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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SALUDA COUNTY
Court of Common Pleas

The Honorable Walton J. McLeod IV, Circuit Court Judge

Appellate Case No.: 2025-001669
Civil Action No.: 2021-CP-41-00032

Jan H. Bryan, ... Appellant,

v.

Saluda County, Saluda County Council, Donald E. Hancock in his Official Capacity as Chairman of Saluda County Council, Rhonda W. Browning, and First Community Bank, ... Defendants,

of which Saluda County, Saluda County Council, and Rhonda W. Browning are the ..... Respondents.

BRIEF OF APPELLANT

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III. Whether the Trial Court erred in not declaring the owner(s) of the Disputed Property.

STATEMENT OF THE CASE

This matter comes before the Court upon the appeal of Jan H. Bryan ("Bryan" or Appellant"), as owner of a house and curtilage on the shores of Lake Murray in Saluda County. On February 19, 2021, Appellant filed her complaint against Saluda County (the "County"), the Saluda County Council (the "Council" and collectively, "Saluda"), Donald E. Hancock in his official capacity as Chairman of the Saluda County Council ("Hancock"), Rhonda W. Browning ("Browning"), and First Community Bank (the "Bank"). (R. p. 36). The defendants participating in this appeal are the County, the Council, and Browning (collectively, "Respondents").

Saluda answered the complaint on April 7, 2021. (R. p. 46). Browning answered the complaint on June 2, 2021, asserting cross and counterclaims. (R. p. 53). Discovery ensued. On May 18, 2023, Browning filed a motion for summary judgment. (R. p. 64). On August 3, 2023, Appellant filed a motion for partial summary judgment. (R. p. 128). On August 4, 2023, the County and Council filed a motion for summary judgment. (R. p. 134). With a waiver by the parties as to any notice issues, these three summary judgment motions were heard by the Honorable William P. Keesley on August 14, 2023. On August 16, 2023, Judge Keesley entered an order granting partial summary judgment to Respondents as to an element of prescriptive easements. The remaining issues for all motions were denied. (R. p. 1).

On April 23, 2024, Appellant filed a motion for summary judgment citing the affidavit testimony of Ben Easton. (R. p. 206). In their returns, Browning and Saluda "renewed" their prior motions for summary judgment. (R. p. 210, R. p. 299). Bryan's new motion and Respondents' renewed motions were heard by the Honorable Walton J. McLeod IV on May 28, 2024. On July 17, 2024, Judge McLeod denied all motions for summary judgment. (R. p. 10). The Parties prepared for trial.

Following the submission of trial briefing, a bench trial of this case was held before Judge McLeod on December 10, 2024. On April 2, 2025, Judge McLeod entered an order denying all claims and crossclaims. (R. p. 18). On April 10, 2025, Bryan filed a motion to alter or amend the order pursuant to Rules 52(b) and 59(e), SCRCP. (R. p. 372). On April 14, 2025, Browning also filed motion under Rule 59(e), SCRCP. (R. p. 376). On July 23, 2025, the Trial Court entered an order granting in part and denying in part the two motions. (R. p. 33).

This appeal followed.

STANDARD OF REVIEW

This appeal is an action seeking a determination that certain property constitutes a public road. Concomitantly, Appellant seeks, if necessary, an exposition of the ownership of a portion of real property and a declaration of the rights of the various parties and the public vis-à-vis that property. All causes of action brought by the parties are declaratory judgment petitions seeking different forms of relief. In such a case, there may be multiple applicable standards of review. "'Declaratory judgment actions are neither legal nor equitable and, therefore, the standard of review depends on the nature of the underlying issues.'" *Miller v. Dillon*, 432 S.C. 197, 205–06, 851 S.E.2d 462, 467 (Ct. App. 2020) (quoting *Judy v. Martin*, 381 S.C. 455, 458, 674 S.E.2d 151, 153 (2009)).

The primary posture of this case places it within the realm of equity. "The determination of whether a road has been dedicated to public use is one in equity." *Vick v. S.C. Dep't of Transp.*, 347 S.C. 470, 477, 556 S.E.2d 693, 697 (Ct. App. 2001) (*Mack v. Edens*, 320 S.C. 236, 239, 464 S.E.2d 124, 126 (Ct. App. 1984)). Additionally, an action for a declaration quieting a title is also one in equity. *See Estate of. Tenney v. South Carolina Dep't of Health and Env't Control*, 393 S.C. 100, 105, 712 S.E.2d 395, 397 (2011). Further, the interpretation of a deed is an equitable matter. *Eldridge v. Greenwood*, 331 S.C. 398, 416, 503 S.E.2d 191, 200 (Ct. App. 1998) (citing *Heritage Fed. Sav. & Loan v. Eagle Lake & Golf Condos.*, 318 S.C. 535, 458 S.E.2d 561 (Ct. App. 1995)). However, to the extent that a defendant's answer "raises an issue of paramount title to land, such as would, if established, defeat plaintiff's action, the issue of title is legal." *Major v. Penn Cmty. Servs., Inc.*, 395 S.C. 175, 180, 717 S.E.2d 70, 72 (Ct. App. 2011) (citing *Dargan v. Tankersley*, 380 S.C. 480, 483, 671 S.E.2d 73, 74 (2008)).

STATEMENT OF THE FACTS

The Saluda Dam, or Dreher Shoals Dam, came into existence in 1930. When the waters of the Saluda River rose behind that dam, Lake Murray was created and new property boundaries were established. Due to the self-leveling nature of water, the lake created many fingers of land, with coves lying between them, in places where the ground rose above the elevation at which the water settled, known as the contour line. Seen from above, these fingers of land rising above the contour line give a feathered appearance along the edge of the lake. This case is concerned with one of those feathers.

The lakeshore in Saluda and Newberry Counties, at the Lake's westernmost end, is not as heavily settled as many other parts of the lake. However, in 1950, The Lakeside Company created a subdivision plat intended to turn empty land on one of the feathers jutting into the lake into a

neighborhood just inside the Saluda County line with dozens of houses. (JE 8, R. p. 648). This subdivision plat outlined not only the residential lots, but also the roads through, and lake around, the neighborhood. (*Id.*) Upon one prominent protuberance of land, the drafter reserved a very large lot, appropriately labeled Number 1. Behind Lot 1 ran a street labeled "Greenwood." This street, or "drive" in some iterations, ran straight from the main artery of the neighborhood directly into the Lake.[1] Right across Greenwood Street from Lot Number 1, lay Lot Number 80. (*Id.*) Like the majority of other lots, Lot 80 itself is only slightly wider than the roads. This plat was accepted by the County, which still maintains the majority of the roadways depicted today, and out of flooded farmland emerged the neighborhood of "Lake Murray Shores." (*See* Pl. Ex. 3, R. p. 779) (maintenance log reflecting county maintenance of Moonlight Lane,[2] Memory Lane, Greenville Street, Sunny Point, and other roads in Lake Murray Shores).

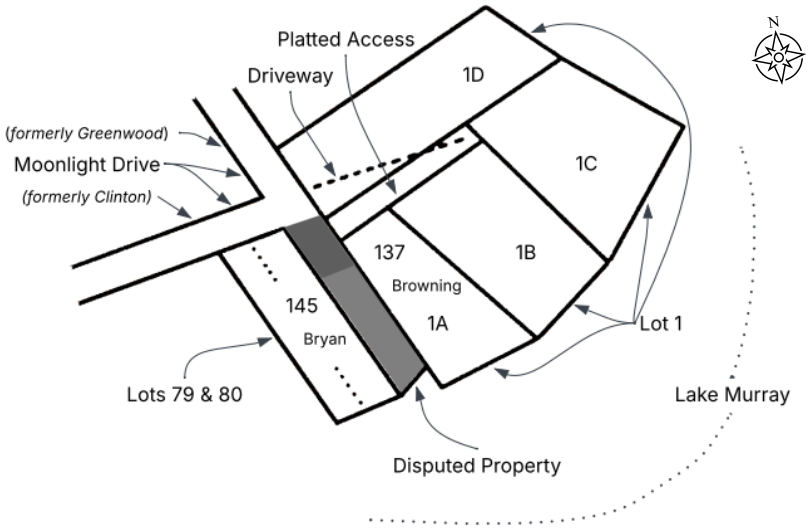
This case specifically concerns a rectangle of property within the Lake Murray Shores neighborhood approximately 30 feet in width (hereinafter, the "Disputed Property"). On the original plat, the Disputed Property is simply part of the road—Greenwood Drive—extending to the edge of the lake. At present, the Disputed Property is now a lawn and driveway blocked by barriers installed by Browning. In between 1950 and the present, the Disputed Property has been a road used by boaters and jet skiers, a lake access, and a recreational area. (Tr., p. 45:10–19, R. p. 462 (Appellant describing use for picnics, barbeque, church parties, and parking); p. 10:21–11:4 R. p. 427-28 (witness describing riding a golf cart and seeing use for boat access to the Lake); p. 122:6–21 R. p. 539 (Appellant's son describing use for putting in and taking out boats, jet skis, or

[1] This main road, forming the spine of the feather, is now known as Holly Ferry Road, but was named "Murray Drive" in the 1950 plat.

[2] This appears to be a possible misnomer based on a database like Google Maps. At least in other County sources, the name is Moonlight Drive, not Lane.

johnboats prior to the installation of rip rap)). The subject of this case concerns determining who originally owned the Disputed Property, whether it was dedicated as a public road, and who owns it now. To investigate that issue, the Parties looked in part to their chains of title and the related plats and surveys.

The Disputed Property lies between Lot 80, owned by Appellant, and a portion of what used to be Lot 1, owned by Browning. The Bryan family own and use the house situated on combined Lots 79 and 80. These combined lots create a width of approximately 100 feet. Browning owns and uses the house on the other side of the disputed rectangle, on the prior Lot 1. The following illustration is not intended to be construed as evidence but is offered as a simplified way to identify the lots and landmarks that will be discussed herein. The illustration does not necessarily have fidelity to scale, direction, or the small angles and divots in the property lines.



The title for each Parties' property descends from the original 1950 plat. In the 1950s, Curtis and Lillian Jones, who did business as the Lakeside Company, deeded Lot 1 to Maye Sessions. (JE 1, R. p. 631, JE 2, R. p. 632). In 1974, Mrs. Sessions subdivided Lot 1, which was substantially larger than the other lots in the vicinity, into four new lots. (JE 10, R. p. 650). These subdivided lots are identified above as 1A through 1D. To give Lots 1B and 1C land access, the

new plat created an access road that runs perpendicular to the original Greenwood Drive, from which it runs to the edge of Lot 1C. This platted access road is not currently used as it was surveyed (*see* JE 10, R. p. 650 (identifying "not open" the 20-foot road)); instead, a driveway slanted farther up through Lot 1D is utilized to access the subdivided lots.[3] Although not given a specific moniker in the deeds, Browning's portion of Lot 1 is identified herein as "Lot 1A." In 1987, Mrs. Sessions deeded Lot 1A to George and Camilla Doss. (JE 4, R. p. 637). In 1993, George Doss deeded his interest in Lot 1A to Camilla Doss. (JE 5, R. p. 639). After a name change, Camilla Spencer deeded Lot 1A to Rhonda W. Browning in 2007. (JE 6, R. p. 641). In 2021, Browning transferred her lot to a revocable living trust.[4] Lot 1A is identified by the address 137 Moonlight Drive.

Meanwhile, the same Curtis and Lillian Jones deeded Lots 79 and 80 to Lonnie and Bertha Mae Goodwin in the 1950s. (JE 13, R. p. 653). In the 1960s, the Goodwins deeded Lots 79 and 80 in separate documents to Wiley B. Easton. (JE 14, R. p. 654 and JE 17, R. p. 663). In 1987, Wiley B. Easton sold Lots 79 and 80 together to Jan H. Bryan. (JE 18, R. p. 664). Bryan still holds title today, nearly four decades later. Together, Lots 79 and 80 are identified by the address 145 Moonlight Drive. Hereinafter, these lots will be referred to as "Lot 80" unless a distinction is necessary.

Each subject lot lies on the shore of Lake Murray. The Lake itself is owned and managed by Dominion Energy as successor in interest to the South Carolina Electric & Gas Company (hereinafter "SCE&G").[5] The strips of land between the edge of the original platted lots from the

[3] Google Maps erroneously identifies this driveway as "Memory Lane," which is the name of another street elsewhere in the neighborhood that corresponds with "Point Street" on the 1950 plat. The houses on Lots 1B and 1C have Moonlight Drive addresses just like their neighbors.

[4] This transfer was made after the filing of this suit in February 2021. Ms. Browning is the trustee for her trust.

[5] In turn, SCE&G was successor in interest to the Lexington Water Power Company, which created

1950s and the contour line for the lake water are sometimes referred to as "fringe" land. The chains of title for both the Bryan and Browning lots contain deeds from SCE&G distributing fringe land to the respective lot owners in the 1960s. (JE 3, R. p. 633; JE 15, R. p. 655; JE 16 R. p. 659). Despite the minimizing name, the fringe land forms a large portion of what Bryan and Browning own today. The Disputed Property includes both the land between the original lots and the land between the portion of those lots that derived from the SCE&G transfers. As a point of reference, the original Lot 80 was 50 feet wide and 100 feet long.

Each party's chain of title, including the fringe land deeds, depicts the Disputed Property in some form. The 1950s Lakeside Plat is the last survey addressing both Lot 1 and Lot 80 with unified ownership by the developer. This plat indisputably shows the Disputed Property as part of Greenwood Drive. (JE 8, R. p. 648). There is no boundary between the Lake and the Disputed Property in the plat, evidencing an intent to create lake access. Additionally, further evidence shows that the Disputed Property's function as a public road extended into the fringe lands to the edge of the Lake. In a deed conveying fringe land to the Goodwins in 1963, owners of Lot 80 at the time, the fringe land for Lot 80 was described as follows.

> All that certain piece, parcel, or tract of land situate, lying and being in the County of Saluda, State of South Carolina, bounded on the north by lands of Goodwin, **on the east by a public road**, on the south by lands of South Carolina Electric & Gas Company, and on the west by lands of Easton . . . .

(JE 16, R. p. 659 (emphasis added).[6]) The import of this description is that the Disputed Property constituted a public road not only running between Lots 1 and 80, but all the way to the water's

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Lake Murray and is referred to in certain of the title documents.

[6] The SCE&G fringe deed to Mrs. Sessions in 1969, when she still owned a unified Lot 1, appears to purport transfer of some or all of the fringe land that forms the rear of the disputed property. However, as discussed hereinbelow, once a road is dedicated as public, it cannot simply stop being a public road. This 1963 deed, which precedes the 1969 deed, indicates that the road was already dedicated to the public before the Sessions deed, consistent with the evidence from the 1950s.

edge, such that it formed a boundary of the fringe land adjacent to Lot 80 (*i.e.*, the lands of Goodwin on the north) and Lot 79 (*i.e.*, the lands of Easton on the west).[7] This depiction continued throughout Appellant's chain of title. In 1987, when Appellant purchased her property, the survey shows that Lot 80 fronts on what was previously named Clinton Street, but has another "public road" running the entire length of the eastern side of the property, to include both the original and fringe land. (JE 21, R. p. 668). This is the document upon which Appellant relied when determining the nature of her interest in her property and the property around hers.

Over the years, the existence of the public road on the Disputed Property was reaffirmed to Bryan in various ways. At the time of her purchase, in addition to the public road depicted on her plat, the real estate agent who assisted Appellant told her that a public road ran along the side of the property. (Tr. p. 42:17–20, R. p. 459). Later, SCE&G gave Bryan the impression that a power pole for a light to brighten the area between the Lot 1A and Lot 80 houses could not be located in the area of the Disputed Property because it was a public road. (Tr. p. 43–44, R. p. 460-61). Bryan also was given the impression by the roads agent for the County that she could not buy the Disputed Property because "[y]ou can never purchase a road." (Tr. p. 44:21–23, R. p. 461). Believing that—as members of the public—the land was available for their use but not ownership, the Bryan family used the Disputed Property for numerous activities over the multiple decades that they have owned their lake house, including to move boats and reach their boathouse, access the lake, and cook barbeque. Indeed, the Bryans cut grass and otherwise maintained the Disputed Property until Browning put up barriers to access, including trees and rebar stakes. (Tr. p. 129:12–25, R. p. 546). In order to comply with the limitations of a public space, the Bryans never made

[7] Lots 79 and 80 were purchased by Easton from the Goodwins at different times. Thus, at the time the Lot 80 fringe land was deeded, the Goodwins owned Lot 80 but had already sold Lot 79 to Mr. Easton, who received the fringe land for Lot 79 from SCE&G.

any permanent changes to the property, such as building a permanent structure or fence. (Tr. p. 140:11–16, R. p. 557). However, because the Eastons and the Bryans both experienced other members of the public using and leaving litter at the Disputed Property, they both used temporary barriers like chains or a boat to try and limit littering.[8] (*See* Tr. p. 28:11–17, R. p. 445; p. 46:9–11, R. p. 463) The fact that others left litter on the Disputed Property is certainly evidence that the public used the public road and its access to the Lake over the course of many, many years.

Photos taken around the same time the Lake Murray Shores neighborhood was initially platted and developed shows the Disputed Property as part of Greenwood Street. (Court Ex. 1, R. p. 819). The roads for the neighborhood, which were not paved, show up exceedingly well in a 1955 aerial photo of the property. The road runs straight through the trees right through the fringe lands at the shore of the Lake. (*Id.*) Meanwhile, approximately twenty years later, in the Browning title chain, the 1974 subdivision plat also shows part of the Disputed Property as a road, but

[8] Mr. Easton, the son of the owner who sold Lots 79 and 80 to Ms. Bryan, testified at trial that he believed that a judge gave his father permission to block the road due to littering, but no written record of such an event has ever appeared in this case. Notably, if there was a court case, it would have turned up in the title search and related survey plat done when Ms. Bryan purchased Lots 79 and 80. However, her plat from 1987 clearly shows a public road. The lack of anything in the chain of title for any of the Parties in this case suggests that no actual judgment was ever entered if a case was even filed. The Trial Court erroneously found that Mr. Easton formally closed the road and even found that Appellant also testified that the road was formally closed. This finding is belied by the greater weight of the evidence and is a clear misconstruction of Appellant's testimony. Appellant testified that she was told there was a public road running along her land that the real estate agent told her was no longer being maintained by the County and had been "closed off" by the seller. Based on the clear context of Appellant's testimony, this was a reference to physically putting a chain up due to littering, not a court case. (*See* Tr. p. 42–43, R. p. 459-60). Given the total lack of written record of an official closure anywhere, much less in the chains of title, the Trial Court's finding on this issue was erroneous. Indeed, if a Saluda judge formally closed the road prior to 1987, the Disputed Property may well have been wholly or partly given to the Easton family, making it impossible for Ms. Browning to obtain ownership of some or all of the Disputed Property through the quitclaim deed from the County or anyone else. Because the Trial Court upheld the Saluda Council deed and found a prior road closure, the final order is inherently contradictory.

truncates the road to a shortened stub, with the remainder of the land being credited as part of Lot 1A. (JE 10, R. p. 650). Similarly, when Lot 1A was surveyed in 1987, a shortened portion of Greenwood Street was depicted, with the balance of the Disputed Property credited to Lot 1A without explanation. (JE 11, R. p. 651). Finally, in a survey from Browning's purchase in 2007, the same shortened portion of the road, identified as Moonlight "Lane" is shown. (JE 12, R. p. 652). In certain documents, this shortened section of the road is also referred to as the "Moonlight Drive Extension.[9]" It cannot be reasonably disputed that the short "Extension" was dedicated as a public road, since even Browning's chain of title bears this out.

One offered explanation for the shortened section is that it extends only to the original Lake Murray Shores boundary line, rather than continuing through what used to be "fringe" land. This argument was made by a surveyor testifying for Browning. However, this argument does not explain why the shortened "Extension" actually falls short of the original boundary line. The "Extension" extends far less than 100 feet from the front of Lot 80, which is the original depth of Lot 80 prior to the addition of fringe land—*i.e.*, the "fringe" line. (*See, e.g.*, JE 12, R. p. 652 (showing the "Extension" to be 51.62 feet in depth, inconsistent with the original Lot 80 depth of 100 feet)). Indeed, when considering an argument that the fringe land shows no sign of a road, it is worth noting that the fringe land ostensibly deeded to Mrs. Sessions includes a noticeable deviation from the lake contour line where the Disputed Property touches the shore—a deviation that is just slightly narrower at roughly 24 feet than the 30-foot-wide road that ends at that point. (*See, e.g.*, JE 12, R. p. 652 (showing rear property line following the lakeshore until a large triangle

[9] The County suggested at trial that this appellation was "a fabricated name for the purpose of litigation." (Tr. p. 89:4–6, R. p. 506). However, this name was coined and used by the County more than five years before litigation was filed, which was later clarified. (*See, e.g.*, JE 7, R. p. 645; *see also*, Tr. pp. 93:13–95:20, R. p. 510-512).

is cut out next to the rear of Lot 80)). This boundary deviation appears to be evidence of the shape of the road continuing through the fringe land. However, it is worth noting that even if a portion of the Disputed Property was deeded to Browning through some mechanism, this transfer would not foreclose the existence of a public road. As the County argued at trial, the County does not consider a road to be property owned in fee simple by the County, but rather considers roads to be easements or rights of way. (*See* Tr., p. 81: 4–14, R. p. 498). Even if Browning's predecessors were properly deeded some portion of the Disputed Property, which is denied, this in no way would prevent that land from being and having been a public road.

The status quo that had developed over the years in relation to the Disputed Property was disturbed starting in the years after Browning's 2007 purchase. The Bryans had been previously rebuffed by the County in their inquiries about the disputed property and thus believed it was permanently a county road, even if the County did not choose to maintain it. Meanwhile, Browning did not receive the same response when she inquired with the County about the Disputed Property. The County and its Council went out of their way to provide Browning with what she wanted.

The County went so far as to pass an ordinance and execute a quitclaim deed to Browning. Specifically, the County quitclaimed the following property.[10]

> That certain 30 foot road being an extension of Moonlight Drive formerly Greenwood Street, located in Lake Murray Shores, Section 1, County of Saluda, State of South Carolina and bounded generally now or formerly, on the West by lot of Jan H. Bryan, being known as Saluda County Tax Map No. 206-26-01-079 on the South where it dead ends into the lot of Rhonda W. Browning; on the East by lot of Rhonda W. Browning and by lot of Barbara Blymer, Trustee, being known

[10] The County has never updated its GIS mapping to reflect this alleged change in ownership, despite the deed being from roughly a decade ago. Rather, the shortened "Extension" is still mapped as a road.

> as Saluda County Tax Map No. 206-26-01-334; and on the North by the remaining portion of Moon Light Drive.

(JE 7, R. p. 645). In conveying the County's alleged interest, the County recited that "in its history Saluda County had maintained Moonlight Drive Extension but has not maintained it in recent years[.]" (JE 7, R. p. 645). The passing of an ordinance to effectuate a quitclaim deed requires a remarkable amount of effort. The Council went to this effort, even though the County now claims that it never had an interest in the road to quitclaim in the first instance. The level of effort involved in passing an ordinance means that the Council had to address the issue in at least three separate meetings. (Pl. Ex. 2, R. p. 778 (showing dates of readings and hearings)). The Council drafted Ordinance 07-15 and recited therein that "at one time in its history Saluda County had maintained Moonlight Drive Extension but has not maintained it in recent years . . . ." (*Id.*)

In giving away whatever interest the County held in this road without following the statutory road closure procedure, the County not only did not give an opportunity for the Bryan family to have a chance to argue in court over the disposition of the property as required by law, but the County also apparently did not seem to notice that by granting the owner of Lot 1A the "Extension," the County cut off the access for Lots 1B and 1C to get to Moonlight Drive should they ever lose access to the driveway on Lot 1D and need to use the platted access road that can only reach Moonlight Drive by going through the "Extension." (*See* JE 10, R. p. 650 (showing that the subdivision designed by Mrs. Sessions has an access road terminating within the extension)).

The quitclaim deed and the ordinance are but one of the various iterations of the County's viewpoint on the Disputed Property. Each time a new person or entity is asked about the Disputed Property, a new opinion is espoused. At the time of trial, the County was arguing the position that the Extension was never a public road, even though the County adopted an ordinance stating that

the road was previously maintained by the County. Indeed, the late Mr. Corley, previously head of the roads and bridges department, took multiple different stances within his own testimony and prior correspondence.

Emails show that in or before 2009, Browning made a request to Mr. Corley to maintain and add trees to a portion of the Disputed Property. (Pl. Ex. 6, R. p. 801). Mr. Corley wrote to other County employees and officials that the "area in question is a 30'x100' easement." This is noteworthy because the dimensions are inconsistent with the plats in Browning's chain of title as to the size of the "Extension" at roughly half that depth. What is notable about this email chain is that Mr. Corley never says "we do not have any interest in this property." Rather, his response to Browning's request shows that he wants to give her permission to improve the land if there will be "no obstruction to water flow coming from ditches or county maintained piping, and as long as it doesn[']t create a hazard with visibility then I have no problem with it." (Pl. Ex. 6, R. p. 801).

On September 21, 2010, Browning wrote a memorandum to Mr. Corley stating that he had given her permission to improve and maintain the "end portion of Moonlight Lane," which she states that she did "for the beautification of the neighborhood." (Pl. Ex. 12, R. p. 809). Browning proposes that she would "like to petition to purchase that portion of the road from the county." (*Id.*) Mr. Corley wrote another email to Saluda employees and/or officials stating that "you all approved" Browning's request "to use County easement as an access" and to plant trees. (Pl. Ex. 7, R. p. 802). Browning evidently asked to build a concrete drive on the property and Mr. Corley states "that the Road Committee would have to approve that request." (*Id.*) He also mentioned that "[s]he even said that she would 'allow' the next door neighbors to use it also." (*Id.*) However, Mr. Corley stated, "I feel that this would not be a good idea." (*Id.*) This is notable assertion of authority on behalf of the County for someone who later disavowed the County having any interest

in the property. (Corley Tr. p. 32:21–24, R. p. 701 (Mr. Corley stating, "It was not considered to be a county road.")). Oddly, while Mr. Corley claimed it was not a county road, he was also exercising control over the road. Mr. Corley further added to his conflicting statements by saying in his deposition that he continued to believe that the Disputed Property's "original intent was for the easement to be used as water access for residents who had no property touching the lake." (Corley Tr. pp. 14:19–15:6, R. p. 683-684).

While Browning received the County's cooperation on adding her gravel driveway, on planting trees, and ultimately on receiving the ordinance and quitclaim, before having the County align with her in this case, the Bryans received a different reception. In one internal Saluda email, a "Real Estate Clerk" emailed Amanda Rowe from the Roads & Bridges Department to say, *inter alia*, that she had been "through several emails" to tell Appellant's son that they could not have any piece of the Disputed Property. (Pl. Ex. 8, R. p. 803, Pl. Ex. 9, R. p. 805). The Real Estate Clerk described having to answer phone calls about the road as a "hassle." (*Id.*)

On July 10th, 2014, Mr. Corley addressed a letter to Browning, copying the County Director and the County Attorney, Mr. Spradley. (Pl. Ex. 10, R. p. 807). In this letter, Mr. Corley states that he had received a complaint about trees being planted "on the right of way of Moonlight Lane." (*Id.*) Mr. Corley stated that he and the Roads Committee went to observe the property. (*Id.*) Mr. Corley advised Browning that, "the road committee would recommend that you either begin an action to close that portion of Moonlight Lane or for you to remove the trees that have been planted on the portion of the right of way that adjoins the Bryan property." (*Id.* (emphasis added)). Despite this letter, written on letterhead for Saluda County, saying that a public road closing should be undertaken, the County now takes the position that no road closure was necessary. Despite this letter, copying the County Director and referring specifically to the area

where Browning planted trees as a "right of way," the County now takes the position that it never had a right of way. Despite this letter, which notes that concerns had been raised about the access to this road, the County then took the position that it could avoid a road closure case by deeding any interest (which it now avers it never had) to one specific property owner without consulting the adjoining property owner. In short, Browning has evaded the legal processes set in place specifically to address facts like those in this case, and she has done so with the full cooperation of Saluda County and the Saluda County Council.

ARGUMENT

There are few things more bedeviling to the practitioners of jurisprudence than certain aspects of property law. *See Spring Valley Interests, LLC v. The Best for Last, LLC*, 926 S.E.2d 218 (2026). However, what Appellant seeks in this case is unusually straightforward: a declaration that the Disputed Property is a public road. The steps following that determination are set forth in the South Carolina Code. The complications that bring this case to an appellate court for review relate to a neighbor's attempts to usurp all rights to land that was dedicated to the public and the County Council's solicitous participation in that usurpation.

The Bryan family are members of the public and have been prejudiced by the misappropriation of the public road they used for boat access, for recreation, and as access to the rear of their own property. Browning has taken drastic steps to avoid anyone being able to use the public road she was never properly deeded—to the extent that she cuts off the legal access rights of not only the Bryan family, but also her neighbors on the eastern side and the owners of all the landlocked lots in her neighborhood. The Trial Court in this matter attempted to decide this case by washing its hands and not reaching any substantive conclusions that lend themselves to finality. The result is that the confusion surrounding the Disputed Property not only lingers but has been

amplified—something demonstrated by the fact that both Bryan and Browning filed motions to alter or amend the Circuit Court's judgment.

This Honorable Court has the opportunity to actually resolve the issues presented in this equity case. The clearest path forward is to acknowledge the dedication of the public road, as demonstrated by a preponderance of evidence in the record.

I. The record shows that the Disputed Property is a public road.

The preponderance of evidence in this case establishes that the Disputed Property was dedicated as a public road. In order to show a public road, there must be (1) a positive and unmistakable intent by the owner to dedicate the property to public use and (2) an express or implied public acceptance of the property offered for dedication. *See Mack*, 320 S.C. at 239, 464 S.E.2d at 126 (citations omitted). While there are multiple ways to establish intent, "[i]t is generally held that when the owner of land has it subdivided and platted into lots and streets and sells and conveys the lots with reference to the plat, he thereby dedicates said streets to the use of such lot owners, their successors in title, and the public." *Blue Ridge Realty Co. v. Williamson*, 247 S.C. 112, 118, 145 S.E.2d 922, 925–26 (1965) (multiple citations omitted); *see also Helsel v. City of N. Myrtle Beach*, 307 S.C. 24, 27, 413 S.E.2d 821, 823 (1992). Dedication can also occur through abandonment or acquiescence to public use. *See Vick*, at 477, 556 S.E.2d at 697. The evidence in this case demonstrates both forms of dedication.

a. There is unmistakable dedication of a public road.

The 1950 Plat created by the Joneses, doing business as The Lakeside Company, unmistakably sets forth a neighborhood with public roads, just as law states. The land where the Disputed Property is located was platted into lots with clear public streets with names matching other South Carolina towns (*e.g.*, Greenville, Clinton, and Greenwood). In that plat, what was entitled "Greenwood" Street clearly and unmistakably runs between Lot 1 and Lot 80. Without

doubt, one can see that the road runs to the end of the lots and through to the Lake's shore. (JE 8, R. p. 648). Thus, the Disputed Property was intended to be a public road by the original owner and developer. Indeed, while it has been argued that the road served no purpose, this is obviously untrue. The road served as lake access for the many landlocked lots in that section of Lake Murray Shores. (Corley Tr. pp. 14:19–15:6, R. p. 683-684 (Mr. Corley stating that he still believed that "the original intent was for the easement to be used as water access for residents who had no property touching the lake")). This intent is perfectly apparent from the plat, but is also buttressed by the experiences of the Easton and Bryan families, who—over the course of roughly 50 years—have seen members of the public use the lake access and litter in the process.

Somewhat ironically, Browning's own position demonstrates the existence of a public road—at least for a portion of the Disputed Property. Browning argued to the County that she needed to own the "Moonlight Drive Extension" because it is the only way to access her property by land. (*See* Pl. Ex. 12, R. p. 809). But that is just the point—she did not believe that she owned the Extension and she evidently accepted that at least that portion of the road was public. What is curious is that a public road does allow her access to her property, meaning that her rationale of obtaining title, and the County's rationale for giving her a quitclaim deed, does not hold water. In addition to already allowing Browning's use by virtue of being public, the public road also allows platted access to her neighbors on Lots 1B and 1C. The platted access abuts the "Extension" and does not connect to the maintained portion of Moonlight Drive directly. That simple fact shows that the 1974 subdivider, Mrs. Sessions, was relying on the public nature of the road two decades after it was first dedicated to give the new smaller lots their own access. Otherwise, the platted access road would never have worked, because it would have dead-ended on Lot 80 without reaching the portion of Moonlight Drive that is not contested. This is visible in the 1974 Plat,

where the 20-foot road begins several feet south of Clinton, and comes out within the Disputed Property. If that Disputed Property was owned in fee simple by Browning, as she contends, then Lots 1B and 1C have no legal route to enter their property as it was platted in 1974 without having to obtain a new easement.[11] The plats and deeds indicate a dedication, but so too does the fact that the members of the public used the area for various purposes, including lake access, for decades before the road was cut off with trees and rebar and the lakeshore blocked with rip rap.[12] To the extent that the Court found that there was no dedication, this was in error, as evidenced by the overwhelming majority of the evidence.

b. The intent to dedicate was followed by acceptance.

There is more than enough evidence to show that the County accepted the road. However, as between lot owners and the developer, government acceptance is not even necessary to establish a road. Under existing precedent, "as between the owner, who has conveyed lots according to a plat, and his grantee or grantees, the dedication is complete when the conveyance is made, even though the street is not accepted by the public authorities." *Blue Ridge Realty Co. v. Williamson*, 145 S.E.2d 922, 925, 247 S.C. 112, 119 (quoting 16 Am. Jur., Dedication, Section 31) (punctuation omitted). The South Carolina Supreme Court held in one case as follows.

> Where plaintiff purchased a corner lot with reference to recorded subdivision map which showed lot to front on certain street and thereafter defendants separately purchased lots which contained a portion of street which bounded plaintiff's lot, plaintiff had such a special property interest in street as to entitle him to maintain suit for preservation of street even though dedication had never been accepted by municipal authorities.

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[11] As mentioned, the owners of Lot 1B and 1C do not use this road as it was designed, but instead cross over Lot 1D, apparently based on permissive use, rather than any legal right.

[12] Notably, Mr. Anderson, a disinterested witness whose family owned a house across the street when he was a child testified that his father used the Disputed Property as a boat ramp, that he himself used to ride a golf cart on the Disputed Property, and that he witnessed strangers using the Disputed Property as well. (Tr. pp. 9:4–11:14, R. p. 426-428).

Id. (quoting syllabus for *Cason v. Gibson*, 61 S.E.2d 58, 217 S.C. 500 (1950)). In this case, Appellant is a successor-in-interest to the original grantees of Lots 79 and 80. As such, the use of the public road, dedicated in the original plat for the neighborhood's use and depicted throughout Appellant's chain of title, is a right that Appellant still holds, regardless of the County's position.

Nonetheless, there is ample evidence of acceptance of the public road, not the least of which is the County's own statements. First, it is indisputable that the County accepted and recorded the 1950 Plat. Second, it is indisputable that the County continues to this day to maintain the remainder of the roads depicted in the 1950 Plat, including Clinton and Greenwood Streets, which became Moonlight Drive, to this day. Third, it is indisputable that every plat or survey for Lot 80 and for Lot 1A, from 1950 to the present, has shown at least a portion of the Disputed Property as a public road. Again, each of these plats were recorded by the County. Fourth, even the County's GIS mapping shows a portion of the Disputed Property as a county road.[13] Fifth, the County passed an ordinance stating that it had maintained the "Moonlight Drive Extension" in the past. Sixth, clear imagery taken approximately five years after the 1950 plat was recorded, clearly shows the road visibly carved out all the way to the lake. With this abundance of indisputable evidence, a factfinder cannot reasonably deny a finding that there was an accepted public road. Where every chain of title and the County Council itself all state that there is some form of a public road, it is an abuse of discretion to hold otherwise.

[13] While Appellant also believes that there are errors in the GIS mapping, it is worth noting that the County's witness, Ms. Rowe, intimated that the County's GIS mapping department is inaccurate (Tr. p. 92: 6–7, R. p. 509), while Mr. Corley, another witness for the County, indicated that the Council passed an ordinance and executed a deed that were inaccurate (Corley Tr. p. 24:11–21, R. p. 693). The numerous contradictions between the various arms of Saluda, or even within the testimony of one person call the credibility of the County into question.

Indeed, in one prior case, the South Carolina Supreme Court held that where there is a showing that any part of a road has been accepted, it shifts the burden of proof to the other party to show that anything less than the whole road was accepted. *See Chafee v. City of Aiken*, 57 S.C. 507, 513, 35 S.E. 800, 801 (1900); *see also Corbin v. Cherokee Realty Co.*, 229 S.C. 16, 91 S.E.2d 542 (1956). In the *Corbin* case, the Court explained in detail that even if the government entity offered a road through a subdivision plat does not want to accept the whole road, the whole offered road must nonetheless remain dedicated to public use and free to be opened if needed in the future even if the government entity chooses not maintain it at present.

> ' . . . But [the Board of Aldermen] has no right to relinquish or give away the unaccepted portion of the dedicated street. In the event of acceptance of portion of street, as dedicated by plat of owner and sale of lots with reference thereto, the unaccepted portion would remain exactly as it was before it became a part of the town, dedicated to public use, though not kept in repair by the town, and is not to be obstructed because it must at all times be free to be opened as occasion may require.'

Corbin, at 25–26, 91 S.E.2d at 547 (quoting *Home Real Estate Loan & Ins. Co. v. Town of Carolina Beach*, 216 N.C. 778, 788, 7 S.E.2d 13, 20 (1940)).

Here, there is ample evidence to show that Greenwood Street/Moonlight Drive was accepted as a public road throughout the written and photographic record. There is even ample evidence to show that— at a minimum—part of the Disputed Property was accepted, even in the chain of title for Browning's lot. As such, it falls to Respondents to show that some piece or portion of the road was not included in the acceptance and that certainly has not been shown.

There are multiple ways to demonstrate acceptance. These include implied acceptance through maintenance and public use. *See Baugus v. Wessinger*, 303 S.C. 412, 416, 401 S.E.2d 169, 172 (1991) (stating that "use, repair, and working of the streets by public authorities" and "public use" are modes of acceptance); *see also Helsel*, at 27, 413 S.E.2d at 823 (no formal

acceptance by government is necessary where implied acceptance exists). In this particular case, it is indisputable that the County accepted Moonlight Drive, a/k/a Greenwood Street, because the County still maintains the road to this day. Moreover, the road is regularly used by the public. Under this scenario, the burden should shift to Respondents. However, even if confining the analysis only to the Disputed Property, there is still evidence of maintenance, including the 1955 photo and an ordinance passed into law stating as much, and evidence of public use, including use for recreational purposes and lake access by neighbors and the general public. Given that the littering issues occurred during the tenure of two different owners over a period of decades and no testimony contradicted this information, there can be no question of substantial public use. Indeed, there is also the assertion of control exercised by Saluda and its officials in their initial interactions with Browning and the Bryan family, which shows public acceptance even if there was no recent public maintenance. In sum, there was clear dedication and clear acceptance and to find otherwise ignores both the greater weight of the evidence in this case and longstanding case law.

c. The Court could not make a superior credibility assessment of the late Mr. Corley, given that his testimony was introduced by deposition transcript.

To the extent that the Trial Court relied on the testimony of Mr. Corley in making its findings of fact, no deference should be given to the Trial Court on the issue of credibility. Typically, the Trial Court is given deference in its assessment of witnesses, but this should not apply to the late Mr. Corley.[14] Typically, the trial court is in a better position to determine credibility. *See Lewis v. Lewis*, 392 S.C. 381, 385, 709 S.E.2d 650, 651–52 (2011); *see also Browning v. Browning*, 366 S.C. 255, 261, 621 S.E.2d 389, 392 (Ct. App. 2005) (both reciting the

[14] Billie Ray Corley, retired Superintendent of the Saluda County Roads and Bridges department, unexpectedly passed away on September 5, 2022, approximately two months after his deposition, thus causing him to be an unavailable witness.

traditional truism that a bench trial judge is a superior position to determine credibility). However, Mr. Corley's testimony was introduced solely in a written deposition transcript adduced two years before the trial. This format prevents the Trial Court from having any better view of his demeanor or credibility than the appellate court. *See Forester v. Forester*, 226 S.C. 311, 315, 85 S.E.2d 187, 188–89 (1954) (citing *Finley v. Cartwright*, 55 S.C. 198, 33 S.E. 359 (1899)) (it is settled that in an equity case this court may reverse a finding of fact by the circuit court "when the appellant satisfies this court that the preponderance of the evidence is against the finding of the circuit court"). To the extent that the Trial Court placed faith in the testimony of Mr. Corley when, for instance, he disavowed maintenance, that faith may be disregarded due to the preponderance of the evidence in the record. In relation to Mr. Corley's credibility, it is worth noting that both Appellant and her son recalled Mr. Corley telling them that the Disputed Property was a County road. (Tr. p. 99:8–17, R. p. 516 (Appellant's son recalling going to Mr. Corley's office to speak with in); pp. 44:15–45:9, R. p. 461-462 (Appellant recalling a conversation with Mr. Corley); Pl. Ex. 11, R. p. 808 (two emails to Mr. Corley by Mr. Bryan and an attorney)). Yet, Mr. Corley denied speaking with them. (Corley Tr. p. 29:6–9, R. p. 698 ("I have not ever spoken to her."); p. 17:20-22, R. p. 686 ("I don't recall speaking to him."); p. 30:13–14, R. p. 699 ("Never had any calls about it until Ms. Browning wanted access to it.").

d. Mr. Corley's testimony, Ms. Rowe's testimony, and the County's maintenance records are not probative of the dedication issue.

Mr. Corley served in the roads department of the County for many years, starting in 1999. However, even though his tenure was long, it did not extend back to the timeframe when the Disputed Property was dedicated as a public road. Indeed, even the hearsay statements of the two maintenance workers mentioned by Mr. Corley date back only to the purchase by Bryan—the statements are not probative of anything that happened in the 1950s, 1960s, 1970s, or even the first

half of the 1980s. (Corley Tr., p. 38:2–21, R. p. 707). Appellant does not dispute that the County has not actively maintained the Disputed Property since she bought her land in 1987. It is the time between the creation of Lake Murray and 1987 that is at issue. Similarly, the written records of the County share the same limitation: the County only has written maintenance records from well after the year 2000. (Tr. p. 71:17–18, R. p. 488 (County did not start using software system until 2007 or 2008)). These records, too, are inapplicable to the question of whether the Disputed Property was dedicated as a public road sometime prior to 1987, as indicated by the plats and photos in the record.

e. The public road includes the fringe land.

There are two clear pieces of evidence in the record showing that the public road continues not only between the originally platted Lots 1 and 80, but also through the fringe land. The first is the deed from SCE&G specifically stating that a public road runs along the boundary of the Goodwins' property. (JE 16, R. p. 659). The second is the 1955 aerial photograph depicting the road clearly carved out of the forest straight into the shore of the lake. (Court Ex. 1, R. p. 819). The Lower Court erred in not ruling that the public road extends to the same extent as the current Lots 1A and 80, thus constituting a lake access.

II. The County cannot merely deed away its interest in a public road.

At the point in time when the County still espoused that it had an easement for a public road, in 2014, the County advised Browning to petition to close the road. (Pl. Ex. 10, R. p. 807). Yet one year later, the County evaded the entire closing process by using a quitclaim deed to give Browing an interest the County now claims it did not have. This scenario is factually bemusing, but also legally unsound. There is a statutory process in place specifically to protect parties with some stake in a public road closure, like the Bryans. Yet they never had the chance to participate in the process despite having made the same requests that Browning did. The County simply cut

all the interested parties out by using an Ordinance. The Trial Court erred in not finding this deed ineffectual and improper.

a. The law requires the road closing process to be followed.

South Carolina Code Section 57-9-10 sets forth the procedure for closing a public road. This statutory scheme "removes the uncertainty attending the common law of dedication and abandonment." *Hoogenboom v. City of Beaufort*, 315 S.C. 306, 319, 433 S.E.2d 875, 884 (Ct. App. 1993). One key component of the statutory scheme is the notice requirement. *See* S.C. Code Ann. § 57-9-10. Abutting property owners must be notified at their last known address. *Id.* A sign must be posted and a newspaper notice must be printed. *Id.* In one recent case, the County of Clarendon failed to follow similar notice requirements related to the posting of a sign. The South Carolina Supreme Court was less than pleased with one County official, whose "understanding of what the law requires is patently inconsistent with the [code section at issue]." *Massenberg v. Clarendon County Treasurer*, 443 S.C. 546, 555, 905 S.E.2d 399, 403 (2024) (remittitur sent Sept. 6, 2024). In this case, the County has attempted to skirt the applicable law, even after advising Browning that she should follow it. The correct procedure must be followed and any attempt to skirt that law must be found ineffectual. *See Dep't of Transp. v. Hinson Family,* 361 S.C. 649, 656, 606 S.E.2d 781, 785 (2004) (the circuit court currently found that a road remained accessible to the public because no formal action under S.C. Code Ann. § 57-9-10 and -20 had been filed).

b. The County takes inherently inconsistent positions with regard to the Disputed Property.

Within the last fifteen years, the County or its agents have taken numerous different and conflicting positions. Sometimes the Disputed Property or some portion thereof is a public road; sometimes it is an easement or right of way; sometimes it is none of these things; sometimes the

road serves a purpose; sometimes it is a pointless dead end. The GIS department has a different story than the roads department, and the roads department has a different story than the County Council or even the County's attorneys.

Fortunately, one South Carolina Supreme Court opinion has already dealt with a vacillating county and failure to give proper notice to interested parties in relation to a water access road. *See Thompson v. Hammond*, 299 S.C. 116, 382 S.E.2d 900 (1989). In the *Thompson* case, a landowner filed to close a public road leading to a landing on the Intercoastal Waterway. *Id.* at 117, 382 S.E.2d at 901. The landowner proposed to close the road and split the property with the adjoining landowners. *Id.* Rather than appearing in the court case to oppose closure, multiple landowners got together and presented a petition to their councilperson, who then presented the opposition to the council. *Id.* at 118, 382 S.E.2d at 902. Initially, the council voted to oppose the closing, told the county attorney to proceed accordingly, and let the petitioners know of the decision. *Id.* Four months later, in an executive session late at night where the advocating councilperson was not in attendance, the Council changed its position. *Id.* No one told the petitioners of this change and none of the petitioners then appeared for the court hearing two days later. *Id.* The county attorney followed the new instructions and did not oppose the closure. The attorney's statements were on the record. *Id.* The judge ordered the road closed. *Id.* Once they learned of this order, the petitioners then moved for relief from judgment, as did the county. *Id.* However, because the county's attorney had appeared and placed the lack of opposition on the record, the court found that the county was bound by these statements. *Id.*

In this case, the County is also trying to flip its positions. In writing, the County initially maintained to all involved that the road in question was public. Moreover, the County told Browning that there would need to be a road closure petition, just as had been indicated to the

Bryans previously. Indeed, even when the County started changing its position by use of an ordinance and quitclaim deed, the County still said that there was maintenance of the road by the County in the past. This recitation in an ordinance must be considered a definitive statement of the County given that it went through multiple readings and was approved the Council. The County has in this case attempted to walk back all prior statements indicating a public road accepted by the County. This attempt should be estopped, just as the County was held to its prior statements in the *Thompson* case.

A party can prove estoppel against a government agency if that party had a "(1) lack of knowledge and of the means of knowledge of the truth as to the facts in question, (2) justifiable reliance upon the government's conduct, and (3) a prejudicial change in position." *Quail Hill, LLC v. County of Richland*, 387 S.C. 223, 236-37, 692 S.E.2d 499, 506 (2010) (quoting *Grant v. City of Folly Beach*, 346 S.C. 74, 80, 551 S.E.2d 229, 232 (2001)). In this case, the County's roads department informed the Bryans that there was a public road that the Bryans could not ever buy or possess, leaving them to believe that the road would remain public absent a court case closing the road and dividing the property. Meanwhile, the County initially indicated to Browning that there was a public road, including passing on a complaint about the road's obstruction. Then, without any notice to the adjoining landowners as required by statute, the County changed its position on the necessity of a road closure case and put through a quitclaim deed and ordinance. The Bryans detrimentally relied on multiple statements by the County. The County, which failed to follow the road closing statute, and failed to provide notice to person they knew had an interest in the subject land, should be estopped from now taking yet another position in this case by arguing that the road was never maintained and never public.

c. Even if the road was abandoned by the County, the process and procedure must still be followed.

No party disputes that the County has not recently maintained the Disputed Property. Given that the road has been left alone since before 1987, it is possible to conclude that the County abandoned the public road. However, this does not simply give the County the right to give property to Browning at its own discretion. In the *Hinson* case, the court made it clear that even an abandoned road must go through the statutory process for closure "to effect an abandonment." *Hinson*, at 655–56, 606 S.E.2d at 506. Public road closures must follow a statutory closing process. This process protects interested landowners and gives a court the discretion to award title to abandoned land. Browning and the County made a concerted effort to avoid this process and cut Bryan out of the process. The ordinance and quitclaim deed were neither legal nor fair. The law is supposed to make all equal in its eyes, but it is clear in this case that Browning holds a superior position in the eyes of Saluda County: an attempt at a special workaround to give her something that the County would not give the Bryans, is precisely the kind of inequality that the law is intended to prevent.

III. The Trial Court failed to identify the fee simple owner of the Disputed Property.

The Trial Court in this case failed in its responsibility to determine who owns the Disputed Property. The central goal in this case, both for Appellant and Browning, is to decide the issue of the Disputed Property with finality. Although Bryan and Browning disagree on ownership and fairest disposition of the property, both deserve a well-reasoned ruling on the title to the Disputed Property, which lies between their respective houses. The Trial Court determined in an order on the motions to alter or amend that Browning owns the land in her recent plats. This conclusion was not tied to any findings of fact. Further, this conclusion does not determine who owns the "Moonlight Drive Extension"—the front part of the disputed property present as a road in

everyone's chain of title. If, as Respondents contend, the Extension was never a public road, then it must still be owned by someone. Nowhere in the chain of title is there any support for Browning being the successor in interest to that land. Moreover, the County disavows ever taking title to that land in fee simple, even if it was a public road. Indeed, based on the paper trail, the Extension still belongs to the Jones' heirs—the original developers.

The Trial Court upheld the quitclaim deed. This was an error. It is well known that one "claiming title by deed has no greater title than the original grantor in the chain of title upon which he relies." *Hoogenboom*, at 306, 433 S.E.2d at 880–81 (citing *Belue v. Fetner*, 251 S.C. 600, 164 S.E.2d 753 (1968)). If the County had no interest, it could deed no interest. Therefore, Browning cannot own fee simple title to the Extension. The Trial Court failed to wrestle with the issues of the declaratory judgment case. Unfortunately, however, the wrestling must be done.

The Trial Court was not within its discretion to decline a declaration. Section 15-53-70 states that the Court may "refuse to render or enter a declaratory judgment or decree when such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding." Both property owners filed Rule 59 motions to alter or amend in this case, because the final order issued by the Circuit Court failed to resolve the questions put to the Court with finality. While the Trial Court attempted to resolve some of the confusion in its subsequent order on the motions, multiple questions and lose string hang open waiting for resolution. Not the least of these is the baseline question: who owns the Disputed Property and how do they own it?

CONCLUSION

It is the Court's job to make this determination with a rationale and with reason. The Court's limited conclusions were not supported by relevant findings of fact. Today, there is no

clear chain of title for the Disputed Property and no clear owner of it. The Parties to this case placed a question before the Trial Court for resolution but that question was not answered. It, therefore, falls to this Court to make a reasoned determination as to the facts of this case and the conclusions of law that should be drawn. Appellant respectfully requests that the Court of Appeals reverse the Trial Court's order and find that the Disputed Property is a public road. Upon such finding, Appellant requests that the Court either divide the Disputed Property between Bryan and Browning as adjoining landowners in accordance with Section 57-9-20 or order that the statutory road closure process must be completed as outlined in Section 57-9-10.

Respectfully submitted,

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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SALUDA COUNTY
Court of Common Pleas

The Honorable Walton J. McLeod IV, Circuit Court Judge

Appellate Case No.: 2025-001669
Civil Action No.: 2021-CP-41-00032

Jan H. Bryan, ... Appellant,

v.

Saluda County, Saluda County Council, Donald E. Hancock in his Official Capacity as Chairman of Saluda County Council, Rhonda W. Browning, and First Community Bank, ... Defendants,

of which Saluda County, Saluda County Council, and Rhonda W. Browning are the ..... Respondents.

CERTIFICATE OF COUNSEL

I certify that this Brief of Appellant complies with Rule 211(b), SCACR.

Respectfully submitted,

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