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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Charles B. Simmons, Jr., Master-In-Equity

Case No. 2024-CP-23-04910
Appellate Case No. 2025-002386

Harbor Town Association, Inc., Respondent,

v.

Rajiv Kumar Lakhaney, Deceased, deceased; and any children and heirs at law, distributes and devisees, and if any be deceased then any persons entitled to claim under or through them; also all other persons unknown claiming any right, title, interest or lien upon the real property described in the complaint herein, any unknown adults being a class designated as John Doe; and any unknown minors or persons under disability or in the military service being a class designated as Richard Roe, Defendants,

of which Rajiv Kumar Lakhaney, Deceased is the Appellant, and Oriole Properties, LLC, Thomas and Son Properties, LLC, and Kelley Yarborough Woody, Esq, Guardian ad Litem Nisi are Respondents.

RECORD ON APPEAL - VOLUME 1 OF 2

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
DOCKET NO. 2024-CP-23-04910

Harbor Town Association, Inc.

Plaintiff,

v.

Rajiv Kumar Lakhaney, Deceased, deceased; and any children and heirs at law, distributes and devisees, and if any be deceased then any persons entitled to claim under or through them; also all other persons unknown claiming any right, title, interest or lien upon the real property described in the complaint herein, any unknown adults being a class designated as John Doe; and any unknown minors or persons under disability or in the military service being a class designated as Richard Roe.,

Defendant(s).

**MOTION AND ORDER FOR
APPOINTMENT OF GUARDIAN AD
LITEM NISI AND ATTORNEY**

This matter comes before me on motion of the Plaintiff and with the consent of Kelley Yarborough Woody, Esquire for the appointment of Kelley Yarborough Woody as Guardian *ad Litem Nisi* for any unknown adults, any unknown minors, or persons under disability and the appointment of Kelley Yarborough Woody as Attorney for any Unknown Persons in the Military Service:

The motion of the plaintiff would respectfully show:

1. That Harbor Town Association, Inc. is the Plaintiff in the above-entitled action; that an action has been commenced and is now pending in said court to foreclose on the real property described in the complaint; that the Plaintiff is informed and believes that there are certain parties unknown to it who might have, or claim to have, some interest in or claim to said property; that their names or their whereabouts are unknown to the Plaintiff and cannot with reasonable diligence be ascertained; that Plaintiff, therefore, made John Doe and Richard Roe, the same being fictitious names used as the true names of such persons as are unknown to the Plaintiff, parties defendant, as representatives of all unknown persons claiming any right, title, interest and estate in, or lien upon the real and personal property involved in this action; and that

some of the unknown defendants are or may be minors or under other legal disability or in the military service.

2. That in order that all persons who may have some interest in the property may be brought before this Court, all such unknown persons have been named parties defendant, of which all unknown adults being a class designated as John Doe and all unknown minors or persons under other legal disability or in the military service being a class designated as Richard Roe; and it is necessary that some discreet, competent person be appointed to represent such unknown persons unless such persons or someone on their behalf should apply to the Court for such an appointment.

3. That Kelley Yarborough Woody, Esquire, a member of the South Carolina Bar, is a suitable and proper person to be appointed Guardian *ad Litem Nisi* for said parties defendant, resident or non-resident, who may be adults or minors or under other legal disability, and as attorney for an unknown defendants in the military service, as Kelley Yarborough Woody is in no way connected in business with the Plaintiff or its counsel and has no interest adverse to the interest of such minor defendants, defendants under other legal disability, defendants in the military service, and other unknown defendants claiming any right, title, or interest in the estate which is the subject of this action.

THEREFORE IT IS ORDERED that pursuant to the Servicemembers Civil Relief Act and Rule 17, SCRCF, Kelley Yarborough Woody, Esquire be, and hereby is, appointed as Attorney for unknown defendants in the military and as Guardian *ad Litem Nisi* on behalf of all unknown minors; all unknown persons under other legal disability; and all other unknown defendants, all of whom may have or may claim to have some interest in or claim to the property commonly known as 36 Spinnaker Court ; that Kelley Yarborough Woody, Esquire is empowered and directed to appear on behalf of and represent said Defendant(s) unless the said Defendant(s), or someone on their behalf, shall, within thirty (30) days after service of a copy hereof, as directed procure the appointment of a Guardian or Guardians *ad Litem* for the said Defendant(s).

IT IS FURTHER ORDERED that the Summons herein, together with the Notice of Filing Complaint and Notice of Order Appointing Guardian *ad Litem Nisi* and Attorney, be served upon said Defendants whose names are unknown, to include any children and heirs at law, distributees and devisees of John Smith, deceased; and if any of the same be deceased, any and all persons

entitled to claim under or through them; also, all other persons unknown, claiming any right, title, interest or lien upon the real property described in the Complaint herein; any unknown adults being as a class designated as John Doe and any unknown minors or persons under legal disability or in the military service being as a class designated as Richard Roe, by publication of the same in The Greenville Journal, a newspaper most likely to give notice to the person(s) to be served in this county, for a reasonable time, but at least once a week for three (3) consecutive weeks.

I SO MOVE:

s/ Ashley N. Green
 Ashley N. Green (SC Bar 101741)
 McCabe, Trotter & Beverly
 4500 Fort Jackson Blvd Suite 335
 Columbia, SC 29209
 Phone: 803-724-5000
 Email: ashley.green@mccabetrotter.com
Attorney for the Plaintiff

September 5, 2024
 Columbia, South Carolina

I SO CONSENT:

s/ Kelley Yarborough Woody
 Kelley Yarborough Woody (SC Bar 7307)
 PO Box 6432
 Columbia, SC 29260
 Phone: 803-787-9678
 Email: kwoody@kelleywoody.com
Guardian ad Litem Nisi and/or Attorney for

September 5, 2024
 Columbia, South Carolina

ELECTRONIC SIGNATURE PAGE TO FOLLOW



Greenville Common Pleas

Case Caption: Harbor Town Association Inc vs. Rajiv Kumar Lakhane

Case Number: 2024CP2304910

Type: Order/Appointment Of Guardian Ad Litem

So Ordered

G.D. Morgan Jr.

Electronically signed on 2024-09-09 11:53:25 page 4 of 4

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
2024-CP-23-04910

Harbor Town Association, Inc.

Plaintiff,

v.

Rajiv Kumar Lakhaney, Deceased, deceased; and any children and heirs at law, distributes and devisees, and if any be deceased then any persons entitled to claim under or through them; also all other persons unknown claiming any right, title, interest or lien upon the real property described in the complaint herein, any unknown adults being a class designated as John Doe; and any unknown minors or persons under disability or in the military service being a class designated as Richard Roe.,

Defendant(s).

ORDER OF REFERENCE

20546.18

Pursuant to Rules 53(b) of the South Carolina Rules of Civil Procedure, the above-entitled case is an action for foreclosure and may be referred to a Master in Equity in the above-entitled county by order of a circuit court judge or the clerk of court.

IT IS HEREBY ORDERED, that this action is referred to The Honorable Charles B. Simmons, Jr, to take testimony and to direct entry of final judgment in this action under Rule 53(b), SCRCP, and all matters arising from or reasonably related to such action. The Master in Equity shall retain jurisdiction to perform all necessary acts incident to this foreclosure action including issuance of a writ of assistance or issuance of any rule to show cause including but not limited to any rule to show cause why a party should not be bound by the judgment of foreclosure. Further, the Master in Equity shall retain jurisdiction to hear any action contesting the validity of the foreclosure action or sale or any motions pursuant to the South Carolina Rules of Civil Procedure including but not limited to Rule 60(b). Judicial sales will be conducted pursuant to S.C. Code Section 15-39-680 or on any other convenient sale's date as may be determined by the Master in Equity.

SIGNATURE PAGE TO FOLLOW



Greenville Common Pleas

Case Caption: Harbor Town Association Inc vs. Rajiv Kumar Lakhaney , defendant,
et al
Case Number: 2024CP2304910
Type: Order/Referred to Master or Special Referee

So Ordered

s/Brice Garrett, Clerk of Court

Electronically signed on 2024-11-18 11:27:25 page 2 of 2

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

2024-CP-23-04910

HARBOR TOWN ASSOCIATION, INC.

Plaintiff,

**JUDGMENT OF FORECLOSURE AND SALE
(Deficiency Judgment Waived)**

v.

RAJIV KUMAR LAKHANEY, DECEASED, ET
AL.,

Defendant(s).

20546.18

A hearing was held via Zoom on 06/06/2025. Evidence was presented, which is reported herewith, and from the evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. The Notice of Lien was filed on 06/16/2023 in Book MO 5738 at Page 3230.
2. The Lis Pendens was filed on 08/12/2024.
3. The Summons and Complaint were filed on 08/12/2024.
4. Service was made upon all Defendant(s) as shown by the proof(s) of service filed herein.
5. Kelley Yarborough Woody was appointed to represent the interests of the unknown defendants. An Answer and Consent Order of Reference was filed by Ms. Woody.
6. Attorney for the Plaintiff has fully complied with the South Carolina Supreme Court Administrative Order 2011-05-02-01 dated May 2, 2011.
7. All Pro Se Defendant(s) and all attorneys of record were notified of the time, date, and place of the hearing by letter and certificate of mailing of record herein.
8. On 02/14/2020 the Defendant(s) took title to the subject property located at 36 Spinnaker Court . The Defendant(s), by taking title to the subject property agreed to the governing documents for Plaintiff, which are of record herein.
9. The titleholder(s) of record in and to the subject property as of the filing of the lis pendens in this action is/are Rajiv Kumar Lakhaney.
10. An Estate was opened for the deceased, Rajiv K. Lakhaney, appointing Katherine Seymonov as the Administrator of the Estate on August 8, 2024, in Bergen County Surrogate's Court, State of New Jersey, Docket No. 2024-3095.
11. Payment of the assessment has not been made as provided for by the

Declaration, and the Plaintiff has elected to require immediate payment of the entire amount due thereon. Plaintiff has placed it in the hands of the attorney herein for collection by filing a Notice of Lien for unpaid assessments and initiating a foreclosure of that lien.

12. The sum of \$2,125.00 is a reasonable fee to allow as attorney fees for Plaintiff's attorney for services performed and anticipated to be performed until final adjudication of the within action, under the terms of the Declaration.

13. Specifically, the Plaintiff's attorney is entitled to \$475.00 for services performed in filing a Notice of Lien for delinquent assessments. This service required the Plaintiff's attorney to research public real property records to identify the subject property, research court records to determine if there are any pending actions against the subject property, prepare and coordinate filing and service of the Notice of Lien, coordinate any payoff requests or payment plans with the Defendant, and eventually satisfy the Notice of Lien upon payment by the Defendant.

14. Plaintiff's attorney is further entitled to the additional sum of \$1,650.00 for prosecuting the foreclosure action. This service required the Plaintiff's attorney to obtain and review a title abstract for the subject property, prepare and file a lis pendens, summons and complaint for foreclosure, arrange for personal service of the initial pleadings, review the file to determine whether service was properly achieved and whether the Defendant is in default, and prepare and file an Affidavit of Default when the Defendant failed to respond. The Plaintiff's attorney also had to prepare and file a proposed order of reference for this case. Once the court set a final hearing date, Plaintiff's attorney had to send notice to the Defendant at least ten days prior to the final hearing. Prior to this hearing, Plaintiff's attorney was responsible for drafting a proposed transcript of testimony, an affidavit of costs, an affidavit of attorney's fees, a certification that this case is not subject to Administrative Order 2011-5-02-01, a proposed order, and a proposed notice of sale. Upon execution of this Judgment, Plaintiff's attorney will be responsible for ensuring the foreclosure sale is properly advertised, bidding on her client's behalf at any foreclosure sale, and preparing post-sale documents if her client should be the highest bidder at the sale. If her client takes title to the property at the foreclosure sale, Plaintiff's attorney will also be responsible for prosecuting any eviction proceedings necessary to clear the property for Plaintiff's possession.

15. The sum of \$2,125.00 is reasonable based on the time necessarily devoted to representation of the Plaintiff during the several-month course of these proceedings. The services of counsel performed for the Plaintiff, including the number and types of pleadings and documents prepared, the incumbent liabilities, and the difficulties involved in this particular case, also support the amount awarded. The fees are also reasonable given the professional standing of the Plaintiff's counsel and her experience in handling assessment lien foreclosure matters. The fees awarded herein are also reasonable

since they are less than the fees customarily awarded by this court for similar services in this county. Moreover, the efforts of Plaintiff's counsel have had the beneficial result of a prompt foreclosure. Services anticipated to be performed until final adjudication contemplate completion of this matter within a reasonable time and do not include exceptional circumstances delaying conclusion beyond the normal time.

16. After all payments received by the Plaintiff have been credited, the amount due and owing with interest at the rate provided in the Declaration, and other costs and expenses of the within action, including an attorney's fee, secured by the Declaration, is as follows:

(a)	Assessments	\$4,442.38
(b)	Interest from January 1, 2023 through May 30, 2025 at 6.00% per annum	\$92.68
(c)	Special Assessments	\$60.00
(d)	Capital Reserve	\$160.00
(e)	Costs of collection prior to hearing (service, filing, etc.)	\$2,169.30
(f)	Attorney's fee	\$2,125.00
(g)	Payments	(\$3,452.60)
+		
TOTAL debt secured by the Declaration, including interest to date shown		\$5,596.76

Interest for the period from the date shown in (b) above through the date of this judgment at above stated rate to be added to the above stated "Total Debt" to comprise the amount of the judgment debt entered herein and interest after the date of judgment at the rate of 6.00% per annum (pursuant to the terms of the Declaration) on the judgment debt should be added to such judgment debt to comprise the amount of Plaintiff's debt secured by the Declaration through the date to which such interest is computed.

17. Plaintiff is seeking the usual foreclosure of the property and has expressly waived the right to a personal or deficiency judgment.

IT IS THEREFORE ORDERED THAT:

1. There is due the sum of \$5,596.76, as set out in the Findings of Fact *supra*, together with interest at the rate provided herein on the balance of principal from the date aforesaid to the date hereof.

2. The amount due in the preceding paragraph (the "Final Total Debt" as set out in the Findings of Fact *supra*) shall accrue interest at the rate of the respective Declaration rate per annum and together with such interest shall constitute the total judgment debt due the Plaintiff.

3. The amount of the judgment shall be subject to increase to permit the Plaintiff to recover additional costs, commissions and expenses not included in the minimum deposit previously made in compliance with S.C. Code Ann. §14-11-310 (1976). It may also increase to include

supplemental compensation for attorney's services not contemplated by the initial fee award. Jurisdiction over the fee award and total debt is reserved to facilitate the assessment and payment of any such costs and/or supplemental compensation. Such additional costs, commissions and expenses may be established by affidavit.

4. The Defendant is liable for the aforesaid judgment debt including interest at the rate of 6.00% per annum shall on or before the date of sale of the property hereinafter described, pay to the Plaintiff, or Plaintiff's attorney the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

5. On default of payment at or before the time herein indicated, the premises described in the Complaint, as hereinafter set forth, shall be sold by the Master in Equity at public auction, at the Greenville County Courthouse, in the City of Greenville, County and State aforesaid on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the sales day shall be on the next business day succeeding such holiday), on the following terms, that is to say:

a. For cash: The Master in Equity will require a deposit of 5% on the amount of the bid (in cash or equivalent) same to be applied to purchase price if compliance is made, but in the event compliance is not made, the deposit may be forfeited without further hearing and applied first to costs of the action and then to plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or refuse to either make the required deposit at time of bid or comply with the other terms of the bid within 20 days, then the property may be re-sold on the same terms and conditions on the same or some subsequent Sales Day, but at the risk of the defaulting bidder(s).

b. Interest on the balance of the bid shall be paid through the day of compliance at the rate of 6.00%.

c. The sale shall be subject to taxes and assessments, existing easements and restrictions and easements and restrictions of record.

d. There are no senior liens on the property.

e. Purchaser to pay for any statutory commission on sale from the proceeds of the final bid amount.

f. Purchaser to pay for deed preparation, costs of recording the deed, and transfer taxes on the deed.

6. The bidding will not remain open after the date of sale and compliance with the bid may be made immediately.

7. Plaintiff may waive any of its rights, including its right to a deficiency judgment in accordance with Rule 71, South Carolina Rules of Civil Procedure, prior to sale.

8. The Master in Equity will, by advertisement according to law, give notice of the time and place of such sale and the terms thereof and will execute to the purchaser, or purchasers, a deed to the premises sold. The Plaintiff, or any other party to this action, may become a purchaser at such sale, and if, upon such sale being made, the purchaser, or purchasers, should fail to comply with the terms thereof within 20 days after date of sale, then the Master in Equity may advertise the said premises for sale on the next or some other subsequent sales day at the risk of the highest bidder and so from time to time thereafter until a full compliance shall be secured.

9. If Plaintiff be the successful bidder at the said sale, for a sum not exceeding the amount of costs, expenses and the indebtedness of Plaintiff in full, Plaintiff may pay to the Master in Equity only the amount of the costs and expenses crediting the balance of the bid on Plaintiff's indebtedness.

10. The Master in Equity will apply the proceeds of the sale as follows:

FIRST: To the payment of the amount of the costs and expenses of this action, including any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court.

NEXT: To the payment to the Plaintiff or Plaintiff's attorney of the amount of Plaintiff's debt and interest (including attorney fees) or so much thereof as the purchase money will pay on the same;

NEXT: Any surplus should be held pending further Order of this court.

11. The Defendant named herein, and all persons whosoever claiming under Defendant, are forever barred and foreclosed of all right, title, interest, equity of redemption or lien in the said premises so sold, or any part thereof.

12. In accordance with Rule 77(d), SCRCP, the Clerk of Court shall serve a notice of entry of this Judgment of Foreclosure upon all parties not in default for failure to appear herein.

13. The deed of conveyance made pursuant to said sale shall contain the names of only the first-named Plaintiff and the first-named Defendant(s), and the Defendant(s) who was/were the titleholder(s) of the property at the time of the filing of the notice of pendency of the within action, and the name of the grantee; and the Register of Deeds/Clerk of Court is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

14. The undersigned will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Writ of Assistance.

15. The following is a description of the premises herein ordered to be sold:

All that certain piece, parcel or lot of land, lying and being situate in the State of South Carolina, County of Greenville and being known and designated as Unit 36 on a plat of Harbor Town, dated January 30, 1976 and recorded in Plat Book 5-P at Page 14 in the Register of Deeds Office for Greenville County, South Carolina. Reference to which is hereby made to said plat for a more complete description thereof.

This being the same property conveyed to Rajiv Kumar Lakhaney by deed of U.S. Bank National Association dated February 14, 2020 and recorded September 4, 2020 in Book 2602, Page 5749 in the Office of the Register of Deeds for Greenville County, South Carolina.

Property Address: 36 Spinnaker Court
TMS: B002040103600

JUDGE'S ELECTRONIC SIGNATURE PAGE TO FOLLOW

**FORM 4
JUDGMENT IN A CIVIL CASE**

**STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE**

**IN THE COURT OF COMMON PLEAS
CASE NO. 2024-CP-23-04910**

HARBOR TOWN ASSOCIATION, INC.

RAJIV KUMAR LAKHANEY, DECEASED

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Ashley N. Green (SC Bar 101741)
4500 Fort Jackson Blvd Suite 335
Columbia, SC 29209

Attorney for : Plaintiff

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ☐ **ACTION DISMISSED** (CHECK REASON): ___ Rule 12(b), SCRPC; ___ Rule 41(a), SCRPC (Vol. Nonsuit); ___ Rule 43(k), SCRPC (Settled); Other : _____
- ☐ **ACTION STRICKEN** (CHECK REASON): Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX): Affirmed; Reversed; Remanded; Other _____
- NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow).

ORDER INFORMATION

This order ends the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

Property Address: 36 Spinnaker Court Greenville, SC 29611
TMS: B002040103600

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Master in Equity

Judge Code

Date



Greenville Common Pleas

Case Caption: Harbor Town Association Inc vs. Rajiv Kumar Lakhane , defendant,
et al
Case Number: 2024CP2304910
Type: Master/Order/Deficiency Judgment and Form 4

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

Electronically signed on 2025-06-11 14:17:02 page 8 of 8

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
HARBOR TOWN ASSOCIATION, INC. ,		ORDER ON SALE OF REAL ESTATE
		2024-CP-23-04910
PLAINTIFF(S),		
vs.		
RAJIV KUMAR LAKHANEY, DECEASED, ET AL,		
DEFENDANT(S).		

Pursuant to a judgment of this Court made in the above entitled action, after due legal notice, advertised and published, according to law, the undersigned Master in Equity sold the property therein described on Sales Day on **August 4, 2025**, as directed.

That at such sale the said premises were struck off to **Oriole Properties, LLC** and thereafter assigned to: **Oriole Properties, LLC** and **Thomas and Son Properties, LLC** (as 50% each owner Joint Tenants with no Right of Survivorship) for **Twenty-Five Thousand and no/100 Dollars (\$25,000.00)**. Full compliance with bid was made on **August 14, 2025**.

That the EQUITY COURT JUDGE has executed and delivered to the said purchaser a good and sufficient Deed of said premises, upon its complying with terms of such sale.

JUDGE'S SIGNATURE PAGE TO FOLLOW



Greenville Common Pleas

Case Caption: Harbor Town Association Inc vs. Rajiv Kumar Lakhaney , defendant,
et al
Case Number: 2024CP2304910
Type: Master/Order On Sale Of Real Estate

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

Electronically signed on 2025-08-18 15:28:42 page 2 of 2

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	CASE NO.: 2024-CP-23-04910

Harbor Town Association, Inc.,	)
	)
Plaintiff,	)
	)
v.	)
	)
Rajiv Kumar Lakhaney, Deceased, et. al.,	)
	)
Defendants.	)

**ORDER DENYING
MOTION TO VACATE**

This matter is before the Court on the Motion to Vacate Order (the “Motion”) filed by the Estate of Rajiv Kumar Lakhaney on September 4, 2025, seeking to set aside the Court’s prior orders, including the Judgment of Foreclosure and Sale entered on June 11, 2025, and the subsequent foreclosure sale conducted on August 4, 2025.

The Court conducted a hearing on the Motion on October 7, 2025, during which it received witness testimony, documentary exhibits, and oral argument from counsel. Following the hearing, the Court also received post-hearing argument. After reviewing the record and considering the arguments of counsel, the Court is now prepared to issue its decision.

FINDINGS OF FACT AND PROCEDURAL HISTORY

1. On August 12, 2024, Plaintiff Harbor Town Association, Inc. filed this action against Ravij Kumar Lakhaney, seeking to foreclose a lien (the “Lien”) for unpaid homeowners’ association assessments encumbering the real property located at 36 Spinnaker Court, Greenville, South Carolina (the “Property”).

2. The Lien was recorded on June 16, 2023, in Book MO 5738, Page 3230, in the Office of the Register of Deeds for Greenville County. It was filed to secure unpaid monthly assessments and other charges from the 2023 calendar year. The Lien also covers future monthly assessments and any additional charges authorized under the Declaration of Covenants, Conditions, and Restrictions for Plaintiff Harbor Town Association, Inc.

3. Mr. Lakhaney passed away on July 31, 2024.

4. After discovering Mr. Lakhaney passed away, and finding no estate opened in South Carolina, Plaintiff filed an Amended Summons and Complaint, substituting RAJIV KUMAR LAKHANEY, DECEASED; and any children and heirs at law, distributes and devisees, and if any be deceased then any persons entitled to claim under or through them; also all other persons unknown claiming any right, title, interest, or lien herein, any unknown adults being a class designated as John Doe; and any unknown minors or persons under disability or in the military service being a class designated as Richard Roe as defendants.

5. Kelley Yarborough Woody, Esq. was appointed as Guardian ad Litem Nisi and Attorney for any Unknown Persons in the Military Service. Notice of Ms. Woody's appointment was published for three consecutive weeks in the Greenville News. In addition, Ms. Woody sent written correspondence to the Property.

6. Following her appointment, Ms. Woody was contacted by Phil Ziganto, a friend of Mr. Lakhaney, and Katherine Semyonov.

7. Ms. Semyonov was previously married to Mr. Lakhaney and had filed for divorce in Florida prior to his death. Although the divorce was finalized before his passing, the Florida family court had not yet resolved issues related to equitable distribution.

8. The Estate of Rajiv Kumar Lakhanev was opened in the Bergen County Surrogate's Court in New Jersey under Docket No. 2024-3095 (the "Estate"). Ms. Semyonov was initially appointed as the Administrator of the Estate.

9. Ms. Woody provided Ms. Semyonov's contact information to Plaintiff's counsel.

10. Ms. Semyonov, acting as Administrator of the Estate, contacted Plaintiff's counsel and entered into an installment payment agreement on December 17, 2024, to cure the past-due assessments.

11. The Estate did not comply with the terms of the installment payment agreement. Ms. Semyonov testified that she stopped making payments under the agreement because she was involved in a dispute with certain members of Mr. Lakhanev's family related to the Estate. She further testified that she had been making the installment plan payments from her personal funds and was not being reimbursed by the Estate.

12. Ms. Semyonov was later removed as Administrator of the Estate, and Catherine Cortes-Sykes, Esq. was appointed as Substitute Administrator on or about January 22, 2025. At the time of her appointment, Ms. Cortes-Sykes did not notify Plaintiff or Ms. Woody that she had been appointed as Substitute Administrator.

13. Plaintiff resumed its foreclosure action and noticed the final hearing for June 6, 2025.

14. On May 27, 2025, Ms. Woody forwarded the notice of hearing to Ms. Semyonov.

15. Ms. Semyonov, in turn, provided the notice of hearing to Ms. Cortes-Sykes on or about the same day.

16. According to Plaintiff's counsel's case management notes, which were admitted into evidence, Ms. Cortes-Sykes contacted Plaintiff's counsel in June 2025. Plaintiff's counsel attempted to return her call on June 5, 2025—the day before the foreclosure hearing.

17. On June 6, 2025, a final hearing was held and the court entered a judgment of foreclosure and sale and ordered the Property sold at the August 4, 2025 judicial sale.

18. On August 4, 2025, the Court offered the Property for sale. Following competitive bidding involving at least two other participants, Oriole Properties, LLC emerged as the successful bidder at \$25,000. Testimony established that bidding on the Property progressed incrementally until reaching this amount, at which point the remaining participants ceased bidding. Thereafter, Oriole Properties, LLC deposited 5% of its bid with the Court on August 4, 2025. Oriole Properties, LLC then assigned a half interest in its bid to Thomas and Son Properties, LLC (the "Third-Party Purchasers").

19. At the hearing, the Court received testimony from Clayton Custer, principal of Oriole Properties, LLC. Mr. Custer testified regarding his extensive experience attending judicial foreclosure sales in South Carolina and acquiring distressed properties through such proceedings. He described his familiarity with the foreclosure process, including evaluating properties, bidding procedures, and post-sale compliance requirements. Mr. Custer further explained the due diligence he performed prior to bidding on the Property, including reviewing the court filings and confirming the status of title. Mr. Custer confirmed that he was not made aware of any alleged irregularities prior to complying with the bid on August 14, 2025.

20. This Court issued a deed to Oriole Properties, LLC and Thomas and Son Properties, LLC dated August 18, 2025, and recorded on August 18, 2025, in Deed Book 2762 at Page 1880.

21. After complying with the bid, the Third-Party Purchasers undertook substantial renovations to the Property. Testimony indicated that the Property was in a condition requiring significant repairs, with estimated renovation costs ranging from \$35,000 to \$45,000. Renovation work had already commenced prior to the Estate's filing of its Motion to Vacate on September 4, 2025—nearly one month after the auction—demonstrating the Third-Party Purchasers' reliance on the finality of the sale and their investment in improving the Property.

22. The Property was sold at the Greenville County Delinquent Tax Sale in December 2024.

23. The total amount needed to redeem the Property from the tax sale is \$10,013.66. This figure does not include the 2024 real property taxes of \$3,183.13, nor does it include any 2025 real property taxes, which remain unpaid.

24. The Court also received testimony regarding the condition and value of the Property. The tax-assessed value was approximately \$107,000, and the Property had previously sold at a tax sale for \$100,000. Over objection from counsel for the Third-Party Purchasers, Ms. Semyonov testified that the Property had been appraised at \$178,000.

25. Based on the terms of the Judgment of Foreclosure and Sale, the Property was sold subject to outstanding property taxes.

LEGAL STANDARD

“The determination of whether to set aside a foreclosure sale is a matter within the discretion of the trial court.” *Bloody Point Prop. Owners Ass'n, Inc. v. Ashton*, 410 S.C. 62, 66, 762 S.E.2d 729, 731 (Ct. App. 2014). “A judicial sale should not be set aside except for cogent reasons. The purpose of the law and of the proceedings in which a sale has been decreed is that it shall be final.” *Spillers v. Clay*, 233 S.C. 99, 104, 103 S.E.2d 759, 761–62 (1958).

CONCLUSIONS OF LAW

In the Motion, the Estate argues that the foreclosure process was flawed due to lack of notice, failure to name the proper properties, and a sale price that allegedly shocks the conscience. In contrast, the Third-Party Purchasers assert that they are entitled to the protections afforded to bona fide purchasers under South Carolina law, and that the sale should be upheld.

1. The Third-Party Purchasers are Bona Fide Purchasers

The evidence presented at the hearing establishes that the Third-Party Purchasers qualify as bona fide purchasers under South Carolina law. A party claiming the status of a bona fide purchaser must show: “(1) actual payment of the purchase price of the property, (2) acquisition of legal title to the property, or the best right to it, and (3) a bona fide purchase, ‘i.e., in good faith and with integrity of dealing, without notice of a lien or defect.’” *Buffalo Creek Invs., Inc. v. Pettus*, 440 S.C. 111, 120, 889 S.E.2d 608, 612 (Ct. App. 2023) (quoting *Robinson v. Est. of Harris*, 378 S.C. 140, 146, 662 S.E.2d 420, 423 (Ct. App. 2008)). South Carolina courts have long held that a purchaser in good faith at a judicial sale is not affected by procedural irregularities or even errors in the judgment under which the sale is made. *Cumbe v. Newberry*, 251 S.C. 33, 37, 159 S.E.2d 915, 917 (1968). This principle is codified in S.C. Code Ann. § 15-39-870, which provides that once a deed is executed and delivered by the proper officer of the court, the proceedings under which the sale was made are deemed res judicata as to all bona fide purchasers for value without notice — regardless of whether the sale is subsequently confirmed.

Here, the evidence establishes that the Third-Party Purchasers paid the full bid amount, acquired legal title to the Property, and had no actual or constructive notice of any alleged defect in service or process. They conducted due diligence, relied on the finality of the judicial sale, and

acted in good faith throughout. Accordingly, the Court finds that the Third-Party Purchasers are entitled to the protections as bona fide purchasers.

2. Plaintiff was not required to substitute the Administrator of the Estate as a Party

The Estate argues that Plaintiff was required to join the Administrator of Mr. Lakhaney's Estate as a party to the foreclosure action. This Court disagrees. Under S.C. Code Ann. § 29-3-610, a foreclosure action may proceed without naming the personal representative of a deceased mortgagor as a defendant, so long as the plaintiff does not seek a personal judgment against the estate. In this case, Plaintiff sought only to foreclose a lien against the real property and did not pursue a deficiency or personal judgment. Accordingly, joinder of the Estate's Administrator was not required under South Carolina law.

3. The Estate had Actual Notice of the Foreclosure

The Court finds that the foreclosure proceedings were conducted in accordance with applicable law and procedural requirements. Moreover, the Administrators of the Estate had actual notice of the foreclosure action and the final hearing. Specifically, Ms. Semyonov, the initial Administrator, was informed of the proceedings, and she subsequently provided notice to Ms. Cortes-Sykes, who had been appointed as the successor Administrator. Plaintiff's counsel also attempted to return Ms. Cortes-Sykes's call prior to the hearing, further confirming the Estate's awareness of the pending action.

Given this actual notice, the Estate cannot now claim surprise or lack of opportunity to participate. As recognized in *Belle Hall Plantation Homeowner's Ass'n, Inc. v. Murray*, 419 S.C. 605, 619 (Ct. App. 2017), the equitable doctrine of laches may bar a party from seeking relief where they have unreasonably delayed asserting a known right, resulting in prejudice to others. Here, there was as a failure to take timely and appropriate action to address the delinquent

assessments or to intervene in the foreclosure proceeding before judgment was entered and the Property was sold. This inaction, coupled with the reliance of Third-Party Purchasers on the finality of the judicial sale, supports the application of laches and weighs against any equitable relief.

4. The sales price was not inadequate and does not “shock the conscience”

Under South Carolina law,

[A] judicial sale will not be set aside due to an inadequate sale price unless: (1) the price was so grossly inadequate as to shock the conscience of the court; or (2) an inadequate—but not grossly inadequate—price at the sale is accompanied by other circumstances from which the court may infer fraud has been committed.

Winrose Homeowners’ Ass’n, Inc. v. Hale, 428 S.C. 563, 569, 837 S.E.2d 47, 50 (2019).

“South Carolina has not established a bright line rule for what percentage the sale value must be with respect to the actual value in order to shock the conscience of the court. However, a search of South Carolina jurisprudence reveals only when judicial sales are for less than ten percent of a property’s actual value, have our courts consistently held the discrepancy to shock conscience of the court.” *E. Sav. Bank, FSB v. Sanders*, 373 S.C. 349, 359, 644 S.E.2d 802, 807 (Ct. App. 2007).

In evaluating the fairness of the foreclosure sale, the Court also considers the distinction between the Debt Method and the Equity Method of valuation. *Winrose Homeowners’ Ass’n, Inc. v. Hale*, 428 S.C. 563, 571, 837 S.E.2d 47, 51 (2019). The Debt Method evaluates the fairness of a foreclosure sale by comparing the total financial obligation associated with the property — including the winning bid and any outstanding mortgage or lien amounts — against the property’s fair market value. *Id.* On the other hand, the Equity Method “is a ratio comparing the winning bid price to the amount of equity (i.e. the fair market value minus the amount of the outstanding mortgage) in the foreclosed property. *Id.* The Debt Method should be used in most

circumstances because a foreclosure sale purchaser purchases a property subject to unpaid taxes and other liens. *Id.*

The Court finds the Debt Method should be used in this case because the Property was not encumbered by a mortgage lien. In light of the applicable legal standard and the evidence presented, the Court finds that the sale price does not rise to the level of gross inadequacy required to set aside a judicial sale. Here, the Property sold for \$25,000 and was sold subject to \$13,196.79 in outstanding property taxes, bringing the total financial obligation associated with the Property to approximately \$38,196.79. This does not include the fact that significant expenses for renovations are needed. Even accepting the Estate's assertion that the Property had an estimated value of \$178,000, the sale price represents more than 20% of the debt-adjusted value. This figure exceeds the threshold South Carolina courts have consistently recognized as "shocking the conscience," which typically requires a sale price below 10%. And, using the value of the Tax Assessor being \$107,000, the sale price represents approximately 35% of the debt-adjusted value (without renovations costs). Moreover, there is no credible evidence of fraud, collusion, or other irregularities accompanying the sale that would warrant judicial intervention. The Third-Party Purchasers acted in good faith, relied on the finality of the judicial process, and have since taken steps to improve the Property. Accordingly, the Court concludes that the sale must stand, and the Motion to Vacate is denied.

IT IS THEREFORE ORDERED:

1. The Motion to Vacate is denied.
2. Oriole Properties, LLC and Thomas and Son Properties, LLC are recognized as bona fide purchasers for value, and title to the property located at 36 Spinnaker Ct., Greenville, SC 29611 shall remain vested in said purchasers.

AND IT IS SO ORDERED.

[JUDGE'S SIGNATURE PAGE TO FOLLOW]



Greenville Common Pleas

Case Caption: Harbor Town Association Inc vs. Rajiv Kumar Lakhane , defendant,
et al
Case Number: 2024CP2304910
Type: Master/Order/Other

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

Electronically signed on 2025-10-29 15:19:07 page 11 of 11

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2024CP2304910**

Harbor Town Association Inc		Rajiv Kumar Lakhaney Richard Roe	John Doe
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PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

The matter is before the Court pursuant to the Lakhaney Motion to Reconsider filed November 7, 2025 and relates to an Order filed October 29, 2025.

The Court has reviewed the record and the Motion and Response of the very fine attorneys involved herein.

To the extent the issues raised in the November 7, 2025 Motion were previously raised and argued, the Motion is denied for the reasons sufficiently set forth in the Order filed October 29, 2025. And It Is So Ordered.

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional

taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

3023

11/14/2025

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

Ashley Nichole Green 4500 Ft Jackson Blvd Suite 335
Columbia, SC 29209

Kelley Yarborough Woody PO Box 6432 Columbia, SC
29260

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

- Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



Greenville Common Pleas

Case Caption: Harbor Town Association Inc vs. Rajiv Kumar Lakhaney , defendant,
et al
Case Number: 2024CP2304910
Type: Master/Order/Form 4

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

Electronically signed on 2025-11-17 13:29:20 page 3 of 3

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2024-CP-23-04910

HARBOR TOWN ASSOCIATION, INC.

Plaintiff,

v.

RAJIV KUMAR LAKHANEY, DECEASED,
ET AL.

Defendant(s).

**CONSENT ORDER REGARDING
AMOUNT OF APPEAL BOND AND LIS
PENDENS**

THIS MATTER came before the Court upon the Motion for a Hearing to Set Amount of an Appeal Bond to Stay the Delivery of Land under an Order for Foreclosure, filed by the Estate of Rajiv Kumar Lakhane, Deceased (the “**Estate**”), and on the Third-Party Purchasers’ Motion to Dissolve Lis Pendens (collectively, the “**Motions**.”). The real property at issue, for purposes of this Order, is defined as the real property commonly known as 36 Spinnaker Court, Greenville, South Carolina, and more particularly described in the Notice of Lis Pendens filed by the Estate on October 29, 2025, and assigned case number 2025LP2300775 (the “**Property**”). Having reviewed the Motions, the record, and the stipulations of counsel, and pursuant to S.C. Code Ann. § 18-9-170, the Court makes the following findings and conclusions of law:

1. The Estate has filed an appeal, Appellate Case No. 2025-002386 (the “**Appeal**”) by filing a Notice of Appeal with the South Carolina Court of Appeals on November 26, 2025, of which this Court takes judicial notice.

2. The parties, through counsel, have conferred and, in lieu of a hearing on the pending Motions, have consented and agreed that the bond required by S.C. Code Ann. § 18-9-170 shall be in the sum of Forty Thousand Dollars (\$40,000.00), upon the terms set forth herein and memorialized in this Order.

3. The Court finds that the sum of Forty Thousand Dollars (\$40,000.00) is reasonable and appropriate under the circumstances, based upon the anticipated duration of the appellate process and the estimated rental value of the Property during the pendency of the Appeal.

4. The Notice of Lis Pendens filed by the Estate on October 29, 2025, and assigned case number 2025LP2300775, remains operative and provides constructive notice that title to the Property is subject to litigation and may be altered by the outcome of the pending Appeal.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED:

1. The Estate shall, within ten (10) days of entry of this Order, post an undertaking with the Greenville County Clerk of Court in the sum of Forty Thousand Dollars (\$40,000.00) in accordance with S.C. Code Ann. § 18-9-170.

2. Upon proper posting of the aforementioned undertaking, the Notice of Lis Pendens filed in this matter shall remain in full force and effect and shall provide constructive notice affecting title to the Property throughout the pendency of the Appeal, unless and until dissolved by further order of this Court.

3. Should the Estate fail to post the undertaking within the time specified, Third-Party Purchasers may proceed to transfer title to the Property, and the Lis Pendens shall be dissolved at the expiration of ten (10) days from the date of this Order without further order of the Court.

4. All other terms and conditions of prior orders remain in effect except as expressly modified herein.

AND IT IS SO ORDERED.

JUDGE'S ELECTRONIC SIGNATURE PAGE TO FOLLOW

WE SO MOVE AND CONSENT:

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC**

s/Jane H. Downey

Jane H. Downey, ID 15045
J. Boone Aiken, IV, ID 105243
1501 Main St., Ste. 310
Columbia, SC 29201
(803) 251-8814
jdowney@bakerdonelson.com
baiken@bakerdonelson.com

*Attorneys for the Estate of
Rajiv Kumar Lakhanev*

WOMBLE BOND DICKINSON (US) LLP

/s/ Jason D. Wyman

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Greenville, SC 29601
(864) 255-5421
jason.wyman@wbd-us.com

*Attorney for Oriole Properties, LLC
and Thomas and Son Properties, LLC*



Greenville Common Pleas

Case Caption: Harbor Town Association Inc vs. Rajiv Kumar Lakhaney , defendant,
et al
Case Number: 2024CP2304910
Type: Order/Consent Order

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

Electronically signed on 2025-12-11 11:51:10 page 4 of 4

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

HARBOR TOWN ASSOCIATION, INC.,

Plaintiff,

v.

RAJIV KUMAR LAKHANEY,

Defendant(s).

**SUMMONS
(NON-JURY)
FORECLOSURE OF REAL ESTATE
NON-ELIGIBLE FOR HOME
MODIFICATION PROGRAM**

20546.18

TO THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to appear and defend by answering the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer on the subscribers at their offices, 4500 Fort Jackson Blvd Suite 335 Columbia, SC 29209, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint. YOU WILL ALSO TAKE NOTICE that the Plaintiff will move for an order of reference or that the Court may issue a general order of reference of this action to a master/special referee, pursuant to Rule 53, South Carolina Rules of Civil Procedure.

s/ Ashley N. Green

Ashley N. Green (SC Bar 101741)

McCabe, Trotter & Beverly

4500 Fort Jackson Blvd Suite 335

Columbia, SC 29209

Telephone: 803-724-5002

Fax: 803-724-5001

Email: ashley.green@mccabetrotter.com

Attorney for Plaintiff

Columbia, South Carolina
August 12, 2024

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

HARBOR TOWN ASSOCIATION, INC.,

Plaintiff,

v.

RAJIV KUMAR LAKHANEY,

Defendant(s).

**COMPLAINT
(NON-JURY)
FORECLOSURE OF REAL ESTATE
NON-ELIGIBLE FOR HOME
MODIFICATION PROGRAM**

20546.18

The Plaintiff herein, complaining of the acts or omissions of the Defendant(s) would show unto this Honorable Court as follows:

1. Upon information and belief, the Defendant(s) is/are a resident of the County of Greenville, State of South Carolina and the subject of this action is real property located in the County of Greenville, South Carolina.

2. Plaintiff is a corporation or other legal entity doing business in the State of South Carolina and has the right to bring this action.

3. Heretofore, on or about 02/14/2020 the Defendant(s) took possession of the property more fully described as:

All that certain piece, parcel or lot of land, lying and being situate in the State of South Carolina, County of Greenville and being known and designated as Unit 36 on a plat of Harbor Town, dated January 30, 1976 and recorded in Plat Book 5-P at Page 14 in the Register of Deeds Office for Greenville County, South Carolina. Reference to which is hereby made to said plat for a more complete description thereof.

This being the same property conveyed to Rajiv Kumar Lakhaneby by deed of U.S. Bank National Association dated February 14, 2020 and recorded September 4, 2020 in Book 2602, Page 5749 in the Office of the Register of Deeds for Greenville County, South Carolina.

4. The herein described property is subject to governing documents for Harbor Town Association, Inc. attached hereto as Exhibit A and incorporated herein by reference.

5. By taking possession of the property, Defendant(s) agreed to pay assessments and other charges allowed by the governing documents.

6. Pursuant to the governing documents a lien arises in favor of Plaintiff to secure payment of the unpaid charges.

7. Plaintiff's duly elected corporate directors have properly levied assessments and

other charges against Defendant's property pursuant to Exhibit A. Those charges are currently unpaid.

8. Heretofore, on or about 06/16/2023, Plaintiff filed a Notice of Lien in connection with unpaid assessments on the herein referenced property owned by the Defendant(s).

9. Pursuant to the governing documents Plaintiff is entitled to foreclose on the afore-mentioned lien.

10. The Defendant(s) has failed to make consistent payments of the assessments and interest, although demand for payment has been made, and the Plaintiff after giving all required notices, has and does hereby elect to declare the entire balance payable at once. There is now due, owing and unpaid the sum of \$3,204.70 in assessments, late fees, interest, attorney's fees, costs and other allowable charges.

11. If Plaintiff secures the premises being foreclosed herein, Plaintiff's cost of securing said premises should be added to any judgment rendered on its behalf. If Plaintiff pays any utility charges constituting a lien on said premises, Plaintiff's advances should be added to any judgment rendered on its behalf.

WHEREFORE, having fully set forth its Complaint, Plaintiff prays that this Honorable Court inquire into the matters as set forth herein:

1. Under the direction of this Court, ascertain and determine the amount due to Plaintiff as outlined by the governing documents, together with interest and reasonable attorney's fees and costs as outlined in the governing documents.

2. That said Plaintiff have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due, with a reasonable sum as attorney's fees, and for the costs of this proceeding.

3. That the premises be sold under the direction of this Court, the equity of redemption be barred, and that the proceeds of sale be applied as follows:

- a. First, to the costs and expenses of the within proceeding and said sale;
- b. Second, to the payment and discharge of the amount due under the governing documents, together with attorney's fees as aforesaid; and
- c. Third, the surplus, if any, be distributed pursuant to Rule 71, of the South Carolina Rules of Civil Procedure.

4. For such other and further relief as may be just and proper.

MCCABE, TROTTER & BEVERLY, P.C.

s/ Ashley N. Green

Ashley N. Green (SC Bar 101741)

McCabe, Trotter & Beverly

4500 Fort Jackson Blvd Suite 335

Columbia, SC 29209

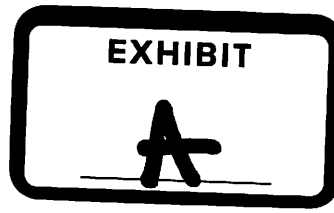
Telephone: 803-724-5002

Fax: 803-724-5001

Email: ashley.green@mccabetrotter.com

Attorney for Plaintiff

Columbia, South Carolina
August 12, 2024



FILED
GREENVILLE CO. S. C.
JUL 9 12 52 PM '11
CLERK OF COURT

VOL 1031 PAGE 271

ELECTRONICALLY FILED 7/20/24 AUG 19 9:59 AM - GREENVILLE - COMMON PLEAS - CASE# 2024CP2304910

220

**DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION, made on the date hereinafter set forth by Harbor Town Limited Partnership, hereinafter referred to as "Declarant."

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in the County of Greenville, State of South Carolina, which is more particularly described on Exhibit A attached hereto and made a part hereof.

NOW THEREFORE, Declarant hereby declares that all of the properties described in Exhibit A shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

Section 1. "Association" shall mean and refer to Harbor Town Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

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Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the first happening of either of

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) July 1, 1978

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessment, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvements and maintenance of the Common Area and of the buildings and facilities situated thereon.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Three Hundred Sixty Dollars (\$360) per Lot payable at the rate of Thirty Dollars (\$30) per month.

(a) From and after January 1 of the year immediately following conveyance of the First Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds of each class of members who are voting in person or by proxy, at a meeting duly called.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association as agent for the members may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including parking areas, fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

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Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum, at subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis, provided, however, that any Lot owned by the Declarant without an occupied dwelling thereon may be assessed at a scaled down assessment rate of twenty-five percent (25%) of the annual assessment rate per Lot as long as this will not require an increase in the annual assessment per Lot, provided further, however, nothing herein contained shall permit the reduction in the special assessments for any Lot owned by the Declarant without an occupied dwelling thereon.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for

a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A property executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six (6%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration thereon be made until the plans and specifications showing the nature, color, kind, shape, height, materials, and location of same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding

structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

HARBOR TOWN ASSOCIATION, INC.

Plaintiff,

**LIS PENDENS
(NON-JURY)**

v.

RAJIV KUMAR LAKHANEY
Defendant(s).

NOTICE IS HEREBY GIVEN THAT an action has been or will be commenced in this Court upon complaint of the above-named Plaintiff against the above-named Defendant(s) for the foreclosure of a homeowner's assessment lien on the following real estate:

All that certain piece, parcel or lot of land, lying and being situate in the State of South Carolina, County of Greenville and being known and designated as Unit 36 on a plat of Harbor Town, dated January 30, 1976 and recorded in Plat Book 5-P at Page 14 in the Register of Deeds Office for Greenville County, South Carolina. Reference to which is hereby made to said plat for a more complete description thereof.

This being the same property conveyed to Rajiv Kumar LakhaneY by deed of U.S. Bank National Association dated February 14, 2020 and recorded September 4, 2020 in Book 2602, Page 5749 in the Office of the Register of Deeds for Greenville County, South Carolina.

Property Address: 36 Spinnaker Court
TMS: B002040103600

/s Ashley N. Green

Ashley N. Green (SC Bar 101741)
McCabe, Trotter & Beverly
4500 Fort Jackson Blvd Suite 335
Columbia, SC 29209
Telephone: 803-724-5002
Fax: 803-724-5001
Email: ashley.green@mccabetrotter.com
Attorney for Plaintiff

Columbia, South Carolina
August 12, 2024

STATE OF SOUTH CAROLINA
 COUNTY OF GREENVILLE
 HARBOR TOWN ASSOCIATION, INC.,

Plaintiff,

v.

Rajiv Kumar Lakhaney, Deceased; and any children and heirs at law, distributes and devisees, and if any be deceased then any persons entitled to claim under or through them; also all other persons unknown claiming any right, title, interest, or lien herein, any unknown adults being a class designated as John Doe; and any unknown minors or persons under disability or in the military service being a class designated as Richard Roe.

Defendant(s).

20546.18

IN THE COURT OF COMMON PLEAS
 2024-CP-23-04910

**AMENDED SUMMONS
 (NON-JURY)
 FORECLOSURE OF REAL ESTATE
 NON-ELIGIBLE FOR HOME
 MODIFICATION PROGRAM**

TO THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to appear and defend by answering the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer on the subscribers at their offices, 4500 Fort Jackson Blvd Suite 335 Columbia, SC 29209, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint. YOU WILL ALSO TAKE NOTICE that the Plaintiff will move for an order of reference or that the Court may issue a general order of reference of this action to a master/special referee, pursuant to Rule 53, South Carolina Rules of Civil Procedure.

/s Ashley N. Green

Ashley N. Green (SC Bar 101741)

McCabe, Trotter & Beverly

4500 Fort Jackson Blvd Suite 335

Columbia, SC 29209

Telephone: 803-724-5002

Fax: 803-724-5001

Email: ashley.green@mccabetrotter.com

Attorney for Plaintiff

Columbia, South Carolina
 August 29, 2024

STATE OF SOUTH CAROLINA
 COUNTY OF GREENVILLE
 HARBOR TOWN ASSOCIATION, INC.,

Plaintiff,

v.

Rajiv Kumar Lakhaney, Deceased; and any children and heirs at law, distributes and devisees, and if any be deceased then any persons entitled to claim under or through them; also all other persons unknown claiming any right, title, interest, or lien herein, any unknown adults being a class designated as John Doe; and any unknown minors or persons under disability or in the military service being a class designated as Richard Roe.

Defendant(s).

20546.18

IN THE COURT OF COMMON PLEAS
 2024-CP-23-04910

**AMENDED COMPLAINT
 (NON-JURY)
 FORECLOSURE OF REAL ESTATE
 NON-ELIGIBLE FOR HOME
 MODIFICATION PROGRAM**

The Plaintiff herein, complaining of the acts or omissions of the Defendant(s) would show unto this Honorable Court as follows:

1. The subject of this action is real property located in the County of Greenville, South Carolina.
2. Plaintiff is a corporation or other legal entity doing business in the State of South Carolina and has the right to bring this action.
3. Heretofore, on or about 02/14/2020 the Defendant(s) took possession of the property more fully described as:

All that certain piece, parcel or lot of land, lying and being situate in the State of South Carolina, County of Greenville and being known and designated as Unit 36 on a plat of Harbor Town, dated January 30, 1976 and recorded in Plat Book 5-P at Page 14 in the Register of Deeds Office for Greenville County, South Carolina. Reference to which is hereby made to said plat for a more complete description thereof.

This being the same property conveyed to Rajiv Kumar Lakhaney by deed of U.S. Bank National Association dated February 14, 2020 and recorded September 4, 2020 in Book 2602, Page 5749 in the Office of the Register of Deeds for Greenville County, South Carolina.

4. The herein described property is subject to governing documents for Harbor Town Association, Inc. attached hereto as Exhibit A and incorporated herein by reference.
5. By taking possession of the property, Defendant(s) agreed to pay assessments and other

charges allowed by the governing documents.

6. Pursuant to the governing documents a lien arises in favor of Plaintiff to secure payment of the unpaid charges.

7. Plaintiff's duly elected corporate directors have properly levied assessments and other charges against Defendant's property pursuant to Exhibit A. Those charges are currently unpaid.

8. Heretofore, on or about Book MO 5738 at Page 3230, Plaintiff filed a Notice of Lien in connection with unpaid assessments on the herein referenced property owned by the Defendant(s).

9. Pursuant to the governing documents Plaintiff is entitled to foreclose on the afore-mentioned lien.

10. Heretofore, on 07/31/2024, Rajiv Kumar Lakhanev died leaving his/her estate to his/her devisees.

11. The Defendant(s) has failed to make consistent payments of the assessments and interest, although demand for payment has been made, and the Plaintiff after giving all required notices, has and does hereby elect to declare the entire balance payable at once. There is now due, owing and unpaid the sum of \$3,254.70 in assessments, late fees, interest, attorney's fees, costs and other allowable charges.

12. If Plaintiff secures the premises being foreclosed herein, Plaintiff's cost of securing said premises should be added to any judgment rendered on its behalf. If Plaintiff pays any utility charges constituting a lien on said premises, Plaintiff's advances should be added to any judgment rendered on its behalf.

WHEREFORE, having fully set forth its Complaint, Plaintiff prays that this Honorable Court inquire into the matters as set forth herein:

1. Under the direction of this Court, ascertain and determine the amount due to Plaintiff as outlined by the governing documents, together with interest and reasonable attorney's fees and costs as outlined in the governing documents.

2. That said Plaintiff have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due, with a reasonable sum as attorney's fees, and for the costs of this proceeding.

3. That the premises be sold under the direction of this Court, the equity of redemption be barred, and that the proceeds of sale be applied as follows:

a. First, to the costs and expenses of the within proceeding and said sale;

b. Second, to the payment and discharge of the amount due under the governing documents, together with attorney's fees as aforesaid; and

c. Third, the surplus, if any, be distributed pursuant to Rule 71, of the South Carolina Rules of Civil Procedure.

4. For such other and further relief as may be just and proper.

MCCABE, TROTTER & BEVERLY, P.C.

/s Ashley N. Green

Ashley N. Green (SC Bar 101741)

McCabe, Trotter & Beverly

4500 Fort Jackson Blvd Suite 335

Columbia, SC 29209

Telephone: 803-724-5002

Fax: 803-724-5001

Email: ashley.green@mccabetrotter.com

Attorney for Plaintiff

Columbia, South Carolina

August 29, 2024

EXHIBIT

A

FILED
GREENVILLE CO. S. C.
JUL 9 12 52 PM '11

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DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by Harbor Town Limited Partnership, hereinafter referred to as "Declarant."

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in the County of Greenville, State of South Carolina, which is more particularly described on Exhibit A attached hereto and made a part hereof.

NOW THEREFORE, Declarant hereby declares that all of the properties described in Exhibit A shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to Harbor Town Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

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Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the first happening of either of

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) July 1, 1978

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessment, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

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Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvements and maintenance of the Common Area and of the buildings and facilities situated thereon.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Three Hundred Sixty Dollars (\$360) per Lot payable at the rate of Thirty Dollars (\$30) per month.

(a) From and after January 1 of the year immediately following conveyance of the First Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds of each class of members who are voting in person or by proxy, at a meeting duly called.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association as agent for the members may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including parking areas, fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

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Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum, at subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis, provided, however, that any Lot owned by the Declarant without an occupied dwelling thereon may be assessed at a scaled down assessment rate of twenty-five percent (25%) of the annual assessment rate per Lot as long as this will not require an increase in the annual assessment per Lot, provided further, however, nothing herein contained shall permit the reduction in the special assessments for any Lot owned by the Declarant without an occupied dwelling thereon.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for

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a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six (6%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration thereon be made until the plans and specifications showing the nature, color, kind, shape, height, materials, and location of same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding

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structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
2024-CP-23-04910

HARBOR TOWN ASSOCIATION, INC.

Plaintiff,

v.

**AMENDED LIS PENDENS
(NON-JURY)**

RAJIV KUMAR LAKHANEY, DECEASED; and
any children and heirs at law, distributes and
devisees, and if any be deceased then any persons
entitled to claim under or through them; also all
other persons unknown claiming any right, title,
interest, or lien herein, any unknown adults being a
class designated as John Doe; and any unknown
minors or persons under disability or in the military
service being a class designated as Richard Roe.

Defendant(s).

NOTICE IS HEREBY GIVEN THAT an action has been or will be commenced in this Court upon complaint of the above-named Plaintiff against the above-named Defendant(s) for the foreclosure of a homeowner's assessment lien on the following real estate:

All that certain piece, parcel or lot of land, lying and being situate in the State of South Carolina, County of Greenville and being known and designated as Unit 36 on a plat of Harbor Town, dated January 30, 1976 and recorded in Plat Book 5-P at Page 14 in the Register of Deeds Office for Greenville County, South Carolina. Reference to which is hereby made to said plat for a more complete description thereof.

This being the same property conveyed to Rajiv Kumar Lakhaneby by deed of U.S. Bank National Association dated February 14, 2020 and recorded September 4, 2020 in Book 2602, Page 5749 in the Office of the Register of Deeds for Greenville County, South Carolina.

Property Address: 36 Spinnaker Court
TMS: B002040103600

/s Ashley N. Green

Ashley N. Green (SC Bar 101741)

McCabe, Trotter & Beverly

4500 Fort Jackson Blvd Suite 335

Columbia, SC 29209

Telephone: 803-724-5002

Fax: 803-724-5001

Email: ashley.green@mccabetrotter.com

Attorney for Plaintiff

Columbia, South Carolina
August 29, 2024

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

CIVIL ACTION NO: 2024-CP-23-04910

HARBOR TOWN ASSOCIATION, INC.,

PLAINTIFF,

ANSWER TO AMENDED COMPLAINT
AND CONSENT TO REFERENCE FOR
JOHN DOE AND RICHARD ROE

v.

RAJIV KUMAR LAKHANEY, ET AL.,

DEFENDANTS.

The undersigned Appointed Guardian ad Litem for any Unknown Defendants Who May be Minors or Under Legal Disability and Appointed Attorney for any Unknown Defendants who May be in the Military Service of the United States of America (Unknown Defendants) does hereby answer the Amended Complaint as follows:

1. That, unless specifically admitted or qualified or explained herein, all allegations of the Amended Complaint are denied and strict proof thereof is demanded;
2. That the Unknown Defendants lack sufficient information at this time to make a determination as to the other allegations set forth in the Amended Complaint and therefore hereby deny all such allegations.
3. The Unknown Defendants consent to having this matter referred to the Master in Equity for Greenville County, or a Special Referee as deemed appropriate by the Court, pursuant to Rule 53(b) SCRCP (as amended); that the Master in Equity or Special Referee shall make final judgment in the matter in accordance with Rule 53 SCRCP, and that any appeal from the Final Order of the Master in Equity or Special Referee shall be to the South Carolina Court of Appeals or Supreme Court;
4. That Unknown Defendants consent to this matter being held by video/teleconference, if permitted;

WHEREFORE, having fully answered, the Unknown Defendants pray that the Court inquire unto the matters set forth herein, determine and protect the priorities of the parties, and for such other and further relief as may be just and proper.

S/Kelley Y. Woody
Kelley Y. Woody (S.C. Bar #7307)
Guardian ad Litem Nisi and/or
Attorney for John Doe and Richard Roe

P.O. Box 6432
Columbia, South Carolina 29260
(803) 787-9678
kwoody@kelleywoody.com

Columbia, South Carolina

September 10, 2024

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
2024-CP-23-04910

Harbor Town Association, Inc.

Plaintiff,

v.

Rajiv Kumar Lakhane, Deceased; and any children and heirs at law, distributees and devisees, and if any be deceased then any persons entitled to claim under or through them; also all other persons unknown claiming any right, title, interest or lien upon the real property described in the complaint herein, any unknown adults being a class designated as John Doe; and any unknown minors or persons under disability or in the military service being a class designated as Richard Roe.,

Defendant(s).

TO THE DEFENDANTS ABOVE NAMED:

**SUMMONS AND NOTICE OF FILING
OF COMPLAINT**

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the said Complaint upon the subscribers, at their office, 4500 Fort Jackson Blvd, Suite 250, Columbia, South Carolina 29209, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint in the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

NOTICE IS HEREBY GIVEN that the original Complaint in the above entitled action was filed in the office of the Clerk of Court for Greenville County on 08/12/2024.

BY: s/ Ashley N. Green
Ashley N. Green (SC Bar 101741)
McCabe, Trotter & Beverly
4500 Fort Jackson Blvd Suite 335
Attorney for Plaintiff

September 11, 2024
Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
2024-CP-23-04910

Harbor Town Association, Inc.

Plaintiff,

v.

Rajiv Kumar Lakhaney, Deceased; and any children and heirs at law, distributes and devisees, and if any be deceased then any persons entitled to claim under or through them; also all other persons unknown claiming any right, title, interest or lien upon the real property described in the complaint herein, any unknown adults being a class designated as John Doe; and any unknown minors or persons under disability or in the military service being a class designated as Richard Roe.,

Defendant(s).

**NOTICE OF ORDER APPOINTING
GUARDIAN *AD LITEM NISI***

TO: THE DEFENDANTS HEREIN, NAMES AND ADDRESSES UNKNOWN, INCLUDING ANY THEREOF WHO MAY BE MINORS, IMPRISONED PERSONS, INCOMPETENT PERSONS, UNDER OTHER LEGAL DISABILITY OR IN THE MILITARY SERVICE, IF ANY, WHETHER RESIDENTS OR NON-RESIDENTS OF SOUTH CAROLINA AND TO THE NATURAL, GENERAL, TESTAMENTARY GUARDIAN OR COMMITTEE, OR OTHERWISE, AND TO THE PERSON WITH WHOM THEY MAY RESIDE, IF ANY THERE BE:

PLEASE TAKE NOTICE that a Motion for an order appointing Kelley Yarborough Woody, Esquire, as Guardian *ad Litem Nisi*, for all persons whomsoever herein collectively designated as Richard Roe or John Doe, defendants herein, names and addresses unknown, including any thereof who may be minors, imprisoned persons, incompetent persons, in the military service or under other legal disability, whether residents or non-residents of South Carolina, was filed in the Office of the Clerk of Court for Greenville County.

YOU WILL FURTHER TAKE NOTICE that unless the said minors or persons under other legal disability, if any, or someone in their behalf or in behalf of any of them, shall within thirty (30) days after service of notice of this order upon them by publication, exclusive of the day of such service, procure to be appointed for them, or either of them, a Guardian *ad Litem* to represent them for the purposes of this action, the appointment of said Guardian *ad Litem Nisi* shall be made absolute.

SIGNATURE PAGE TO FOLLOW

/s Ashley N. Green

Ashley N. Green (SC Bar 101741)

McCabe, Trotter & Beverly

4500 Fort Jackson Blvd Suite 335

Columbia, SC 29209

Telephone: 803-724-5002

Fax: 803-724-5001

Email: ashley.green@mccabetrotter.com

Attorney for Plaintiff

September 11, 2024

Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
C/A NUMBER: 2024-CP-23-04910

Harbor Town Association, Inc.,

Plaintiff,

v.

**NOTICE OF HEARING
(By Video/Telephone Conference)**

Rajiv Kumar Lakhaney, Deceased,

Defendant(s)

20546.18

TO:

Kelley Yarborough Woody, Esq.
PO Box 6432
Columbia, SC 29260
Guardian ad Litem for Unknown Defendants

A foreclosure hearing has been set in the above-referenced matter for **June 6, 2025 at 10:00 a.m.** before the Honorable **Charles B. Simmons, Jr.**, Master in Equity for **Greenville** County, for the purpose of taking testimony, findings of facts and conclusions of law and to enter final judgment therein without further order of the court. This hearing will be held using remote communication technology as well.

Virtual/Video/Telephone: To avoid the need for a physical appearance by any party, witness, or counsel, as provided in South Carolina Supreme Court Administrative Order 2020-04-30-02 (*RE: Statewide Evictions and Foreclosures*) and South Carolina Supreme Court Administrative Order 2020-04-22-01 **As Amended** (*RE: Operation of Trial Courts During the Coronavirus Emergency*), you may appear via the Court's GoTo Meeting video conference system, which has both audio and video capabilities. To join the video conference, please go to **<https://www.zoom.us>** and enter the Access code/Meeting ID. The Access code/Meeting ID is 339 518 4868 / **Passcode:** MIEZOOM. If you are unable to access a computer, smartphone, or tablet, or wish to join only via telephone, please call +1 309-205-3325 and utilize the Access code/Meeting ID: 339 518 4868 / **Passcode:** 6149438 when prompted. If you need assistance joining (using either the audio or video method), please call our offices at 803-724-5000 (Plaintiff's Attorney).

**THIS COMMUNICATION IS FOR THE PURPOSE OF COLLECTING A DEBT. ANY
INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE**

If you plan to join or attend this hearing, we would respectfully appreciate your sending an email to payoff@mccabetrotter.com or leaving a message for the undersigned at 803-724-5002. (This is for purposes of notifying you in the event that the hearing is canceled.) Pursuant to S.C. Code Ann. § 14-11- 110 (as amended) and/or applicable case law, the Plaintiff's attorney intends to submit written testimony on behalf of the Plaintiff at the hearing on Plaintiff's behalf.

As a result of the hearing, a foreclosure sale could be ordered as soon as allowed by law after the foreclosure hearing.

Records in the possession of the undersigned as of this date reflect only the above parties and the above Defendant's counsel (if any). Please contact the undersigned immediately if any counsel has filed an appearance and their name is not reflected above as a recipient of this Notice.

/s Ashley N. Green
Ashley N. Green (SC Bar 101741)
McCabe, Trotter & Beverly
4500 Fort Jackson Blvd Suite 335
Columbia, SC 29209
Telephone: 803-724-5002
Fax: 803-724-5001
Email: ashley.green@mccabetrotter.com
Attorney for Plaintiff

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Harbor Town Association, Inc.,

Plaintiff,

v.

Rajiv Kumar Lakhaney, Deceased,

Defendant(s).

IN THE COURT OF COMMON PLEAS

2024-CP-23-04910

CERTIFICATE OF MAILING

20546.18

I, Theron Coetzee-Outing, an employee of the law offices of McCabe, Trotter & Beverly, P.C., attorneys for Plaintiff, do hereby certify that I have mailed a copy of the Notice of Hearing, which is attached hereto and incorporated herein by reference in connection with the above-referenced case, by mailing a copy of the same by United States mail, postage prepaid, to each of the Addressees, listed on the Notice of Hearing and in separate envelopes, at each of their respective addresses shown thereon, this 16 day of April, 2025.

Theron Coetzee-Outing

Columbia, South Carolina

Assignment of Bid

[page 1]

2024-CP-23-04910

NOTE: THE COURT'S ACCEPTANCE OF THIS ASSIGNMENT IN NO WAY ADDRESSES ANY ISSUES, TO THE EXTENT THEY MAY EXIST, THAT MAY ARISE WITH OR OUT OF 40-57-5, ET. SEQ. THE COURT RECOMMENDS SEEKING LEGAL ADVICE IN THIS REGARD FROM AN ATTORNEY LICENSED IN SOUTH CAROLINA.

I, Clayton M Custer, as Member of Oriole Properties LLC do hereby assign my bid and deposit for the property located at the following address: 36 Spinnaker Ct, Greenville Sale # 7, Sale Date 8/14/25, Case # 2024-CP-23-04910 to Oriole Properties LLC + whose address is PO Box 4068, Greenville SC 29608 (as 50% each owner Joint Tenants with no right of survivorship)

By: [Signature] Sworn to and subscribed before me, this 14 day of Aug, 2025.

(Assignor)

Member
(Title)

Notary Public My Commission Expires
My Commission Expires June 21, 2026
(AFFIX NOTARY SEAL)

SEAL)

I, Clayton M Custer, as Member of Oriole Properties LLC do hereby accept the above Assignment of Bid, of 1/2 of the interest in #36 Spinnaker Ct.

By: [Signature]
Title: Member
Date: 8/14/25

Sworn to and subscribed before me, this 14th day of Aug, 2025.

[Signature]
Notary Public for South Carolina

MY COMMISSION EXPIRES: My Commission Expires
June 21, 2026
(Affix Notary Seal)

Agree to: [Signature]
Thomas S Carswell

Assignment of Bid

- [page 2]

2024-CP-23-04910

NOTE: THE COURT'S ACCEPTANCE OF THIS ASSIGNMENT IN NO WAY ADDRESSES ANY ISSUES, TO THE EXTENT THEY MAY EXIST, THAT MAY ARISE WITH OR OUT OF 40-57-5, ET. SEQ. THE COURT RECOMMENDS SEEKING LEGAL ADVICE IN THIS REGARD FROM AN ATTORNEY LICENSED IN SOUTH CAROLINA.

I, _____, as _____ of _____ do hereby assign my bid and deposit for the property located at the following address: _____ (Sale # _____, Sale Date _____, Case # _____) to _____ whose address is _____.

By: _____ (Assignor)

Sworn to and subscribed before me, this _____ day of _____.

(Title)

Notary Public
My Commission Expires: _____
(AFFIX NOTARY SEAL)

see page 1

I, Thomas S. Carswell, as Member of Thomas and Son Properties, LLC do hereby accept the above Assignment of Bid, of 1/2 of the interest in 36 Spinnaker Ct

By: [Signature]
Title: Member
Date: 8/14/25

Sworn to and subscribed before me, this 14th day of Aug, 2025.

[Signature]
Notary Public for South Carolina
My Commission Expires June 21, 2026
MY COMMISSION EXPIRES: June 21, 2026
(Affix Notary Seal)

Agreed To:

[Signature]
CLAYTON M. CUSTER

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2024-CP-23-04910

HARBOR TOWN ASSOCIATION, INC.

Plaintiff,

v.

RAJIV KUMAR LAKHANEY,
DECEASED, ET AL.

Defendant(s).

**MOTION TO VACATE ORDER AND
MEMORANDUM IN SUPPORT**

TO: PLAINTIFF HARBOR TOWN ASSOCIATION, INC.:

PLEASE TAKE NOTICE that pursuant to Rule 60 of the South Carolina Rules of Civil Procedure, the Estate of Rajiv Kumar Lakhane, as a deceased defendant, by and through the undersigned counsel, hereby moves for an Order vacating the this Court's September 9, 2024 Order/Appointment of Guardian Ad Litem, June 11, 2025 Judgment of Foreclosure and Sale, the August 4, 2025 foreclosure sale, and the August 18, 2025 Order on Sale of Real Estate on the grounds specified below.

This case came before the Court as a foreclosure action. On July 31, 2024, the borrower, Mr. Rajiv Kumar Lakhane died. On August 8, 2024, the probate court in New Jersey appointed Semyanov as administrator and she served until being replaced by Carmen Cortes Sykes, Esq. the next year. On August 12, 2024, Plaintiff commenced this foreclosure action. Upon serving the Complaint, the process server informed the Plaintiff he understood Mr. Lakhane's died on July 31, 2024. Thereafter, Plaintiff amended the Complaint but according to the record, took no steps to verify the death or to contact the administrator for the estate. Instead, Plaintiff submitted a Motion and Order for Appointment of Guardian *Ad Litem Nisi* and Attorney that mentioned no effort to verify the death or steps it had taken to contact the estate but asked for service by

publication, which this Court granted on September 9, 2024 through the same document. Upon information and belief, the sale was prejudicial to a minor who ultimately would have inherited the property and could have used the equity for college or other expenses. Instead, a windfall occurred such that the HOA was paid in a way that financially benefits a company seeking to profit upon flipping the sale of the same home.

1. Not all parties were named. The estate was not named as a defendant. Although unknown persons were, there could have been other heirs who were not persons, such as nonprofits or businesses. The named defendants were: Rajiv Kumar Lakhaney, Deceased; and any children and heirs at law, distributes and devisees, and if any be deceased then any persons entitled to claim under or through them; also all other persons unknown claiming any right, title, interest, or lien herein, any unknown adults being a class designated as John Doe; and any unknown minors or persons under disability or in the military service being a class designated as Richard Roe. Foreclosure is deficient because it did not name an interested party, that being the estate, as a defendant, although it was aware of the existence of the estate, even the case number, as such was referenced in its foreclosure pleadings and it did not serve the estate with any pleadings after discovering its existence.

2. The Plaintiff failed to contact the estate even after knowing of its existence. The affidavit of non-service upon Mr. Lakhaney revealed Plaintiff understood Mr. Lakhaney was deceased. There is nothing in the record to show Plaintiff made any effort to serve the administrator of the estate or verify Mr. Lakhaney's death. The Court appointed a GAL who filed an affidavit on May 28, 2025 stating:

5. That Phillip Ziganton, Administrator of the Estate of Rajiv Lakhaney, emailed Affiant and informed her there are heirs of Rajiv Lakhaney and provided the contact information for his wife, Katherine Semyanov;
6. That Affiant relayed this information to the Plaintiff;

Phillip Ziganton is a local realtor. Upon information and belief, he never was the administrator of the estate. It is concerning that upon being given the information for Katherine Semyanov, neither the GAL nor the Plaintiff contacted Katherine Semyanov or the estate's administrator. To the contrary, Ms. Semyanov reached out inquiring as to HOA fees and was forwarded the information for Plaintiff's attorney. Ms. Semyanov contends she contacted the Plaintiff's attorney asking for information to pay them and no one responded. Upon researching the public index for another matter, Ms. Semyanov learned of the GAL and reached out to her, thinking the GAL was protecting the interests of Ms. Semyanov's minor child, however the GAL did not respond either. Had either Plaintiff, its attorney or the GAL responded, Ms. Semyanov or the estate could have paid the HOA fees.

Rule 60 provides for relief from a judgment or order upon mistake, inadvertence, surprise, or excusable neglect. It also provides for relief when there is newly discovered evidence. A further ground is misconduct of an adverse party. Each of these are grounds for relief in the present case.

This Court is a court of equity. Equity cannot be served by selling a house for gross inadequacy of price, given the failure of the Plaintiff and GAL to communicate with the administrator of the estate when such was readily available. For example, the Judgement of Foreclosure Sale even references the case number.

10. An Estate was opened for the deceased, Rajiv K. Lakhaney, appointing Katherine Seymonov as the Administrator of the Estate on August 8, 2024, in Bergen County Surrogate's Court, State of New Jersey, Docket No. 2024-3095.

When Plaintiff requested the court allow service by publication, it made no mention of any attempt to serve the administrator. Notice by publication should not have been granted in this case.

3. The sales price shocks the conscience. Zillow lists the estimated market value of the home located at 36 Spinnaker Ct., Greenville, SC 29611 at \$123,900. Upon information and belief, the home sold at the foreclosure sale for \$25,000. According to the Amended Complaint, only \$3,254.70 was owed to the HOA. There is nothing in the record to indicate Plaintiff sent any of the required notices to Mr. Lakhaney prior to the foreclosure complaint being filed. There is not record that the HOA attempted to reach anyone to pay before foreclosing or that the GAL raised such as a defense or pursued her answer after interviewing the administrator of the estate because she did not speak with the administrator or attempt to reach anyone who could have paid the HOA. A sale of a \$123,900 house for a \$3,254.70 debt shocks the conscience, particularly when HOA fees may not have been paid due to the obligor having been deceased.

A judicial sale will not be set aside due to an inadequate sale price unless: (1) the price was so grossly inadequate as to shock the conscience of the court; or (2) an inadequate—but not grossly inadequate—price at the sale is accompanied by other circumstances from which the court may infer fraud has been committed. *Singleton v. Mullins Lumber Co.*, 234 S.C. 330, 351, 108 S.E.2d 414, 424 (1959); see also *BFP v. Resolution Tr. Corp.*, 511 U.S. 531, 542, 114 S.Ct. 1757, 128 L.Ed.2d 556 (1994).

Winrose Homeowners' Ass'n, Inc. v. Hale, 428 S.C. 563, 569, 837 S.E.2d 47, 50 (2019).

The Plaintiff put this sale on a fast track conveyor belt, not showing any attempt to reach the estate. It should have presumed HOA fees were not being paid due to the death of the decedent and it should have attempted to contact the estate, however neither occurred. Once appointed, the GAL should have attempted to contact the HOA to try to resolve the foreclosure by paying the HOA debt and avoiding a sale altogether. Instead, due process failed to occur. Plaintiff acted as though it could not locate the estate without even naming the estate nor contacting it, even though it had

the case number. It could have filed a claim in the estate for the HOA fees rather than foreclosing so a minor child could not inherit the equity.

4. Publication of the foreclosure and of the sale date were inadequate. Publication of the service fails to meet the rules because there was no showing that after due diligence the proper defendant could not be found. Had the estate been listed as a defendant, it could have been found by the case number Plaintiff had. Although the Plaintiff did publish the sale 3 consecutive weeks, the last publication was August 1, 2025, only 3 days before the sale, with a weekend in between. Such service is not due process. As Justice Beatty mentioned, the homeowner at least should have received notice of the date and time of the foreclosure sale, yet here, the only notification, despite the Plaintiff having knowledge of the case number for the estate, was publication. Plaintiff was aware the estate was being handled in New Jersey and it would be very unlikely the estate would read a Greenville newspaper, particularly 3 days before the sale.

WHEREFORE, the Administrator of the Estate of Rajiv Kumar Lakhaney requests the aforesaid orders, judgments and sales be vacated and for such further relief as is equitable.

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC

By: s/Jane H. Downey
Jane H. Downey, ID 15045
1501 Main St., Ste. 310
Columbia, SC 29201
(803) 251-8814
jdowney@bakerdonelson.com

*Attorney for the Estate of Rajiv Kumar
Lakhaney*

September 3, 2025

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2024-CP-23-04910

HARBOR TOWN ASSOCIATION, INC.

Plaintiff,

v.

RAJIV KUMAR LAKHANEY,
DECEASED, ET AL.

Defendant(s).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of MOTION TO VACATE ORDER AND MEMORANDUM IN SUPPORT were served upon the following by placing a copy of the same in the United States with sufficient postage affixed thereto, addressed as follows:

Harbor Town Association, Inc.
c/o Ashley Nichole Green
4500 Ft. Jackson Blvd., Suite 335
Columbia, SC 29209

Thomas and Son Properties, LLC
THOMAS S. CARSWELL
320 Scenic Lake Court
Piedmont, SC 29673

Oriole Properties, LLC
CLAYTON M. CUSTER
107 Windemere Drive
Greenville, SC 29615

Kelly Yarborough Woody, Esq.
P.O. Box 6432
Columbia, SC 29260

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC

By: s/Jane H. Downey
Jane H. Downey, ID 15045
1501 Main St., Ste. 310
Columbia, SC 29201
(803) 251-8814
jdowney@bakerdonelson.com

*Attorney for the Estate of Rajiv Kumar
Lakhaney*

September 3, 2025

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2024-CP-23-04910

HARBOR TOWN ASSOCIATION, INC.

Plaintiff,

v.

RAJIV KUMAR LAKHANEY, DECEASED,
ET AL.

Defendant(s).

**DEFENDANT ESTATE OF RAJIV
KUMAR LAKHANEY, DECEASED, ET
AL.'S MOTION TO RECONSIDER THE
OCTOBER 29, 2025 ORDER DENYING
MOTION TO VACATE JUDGMENT OF
FORECLOSURE AND SALE, JUDICIAL
SALE, AND DEED**

PLEASE TAKE NOTICE that the Estate of Rajiv Kumar Lakhaney (the “Estate”) moves under Rules 59(e) and 52(b), SCRPC, to reconsider and amend the Court’s October 29, 2025 Order (occasionally referred to as the “Order”) denying relief from the Judgment of Foreclosure and Sale entered June 11, 2025, the judicial sale held August 4, 2025, and the deed recorded August 18, 2025.¹

This case strikes at the foundation of judicial authority. Foreclosure is an equitable proceeding, and equity does not permit a judgment rendered without jurisdiction or a sale that shocks the conscience to stand. The homeowner, Rajiv Kumar Lakhaney, died on July 31, 2024. An estate was opened in New Jersey within days, and an administrator was appointed. Plaintiff Harbor Town Association, Inc. (the “Association” or “Plaintiff”) knew these facts. It referenced the estate docket in its filings. It had the administrator’s contact information. It even signed a written installment plan with her. Yet Plaintiff never served, joined her, or told her a foreclosure was pending. Instead, it published notice to “unknown heirs,” obtained a foreclosure judgment,

¹ The undersigned counsel has requested a transcript of the October 7, 2025 hearing. Accordingly, the Estate respectfully reserves the right to supplement this Motion or its oral argument with excerpts from that transcript.

and sold the property for \$25,000 against record values exceeding \$107,000 and testimony of an appraised value over \$178,000.

Rules 59(e) and 52(b) exist for cases such as this. The record before this Court reveals a facial jurisdictional defect and a price that equity cannot sustain. To allow the judgment, sale, and deed to stand would elevate statutory finality over constitutional due process, a result South Carolina law has never permitted. *See Winrose Homeowners' Ass'n, Inc. v. Hale*, 428 S.C. 563, 569-74, 837 S.E.2d 47, 50-52 (2019); *E. Sav. Bank, FSB v. Sanders*, 373 S.C. 349, 356, 644 S.E.2d 802, 806 (Ct. App. 2007); *Buffalo Creek Invs., Inc. v. Pettus*, 440 S.C. 111, 118-24, 889 S.E.2d 608, 612-14 (Ct. App. 2023).

I. **PERTINENT FACTS AND PROCEDURAL HISTORY**

Plaintiff commenced this foreclosure action on August 12, 2024, seeking to enforce a homeowners' association lien against real property located at 36 Spinnaker Court, Greenville, South Carolina ("Property"), more particularly described as Unit 36 on a plat of Harbor Town, dated January 30, 1976, and recorded in Plat Book 5-P at Page 14 in the Register of Deeds Office for Greenville County over a debt of only \$3,254.70. (Order Denying Mot. to Vacate ¶ 1; Judgment of Foreclosure and Sale at p. 6; Mot. to Vacate Order at pp. 1, 3). The lien, recorded June 16, 2023, reflected unpaid assessments and related charges. (Order Denying Mot. to Vacate ¶ 2; Mot. to Vacate Order at p. 1).

Crucially, just days before Plaintiff filed suit, the record owner, Rajiv Kumar Lakhane, died on July 31, 2024 in the state of New Jersey. (Order Denying Mot. to Vacate ¶ 3; Mot. to Vacate Order at p. 1). On August 8, 2024, the Bergen County Surrogate's Court in New Jersey

appointed Katherine Semyonov² as administrator of the Estate, and she served until being ousted and succeeded by Carmen Cortes-Sykes, Esq. on or about January 22, 2025. (Order Denying Mot. to Vacate ¶¶ 8, 12; Mot. to Vacate Order at p. 1, 3).

Despite Plaintiff's actual knowledge of Mr. Lakhaney's death and the existence of the Estate, Plaintiff did not join or serve the administrator. (Mot. to Vacate Order at p. 2). Instead, Plaintiff amended its pleadings to substitute "deceased" and unknown-party classes as defendants and moved for appointment of a Guardian ad Litem Nisi and for service by publication, which the Court granted. (Order Denying Mot. to Vacate ¶¶ 4-5; Mot. to Vacate Order at p. 1-2). The Guardian ad Litem, Kelley Yarborough Woody, Esq., was appointed and published notice for three consecutive weeks in the Greenville News, and sent written correspondence to the Property. (Order Denying Mot. to Vacate ¶ 5; Mot. to Vacate Order at p. 2).

Following her appointment, Ms. Woody was contacted by Phil Ziganto, a local realtor, and by Ms. Semyonov. (Order Denying Mot. to Vacate ¶ 6; Mot. to Vacate Order at p. 3). Ms. Woody provided Ms. Semyonov's contact information to Plaintiff's counsel. (Order Denying Mot. to Vacate ¶ 9; Mot. to Vacate Order at p. 3). Acting as administrator, Ms. Semyonov contacted Plaintiff's counsel and entered into an installment payment agreement on December 17, 2024, in an effort to cure the past-due assessments. (Order Denying Mot. to Vacate ¶ 10; Mot. to Vacate Order at p. 3). A month later, Ms. Semyonov was replaced as administrator, and Ms. Cortes-Sykes was appointed as substitute administrator. (Order Denying Mot. to Vacate ¶¶ 11-12; Mot. to Vacate Order at p. 3).³ And, importantly, Ms. Cortes-Sykes did not know about the installment payment agreement.

² Ms. Semyonov is the ex-wife of the decedent and mother of the minor child, who stands to lose in this matter and resides in Miami, Florida.

³ There was no transition period between administrators. Ms. Semyonov was listed as the wife of Mr. Lakhaney on his death certificate, but at the time of death, they were nearly divorced. Ms. Semyonov was replaced by Ms. Cortes-

Although the record reflects that the notice of hearing was forwarded by Ms. Woody to Ms. Semyonov, and then to Ms. Cortes-Sykes, there is no finding that either administrator had actual notice of the foreclosure proceedings in time to intervene or understood the legal significance of the hearing. Moreover, upon information and belief, every Notice of Electronic Filing issued prior to the undersigned counsel's appearance expressly required service upon the Estate; yet no such service was ever effected. As demonstrated below, mere awareness does not satisfy the governing service rules, and publication alone was manifestly inadequate under these circumstances:

***** IMPORTANT NOTICE - READ THIS INFORMATION *****	
NOTICE OF ELECTRONIC FILING (NEF)	
A filing has been submitted to the court RE: 2024CP2304910	
Official File Stamp:	05-28-2025 11:49:36 AM
Court:	CIRCUIT COURT Common Pleas Greenville
Case Caption:	Harbor Town Association Inc vs. Rajiv Kumar Lakhane, defendant, et al
Document(s) Submitted:	Affidavit/Attorney - Exhibit/Filing of Exhibits
Filed by or on behalf of:	Kelley Yarborough Woody
This notice was automatically generated by the Court's auto-notification system.	
The following people were served electronically:	
	Kelley Yarborough Woody for John Doe, Richard Roe
	Ashley Nichole Green for Harbor Town Association Inc
The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:	
	Richard Roe for Kelly Yarborough Woody
	John Doe for Kelly Yarborough Woody
	Rajiv Kumar Lakhane
	Kelly Yarborough Woody for John Doe, Richard Roe

Sykes as administrator with no formal transition; Ms. Semyonov was simply instructed to cease acting as administrator.

In fact, the only direct *attempt* by Plaintiff's counsel to contact Ms. Cortes-Sykes occurred when Plaintiff's counsel left a voicemail on June 5, 2025—the day before the foreclosure hearing—without any further advance notice, explanation, or reasonable effort to ensure actual understanding. (*See* Mot. to Vacate Order at p. 3). On information and belief, that voicemail did not inform Ms. Cortes-Sykes that a foreclosure hearing was scheduled or that the proceeding could be avoided by payment of a relatively small amount.

Above all, the key point, as reflected in the Motion to Vacate and through testimony, is this:

Ms. Semyonov contends she contacted the Plaintiff seeking information about HOA fees and was referred to Plaintiff's attorney, who did not respond. Upon researching the public index for another matter, Ms. Semyonov learned of the appointment of a Guardian ad Litem and reached out, believing the GAL was protecting the interests of her minor child; at that time, however, the GAL did not respond. Throughout this period, Ms. Semyonov was required to seek out Plaintiff and other relevant parties **without any knowledge that a foreclosure action was pending or being considered.** (*See* Mot. to Vacate Order at p. 2) (emphasis added).

Nevertheless, Plaintiff proceeded to judgment and sale without ever joining or serving the administrator, despite repeated opportunities and direct engagement from the Estate. The Court held the final hearing on June 6, 2025, entered a judgment of foreclosure and sale, and set the judicial sale for August 4, 2025. (Order Denying Mot. to Vacate ¶ 17; Mot. to Vacate Order at p. 4). At the sale, Oriole Properties, LLC submitted the successful bid of \$25,000 and subsequently assigned a one-half interest to Thomas and Son Properties, LLC. The deed was issued and recorded on August 18, 2025. (Order Denying Mot. to Vacate ¶¶ 18, 20; Mot. to Vacate Order at p. 4).

The disparity between the sale price and the Property's value is striking. The record reflects a tax-assessed value near \$107,000, a prior tax sale price of \$100,000, and testimony that an appraisal placed value at approximately \$178,000. (Order Denying Mot. to Vacate ¶ 24; Mot. to Vacate Order at p. 4). Zillow lists the estimated market value at \$123,900. (Mot. to Vacate Order

at p. 4). Compounding this inequity, the final newspaper notice before the judicial sale ran on August 1, 2025—just three days before the sale, with a weekend in between—further limiting the likelihood of meaningful notice. (Order Denying Mot. to Vacate ¶ 5; Mot. to Vacate Order at p. 5).

In sum, Plaintiff possessed knowledge of the Estate and its administrator, received direct engagement and a written cure plan from the administrator, and yet chose to proceed by publication to “unknown heirs” rather than serving or joining the known fiduciary. As a result, Plaintiff obtained a judgment and sale at a price far below the assessed and appraised values, despite the administrator’s repeated efforts to resolve the arrearage. (*See* Order Denying Mot. to Vacate ¶¶ 8-11, 24; Mot. to Vacate Order at pp. 1-5).

II. STANDARD OF REVIEW

Rule 59(e) of the South Carolina Rules of Civil Procedure provides a method for moving a Court to alter or amend a judgment made. A motion to alter or amend pursuant to Rule 59(e), SCRPC, is also a vehicle to seek reconsideration of issues and arguments. *See Elam v. S.C. DOT*, 361 S.C. 9, 21-22, 602 S.E.2d 772, 778-79 (2004) (“A motion under Rule 59(e) long has been viewed as ‘motion for reconsideration’ despite the absence of those words from the rule.”). “There is nothing inherently unfair in allowing a party one final chance not only to call the court’s attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument.” *Id.* at 779. The decision to grant or deny a motion to alter, amend, or reconsider is within the Court’s discretion. *See generally Hassell v. City of Columbia*, 430 S.C. 620, 846 S.E. 2d 373 (Ct. App. 2020). In turn, Rule 52(b) permits amended or supplemental findings so that the judgment accords with the evidence and controlling law in equitable actions, including foreclosure. *See* Rule 52(b), SCRPC (“When findings of fact are made in actions tried by the court without a

jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised . . . ”).

In foreclosure proceedings, the master in equity is vested with broad equitable authority to ensure fairness and justice. A judicial sale may be set aside not only where the sale price is so grossly inadequate as to shock the conscience, but also where the sale is attended by other circumstances warranting the interference of the court, including general unfairness. *See Buffalo Creek*, 440 S.C. at 122, 889 S.E.2d at 613 (“A judicial sale will be set aside when either: (1) the sale price ‘is so gross as to shock the conscience[;]’ **or (2) the sale ‘is accompanied by other circumstances warranting the interference of the court.’**” (citing *Wells Fargo Bank*, 378 S.C. at 150, 662 S.E.2d at 425; *Poole v. Jefferson Standard Life Ins. Co.*, 174 S.C. 150, 157, 177 S.E. 24, 27 (1934))) (emphasis added)⁴. The master’s discretion is not limited to the sale price alone, but extends to the totality of the circumstances, including whether the foreclosure process itself was fundamentally unfair or inequitable. *See id.*

Finally, the protections afforded to bona fide purchasers under Section 15-39-870 and related precedent are triggered only if the court issuing the foreclosure decree possessed jurisdiction over the subject matter and the parties in interest. *See Rallis Holdings, LLC*, No. 2019-001821, 2023 WL 155075, at *1 (S.C. Ct. App. Jan. 11, 2023) (citing *Gladden v. Chapman*, 106 S.C. 486, 490, 91 S.E. 796, 797 (1917)). The threshold question is jurisdiction; only after jurisdiction is established does the bona fide purchaser doctrine operate to protect the finality of judicial sales. *Id.* Where jurisdiction is lacking, the doctrine simply does not apply, and purchaser status cannot cure a void judgment.

⁴ Although *Buffalo Creek* involved a special referee, under Rule 53 of the South Carolina Rules of Civil Procedure, masters-in-equity and special referees exercise the same powers as a circuit judge sitting without a jury in matters referred to them, including foreclosure actions. *See Rule 53(c)*, SCRCP (“Once referred, the master or special referee shall exercise all power and authority which a circuit judge sitting without a jury would have in a similar matter.”).

III. ARGUMENT

A. Equity and the Master's broad discretion require setting aside the judgment, sale, and deed under *Buffalo Creek* and *Winrose*.

Foreclosure is an equitable proceeding, and the master in equity exercises the full equitable powers of the circuit court to ensure fairness and justice. South Carolina courts have long recognized that equity does not operate mechanically; it acts to prevent results that offend conscience and undermine confidence in judicial process. *Buffalo Creek Investments, Inc. v. Pettus* articulates the controlling standard: a judicial sale will be set aside when either (1) the price is so grossly inadequate as to shock the conscience, or (2) the sale is attended by other circumstances warranting the interference of the court. 440 S.C. 111, 122, 889 S.E.2d 608, 613 (Ct. App. 2023). The second prong is decisive here.

The breadth of this equitable authority is well established. South Carolina decisions confirm that this second prong is not a narrow exception but a core safeguard of equity. It empowers the master to act when the foreclosure process itself is fundamentally unfair, even if the price alone might not compel relief. *See Spillers v. Clay*, 233 S.C. 99, 101-103, 103 S.E.2d 759, 760-761 (1958) (recognizing inherent power to set aside judicial sales for cogent reasons beyond price); *Wachesaw Plantation East Community Services Ass'n, Inc. v. Alexander*, 420 S.C. 251, 259, 802 S.E.2d 635, 639 (Ct. App. 2017) (noting that the Court viewed the “record as a whole” in rendering its decision on whether the sale should be vacated).

Critically, the Supreme Court's decision in *Winrose Homeowners' Association, Inc. v. Hale* reinforces this equitable principle. While *Winrose* primarily addressed the valuation method for determining gross inadequacy, its reasoning underscores equity's role in preventing foreclosure from becoming a vehicle for exploitation. The Court emphasized that foreclosure is a “solemn

judicial proceeding” and condemned the misuse of foreclosure to leverage a nominal debt into an exorbitant windfall. 428 S.C. 563, 573, 837 S.E.2d 47, 52 (2019). Chief Justice Beatty’s concurrence went further, warning that allowing hard-earned equity to be confiscated for a minimal investment is “unconscionable,” especially in the HOA context. *Id.* at 575, 837 S.E.2d at 53. These observations speak directly to the second prong of *Buffalo Creek*: equity intervenes when the process itself reflects unfairness or abuse.

Applying these principles to this record demonstrates why *Buffalo Creek*’s second prong controls. The foreclosure process here was fundamentally unfair in every respect. The record owner died before suit was filed. Plaintiff knew of the death, knew the New Jersey estate docket number, had the administrator’s contact information, and even signed a written installment plan with her. (*See* Order Denying Mot. to Vacate ¶¶ 4-6, 9-11; Mot. to Vacate pp. 1-3). Despite that knowledge and engagement, Plaintiff never served or joined the fiduciary. Instead, it proceeded by publication to “unknown heirs,” obtained a foreclosure judgment, and scheduled a sale with the final newspaper notice appearing on August 1, 2025, only three days before the August 4, 2025 auction, with a weekend in between. (Mot. to Vacate p. 4). These facts are not collateral. They go to the integrity of the process and reveal a foreclosure that bypassed constitutional notice and statutory safeguards, even as the administrator attempted to cure the arrearage.

The context makes the unfairness even more striking. This was not a mortgage foreclosure involving a substantial debt. It was an HOA lien for a minimal sum: an amount so small that it bears no rational relationship to the loss of a home. South Carolina’s Supreme Court in *Winrose* condemned precisely this kind of misuse of foreclosure, describing it as “a solemn judicial proceeding” that must never become a vehicle for exploitation. 428 S.C. 563, 573, 837 S.E.2d 47, 52 (2019). Those observations apply with full force here. The arrearage was trivial, yet the process

stripped the Estate of property worth well over \$100,000 and transferred it for \$25,000. That result is not merely harsh; it is the very abuse equity exists to prevent.

To leave this judgment and sale in place would elevate statutory finality over constitutional fairness, which South Carolina law has never permitted. The master's equitable authority is not limited to policing price; it extends to ensuring that foreclosure proceedings comport with fundamental fairness. When the record shows that the process itself was defective and inequitable, equity demands relief. Applying *Buffalo Creek* and *Winrose* faithfully, the Court should vacate the judgment of foreclosure and sale, the August 4, 2025 sale, and the August 18, 2025 deed, and restore title to the Estate.

B. Personal jurisdiction was absent because service violated due process and statutory requirements, and for that reason the judgment, sale, and deed must be set aside.

Jurisdiction over the parties is the constitutional foundation of any foreclosure proceeding. Due process requires notice reasonably calculated to apprise interested parties of the action and afford them an opportunity to respond. When a plaintiff knows a party's identity and address, publication is not sufficient, and reasonable follow-up steps are required when the chosen method proves inadequate. *See, e.g., Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 315-316 (1950); *Jones v. Flowers*, 547 U.S. 220, 237 (2006). South Carolina enforces these principles through strict compliance with its publication statutes and Rule 4. A foreclosing plaintiff must provide a facially sufficient affidavit of due diligence and must mail notice to any ascertainable address before resorting to publication. S.C. CODE ANN. §§ 15-9-710, 15-9-740; Rule 4, SCRCF; *Belle Hall Plantation HOA v. Murray*, 419 S.C. 605, 615, 799 S.E.2d 310, 315 (Ct. App. 2017).

1. Publication was neither constitutional nor statutory.

South Carolina law authorizes service by publication only under narrow conditions. Section 15-9-710 permits publication when the defendant cannot, after due diligence, be found

within the State, and that fact appears by affidavit to the satisfaction of the court. S.C. CODE ANN. §§ 15-9-710. Section 15-9-740 further requires that the order of publication direct publication once a week for three weeks in a newspaper most likely to give notice and mandate mailing a copy of the summons to the defendant's residence unless the residence is neither known nor can be ascertained with reasonable diligence. S.C. CODE ANN. §§ 15-9-740. These safeguards implement *Mullane's* constitutional command that notice be reasonably calculated to reach the party.

Plaintiff satisfied none of these ‘diligence’ requirements. The record shows no affidavit of due diligence, no mailing to the administrator’s known address, and publication directed to “unknown heirs” despite Plaintiff’s actual knowledge of the fiduciary. Plaintiff’s process server documented the owner’s death:

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
HARBOR TOWN ASSOCIATION, INC.	)	C.A No: 2024-CP-23-04910
	)	
Plaintiff,	)	
	)	
vs.	)	AFFIDAVIT OF NON-SERVICE
	)	
RAJIV KUMAR LAKHANEY,	)	
	)	
Defendant,	)	

Further, Plaintiff's pleadings referenced the New Jersey estate by docket number, and Plaintiff had the administrator's contact information and even signed a written installment plan with her. Yet, Plaintiff never served or joined the fiduciary and instead published notice to "unknown heirs." The Guardian ad Litem likewise did not contact the administrator despite having the information, and the final sale notice appeared only three days before the auction, with a weekend in between. These facts, which appear on the face of the file before this Court, defeat any claim of due diligence and show that publication here was not reasonably calculated to notify a known, reachable fiduciary. SEE S.C. CODE ANN. §§ 15-9-710, 15-9-740; *Belle Hall*, 419 S.C. at 616, 799 S.E.2d at 316 (noting that South Carolina courts have "repeatedly required strict compliance with publication statutes.") (internal quotations omitted). Ultimately, as further explained in *subsection four*, a party cannot invoke purchaser protections or equitable defenses where the underlying judgment is void for lack of jurisdiction.

2. *Section 29-3-610 does not excuse service in this HOA Foreclosure.*

The Order's reliance on S.C. Code Ann. § 29-3-610 is also misplaced. That statute applies only to mortgage foreclosures and cannot override constitutional notice requirements or South Carolina's strict publication rules when a fiduciary is known and reachable. SEE S.C. CODE ANN. § 29-3-610 (providing that a personal representative of a deceased **mortgagor** need not be named as a party when no personal judgment is sought) (emphasis added). HOA lien foreclosures remain subject to ordinary service rules and due process. Even assuming the legislature intended § 29-3-610 to apply in this context, the statute does not authorize publication in lieu of serving a known fiduciary; it merely dispenses with making the personal representative a party when no personal judgment is sought. It does not excuse Plaintiff's failure to serve the administrator whose identity and address were known.

3. *Actual notice does not cure defective service.*

South Carolina law is unequivocal: proper service is the path by which personal jurisdiction attaches; awareness of a lawsuit does not substitute for compliance with service rules. *See Roche v. Young Bros., Inc. of Florence*, 318 S.C. 207, 209, 456 S.E.2d 897, 899 (1995) (“Rule 4, SCRCF serves at least two purposes. It confers personal jurisdiction on the court and assures the defendant of reasonable notice of the action.”); *Moore v. Simpson*, 322 S.C. 518, 523, 473 S.E.2d 64, 66 (Ct. App. 1996) (holding that the plaintiff must establish personal jurisdiction by showing compliance with service rules). The Estate’s contacts with Plaintiff’s counsel, and the administrators’ “awareness” referenced in the Order, do not retroactively supply jurisdiction that never attached. Publication directed to “unknown heirs” was not reasonably calculated to reach a known administrator, and no reasonable follow-up was taken. Jurisdiction attaches only through proper service on the real party in interest. *See Moore*, 322 S.C. at 523, 473 S.E.2d at 66; *Roche*, 318 S.C. at 209, 456 S.E.2d at 899.

In light of the analysis in the preceding subsections, the combined effect of these defects cannot be overstated. The publication failures described in *subsection one*, together with the statutory misapplication addressed in *subsection two*, and the undisputed fact that Ms. Cortes-Sykes was a known and reachable fiduciary who should have been served, establish a complete absence of personal jurisdiction. South Carolina law does not permit jurisdiction to arise from informal awareness or assumption. Jurisdiction attaches only through compliance with the service requirements prescribed by statute and rule. Knowledge does not cure defective service, and equity cannot disregard defects that strike at the core of due process. Because Plaintiff failed to serve Ms. Cortes-Sykes, the foreclosure judgment was entered without jurisdiction over the real party in interest, and the resulting sale and deed cannot stand.

4. *Purchaser protection and laches do not apply to a void judgment.*

Taking all of the foregoing into account, the legal consequence is unavoidable: the bona fide purchaser doctrine does not cure jurisdictional defects. Section 15-39-870 protects good-faith purchasers and the finality of judicial sales, but only when the decree was entered by a court of competent jurisdiction. *See Robinson v. Estate of Harris*, 378 S.C. 140, 145, 662 S.E.2d 420, 423 (Ct. App. 2008), *aff'd*, 390 S.C. 272, 701 S.E.2d 740 (2010). As the Court of Appeals explained in *Rallis Holdings, LLC v. Martinez*, a purchaser at a judicial sale is required to “verify that the court had jurisdiction of the subject of the action and of the parties in interest.” No. 2019-001821, 2023 WL 155075, at *1 (S.C. Ct. App. Jan. 11, 2023) (internal quotations omitted). Unlike *Rallis*, where at least one interested party was served, this record shows no proper service on any party in interest—most namely the Estate. The defect is facial, as the record reflects that Plaintiff knew the owner was deceased, knew the estate docket number, had the administrator’s contact information, and nonetheless proceeded by publication to “unknown heirs.” Purchaser reliance cannot override constitutional due process.

The Order’s suggestion that laches bars relief is likewise misplaced. *Belle Hall* did not hold that laches can cure jurisdictional defects; to the contrary, it affirmed vacatur of a foreclosure sale due to defective publication, while underscoring strict compliance with service-by-publication requirements. *Belle Hall*, 419 S.C. at 616, 799 S.E.2d at 315.

Therefore, the October 29, 2025 Order rests on a fundamental error of law: it concluded that service was proper and permitted the prior judgment to stand, despite constitutionally and statutorily defective service. The foreclosure judgment is void for lack of personal jurisdiction, and neither purchaser protection nor laches can validate a decree that was void from the outset. Rule 59(e) exists to remedy precisely this kind of manifest injustice and to ensure that the Court’s

orders conform to the requirements of law and due process. For these reasons alone, the Court should vacate the judgment of foreclosure and sale, the August 4, 2025 sale, and the August 18, 2025 deed, and restore title to the Estate.

C. The Court’s adequacy analysis rests on a clear legal error, as it applied the Debt Method where no debt was assumed and inflated the bid with non-bid items, contrary to *Winrose*.

The Order concluded that the Debt Method should apply “because the Property was not encumbered by a mortgage lien” and then added delinquent taxes and speculative renovation costs to the bid. (Order Denying Mot. to Vacate at pp. 7-8). That rationale is internally inconsistent. If there was no mortgage lien to assume, the Debt Method has no application. *Winrose* explains that the Debt Method is appropriate only when the purchaser assumes a senior lien to obtain free-and-clear title. *Winrose*, 428 S.C. at 572, 837 S.E.2d at 52 (“[I]n most circumstances, a foreclosure purchaser will assume any obligation to pay outstanding senior liens in order to obtain free-and-clear title to the property. **In those cases, it follows the Debt Method should be used.**”) (emphasis added). Where no such assumption occurs, as here, the proper analysis is the Equity Method, which compares the bid to the property’s fair market value, not to a debt-adjusted figure. *Id.* at 566, 837 S.E.2d at 48 (“[I]t would be wholly inappropriate to add the value of the mortgage to Regime’s winning bid.”).

The Order’s inclusion of taxes and renovations compounds the error. Taxes are liens that run with the land, but *Winrose* conditions Debt-Method credit on obligations the purchaser has affirmatively assumed or is legally required to pay to obtain clear title. *Id.* at 572-73, 837 S.E.2d at 52-53. Here, the purchaser had taken no steps to assume the taxes at the time of sale; the Property was merely “sold subject to” them. That status does not transform unpaid taxes into part of the bid. Renovation costs are even further afield, as they are discretionary expenditures, not senior liens,

and fall outside both valuation methods. Inflating the bid with these items contradicts *Winrose*'s framework and distorts the adequacy analysis.

Applying the correct method yields ratios that fall squarely within the range South Carolina courts scrutinize for inadequacy. The bid was \$25,000 against values of \$107,000 (tax assessment) and approximately \$178,000 (appraisal testimony). (Order Denying Mot. to Vacate at ¶ 24; Mot. to Vacate at 4). Those figures translate to roughly 23% and 14%, respectively. *Winrose* cited the Restatement's observation that courts are "warranted in invalidating a sale where the sale price is less than 20% of fair market value." *Id.* at 570, 837 S.E.2d at 51 (internal brackets omitted). The appraisal ratio here—14%—falls below that benchmark, and even the highest ratio (23%) is far from the zone of comfort. *See Bloody Point Prop. Owners Ass'n, Inc. v. Ashton*, 410 S.C. 62, 70, 762 S.E.2d 729, 734 (Ct. App. 2014); *E. Sav. Bank, FSB v. Sanders*, 373 S.C. 349, 359, 644 S.E.2d 802, 807 (Ct. App. 2007); *Wells Fargo Bank, N.A. v. Turner*, 378 S.C. 147, 152, 662 S.E.2d 424, 427 (Ct. App. 2008).

In sum, the Order's reliance on the Debt Method and its inflation of the bid with taxes and renovations is a clear error of law under *Winrose*. When the correct Equity Method is applied, the ratios (14% to 23%) fall within the range our courts have deemed inadequate, particularly when coupled with procedural irregularities. This foreclosure was not a routine sale; it was attended by a facial service defect, a failure to join a known fiduciary, and a bid that confiscates substantial equity for a nominal sum. Equity does not permit such a result to stand. The Court should amend its findings to apply the proper method, exclude non-bid items from the calculation, and grant appropriate relief.

IV. CONCLUSION

For all the reasons set forth above, the Estate respectfully requests that the Court grant reconsideration under Rule 59(e) and amend its findings under Rule 52(b) to reflect the controlling law and the undisputed record. Specifically, the Court should not have permitted the sale to proceed over a de minimis amount without ensuring that the Estate was properly served and afforded the opportunity to satisfy the HOA dues. It follows that the Court should hold (1) Plaintiff's reliance on publication, despite actual knowledge of and direct engagement with the Estate's administrator, violated constitutional due process and the strict requirements of §§ 15-9-710 and 15-9-740; (2) the adequacy analysis must apply *Winrose's* Equity Method, not the Debt Method, and exclude non-bid items from the calculation; and (3) the combination of defective service and gross inadequacy constitutes cogent reasons for equitable relief. Above all else, the bona fide purchaser doctrine, which the Order relies upon, cannot validate a sale where jurisdiction was never properly established. *Rallis Holdings*, 2023 WL 155075, at *1. Accordingly, the Court should set aside the Judgment of Foreclosure and Sale, the August 4, 2025 judicial sale, and the August 18, 2025 deed, and restore title to the Estate.

Finally, the equities in this case are compelling. This loss could have been avoided had the Guardian ad Litem simply returned the administrator's call and explained the situation. The role of the Guardian ad Litem is to protect those who cannot protect themselves, not to stand silent while avoidable harm occurs. If this ruling stands, it will encourage homeowners' associations to pursue foreclosure over trivial debts, contrary to the spirit of *Winrose* and this Court's admonitions. The purchaser stands to receive a windfall, while the Estate, and ultimately the decedent's child, suffers a profound loss. Equity can make the purchaser whole for reasonable expenses incurred; the risk of further investment after the Motion to Vacate was filed was his alone.

Equity and law demand more. The Court should vacate the judgment, sale, and deed, and restore title to the Estate.

**BAKER, DONELSON, BEARMAN,
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Lakhaney*

November 7, 2025

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	CASE NO.: 2024-CP-23-04910
Harbor Town Association, Inc.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	THIRD-PARTY PURCHASERS'
	)	RESPONSE IN OPPOSITION TO MOTION
	)	TO RECONSIDER
Rajiv Kumar Lakhaney, Deceased, et. al.,	)	
	)	
Defendants.	)	

Third-Party Purchasers Oriole Properties, LLC and Thomas and Son Properties, LLC (“Third-Party Purchasers”) respectfully submit this Response in Opposition to the Estate’s Motion to Reconsider the Court’s October 29, 2025 Order denying its Motion to Vacate. The Motion seeks relief that would undermine South Carolina’s strong policy favoring the finality of judicial sales and the protection of bona fide purchasers. Third-Party Purchasers acquired the Property in good faith, for value, and in reliance on a valid judgment and court-approved sale. The Motion should be denied.

STANDARD OF REVIEW

“A motion to reconsider is not appropriate to argue matters that could have been presented in prior motions or to rehash issues already ruled upon because the losing party disagrees with the ruling.” *Fields v. Astrue*, No. CIV. A. 9:09-1763-BM, 2010 WL 9073555, at *1 (D.S.C. Oct. 5, 2010), *aff’d sub nom. Fields v. Comm’r of Soc. Sec.*, 445 F. App’x 627 (4th Cir. 2011). “The purpose of Rule 59(e), S.C.R.C.P., to alter or amend the judgment is to request the trial judge to reconsider matters properly encompassed in a decision on the merits.” *Arnold v. State*, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). Stated another way, “a party cannot use a

Rule 59(e) motion to advance an issue the party could have raised to the circuit court prior to judgment, but did not.” *Stevens & Wilkinson of S.C., Inc. v. City of Columbia*, 409 S.C. 563, 567, 762 S.E.2d 693, 695 (2014). A motion to reconsider is appropriate in two basic situations. First, “[a] party may wish to file such a motion when [he] believes that the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it.” *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). Second, “[a] party must file a motion when an issue or argument has been raised but not ruled on, in order to preserve it for appellate review.” *Id.* The Estate’s Motion merely repackages arguments previously raised and rejected and fails to demonstrate any error warranting relief.

ARGUMENT

I. South Carolina law strongly protects the finality of judicial sales and bona fide purchasers.

South Carolina courts have long recognized the importance of finality in judicial sales. *E.g., Robinson v. Estate of Harris*, 378 S.C. 140, 145, 662 S.E.2d 420, 423 (Ct. App. 2008), *aff’d*, 390 S.C. 272, 701 S.E.2d 740 (2010). This principle is codified in S.C. Code Ann. § 15-39-870 and reinforced by case law holding that a bona fide purchaser is not affected by alleged defects in service. *E.g., Bloody Point Prop. Owners Ass’n, Inc. v. Ashton*, 410 S.C. 62, 69, 762 S.E.2d 729, 733 (Ct. App. 2014) (holding bona fide purchaser’s title to property was not affected by claim of defective service).

Third-Party Purchasers here acted in good faith, paid value, and recorded their deed. This Court correctly determined they were bona fide purchasers without notice. Equity does not permit stripping title from innocent purchasers months after a sale, particularly where they relied

on judicial authority and have invested in improvements. Importantly, the alleged defects in service between the Plaintiff and the Estate cannot be used to penalize the Third-Party Purchasers. This principle aligns with *Robinson* and *Bloody Point*, where the courts refused to set aside a foreclosure sale based on claimed service deficiencies, emphasizing the importance of finality and protecting innocent purchasers. Further, just as in *Robinson*, there was nothing in the record at the time of the foreclosure sale to suggest there was an issue with jurisdiction. *Robinson v. Est. of Harris*, 378 S.C. 140, 146, 662 S.E.2d 420, 423 (Ct. App. 2008), *aff'd*, 390 S.C. 272, 701 S.E.2d 740 (2010) (“None of these affidavits, however, were matters of record at the time of the foreclosure sale.”). To grant reconsideration would undermine the statutory mandate of finality of foreclosure sales, destabilize judicial sales, and punish the Third-Party Purchasers who relied on the Court’s authority and invested in the Property.

II. The Court had jurisdiction and followed statutory procedures

The Estate’s jurisdictional challenge also fails. First, the Court expressly determined that service was proper. *See* Judgment of Foreclosure and Sale, ¶¶ 4–5. The Court exercised subject matter jurisdiction over the foreclosure action and followed the statutory framework, including appointing a Guardian ad Litem and authorizing service by publication pursuant to its order. Second, the Estate’s argument that the Substitute Administrator should have been directly served ignores the undisputed fact that both Administrators had actual knowledge of the foreclosure proceedings and actively engaged with Plaintiff’s counsel. Actual knowledge and participation further undermine any claim of prejudice. Finally, and perhaps most importantly, even if the Estate could identify a defect in service, that issue cannot be used to unwind a judicial sale to bona fide purchasers. *E.g., Bloody Point Prop. Owners Ass’n, Inc. v. Ashton*, 410 S.C. 62, 69,

762 S.E.2d 729, 733 (Ct. App. 2014) (holding bona fide purchaser's title to property was not affected by claim of defective service).

III. The sales price does not shock the conscience.

The Estate also argues that the sale price was inadequate. It was not. A judicial sale will be set aside when either: (1) the sale price “is so gross as to shock the conscience” or (2) the sale “is accompanied by other circumstances warranting the interference of the court.” *Wells Fargo Bank, NA v. Turner*, 378 S.C. 147, 150, 662 S.E.2d 424, 425 (Ct. App. 2008) (cleaned up).

This Court properly applied the Debt Method, as described *Winrose Homeowners' Ass'n, Inc. v. Hale*, 428 S.C. 563, 837 S.E.2d 47 (2019), because the Property was sold subject to past due real estate taxes. Here, the Property sold for \$25,000 and was sold subject to \$13,196.79 in outstanding property taxes, bringing the total financial obligation associated with the Property to approximately \$38,196.79. Moreover, the Third-Party Purchasers have now paid the past due taxes. *See* Affidavit of Clayton M. Custer. Even accepting the Estate's asserted valuation of \$178,000, the price represents more than 20% of the debt-adjusted value. Using the Tax Assessor's valuation of \$107,000, the ratio increases to approximately 35% of the debt-adjusted value, excluding renovation costs.

Ratios of 20–35% fall comfortably within the range courts have upheld as valid, particularly where the property was sold subject to liens and taxes. *E.g., Bloody Point Prop. Owners Ass'n, Inc. v. Ashton*, 410 S.C. 62, 71, 762 S.E.2d 729, 734 (Ct. App. 2014); *E. Sav. Bank, FSB v. Sanders*, 373 S.C. 349, 359, 644 S.E.2d 802, 807 (Ct. App. 2007); *Peoples Fed. Sav. & Loan Ass'n v. Graham*, 291 S.C. 178, 182, 352 S.E.2d 511, 513 (Ct. App. 1987). Because the sale price is far from “shocking” under South Carolina law, and the Third-Party Purchasers

have satisfied the outstanding tax obligations, there is no equitable or legal basis to disturb the sale. Finally, there is no credible evidence of fraud, collusion, or other irregularities accompanying the sale that would warrant judicial intervention.

IV. Laches bars the Estate's request for relief.

Equity aids the vigilant, not those who sleep on their rights. *Hemingway v. Mention*, 228 S.C. 211, 217, 89 S.E.2d 369, 372 (1955). The record establishes that the Estate's first administrator had notice of the foreclosure proceedings as early as December 2024 when she entered a repayment plan. The Estate cannot escape the consequences of that knowledge. Ms. Cortes-Sykes, as successor administrator, is necessarily bound by the actions and inactions of her predecessor. Additionally, Ms. Cortes-Sykes's failure to promptly investigate the Estate's assets or take action after receiving notice of the final foreclosure hearing cannot be overlooked. Courts have repeatedly held that equity does not reward delay, particularly in cases involving bona fide purchasers. The Estate cannot now come into court, months after the sale and in light of its own inaction, and demand relief that equity forbids.

CONCLUSION

For these reasons, Third-Party Purchasers respectfully request that the Court deny the Estate's Motion to Reconsider in its entirety and uphold the October 29, 2025 Order.

Respectfully submitted,

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November 14, 2025

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Charles B. Simmons, Jr., Master-In-Equity

Case No. 2024-CP-23-04910

Estate of Rajiv Kumar Lakhaney, Deceased,

Appellant,

v.

Harbor Town Association, Inc.; Oriole Properties, LLC;
Thomas and Son Properties, LLC; and
Kelley Yarborough Woody, Esq., Guardian ad Litem Nisi,

Respondents.

NOTICE OF APPEAL

The Estate of Rajiv Kumar Lakhaney, Deceased (“Appellant”), by and through undersigned counsel, hereby appeals to the South Carolina Court of Appeals from the Order of the Honorable Charles B. Simmons, Jr., entered October 29, 2025, which denied Appellant’s Motion to Vacate and confirmed title in Oriole Properties, LLC and Thomas and Son Properties, LLC. Appellant received written notice of entry of the October 29, 2025 Order on the same date. Thereafter, Appellant filed a timely Motion to Reconsider on November 7, 2025. The Court denied the Motion to Reconsider by Order entered November 17, 2025, and Appellant received written notice of entry of the November 17, 2025 Order on that date.

November 26, 2025

Signature Follows.

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC**

s/Jane H. Downey

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November 26, 2025
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