

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )  
 )  
Elizabeth Heatley, Neal B. McCann, )  
Jr., David Neil Monk, Thomas V. )  
Bessent, and Mariner's Cay Marina )  
Council of Co-Owners, Inc. )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
Mariner's Cay Marina Condo, LLC )  
and Mariner's Cay Fuel Dock, LLC, )  
George A. Farmer, Jr., and South )  
Atlantic Bank )  
 )  
Defendants )  
 )

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT  
CASE NO.: 2017-CP-10-3099

**ORDER ON DEFENDANTS'  
MOTION TO ALTER OR AMEND**

**RECEIVED**  
OCT 19 2022  
SC Court of Appeals

This case came before me for hearing on September 7, 2022, on the motion of Defendants filed May 19, 2022 pursuant to Rule 59(e), South Carolina Rules of Civil Procedure, to alter or amend the Court's final order filed on May 19, 2022.

Defendants appeared with their attorney, G. Hamlin O'Kelley, III. Plaintiffs appeared with their attorney, Capers G. Barr, III. Amanda Gaston, Esq., with the firm Clawson and Staubes, also made her appearance for Plaintiffs.

For the reasons hereafter discussed, the motion of Defendants for reconsideration of the court's order is denied. However, the order shall be altered, as hereafter provided.

Defendants' written motion, which was not supported by memoranda or written argument, recites twenty-one written points for reconsideration. In their written response to Defendants' motion, Plaintiffs provided written arguments in response to Defendants' points numbered 2, 9, 10 and 21. In response to the remaining 17 points, Plaintiffs suggest that the Court's May 19, 2022 Order adequately disposes of them.

Having considered the written filings by the parties, and their oral arguments, the Court concludes that, to the extent that Defendants seek the Court's reversal of its May 16, 2022 final order, the motion must be, and is hereby, denied.

The principal argument made by Defendants in their written motion, as well as in their oral arguments, centers on their "acquiescence" defense argued and briefed at trial, and extensively addressed in the Court's final order.

Having heard the arguments of the parties, and having reconsidered my ruling on the acquiescence issue, the Court stands on its rulings thereabout in the final order. Among other reasons, I conclude, once again, that Code Sections 27-31-60 and 27-31-70 must be reconciled, and that the construction argued by Defendants introduces a conflict between the two sections that does not otherwise exist. Accordingly, the Defendants' argument, that the Court's ruling on acquiescence must be reconsidered and reversed, is denied.

There is an issue, however, that although not made in Defendants' written motion, was discussed in colloquy between the Court and counsel at hearing. As presently written, the Court's order as stated in the second adjudicative paragraph on page 19 thereof, purports to grant relief relating to "every other owner of a boat slip unit at Mariner's Cay Marina." Inasmuch as this case seeks declaratory relief only on behalf of the four individual plaintiffs, it was not the Court's intent to rule with respect to the rights of any other parties.

Accordingly the final Order in the second adjudicative paragraph on page 19 must be altered to read as follows:

“ORDERED, ADJUDGED AND DECREED, that the individual Plaintiffs, Elizabeth Heatley, Neal B. McCann, Jr., David Neil Monk, and Thomas V. Bessent are herewith and hereby declared to own, and they do hold and own, undivided interests in the Ship’s Store Building and Commercial Units CU-1A, CU-1B, and the Fuel Docks, CU-2, as tenants in common, in accordance with the South Carolina Horizontal Property Act, South Carolina Code Sections 27-31-10 et seq., and in accordance with the 2006 Master Deed for Mariner’s Cay Marina, recorded May 18, 2006 in the Office of the Register of Deeds for Charleston County in Book V583 at Page 584.”

In every further respect, the Order of this Court filed May 16, 2022 is hereby affirmed, and the motion of Defendants to alter or amend is, DENIED.

AND IT IS SO ORDERED!

\_\_\_\_\_  
Mikell R. Scarborough  
Master in Equity

Charleston, South Carolina  
\_\_\_\_\_, 2022



Charleston Common Pleas

**Case Caption:** Alben D Neighbors , plaintiff, et al VS Mariners Cay Marina Condo  
LLC , defendant, et al  
**Case Number:** 2017CP1003099  
**Type:** Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062