of January, 1989 by R. Geoffrey Levy, Trustee of Hilton Head Holdings Corporation HHC Liquidation Corp., formerly The Hilton Head Company, Inc. and Hilton Head Liquidation Corporation, formerly Sea Pines Plantation Company (collectively referred to as the "Company")

WHEREAS, the Company desires to assign all of its rights, powers, titles, easements and Estates (collectively referred to as the "Rights"), contained in any and all recorded and unrecorded Declarations of Covenants, Conditions and Restrictions and related instruments, recorded and unrecorded, and all subsequent amendments thereto affecting or related to the property described on the attached Exhibit A (the "Declaration and the Amendments") to Property Research Holdings, Inc. (the "Assignee")

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company does hereby fully assign to Assignee, its successors and assigns, free of all liens, claims and encumbrances, the Company's Rights under the terms and provisions of the Declaration and the Amendments.

This Assignment is granted without recourse, representation or warranty and is intended as a quit claim of the interest of Assignor as specified herein.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be executed as of the day and year first above written

WITNESSES

HILTON HEAD HOLDINGS CORPORATION

By

R. Geoffrey Levy  
Its Trustee

Georganne D. Scott  
Raymond D. Scott



c \Agreement\PRC asg

LDJ/tln

Re: 340 1/12/89

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WITNESSES

Jorganne S. Hecht  
Lynn Davis

HRC LIQUIDATION CORP. formerly  
THE HILTON HEAD COMPANY, INC.

By

R. Geoffrey Levy  
Its: Trustee

WITNESSES

Jorganne S. Hecht  
Lynn Davis

HILTON HEAD LIQUIDATION  
CORPORATION, formerly Sea Bins  
Plantation Company

By

R. Geoffrey Levy  
Its: Trustee

PROPERTY RESEARCH HOLDINGS, INC

By

Francis J. Lussac

Its: President

Attest:

George W. Wankell

Its:

Secretary

C:\Agreement\PRG.asg

LDJ/tln

Revised 1/12/89

1311

STATE OF SOUTH CAROLINA )

COUNTY OF BEAUFORT )

PROBATE

PERSONALLY appeared before me the undersigned witness who, being duly sworn, deposes and says, that (s)he saw the within-named HUTTON HEAD HOLDINGS CORPORATION, by B. Geoffrey Lay, its trustee, sign, seal and, as its act and deed, deliver the foregoing Assignment of Rights and that, (s)he, together with the other witness whose name appears as a witness, witnessed the execution thereof.

*Angela S. Wright*  
(witness)

SWORN to and subscribed before me  
this 21 day of January, 1989

*John D. Quinn* (SEAL)  
Notary Public for South Carolina  
My Commission Expires 7-14-93

c \Agreement\PRC asg

LDJ/tln

Revised 1/12/89

1312

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

PROBATE

PERSONALLY appeared before me the undersigned witness who, being duly sworn, deposes and says that (s)he saw the within-named HHC LIQUIDATION CORP, formerly THE HILTON HEAD COMPANY, INC, by R. Geoffrey Levy, its Trustee, sign, seal and, as its act and deed, deliver the foregoing Assignment of Rights and that (s)he, together with the other witness whose name appears as a witness, witnessed the execution thereof.

*[Signature]*  
(Witness)

SWORN to and subscribed before me  
this 20th day of January, 1989.

*[Signature]*  
Notary Public for South Carolina (SEAL)  
My Commission Expires 2-14-95

c \Agreement\PRC asg

LDJ/tln

Revised 1/12/89

1313

STATE OF SOUTH CAROLINA )

COUNTY OF BEAUFORT )

PROBATE

PERSONALLY appeared before me the undersigned witness who, being duly sworn, deposes and says that (s)he saw the within-named HILTON HEAD LIQUIDATION CORPORATION, formerly Sea Pines Plantation Company, by R. Geoffrey Levy, its Trustee, sign seal and, as its act and deed, deliver the foregoing Assignment of Rights and that (s)he, together with the other witness whose name appears as a witness, witnessed the execution thereof.

*[Signature]*  
(Witness)

SWORN to and subscribed before me  
this 20th day of January, 1989.

*[Signature]*  
Notary Public for South Carolina (SEAL)  
My Commission Expires 3-14-95

c \Agreement\PRC asg

LDJ/tln

Revised 1/12/89

1314

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

PROBATE

PERSONALLY appeared before me the undersigned witness  
who, being duly sworn, deposes and says that (s)he saw the  
within-named, PROPERTY RESEARCH HOLDINGS, INC  
by FRANCIS J. GUSCIO, JR., its PRESIDENT,  
sign, seal and, as its act and deed, deliver the foregoing  
Assignment of Rights, and GEORGE W. MABLE  
its SECRETARY, at the same, and that  
(s)he together with the other witness whose name appears as a  
witness, witnessed the execution thereof.

George W. Mable  
(Witness)

SWORN to and subscribed before me  
this 20th day of January, 1989

Myrm Davis Jarrell (SEAL)  
Notary Public for South Carolina  
My Commission Expires 3-14-95

EXHIBIT "A"

1315

ALL those pieces, parcels, strips, easements, rights-of-way, open spaces, parks and any other lands and any and all improvements thereon, if any, located on Hilton Head Island, Beaufort County, South Carolina, lying and being in the general boundary described, to it

BEGINNING at the point of intersection of the southern right of way of South Forest Beach Drive with the northeastern corner of Lot 18 Canvasback Road Subdivision, said intersection being in the approximate vicinity of the Ocean Gate of Sea Pines Plantation thence along the Sea Pines Plantation private community boundary, (which boundary is more particularly described in the Declaration of Rights, etc. recorded in the office of the Clerk of Court of Beaufort County, South Carolina, in Deed Book 224, Page 1036), to the intersection of said boundary with the mean high water of Broad Creek thence along the mean high water of Broad Creek in a northeasterly direction to its intersection with the western boundary of the Wexford Plantation private community, thence in a southerly direction along the western boundary of Wexford to the intersection of the extension of said boundary with the southern right-of-way of U.S. Highway 278, thence in a westerly direction along the southern right-of-way of U.S. Highway 278 to its intersection with the southeastern side of the 200 foot radius Sea Pines Circle thence southerly along said 200 foot radius to the intersection of the eastern right-of-way of Pope Avenue, thence in a southerly direction along the eastern right-of-way of Pope Avenue to intersection with the northwestern corner of the 50 foot buffer zone of Pope Avenue Mall, thence easterly along said 50 foot buffer zone, also being the western boundary of Shipyard Plantation, to the southeastern corner of said buffer zone, thence southerly along the western boundary of the Shipyard private community crossing Cordillo Parkway at the northerly extension of the eastern right-of-way of Avocet Street, thence continuing in a southerly direction along the said Shipyard Plantation boundary to its southwest corner, thence easterly along the southern boundary of Shipyard Plantation and following said boundary to its intersection with the northern right-of-way of North Forest Beach Drive, thence easterly along the northern right-of-way of North Forest Beach Drive to its intersection with the northerly extension of the eastern boundary of Hilton Head Beach Subdivision No 3, thence in a southerly direction along the eastern boundary of Hilton Head Beach Subdivision No 3 to the intersection of its extension in a southerly direction with the mean high water of the Atlantic Ocean; thence in a westerly direction along said mean high water mark of the Atlantic Ocean to its intersection with the southerly extension of the eastern boundary of Canvasback Subdivision, thence in a northerly direction along the eastern boundary of Canvasback Subdivision to the point of beginning, all of which is shown on a map attached hereto and made a part hereof

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APPENDIX00625

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Subject to all those Declarations of Covenants, Conditions, Restrictions and easements of record in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina.

SAVE AND EXCEPT Parcels B-1, B-2 and E, Market Place Commercial, Palmetto Bay Road, Hilton Head Island, Beaufort County, South Carolina

In accordance with Sections 48-39-270 through 48-39-360, Code of Laws of South Carolina 1976, as amended, the Property described in this Deed has been determined to be located in close proximity to the Atlantic Ocean and possibly seaward of the setback line as defined in said Sections. South Carolina law strictly regulates whether or not existing structures and other improvements in this area can be modified and/or reconstructed in the event of the loss by fire or other natural causes, whether any new structures or other improvements are allowed to be constructed in this area, and if allowable, the size and location of any such new structures or other improvements. The location of setback lines is determined by scientific methodology and extends landward from a predetermined baseline a distance equal to the product obtained by multiplying the average annual erosion rate by 40. Additionally, the elevation of any allowed classification of the Property under the Federal Emergency Act is recommended that the Grantee of this Property consult legal counsel prior to making or modifying any improvements on any Property seaward or setback lines within the State of South Carolina.

*Frank Russo*

|                             |                            |                        |
|-----------------------------|----------------------------|------------------------|
| FILED<br>AT                 | BEAUFORT<br>COUNTY<br>S.C. | RECORDED<br>IN<br>BOOK |
| 430                         |                            | 522                    |
| CLOCK                       | FEB 6 1989                 | PAGE                   |
| P                           |                            | 1309                   |
| <i>Floyd H Dalton</i>       |                            |                        |
| REGISTER OF MESNE CONVEANCE |                            |                        |

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STATE OF SOUTH CAROLINA     )  
                                  )     ASSIGNMENT  
COUNTY OF BEAUFORT         )

THIS ASSIGNMENT (the "Assignment") is made and executed this 14th day of April 1989 by PROPERTY RESEARCH HOLDINGS INC ("Company") and FOREST BEACH ASSOCIATION ("Association")

WHEREAS the Company desires to make a nonexclusive assignment of its right to enforce the Declarant Rights it holds including but not limited to the right to enforce the Covenants as hereinafter defined all architectural review rights, rights to approve commercial land uses building design land use plans utility systems, signage and plot plans and the rights of enforcement thereof pursuant to any deeds or land use covenants and declarations thereof whether recorded or unrecorded or subsequently recorded specifically excepting however all rights of repurchase reversion and rights to approve boundary changes which the Company shall retain exclusive rights to for the property identified at Exhibit A ("Property") attached hereto and by reference incorporated herein and as conveyed to the Company pursuant to that Assignment of Rights recorded in the Office of the Register of Mesne Conveyances for Beaufort County South Carolina and recorded in Deed Book 522 at Page 1309 and

WHEREAS the Property is presently encumbered by covenants and restrictions of record as are shown in the Office of the Register of Mesne Conveyances for Beaufort County South Carolina as follows Declaration of Restrictions Conditions Limitations Easement Rights Privileges Etc applicable to Hilton Head Beach Subdivision No 1 dated September 5 1952 and recorded on September 8 1952 in Deed Book 74 at Page 20 Declaration of Restrictions Conditions Easement Rights Privileges Etc applicable to Hilton Head Beach Subdivision No 3 dated April 15 1955 and recorded on April 26 1955 in Deed Book 78 at Page 73 Declaration (regarding Hilton Head Beach Subdivision No 2), dated February 24 1954 and recorded on April 5 1954 in Deed Book 77 at Page 281 and any subsequent amendments theret and any other applicable recorded declarations (hereinafter referred to as the "Covenants")

NOW THEREFORE for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged the Company and its successors or assigns does hereby make a nonexclusive assignment to Association of the Company's right to enforce the Declarant Rights as hereinabove described under the terms and provisions of the

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R-549

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APPENDIX00627



Covenants and any deeds of conveyance assignment or other declarations whether recorded or unrecorded or subsequently recorded which encumber the Property. This Assignment shall remain in effect until such time that the Company transfers conveys or otherwise assigns the said Declarant Rights

IN WITNESS WHEREOF the parties hereto by their duly authorized officers have caused this Assignment to be executed as of the day and year first above written

WITNESSES

PROPERTY RESEARCH HOLDINGS INC

Jeannie M Hamilton  
Rebecca H Hale

By Francis J Guscio Jr  
 Francis J Guscio Jr

Martha R Kimball  
Rebecca H Hale

FOREST BEACH ASSOCIATION

By J. F. Stulac  
 Joseph F Stulac

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF BEAUFORT )

PROBATE

PERSONALLY appeared before me Jeannie M. Hamilton  
 who on oath, says that (s)he saw the within named PROPERTY  
 RESEARCH HOLDINGS INC by Francis J Guscio Jr sign the  
 within document and that (s)he with Rebecca H Hale  
 witnessed the execution thereof

SWORN to before me this 14<sup>th</sup> day  
 of April 1989

Jeannie M Hamilton  
 (witness)

Rebecca H. Hale  
 Notary Public for South Carolina  
 My Commission expires 4/14/89

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF BEAUFORT )

PROBATE

PERSONALLY appeared before me Mertha R. Kimball  
 who, on oath says that (s)he saw the within named FOREST BEACH  
 ASSOCIATION by Joseph F. Stulac sign the within document and  
 and that (s)he with Rebecca H. H. H. witnessed the  
 execution thereof

SWORN to before me this 14<sup>th</sup> day  
 of April 1989

Mertha R. Kimball  
 (witness)

Rebecca H. H. H.  
 Notary Public for South Carolina  
 My Commission expires 4/14/89

EXHIBIT A

All those certain pieces parcels or tracts of land in an area generally referred to as the Forest Beach district situate lying and being on Hilton Head Island South Carolina and bounded on the North by Cordillo Parkway and Shipyard Plantation on the East by Shipyard Plantation on the South by the Atlantic Ocean and on the West by Sea Pines Plantation (save and except excluding that certain area commonly referred to as Lawton Beach Subdivision 1- 1) previously conveyed to the Company pursuant to that certain Quit Claim Deed dated January 30 1989 and recorded in the Office of the Register of Mesne Conveyances for Beaufort County South Carolina in Deed Book 522 at Page 1300

*NLS*

|                                                         |                          |                        |
|---------------------------------------------------------|--------------------------|------------------------|
| FILED<br>AT                                             | BEAUFORT<br>COUNTY<br>SC | RECORDED<br>IN<br>BOOK |
| 451                                                     |                          | 527                    |
| RECORDED                                                | APR 14 1989              | PAGE                   |
| <i>p. m.</i>                                            |                          | 512                    |
| <i>Shirley D. Smith</i><br>REGISTER OF MESNE CONVEYANCE |                          |                        |

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R-552

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STATE OF SOUTH CAROLINA )  
 ) ASSIGNMENT OF RIGHTS  
COUNTY OF BEAUFORT )

WHEREAS the Company desires to assign all of its rights powers titles easements and Estates (collectively referred to as the "Rights") if any contained in any and all recorded and unrecorded Declarations of Covenants Conditions and Restrictions and related instruments recorded and unrecorded and all subsequent amendments thereto affecting or related to the property described on the attached Exhibit A (the Declaration and the Amendments") to the Assignee

This Assignment is granted without recourse representation or warranty and is intended as a quit claim of the interest of the Company as specified herein

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**R-553**

000582  
APPENDIX00631

by this instrument

710

IN WITNESS WHEREOF the parties hereto have caused this Assignment to be executed as of the day and year first above written

WITNESSES

PROPERTY RESEARCH HOLDINGS INC

Karen Kuchanrad  
Attorney

By Francis J. Guscio Jr  
Francis J. Guscio Jr  
President

FOREST BEACH ASSOCIATION INC

Karen Kuchanrad  
Attorney

By Richard E. Hughes  
Attest Paul O. L.

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

PROBATE

711

PERSONALLY appeared before me Karen Kuchendorf who  
on oath says that he/she saw the within named PROPERTY RESEARCH  
HOLDINGS INC by Francis J Gascio Jr its President sign  
seal and deliver the within written document and that he/she with  
CHARLES C WILLIAMS witnessed the execution thereof

Karen Kuchendorf

Sworn to before me this  
11 day of April 1990

[Signature]

Notary Public for South Carolina  
My Commission expires 9/29/96

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

PROBATE

PERSONALLY appeared before me KAREN KUCHENDORF who  
on oath says that he/she saw the within named FOREST BEACH  
ASSOCIATION INC by RICHARD E. HUGHES its  
PRESIDENT sign seal and deliver the within  
written document, and CARL E. LEWIS its  
SECRETARY attest the same and that he/she  
with CHARLES C WILLIAMS witnessed the execution thereof

Karen Kuchendorf

Sworn to before me this  
11 day of April 1990

[Signature]

Notary Public for South Carolina  
My Commission expires 9/29/96

- 3 -

R-555

000184  
APPENDIX00633

## EXHIBIT A

ALL those pieces parcels strips easements rights-of-way open spaces parks and any other lands and any and all improvements thereon if any located on Hilton Head Island Beaufort County South Carolina lying and being in the general boundary described to it

BEGINNING at the point of intersection of the southern right-of-way of South Forest Beach Drive with the northeastern corner of Lot 18 Canvasback Road Subdivision said intersection being in the approximate vicinity of the Ocean Gate of Sea Pines Plantation thence along the Sea Pines Plantation private community boundary (which boundary is more particularly described in the Declaration of Rights etc recorded in the Office of the Clerk of Court for Beaufort County South Carolina in Deed Book 224 at Page 1036) to the intersection of said boundary with the southern right-of-way of Cordillo Parkway thence in an easterly direction along the southern right-of-way of Cordillo Parkway to its intersection with the western boundary of Shipyard Plantation boundary to its southwest corner thence easterly along the southern boundary of Shipyard Plantation and following said boundary to its intersection with the northern right-of-way of North Forest Beach Drive thence easterly along the northern right-of-way of North Forest Beach Drive to its intersection with the northerly extension of the eastern boundary of Hilton Head Beach Subdivision No 3 thence in a southerly direction along the eastern boundary of Hilton Head Beach Subdivision No 3 to the intersection of its extension in a southerly direction with the mean high water of the Atlantic Ocean thence in a westerly direction along said mean high water mark of the Atlantic Ocean to its intersection with the southerly extension of the eastern boundary of Canvasback Subdivision thence in a northerly direction along the eastern boundary of Canvasback Subdivision to the point of beginning

Subject to all those Declarations of Covenants Conditions Restrictions and easements of record in the Office of the Register of Mesne Conveyances for Beaufort County South Carolina

N 45

|                               |                    |             |
|-------------------------------|--------------------|-------------|
| FILED AT                      | BEAUFORT COUNTY SC | RECORDED IN |
| 1013                          |                    | 552         |
| DECEMBER                      | MAY 1 1990         | PAGE 709    |
| A M                           |                    |             |
| REGISTER OF MESNE CONVEYANCES |                    |             |

1900

08613

563 / 1179

mr/legal/forestbc doc

8261-4

STATE OF SOUTH CAROLINA ) ADDITIONAL DECLARATION OF 1179  
COUNTY OF BEAUFORT ) COVENANTS AND RESTRICTIONS FOR  
FOREST BEACH SUBDIVISION AND  
PROVISIONS FOR THE FOREST  
BEACH ASSOCIATION INC

THIS ADDITIONAL DECLARATION OF COVENANTS AND RESTRICTIONS FOR  
FOREST BEACH SUBDIVISION AND PROVISIONS FOR THE FOREST BEACH  
ASSOCIATION INC (hereinafter referred to as the "Declaration")  
is made and declared this 18th day of October 1990 by THE FOREST  
BEACH ASSOCIATION INC

WITNESSETH

WHEREAS the Forest Beach Association Inc (hereinafter  
referred to as the "Association") was incorporated as a non-profit  
corporation in the State of South Carolina on October 24 1974 and

WHEREAS, the Association was organized for the purpose of  
accomplishing certain objectives including but not limited to,  
the maintenance and enhancement of property values in the Forest  
Beach Subdivision (hereinafter referred to as "Forest Beach") to  
represent the broad interests of all property owners throughout the  
Forest Beach area and to maintain common cohesive and coordinated  
efforts of the owners of real property in the Forest Beach in order  
to address the changing needs of such owners and

WHEREAS certain Declarations of Rights Restrictions  
Conditions etc have previously been recorded relative to Forest  
Beach by Hilton Head Company, Inc and others wherein the  
boundaries of Forest Beach are defined and

WHEREAS the said Declarations are recorded in the Beaufort



City RMC Office as follows relative to Hilton Head Beach Subdivision Number 1 in Deed Book 74 at Page 20 to Hilton Head Beach Subdivision Number 2, in Deed Book 77 at Page 181 to Lawton Beach Subdivision Number 1 in Deed Book 78 at Page 70 to Hilton Head Beach Subdivision Number 3 in Deed Book 78 at Page 73 to Lawton Beach Subdivision Number 1 in Deed Book 78 at Page 206 to Hilton Head Beach Subdivisions 1 2, 3 and 1-A and any other residential lands of Hilton Head Company Inc as provided for therein, in Deed Book 78 at Page 306 to Palm Forest in Deed Book 100 at Page 41 and any other covenants regarding said subdivisions as recorded (hereinafter all collectively referred to as the "Covenants") and

WHEREAS the achievement of the goals of maintaining and enhancing property values in Forest Beach will require continuous financial support of and funding for among other things consistent enforcement of the Covenants and the covenants contained herein the ongoing provision for the maintenance repair enhancement and extension of area infrastructure facilities and the construction of new facilities the effective continual functioning of the Forest Beach Architectural Review Board the Association's operations in a manner to effectively and economically provide the services and communications which the Forest Beach Property Owners desire the maintenance of the common areas and properties in an attractive and usable manner the provision of appropriate representation of area interests and concerns before local county state and federal legislative and

1181  
administrative bodies the coordination of appropriate security  
measures, and similar functions for the benefit of Forest Beach  
Property Owners;

WHEREAS Property Research Holdings Inc as successor to  
Hilton Head Company, Inc assigned to the Association among other  
things, certain rights powers titles easements and estates  
relative to enforcement of the Covenants specifically those  
affecting or related to the real property described in that certain  
Assignment of Rights dated April 11, 1990 and recorded in said RMC  
Office in Deed Book 552 at Page 709 and

WHEREAS the members of the Association at a duly called  
meeting held on October 13, 1990 approved the provisions of this  
Declaration by approval of a majority of the members as required  
by the By-laws of the Association

NOW THEREFORE these additional covenants and affirmative  
obligations providing for an Annual Community Improvement  
Assessment are hereby adopted by the Association's Board of  
Directors as additional covenants running with the lands  
constituting the Forest Beach Subdivision

#### ARTICLE I

##### ESTABLISHMENT OF ANNUAL COMMUNITY IMPROVEMENT ASSESSMENT

##### Section 1 Creation of Lien and Personal Obligation of Assessment

The Association, for each unconveyed lot parcel or  
condominium and for the owners of conveyed lots or condominiums who  
have expressed their assent hereby covenant and each subsequent

owner of any such lot or condominium by acceptance of a deed thereto whether or not it shall be so expressed in any such or other conveyance shall be deemed to covenant and agree to pay to the Association the Annual Community Improvement Assessment provided for hereinafter. Such Assessment shall be fixed established and collected from time to time as hereinafter provided and shall be a charge and continuing lien on the real property and improvements thereon thereby encumbered. Such Annual Community Improvement Assessment together with interest thereon and costs of collection thereof as are hereinafter provided shall be the personal obligation of the owner of such lot or condominium at the time when the Assessment becomes due. In the event of co-ownership of such real property, all such co-owners shall be jointly and severally liable for the entire amount of the amount.

Section 2 Purpose of Annual Community Improvement Assessment

The Annual Community Improvement Assessment levied by the Association shall be used for the general benefit of Forest Beach Property Owners (hereinafter referred to as the "Owners") who have agreed to this Assessment for such purposes as but not limited to:

- a Consistent enforcement of the Covenants
- b The ongoing provision for the maintenance repair enhancement and extension of area infrastructure facilities and construction of new facilities;
- c The effective continual functioning of the Forest Beach Architectural Review Board

d The Association s operations in a manner to effectively and economically provide the services and communications which the Owners desire

e The payment for appropriate insurance cost of labor equipment materials management and supervision

f The maintenance of common areas and properties in an attractive and useable manner

g The provision of appropriate representation of area interests and concerns before local county state and federal legislative and administrative bodies

h The coordination of and arrangement for appropriate security measures

i The payment for the Association s upkeep not more than four (4) times a year of unimproved lots and other properties that are not kept clean by the Owner and the billing of the Owner for the cost thereof but in no event shall this be deemed to be an obligation of the Association but rather a right

j The provision of periodic yard maintenance and trash pickup service throughout the area as approved by the Association s Board of Directors from time to time and

k Similar functions and/or services

### Section 3 Rates of Annual Community Improvement Assessment

The Annual Community Improvement Assessment shall be as follows

|                                          |          |
|------------------------------------------|----------|
| Single family residence or rental unit   | \$ 50 00 |
| Multiple family residence or rental unit | \$ 40 00 |

1184

|                                                                 |          |
|-----------------------------------------------------------------|----------|
| Unimproved residential lot                                      | \$ 25 00 |
| Hotel/motel/timeshare per room/unit                             | \$ 5 00  |
| Commercial properties - other than hotels/<br>motels/timeshares | \$ 50 00 |
| Unimproved commercial property per acre                         | \$ 25 00 |

The rates of the Annual Community Improvement Assessment may be changed periodically by a majority vote of the Association's Board of Directors. However, such changes shall be limited to a maximum of the percentage change in the Consumer Price Index All Items - All Groups (1989 equals 100) for the immediately preceding year or since the year when the last Assessment increase was made. The maximum amount of incremental change in the Assessment shall be determined by multiplying the previous year's annual assessment by the percentage change in the Consumer Price Index since the last year when the Assessment was increased. The resulting figure shall be rounded off to the nearest dollar.

Notwithstanding the foregoing, in the event a condominium regime agrees as a whole regime to become obligated to pay the annual community improvement assessment, said assessment based upon the total number of units within the regime shall be reduced by twenty five (25%) percent provided the regime's Board of Directors agrees to obligate the regime for the payment of the said assessment and the appropriate addendum to these covenants is recorded in the said RMC office and provided further that the Regime will mail out the association's newsletter to its owners. Said reduction is being afforded such regimes because

administrative costs mailing costs and costs of collection (since only a single assessment payment will be received from a regime rather than from each co-owner thereby reducing collection costs) will be reduced to the association

ARTICLE II

EFFECTIVE DATE AND COMMENCEMENT OF OBLIGATION

The Annual Community Improvement Assessment provided for by these covenants shall become effective immediately and shall be assessed against those Owners and their successors and assigns who have consented to the provisions of this Declaration and have agreed to be bound by it as evidenced by such Owner's agreement to be bound by these Covenants or alternatively by those persons or entities who become an Owner in Forest Beach subsequent to the recording of this Declaration by virtue of their acceptance of a deed pursuant to the Association's Waiver of its right of repurchase

In the event the Assessment becomes effective other than on a January 1st the assessment for the first year shall be prorated on a quarterly basis

After the initial year the assessment shall be for a full year commencing January 1 and ending December 31. The assessment will be billed in early December for the following calendar year and payment will be due by January 15

In order to eliminate as much administrative cost as possible Owners will be asked to pay the Assessment in one (1) payment. However, if this causes a financial hardship, an Owner may ask the

Association's Treasurer for permission to make the payment in two (2) equal installments of fifty (50%) percent each the first due January 15 and the other due July 1 of the calendar year for which the assessment applies

#### ARTICLE III

##### REMEDIES FOR NON-PAYMENT OF ASSESSMENT

If any Annual Community Improvement Assessment provided for in this Declaration is not paid by the date when due then such Assessment shall be deemed delinquent and, together with such interest thereon and cost of collection thereof as hereinafter provided shall become the personal obligation of the Owner of the assessed property, his heirs devisees personal representatives successors and assigns. If the Assessment is not paid when due the Assessment shall bear interest from the date of delinquency at the rate of twelve (12%) percent per annum and the Association may bring legal action against the Owner personally obligated to pay the same, and in the event a judgment is obtained such judgment shall include interest on the Assessment as above provided and a reasonable attorney's fee to be fixed by the Court together with the costs of this action or may file a lien against the assessed property and foreclose such lien in due cause

#### ARTICLE IV

##### DURATION

The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or any Owner their respective legal

1187

representative heirs successors and assigns for a period of twenty-five (25) years from the date this Declaration is recorded Upon the expiration of said twenty-five (25) year period this Declaration shall be automatically renewed and extended for successive ten (10) year periods The number of ten (10) year renewal period hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period provided, however that there shall be no renewal or extension of this Declaration if during the last year of the initial twenty-five (25) year period three-fourths (3/4) of the votes cast at a duly held meeting of the Association vote in favor of terminating this Declaration at the end of its then current term Written notice of any meeting at which such a proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered shall be given to each Member of the Association at least thirty (30) days in advance of said meeting In the event that the Association votes to terminate this Declaration the President and the Secretary of the Association shall execute a certificate which shall set forth the resolution of termination adopted by the Association the date of the meeting of the Association at which such resolution was adopted the date that notice of such meeting was given, the total number of votes of Members of the Association the total number of votes required to constitute a quorum at a meeting of the Association the number of votes necessary to adopt a resolution



1188

terminating this Declaration the total number of votes cast in favor of such resolution and the total number of votes cast against such resolution Such certificate shall be recorded in the RMC Office for Beaufort County, South Carolina, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration

ARTICLE V

AMENDMENTS

All proposed amendments of this Declaration shall be submitted to a vote of those Owners who have become obligated under this Declaration for the payment of the Annual Community Improvement Assessment and any such proposed amendment shall be deemed approved if three-fourths (3/4) of the votes cast at a meeting in which such proposed amendment is to be considered are in favor of the Amendment If any proposed amendment of this Declaration is approved by the Owners as provided for herein the President and the Secretary of the Association shall execute an amendment to this Declaration which shall set forth the amendment the effective date (which in no event shall be less than thirty (30) days after the meeting of the Association at which such amendment was adopted) the date of the meeting of the Association at which such amendment was adopted the date that notice of such meeting was given, the total number of votes of Owners entitled to vote the total number of votes necessary to adopt the amendment the total number of votes cast in favor of the amendment and the total number of votes cast against the amendment Such addendum shall be recorded in the

R-566

000295

RMC Office for Beaufort County, South Carolina For purposes of this provision only each Owner shall have one vote for each subdivided lot parcel or area of land or condominium owned within Forest Beach At such meeting a quorum must be present and Owners representing fifty-one (51%) percent of all votes entitled to be cast shall constitute a quorum

#### ARTICLE VI

##### NOTICES

Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent and notice thereby given when mailed with the proper postage affixed to the last known address of the person or entity who appears as Owner in the public records of Beaufort County on the first (1st) day of the calendar month in which said notice is mailed

#### ARTICLE VII

##### MISCELLANEOUS

##### Section 1 Enforcement

Enforcement of this Declaration shall be by any proceeding at law or in equity whether it be to restrain a violation, to recover damages or to create any lien created by these covenants The Association shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any covenant Violators shall be obligated to reimburse the Association in full for all its direct and indirect costs including but not limited to legal fees incurred by the

Association in maintaining compliance with these covenants

1190

Section 2 Severability

Should any covenant or restriction herein contained or any Article Section, paragraph sentence clause phrase or term in this Declaration be declared to be void invalid, illegal or unenforceable for any reason by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof such judgment shall in no way affect the other provisions hereof which are hereby declared to severable and which shall remain in full force and effect

Section 3 Interpretation

In all cases the provisions of this Declaration shall be given that interpretation or construction which will best tend toward the consummation of the general purposes of this Declaration The provisions of this Declaration shall be given full force and effect notwithstanding the existing of any zoning ordinance which allows a less restricted use of the Property

Section 4 Authorized Action

All action which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board of Directors of the Association in the manner provided for in the By-Laws of the Association unless the terms of this instrument provide otherwise

Section 5 Trespass

Whenever the Association and/or any Owner is permitted by this Declaration to correct repair clean preserve, clear out or

1191

do any action on any property entering such property and taking such action shall not be deemed a trespass

IN WITNESS WHEREOF this Amendment to Covenants and Restrictions for Forest Beach Subdivision and Provisions for the Forest Beach Association Inc is executed this 18 day of October 1990 by the Forest Beach Association, Inc

WITNESSES

THE FOREST BEACH ASSOCIATION, INC

Melinda R. Ross  
Lisa G. Way

By Paul G. Hughes  
its President

Attest Frank R. Adams Jr  
its Secretary

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

PROBATE

PERSONALLY appeared before me Melinda R. Ross who on oath says that (s)he saw the within-named FOREST BEACH ASSOCIATION INC by its appropriate officers sign seal, attest and as its act and deed, deliver the within-written instrument and that (s)he with Lisa G. Way witnessed the execution thereof

Melinda R. Ross

SWORN to before me this 18 day of October 1990

Lisa G. Way  
Notary Public for South Carolina  
My Commission Expires Aug 7, 1997

N-45

|                   |                      |                  |
|-------------------|----------------------|------------------|
| FILED AT          | BEAUFORT COUNTY S.C. | RECORDED IN BOOK |
| 9 55              |                      | 563              |
| CLOCK             | OCT 25 1990          | PAGE 1179        |
| REGISTER OF DEEDS |                      |                  |

Theresa A. Bonds

13

R-569

000298

APPENDIX00647

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1000  
gpc

1277/837  
12/14/49

837

TAX MAP NUMBER 550-15-339C

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT ) DEED

KNOW ALL MEN BY THESE PRESENTS THAT SOUTH ISLAND PUBLIC SERVICE DISTRICT (hereinafter the Grantor) in the State aforesaid for and in consideration of the sum of TEN and NO/100 (\$10 00) DOLLARS to us in hand paid at and before the sealing of these presents by FOREST BEACH ASSOCIATION (hereinafter the "Grantee") of Post Office Box 6442 Hilton Head Island SC 29938 the receipt whereof is hereby acknowledged has granted bargained sold and released and by these Presents do grant bargain sell and release unto the said GRANTEE its successors and assigns forever the following described property to wit

All that certain piece parcel or lot of land situated lying and being in Hilton Head Island Beaufort County South Carolina as shown on a plat of property of The Hilton Head Company made by Fred C Mack Register Land Surveyor in May of 1957 which said plat is duly recorded in Plat Book 10 at Page 69 in the Office of the Register of Deeds for Beaufort County South Carolina and more particularly described as follows to wit

\* 550, 15A-532

R-570

000302  
APPENDIX00648

BEGINNING at a concrete landmark on the Southeastern margin of Euret Street N W and running thence North 41 38 West for a distance of twenty-five and six-tenths (25 6) feet to a concrete marker thence North 60 22 East for a distance of eighty and one tenth (80 1) feet to a concrete marker thence South 29 38 East for a distance of twenty five (25) feet to a concrete marker thence South 60 22 West for a distance of seventy-four and eight-tenths (74 8) feet to the point of beginning

THIS being a portion of the property conveyed to the within Grantors in Deed Book 86 at Page 26 in the Office of the Beaufort County South Carolina

THIS Deed was prepared in the law office of Laughlin & Bowen Post Office Drawer 2119 Hilton Head Island South Carolina 29925 by Dew A. Laughlin Esquire without the benefit of a title examination

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

TO HAVE AND TO HOLD all and singular the said Premises before mentioned unto the said GRANTEE its successors and assigns forever

AND IT does hereby bind itself and its successors assigns to warrant and forever defend all and singular the said Premises unto the said GRANTEE its successors and assigns against us and our heirs and all persons whosoever lawfully claiming or to claim the same or any part thereof

IN WITNESS WHEREOF IT has caused these presents to be executed this 14<sup>th</sup> day of December 1999

WITNESSES

SOUTH ISLAND PUBLIC SERVICE DISTRICT

✓ Harvey K. McFarlane  
Witness No. 1

✓ BY [Signature]  
ITS MANAGER

✓ Barbara S. Marshall  
Notary Public

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

ACKNOWLEDGMENT

I HEREBY CERTIFY that on this 14<sup>th</sup> day of December 1999 before me the undersigned Notary Public of the State and County aforesaid personally appeared T. KEN LANCELL of South Island Public Service District known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Deed who acknowledged the same in the capacity set forth by signing h.s./her name

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year last above mentioned

✓ Barbara S. Marshall  
Notary Public for South Carolina  
My Commission Expires \_\_\_\_\_

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STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT ) QUIT CLAIM DEED

TO ALL WHOM THESE PRESENTS MAY COME

WHEREAS PROPERTY RESEARCH HOLDINGS INC SENDS GREETINGS

NOW KNOW ALL MEN BY THESE PRESENTS, that the said PROPERTY RESEARCH HOLDINGS INC for and in consideration of the premises and also in consideration of the sum of One and No/100 (\$1 00) Dollar to it in hand paid at and before the sealing and delivery of these presents by Beaufort County Beaufort, South Carolina 29901 the receipt whereof is hereby acknowledged, has remised, released and forever quit-claimed, and by these presents does remise, release and forever quit-claim unto the said Beaufort County its heirs and assigns, that certain real property described as EXHIBIT "A" attached hereto and more particularly shown as EXHIBIT "B" attached hereto

Said property is a portion of that certain property conveyed to Property Research Holdings, Inc., by deed from R. Geoffrey Levy Trustee, recorded in Beaufort County R.M.C. Office in O.R.B. 522 at page 1300

Said property is conveyed subject to all covenants, restrictions, easements, limitations, etc. of record in said RMC Office

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 the said premises before mentioned unto the said Beaufort County its heirs and assigns, forever so that neither the said PROPERTY RESEARCH HOLDINGS INC nor its successors, nor any other person or persons, claiming under it or them, shall at any time hereafter by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part or parcel thereof, forever

This deed was prepared in the offices of Property Research Holdings, Inc Post Office Box 7432, Hilton Head Island, South Carolina 29938

BEAUFORT COUNTY TAX MAP REFERENCE

1 -

| Dist | Map | Submap | Parcel | Block |
|------|-----|--------|--------|-------|
| 550  | 15  | A      | 81W    |       |

R-575

000152 APPENDIX00653

2063

Witness the hand and seal of PROPERTY RESEARCH HOLDINGS INC  
this 22<sup>nd</sup> day of April, in the year of our Lord one thousand nine hundred  
ninety seven and the two hundred twenty-first year of the Sovereignty and  
Independence of the United States of America

Accepted by Beaufort County Council June 24 1996

Signed, Sealed and Delivered  
in the presence of

PROPERTY RESEARCH HOLDINGS INC

Hanna H. Pinkney

By Francis J. Guscio, Jr.  
Francis J. Guscio, Jr. President

Jill Singletary Byrd Attest: George D. Womble  
George D. Womble, Secretary

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

ACKNOWLEDGEMENT

I, JILL SINGLETARY BYRD the under signed Notary Public do hereby  
certify that Francis J. Guscio Jr. President of Property Research Holdings, Inc. and  
George D. Womble, Secretary of Property Research Holdings, Inc., personally appeared  
before me this day and acknowledged the due execution of the foregoing instrument

WITNESS my hand and seal this 22<sup>nd</sup>  
day of APRIL, 1997

Jill Singletary Byrd  
Notary Public for South Carolina  
My Commission Expires 6-19-98

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R-576

000054

APPENDIX00654

## EXHIBIT A

All those certain road rights-of-way shown on Exhibit B attached. Said rights-of-way lying and being on Hilton Head Island, South Carolina, in Hilton Head Beach Subdivision No 1 and being particularly described as follows:

"A" Street lying to the west of lots 1, 2, 3 and 4 said right-of-way being 36.0 feet in width and running from the southern right-of-way line of North Forest Beach Drive (f/k/a Baynard Avenue) to the northern right-of-way line of Dune Lane and also,

"B" Street lying between those lots shown as 8, 9, 10 and 11 to the west and lots 12, 13, 14 and 15 to the east said right-of-way being 36 feet in width and running from the southern right-of-way line of North Forest Beach Drive (f/k/a Baynard Avenue) to the northern right-of-way line of Dune Lane and also,

"C" Street lying between those lots shown as 19, 20, 21 and 22 to the west and lots 23, 24, 25 and 26 to the east said right-of-way being 36 feet in width and running from the southern right-of-way line of North Forest Beach Drive (f/k/a Baynard Avenue) to the northern right-of-way line of Dune Lane and also,

"D" Street lying between those lots shown as 30, 31, 32 and 33 to the west and lots 34, 35, 36 and 37 to the east said right-of-way being 36 feet in width and running from the southern right-of-way line of North Forest Beach Drive (f/k/a Baynard Avenue) to the northern right-of-way line of Dune Lane and also,

"E" Street lying between those lots shown as 41, 42, 43 and 44 to the west and lots 45, 46, 47 and 48 to the east said right-of-way being 36 feet in width and running from the southern right-of-way line of North Forest Beach Drive (f/k/a Baynard Avenue) to the northern right-of-way line of Dune Lane and also,

"F" Street lying between those lots shown as 52, 53, 54 and 55 to the west and lots 56, 57, 58 and 59 to the west, said right-of-way being 36 feet in width and running from the southern right-of-way line of North Forest Beach Drive (f/k/a Baynard Avenue) to the northern right-of-way line of Dune Lane and also,

2065

G Street lying between those lots shown as 63 64 65 and 66 to the west and lots 67 68 69 and 70 to the east said right-of-way being 36 feet in width and running from the southern right-of-way line of North Forest Beach Drive (f/k/a Baynard Avenue) to the northern right-of-way line of Dune Lane and also,

"H" Street lying between those lots shown as 74 75 76 and 77 to the west and lots 78 79 the western end of Fickling Place and lot 94 to the east said right-of-way being 36 feet in width and running from the southern right-of-way line of North Forest Beach Drive (f/k/a Baynard Avenue) to the northern right-of-way line of Dune Lane and also,

"I" Street lying to the east of the eastern end of Fickling Place and lots 92 and 93 said right-of-way being 36 0 feet in width and running from the southern right-of-way line of North Forest Beach Drive (f/k/a Baynard Avenue) on a bearing of S29-38E for a distance of 240 0 feet and also

Dune Lane lying between the Sea Crest Motel site to the west and lot 94 to the east and being 20 0 feet in width and running along the northern boundary of the following oceanfront lots 5 6, 7 16, 17, 18 27, 28 29, 38, 39, 40 49 50 51 60 61 62 71, 72 and 73 and the open areas between certain lots as shown on the above referenced plat; and also

Fickling Place lying between the eastern right-of-way of "H" Street to the west and the western right-of-way of "I" Street to the east said right-of-way being 40 0 feet in width and running along the northern boundary of lots 94 96 97 98 99 100 101 102 103 104 105 106 and 107

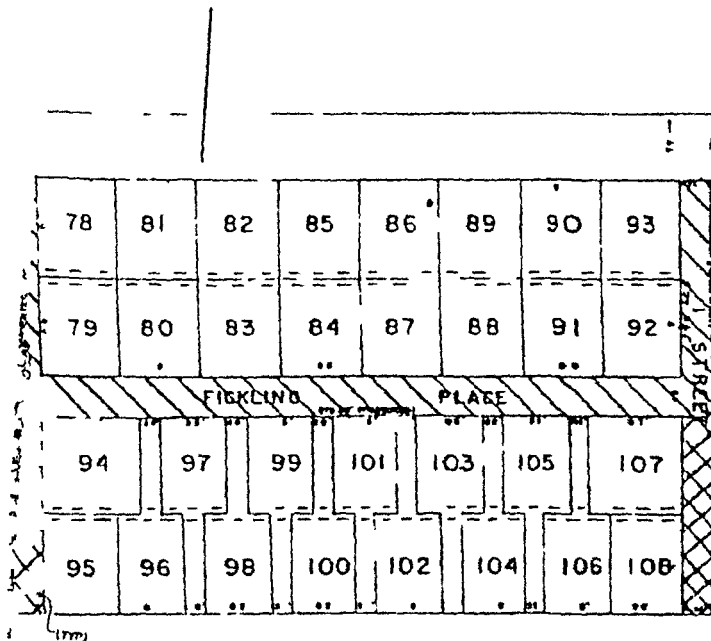
*Dune Lane*

R-578

003056

APPENDIX00656

EXHIBIT B



HILTON HEAD BEACH  
SUBDIVISION NO 1  
PROPERTY OF  
THE HILTON HEAD COMPANY  
HILTON HEAD, S C

MATCH LINE C  
MATCH LINE C

BEACH SUBDIVISION NO. 1  
PLAT BOOK 11 PAGE 4  
H. COUNTY S.C.

0.83 AC ±

AREAS TO BE APPROPRIATED TO THE STRAND PARKED  
AND TO RETAIN THE DESIGNATION AS PARK AREAS  
AS DEFINED IN PART V OF THE DECLARATION OF  
COVENANTS RECORDED IN DEED BOOK 78 AT PAGE  
304 IN THE BEAUFORT COUNTY REC. OFFICE.

9.67 AC ±

SUBDIVISION PLAT MODIFIED TO SHOW STREET  
RIGHTS OF WAY TO BE OWNED AND MAINTAINED BY  
BEAUFORT COUNTY

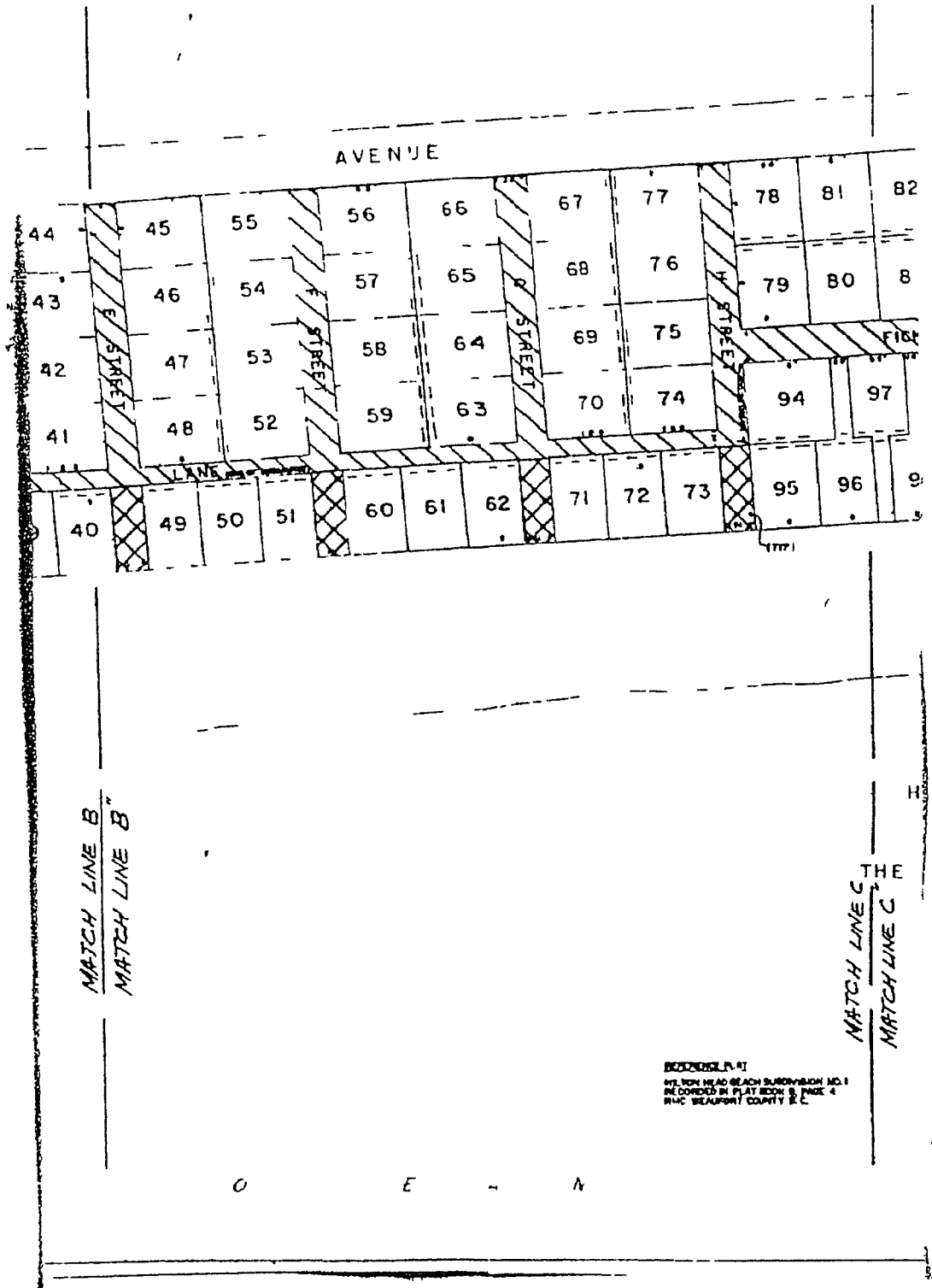
*W.C. Dumas*  
SEA, BEAUFORT, FLA 32900  
JAN 20, 1991

BROKEN LINES WITHIN LOTS  
INDICATE 5 FT 11" LOT EASE

R-579

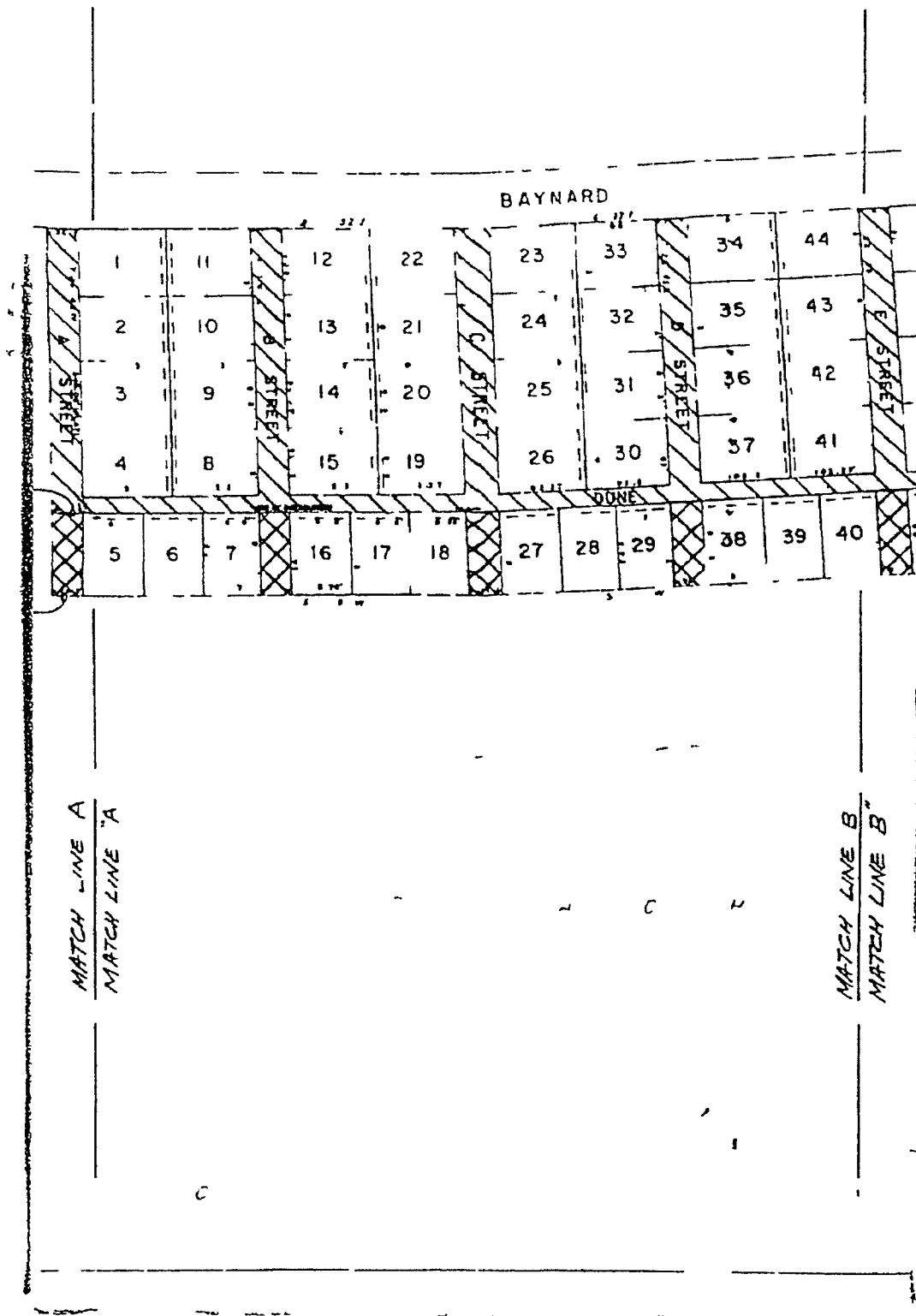
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APPENDIX00657



R-580

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Howell  
FILED 381  
JOHN A SULLIVAN RMC  
BEAUFORT COUNTY SC /ML  
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BK 943 PG 2062  
FOLDER#

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STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

NOTICE OF RE-ENTRY

TO FOREST BEACH ASSOCIATION INC AND ALL OTHERS WHOM IT MAY  
CONCERN

WHEREAS Property Research Holdings Inc has reserved a right of re-entry under that certain Assignment of Rights (the Assignment) by and between Property Research Holdings Inc (the Company) and Forest Beach Association Inc (the "Assignee") executed April 11 1990 and recorded in the office of the Register of Mesne Conveyances for Beaufort County South Carolina in Deed Book 552 at page 709 and

WHEREAS the Assignee has violated the conditions of the Assignment by imposing encumbrances on the property shown in EXHIBIT A to the Assignment without obtaining written consent of the Company as required in the Assignment

NOW THEREFORE the Company re-enters the estate under the Assignment and divests the Assignee of any and all rights powers titles easements and estates (collectively referred to as the Rights) previously assigned

Joanne Cullenore  
Victorienne C. Head

By Francis J. Guscio Jr  
Francis J. Guscio Jr  
Its President

Attest George D. Womble  
George D. Womble  
Its Secretary

Personally appeared before me the undersigned Joanne Cullenore who made oath that she saw the within named Property Research Holdings Inc by Francis J. Guscio Jr its president sign seal and as its Act and Deed deliver the within Notice of Re-entry and that she with Victorienne C. Head witnessed the execution thereof

Joanne Cullenore

Sworn to before me this 21<sup>st</sup> day of August 2000

Victorienne C. Head  
Notary Public for South Carolina  
My commission expires Sept 25, 2007

Property Research Holdings  
\$10  
11-28 P 12 33  
PG  
FOLDER

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000307

APPENDIX00662

Property Research Holdings  
F/D C

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| UC 200 | AUG 23 2000 | 1912 |
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51790

720

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT ) ABSOLUTE ASSIGNMENT

This assignment is made this 17th day of October 2000 by and between The Forest Beach Association Inc a South Carolina not for profit corporation (hereinafter Assignor ) and The Forest Beach Owners Association Inc a South Carolina not for profit corporation formed on October 16th, 2000 (hereinafter Assignee )

WHEREAS the Assignor was formed as a not for profit mutual benefit corporation to protect and preserve the rights of property owners throughout those certain subdivisions located on Hilton Head Island, South Carolina known as Forest Beach and since its incorporation has obtained the right to enforce certain covenants and restrictions which were recorded by the original developer has instituted litigation to enforce such covenants has obtained real property and has entered into certain agreements to facilitate the enforcement said covenants and restrictions The rights holdings property real and personal of the Assignor are more particularly described on Exhibit A a copy of which is attached hereto and incorporated herein by reference (hereinafter the "Assets") and

WHEREAS due to an administrative dissolution the Assignor was dissolved and immediately following the dissolution, the corporate name was obtained by certain parties who are hostile to the interests of the Assignor and therefore the members of the Assignor have formed the Assignee to fulfill the mission of the Assignor and

WHEREAS in accordance with South Carolina Code Annotated Section 33-31-1406 Assignor makes this assignment to Assignor to effect the winding up of its affairs by assigning all of Assignor's right title and interest in and to any and all existing contracts easements property

R-586

000511  
APPENDIX00664

rights contract rights approvals permits privileges and any other rights however named or described on Exhibit A hereto

NOW THEREFORE for and in consideration of the sum of Ten and no/100 (\$10.00) Dollars paid in hand to Assignor by Assignee at and before the execution and delivery of these presents the receipt and sufficiency of which is acknowledged the Assignor Covenants and Agrees as follows

- 1 The recitals are incorporated herein as if repeated verbatim
- 2 The Assignor hereby absolutely and irrevocably grants bargains sells sets over conveys and assigns absolutely to Assignee any and all of Assignor's right, title and interest in and to any and all existing contracts drainage rights utility allocations contract rights approvals easements riparian rights rights to accreted lands covenants declarant rights permits development permits development plan approvals density allocations governmental recognitions of rights or privileges governmental permits authorizations work product or any other rights of any description whatsoever which in any way relate to or which touch or concern the property described in Exhibit A hereto
- 3 Assignor hereby warrants that as of the date of the execution hereof Assignor has fully and unconditionally transferred all of his right title and interest in and to any existing contracts contract rights easements utility allocations drainage rights easements riparian rights rights to accreted lands approvals covenants declarant rights permits development permits developments plan approvals density allocations governmental recognitions of rights or privileges governmental permits authorizations work product or any other rights of any description whatsoever which in any way relate to or which touch or concern the real property described in Exhibit "A" hereto to The Town of Hilton Head Island, South Carolina and that

**R-587**

000012

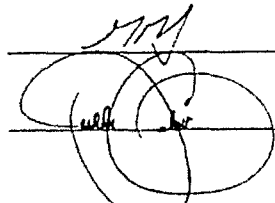
APPENDIX00665

Assignor has not previously transferred any of the said rights to any third party and that Assignor has not entered into any agreement which would encumber the rights herein assigned

4 This Assignment is absolute unconditional and irrevocable and shall be binding upon and inure to the respective successors and assigns of the parties hereto

In Witness whereof the parties hereto have set their hands and seals on this 17 Day of October 2000

## ASSIGNOR

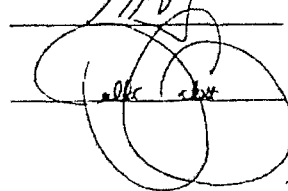


Forest Beach Association, Inc.

By

John Snodgrass, Its. President

## ASSICNEE



Forest Beach Owners Association Inc.,

By

John Snodgrass, Its. President

EXHIBIT "A" TO ASSIGNMENT FROM FOREST BEACH ASSOCIATION INC.,  
TO FOREST BEACH OWNERS ASSOCIATION INC.

- 1 Any and all real property
- 2 Any and all covenant rights, easements and other rights.
- 3 Any and stock or other ownership in tangible or intangible assets
- 4 Any and all personal property including but not limited to computers, printers, faxes, file cabinets and any other furniture, fixtures and equipment owned by the Assignee.
- 5 All membership lists, bank accounts, rights to collection of dues and any outstanding and any and all other rights to amounts owed now or in the future to the Assignor
- 6 Any and all causes of action, choses in action or other legal rights or rights or standing to pursue all legal actions currently filed
- 7 All rights of the Assignor pursuant to any written agreements to which Assignor is a party

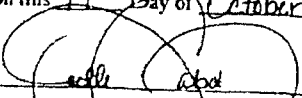


724

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT ) UNIFORM ACKNOWLEDGMENT  
S C CODE ANN § 30-5-30 (SUPP 1998)

I the undersigned Notary Public do hereby certify that John Snodgrass personally  
appeared before me on this day and duly acknowledged the execution of the foregoing  
instrument

Sworn to and Subscribed before me  
on this 17<sup>th</sup> Day of October 2000

  
\_\_\_\_\_

Notary Public for South Carolina  
My Commission Expires 1/3/05

R-590

000315

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APPENDIX00669

2001

|                             |   |                                 |
|-----------------------------|---|---------------------------------|
| STATE OF SOUTH CAROLINA     | ) | IN THE COURT OF COMMON PLEAS    |
|                             | ) |                                 |
| COUNTY OF BEAUFORT          | ) | CIVIL ACTION NUMBER 99-CP-07 95 |
|                             | ) |                                 |
| TOWN OF HILTON HEAD ISLAND, | ) |                                 |
| SOUTH CAROLINA,             | ) |                                 |
|                             | ) |                                 |
| Plaintiff,                  | ) |                                 |
| vs                          | ) | SETTLEMENT AGREEMENT            |
|                             | ) |                                 |
| PROPERTY RESEARCH HOLDINGS, | ) |                                 |
| INC ,                       | ) |                                 |
|                             | ) |                                 |
| Defendant                   | ) |                                 |

This Settlement Agreement (this "Settlement Agreement") is entered by and among the Town of Hilton Head Island, South Carolina (the "Town"), Property Research Holdings, Inc ("PRH"), and Forest Beach Owners Association, Inc ("FBOA") in order to settle that certain action captioned above (the "Action") and other pending litigation

WHEREAS, the parties hereto are the parties in the Action, the Town being the Plaintiff, PRH being the Defendant, and FBOA having intervened therein for the purpose of participating in and being bound by the terms of this Settlement Agreement, and

WHEREAS this Settlement Agreement is intended to settle and compromise any and all claims which the parties may have among themselves with respect to the Action, that certain action styled *Property Research Holdings Inc v Town of Hilton Head Island et al*, Case No 99-CP-07-653 in the Court of Common Pleas for Beaufort County South Carolina (the "Appeal") and that certain action styled *Forest Beach Association Inc v Property Research Holdings Inc*, Case No 00-CP-07-1471 in the Court of Common Pleas for Beaufort County, South Carolina (the "FBOA/PRH Case"),

Town of Hilton Head Island v Property Research Holdings, Inc  
Civil Action Number 99-CP-07-95  
Settlement Agreement

NOW, THEREFORE, for and in consideration of the mutual promises and undertakings contained herein, of the settlement of the Action, the Appeal, and the FBOA/PRH Case, and of other good and valuable consideration, the receipt and sufficiency of which are acknowledged, and intending to be legally bound, the parties hereto agree as follows

1 Recital The above preamble and "WHEREAS" clauses are hereby incorporated as if restated verbatim.

2 Warranties and Representations

A. The Town The Town hereby warrants and represents to PRH and to FBOA that it is a valid and subsisting body politic and municipality under the laws of the State of South Carolina, that it has the power and authority to enter into this Settlement Agreement, and that this Settlement Agreement, the execution hereof on behalf of the Town, and the execution and delivery of the various documents referred to herein on behalf of the Town have been duly authorized by all necessary actions of the Town Council of the Town

B. PRH PRH hereby warrants and represents to the Town and to FBOA that it is a valid and subsisting corporation under the laws of the State of South Carolina, that it has the power and authority to enter into this Settlement Agreement, and that this Settlement Agreement and the execution hereof on behalf of PRH, and the execution and delivery of the various documents referred to herein on behalf of PRH have been duly authorized by all necessary corporate actions by the shareholders and board of directors of PRH

C. FBOA FBOA hereby warrants and represents to the Town and to PRH that it is a valid and subsisting corporation under the laws of the State of South Carolina, that it has the power and authority to enter into the Settlement Agreement, and that this Settlement Agreement and the execution hereof on behalf of FBOA, and the execution and delivery of the various documents referred to herein on behalf of FBOA have been duly authorized by all necessary corporate actions by the members and board of directors of FBOA.

3 The Plats Contemporaneously with the execution and delivery of this Settlement Agreement, the Town shall cause a duly authorized member of its Planning Staff to stamp as approved for recording in the public records of Beaufort County, South Carolina the four (4) plats of survey referred to in Exhibit A attached hereto, which stamp shall indicate that the plats are approved by the Town under the provisions of its Land Management Ordinance, Title 16, Chapter 7 of the Town's Municipal Code

4 Conveyances by PRH to the Town Contemporaneously with the execution and delivery of this Settlement Agreement, PRH shall execute and deliver to the Town (a) quit claim deeds to the Town in the form attached hereto as Exhibit B (the "Beach Lots Deeds"), the provisions of which are incorporated herein as if restated verbatim, (b) quit claim deeds to the Town for the various parcels of real property referred to in Exhibit C attached hereto, (c) quit claim assignments and transfers to the Town of the various easements referred to in Exhibit D attached hereto, (d) a quit claim assignment to the Town of the declarant rights applicable to the Pineland Mall area under the covenants recorded in Deed Book 210 at Page 1033, in Deed Book 265 at Page 847, in Deed Book 321 at Page 859, and in Deed Book 347 at Page 701, save and except any repurchase rights or rights to approve property or lot subdivisions, *provided however*, that the repurchase rights and lot subdivisions approval rights for property reconfigurations retained by PRH shall not apply to any conveyance of property between the Town and the owner of the Pineland Station Shopping Center, or between the Town and the owner of the Pineland Mall Office Building, and (e) a quit claim assignment to the Town of all declarant rights (excluding any repurchase rights) for any real property covenants and restrictions encumbering any real property now owned by the Town

5 Additional Roadway Rights-of-Way and Easements in Hilton Head Beach Subdivision No. 2-A PRH agrees to convey by quitclaim to the Town the roadway rights-of-way (save and except roadway ends) and utility and drainage easements in Hilton Head Beach Subdivision No. 2-A within 120 days of the execution of this Settlement Agreement. PRH further agrees that if such roadway end parcels are subdivided from the remainder of the roadway rights-of-way and sold to adjacent property owners, such sales shall be made subject to a covenant running with the land that such roadway end parcels shall not be used for pedestrian or vehicular access to or from Hilton Head Beach Subdivision No. 2-A and Shipyard Plantation

Town of Hilton Head Island v Property Research Holdings, Inc  
Civil Action Number 99-CP-07-95  
Settlement Agreement

6 Conveyances by PRH to FBOA Contemporaneously with the execution and delivery of this Settlement Agreement, PRH shall execute and deliver to FBOA (a) a quit claim deed to FBOA in the form attached hereto as Exhibit E (the "Beach Access Deed"), the provisions of are incorporated herein as if restated verbatim, (b) [intentionally deleted], and (c) a quit claim assignment to FBOA of all PRH's right, title and interest under the restrictive covenants recorded in Deed Book 74 at Page 20, in Deed Book 74 at Page 305, in Deed Book 77 at Page 181, in Deed Book 78 at Page 73, and in Deed Book 78 at Page 306 (collectively, the "Covenants"), but only to the extent that the Covenants are applicable to the Forest Beach area, as set forth in a property description to be prepared by PRH, *provided, however*, that FBOA shall at the same time re-assign to PRH any and all rights of repurchase and rights to approve lot subdivisions, reconfigurations and boundary line changes contained in the Covenants

7 Conveyance by the Town to PRH Contemporaneously with the execution and delivery of this Settlement Agreement, the Town shall execute and deliver to PRH a quit claim assignment and transfer, in form and content reasonably acceptable to PRH, of all the Town's right, title and interest in and to any "sewage capacity" with South Island Public Service District (the "PSD") that is or may be connected with the property formerly known as the "Granville Club", now commonly known as the Crossings Park. The conveyance by the Town of such sewage capacity shall include a release of any claim by or on the part of the Town that such sewage capacity is an appurtenance to the Crossings Park property

8 Dismissals of the Action, the Appeal, and the FBOA/PRH Case Contemporaneously with the execution of this Settlement Agreement, the parties shall execute (a) a Consent Order of Settlement and Dismissal regarding the Action in the form attached hereto as Exhibit F, to which a copy of this Settlement Agreement shall be attached as an exhibit, (b) a Consent Order of Settlement and Dismissal regarding the Appeal, a copy of which is attached hereto as Exhibit G, and (c) a Consent Order of Settlement and Dismissal regarding the FBOA/PRH Case in the form attached hereto as Exhibit H, all of which shall then be submitted to the Master-in Equity for the 14<sup>th</sup> Judicial Circuit for approval and filing in the respective records of the Action, the Appeal, and the FBOA/PRH Case

Town of Hilton Head Island v Property Research Holdings, Inc  
Civil Action Number 99-CP-07-95  
Settlement Agreement

9 Restrictive Covenants Contemporaneously with the execution and delivery of this Settlement Agreement, PRH shall execute those certain Declarations of Restrictive Covenants and Easements in the forms attached hereto as Exhibit K and Exhibit L, which shall thereafter be filed for record in the Office of the Register of Deeds for Beaufort County, South Carolina prior to any sale, transfer or other conveyance by PRH of any one or more of the various parcels of real property shown and described on any of the plats described in Exhibit A to any person or entity other than the Town or FBOA.

10 Plat Costs Contemporaneously with the execution and delivery of this Settlement Agreement, FBOA shall pay to PRH Two Thousand Five Hundred and No/100 (US\$2,500 00) Dollars in cash or by certified check as reimbursement to PRH for a portion of the costs incurred by PRH in connection with the preparation of the one or more of the plats referred to in Exhibit A.

11 Additional Consideration As consideration for the conveyance by PRH to the Town of the real estate referred to in Exhibits B and C and the easements referred to Exhibit D, contemporaneously with the execution and delivery of this Settlement Agreement, the Town shall pay to PRH Five Thousand and No/100 (US\$5,000 00) Dollars

12 Confirmation of Subdivision Exterior Boundaries Contemporaneously with the execution of this Settlement Agreement, the Town shall provide to PRH a letter from the LMO Administrator construing the seaward exterior boundaries of Hilton Head Beach Subdivision No 1 and of Hilton Head Beach Subdivision No 3 as the line designated on the new plats thereof as the "Approximate Landward Toe of Rock Revetment", and addressing other LMO matters regarding the properties shown on said plats

13 Maintenance Easement Agreement Contemporaneously with the execution of this Settlement Agreement, the Town and FBOA shall execute and enter into that certain Maintenance Easement Agreement, a copy of which is attached hereto as Exhibit I

14 Notice of Re-Entry Contemporaneously with the execution of this Settlement

Town of Hilton Head Island v Property Research Holdings, Inc  
Civil Action Number 99-CP-07-95  
Settlement Agreement

Agreement, PRH shall, by recordable instrument filed in the Beaufort County, South Carolina public records, withdraw and rescind that certain Notice of Re-Entry filed on August 29, 2000 in Beaufort County ORB 1327 at Page 1912, *provided however*, that FBOA shall acknowledge, recognize and acquiesce in all actions taken by or on behalf of PRH as a declarant under applicable restrictive covenants between the time of the filing of said Notice of Reentry and the withdrawal thereof

15 Rescission and Termination of Certain Restrictive Covenants Contemporaneously with the execution of this Settlement Agreement, FBOA shall, by recordable instrument filed in the Beaufort County, South Carolina public records, rescind, terminate, void and renounce the 1990 restrictive covenants recorded in Deed Book 563 at Page 1179

16 Mutual Releases Contemporaneously with the execution of this Settlement Agreement, PRH and FBOA shall execute and deliver to each other mutual release attached hereto as Exhibit J

17 Donations The Town and FBOA both acknowledge and agree that the properties to be conveyed to each of them by PRH by way of the Beach Tract Deed and the Beach Access Deed, respectively, shall be made as a donation and gift by PRH. The Town and FBOA each agree to execute and deliver to PRH any additional documentation reasonably determined by PRH to be necessary or desirable in order to further document or otherwise evidence such donations, including, without limitation, IRS Forms 8283, *provided however* that neither the Town nor FBOA shall be required to make any warranty or representation to PRH or any other party as to the value of such properties

18 Enforcement Notwithstanding the dismissal of the Action, the Appeal and the FBOA/PRH Case pursuant to and as provided for in this Settlement Agreement, upon any default hereunder, any party hereto shall be entitled to apply to the Court of Common Pleas for Beaufort County and obtain an order against any other party or parties hereto requiring specific performance with the terms and conditions of this Settlement Agreement



Town of Hilton Head Island v Property Research Holdings, Inc  
Civil Action Number 99-CP-07-95  
Settlement Agreement

19 Miscellaneous This Settlement Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto, shall be construed under, interpreted in accordance with and governed by the laws of the State of South Carolina, and may not be amended except in writing signed by the parties hereto effected by such amendment

WITNESS the execution hereof on behalf of Town of Hilton Head Island, South Carolina  
this \_\_\_\_\_ day of \_\_\_\_\_, 2001

WITNESS

TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA

Thomas D. Peoples

By Thomas D. Peoples  
Thomas D. Peoples, Mayor

Stephen G. Riley

Attest Stephen G. Riley  
Stephen G. Riley, Manager

[Additional signatures on following page]

Town of Hilton Head Island v Property Research Holdings, Inc  
Civil Action Number 99-CP-07-95  
Settlement Agreement

WITNESS the execution hereof on behalf of Property Research Holdings, Inc this  
20 day of July, 2001

WITNESS

PROPERTY RESEARCH HOLDINGS, INC.

[Signature]  
Robert Cardin

By George D Womble  
George D Womble, Secretary

WITNESS the execution hereof on behalf of Forest Beach Owners Association, Inc this  
23<sup>rd</sup> day of July, 2001

WITNESS

FOREST BEACH OWNERS ASSOCIATION,  
INC

[Signature]

By

[Signature]  
\_\_\_\_\_, President

[Signature]

Attest

[Signature]  
\_\_\_\_\_, Secretary

Town of Hilton Head Island v Property Research Holdings, Inc  
Civil Action Number 99-CP-07-95  
Settlement Agreement

**EXHIBIT A**

**PLATS TO BE STAMPED BY THE TOWN FOR RECORDATION**

- 1 New Hilton Head Beach Subdivision No 1 Strand Block and Beach Access plat
- 2 New Hilton Head Beach Subdivision No 3 Strand Block plat
- 3 Revised Palm Forest and Vicinity plat (revision of Plat Book 24 at Page 120)
- 4 New Palmetto Bay Road Commercial Subdivision drainage easement plat

4-1-2001  
5036

COUNTY Beaufort County  
BK 1450 PG 0733  
FL. NOM 2001044937  
RECORDING FEE 13 00  
RECORDED BY L THOMAS RCPT# 14890  
RECORDED 07/25/2001 01 14 04 PM

4/27/01

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8094-46  
8094-49  
8094 66

STATE OF SOUTH CAROLINA                    )  
                                                          )  
COUNTY OF BEAUFORT                        )                   QUIT CLAIM DEED

TO ALL WHOM THESE PRESENTS MAY COME

WHEREAS, PROPERTY RESEARCH HOLDINGS, INC (the 'Grantor') SENDS GREETING

NOW, KNOW ALL MEN BY THESE PRESENTS that the Grantor, for and in consideration of the premises and that certain Property Exchange Agreement of July 2, 1996 by and among the Grantor, Forest Beach Association, Inc , and The Town of Hilton Head Island, South Carolina, in settlement of those certain actions styled *Town of Hilton Head Island South Carolina v Property Research Holdings Inc* , Case Number 99-CP-07-95 in the Court of Common Pleas for Beaufort County, South Carolina, and *Forest Beach Association Inc v Property Research Holdings Inc* , Case No 00-CP-07-1471 in the Court of Common Pleas for Beaufort County, South Carolina, and as a donation and gift to **FOREST BEACH OWNERS ASSOCIATION, INC** (the 'Grantee'), Post Office Box 6442 Hilton Head Island, SC 29938, has remised, released and forever quit-claimed, and by these presents does remise, release and forever quit-claim unto the Grantee, its successors and assigns, the following described property, to-wit

See Attached Exhibit A

This being a portion of the property conveyed to the Grantor by deed recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 522 at Page 1300

This deed was prepared in the law offices of Novit, Scarminach & Williams, P  
A Post Office Drawer 14, Hilton Head Island, South Carolina 29938 by Chester  
C Williams Esquire without benefit of title examination

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 the said premises before mentioned unto the **Grantee**, its successors and assigns forever, so that neither the **Grantor**, nor its successors, nor any other person or persons, claiming under it or them, shall at any time hereafter, by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part or parcel thereof, forever, except as otherwise provided in Exhibit A

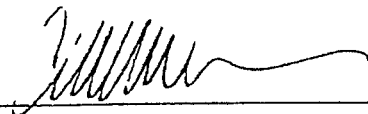
Witness the hand and seal of the Grantor this 23 day of May, 2001

Signed, Sealed and Delivered  
in the presence of

PROPERTY RESEARCH HOLDINGS INC



By Francis J. Guscio, Jr.  
Francis J. Guscio, Jr., President



Attest George D. Womble  
George D. Womble, Secretary

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

)  
)  
)

ACKNOWLEDGEMENT

I, CHESTER C. WILLIAMS the undersigned Notary Public, do hereby  
certify that Francis J. Guscio, Jr., President of Property Research Holdings, Inc., and George D.  
Womble, Secretary of Property Research Holdings, Inc., personally appeared before me this day  
and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and seal this 23  
day of May, 2001



Notary Public for South Carolina  
My Commission Expires 9-24-2006

I:\DOCS\CCW\DOCS\61\REG\FILES\PROPERTY RESEARCH\08094 029\EXHIBIT A FBA2 REVISED DOC

NS&W/CCW/8094 29  
8094-46  
8094-49  
8094 66**Exhibit A**

All those certain pieces, parcels or tracts of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing a total of 1 160 acres, more or less, shown and designated as Lot Nos "A", "AA", "B", "BA", "C", "CA", "D", "DA", "E", "EA", "F", "FA", "G", "GA", "H", "HA", "I", and "IA" on that certain plat entitled "Hilton Head Beach No 1 Subdivision Extension" prepared by Sea Island Engineering, Inc , M A Dunham, SCRLS 11590, dated September 21, 1998 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 81 at Page 153

Said property is conveyed subject to all applicable covenants, conditions, restrictions and easements of record in said Register's Office, and to such matters as would be revealed by an accurate survey and inspection of said property

Said property is further conveyed subject to an appurtenant easement on, over and across said parcels in favor of The Town of Hilton Head Island, South Carolina for access to that certain tract of land containing 13 127 acres, more or less, shown and designated as "BEACH LOT" on said plat entitled "Hilton Head Beach No 1 Subdivision Extension" recorded in said Register's Office in Plat Book 81 at Page 153, for the benefit of said "BEACH LOT", as more fully set forth in that certain deed of May 23, 2001 from the Grantor herein to The Town of Hilton Head Island, South Carolina recorded in said Register's Office in ORB 1450 at Page 744

Said property is further conveyed subject to appurtenant easements on, over and across said parcels in favor of all owners of lots within Hilton Head Beach Subdivision No 1, as shown and described on that certain plat entitled "Hilton Head Beach Subdivision No 1" prepared by Fred C Hack, RSL, dated April - June, 1952 and recorded in said Register's Office in Plat Book 9 at Page 4, their respective heirs,

successors and assigns, for the benefit of their respective lots within Hilton Head Beach Subdivision No 1, for access to the beaches of the Atlantic Ocean lying generally south and southeast of said parcels

Said property is further conveyed subject to appurtenant easements on, over and across said parcels in favor of all owners of lots within Hilton Head Beach Subdivision No 1-A, as shown and described on that certain plat entitled "Hilton Head Beach Subdivision No 1-A" prepared by Fred C Hack, RSL, recorded in said Register's Office in Plat Book 9 at Page 69, their respective heirs, successors and assigns, for the benefit of their respective lots within Hilton Head Beach Subdivision No 1-A, for access to the beaches of the Atlantic Ocean lying generally south and southeast of said parcels

Said property is further conveyed subject to appurtenant easements in favor of adjacent property owners, their respective heirs, successors and assigns, for the benefit of their respective properties, on, over and across said parcels for the continued existence, use and maintenance of any improvements currently existing thereon, and for the continued encroachment of any such improvements currently existing thereon, *provided, however*, that such appurtenant easements shall not extend to any improvements on or encroachments into said property which unreasonably restrict or inhibit the use of said property by the owners of lots within the said Hilton Head Beach Subdivision No 1 and the said Hilton Head Beach Subdivision No 1A, or their respective guest, licensees or tenants, for access to the beaches of the Atlantic Ocean lying generally south and southeast of said property, *and further provided, however*, that if any improvements on or encroachment into said property shall be destroyed or removed, either voluntarily or involuntarily, then any such appurtenant easement relating to such destroyed or removed improvements or encroachments shall immediately terminate and cease, without the necessity of any action or notice by or on behalf of the Grantee, *and, further provided, however*, that such appurtenant easements shall not include any right, license or privilege in favor of any such adjacent property owners, or their respective guest, licensees or tenants, for vehicular parking on said property

Said property is further conveyed subject to the undertaking and covenant on the part of the Grantee herein that it, for itself, its

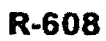


shareholders, directors, officers, employees, agents, successors and assigns, affirmatively waives any claim that The Town of Hilton Head Island, South Carolina has any obligation or responsibility for the upkeep, maintenance and repair of the rock revetment which lies within that certain tract of land shown and designated as "BEACH LOT" on said plat recorded in said Register's Office in Plat Book 81 at Page 153

Said property is further conveyed subject to the undertakings and covenants on the part of the Grantee herein (1) that it, for itself, and for its shareholders, directors, officers, employees, agents, successors and assigns, affirmatively waives, and hereby releases and discharges the Grantor and its shareholders, directors, officers, successors and assigns from any and all claims, demands, actions, or causes of action, now or hereafter existing, which it or any of its past, present or future shareholders, directors, officers, employees, agents, successors or assigns may have against the Grantor or any one or more of its shareholders, directors or officers arising out of, in any way connected or associated with, or based in whole or in part upon this conveyance, that certain Property Exchange Agreement of July 2, 1996 by and among the Grantor, the Grantee, and The Town of Hilton Head Island, South Carolina, or any covenants, conditions, restrictions or easements applicable to said property, to said Hilton Head Beach Subdivision No 1 in general, or to any property in what is commonly known as the North and South Forest Beach areas of Hilton Head Island, South Carolina, and (2) that it, for itself, and for its shareholders, directors, officers, employees, agents, successors and assigns, agrees that neither it nor any one or more of its shareholders, directors, officers, employees, agents, successors or assigns shall at any time, or by any means, directly or indirectly, aid, abet, assist or encourage any person or entity to threaten, institute, file or prosecute any claim, demand, action, cause of action, lawsuit or other legal proceeding against the Grantor or any one or more of its shareholders, directors or officers based in whole or in part upon (a) the within conveyance, (b) that certain Property Exchange Agreement of July 2, 1996 by and among the Grantor, the Grantee, and The Town of Hilton Head Island, South Carolina, or (c) any alleged violation which occurred prior to the date of the within conveyance of any covenants, conditions, restrictions or easements applicable (1) to said property, (11) to said Hilton Head Beach Subdivision No 1 in general, or (111) to

any property in what is commonly known as the North and South Forest Beach areas of Hilton Head Island, South Carolina, including, without limitation, the strand blocks located adjacent thereto and in the vicinity thereof. By accepting this conveyance, the Grantee agrees to indemnify and hold harmless the Grantor and its shareholders, directors and officers from and against any and all claims, demands, actions, or causes of action asserted or alleged by, on behalf of, or for the benefit of the Grantee, or any of its shareholders, directors, officers, employees, agents, successors or assigns, against the Grantor or any of its shareholders, directors and officers, or by any other person or entity who is or was aided, abetted, assisted or encouraged by the Grantee or any one or more of its shareholders, directors, officers, employees, agents, successors or assigns to threaten, institute, file or prosecute any claim, demand, action, cause of action, lawsuit or other legal proceeding against the Grantor or any one or more of its shareholders, directors or officers, including, without limitation, any and all costs, fees and expenses (including, without limitation, attorney's fees and court costs through and including any appellate proceedings) incurred by the Grantor or any one or more of its shareholders, directors and officers in the defense of any such claim, demand, action, cause of action, lawsuit or other legal proceeding.

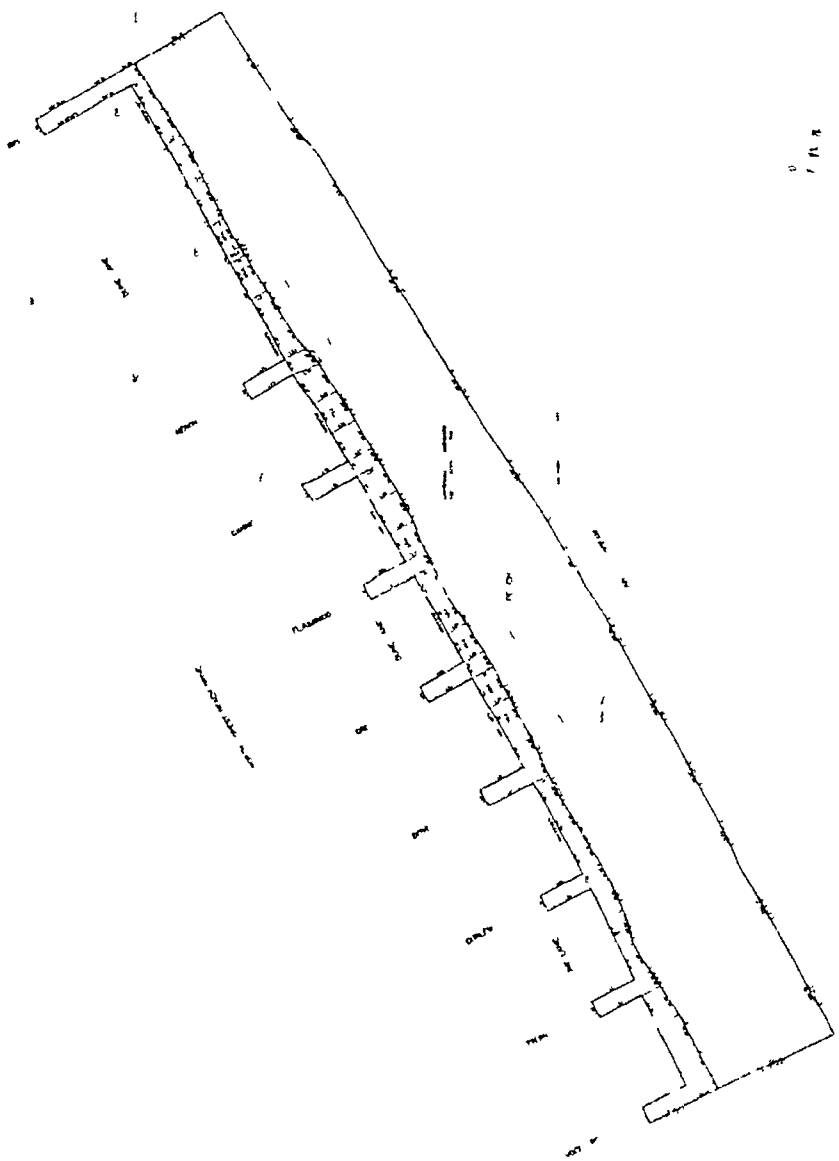
A portion of ZSS1/MAP IS A / PAE 526

$$= 112$$


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R-609

| LINE | NO. | DESCRIPTION | DATE | BY |
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| 4    | 4   | 4           | 4    | 4  |
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| 6    | 6   | 6           | 6    | 6  |
| 7    | 7   | 7           | 7    | 7  |
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| LINE | NO. | DESCRIPTION | DATE | BY |
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| 6    | 6   | 6           | 6    | 6  |
| 7    | 7   | 7           | 7    | 7  |
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REVISIONS  
BY DATE  
1. 10/15/53  
2. 10/15/53  
3. 10/15/53  
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ORIGINAL DOCUMENT  
NOT TO BE REPRODUCED

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5036

COUNTY Beaufort County  
BK 01450 PG 0744  
FILE NO# 2001044939  
RECORDING FEES 11.00  
RECORDED BY L THOMAS RCPT# 14890  
RECORDED 07/25/2001 01:14 04 PM

RECORDED  
2001 Oct -01 12 47 PM  
John Q. Bunn  
BEAUFORT COUNTY AUDITOR

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8094-49  
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STATE OF SOUTH CAROLINA            )  
                                          )  
COUNTY OF BEAUFORT                )           QUIT CLAIM DEED

TO ALL WHOM THESE PRESENTS MAY COME

WHEREAS, PROPERTY RESEARCH HOLDINGS, INC. (the "Grantor") SENDS GREETING-

NOW, KNOW ALL MEN BY THESE PRESENTS, that the Grantor, for and in consideration of the premises and that certain Property Exchange Agreement of July 2, 1996 by and among the Grantor, the within Grantee, and Forest Beach Association, Inc., in settlement of those certain actions styled *Town of Hilton Head Island, South Carolina v Property Research Holdings, Inc.*, Case Number 99-CP-07-95 in the Court of Common Pleas for Beaufort County, South Carolina, and *Property Research Holdings, Inc. v Town of Hilton Head Island, et al*, Case Number 99-CP-07-653 in the Court of Common Pleas for Beaufort County, South Carolina, and as a donation and gift to **THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA**, a body politic (the "Grantee"), One Town Center Court, Hilton Head Island, SC 29928, has remised, released and forever quit-claimed and by these presents does remise, release and forever quit-claim unto the Grantee, its successors and assigns, the following described property, to-wit

OR BK 01450 PAGE 0745

## See Attached Exhibit A

This being a portion of the property conveyed to the Grantor by deed recorded in the Office of the Register of Deeds for Beaufort County South Carolina in Deed Book 522 at Page 1300

This deed was prepared in the law offices of Novit, Scammach & Williams, P A , Post Office Drawer 14, Hilton Head Island, South Carolina 29938 by Chester C Williams, Esquire, without benefit of title examination.

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 the said premises before mentioned unto the Grantee, its successors and assigns, forever, so that neither the Grantor, nor its successors, nor any other person or persons, claiming under it or them, shall at any time hereafter, by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part or parcel thereof, forever, except as otherwise provided herein.

Witness the hand and seal of the Grantor this 25 day of May, 2001

Signed, Sealed and Delivered  
in the presence of

PROPERTY RESEARCH HOLDINGS, INC

By Francis J. Guscia, Jr.  
Francis J. Guscia, Jr., President

Attest. George D. Womble  
George D. Womble, Secretary

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

ACKNOWLEDGEMENT

I, Charles C Williams the undersigned Notary Public, do hereby  
certify that Francis J. Guscio, Jr., President of Property Research Holdings, Inc., and George D  
Womble, Secretary of Property Research Holdings, Inc., personally appeared before me this day  
and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and seal this 23  
day of May, 2001

Charles C Williams  
Notary Public for South Carolina  
My Commission Expires 9-24-2006

CR HK 01450 PAGE 0747

I:\DOCS\CCW\DOCS\61\REGFILES\PROPERTY RESEARCH\8094-029\EXHIBIT A THH\REV050401.DOC

NS&W\CCW\8094-29  
8094-46  
8094-49  
8094-66**Exhibit A**

All that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 13 127 acres, more or less, shown and designated as "BEACH LOT" on that certain plat entitled "Hilton Head Beach No 1 Subdivision Extension" prepared by Sea Island Engineering, Inc, M A Dunham, SCRLS 11509, dated September 21, 1998, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 81 at Page 153

Together with an appurtenant easement for the benefit of said property for access to said property on, over and across those certain parcels shown and designated as "A", "AA", "B", "BA", "C", "CA", "D", "DA", "E", "EA", "F", "FA", "G", "GA", "H", "HA", "T", and "IA" on said plat entitled "Hilton Head Beach No 1 Subdivision Extension" prepared by Sea Island Engineering, Inc, M A Dunham, SCRLS 11509, dated September 21, 1998, and recorded in said Register's Office in Plat Book 81 at Page 153

Said property is conveyed subject to all applicable covenants, conditions, restrictions and easements of record in said Register's Office, and to such matters as would be revealed by an accurate survey and inspection of said property

Said property is further conveyed subject to appurtenant easements on, over and across said property in favor of all owners of lots within Hilton Head Beach Subdrvision No 1, as shown and described on said plat entitled "Hilton Head Beach Subdivision No 1" prepared by Fred C Hack, RLS, dated April - June, 1952 and recorded in said Register's Office in Plat Book 9 at Page 4, their respective heirs, successors and assigns, for the benefit of their respective lots within Hilton Head Beach Subdrvision No 1, for access to the beaches of the Atlantic Ocean lying generally south and southeast of said property



CR BX 01450 PAGE 0748

Said property is further conveyed subject to appurtenant easements on, over and across said property in favor of all owners of lots within Hilton Head Beach Subdivision No 1A, as shown and described on that certain plat entitled "Hilton Head Beach Subdivision No 1A" prepared by Fred C Hack, RLS, recorded in said Register's Office in Plat Book 9 at Page 69, their respective heirs, successors and assigns, for the benefit of their respective lots within Hilton Head Beach Subdivision No 1A, for access to the beaches of the Atlantic Ocean lying generally south and southeast of said property

A portion of 2551/Map 15A / PAR 526

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COUNTY Beaufort County  
BK 450 PG 0813  
FILE NUM 2001044956  
RECORDING FEES 11 00  
RECORDED BY L THOMAS RCPT# 14890  
RECORDED 07/25/2001 01 14 04 PM

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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT ) QUIT CLAIM ASSIGNMENT

TO ALL WHOM THESE PRESENTS MAY COME

WHEREAS, PROPERTY RESEARCH HOLDINGS INC (the 'Grantor') SENDS  
GREETING

NOW, KNOW ALL MEN BY THESE PRESENTS, that the Grantor, for and in consideration of the premises and that certain Property Exchange Agreement of July 2, 1996 by and among the Grantor Forest Beach Association, Inc., and The Town of Hilton Head Island, South Carolina in settlement of those certain actions styled *Town of Hilton Head Island South Carolina v Property Research Holdings Inc*, Case Number 99-CP-07-95 in the Court of Common Pleas for Beaufort County, South Carolina, and *Forest Beach Association Inc v Property Research Holdings Inc*, Case No 00-CP-07-1471 in the Court of Common Pleas for Beaufort County, South Carolina, and as a donation and gift to FOREST BEACH OWNERS ASSOCIATION, INC (the 'Grantee'), Post Office Box 6442, Hilton Head Island, SC 29938, has assigned, transferred, remised, released and forever quit-claimed, and by these presents does assign, transfer, remise, release and forever quit-claim unto the Grantee its successors and assigns, the following described rights privileges and obligations to-wit

R-615

-000021

## See Attached Exhibit A

This being a portion of the property conveyed to the Grantor by deed recorded in the Office of the Register of Deeds for Beaufort County South Carolina in Deed Book 522 at Page 1300

This assignment was prepared in the law offices of Novit Scarminach & Williams, P A, Post Office Drawer 14, Hilton Head Island South Carolina 29938 by Chester C Williams Esquire, without benefit of title examination

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 the said premises before mentioned unto the Grantee, its successors and assigns, forever, so that neither the Grantor nor its successors nor any other person or persons, claiming under it or them, shall at any time hereafter, by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances or any part or parcel thereof forever, except as otherwise provided herein

Witness the hand and seal of the Grantor this 23 day of May, 2001

Signed, Sealed and Delivered  
in the presence of

PROPERTY RESEARCH HOLDINGS, INC

By Francis J. Guscio, Jr.  
Francis J. Guscio, Jr., President

Attest George D. Womble  
George D. Womble Secretary

R-616

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## EXHIBIT B

ALL those certain pieces, parcels or tracts of lands situated, lying and being in the Forest Beach area on Hilton Head Island, Beaufort County South Carolina, lying and being in the general boundary described, to wit

BEGINNING at the point of intersection of the southern right of way of South Forest Beach Drive with the northeastern corner of Lot 18 Canvasback Road Subdivision, said intersection being in the approximate vicinity of the Ocean Gate of Sea Pines Plantation, thence along the Sea Pines Plantation private community boundary (which boundary is more particularly described in the Declaration of Rights, etc. recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 224 at Page 1036), to the intersection of said boundary with the southern right-of-way of Cordillo Parkway, thence in an easterly direction along the southern right-of-way of Cordillo Parkway to its intersection with the western boundary of Shipyard Plantation, thence in a southerly direction along the Shipyard Plantation western boundary to its southwest corner, thence easterly along the southern boundary of Shipyard Plantation and following said boundary to its intersection with the northern right-of-way of North Forest Beach Drive thence easterly along the northern right-of-way of North Forest Beach Drive to its intersection with the northerly extension of the eastern boundary of Hilton Head Beach Subdivision No. 3 thence in a southerly direction along the eastern boundary of Hilton Head Beach Subdivision No. 3 to the intersection of its extension in a southerly direction with the mean high water of the Atlantic Ocean, thence in a westerly direction along said mean high water mark of the Atlantic Ocean to its intersection with the southerly extension of the eastern boundary of Canvasback Subdivision, thence in a northerly direction along the eastern boundary of Canvasback Subdivision to the point of beginning

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### Exhibit A

All of the Grantor's right, title and interest in, to and under those certain restrictive covenants recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 74 at Page 20, in Deed Book 74 at Page 305, in Deed Book 77 at Page 181, in Deed Book 78 at Page 73, and in Deed Book 78 at Page 306, but only to the extent such restrictive covenants are applicable to the property that is more fully described in Exhibit B attached hereto, it being the intent of the Grantor herein to relinquish unto the Grantee herein only those rights and powers that may be asserted or exercised against the property that is more fully described in Exhibit B attached hereto, and not against any other properties

Saving and excepting therefrom, and reserving unto the Grantor herein, any and all repurchase rights or rights of first refusal provided for in any such restrictive covenants, and any and all rights to approve lot subdivisions, reconfigurations and boundary line changes provided for in any such restrictive covenants

Said conveyance is made subject to all applicable covenants conditions, restrictions and easements of record in said Register's Office, and to such matters as would be revealed by an accurate survey and inspection of said property

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COUNTY Beaufort County  
BK 450 PG 0818  
FILE NUM 2001044957  
RECORDING FEES 11 00  
RECORDED BY L THOMAS RCPT# 14890  
RECORDED 07/25/2001 01 14 04 PM

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STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

QUIT CLAIM ASSIGNMENT

TO ALL WHOM THESE PRESENTS MAY COME

WHEREAS, FOREST BEACH OWNERS ASSOCIATION, INC (the 'Grantor')  
SENDS GREETING

NOW, KNOW ALL MEN BY THESE PRESENTS, that the Grantor, for and in consideration of the premises and that certain Property Exchange Agreement of July 2, 1996 by and among the Grantor, Property Research Holdings Inc, and The Town of Hilton Head Island South Carolina, in settlement of those certain actions styled *Town of Hilton Head Island South Carolina v Property Research Holdings Inc*, Case Number 99-CP-07-95 in the Court of Common Pleas for Beaufort County, South Carolina, and *Forest Beach Association Inc v Property Research Holdings, Inc*, Case No 00-CP-07-1471 in the Court of Common Pleas for Beaufort County, South Carolina, has assigned, transferred, remised, released and forever quit claimed unto PROPERTY RESEARCH HOLDINGS, INC (the 'Grantee'), Post Office Box 7432, Hilton Head Island SC 29938, and by these presents does assign, transfer, remise, release and forever quit-claim unto the Grantee, its successors and assigns, the following described rights, privileges and obligations, to-wit

R-620

000036

See Attached Exhibit A

This being a portion of the property conveyed to the Grantor by instrument recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in ORB 1450 at Page 813

This assignment was prepared in the law offices of Novit, Scarminach & Williams, P A , Post Office Drawer 14, Hilton Head Island, South Carolina 29938 by Chester C Williams, Esquire, without benefit of title examination

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 the said premises before mentioned unto the Grantee, its successors and assigns, forever, so that neither the Grantor, nor its successors nor any other person or persons, claiming under it or them, shall at any time hereafter, by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part or parcel thereof, forever, except as otherwise provided herein

Witness the hand and seal of the Grantor this 23<sup>rd</sup> day of July, 2001

WITNESSES

Christina Lead

Manjima Rose

FOREST BEACH OWNERS  
ASSOCIATION, INC

By

ANDY KLECKEL, ITS  
PRESIDENT

Attest

AZAN JACON, ITS  
SECRETARY

STATE OF SOUTH CAROLINA

)

)

ACKNOWLEDGEMENT

COUNTY OF BEAUFORT

)

I, Mary Ann Case the undersigned Notary Public do hereby  
 certify that Andy Klepchek, the President of Forest Beach Owners  
 Association Inc, and Alan Jackson, the Secretary of Forest Beach  
 Owners Association Inc, personally appeared before me this day and acknowledged the due  
 execution of the foregoing instrument

WITNESS my hand and seal this 28<sup>th</sup>  
 day of July, 2001

Mary Ann Case  
 Notary Public for South Carolina  
 My commission expires 12-14-2004

R-622

000038



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### Exhibit A

All of the Grantor's right, title and interest in and to (1) any and all repurchase rights or rights of first refusal, and (2) any and all rights to approve lot subdivisions, reconfigurations and boundary line changes, as may be provided for in or under any and all restrictive covenants, deed reservations, and other instruments or documents recorded in the Office of the Register of Deeds for Beaufort County, South Carolina which are applicable to the property that is more fully described in Exhibit B attached hereto

Said conveyance is made subject to all applicable covenants, conditions, restrictions and easements of record in said Register's Office, and to such matters as would be revealed by an accurate survey and inspection of said property

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## EXHIBIT B

ALL those certain pieces, parcels or tracts of lands situated, lying and being in the Forest Beach area on Hilton Head Island, Beaufort County South Carolina, lying and being in the general boundary described, to wit

BEGINNING at the point of intersection of the southern right-of-way of South Forest Beach Drive with the northeastern corner of Lot 18 Canvasback Road Subdivision, said intersection being in the approximate vicinity of the Ocean Gate of Sea Pines Plantation, thence along the Sea Pines Plantation private community boundary (which boundary is more particularly described in the Declaration of Rights, etc recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 224 at Page 1036), to the intersection of said boundary with the southern right-of-way of Cordillo Parkway, thence in an easterly direction along the southern right-of-way of Cordillo Parkway to its intersection with the western boundary of Shipyard Plantation, thence in a southerly direction along the Shipyard Plantation western boundary to its southwest corner, thence easterly along the southern boundary of Shipyard Plantation and following said boundary to its intersection with the northern right-of way of North Forest Beach Drive, thence easterly along the northern right-of-way of North Forest Beach Drive to its intersection with the northerly extension of the eastern boundary of Hilton Head Beach Subdivision No 3, thence in a southerly direction along the eastern boundary of Hilton Head Beach Subdivision No 3 to the intersection of its extension in a southerly direction with the mean high water of the Atlantic Ocean, thence in a westerly direction along said mean high water mark of the Atlantic Ocean to its intersection with the southerly extension of the eastern boundary of Canvasback Subdivision, thence in a northerly direction along the eastern boundary of Canvasback Subdivision to the point of beginning

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COUNTY Beaufort County

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RECORDED BY L THOMAS RCPT# 14890

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STATE OF SOUTH CAROLINA )

COUNTY OF BEAUFORT )

DECLARATION OF RESTRICTIVE  
COVENANTS

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R-625

000083

APPENDIX00702

|                         |   |                       |
|-------------------------|---|-----------------------|
| STATE OF SOUTH CAROLINA | ) | DECLARATION OF        |
|                         | ) | RESTRICTIVE COVENANTS |
| COUNTY OF BEAUFORT      | ) | AND EASEMENTS         |

THIS DECLARATION OF RESTRICTIVE COVENANTS (hereinafter sometimes referred to as the Declaration') is made this 20<sup>th</sup> day of July 2001, by Property Research Holdings Inc (hereinafter the Declarant')

### RECITALS

WHEREAS, Declarant is the owner of certain real property located on Hilton Head Island Beaufort County, South Carolina, more particularly described as all those certain pieces, parcels or tracts of land, and which are shown and described as follows

All those certain pieces parcels or tracts of land, shown and described as 6 A, 7A, 16A, 17A, 18A, 27A, 28A, 29A, 38A, 39A, 40A, 49A, 50A, 51A, 60A, 61A, 62A, 71A, 72A, 73A, 95A, 96A, 97A, 98A, 99A, 100A, 101A, 102A, 103A 104A, 105A, 106A, and 108A," on a plat thereof entitled "Hilton Head Beach No 1 Subdivision Extension" prepared by M A Dunham, S C P L S 11590, and which is recorded the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 81 at Page 193 (hereinafter, the "Real Property')

NOW THEREFORE, Declarant hereby declares that the Real Property shall be held, sold and transferred subject to the following restrictive covenants, which shall run with the land and be binding on Property Research Holdings Inc and its successors and assigns and any future owner of all or any part of the Real Property

### ARTICLE 1 - DEFINITIONS

1 When used in this "Declaration of Covenants and Restrictions," the following words shall have the meaning set forth below

1 01 *Declaration* This Declaration of Restrictive Covenants

1 02 *Declarant* The Declarant is Property Research Holdings, Inc

- 1 03 *FBA* The Forest Beach Owner's Association, Inc , or any successor entity thereto
- 1 04 *Hilton Head Beach Subdivision 1 Strand Block Covenants* That certain declaration of covenants and restricts that are recorded in the Office of the Register of Deeds for Beaufort County South Carolina, in Deed Book 74 at Page 305
- 1 05 *Plat* The Plat of the Real Property that is recorded the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book 81 at Page 153
- 1 04 *Real Property* The real property encumbered by this Declaration is described as follows

All those certain pieces, parcels or tracts of land, shown and described as "6 A, 7A, 16A, 17A, 18A, 27A, 28A, 29A, 38A, 39A 40A, 49A, 50A, 51A, 60A, 61A, 62A, 71A, 72A, 73A, 95A, 96A 97A, 98A, 99A 100A, 101A, 102A, 103A, 104A, 105A, 106A, and 108A," on a plat thereof entitled "Hilton Head Beach No 1 Subdivision Extension" prepared ,by M A Dunham, S C P L S 11590, and which is recorded the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 81 at Page 153

## ARTICLE 2 - RESTRICTIONS AND EASEMENTS APPLICABLE TO THE REAL PROPERTY

- 2 The Real Property shall be held, sold and transferred subject to the following restrictions and easements
- 2 1 *No Vertical Construction* No vertical construction is permitted on all or any part of the Real Property, other than wooden dune walk-overs or boardwalks for beach access which are approved and permitted by applicable governmental authorities It is the express intent of this prohibition that no vertical construction shall be permitted within the boundaries of all or any part of the Real Property as those boundaries are shown on the plat as of the date of this Declaration, and that this prohibition shall apply even in the event the Real Property is combined with any other real

property and the boundaries changed

2.2 *View Easement* A view easement is hereby established in favor of any lot within Hilton Head Beach Subdivision Number One abutting any of the lots that comprise the Real Property. This easement is restricted to that portion of the Real Property directly seaward of such lot, so that, for example, the easement encumbering Lot 6A as shown on the Plat is to the benefit of Lot 6 as shown on the Plat, and so on. No activity may occur on all or any part of the Real Property that would restrict or interfere with the view of the beach and Atlantic Ocean from the property abutting the Real Property.

2.3 *Access to Beach and Atlantic Ocean* An easement for direct pedestrian access to the beach and the Atlantic Ocean, to include construction of wooden dune walk-overs or boardwalks for beach access which are approved and permitted by applicable governmental authorities, is hereby established in favor of any lot within Hilton Head Beach Subdivision Number One abutting all or any of the lots that comprise the Real Property. This easement is restricted to that portion of the Real Property directly seaward of such lot, so that, for example, the easement encumbering Lot 6A as shown on the Plat is to the benefit of Lot 6 as shown on the Plat, and so on. No activity may occur on all or any part of the Real Property that would restrict or interfere with the direct access to the beach and the Atlantic Ocean from any such lot in Hilton Head Beach Subdivision Number One across that portion of the Real Property that is directly seaward of such lot.

2.3 *Encroachment Easement* An easement for the continued maintenance and use of any improvements encroaching into or on the Real Property which exist at the time of the recording of this Declaration is hereby established in favor of any lot within Hilton Head Beach Subdivision Number 1 abutting all or any of the lots that comprise the Real Property, to the extent that such

encroaching improvements were originally built for the use and enjoyment of the owner or occupant of any such abutting lot within Hilton Head Beach Subdivision Number 1, provided, however, that such easement shall terminate if and when the encroaching improvements are destroyed or removed

2 5     *Easements as Appurtenances*             The easements established herein are and shall be deemed to be appurtenant to the lots within Hilton Head Beach Subdivision Number 1 which are benefitted by the easements

2 6     *Further Restrictions*     Notwithstanding any combination of all or any part of the Real Property with any lot in Hilton Head Beach Subdivision Number 1, the Real Property is and shall remain subject to the provisions of the Hilton Head Beach Subdivision 1 Strand Block Covenants

### ARTICLE 3 - GENERAL PROVISIONS

3 01     Should any covenant or restriction contained in this Declaration, or any part, article section, paragraph, subparagraph, sentence, clause, phrase or term in this Declaration be declared to be void invalid, illegal or unenforceable for any reason by the adjudication of the highest court or other tribunal of jurisdiction which considers such matter, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable

3 02     When necessary for proper construction, the masculine form of any word used in this Declaration shall include the feminine or neuter gender, and the singular, the plural and vice versa, and words used in the present tense shall include the future tense

3 03     Failure to enforce any provision of this Declaration shall not operate as a waiver of any such provision or of any other provisions of this Declaration

3 04     This Declaration shall be governed by the laws of the State of South Carolina.

3 05     The captions or headings herein are for convenience only and in no way define, limit or

describe the scope or intent of any provision of this Declaration

3 06 Where appropriate, the use of the singular herein shall include and be deemed to be the plural, and the use of the plural herein shall be deemed to include the singular

#### ARTICLE 4 - ENFORCEMENT

4 01 The Declarant affirmatively represents and warrants that the Declarant the FBA and any resident of Hilton Head Beach Subdivision Number 1 has standing to enforce each and every provision of this Declaration, and shall be entitled to enforce the full and faithful performance of any or all of the terms and provisions of this Declaration, which shall include the right to proceed at law or in equity to compel compliance with the terms hereof or to prevent the violation or breach of any of them

4 02 In the event that it becomes necessary for any party with standing to enforce these covenants to take legal action for the enforcement of any term or provision hereof, the prevailing party in any such legal action shall, in addition to any other remedy, be entitled to recover from the defaulting or breaching party all costs and expenses of enforcement thereof, including reasonable attorney's fees and costs of suit

#### ARTICLE 5 - BINDING EFFECT AND DURATION

5 01 This Declaration shall run with the Real Property and shall be binding upon the parties hereto, their heirs, successors and assigns, and all persons claiming by, through or under them for a period of twenty-five (25) years from the date this Declaration is recorded, after which time this Declaration shall be automatically extended for successive periods of ten (10) years unless an instrument signed by all of the then owners of one hundred percent of the Real Property and any other party with easement or enforcement rights hereunder, has been recorded, agreeing to change



the said Declaration in whole or in part

#### ARTICLE 6 - RIGHT OF FIRST REFUSAL

6 01 In the event that the Declarant receives any bona fide offer to purchase any of the lots comprising the Real Property from a person other than the owner of the lot within Hilton Head Beach Subdivision Number 1 that abuts the lot for which the offer was received, the Declarant shall, with full disclosure to the intended purchaser, first offer that particular lot within the Real Property for sale to the owner of the abutting lot within Hilton Head Beach Subdivision Number 1, at the same price and under the same terms as any such bona fide offer. The owner of the abutting lot within Hilton Head Beach Subdivision shall have the greater of (a) fifteen (15) days from the date of receipt of the offer or, (b) twenty (20) days from the posting or mailing of the offer by the Declarant by certified mail, return receipt requested, to the address of such owner as shown on the property tax receipts in the Beaufort County Assessor's or Treasurer's Office, to notify Declarant in writing delivered by certified mail, return receipt requested at Post Office Box 7432, Hilton Head Island SC, 29938 that it will exercise its option to purchase the Real Property, and shall thereafter have thirty (30) days to close the transaction. If the owner of the abutting lot within Hilton Head Beach Subdivision Number 1, fails or refuses to timely exercise its option as set forth in this Article 6 01, then the Declarant shall have the right to sell the property under the exact price, terms and conditions of the bona fide offer as disclosed to the abutting lot within Hilton Head Beach Subdivision Number 1, provided, however, that any such sale shall be subject to the terms and conditions of this Declaration.

IN WITNESS WHEREOF, the Declarant, by and through its duly authorized officer, has duly executed this Declaration of Restrictive Covenants on this \_\_\_\_ day of July, 2001

WITNESSES

PROPERTY RESEARCH HOLDINGS, INC

Curt Pittman

By George D. Womble  
George D Womble

Raymond Case

Its Treasurer

STATE OF SOUTH CAROLINA )

)

UNIFORM ACKNOWLEDGMENT

COUNTY OF BEAUFORT

)

S C CODE ANN § 30-5-30 (SUPP 2001)

I, the undersigned Notary Public do hereby certify that George D Womble, duly authorized officers of Property Research Holdings Inc , personally appeared before me on this day and duly acknowledged the execution of the foregoing instrument on behalf of of Property Research Holdings Inc

Sworn to and Subscribed before me  
on this 20<sup>th</sup> Day of July, 2001

Raymond Case  
Notary Public for South Carolina  
My Commission Expires 12-14-2004

2/13  
G/H/11/11  
5036  
  
HOM

COUNTY Beaufort County  
BK 01450 PG 0852  
FILE NDM 2001044963  
RECORDING FEES 10 00  
RECORDED BY L THOMAS RCPT# 14890  
RECORDED 07/25/2001 01 14 04 PM

I:\DOCS\CCW\DOCS61\REGFILES\PROPERTY RESEARCH\8094\TERMINATION OF CC&RS DOC NS&W\CCW\8094 29  
8094-46  
8094-49  
8094-66

STATE OF SOUTH CAROLINA )  
 )  
 )  
 )  
COUNTY OF BEAUFORT ) RECISSION AND  
 ) TERMINATION OF  
 ) RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS

THAT FOREST BEACH OWNERS ASSOCIATION, INC , formerly known  
as Forest Beach Association Inc , hereby rescinds, terminates, voids and renounces that  
certain Additional Declaration of Covenants and Restrctions for Forest Beach  
Subdivision and Provisions for the Forest Beach Association, Inc of October 19, 1990  
recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in  
Deed Book 563 at Page 1179, and releases any and all properties from the effects,  
charges and encumbrance thereof

WITNESS the execution hercof this 25<sup>th</sup> day of July 2001

WITNESSES

FOREST BEACH OWNERS  
ASSOCIATION, INC

Christine Lead

By [Signature]  
ANDY KLEPCHUCK, its  
President

Mary Ann Case

Attest [Signature]  
ALAN JACKSON, its  
Secretary

STATE OF SOUTH CAROLINA

)

ACKNOWLEDGEMENT

COUNTY OF BEAUFORT

)

I Mary Ann Case the undersigned Notary Public, do hereby certify that Andy Klepcheck, the President of Forest Beach Owners Association Inc, and Alan Jackson, the Secretary of Forest Beach Owners Association, Inc personally appeared before me this day and acknowledged the due execution of the foregoing instrument

WITNESS my hand and seal this 23<sup>rd</sup> day of July, 2001

[Signature]  
Notary Public for South Carolina  
My commission expires 12-14-2004

106  
e/Thomas  
5036

COUNTY Beaufort County  
BK '450 PG 0850  
FILE NUM 2001044962  
RECORDING FEES 10 00  
RECORDED BY L THOMAS RCPT# 14890  
RECORDED 07/25/2001 01 14 04 P

I:\DOCS\CCW\DOCS61\REG\FILES\PROPERTY RESEARCH\8094\REENTRY TERMINATION DOC

NS&W/CCW/8094-29  
8094-46  
8094-49  
8094-66

STATE OF SOUTH CAROLINA )

)

WITHDRAWAL OF  
NOTICE OF RE-ENTRY

)

COUNTY OF BEAUFORT )

)

KNOW ALL MEN BY THESE PRESENTS

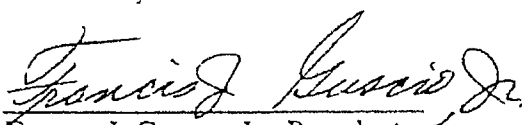
THAT PROPERTY RESEARCH HOLDINGS, INC hereby withdraws and rescinds that certain Notice of Re-Entry filed on August 29, 2000 in the Office of the Register of Deed for Beaufort County, South Carolina in ORB 1327 at Page 1912, *provided however* that Forest Beach Owners Association, Inc shall acknowledge, recognize and acquiesce in all actions taken by or on behalf of Property Research Holdings, Inc as a declarant under applicable restrictive covenants between August 29, 2000 and the date and time of the recording of this instrument

WITNESS the execution hereof this 23 day of May, 2001

WITNESSES

PROPERTY RESEARCH  
HOLDINGS, INC


By   
Francis J. Guscio, Jr, President

R-635

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APPENDIX00712

STATE OF SOUTH CAROLINA

COUNTY OF BLAUFORT

)  
)  
)

ACKNOWLEDGMENT

I, CHRISTOPHER WILLIAMS the undersigned Notary Public, do hereby certify that Francis J. Guscio Jr., President of Property Research Holdings, Inc. personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and seal this 23  
day of May, 2001



Notary Public for South Carolina  
My commission expires 9-24-2006

R-636

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## **EXHIBIT 33**

### **REAL ESTATE TAXES**

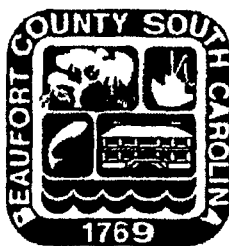
- 1) Parcel A PB 81/153 – tax parcel 537**
- 2) Parcel AA PB 81/153 – tax parcel 538**
- 3) Parcel C PB 10/89 – tax parcel 532**

## **REAL ESTATE TAXES - 2004**

- 1) Parcel A PB 81/153 – tax parcel 537**
- 2) Parcel AA PB 81/153 – tax parcel 538**
- 3) Parcel C PB 10/89 – tax parcel 532**



**Beaufort County Assessor**  
PO Box 1508  
Beaufort SC 29901 1508



1 843-470-2850 8 00-4 00 M-F  
 1 866 470 2850 8 00-4 00 M-F  
 (Toll Free)  
 1 843 470-2545 Fax Number  
 1 843-470 2860 24 hours/day  
 (Automated)  
[www.bcgov.net/Assessor](http://www.bcgov.net/Assessor)

**THIS IS NOT A TAX BILL**

FOREST BEACH OWNERS ASSOC INC 81381  
PO BOX 6442  
HILTON HEAD ISLAND SC 29938 6442

## NOTICE OF CLASSIFICATION, APPRAISAL &amp; ASSESSMENT OF REAL ESTATE 2004TAX YEAR

| CLASSIFICATION                                                                                                                                                                                  | ACRES | LOTS | BLDG | USE<br>VALUE | TAXABLE              | X | RATIO | = | ASSESSED VALUE | PARCEL I D NUMBER                                     |                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|------|------|--------------|----------------------|---|-------|---|----------------|-------------------------------------------------------|--------------------------------|
| OWNER<br>OCCUPIED LEGAL<br>RESIDENCE                                                                                                                                                            |       |      |      |              |                      |   |       |   |                | R551 015 00A 0537 0000                                |                                |
| OTHER<br>PROPERTY                                                                                                                                                                               | 1     | 0    | 0    |              | 500                  | X | 0 06  | = | 30             | ACCT KEY NUMBER<br>10126830                           |                                |
| AGRICULTURAL<br>PROPERTY                                                                                                                                                                        |       |      |      |              |                      |   |       |   |                |                                                       |                                |
|                                                                                                                                                                                                 |       |      |      |              | TOTAL ASSESSED VALUE |   |       | = | 30             | THE TOTAL MARKET<br>VALUE<br>ESTIMATE IS<br><br>\$500 |                                |
| PROPERTY LOCATION - SUBDIVISION - LEGAL DESCRIPTION<br><br>LOT A HILTON HEAD BEACH S/D 1<br>PB81 P153 PB84 PG77<br>SPLIT 3/02 14 29 AC 15A/538-                                                 |       |      |      |              |                      |   |       |   |                |                                                       |                                |
| IF YOU DISAGREE WITH ANY INFORMATION CONTAINED IN THIS NOTICE YOU MUST<br>FILE A WRITTEN APPEAL WITH THE ASSESSOR WITHIN 90 DAYS OF THIS NOTICE,<br>OR BEFORE 11/6/2004 PLEASE SEE FORM ON BACK |       |      |      |              |                      |   |       |   |                | DISTRICT NAME<br><br>FOREST BEACH MID                 | DATE OF NOTICE<br><br>8/6/2004 |

Section 12 43 220 of the 1978 Code of Laws as amended provides for the classification and uniform assessment ratios of property. The property described herein has been appraised and assessed at the appropriate assessment ratio based on the last application received.

COUNTYWIDE REVALUATION AT MARKET VALUE

Please keep this portion for your record

PLEASE SEE FORM ON BACK IF YOU WISH TO APPEAL YOUR PROPERTY VALUE

In May 1992 the SC legislature added Section 12-4-335 to the SC Code of Laws. This section effectively specifies who can make a presentation for a taxpayer in the administrative tax process. This presentation includes the preparation and filing of necessary documents, correspondence with, and communications to state and local tax authorities, and the representation of a client at conferences, hearings, and meetings.

Only the following can make a presentation for a taxpayer: 1) The property owner 2) A member of his/her immediate family without compensation 3) The property owner's full time employee 4) A partner or partnership 5) An attorney 6) A certified public accountant (CPA) 7) An Internal Revenue Service enrolled agent 8) A real estate appraiser who is licensed by the South Carolina Real Estate Appraiser's Board

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APPENDIX00716

**R-639**

BEAUFORT COUNTY TREASURER  
PO DRAWER 487  
BEAUFORT SC 29901-0487



ADDRESS SERVICE REQUESTED

# TAX BILL

**HOMESTEAD EXEMPTION** Available to primary homeowners over age 65 or 100% disabled. Initial application to County Auditor is required to be filed between the dates of January 1st of the current year and January 15th of the following year. It is automatically renewed after the initial application. Contact County Auditor for details.

**Special Assessment Ratio (4%)** Available to homeowners who occupy their homes as their legal domicile prior to filing an application for the current tax year. The owner must file an application with the County Assessor between January 1st of the current year through January 15th of the following year. Once the initial application is filed, it will automatically be renewed each year unless there is a change in ownership or occupancy. You are required by law to notify the Assessor of any change of address or occupancy within six months of the change.

**Escrow/Mortgage Accounts** The property owner is responsible for ensuring full payment of this obligation. If funds are held in escrow to pay for this notice forward to the appropriate mortgage holder.

GRP NO-10493 Page 1 of 18  
FOREST BEACH OWNERS ASSOC INC  
PO BOX 6442  
HILTON HEAD ISLAND SC 29938-6442

| TAX YEAR | KEY      | PARCEL ID              | DISTRICT NAME    | TYPE          | TYPE PCA | MORTGAGE CODE |
|----------|----------|------------------------|------------------|---------------|----------|---------------|
| 2004     | 10126830 | R551 015 00A 0537 0000 | FOREST BEACH MID | REAL PROPERTY | 6005-45  |               |

LOT A HILTON HEAD BEACH S/D 1 PB81 P153 PB84 PG77  
SPLIT 3/02 14.29 AC 15A/538 554/579/612

| BREAKDOWN   |        |         | ACCOUNT DATA |        | APPROXIMATED VALUE  |             |
|-------------|--------|---------|--------------|--------|---------------------|-------------|
| DESCRIPTION | MILL   | TAX/FEE | DESCRIPTION  | AMOUNT | LESS EXEMPTIONS     |             |
| SOL WASTE   | 4.50   | 0.14    | LAND VAL     | 500    | HOMESTEAD EXEMPTION | 500         |
| COUNTY      | 39.60  | 1.19    | TAXABLE      | 500    | OTHER EXEMPTIONS    |             |
| SCHOOL      | 94.20  | 2.83    | ASSESSED     | 30     | TAXABLE VALUE       | 500         |
| MUNICIPAL   | 22.30  | 0.67    | # ACRES      | 1.00   | ASSESS VALUE        | 30          |
| INDG-CARE   | 1.50   | 0.05    |              |        | TAX AMOUNT          | 4.97        |
| CONT EDUC   | 3.00   | 0.09    |              |        |                     |             |
| TOTALS      | 165.10 | 4.97    |              |        |                     |             |
|             |        |         |              |        | <b>TOTAL DUE</b>    | <b>4.97</b> |
|             |        |         |              |        | PAY AFTER           | AMOUNT      |
|             |        |         |              |        | JAN 15 2005         | 5.12        |
|             |        |         |              |        | FEB 01 2005         | 5.47        |
|             |        |         |              |        | MAR 16 2005         | 5.72        |
|             |        |         |              |        | MAR 31 2005         | 80.72       |

2003 TAXES 6.78

DETACH AT PERFORATION AND RETURN LOWER PORTION

000253

R-640

- 002800

BEAUFORT COUNTY TREASURER  
TAX RECEIPT

RECEIPT ACCOUNT NUMBER  
10126830 R551 015 00A 0537 0000 TAX YEAR 2004

D TRICT FOREST BEACH MID  
TYPE PROPERTY CODE 6005-45  
ASSESSMENT RATIO 6 PERCENT

| BREAKDOWN OF TAXES |        |       |
|--------------------|--------|-------|
| ACCOUNT            | MILLS  | TAXES |
| SOL WASTE          | 4 50   | 14    |
| COUNTY             | 39 60  | 1 19  |
| SCHOOL             | 94 20  | 2 83  |
| MUNICIPAL          | 22 30  | 67    |
| INDG-CARE          | 1 50   | 05    |
| CONT EDUC          | 3 00   | 09    |
| TOTALS =           | 165 10 | 4 97  |

FOREST BEACH OWNERS ASSOC INC  
PO BOX 6442  
HILTON HEAD ISLAND SC 29938-0000

TAXES PAID 4 97  
PENALTY PAID 0 00  
- TOTAL PAID 4 97 ON NOV 18, 2004

LOT A HILTON HEAD BEACH S/D 1  
PB81 P153 PB84 PG77  
SPLIT 3/02 14 29 AC 15A/538-  
554/579/612

| ACCOUNT DATA |        |
|--------------|--------|
| ITEM         | AMOUNT |
| LAND VAL     | 500    |
| USE VAL      |        |
| BLDG VAL     |        |
| INC VAL      |        |
| TAXABLE      | 500    |
| ASSESSED     | 30     |
| NO ACRES     | 1 00   |

RETAIN THIS TAX RECEIPT FOR YOUR RECORDS

490

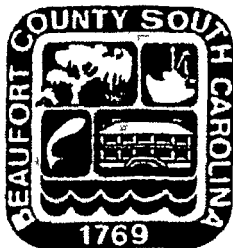
000255

R-641

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APPENDIX00718

Beaufort County Assessor  
PO Box 1508  
Beaufort SC 29901 1508



1 843-470 2850 8 00-4 00 M-F  
1 866-470-2850 8 00-4 00 M-F  
(Toll Free)  
1 843 470 2545 Fax Number  
1 843 470 2860 24 hours/day  
(Automated)  
www.bcgov.net/Assessor

## THIS IS NOT A TAX BILL

FOREST BEACH OWNERS ASSOC INC  
PO BOX 6442  
HILTON HEAD ISLAND SC 29938

### NOTICE OF CLASSIFICATION, APPRAISAL & ASSESSMENT OF REAL ESTATE 2004 TAX YEAR

| CLASSIFICATION                                        | ACRES | LOTS | BLDG | USE<br>VALUE | TAXABLE | X | RATIO | = | ASSESSED VALUE | PARCEL ID NUMBER                                  |
|-------------------------------------------------------|-------|------|------|--------------|---------|---|-------|---|----------------|---------------------------------------------------|
| OWNER<br>OCCUPIED LEGAL<br>RESIDENCE                  |       |      |      |              |         |   |       |   |                | R551 015 00A 0538 0000                            |
| OTHER<br>PROPERTY                                     | 1     | 0    | 0    |              | 500     | X | 0 06  | = | 30             | 10126849                                          |
| AGRICULTURAL<br>PROPERTY                              |       |      |      |              |         |   |       |   |                |                                                   |
| TOTAL ASSESSED VALUE                                  |       |      |      |              |         |   |       |   | = 30           |                                                   |
| PROPERTY LOCATION - SUBDIVISION - LEGAL DESCRIPTION   |       |      |      |              |         |   |       |   |                | THE TOTAL MARKET<br>VALUE<br>ESTIMATE IS<br>\$500 |
| LOT AA HILTON HEAD BEACH S/D 1<br>PB81 P153 PB84 PG77 |       |      |      |              |         |   |       |   |                |                                                   |

IF YOU DISAGREE WITH ANY INFORMATION CONTAINED IN THIS NOTICE YOU MUST  
FILE A WRITTEN APPEAL WITH THE ASSESSOR WITHIN 90 DAYS OF THIS NOTICE  
OR BEFORE 11/6/2004 PLEASE SEE FORM ON BACK

DISTRICT NAME

DATE OF NOTICE

FOREST BEACH MID

8/6/2004

Section 12-43 220 of the 1978 Code of Laws as amended provides for the classification and uniform assessment ratios of property. The property described herein has been appraised and assessed at the appropriate assessment ratio based on the last application received.

COUNTYWIDE REVALUATION AT MARKET VALUE

Please keep this portion for your record

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In May 1992 the SC legislature added Section 12-4 335 to the SC Code of Laws. This section effectively specifies who can make a presentation for a taxpayer in the administrative tax process. This presentation includes the preparation and filing of necessary documents, correspondence with and communications to state and local tax authorities, and the representation of a client at conferences, hearings, and meetings.

Only the following can make a presentation for a taxpayer: 1) The property owner, 2) A member of his/her immediate family without compensation, 3) The property owner's full time employee, 4) A partner or partnership, 5) An attorney, 6) A certified public accountant (CPA), 7) An Internal Revenue Service enrolled agent, 8) A real estate appraiser who is licensed by the South Carolina Real Estate Appraiser's Board.

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R-642

000174

APPENDIX00719

BEAUFORT COUNTY TREASURER  
PO DRAWER 487  
BEAUFORT SC 29901-0487



ADDRESS SERVICE REQUESTED

2004 BEAUFORT COUNTY PROPERTY

**TAX BILL**

**HOMESTEAD EXEMPTION** Available to primary homeowners over age 65 or 100% disabled. Initial application to County Auditor is required to be filed between the dates of January 1st of the current year and January 15th of the following year. It is automatically renewed after the initial application. Contact County Auditor for details.

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GRP NO-10493 Page:2 of 18  
FOREST BEACH OWNERS ASSOC INC  
PO BOX 6442  
HILTON HEAD ISLAND SC 29938-6442

| TAX YEAR | KEY      | PARCEL ID              | DISTRICT NAME    | TYPE          | TYPE PPA | MORTGAGE CODE |
|----------|----------|------------------------|------------------|---------------|----------|---------------|
| 2004     | 10126849 | R551 015 00A 0538 0000 | FOREST BEACH MID | REAL PROPERTY | 8005-45  |               |

LOT AA HILTON HEAD BEACH S/D 1 PB81 P153 PB84 PG77

| BREAKDOWN   |        |         | ACCOUNT DATA |        | APPRAISED VALUE        |
|-------------|--------|---------|--------------|--------|------------------------|
| DESCRIPTION | MILL   | TAX/FEE | DESCRIPTION  | AMOUNT | 500                    |
| SOL WASTE   | 4.50   | 0.14    | LAND VAL     | 500    |                        |
| COUNTY      | 39.60  | 1.19    | TAXABLE      | 500    |                        |
| SCHOOL      | 94.20  | 2.83    | ASSESSED     | 30     |                        |
| MUNICIPAL   | 22.30  | 0.67    | # ACRES      | 1.00   |                        |
| INDG-CARE   | 1.50   | 0.05    |              |        |                        |
| CONT EDUC   | 3.00   | 0.09    |              |        |                        |
| TOTALS      | 165.10 | 4.97    |              |        |                        |
|             |        |         |              |        | <b>LESS EXEMPTIONS</b> |
|             |        |         |              |        | HOMESTEAD EXEMPTION    |
|             |        |         |              |        | OTHER EXEMPTIONS       |
|             |        |         |              |        | TAXABLE VALUE 500      |
|             |        |         |              |        | ASSESS VALUE 30        |
|             |        |         |              |        | TAX AMOUNT 4.97        |
|             |        |         |              |        | <b>FEES ADDED</b>      |
|             |        |         |              |        | <b>TOTAL DUE 4.97</b>  |
|             |        |         |              |        | <b>PAY AFTER</b>       |
|             |        |         |              |        | <b>AMOUNT</b>          |
|             |        |         |              |        | JAN 15 2005 5.12       |
|             |        |         |              |        | FEB 01 2005 5.47       |
|             |        |         |              |        | MAR 16 2005 5.72       |
|             |        |         |              |        | MAR 31 2005 80.72      |
|             |        |         |              |        | 2003 TAXES 6.98        |

DETACH AT PERFORATION AND RETURN LOWER PORTION

000254

R-643

002601

APPENDIX00720

BEAUFORT COUNTY TREASURER  
TAX RECEIPT

RECEIPT ACCOUNT NUMBER  
10126849 R551 015 00A 0538 0000 TAX YEAR 2004  
DISTRICT FOREST BEACH MID  
TYPE PROPERTY CODE 6005-45  
ASSESSMENT RATIO 6 PERCENT

| BREAKDOWN OF TAXES |        |       |
|--------------------|--------|-------|
| ACCOUNT            | MILLS  | TAXES |
| SOL WASTE          | 4 50   | 14    |
| COUNTY             | 39 60  | 1 19  |
| SCHOOL             | 94 20  | 2 83  |
| MUNICIPAL          | 22 30  | 67    |
| INDG-CARE          | 1 50   | 05    |
| CONT EDUC          | 3 00   | 09    |
| TOTALS =           | 165 10 | 4 97  |

FOREST BEACH OWNERS ASSOC INC  
PO BOX 6442  
HILTON HEAD ISLAND SC 29938-0000

TAXES PAID 4 97  
PENALTY PAID 0 00  
- TOTAL PAID 4 97 ON NOV 18, 2004

LOT AA HILTON HEAD BEACH S/D 1  
PB81 P153 PB84 PG77

| ACCOUNT DATA |        |
|--------------|--------|
| ITEM         | AMOUNT |
| LAND VAL     | 500    |
| USE VAL      |        |
| BLDG VAL     |        |
| INC VAL      |        |
| TAXABLE      | 500    |
| ASSESSED     | 30     |
| NO ACRES     | 1 00   |

RETAIN THIS TAX RECEIPT FOR YOUR RECORDS

481

R-644

000256

002803

APPENDIX00721

