

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS

R. PAUL BENIK, JR., RUDOLPH PAUL)
BENIK, III., PAULA W. BENIK, ANTON)
F. B. R. POSTER, SR. AND TERESA L.)
POSTER, JOHANN M. MCCRACKIN,)
TIMOTHY J. WENTZEL AND LISA D.)
ABRAMS, SHERRY S. WEATHERLY,)
JOHN D. DIEHL AND LISA R. DIEHL,)
PAUL H. ERRICKSON AND LINDA M.)
ERRICKSON, SAUNDRA PRIDGEN,)
RONALD K. REYNOLDS AND)
RASARIO REYNOLDS, V. SCOTT)
MILES, VERNON G. MILES, SHARON)
E. MILES, DEBORAH FLOYD, BROOKS)
M. SAFRIT, WOODROW S. SAFRIT,)
STEVEN ALAN SPEARES AND SYLVIA)
MCCALL SPEARES, TRUSTEES OF)
THE SPEARES REVOCABLE TRUST)
U/A/D SEPTEMBER 24, 2019, STEVEN)
P. LOMBARDI AND LISA A.)
LOMBARDI, CHARLES B. HALL,)
VIRGINIA G. HALL, SONIA HEYDT,)
TRUSTEE OF THE SONIA HEYDT)
LIVING TRUST, DATED DECEMBER)
10, 2024, WENDY PIVARNIK, JOYE S.)
BULL, TUMPIE B. BULL, MAXINE)
WILLIAMS, TRUSTEE OF THE)
MAXINE WILLIAMS LIVING TRUST)
DATED OCTOBER 31, 2017, KIM)
RITCHIE, VAN RAYE RITCHIE,)
WILLIAM B. BURCH, SHARON K.)
BURCH, TIMOTHY G. MARTIN,)
REBECCA A. HARRINGTON AND)
BRIAN J. MARTIN, AS TRUSTEES OF)
THE GUY E. MARTIN AND ANN M.)
DOZIER IRREVOCABLE TRUST)
DATED JANUARY 25, 2017, MIRIAM R.)
CROMER, NORWOOD NICHOLSON)
COX AND JANET HARRINGTON COX,)
THOMAS P. COLLINS AND SUSAN)
LEE COLLINS, SHAWN KELLEY AND)
KAREN ALBERT, JERRY STEVEN)

Civil Action No. 2025CP2605366

**ORDER DENYING PLAINTIFFS'
MOTION FOR TEMPORARY
RESTRAINING ORDER**

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SC Court of Appeals

WILSON AND DANA PRIDGEN)
 WILSON, PAMA C. FREE, GIOVANNI)
 CARAPELLI, JULIE A. BROOKS,)
 JENNIFER RAE MORRIS, CRAIG L.)
 LAMBERT AND LISA M. LAMBERT,)
 HENRY LAWRENCE SANDERSON III,)
 TRUSTEE OF THE HENRY LAWRENCE)
 SANDERSON, III REVOCABLE TRUST)
 DATED JANUARY 9, 2020, RONALD G.)
 BROOKS AND ROBIN D. BROOKS,)
 ROBERT CHRISTOPHER JONES AND)
 MELISSA COGHILL JONES, DARRYL)
 C. WILLIAMS AND MARY TORRENCE)
 WILLIAMS, DAVID T. TAYLOR AND)
 CATHERINE T. TAYLOR, SAMUEL)
 DEEP AND DIANNE DEE O, NATALI D.)
 AMARADASA,)
 ROSEMARY LONG JENRETTE AND)
 ARCADIAN)
 SHORES SINGLE-FAMILY)
 RESIDENTIAL)
 HOMEOWNERS ASSOCIATION, INC.,,)
)
 Plaintiffs,)
)
 v.)
)
 THE ARCADIAN INCORPORATED OF)
 MYRTLE BEACH,)
)
 Defendant.)

This matter comes before the Court on Plaintiffs' Motion for Temporary Restraining Order pursuant to Rule 65(b), S.C. R. Civ. Pro. The Court has reviewed the pleadings, affidavits, exhibits, and memoranda submitted by the parties, and has fully considered the arguments presented at the hearing on September 15, 2025. Based upon the record before the Court, Plaintiffs' Motion is Denied. The Court issued a Form 4 Order denying Plaintiff's relief on October 14, 2025, and now sets forth the following findings of fact and conclusions of law.

I. FINDINGS OF FACT

Plaintiffs are owners of property within the Arcadian Shores Single Family Residence Homeowners Association (“ASSFR”). Defendant owns in fee simple the southeastern terminus of Arcadian Drive, including the portion of a roadway at issue in Plaintiffs’ motion.

Plaintiffs contend they possess an easement permitting parking along this portion of Arcadian Drive, and seek emergency injunctive relief compelling Defendant to allow unrestricted parking.

The evidence before the Court is insufficient to show that Defendant has unlawfully blocked access to Arcadian Drive or denied ingress or egress to Plaintiffs.

Defendant has presented evidence that it implemented neutral and generally applicable parking procedures governing the disputed parcel, including the following: (a) issuance of parking decals to authorized users, (b) submission of a short application and execution of a waiver of liability, and (c) designation of a no-parking zone on the south side of Arcadian Drive due to the presence of a vulnerable underground drainage pipe. These procedures are applied uniformly and are not directed at Plaintiffs based on their membership in ASSFR.

The Court finds that Plaintiffs have not supported their contention that they are denied access to their properties or to the beachfront, or that parking on Arcadian Drive is the sole means of beach access available to Plaintiffs.

With respect to Plaintiffs’ claimed property interest, the evidence presented to the Court demonstrates the following:

- (a) The portion of Arcadian Drive at issue was conveyed out of Ocean Lakes Investment Company (“OLIC”) on January 11, 1982, prior to the first appearance of express easement language relied upon by Plaintiffs.

- (b) The June 14, 1982 quit-claim deed containing easement language upon which Plaintiffs rely was executed after OLIC conveyed the property.
- (c) No deed, plat, or recorded instrument expressly grants parking rights over the disputed portion of Arcadian Drive.
- (d) The weight of evidence presented to the Court does not establish that the owner of the subject property ever consented to, or accepted, any easement burdening that parcel.
- (e) Defendant and its predecessors posted signage identifying Arcadian Drive as private, negating any claim of prescriptive rights.

II. CONCLUSIONS OF LAW

A Temporary Restraining Order is an extraordinary remedy. *Peek v. Spartanburg Reg'l Healthcare Sys.*, 367 S.C. 450, 454, 626 S.E.2d 34, 36 (Ct. App. 2005) (overruled in part on other grounds). To prevail, a Plaintiff must clearly show (a) likelihood of success on the merits, (b) irreparable harm absent injunctive relief, and (c) inadequacy of a remedy at law. *Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 908 (2004); *AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 674 S.E.2d 505 (Ct. App. 2009).

Plaintiffs have not met their burden of establishing a likelihood of success on the merits. Even assuming for the sake of argument the existence of an easement for access, the law requires an easement holder to exercise rights in a manner that does not unreasonably burden the servient estate. *Smith v. Comm'rs of Pub. Works*, 312 S.C. 460, 468, 441 S.E.2d 331, 336 (Ct. App. 1994). The record reflects that Defendant's procedures are reasonable, nondiscriminatory, and narrowly tailored to protect property and infrastructure.

Plaintiffs have not established irreparable harm. Mere inconvenience, administrative burden, or preference for unrestricted parking does not constitute irreparable injury. The record contains no evidence that Plaintiffs are unable to access their properties or the beachfront absent the requested relief.

Further, Plaintiffs have an adequate remedy at law. The dispute centers on the existence and scope of alleged property rights and may be addressed through declaratory judgment and damages. Injunctive relief is therefore inappropriate. *See, e.g., Cricket Cove Ventures, LLC v. Gilland*, 390 S.C. 312 (Ct. App. 2010).

The relief sought by Plaintiffs would alter, rather than preserve, the status quo by compelling Defendant to abandon existing, neutrally applied procedures.

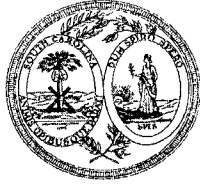
Finally, the balance of equities favors Defendant, who seeks to regulate use of its property in a reasonable manner to prevent overburden and physical damage.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiffs' Motion for Temporary Restraining Order is DENIED.

AND IT IS SO ORDERED.

The Honorable B. Alex Hyman
Presiding

January ____, 2026



Horry Common Pleas

Case Caption: R Paul Benik Jr , plaintiff, et al VS Arcadian Incorporated Of Myrtle Beach
Case Number: 2025CP2605366
Type: Order/Temporary Restraining Order

15th Circuit Resident Judge

s/ B. Alex Hyman

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