

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )  
 )  
The Enclave at Fairview Farm )  
Homeowners' Association, Inc., )  
 )  
Plaintiff, )  
vs. )  
 )  
Susan B. Spiegel, )  
 )  
Defendant. )

IN THE COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT  
Case Number: 2025-CP-01570

**ORDER DENYING DEFENDANT'S  
MOTION TO ALTER/AMEND**

**RECEIVED**

**May 28 2026**

**SC Court of Appeals**

This matter came before the Court pursuant to a Motion to Alter or Amend Temporary Injunction (the "Motion") filed on August 1, 2025, by the Defendant, Susan B. Spiegel ("Defendant" or "Spiegel"). The Motion sought to have the Court amend its Order for Temporary Injunctive Relief issued on July 23, 2025.

Present for the hearing was counsel for Defendant Susan Spiegel, Bill Young, and counsel for Plaintiff, The Enclave at Fairview Farm Homeowners' Association, Inc. ("Plaintiff" or "The Enclave"), Justin Mihalic and R. Mills Ariail, Jr.

Defendant's counsel argued that the Court's July 23, 2025, Order was insufficient based on the decision in *Crook v. South Carolina Election Commission*, and that the Order Granting Plaintiff's Motion for Temporary Injunction needed to contain specific factual findings that specifically identify the irreparable harm that would result if the injunction were not granted, and a detailed discussion on the factors of "likelihood of success on the merits" and "inadequate remedy at law."

Defendant's counsel also argued that this Court erred by citing to the *Siau v. Castle* case in the July 23, 2025 Order for the proposition that if a covenant is applicable, then right to

injunctive relief automatically applies.<sup>1</sup> Defendant’s counsel argued that the applicable standard is the one set forth in the South Carolina Supreme Court decision in *Buffington v. T.O.E. Enterprises*, in that a party must show the restriction applies to the property either by the “express terms or by plain and unmistakable implication.” *Buffington v. T.O.E. Enters.*, 383 S.C. 388, 392, 680 S.E.2d 289, 291 (2009).

Defendant takes the position that the 2013 Covenants contain no such language, either expressly or by a plain and unmistakable implication which would prevent Defendant from granting the easement at issue and stressed the important right that individuals should be allowed to use their property as they wish.

As to the likelihood of success on the merits, Defendant’s counsel argued that Plaintiff’s cannot demonstrate a likelihood of success on the merits based on the lack of express language or plain and unmistakable implication restricting Defendant from granting an easement to another party. Defendant’s counsel further argued that there 2013 Covenants contain no language prohibiting the granting of easements, or expressly requiring that easements be submitted to the HOA or Board of Architectural Review for approval, and that any ambiguity in the 2013 Covenants must be construed in favor of the Defendant as she has a right to use her property as she wishes.

Defendant’s counsel also argued that the failure of Plaintiff to include the other party to the easement, Blue Sky, as part of the action was fatal as Blue Sky is a necessary party.

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<sup>1</sup> The Court and counsel for the parties all acknowledge that the Supreme Court’s ruling in *Buffington* overturned holding in the *Siau* decision *Buffington v. T.O.E. Enterprises*, 383, S.C. 388, 394 680 S.E.2d 289, 292 (2009) (“Accordingly, we hold that, upon a finding that a restrictive covenant has been violated, a court may not enforce the restrictive covenant as a matter of law. Rather, the court must consider equitable doctrines asserted by a party when deciding whether to enforce the covenant.”)

Lastly, Defendant's counsel argued that the issue of bond was not addressed in oral arguments at the June 12, 2025, hearing, and takes the position that a bond of \$1,600 is inappropriate and insufficient to address the damage that a party subject to the wrongful issuance of an injunction may suffer. Defendant asked for the ability to provide the Court with information supporting her position that the appropriate bond amount would be well in excess of the \$1,600 bond in the July 23, 2025, Order granting temporary injunctive relief.

In reply, Plaintiff's counsel began by agreeing with Defendant's counsel and the Court that *Siau* was not an appropriate standard as far as its holding that the mere fact a covenant has been violated is grounds for injunctive relief. However, Plaintiff takes the position that the Court nonetheless conducted an appropriate analysis at the June 12, 2025, hearing on their Motion for Temporary Injunctive relief in reaching its decision.

With regard to identifying specific "irreparable harm," Plaintiff's counsel pointed to the affidavit filed by Plaintiff with the initial motion, which stated Plaintiff's concerns over decreases in property values, interference with horse riding trails, adverse impacts on Plaintiff's ecological amenities, such as Goldmine Creek which runs through the Enclave, impairment to the homeowners' use and enjoyment of their property, and potential subsequent pollution concerns that could result from allowing the commercial water line which could adversely impact the well water of the homeowners.

Plaintiff's counsel cites to the decision in *Buffington*, where homeowners' concerns of decreased property values and noise and light pollution were sufficient to establish "irreparable harm" for purposes of a temporary injunction. *Buffington v. T.O.E. Enters.*, 383 S.C. 388, 393, 680 S.E.2d 289, 291 (2009) (holding that "irreparable harm" was shown based on Respondents

testimony that the commercial development of lots created additional light and noise pollution and adversely affected their property values).

Plaintiff's counsel maintained that the 2013 Covenants contain clear, explicit, and unambiguous language that the lots in The Enclave are reserved for residential, agricultural, and equestrian use, and since the intended use of the easement is commercial in nature, it clearly falls outside the permitted uses. Plaintiff's counsel also notes that Defendant was a member of the HOA and a signatory to the revised covenants in 2013.

As for the "inadequate remedy at law", Plaintiff's takes the position that the installation of a commercial waterline can't be undone if it later determined at a full hearing on the merits that the 2013 Covenants prohibit Defendant's easement and use of the easement, and thus the temporary injunction is necessary to preserve the status quo during the pendency of this litigation.

With respect to the bond, Plaintiff's counsel acknowledges that the issue of bond was not addressed in the first hearing but maintains that the \$1,600 bond ordered by this Court is appropriate should the easement later be determined to be valid, being that Defendant's granting of the easement was a one-time transaction for \$1,600.

### **DISCUSSION**

Based on the record, submissions of the parties, and counsels' arguments, the Court makes the following ruling:

The Court finds that the 2013 Covenants contain clear and unambiguous language restricting the use of lots within The Enclave. Specifically, Article II, Section C, of the 2013 Covenants entitled "Lot Restrictions", states: "All lots are hereby restricted to residential, equestrian and agricultural farm use, and no structure shall be erected, placed, altered, or

permitted to remain on any Lot other than one single-family dwelling, and any other accessory structure customarily incidental to the residential, equestrian, or agricultural farm use of such Lots or as otherwise allowed in these Covenants.”

The Court finds that this language is clear and unambiguous in its intent to preserve the properties for the stated uses—that is, residential, equestrian, and agricultural farm use.

As to the element of “irreparable harm”, the Court finds that Plaintiff’s affidavit which was submitted as an exhibit to Plaintiff’s Motion for Injunctive Relief on April 7, 2025, adequately articulates Plaintiff’s concerns over irreparable harm, including various types of pollution, possible adverse impact on the homeowners’ well water. The Court also expresses concern over the noise pollution, depreciation of property values, and the fact that the nature of these lots would potentially be changed dramatically if the injunction were not granted, which the 2013 Covenants clearly and unambiguously seek to preserve. The Court believes that not granting the temporary injunction would be a great inequity to the property owners of The Enclave who purchased these properties for the intended uses stated in the 2013 Covenants, and that Plaintiffs have met the burden of showing irreparable harm based on the damage that could be done to this area and the negative impact on the homeowners’ absent the temporary injunction. Thus, maintaining the status quo until such time that a full hearing on the merits is appropriate under the facts.

With respect to the “likelihood of success of the merits,” the Court finds both the explicit language and the implication of the language as to the intended use of the properties to be strong and thus finds that Plaintiffs have demonstrated a likelihood of success on the merits.

The Court has given consideration to Defendant’s argument regarding the free use of property and weighed it against the 2013 Covenants adopted by Plaintiff as to how the properties

within The Enclave are intended to be used. The Court finds that the use of one of the properties to sell a commercial easement for the purpose of running an underground commercial water line to service a commercial enterprise to run a business is a use that the drafters of the 2013 Covenants were attempting to restrict. While not explicitly articulated in this manner in the 2013 Covenants, the Court recognizes that it is impractical for the drafters of the covenants and restrictions to anticipate every possible scenario, but it is clear that Defendant's use of the easement falls outside the permitted uses articulated in Article II, Section C of the 2013 Covenants.

Regarding Defendant's argument that the other party to the easement at issue, Blue Sky, must be joined as a necessary party, the Court declines to hold that Blue Sky is a necessary party to this action. This Court's ruling has no effect on Blue Sky or how they intend to conduct their business, it merely deals with the 2013 Covenants and the restriction of lots within The Enclave. The Court finds that the installation of a commercial water line on property governed by the 2013 Covenants constitutes conduct that lies outside that which is sanctioned and directed by the 2013 Covenants.

The Court finds that the placement of a commercial water line, or easement for a commercial water line, to serve an adjacent property is categorically not an accessory structure customarily incidental to the residential, equestrian or agricultural farm use of such lots.

If Blue Sky wishes to file a motion to intervene, that is for Blue Sky to determine, but the Court's Order today addresses on this Defendant and her property that is subject to the 2013 Covenants.

Regarding the issue of bond, South Carolina case law is clear that it is mandatory there be a bond put in place upon the issuance of a temporary injunction pursuant to Rule 65(c), SCRPC.

*AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 50, 674 S.E.2d 505, 508 (Ct. App. 2009) (“Rule 65(c), SCRCF, requires the trial court to order [Plaintiff] to post a bond before issuing the temporary injunction.”)

Based on the information before the Court, the Defendant contracted for sale the rights to this easement for \$1,600, and that was the basis of the amount of the money for the bond in the previous Order. The Court finds that bond in the amount of \$1,600 is appropriate, as the amount that would be the benefit of the bargain between Defendant Susan Spiegel and Blue Sky for the easement at issue.

**CONCLUSION**

For the reasons explained herein, Defendant’s Motion to Alter or Amend is DENIED. The Order for Temporary Injunctive Relief issued on July 23, 2025, shall remain in full force and effect until further order of this Court, or until such time as there is an adjudication on the merits of this case.

**IT IS SO ORDERED.**

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Hon. Diane S. Goodstein  
Presiding Judge

Date: \_\_\_\_\_  
Spartanburg, South Carolina



Spartanburg Common Pleas

**Case Caption:** The Enclave At Fairview Farm Homeowners' Association, Inc. VS  
Susan B. Spiegel  
**Case Number:** 2025CP4201570  
**Type:** Order/Temporary Injunction

It is so Ordered!

s/Diane S. Goodstein