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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2026-000690
Case No. 2024-CP-07-00156

Queens Grant Regime, II, Inc.,
Horizontal Property Regime, Respondent,

v.

Greenwood Resorts and Communities, Inc., d/b/a Palmetto Dunes Resort and Callaway Brands, Inc., d/b/a TopTracer Golf, Appellants.

RESPONDENT'S REPLY IN OPPOSITION TO APPELLANTS' PETITION FOR SUPERSEDEAS

COMES NOW Respondent, Queens Grant Regime, II, Inc. ("Queens Grant" or "Respondent"), by and through undersigned counsel, and respectfully submits this Reply in Opposition to Appellants' Petition for Supersedeas pursuant to Rule 241, SCACR, and would show the Court as follows:

I. INTRODUCTION

Appellants seek extraordinary relief under Rule 241, SCACR, while disregarding the Rule's mandatory procedural requirements. Their Petition should be denied at the threshold. Rule 241 requires that a party first seek supersedeas from the trial court and demonstrate extraordinary circumstances before invoking this Court's jurisdiction. Second, Rule 241(d) clearly requires the

Petition to be verified. Appellants did neither. The Petition does not meet the threshold requirements to be considered by this Court.

Instead, Appellants bypassed an actively engaged trial court which conducted multiple hearings, supervised mediation, entertained post-order motions, and required ongoing status reporting to allow Appellants the opportunity to remedy the dangerous conditions on their own prior to judicial intervention. Appellants now seek to circumvent Rule 241 and obtain relief from this Court in the first instance. This procedural failure alone requires denial and dismissal of the Petition.

More fundamentally, the record establishes not merely a property dispute, but an ongoing and dangerous condition involving high-velocity golf balls entering a residential community and posing a continuing risk of bodily injury to residents, guests, and children. The trial court's injunction was entered to prevent that danger. Appellants now seek to lift those protections during the pendency of the appeal.

Even if the Court were to reach the merits, Appellants cannot demonstrate that supersedeas is necessary to preserve appellate jurisdiction, prevent mootness, or maintain the status quo. Rather, Appellants seek to undo a properly entered injunction and permit the continuation of conduct the trial court found to be unlawful and dangerous.

II. APPELLANTS FAILED TO COMPLY WITH RULE 241(d), SCACR

A. Rule 241(d) Requires Initial Application to the Trial Court

Rule 241(d)(1), SCACR, provides that an application for supersedeas "shall ordinarily be made in the first instance to the lower court," and only upon a showing of extraordinary circumstances may a party seek relief directly from the appellate court.

South Carolina courts recognize that supersedeas is limited relief intended to preserve appellate jurisdiction, not to provide an alternative avenue for relief that should first be sought below. See *Graham v. Graham*, 301 S.C. 128, 130, 390 S.E.2d 469, 470 (Ct. App. 1990).

B. Appellants Failed to First Seek Relief from the Trial Court

Appellants have not demonstrated that they sought supersedeas or a stay from the trial court prior to filing their Petition with this Court. This omission is particularly significant given the procedural posture of this case. The trial court conducted multiple hearings, ordered and supervised mediation on December 20, 2024, which resulted in an impasse, and required ongoing 30-60-90 day status reports to monitor conditions and compliance. The trial court further entered its Order Granting Temporary Injunctive Relief on February 13, 2026, followed by its Amended Order on March 30, 2026, and continued to exercise jurisdiction as stated in its Orders. At all relevant times, the trial court remained actively engaged and available to consider any request for supersedeas and any attempts made by Appellants to rectify their dangerous business practices. Appellants' failure to first seek relief from the trial court constitutes a clear violation of Rule 241(d)(1) and warrants denial of the Petition. Rather than remedy a dangerous situation or follow the rules, Appellants seeks only to make money in disregard of the Rules and the safety of the Respondents community.

The procedural history further reflects that the trial court exercised considerable restraint and actively worked to attempt to allow the parties to resolve the ongoing issues before imposing injunctive relief. Rather than immediately entering a temporary restraining order, the trial court conducted hearings, directed the parties to mediation, and provided an opportunity for Appellants to implement corrective measures. Appellants did, in fact, undertake certain modifications that Appellants claim reduced the number of errant golf balls leaving the driving range. However, as reflected in the continued incident tracking maintained by Lt. Col. Andy Lundgren, USMC (Ret.),

an unsafe and unacceptable number of errant golf balls continue to enter Queens Grant Regime II, posing a persistent risk of physical injury to residents. This history underscores both the reasonableness of the trial court's approach and the necessity of the injunctive relief ultimately imposed.

C. Appellants Have Failed to Demonstrate Extraordinary Circumstances

Rule 241(d)(1) permits direct application to the appellate court only where extraordinary circumstances render application to the trial court impracticable.

Appellants have made no such showing. The existence of an adverse ruling does not constitute an extraordinary circumstance. Nor does speculation regarding how the trial court might rule or how long it might take. Rule 241 states delay on "this application" meaning the Petition for Supersedeas. There is no evidence that the trial court would not timely consider a properly filed petition from Appellant.

Here, the trial court was actively exercising jurisdiction, addressing motions, and supervising the case. There was no delay, inaccessibility, or other impediment that would justify bypassing the trial court. Accordingly, Appellants have failed to satisfy the threshold requirement of Rule 241(d).

D. Appellants' Petition Lacks Proper Verification and Competent Evidentiary Support

Rule 241(b), SCACR, requires that a petition for supersedeas be supported by verified facts or affidavit evidence sufficient to justify the extraordinary relief requested.

Appellants rely on the affidavit of Alex Franseen, which fails to provide competent, verified evidence supporting supersedeas. While the affidavit contains statements regarding business operations and alleged financial impacts, it is deficient in several critical respects.

First, the affiant expressly acknowledges limitations in his knowledge, stating that he is "personally unaware of any instances of injury to people or pets in Queens Grant Regime II" and is only aware of "instances of alleged property damage." This admission does not rebut the existence of ongoing harm or risk of injury; rather, it underscores the affiant's lack of personal knowledge regarding the central issue before the Court.

Second, the affidavit focuses primarily on alleged economic harm, including projected revenue losses, employee impacts, and operational costs. Such assertions, even if accepted as true, are insufficient as a matter of law to support supersedeas, which is concerned with preserving appellate jurisdiction, not avoiding economic consequences.

Third, the affidavit relies on generalized operational data and internal records without addressing the continued intrusion of errant golf balls onto Respondent's property or the resulting risk to residents.

Accordingly, Appellants have failed to provide the verified, competent evidence required under Rule 241(b), and this deficiency independently warrants denial of the Petition.

III. SUPERSEDEAS IS NOT WARRANTED UNDER RULE 241(c), SCACR

A. Supersedeas Is Not Necessary to Preserve Jurisdiction or Prevent Mootness

Rule 241(c)(2), SCACR, provides that supersedeas may be granted only where necessary to preserve the jurisdiction of the appellate court or prevent a contested issue from becoming moot. Appellants have failed to demonstrate either. The issues on appeal, whether injunctive relief was properly granted and whether Appellants' conduct constitutes actionable interference, remain live regardless of the temporary duration of the injunction.

B. Supersedeas Would Not Preserve the Status Quo

Appellants incorrectly argue that supersedeas is necessary to preserve the status quo. However, the relevant status quo is the condition established by the trial court's Order following its findings of ongoing harm.

Granting supersedeas would not preserve that condition, it would reverse it by allowing the conduct the trial court determined to be unlawful and dangerous to resume.

Appellants further contend that enforcement of the trial court's Order during Heritage week and spring break is "purely punitive in effect, whatever its stated justification." This argument is both factually and legally misplaced. The injunction was not entered to punish Appellants, but to prevent an ongoing and documented safety hazard involving errant golf balls entering a residential community. The timing of the Order reflects the procedural posture of the case, not any punitive intent. Indeed, the trial court exercised restraint over an extended period, attempting to allow Appellants opportunities to implement corrective measures before ultimately concluding that injunctive relief was necessary.

Moreover, the risk to residents is heightened, not diminished, during periods of increased use of the driving range, such as spring break and Heritage week. Increased volume of use necessarily increases the frequency of errant shots, thereby amplifying the danger to individuals lawfully occupying their homes. Appellants' focus on lost revenue ignores the central issue before this Court: the ongoing risk of physical injury. Rule 241 does not permit supersedeas to avoid economic inconvenience, particularly where doing so would allow a known and continuing danger to persist.

C. Supersedeas Would Permit Ongoing Irreparable Harm and Danger

Supersedeas is particularly inappropriate where it would allow ongoing irreparable harm to continue during the pendency of an appeal. That is precisely the case here.

The record demonstrates that errant golf balls are not isolated or incidental, but rather frequent, unpredictable, and dangerous projectiles entering a residential community. These golf balls travel at significant speed and force and are capable of causing serious bodily injury, including head trauma, broken bones, or worse.[1] Residents, guests, and children cannot occupy outdoor areas throughout Queens Grant Regime II, including patios, walkways, and garden spaces, because it places them directly within the zone of danger created by Appellants' operations.

Pursuant to the trial court's directive, Respondent submitted a final status report supported by a contemporaneous spreadsheet compiled by Lt. Col. Andy Lundgren, USMC (Ret.) documenting errant golf ball incidents between August 1 and September 26, 2025. That data reflects persistent and concentrated intrusions onto Queens Grant property.

On September 13, 2025, alone, twenty-four (24) errant golf balls landed on Queens Grant property, including three (3) direct impacts to Lt. Col. Lundgren's residence, with the remaining shots concentrated in residential clusters.[2] This evidence confirms ongoing trespass and a continuing risk of physical injury.[3]

Rather than exert effort on stopping their dangerous and damaging practices, Appellants choose to focus on making money. There are no set of facts or principles of law that justify allowing Appellants to continue to inflict damage, danger and injury on Respondents. Granting

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[1] See Exhibit 1 - Affidavit of Plaintiff's expert, Michael Johnstone dated February 26, 2025.
[2] See Exhibit 2 - Affidavits of Lundgren and Respondents' PowerPoint Presentation to the Trial Court.
[3] On March 28, 2026, at 12:02PM, Lt. Col. Lundgren was hit in the shoulder with an errant golf ball while working in his garden. See Exhibit 3 - Fifth Supplemental Affidavit of Andy Lundgren.

supersedeas would therefore permit the continuation of a known and documented safety hazard, directly undermining the trial court's findings and the purpose of injunctive relief.

IV. CONCLUSION

Appellants have failed to comply with the mandatory procedural requirements of Rule 241, SCACR. The Petition was not made to the trial court and Appellant cannot demonstrate extraordinary circumstances justifying an initial review by this Court. Additionally, the Petition is not verified.

Further, Appellants fail to establish that supersedeas is necessary or appropriate to preserve appellate jurisdiction, prevent mootness, or maintain the status quo.

Finally, Appellants seek to use Rule 241 to circumvent a properly entered injunction following extensive proceedings, hearings, and mediation, and to permit the continuation of conduct the trial court found to be unlawful and dangerous. For these reasons, Respondent respectfully requests that this Court deny and dismiss Appellants' Petition for Supersedeas in its entirety.

Alford Law Firm, LLC
s/Gregory M. Alford
Gregory M. Alford (#6932)
Post Office Box 8008
Hilton Head Island, SC 29938
(843)842-5500
gregg@alfordlawsc.com
Attorneys for Respondent

April 1, 2026.

EXHIBIT 1

ELECTRONICALLY FILED - 2025 Feb 26 4:17 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0700156

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT
Queens Grant Regime, II, Inc., Horizontal Property Regime, Plaintiffs, v. Greenwood Resorts and Communities, Inc., d/b/a Palmetto Dunes Resort and Callaway Brands, Inc., d/b/a TopTracer Golf Defendant.	)	CIVIL ACTION NO.: 2024-CP-07-00156 **AFFIDAVIT OF MICHAEL JOHNSTONE**

Being duly sworn and under penalty of perjury, the undersigned swear and affirms as follows:

1. I am over the age of 18 and competent to make this affidavit.
2. I have been a licensed architect since 1975 and a practicing Golf Course Architect since 1985. My CV with a list of golf projects is included at the end of this Affidavit. I have participated in over 300 forensic investigations concerning golf courses, primarily for errant golf shot issues with residential and commercial neighbors, as well as pedestrians and autos passing by, all across the country as an expert witness for golf course safety and design.
3. Approximately 60% were for the Defendant and 40% for the Plaintiff. I have designed and constructed 5 driving ranges and investigated over 30 errant ball cases and testified in State and Federal Courts from California to New York.
4. I have reviewed documents including but limited to scaled aerial photos and research into generally Accepted Practices in the current Golf industry, regarding the hazardous condition in the Queens Grant HPR II, caused by the activities at the TopTracer Range located at the Robert Trent Jones Golf Course in Palmetto Dunes Oceanfront Resort.

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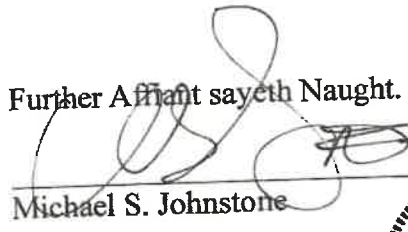
5. We also conducted a site inspection on September 9, 2024, at which time I toured and inspected the site with Mr. Andy Lundgren, a resident living nearby who has been struck twice personally and experienced repeated property damage.

6. A list of documents I have reviewed is included at the end of this Affidavit and contributed to my methodology for investigating this case.

7. The current condition between the TopTracer driving range and bar, and the Queens Grant HPR II residential community is extremely dangerous. It is clearly foreseeable that with known frequency and speed of shots landing outside the range will result in continued property damage and can also cause a serious personal injury such as blindness, traumatic brain injury or even death.

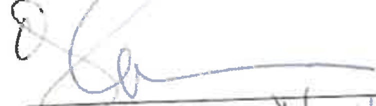
8. This danger is preventable to a high degree if a 130' net is properly installed. Mr. Lundgren should continue his errant ball tracking and we should re-evaluate the frequency of errant shots after a year of use.

Further Affiant sayeth Naught.



Michael S. Johnstone

Sworn this 29th Day
of January 2025



Notary Public for North Carolina - Henderson County

My Commission Expires: 8-13-28

EXHIBIT 2

ELECTRONICALLY FILED - 2024 Jan 24 8:40 AM - BEAUFORT - COMMON PLEAS - CASE#2024CP0700156

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)))	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT
Queens Grant Regime, II, Inc. a/k/a Queens Grant III Horizontal Property Regime, Plaintiffs, v. Greenwood Resorts and Communities, Inc., d/b/a Palmetto Dunes Resort and Callaway Brands, Inc., d/b/a TopTracer Golf Defendant.	))))))))))))))	CIVIL ACTION NO.: 2024-CP-07-00156 Affidavit of Andy Lundgren

Being duly sworn and under penalty of perjury, the undersigned swear and affirms as follows:

1. I am over the age of 18 and competent to make this affidavit.

2. I reside in Unit 544 of the Queens Grant II HPR.

3. I have personally witnessed and been a victim of an ongoing barrage of errant golf shots from the Robert Trent Jones TopTracer range. I have collected approximately 2,000 errant golf balls, these balls exclusively on Queens Grant property my home has been hit numerous times, my neighbors will not sit on their patio. Some photos are attached hereto as Exhibit "A".

4. Prior to TopTracer taking over the range, the number of errant shots was negligible and was never even worth noting. Since TopTracer has opened, it has materially interfered with the use and enjoyment of my and my neighbor's property.

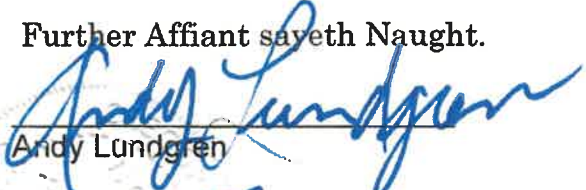
More importantly, the driving range presents a serious danger to residents, guests, visitors and to property. Residents and guests and their pets have been hit by golf balls. In addition, the Queens Grant HPR is continually making repairs to the exteriors of the buildings.

5. I have kept a count of the number of errant shots (days that I have been in residence) and that data is recorded in Exhibit B attached hereto.

6. Our community is suffering immediate and irreparable harm, being under a constant barrage of golf balls, it is dangerous and seriously impairs our use and enjoyment of our property.

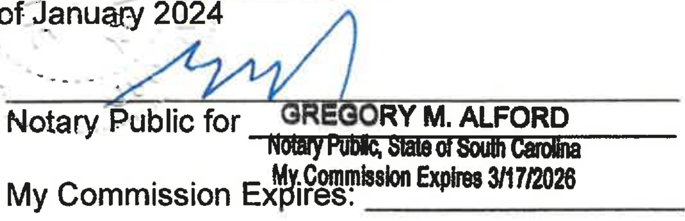
6. I offer this affidavit in support of the facts as recited in the Complaint and The Motion for an Injunction.

Further Affiant sayeth Naught.



Andy Lundgren

Sworn this 23 Day
of January 2024



Notary Public for GREGORY M. ALFORD
Notary Public, State of South Carolina
My Commission Expires 3/17/2026
My Commission Expires:

ELECTRONICALLY FILED - 2024 Jan 24 8:40 AM - BEAUFORT - COMMON PLEAS - CASE#2024CP0700156

ELECTRONICALLY FILED - 2025 Feb 26 4:17 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0700156

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT

Queens Grant Regime, II, Inc. a/k/a Queens Grant III Horizontal Property Regime, Plaintiffs, v. Greenwood Resorts and Communities, Inc., d/b/a Palmetto Dunes Resort and Callaway Brands, Inc., d/b/a TopTracer Golf Defendant.	))))))))))))))	CASE NO.:2024-CP-07-00156 Second Affidavit of Andy Lundgren

Being duly sworn and under penalty of perjury, the undersigned swear and affirms as follows:

1. I make this affidavit to supplement my affidavit of January 23, 2024, to further document the continued unsafe and stressful conditions at Queens Grant II HPR because of so many errant golf shots coming from the TopTracer Golf Range.
2. The volume of errant shots is consistent and continues to assault our community.
3. The property damage to our community's homes caused by errant balls continues. Since the hearing in June of 2024, my home has been hit multiple times.
   a. On July 21 at 8:01 AM a ball hit my house.
   b. On August 17 at 9:23 AM a golf ball came over the net and narrowly missed hitting me and my dog by less than 2 feet.
   c. On August 23 at 7:47 AM my house was hit.
   d. On September 7 at 2:46 PM my house was hit.
   e. On October 4 at 1:20 PM and again at 2:01 PM my house is hit.
   f. On October 5 at 3:11 PM my house was hit.
   g. On December 26 at 10:07 AM my house was hit.

h. On December 27, 2024, two errant balls came over the net, the first ball crashed down at 1:39 pm and the second slammed in at 3:04 pm.

4. On December 27, I was angry. I immediately walked over to the Robert Trent Jones Pro Shop facility and asked for Alex Franseen, the manager, I was told to wait. While I waited in the lobby, I sent Alex an email asking to see him. I waited for an hour and a half. Alex, the manager never came out nor did he answer my email.

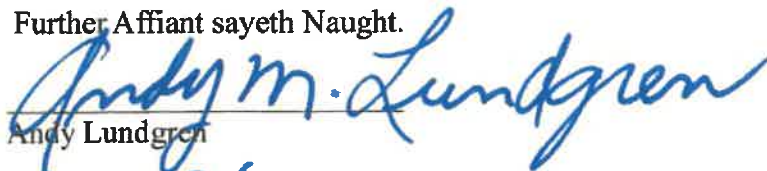
5. I have kept a count of the number of errant shots (days that I have been in residence) and that updated data is recorded in Exhibit A attached hereto.

6. Despite a lot of talk and letters, our community is still suffering immediate and irreparable harm, and it's dangerous and seriously impairs our use and enjoyment of our property. It is stressful.

7. I am aware that TopTracer knows exactly how many balls come over and destroy our peace and property. From my personal observation, it does not appear that TopTracer has made any change in its operations or done anything to lessen the number of balls that land on Queens Grant II.

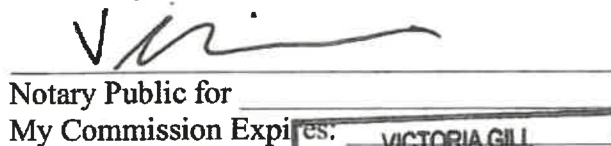
8. I offer this affidavit because we need relief as asked for in the Complaint and Motion for an Injunction.

Further Affiant sayeth Naught.



Andy Lundgren

Sworn this 26 Day
of February 2025



Notary Public for ____________
My Commission Expires: ____________

VICTORIA GILL
Notary Public, State of South Carolina
My Commission Expires 04/29/2034

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Queens Grant II HPR v. Greenwood et. al.

TRO HEARING: JUNE 18, 2024

ELECTRONICALLY FILED - 2024 Jun 17 6:17 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0700[illegible]

KEY POINTS

1. Errant and dangerous golf shots have materially increased since March of 2021.
2. Defendants' remedial measures have failed.
3. The TopTracer operation materially interferes with the use and enjoyment of the Queens Grant II property. TopTracer operation and has created a destructive and dangerous situation.

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Queens Grant has been located next to the driving range and Robert Trent Jones golf course since 1974.

Queens Grant II had no problems with the driving range until 2021 when TopTracer took over.

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In 2021, TopTracer took over and made changes and improvements to the driving range facility.

TopTracer constructed a new larger and realigned tee box structure.

TopTracer expanded the use, nature, and profitability of the driving range.

ELECTRONICALLY FILED - 2024 Jun 17 6:17 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0700106

Newly built and realigned tee box and entertainment venue

ELECTRONICALLY FILED - 2024 Jun 17 6:17 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0700108

Food and beverage, including adult beverages, and computerized golf experience

ELECTRONICALLY FILED - 2024 Jun 17 6:17 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0700158

Group event venue for adult themed parties (bachelor and bachelorette)

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Expanded hours and marketing efforts

CONTACT US —

HOURS OF OPERATION

Monday - Sunday

6:30 a.m. - 9:00 p.m.

Last bucket of balls sold at 8 p.m.

Food & Beverage available

8:00 a.m. - 7:30 p.m.

Review our FAQs for dress code.

LOCATION

7 Trent Jones Lane

Hilton Head Island, SC

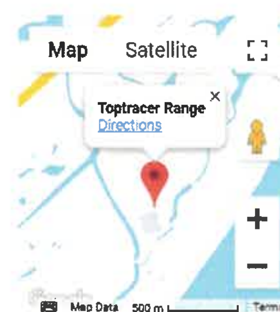
29928

—

844-546-8943

toptracer@palmettodunes.com

DIRECTIONS



HAVE ANY QUESTIONS?

Name

Email

Type your message...

Submit

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Of the many TopTracer interactive offerings, the "Long Drive" and "Driving Challenge" promotes potentially hard hit, dangerous and errant shots.

DRIVING CHALLENGE

Hit your best tee shots. Points will be rewarded for both length and accuracy.

LONG DRIVE

Settle the debate and find out who can hit it farthest.

ELECTRONICALLY FILED - 2024 Jun 17 6:17 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0700[illegible]

bsmith@basmithlaw.com

TOWN OF HILTON HEAD ISLAND
One Town Center Court, Hilton Head Island, S.C. 29928
(843) 341-4600 Fax (843) 842-7728
www.hiltonheadislandsc.gov

John J. McCann
Mayor

William D. Harkins
Mayor ProTem

Council Members

Thomas W. Lennox
David Ames
Tamara Becker
Glenn Stanford
Alexander Brown, Jr.

Marc Orlando
Town Manager

September 26, 2022

Via email to bsmith@basmithlaw.com

Brandon A. Smith
104 Maxwell Avenue
Greenwood, SC 29646

Dear Mr. Smith:

When Town staff met with the Robert Trent Jones team and the concerned Queen's Grant neighbors on site on July 21, 2022, we discussed the following options to mitigate issues caused by errant balls coming from the driving range. These options may assist with operations at the Robert Trent Jones golf facility that are creating issues for the Queen's Grant owners:

1. Explore using limited flight golf balls after 5:00pm.
2. Work with individual owners to address their landscaping needs.
3. Apply for a variance to the BZA to allow an increase in height of the poles and netting.

Upon further review of section 16-10-102.C.2.a of the LMO, certain facilities, due to their intrinsic functional nature, may require heights exceeding the specified limit. These include, but are not limited to, telecommunication towers, water storage tanks, and utility transmission lines. These facilities shall require review and approval by the Official, who shall consider and determine that the location is appropriate, and its height is no more than necessary to carry out its function. Under this section a maximum height of 130 feet for the poles and netting will be permitted to accommodate the functional nature of the driving range while providing additional protection against errant balls leaving the property.

Staff will present this interpretation to the Planning Commission on October 19, 2022, for information only, to keep the community aware of this application of the code.

At this time, I would encourage you to consider submitting an application to raise the height of the poles and netting up to the maximum of 130 feet to further protect the neighbors against errant balls and maintain a good neighbor approach to finding a resolution to this ongoing issue

Please contact me at either (843) 341-4696 or shawnc@hiltonheadislandsc.gov if you have further questions.

Sincerely,

Shawn Colin, AICP
Assistant Town Manager- Community Development

4mr Brandon good suggestion

As of September 26, 2022, the errant ball problem was so bad that the Town encouraged Greenwood to seek a variance to raise the existing 72' netting to 130'.

ELECTRONICALLY FILED - 2024 Jun 17 6:17 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0700106

Address: Town of Hilton Head Island
1 Town Center Court
Hilton Head Island, SC 29928

From: Yates Chris
Sent: Monday, September 26, 2022 5:42 PM
To: Brandon Smith <bsmith@basmithlaw.com>, eed1958@yahoo.com; dougbergerhhi@gmail.com; dickdubiel33@gmail.com; rexevans58@hotmail.com, ehruottioane@gmail.com; helidods07@yahoo.com, pattie.courtney@gmail.com; AFranseen@palmettodunes.com; Andy Lundgren <beauport@comcast.net>; Brandon Smith <bsmith@basmithlaw.com>; rerunkle96@aol.com; Christythelms@gmail.com; cfragman@aol.com; jsmith204@verizon.net; meckeely@gmail.com; Andy Lundgren <beauport@comcast.net>; herrmann.holdings@gmail.com; dawndriskill@yahoo.com; mel.mendoza1223@gmail.com; michael.j.anastasiades@gmail.com; khomenik@yahoo.com; joyleat@backroads.net, heyroth@usa.com; bduncan@tnrdt.com; BMarra@palmettodunes.com; AFranseen@palmettodunes.com; Yates Chris <chrisdy@hiltonheadislandsc.gov>; Angela Heyroth <angela@talentlifecycledesigns.com>; Claude Fragman <cfragman@hotmail.com>, dougbergerhhi@gmail.com
Cc: Marc Orlando <marco@hiltonheadislandsc.gov>; Shawn Colin <shawnc@hiltonheadislandsc.gov>; Becker, Tamara <tamarab@hiltonheadislandsc.gov>; Dixon Nicole <nicoled@hiltonheadislandsc.gov>
Subject: RTJ Max Net Height

Mr. Smith, Brandon?,

As a follow up to our July 21, 2022, on-site meeting regarding the errant balls that are still going over the net, three options discussed were:

1. Explore using limited flight golf balls after 5 pm
2. Work with individual owners to address their landscaping needs
3. Apply for a variance to the BZA to allow an increase in height of the poles and netting

After further review of the Land Management Ordinance related to the variance specified in option number three, the LMO Official has decided to allow the height of the nets to exceed the max 75 feet allowed without the need for a variance from the BZA. See the attached letter from Shawn Colin Assistant Town Manager/LMO Official. Please let me know if you have any questions regarding the attached letter.

Respectfully,

Christopher Yates CBO, CFM, CGP
Development Services Manager
Office: (843) 341-4664
Mobile: (843) 247-2853
Website: hiltonheadislandsc.gov
Address: Town of Hilton Head Island
1 Town Center Court
Hilton Head Island, SC 29928

The problem was so apparent that the Town of Hilton Head waived the requirement for a variance to construct netting structure of 130' which would address the problem as it has done in other communities.

ELECTRONICALLY FILED - 2024 Jun 17 6:17 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0700198

Defendants' Memorandum and the Marra Affidavit contradict each other.

CORRECT STATEMENT ON PAGE 3 OF DEFENDANTS MEMORANDUM:

"Defendants concede, as Plaintiff alleges, that the implementation of the TopTracer Technology has resulted in an increase in the number of shots hit at the Range and thus, the number of errant shots exiting the Range."

INCORRECT STATEMENT IN AFFIDAVIT:

"Based on my personal knowledge and experience, I further attest that it is my belief that the current level of balls exiting the Range is comparable to the level that existed prior to the implementation of TopTracer at the Range."

- IT WOULD BE IMPOSSIBLE FOR THE AFFIANT TO KNOW THE LEVEL OF BALLS EXITING THE RANGE PRIOR TO THE IMPLEMENTATION OF TOPTRACER.
- FURTHER THE AFFIDAVIT OF ANDY LUNDGREN BASED OF PERSONAL KNOWLEDGE DIRECTLY REFUTES PARAGRAPH 4 OF THE MARRA AFFIDAVIT.

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Danger & Destruction

Since TopTracer opened in 2021, Queens Grant has been constantly barraged with over 2,000 golf balls.

Danger & Destruction

The danger of errant golf shots prevents residents and guests from using and enjoying their property.

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Danger & Destruction

The barrage of golf balls from TopTracer unreasonably and substantially interferes with the use of and destroys Queens Grant property and peace.

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Danger & Destruction

The umbrella and broken table above are located on a patio facing the driving range. The patio is not a safe place to sit.

The motor vehicle shown was parked on the other side of a cluster of units.

Danger & Destruction

The manner in which TopTracer operates the driving range is unreasonable because it produces material injury, great annoyance, and interferes with the lawful use of the Queens Grant property.

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Equity requires an immediate remedy.

The Law of *LeFurgy* is correct but requires a different outcome because unlike *LeFurgy*, a noise case, Queen Grant is facing real physical damage and danger because of the TopTracer operation. *LeFurgy v. Long Cove Club Owners Ass'n, 443 SE 2d 577- SC: Court of Appeals 1994*

"While the business of operating a golf course is a legitimate one and not a nuisance *per se*, it may become a nuisance *per accidens* by reason of its improper location, surroundings, or the manner in which it is conducted. *See* *Welborn v. Page*, 247 S.C. 554, 148 S.E.2d 375 (1966); *Home Sales, Inc. v. City of North Myrtle Beach*, 299 S.C. 70, 382 S.E.2d 463 (Ct.App.1989)."

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FINAL THOUGHTS

1. Something needs to be done before a serious and life altering injury occurs.
2. TopTracer should be required to install the 130' netting as a condition of continued operation.
3. The Court can fashion an equitable remedy less extreme than shutting down the Range.

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EXHIBIT 3

ELECTRONICALLY FILED - 2026 Apr 01 2:12 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0700156

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT
Queens Grant Regime, II, Inc., Horizontal Property Regime, Plaintiffs, v. Greenwood Resorts and Communities, Inc., d/b/a Palmetto Dunes Resort and Callaway Brands, Inc., d/b/a TopTracer Golf Defendant.	)	CIVIL ACTION NO.: 2024-CP-07-00156 Supplemental Affidavit of Andy Lundgren

Being duly sworn and under penalty of perjury, the undersigned swears and affirms as follows:

1. I make this affidavit to further supplement my four prior affidavits documenting the unsafe conditions at Queens Grant II caused by errant golf shots at the Top Tracer equipped Robert Trent Jones Golf Range.
2. I am a resident of Queens Grant Regime II located in Beaufort County, South Carolina, and I have personal knowledge of the matters set forth herein.
3. On March 28, 2026, at approximately 12:02 p.m., I was struck in the shoulder by an errant golf ball while working in my garden on my property within Queens Grant Regime II.
4. Because of the cool weather, I was wearing layered clothing therefore was not seriously injured.
5. The golf ball that struck me originated from the adjacent driving range operated by Defendants. Immediately afterwards I walked to the Pro Shop at Robert Trent Jones and informed them of being hit by a golf ball. We previously were informed that a system in place should detect when a ball flies over the netting. I was told no notice was made by the system.
6. There have been other near miss incidents, which continued unabated until the driving range ceased operations on March 30, 2026.

7. This incident is consistent with the ongoing pattern of errant golf balls entering Queens Grant property, as previously documented in my prior affidavits and reports.

Further Affiant sayeth Naught.

Andy M. Lundgren

Andy Lundgren

Sworn this 1st Day
of April 2026.

Notary Public for South Carolina
My Commission Expires:

VICTORIA GILL
Notary Public, State of South Carolina
My Commission Expires 04/29/2034

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2026-000690
Case No. 2024-CP-07-00156

Queens Grant Regime, II, Inc.,
Horizontal Property Regime, Respondent,

v.

Greenwood Resorts and Communities, Inc., d/b/a Palmetto Dunes Resort and Callaway Brands, Inc., d/b/a TopTracer Golf, Appellants.

PROOF OF SERVICE

I certify that I have served *Respondent's Reply in Opposition to Appellants' Petition for Supersedeas*, on April 1, 2026, by emailing a copy to its attorney of record, Christian Stegmaier, cstegmaier@collinsandlacy.com.

April 1, 2026.

Alford Law Firm, LLC
s/Gregory M. Alford
Gregory M. Alford (#6932)
Post Office Box 8008
Hilton Head Island, SC 29938
(843)842-5500
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Attorneys For Respondent

RECEIVED
Apr 01 2026
SC Court of Appeals

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(NOT FOR CONFIDENTIAL COMMUNICATIONS)

GREGORY M. ALFORD*
THOMAS E. WILLIAMS†

*Also member Georgia Bar
† Of Counsel

April 1, 2026

Via US First Class Mail
The Honorable Jenny Abbott Kitchings
Clerk of Court
The South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

Re: ***Queens Grant Regime, II, Inc. v. Greenwood Resorts and Communities, Inc.***
Appellate Case No. 2026-000690
Our Client: Queens Grant Regime, II, Inc.

Dear Ms. Kitchings,

Enclosed please find *Respondent's Reply in Opposition to Appellants' Petition for Supersedeas,* along with the accompanying Proof of Service in connection with the above-referenced matter.

Should you have any questions or concerns, please feel free to contact our office.

With kindest regards, I am,

Sincerely,
ALFORD LAW FIRM, LLC

Gregory M. Alford

Cc: via email: Christian Stegmaier, Esquire
The South Carolina Court of Appeals