THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

Honorable Michael J. Jordan, Master in Equity

Case No. 2026-000451

Lakewood Links Property Owners Association, Inc.,

Respondent,

v.

Jason M. Josey and April W. Josey,

Appellants.

RECORD ON APPEAL

VOLUME I OF III
Pages 1–345

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ELECTRONICALLY FILED - 2023 May 10 9:20 AM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

STATE OF SOUTH CAROLINA COUNTY OF SUMTER	IN THE COURT OF COMMON PLEAS 2022-CP-43-02015
Lakewood Links Property Owners Association, Inc., Plaintiff, vs. Jason M. Josey and April W. Josey, Defendants.	**ORDER OF REFERENCE TO MASTER IN EQUITY WITH FINALITY**

On motion of the Plaintiff and pursuant to the provisions of Rule 53 of the Circuit Court Rules of Civil Procedure for South Carolina, I do hereby refer this matter to the Honorable Michael M. Jordan, Master-in-Equity for Sumter County, or his substitute, to be heard completely with finality with appeal of his decision being directly appealable to the South Carolina Court of Appeals.

[SIGNATURE TO FOLLOW ON NEXT PAGE OF JAMES C. CAMPBELL, CLERK OF COURT FOR SUMTER COUNTY]

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Sumter Common Pleas

Case Caption:	Lakewood Links Property Owners Association, Inc. VS Jason M Josey , defendant, et al
Case Number:	2022CP4302015
Type:	Order/Referred to Master or Special Referee

So Ordered

s/James C. Campbell, Sumter County Clerk of Court

ELECTRONICALLY FILED - 2025 Jul 08 8:35 AM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

STATE OF SOUTH CAROLINA COUNTY OF SUMTER	IN THE COURT OF COMMON PLEAS 2022-CP-43-02015
Lakewood Links Property Owners Association, Inc.	**FINAL ORDER**
vs.	RECEIVED Feb 23 2026 SC Court of Appeals
Jason M. Josey and April W. Josey, Defendants.	

This matter involves an action brought by a residential subdivision property owners' association to require owners of one lot within the subdivision to comply with provisions of applicable restrictive covenants and seeking injunctive relief requiring removal of unapproved fencing and recovery of attorney's fees, to which Defendants assert a denial and various defenses, and request a declaratory judgment. This case was tried before this Court, without a jury, on September 9, 10 and 11, 2024, in which multiple witnesses testified, affidavits were submitted, and a total of 38-multi-page Exhibits were admitted into evidence.

For the reasons set forth below, and in accord with the below specific findings of fact and conclusions of law, I find that the Plaintiff property owners' association is entitled to injunctive relief and removal by Defendants of the subject fencing, but Plaintiff is not entitled to attorney's fees under the peculiar facts of the case. Defendants' request for declaratory relief is denied.

The Plaintiff, Lakewood Links Property Owners Association, Inc. (hereinafter "POA"), seeks an injunction requiring the Defendants, Jason M. Josey and April M. Josey, (hereinafter "Joseys"), to remove the eight-foot, wooden, stockade privacy fence they have installed without

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prior approval around the boundary of the back yard of their real property located at 3020 Tidewater Drive, Sumter, South Carolina along with other related relief. The Defendants have responded seeking a dismissal of the Plaintiff's Complaint and seeking Declaratory Relief for a determination of whether the 2019 architectural Rules and Regulations are enforceable, whether the Plaintiff may prohibit privacy fences without first amending the restrictive covenants, whether wooden fences may be prohibited where there is no common scheme regarding appearance of fences in Lakewood Links subdivision, and whether the Plaintiff waived its right to prohibit the Defendant's fence.

I have reviewed the pleadings filed in this case, the legal memoranda filed by counsel, the affidavits presented, the exhibits presented in motion arguments and at trial, my notes from the testimony presented at the trial and the exhibits admitted into evidence. I have observed the demeanor of the witnesses in the trial of this case, and have weighed the evidence and legal authorities, and considered the argument of counsel at trial. This was a thoroughly prepared and well-tried case. Both sides make important points and arguments.

Based upon the foregoing, I make the following:

FINDINGS OF SALIENT FACT

1. Lakewood Links Subdivision is located off Highway 15 South in Sumter County. The initial owners and developers of the real property, which composes what is now Lakewood Links Subdivision, filed a Declaration of Covenants and Restrictions for Lakewood Links And Provisions For The Lakewood Links Property Owners' Association [hereinafter sometimes referred to as "Declaration" or "Covenants"] with the Register of Deeds for Sumter County on December 29, 1988. This instrument has served as the governing document for Lakewood Links Property Owners Association (POA) since that date.

2. On June 25, 1990, the initial owners formed a corporation, Lakewood Links Property Owners' Association, Inc., (LLPOA#1) pursuant to the Declaration binding the lands

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which compose Lakewood Links Subdivision, for the purpose of carrying on the business of the property owners' association as set forth in the Covenants.

3. At some time thereafter, the developers fell into financial difficulties, and a foreclosure action was commenced. On June 14, 1991, the real property composing Lakewood Links Subdivision, and specifically including the lot that would eventually be conveyed to the Joseys, was conveyed by the Master-in-Equity to Plowden Construction Company, Inc., its successors and assigns, as the result of the foreclosure action against the prior owners of this property

4. Thereafter, on June 30, 1991, the corporation, LLPOA #1, was dissolved by forfeiture for failure to file its annual report and/or for failure to pay its franchise tax when it was due.

5. Plowden Construction Company, Inc., on July 01, 1996, conveyed the real property which composes Lakewood Links Subdivision, and specifically the lot of the Joseys, to Plowden Holding, Inc. On July 11, 1997, Plowden Holding, Inc. conveyed the real property, Lot 269 (3020 Tidewater Drive), to Robert E. and Jana Vander Leest, subject to the Covenants referenced by date, book and page.

6. Robert E. and Jana Vander Leest, on May 19, 2001, then conveyed Lot 269 (3020 Tidewater Drive) to Donald Morris Construction Co. Inc., subject to the Covenants which are the subject of this lawsuit, again with specific reference to "recorded easements, rights of way and Restrictive Covenants affecting such property."

7. Between June 30, 1991, and December of 2002, and thereafter, the property owners of Lakewood Links Subdivision continued and have continued to operate under the terms and provisions set forth in the Covenants, electing Boards of Directors and Architectural Review Boards to enforce the terms of the Covenants.

8. On January 7, 2002, once again, the property owners of Lakewood Links Property Owners Association jointly formed a corporation (LLPOA #2) and continued in corporate form to

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enforce the Covenants by and through the duly elected Board of Directors and Architectural Review Board.

9. On February 21, 2002, Donald Morris Construction Co., Inc., conveyed Lot 269, also known as 3020 Tidewater Drive, the same real property now owned by the Joseys, to Earnest Parker and Sharon Lucas-Parker.

10. On July 13, 2006, Richard L. Booth, Special Referee in a legal action against Earnest Parker and Sharyn Lucas-Parker, conveyed by quitclaim deed Lot 269 (3020 Tidewater Drive) to Paula McCormick and Darlene Staton.

11. On August 18, 2008, Darlene Staton conveyed unto Paula McCormick by quitclaim deed Lot 269, "subject to all visible and recorded easements, covenants and rights of way affecting said property."

12. On October 7, 2008, Paula McCormick conveyed by quitclaim deed Lot 269 to Showcase Properties, LLC, "subject to all visible and recorded easements, covenants and rights of way affecting said property."

13. Show Case Properties, LLC, on January 7, 2009, conveyed to Paula McCormick Lot 269, subject to any restrictions, reservations, zoning ordinances, or easements that may appear of record on recorded plats or premises.

14. On January 07, 2021, Paula McCormick conveyed Lot 269 (3020 Tidewater Drive) to April Josey by a deed subject to "any restrictions reservations, zoning ordinances or easements that may appear of record in the recorded plats or premises."

15. On January 8, 2021, April Josey conveyed Lot 269 (3020 Tidewater Drive) to herself and Jason M. Josey, "subject to any restrictions, reservations, zoning ordinances or easements that may appear of record on the recorded plats or premises. Thus, owners in the chain of title to 3020 Tidewater Drive have been on notice of these 1988 Covenants by express language in their deeds subject to these Covenants since at latest July 11, 1997, by virtue of the

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deed of Plowden Holding, Inc., to Robert E. and Jana Vander Leest, in addition to the filed Covenants on the public record. (Plaintiff's Exhibit 2).

16. On May 21, 2021, the Defendant, April W. Josey, expressed in e-mail correspondence with the Plaintiff an interest in the installation of an in-ground pool. On May 22, 2021, Rory Hair, the chairman of the Lakewood Links ARB, responded to the Defendant's request with a copy of an ARB Request Form, instructing the Defendant to fill out this request form and then return it to him, Mr. Hair, the chairman of the ARB, who would then present the request to the ARB for a vote. Further, with express mention of "Fences", Mr. Hair wrote that this form should be submitted before any changes were made. (Plaintiff's Exhibit 12)

17. On July 2, 2021, the Defendant submitted the ARB Request Form, as instructed, seeking installation of an in-ground swimming pool without mention of fences. (Plaintiff's Exhibit 11)

18. On July 3, 2021, the Chairman of the ARB, Rory Hair, responded to the Defendants' request with approval of the installation of the in-ground pool that did not include the fencing. This approval did not include the fencing. (Plaintiff's Exhibit 12).

19. Mrs. Josey testified she made a request and application for fence installation and that same was included with her other requests. She believed fence installation at her property would not be an issue because it would be an extension to existing fencing, there was similar fencing on adjoining and nearby properties, and the 1988 covenants did not contain fence specifications.

20. Mrs. Josey testified that she made an application for the fence approval but same does not appear in the exhibits submitted into evidence. She points to her written letter to counsel for the POA dated June 13, 2022, (Plaintiff's 11,13,and 14; Court's Exhibit 1) as her request, or in support of her request. She testified that she was certain she received no response and that if she had received a response, they (Joseys) would have done something, and they wanted to prevent this lawsuit. Per her testimony she received only a summons and complaint for this lawsuit

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and never a denial from the ARB as to her letter that she deemed her fence application. It is her contention that since she received no timely response or denial from the ARB as to her alleged fence request, that any review by the ARB was and is waived.

21. Defendants constructed an eight-foot, wooden-stockade privacy fence between June and October of 2021. (Plaintiff's Exhibit 6). On cross-examination, Mrs. Josey could not recall a specific date the work began. A portion of the fence abuts a white picket fence and a chain link fence.

22. Defendants were familiar with the application process for improvements and made submissions in July 2021 and June 2022. Mrs. Josey admitted under cross examination that she was aware of the process. An email from the ARB chair dated May 22, 2021, pointed out that applications had to be made for tree removal, landscaping, pools and fences.

23. Mrs. Josey stated that she did not receive this May 22, 2021, email. She testified that she made or included a request for fence alteration in a submission to the ARB, but it is not present with or in the submissions from July 2021 or June 2022 (Plaintiffs Exhibits 11, 13, 14 and 15; and Defendants' Exhibit 4)

24. Mrs. Josey testified that Mr. Hair has a wooden privacy fence and keeps a camper in the driveway. A photograph admitted into evidence supported this testimony, as well as Mr. Hair's testimony. (Defendant's Exhibit 8) Mrs. Josey views enforcement of the covenants in the subdivision as unfair and unequal. However, the wooden privacy fence was approved in 2000. (Plaintiff's Exhibit 5)

25. Mrs. Josey testified she thought that fences were different in terms of an ARB application process. She also believed the replacement of something existing or pre-existing was different from adding something new or additional. Further, she stated Rory Hair walked past her property and could see the fence work in progress over one to four months, but Rory Hair never told the Joseys to stop work while passing by. What Mrs. Josey "believed" is not dispositive. The Restrictive Covenants control. There is nothing in the Restrictive Covenants nor in the course of

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dealing between the parties to support this belief. In addition, Mr. Hair testified that he was either in the hospital or recuperating during that time, prohibiting his walking in the neighborhood until after the Joseys had completed the fence.

26. On September 6, 2021, the Chairman of the ARB, Rory Hair, gave written notice to the Defendants that the back yard fence construction without approval of the ARB must be removed within 60 days.

27. Mrs. Josey agreed that the ARB could base a refusal on aesthetic considerations. (See Plaintiff's Exhibit 1; Part Two; Art. I; Sect. 2(e)). Plaintiff presented evidence that wooden fences tend to age poorly and tend to undermine overall property appearance and thus values.

28. Ms. Josey claims she did not get the May May 22, 2021, nor the September 6, 2021, e-mails. However, she relies upon a letter that did not follow the rules and procedures set out in the 1988 Covenants. (Plaintiff's Exhibit 1: Part Two; Art. I; Sect. 2(c)(2)).

29. The ARB email of September 6, 2021, and demand for fence removal was followed by an attorney's demand letter dated May 31, 2022, also demanding fence removal. Defendants did not comply, but did send a response letter stating concerns with the amendments to the subdivision bylaws and seeking approval for the fence installation. (Plaintiff's 16).

30. On June 13, 2022, the Defendants responded to the May 31, 2022, demand letter with their response and attached completed ARB Request Forms. (Court's Exhibit 1; Plaintiff's Exhibits 14, 15 and 16).

31. On June15, 2022, the ARB responded with signed approval of the request set out on the ARB Request Forms consistent with its procedures with which the Defendants are and were familiar when they filed for installation of an in-ground pool. Rory Hair testified to the actions taken and the sequence of events relative to the requests made by the Defendants.

32. On July 21, 2022, the Defendant, April Josey, made a written request to repair a leaking dormer on the front of her house with the repairs to begin on July 25, 2022. On July 21,

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2022, the Chairman of the ARB, Rory Hair, responded that no approval was needed for such repairs. (Plaintiff's Exhibit 13).

33. After renewed requests and demands by the Property Owners' Association to the Joseys to remove the fence, (See Plaintiff's Exhibits 12, and 16) Defendants refused to comply, and the LLPOA thereafter instituted this lawsuit on December 29, 2022.

34. Plaintiff's witness testified that some of the fences installed which were considered "grandfathered" would have to come under review when they were repaired or replaced.

35. Photographs A through F of Plaintiff's Exhibit 6 show the wooden fence at Defendants' property. Mrs. Josey acknowledged the photographs accurately depict the fence as of the time of trial. The fence is not uniform in appearance and exhibits different stages of aging and deterioration. This is readily observable from the street.

36. Mrs. Josey testified that no one told her wood privacy fences did not meet the scheme of development for the subdivision, and further that if her outbuilding application was approved, construction of same would remove part of the wooden privacy fence. In her opinion, wooden privacy fences are part of the scheme of development, and there exists a "hodge podge" in terms of fences existing in the subdivision. Several of Plaintiff's witnesses admitted under cross examination that there had always been wooden fences (17 per one list) and privacy fences in the subdivision (Lakewood Links), and that there were all types of fences with different styles, colors and heights in the subdivision, including tall brick, lower brick, solid, see through with gaps, white picket, wooden stockade, black, green, brown and chain link. I find that existing fencing within the subdivision is not uniform in terms of material selection, height, construction color and appearance.

37. A witness for plaintiff testified that the typical procedure for a fence request was for the board to meet, cast votes, and approve or not approve. There had never been an automatic turn down for a wooden fence request. Considerations of the ARB typically included aesthetics, open views for an open community, fence maintenance and special circumstances.

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38. Defendants' argument that the review contemplated by the covenants belonged solely to the developer is compelling. Plaintiff's witness admitted under cross examination that no official transfer of authority ever occurred between the original developer and the 2002 organization formed by agreement of property owners. However, this argument is not dispositive. Because under the authority of the covenants which run with the land and bind the landowners, the successors to the developer have all the authority and power the developer had, and they operated under and enforced the covenants in both corporate and unincorporated form. This new organization was formed, in part to enforce the covenants and restrictions in the subdivision, and mainly due to liability concerns. The covenants do contemplate transfer of review authority from the developer, however that did not occur in any documented manner. But by transfer of the property subject to the recorded covenants, the authority of the developer devolved upon the successors. (Plaintiff's Exhibit 1: Now Therefore Clause, Page 2; Part One, Art. I, Sect. 1(P); Part One, Art. I; Sect 1(b), (m); Part One, Art. II; Sect. 2(a); Part Five, Art. I, Sect.1; Part Five, Art. IV, Sect.1,2,3).

Based upon the foregoing, I make the following:

CONCLUSIONS OF LAW

39. This Court has jurisdiction over both the parties and subject matter involved in this action.

40. "In construing covenants such as the one involved here, the court must attempt to give effect to the intent of the parties. It is proper to consider the overall plan. Such intent should, as nearly as possible, be gleaned from the instrument itself. However, the circumstances surrounding the origin of covenants should also be considered. Cheves v. City Council of Charleston, 140 S.C. 423, 138 at 136 S.E. 867 (1927)." Arrants v. Rankin, 268 S.C. 567, 570-571, 235 S.E.2d 135, 136 (S.C. 1977) (quoting Nance v. Waldrop, 258 S.C. 69, 187 S.E.2d 226 (1972).

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41. The Lakewood subdivisions, especially Lakewood Links, typically bring a premium price upon sale. That can only be the result of many decades of effort at enforcing restrictions and covenants related to construction standards and improvements for the benefit of all owners within the subdivisions. While there does not appear currently to be a uniform scheme of development in terms of common appearance of all properties, there has been a concerted effort over the years to maintain construction building and improvement standards through the covenants and restrictions. According to witness testimony, sometime around 2015 it appeared that guidelines were not being followed as to improvements. Testimony further established that there are 273 Lots in the subdivision subject to the 1988 Restrictive Covenants. Restrictive covenants are never perfect but offer confidence to prospective purchasers that a subdivision will be kept up and maintained. Generally, the balancing of equities in determining whether to issue an injunction favors enforcement of restrictions under which a property owner has freely placed him or herself, because the other owners in the restricted area have relied on this restriction in purchasing their property. Midway Properties, Inc. v. Pfister, 292 S.C. 104, 106, 354 S.E.2d 926, 927 (Ct. App. 1987).

42. Here the Defendants' lot is partially on a cul de sac and is not on, or directly adjacent to, the golf course. The golf course appears to be the main attraction for the Lakewood Links subdivision, followed by the bodies of water. Defendants' lot is not on a body of water, so no scenic views appear to be blocked or obstructed.

43. Even though not on the golf course, nor on a body of water, Defendants' lot is still subject to restrictive covenants for the subdivision. Mrs. Josey signed an Owner's Affidavit (Plaintiff's Exhibit 10), acknowledging restrictive covenants burdened this property. While it can be argued that some violations of the covenants as to improvements have minimal impact to the subdivision, it is undisputed that the covenants provide for review and approval of most improvements, building and construction, including fences. (See Plaintiff's Exhibit 1: Part Two, Art. I, Sect. 2(e); Part Two, Art. I; Sect.1; Part Two, Art. I, Sect 1, 2(a); Part Two, Art. I; Sect. 2(e)

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and (f)) I find that the Defendant's fence repair, replacement, installation and continuation are subject to review as per the covenants.

44. Our courts have said, "The paramount rule of construction is to ascertain and give effect to the intent of the parties as determined from the whole document." Shipyard Prop. Owners' Ass'n v. Mangiaracina, 307 S.C. 299, 308, 414 S.E.2d 795, 801 (Ct. App. 1992). See Sprouse v. Winston, 212 S.C. 176, 46 S.E.2d 874 (S.C. 1948).

45. Restrictive covenants may be created by deed, declaration, or by implication from a general plan or scheme of development. Queen's Grant II, Horizontal property Regime v. Greenwood Dev. Corp, 368 S.C. 342, 362, 628 S.E.2d 902, 913 (Ct. App. 2006). (See Plaintiff's Exhibit 1: Part 1; Art. II; Sect. 2(a); P.8) The Joseys accepted their deed subject to the 1988 Covenants of record and are bound by the Covenants. See Erkes v. Kasparek, 399 S.E.2d 6, 303 S.C. 70 (S.C. App. 1990). (See Plaintiff's Exhibit 1: Part One, Art. II, Sect. 2(a))

46. The law imputes a purchaser of real estate notice of the recitals contained in the written instruments forming his chain of title, and charges him with the duty of making such reasonable inquiry and investigation as is suggested by the recitals and references therein contained. Generally, the means of knowledge and the duty of using them are equivalent to knowledge. If there are circumstances sufficient to put the party upon inquiry, he is held to have notice of everything which that inquiry, properly conducted, would certainly disclose. McDonald v. Welborn, 220 S.C. 10, 66 S.E.2d 327 (S.C. 1951.). (See Plaintiff's Exhibit 10)

47. Mrs. Josey also categorizes the work as fence repair instead of installation, using the same material, but this does not amount to an exclusion under the restrictive covenants making ARB review unnecessary. Even if the Joseys suffer hardship in removal of the fence, the equities do not require that they be allowed to leave the fence in place because this hardship was caused by their own actions in knowingly failing to comply with the restriction or to seek proper means of their amendment. Arnoti v. Lukie, 350 S.C. 177, 564 S.E.2d 691 (Ct. App. 2002); Siau v. Kassel, 369 S.C. 631, 632 S.E.2d 888 (Ct. App. 2006).

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48. I find that the ARB did not waive any right to review as provided under the covenants.

49. An ARB email to Defendants on September 6, 2021, stated new wooden privacy fences are not allowed in the subdivision and demanded removal within 60 days. The email goes on to elaborate as to height and material restrictions, which have apparently been approved by the ARB in prior applications. Such outright restriction of wooden fences by the ARB is not founded in the covenants and the ARB is not free to add such restriction. Counsel for plaintiff acknowledged this in his closing statement to the court.

50. The ARB is, however, entitled to enforce the existing covenants and to review and approve projects, including the erection of fences on a case-by-case basis. (Plaintiff's Exhibit 1: Part Two, Art. I, Sect. 2(e)) The ARB cannot curtail this responsibility by enacting blanket rules, or reciting what has been done in the past and suggesting the same will be repeated. The ARB must make a case-by-case review and decision based on independent circumstances and factors. That is all that is permitted under the covenants and restrictions. It is understandable that the ARB would try to maintain guidelines of what has and has not been approved, so as to give some predictability of outcome for applicants and ARB reviewers alike. However, the ARB cannot add what does not exist in the covenants and must make a case-by-case determination on all applications, followed by an approval or disapproval so that there can be a meaningful review to determine if such decision was arbitrary or capricious. (See Plaintiff's Exhibit 1: Part One, Art. II, Sect. 1; Part Two, Art. I, Sect. 2(a), (c)(1), (c)(2), (e) and (f); Part Three, Art. VI, Sect. 3(e), (f), and (g)). There was testimony from Plaintiff's witnesses that each review has in fact been done on a case-by-case basis, and no application has been summarily denied without a full review.

51. Restrictive covenants will be enforced if they state their intent and purpose, and the general rule of strict construction will not be used to defeat the clear express language of the covenant. Sea Pines Plantation Co. v. Wells, 294 S.C. 266, 270, 363 S.E.2d 891 (S.C. 1987). As voluntary contracts, they are enforced unless they are "indefinite" or contravene public policy.

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Palmetto Dunes Resort, Div. of Greenwood Dev. Corp. v. Brown, 287 S.C. 1, 336 S.E.2d 15 (Ct. App. 1985) (aesthetic considerations not indefinite); Sea Pines Plantation Co. v. Wells, 294 S.C. 266, 270, 363 S.E.2d 891 (S.C. 1987) (covenants enforced on aesthetic grounds against property owner who proceeded with modifications without approval). While covenants may not be indefinite, they are not required to "expressly list every conceivable item which could be placed on a piece of property. Midway Properties, Inc v. Pfister, 292 S.C. 104, 106, 354 S.E.2d 926, 927 (Ct. App 1987). To require restrictions to expressly list every conceivable item that could be placed on a piece of property, according to individual property owner's taste, would be an impossible burden on a drafter. Sea Pines Plantation Co. v. Wells, 294 S.C. 266, 363 S.E.2d 891 (S.C. 1987). (See Plaintiff's Exhibit 1: Part Two, Art. I, Sect. 1)

52. The covenants in this case are not indefinite, nor do they contravene public policy, and are enforceable by the association and any of the property owners, jointly or severally, against any property owner in violation. (See Plaintiff's Exhibit 1: Part Five, Art. IV, Sect. 1,2,3 and 4)

53. The Covenants require submission to the ARB and the ARB to make a review. Apparently neither happened in this instance, as the defendants did not make application regarding fencing and the ARB responded to this failure by sending the email and demand letter as set forth above. (See Plaintiff's Exhibit 1: Part Two, Art. I, Sect. 2(e))

54. Nonetheless, at trial Plaintiff presented evidence of its review, consideration and reasoning as to Defendants' property and the erected wooden fencing. I find that such reasoning and demand for removal of the fencing is not arbitrary or capricious as prohibited by the restrictive covenants. It is supported by consideration as to appearance, maintenance concerns, sightliness and views and open visibility within the subdivision.

55. Mrs. Josey testified that use of the word "grandfathered" was not found in the covenants and seemed arbitrary to her. I find that the ARB's use of the term to refer to fences that exist but have no record of approval does not serve to prevent the ARB from enforcing the covenants in this instance.

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56. A determination that the current ARB has no review authority would lead to a detrimental result for the subdivision. While corporate statutes impose requirements and formalities on changing corporate form, merger, consolidation, and the ultra vires doctrine serves to limit corporate actions to those taken within the confines of governance documents, I find such considerations are not implicated in the circumstances of this case, in the context of a HOA and ARB enforcing recorded restrictive covenants imposed by the developer and running with the land. I find that Defendants participated and benefitted from the POA and ARB prior to this litigation. They paid assessments, made applications and acknowledged the ARB until the time of this litigation. They are bound by the decision of the ARB as are other property owners.

57. There are no requirements in the Declaration to create bylaws, though they are allowed, so long as they are consistent with the Declaration. For 35 years, the detailed terms and provisions of the Declaration have served, and continue to serve well, as the governing document of Lakewood Links, code of rules, other than the articles, recorded in accord with the South Carolina Homeowners Association Act, S.C. Code Ann. § 27-30-130, and adopted pursuant to SC. Code Ann. §33-31-140, for the regulation and management of the affairs of both the corporations and unincorporated association involved, irrespective of the name or names by which the rules are designated, in this case the 1988 "Declaration of Covenants of Lakewood Links And Provisions For the Lakewood Links Property Owners Association, Inc." S.C. Code Ann. §33-31-140(4) provides: "'Bylaws' means the code or codes of rules, other than the articles, adopted pursuant to this chapter for the regulation or management of the affairs of the corporation irrespective of the name or names by which the rules are designated." (Emphasis added.]

58. The detailed terms of the Declaration grant clear and complete authority to the Association to enforce the covenants. (See Plaintiff's Exhibit 1: Part Three; Art. VI; Sect 3 (e), (f) and (g); P. 32.) Under the restrictive covenants the POA and each owner has the right to enforce and this authority under the covenants runs with the land throughout subsequent transfers. (See Plaintiff's Exhibit 1: Part Five, Art. IV, Sect. 1,2 and 3; Part Five, Art. I, Sect. 1)

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59. "A restrictive covenant runs with the land and is thus enforceable by a successor-in-interest, if the covenanting parties intended that the covenant run with the land, and the covenant touches and concerns the land." West v. Newberry Elec. Co-op., 357 S.C. 537, 593 S.E.2d 500 (S.C. App. 2004). "Restrictive covenants are contractual in nature so that the paramount rule of construction is to ascertain and give effect to the intent of the parties as determined from the whole document." Palmetto Dunes Resort v. Brown, 287 S.C. 1, 336 S.E.2d 15 (1985); Taylor v. Lindsey, 332 S.C. 1, 498 S.E.2d 862 (S.C. 1998); Kinard v. Richardson, 407 S.C. 247, 754 S.E.2d 888 (S.C. App. 2014).

60. There was a dissolution of the corporate form of the POA in September 1991, followed by a new corporate formation by the POA in January 2002. According to the witness testimony, the administrative dissolution was unknown for some period of time and effort was made to get the association re-incorporated. The dissolution appears to be administrative in nature for failure to complete one or more filing requirements through the Secretary of State. It does not appear to be a dissolution pursuant to court order or articles of dissolution filed. Whether incorporated or not, the homeowners had continued to enforce the Covenants in the name of the homeowners even as an unincorporated association. Without corporate form, the owners joined together as an unincorporated association and enforced the Declaration. An unincorporated association is a body of individual persons organized without a charter for the prosecution of some common enterprise." Graham v. Lloyd's of London, 296 S.C. 249, 255, 371 S.E.2d 801, 804 (Ct. App. 1988).

61. The effort to get the association re-incorporated is not documented by meeting minutes or corporate resolution. There is no assignment, corporate resolutions or similar paper trail for the transfer of authority vested by the covenants into the current property association. There are no recorded meeting minutes as to the action of re-incorporating the property association, no records of votes for, or against. The application signed by an officer of the POA,

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and the approval by the Secretary of State, are admitted in evidence as Plaintiff's. Exhibits 19 and 20

62. As the covenants contemplate enforcement by other property owners, I do no t believe the administrative forfeiture undermined the ability of the POA as currently organized to enforce the covenants through an appointed ARB. (See Plaintiff's Exhibit 1: Part Five, Art. IV, Sect. 1,2 and 3) (See Plaintiff's Exhibit 1: Part Five, Art. I, Sect. 1(b) and (m)) The Plaintiff as organized is sufficient to be a successor as contemplated by the Covenants, even if corporate statutes and laws for transfer of corporate power and authority have not been precisely followed. Battery Homeowners Ass'n v. Lincoln Financial Resources, Inc., 309 S.C. 247, 250, 422 S.E.2d 93, 95 (1992). see 21 CJS ; Section 34: Persons Entitled to Enforce Real Covenants. "The property owners continue and have continued: to operate the POA under the recorded covenants for the benefit of all property owners, whether as an incorporated or unincorporated association. Graham v. Lloyd's of London, 296 S.C. 249, 255, 371 S.E.2d 801, 804 (Ct. App. 1988).

63. "'[S]uccessor' is a term of art. It may mean ... succeeding to a place, or a right, or an interest or a power, official, or otherwise ... The word 'successor' has a twofold meaning: It may be used in the sense of one entitled to succeed as well as in the sense of one who has in fact succeeded." Battery Homeowners Ass'n v. Lincoln Financial Resources, Inc., 309 S.C. 247, 250, 422 S.E.2d 93, 95 (1992); accord, Peoples Federal Savings v. Resources, 358 S.C. 460, 478, 596 S.E.2d 51 (S.C. 2004).

64. Restrictive covenants are enforceable by successors in interest. West v. Newberry Elec. Co-op., 357 S.C. 537, 593 S.E.2d 500 (S.C. App. 2004). Cf., Hammond v. Port Royal & A.R.Co., 15 S.C. 10 (S.C. 1881).and see 21 CJS. Section 34: Persons Entitled to Enforce Real Covenants.

65. I do not need to make a site visit and the photographs provide sufficient views of the fencing. Further, I am familiar with the subdivision and have driven through it multiple times. I am aware of the overall context of the subdivision. I find that a common design scheme does not

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exist in terms of fences existing in the subdivision. This argument by the Defendants is probably more compelling than the lack of review authority. However, I do not see that the absence of a consistent design scheme prevents a review by the ARB as contemplated by the covenants. (See Plaintiff's Exhibit 1: Part Two, Art. I, Sect. 2(e); Part Two, Art. I, Sect. 1; Part Two, Art. I, Sect. Sect. 2(a); Part Two, Art. I, Sect. 2(e) and (f). A subdivision controlled by covenants contemplates that the owners will act in some joint fashion and not unilaterally. (See Plaintiff's Exhibit 1: Part Five, Art. IV, Sect. 1,2, and 3)

66. It is still the settled rule in this jurisdiction that restrictions as to the use of real estate should be strictly construed and all doubts resolved in favor of free use of the property, subject, however, to the provision that this rule of strict construction should not be applied so as to defeat the plain and obvious purpose of the instrument. Taylor v. Lindsey, 332 S.C. 1, 498 S.E.2d 862 (S.C. 1998).

67. The current fence shall be removed and the prior condition reinstated. Removal shall take place within 30 days of the filing of this order.

ATTORNEY'S FEES

68. The general rule is that attorney's fees are not recoverable unless authorized by contract or statute. Seabrook Island Property v. Berger, 616 S.E.2d 431, 365 S.C. 234 (S.C. 2005).

69. The Covenants provide for enforcement by the Association and the Owner and for recovery reimbursement of all its direct and indirect costs, including, but not limited to, legal fees incurred by the Association or Owner in maintaining compliance with these Covenants. (Exhibit 1, 1988 Declaration of Covenants and Restrictions, Part V; Art. IV; Sect. 1,2, and 3)

70. "Restrictive Covenants are contractual in nature." Hoffman v. Cohen, 262 S.C. 71, 75, 202 S.E.2d 363, 365 (1974); see also Seabrook Island Property Owners Ass'n v. Pelzer, 292 S.C. 343, 347, 356 S.E.2d 411, 414 (Ct.App.1987) ("Restrictive Covenants are contractual in nature and bind the parties thereto in the same manner as any other contract."). The Covenants

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for Lakewood Links Subdivision bind all property owners in the subdivisions to the obligations set forth in the Covenants.

71. "Where there is a contract, the award of attorney's fees is left to the discretion of the trial judge and will not be disturbed unless an abuse of discretion is shown." Baron Data Sys., Inc. v. Loter, 297 S.C. 382, 384, 377 S.E.2d 296, 297 (1989)

72. There are six factors to consider in determining an award of attorney's fees: 1) nature, extent and difficulty of the legal services rendered; 2) time and labor devoted to the case; 3) professional standing of counsel; 4) contingency of compensation; 5) fee customarily charged in the locality for similar services; and (6) beneficial results obtained. Blumberg v. Nealco, Inc., 310 S.C. at 494, 427 S.E.2d at 660 (S.C. 1993).

73. This is a restrictive covenants case involving a fence, and that context must be considered on the issue of attorney fees and costs.

74. I find that this three-day trial was extensive litigation, and the attorney's fees incurred were reasonable. The Plaintiff submitted 30 multi-page exhibits, and the Defendants submitted 8 multi-page exhibits. Combined exhibits total approximately 500 pages. I have 46 pages of trial notes.

75. Attorney's fees were reasonably incurred by Plaintiff. I am cognizant of the fact that at its heart this issue involves a fence. The Plaintiff's incurred legal fees are $35,210.00 and costs are $1,937.37. Based on the hourly rate and experience of counsel, this is not unreasonable. I assume Defendants have similar fees and costs. This case was well prepared and well tried by both attorneys, who have extensive experience in the area of property law. Both attorneys are well regarded within the bar.

76. It does appear Mrs. Josey acted somewhat in good faith, although mistakenly, and she did not act purely to get what she wanted done and then deal with ARB consequences later. I have considered this point in this analysis. It does not appear that the ARB acted in a retaliatory manner against the Defendants. After the email and letter from the ARB indicating that wooden

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fences were not allowed, the Defendants could only assume their situation was summarily denied. This litigation appears to have been inevitable.

77. I have considered that each side has incurred fees and costs. I have considered that any balance of Plaintiff's fees will likely come from assessment in some form from all property owners in the subdivision. Plaintiff has ultimately prevailed in enforcing its covenants, but its reasoning expressed to Defendants through email and letter led to this litigation. Defendants had legitimate concerns in questioning the board's response. The exchanges of correspondence before the litigation referred to the restrictions passed in 2019. This created confusion and thereby contributed to the instant litigation in terms of time and expense involved. Accordingly, I do not find Defendants' actions in this case warrant the assessment of attorney fees and costs against them.

NOW THEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

1. ORDERED that the Defendants/Property Owners (Joseys) are compelled and enjoined to remove the current eight-foot, wooden privacy, fence, which is the subject of this action from 3020 Tidewater Drive, Sumter, South Carolina, and shall restore that area of the property to the condition that existed prior to installation of the fence, within thirty (30) days of the filing of this Order; and it is further

2. ORDERED that the Defendants' prayer for declaratory relief is denied.

3. IT IS FURTHER ORDERED That the Plaintiff's request for assessment of attorney's fees and costs against the Defendants is hereby denied.

AND IT IS SO ORDERED.

[JUDGE'S SIGNATURE TO FOLLOW ON NEXT PAGE]

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Sumter Common Pleas

Case Caption: Lakewood Links Property Owners Association, Inc. VS Jason M Josey , defendant, et al

Case Number: 2022CP4302015

Type: Master/Order/Other

And It Is So Ordered

S/ Michael M. Jordan - 3085

ELECTRONICALLY FILED - 2026 Jan 30 1:36 PM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

STATE OF SOUTH CAROLINA COUNTY OF SUMTER	IN THE COURT OF COMMON PLEAS FOR THE THIRD JUDICIAL CIRCUIT 2022CP4302015
Lakewood Links Property Owners Association, Inc. Plaintiff v. Jason M. Josey and April W. Josey Defendants	**ORDER**

22347.1

This matter came before the Court on September 24, 2025, on Plaintiff's Motion to Reconsider, Alter or Amend Judgment Pursuant to Rule 59(e), SCRCP. Richard C. Jones appeared on behalf of Plaintiff and D. Ryan McCabe, Jr. appeared on behalf of Defendants. After careful consideration of arguments of the written submissions and arguments of counsel, the Court respectfully denies Plaintiff's motion.

This action concerns enforcement of restrictive covenants relating to a fence constructed by Defendant within Plaintiff's subdivision. Before trial, both parties extended offers of judgment under Rule 68, SCRCP. Neither offer stated a specific monetary amount. Rather, each offer contemplated removal of the fence under certain circumstances. Plaintiff's offer additionally demanded reimbursement of attorney's fees but did not specify an amount. Neither party accepted the other's offer of judgment, and the case proceeded to trial. Following a three-day bench trial, the Court entered its final order requiring removal of the fence but declining to assess attorney's fees and costs against Defendant. Plaintiff thereafter filed the present Rule 59(e) motion challenging the Court's refusal to award attorney's fees and costs.

After a review of my trial notes, ruling memorandum and signed order, I find as follows:

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1. Plaintiff is not entitled to an award of attorney's fees under Rule 68, SCRCP. Rule 68 contemplates an offer of judgment be "for a sum stated therein," and neither party's offer contained a specific monetary amount. Additionally, the "costs" allowed under Rule 68 do not include attorney's fees. Belton v. State, 339 S.C. 71, 73, 529 S.E.2d 4, 5 (2000). Further, the purpose of the rule is to encourage settlements and avoid protracted litigation. Black v. Roche Biomedical, 315 S.C. 223, 433 S.E.2d 21 (Ct. App. 1993). Therefore, the analysis as to attorney's fees is based on the contractual provisions found in the restrictive covenants.

2. "Where there is a contract, the award of attorney's fees is left to the discretion of the trial judge and will not be disturbed unless an abuse of discretion is shown." Seabrook Island Prop. Owners' Ass'n v. Berger, 365 S.C. 234, 240, 616 S.E.2d 431, 434 (Ct. App. 2005)(quoting Baron Data Systems v. Loter, 297 S.C. 382, 377 S.E.2d 296 (1989)).

3. In determining an award of attorney fees, the court considers these six factors: "(1) the nature, extent, and difficulty of the case; (2) the time necessarily devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) beneficial results obtained; and (6) customary legal fees for similar services." Jackson v. Speed, 486 S.E.2d 750 (1997).

4. This is a restrictive covenants case involving a fence, and that context must be considered on the issue of attorney's fees and costs. As set forth in the Court's Final Order, the Court found that this three-day trial was extensive litigation and that attorney's fees were reasonably incurred by Plaintiff. Plaintiff's incurred legal fees are $35,210.00 and costs are $1,937.37, which the Court found reasonable. The Court also found that Mrs. Josey acted somewhat in good faith, although mistakenly, and that Plaintiff's reasoning expressed to Defendants through email and letter, including references to restrictions passed in 2019, created confusion and contributed to the litigation. Defendants had legitimate concerns in questioning Plaintiff's expressed position regarding the fence and evidence supported that the 2019 restrictions

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were not properly adopted. At trial, Plaintiff was adamant that it was not seeking to enforce the 2019 restrictions, but would rely on its architectural review authority under the 1988 restrictions instead despite pre-litigation demands asserting that Defendants comply with the 2019 restrictions. The Court finds that the attempt to adopt the 2019 covenants and the communications surrounding the 2019 covenants contributed to the dispute and litigation. The Court also finds that this litigation provided a benefit to Plaintiff in providing a resolution of these issues. Accordingly, it is not appropriate to assess attorney's fees and costs against Defendants, and the Court respectfully declines to alter or amend the Final Order.

NOW THEREFORE, Plaintiff's Motion to Reconsider, Alter or Amend Judgment pursuant to Rule 59(e) is hereby DENIED.

AND IT IS SO ORDERED.

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Sumter Common Pleas

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2. "Where there is a contract, the award of attorney's fees is left to the discretion of the trial judge and will not be disturbed unless an abuse of discretion is shown." Seabrook Island Prop. Owners' Ass'n v. Berger, 365 S.C. 234, 240, 616 S.E.2d 431, 434 (Ct. App. 2005)(quoting Baron Data Systems v. Loter, 297 S.C. 382, 377 S.E.2d 296 (1989)).

3. In determining an award of attorney fees, the court considers these six factors: "(1) the nature, extent, and difficulty of the case; (2) the time necessarily devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) beneficial results obtained; and (6) customary legal fees for similar services." Jackson v. Speed, 486 S.E.2d 750 (1997).

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were not properly adopted. At trial, Plaintiff was adamant that it was not seeking to enforce the 2019 restrictions, but would rely on its architectural review authority under the 1988 restrictions instead despite pre-litigation demands asserting that Defendants comply with the 2019 restrictions. The Court finds that the attempt to adopt the 2019 covenants and the communications surrounding the 2019 covenants contributed to the dispute and litigation. The Court also finds that this litigation provided a benefit to Plaintiff in providing a resolution of these issues. Accordingly, it is not appropriate to assess attorney's fees and costs against Defendants, and the Court respectfully declines to alter or amend the Final Order.

NOW THEREFORE, Plaintiff's Motion to Reconsider, Alter or Amend Judgment pursuant to Rule 59(e) is hereby DENIED.

AND IT IS SO ORDERED.

JUDGE'S SIGNATURE PAGE TO FOLLOW

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Sumter Common Pleas

Case Caption: Lakewood Links Property Owners Association, Inc. VS Jason M Josey , defendant, et al

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And It Is So Ordered

S/ Michael M. Jordan - 3085

ELECTRONICALLY FILED - 2022 Dec 29 10:07 AM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

STATE OF SOUTH CAROLINA COUNTY OF SUMTER	IN THE COURT OF COMMON PLEAS Case No.: 2022-CP-43-
Lakewood Links Property Owners Association, Inc., Plaintiff, vs. Jason M. Josey and April W. Josey, Defendants.	**SUMMONS** **(Non-Jury)**

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, or otherwise appear and defend, and to serve a copy of your Answer to said Complaint upon the subscriber at his office, 5 Law Range, Post Office Box 1268, Sumter, South Carolina, 29151-1268, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, or otherwise appear and defend, the Plaintiff in this action will apply to the Court for the relief demanded therein, and judgment by default will be rendered against you for the relief demanded in the Complaint.

JONES SETH & JONES, *L.L.P*

s/ Richard C. Jones

Richard C. Jones, Bar No. 3206
5 Law Range -- P. O. Box 1268
Sumter, South Carolina 29151-1268
(803) 773-8676
Attorney for Plaintiff
richardcjones@jonesethjones.com

Sumter, South Carolina
December 29, 2022

ELECTRONICALLY FILED - 2022 Dec 29 10:07 AM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

STATE OF SOUTH CAROLINA COUNTY OF SUMTER	IN THE COURT OF COMMON PLEAS Case No.: 2022-CP-43-
Lakewood Links Property Owners Association, Inc., Plaintiff, vs. Jason M. Josey and April W. Josey, Defendants.	**COMPLAINT FOR INJUNCTIVE RELIEF [NON-JURY]**

NOW COMES Lakewood Links Property Owners Association (hereafter "POA"), complaining of Jason M. Josey and April W. Josey (hereafter "Property Owners"), which would show unto the Court as follows:

1. This Court has jurisdiction over both the parties and the subject matter of this lawsuit.

2. The Plaintiff, Lakewood Links Property Owners' Association, Inc., is a South Carolina non-profit corporation in good standing that is and has been empowered as provided in the "Declaration of Covenants and Restrictions for Lakewood Links And Provisions For the Lakewood Links Property Owners' Association, Inc." [hereinafter "Restrictive Covenants"] found in Book 481 at Page 1879 and recorded in the Office of the Register of Deeds for Sumter County on December 28, 1988, and in the "Supplementary Declaration of Covenants and Restrictions" that is likewise found in the Office of the Register of Deeds for Sumter County in

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Book 511 at Page 241 and recorded on the August 2, 1990, copies of which are attached hereto as **Exhibit P-1** and incorporated herein by reference to make them a part and portion of this Complaint, to:

> (f) to take any and all actions necessary to enforce all covenants and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the property; (See Ex. P-1; Art I; Section)
>
> (g) to set up and operate the Review Board as hereinabove provided; (See Art. I; Section 2)

3. The Defendants, Jason M. Josey and April W. Josey (hereafter "Property Owners"), as shown by the real estate records of the Clerk of Court for Sumter County holding, upon information and belief, fee simple title to that residential lot bearing the property address of 3020 Tidewater Drive, Sumter, South Carolina and tax parcel number 223-10-02-012 by virtue of that Deed into the name of Jason M. Josey and April W. Josey January 8, 2021, and recorded in the Register of Deeds for Sumter County in Book 1279 at Page 1851. A copy of this deed is attached hereto and incorporated herein by reference to make it a part and portion of this Complaint as **Exhibit P-2.**

4. On July 2, 2021, the Property Owners made inquiry relative to construction of an inground-concrete pool upon their residential lot which is and was a part of Lakewood Links Subdivision subject to the Covenants and Restrictions which are the subject of this action. A copy of this Application for Architectural Approval seeking approval of the construction of this in-ground concrete pool by and from the Architectural Review Board, as provided by the above bylaws, is attached hereto and incorporated herein by reference to make them a part and portion of this the allegations of this Complaint as **Exhibit P-3.**

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5. On July 3, 2021, the POA granted written approval of the Property Owners' application to install an in-ground pool. A copy of the e-mail granting such approval and permission consistent with the Restrictive Covenants is attached hereto and incorporated herein by reference to make it a part and portion of the allegations of this Complaint as **Exhibit P-4.**
6. Between July 3, 2021, when the POA approved the installation of the in-ground concrete pool, and September 6, 2021, the Property Owners, without approval of the Architectural Review Board and fully informed of the requirements of the Covenants and Restrictions, unilaterally, and without approval of the Architectural Review Board and/or the POA, installed a privacy fence around the back yard of 3020 Tidewater Drive, Sumter, South Carolina in violation of the Restrictive Covenants, **Exhibit P-1.**
7. On September 6, 2021, the POA sent written notice to the Property Owners instructing the Property Owners to remove the privacy fence that was and had been constructed without approval of the Architectural Review Committee in violation of the Restrictive Covenants within sixty (60) days of the date of the e-mail. A copy of this e-mail is attached hereto and incorporated herein to make it a part and portion of this Complaint as **Exhibit P-5.**
8. On July 22, 2022, the Property Owners were served with demand that the wooden fence, which is the subject of this lawsuit, be removed consistent with the terms of the Covenants and Restrictions within 21 days. A copy of the letter from Attorney Jason Reddick is attached hereto and incorporated herein by reference to make it a part and portion of the allegations of this Complaint as **Exhibit P-6.**
9. The Property Owners have failed and refused to remove the fence in the face of these express demands (**Exhibits P-5 and P-6**), thus necessitating by this lawsuit

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of he POA and the costs and attorney fees it has incurred in the pursuit of the relief sought herein.

10. The Property Owners have failed and refused to conform to the Covenants and Restrictions to which their real property is subject.

11. POA has enforced and is enforcing this restriction precluding the erection of a wooden, privacy fence consistent with its precedent of denial of such fences in the past.

12. POA would show that Property Owners' blatant violation in direct contravention of the requirements of the Restrictive Covenants to which their real property and all other real property in the subdivision is subject undermines and threatens the integrity of the subdivision and the owners and members therein who purchased property in reliance upon and in contemplation of development and maintenance of the subdivision consistent with the Restrictive Covenants.

13. ARTICLE I(a): Section 2: of the Restrictive Covenants found on page 11 of Exhibit P-1 provides:

> No building, fence or other structure shall be erected, placed or altered until the proposed building plans, specifications, exterior color or finish, plot plan (Showing the proposed location of such building or structure, drives and parking areas), landscape plan, and construction schedule shall have been approved in writing as herein provided.

14. ARTICLE I: Section 2(e): of the Restrictive Covenants found on page 14 of Exhibit P-1 provides:

> Review of approval of plans for addition alterations or changes to structures and landscaping. No building, wall, fence, deck, pier, swimming pool, roof, exterior light or other structures or improvement of any kind shall be commenced or erected upon any Residential Lot or upon the exterior of any Family Dwelling Unit or upon the Common Properties, nor shall any landscaping be done, nor shall any addition to any existing building or alteration or change therein be made until the proposed building plans, specifications (including

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height, materials, and exterior finish), plot plan, and construction schedule shall have been submitted to and approved by the Review Board.

15. ARTICLE IV: Section 2: Enforcement by the Association: of the Restrictive Covenants found on page 38 of Exhibit P-1 provides:

> In addition to the foregoing, the Association shall have the right to proceed at law or in equity to compel compliance to the terms hereof or to prevent the violation or breach in any event....If the violation is not expeditiously terminated, the Owner or Association may engage legal counsel to bring an appropriate injunctive action, including any appeals, to enforce these covenants. Violators shall be obligated to reimburse the Association in full for all its direct and indirect costs, including but not limited to legal fees incurred by the Association in maintaining compliance with these covenants.

16. ARTICLE IV: Section 4: Against Whom May the Covenants be Enforced: of the Restrictive Covenants found on Page 39 provides:

> The obligations and benefits prescribed by the covenants shall run with the Property and shall be enforceable against the Owner, its successors and assigns, the Lakewood Links Property Owners' Association, and against any Property Owner when the aforesaid parties engaged in activities (Including omissions and failure to act) which constitute violations or attempts to violate or circumvent the covenant and the restrictions set forth in this Declaration.

17. ARTICLE IV: Section 5: Means of Enforcement: Of the Restrictive Covenants found on Page 39 Provides:

> Enforcement of these Covenants shall be by any proceeding at law or in equity, whether it be to restrain violation or to recover damages or to create any lien created by these Covenants.

18. POA requests that this Court compel, enjoin, and order the Property Owners, under threat of contempt, to immediately and without delay remove the wooden, privacy fence they have wrongfully, contrary to the provisions of the Restrictive Covenants and without the approval required therein, constructed on their real

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property bearing property address of 3020 Tidewater Drive, Sumter, South Carolina.

19. POA requests that it be reimbursed for the legal fees it is incurring and has incurred for the prosecution of this action to enforce the terms and provisions of the Restrictive Covenants to which the real property of the Property Owners herein are subject.

NOW THEREFORE, based upon the foregoing, the POA does hereby pray that the Court:

1. ORDER that the Property Owners be compelled and enjoined, under threat of contempt, to immediately and without delay remove the privacy fence from their real property bearing property address 3020 Tidewater Drive, Sumter, South Carolina;
2. ORDER that the Property Owners be required to reimburse the POA for all of those legal fees and costs that are being incurred and have been incurred by the POA in the enforcement of the provisions of the Restrictive Covenants;
3. ORDER that the Property Owners be held in contempt of Court should they fail and/or refuse to remove the said privacy fence on their real property bearing property address of 3020 Tidewater Drive, Sumter, South Carolina.
4. ORDER that the Court grant any and other further relief as this Court my find just and proper.

JONES SETH & JONES, L.L.P.

s/ Richard C. Jones
Richard C. Jones
Attorney for Plaintiff
5 Law Range - - P.O. Box 1268
Sumter, SC 29151
(803) 773-8676
richardcjones@jonessethjones.com

December 29, 2022

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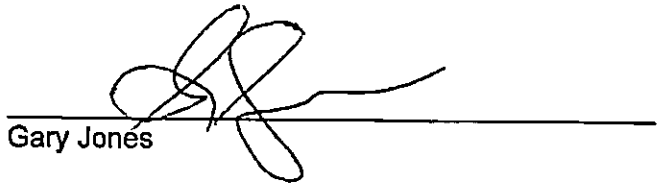
STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

VERIFICATION

PERSONALLY APPEARED Gary Jones, President of Lakewood Links Property Owners Association, Inc., who being duly sworn deposes and says that he has read the foregoing Complaint and the facts stated there are true of "his/her own knowledge; save for those facts stated on information and belief and as to them, he believes them to be true.



Gary Jones

SWORN to before me this 29
day of December, 2022

Notary Public for South Carolina L.S.
My Commission Expires: 12/23/30

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HARRY D. [illegible]
SUMTER CO. S.C.

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STATE OF SOUTH CAROLINA)
)
)
COUNTY OF SUMTER)

DECLARATION OF COVENANTS AND RESTRICTIONS FOR LAKEWOOD LINKS AND PROVISIONS FOR THE LAKEWOOD LINKS PROPERTY OWNERS' ASSOCIATION, INC.

THIS DECLARATION, made this 21st day of December, 1988, by Lakewood Links Associates, a South Carolina General Partnership, hereinafter referred to as the "Owner."

WITNESSETH:

WHEREAS, Owner holds title in fee simple to the certain lands (hereinafter referred to as the "Property") described in Part One, Article II, Section I of this Declaration and in the Master Plan (which has been made available for inspection by prospective property owners) and intends to plan and develop a community comprised of the Property and known as "Lakewood Links" with certain facilities, amenities and services for the use and benefit of all property owners within such community; and

WHEREAS, Owner desires to provide for the preservation of the values and amenities and for the maintenance of common facilities, services and properties; and, to this end, Owner has consented to subject the Property together with such additions as may hereafter be made, as provided in Part One, Article II, to the covenants, restrictions, easements, affirmative obligations, charges and liens, hereinafter set forth (hereinafter referred to as the "Covenants"), each and all of which is and hereby declared to be for the benefit of the Property and every owner of any and all parts thereof; and

WHEREAS, Owner deems it desirable, for the efficient preservation of the values and amenities in the community, to create an agency to which should be ultimately delegated and assigned by the Owner authority to maintain and administer the common properties and services, to enforce the Covenants governing the same, and to disburse all assessments and charges necessary for such maintenance, administration and enforcement; and

WHEREAS, The Owner has caused or will cause to be incorporated under the laws of the State of South Carolina, a non-profit corporation, Lakewood Links Property Owners' Association, Inc., for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth; and

WHEREAS, this Declaration will be referred to as the "Lakewood Links Covenants of 1988," and will be recored in the Office of the Clerk of Court for Sumter County, South Carolina, and may be incorporated by reference to the Book and Page of recording in the records of said Office.

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HARRY D. [illegible] RMC
SUMTER CO. S.C.

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STATE OF SOUTH CAROLINA	)	DECLARATION OF COVENANTS AND RESTRICTIONS FOR LAKEWOOD LINKS AND PROVISIONS FOR THE LAKEWOOD LINKS PROPERTY OWNERS' ASSOCIATION, INC.
	)	
	)	
COUNTY OF SUMTER	)	

THIS DECLARATION, made this 21st day of December, 1988, by Lakewood Links Associates, a South Carolina General Partnership, hereinafter referred to as the "Owner."

WITNESSETH:

WHEREAS, Owner holds title in fee simple to the certain lands (hereinafter referred to as the "Property") described in Part One, Article II, Section I of this Declaration and in the Master Plan (which has been made available for inspection by prospective property owners) and intends to plan and develop a community comprised of the Property and known as "Lakewood Links" with certain facilities, amenities and services for the use and benefit of all property owners within such community; and

WHEREAS, Owner desires to provide for the preservation of the values and amenities and for the maintenance of common facilities, services and properties; and, to this end, Owner has consented to subject the Property together with such additions as may hereafter be made, as provided in Part One, Article II, to the covenants, restrictions, easements, affirmative obligations, charges and liens, hereinafter set forth (hereinafter referred to as the "Covenants"), each and all of which is and hereby declared to be for the benefit of the Property and every owner of any and all parts thereof; and

WHEREAS, Owner deems it desirable, for the efficient preservation of the values and amenities in the community, to create an agency to which should be ultimately delegated and assigned by the Owner authority to maintain and administer the common properties and services, to enforce the Covenants governing the same, and to disburse all assessments and charges necessary for such maintenance, administration and enforcement; and

WHEREAS, The Owner has caused or will cause to be incorporated under the laws of the State of South Carolina, a non-profit corporation, Lakewood Links Property Owners' Association, Inc., for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth; and

WHEREAS, this Declaration will be referred to as the "Lakewood Links Covenants of 1988," and will be recored in the Office of the Clerk of Court for Sumter County, South Carolina, and may be incorporated by reference to the Book and Page of recording in the records of said Office.

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NOW, THEREFORE, Owner hereby declares that the Property and such additions thereto as may hereafter be made pursuant to Part One, Article II hereof are and shall be held, transferred, sold, conveyed, given, purchased, leased, occupied, and used subject to the Covenants. These Covenants, the benefits of these Covenants, and the affirmative and negative burden of these Covenants, shall touch and concern and run with the land herein referred to as the Property. The Owner reserves the right to add additional covenants in respect to the property owned by the Owner at the time of the adoption of the additional covenants but not to property previously conveyed to others. Any rights and easements reserved by the Owner under these Covenants shall also be reserved to the assigns and successors in interest of the Owner.

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PART ONE

GENERAL REFERENCES

ARTICLE I

DEFINITIONS

Section 1. The following words and terms when used in this Declaration or any supplemental declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

(a) "Approved by the Owner" shall mean written approval issued by the Owner signed by its Managing General Partner or by a designated representative.

(b) "Association" shall mean and refer to the Lakewood Links Property Owners' Association, Inc., a South Carolina non-profit corporation, its successors and assigns.

(c) "Business Purposes" shall include, but not be limited to, any use as a fire department or other public services facility, a medical facility, professional office, entertainment, recreational, commercial or like facility. The use of a Family Dwelling Unit as a model dwelling display or real estate sales office maintained by the Owner or those granted a written license for such use by the Owner, however, shall not be deemed use for business purposes.

(d) "Commercial Property" shall mean and refer to any land which is designated for use for business purposes as defined in this section in a deed of conveyance or lease.

(e) "Common Properties" shall mean and refer to those areas of land with any improvements thereon which are deeded or leased to the Association and designated in said deed as "Common Properties." The term "Common Properties" shall include areas reserved for Recreational Amenities to be constructed by the Association on properties deeded to the Association by the Owner and any personal property acquired by the Association if said property is designated as "Common Property." All Common Properties are to be devoted to and intended for the common use and enjoyment of the Property Owners, their tenants, guests and invitees, at uniform fees, charges, and assessments established herein as may be modified from time to time by the Association. The designation and dedication of land or improvements as

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Common Properties shall not mean or imply that the public at large or Property Owners, their tenants, guests and invitees acquire an easement of use or enjoyment therein except at such fees, and under such rules and regulations for operation as may be established from time to time by the Association.

(f) "Covenants" shall mean and refer to the "Lakewood Links Covenants of 1988," including all covenants, conditions, restrictions, and obligations set forth in this Declaration.

(g) "Development Unit Parcels" shall mean and refer to those parcels or tracts of land ("Golf Villa Tracts" - Designated as "Phase III" on the recorded Plat of Lakewood Links) conveyed by the Owner to third parties under these covenants and restrictions permitting the division of such parcel or tract into smaller land units such as Residential Lots or Townhouse Residential Tracts/Golf Villa Tracts.

(h) "Family Dwelling Unit" shall mean and refer to any improved property intended for use as a single-family detached dwelling, townhouse unit or cluster unit, whether detached or attached, located within the Property.

(i) "Golf Villa Tract" shall mean those unimproved parcel of land located within the Property designated as "Phase III", intended for use as a site for residential lots and/or multi-family type dwellings and/or patio dwellings which shall be conveyed either in fee simple or as condominium apartments.

(j) "Master Plan" shall mean and refer to the drawings which represent the conceptual research plan for the future development of the Resort, held by the Owner and made available for inspection by prospective land purchasers. Since the concept of the future development of the undeveloped parcels of the Resort retained by, and remaining in the Owner's ownership is subject to continuing revision and change at the discretion of the Owner as provided in Section 1, Article II, Part One hereof, present and future references to the "Master Plan" by the Owner, its employees or agents shall be references to the latest revision thereof. In addition, no implied reciprocal Covenants shall arise with respect to lands which have been retained by the Owner for future development restricting their uses except that all the covenants, restrictions, obligations and conditions set forth in this Declaration shall apply to all portions of the Property retained by

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the Owner. This Declaration does not designate any portion of the Property for any particular use, such designations to be made by separate subsequent declaration or by recorded plat with such designation clearly and unequivocally shown thereon. The Owner shall not be bound by any development plan, use or restriction of use shown on any Master Plan.

(k) "Member" shall mean and refer to the Owner and all those Property Owners who are Members of the Association as provided in Article I, Part Three hereof, including the spouse and children (under 18) permanently residing with the said Property Owner.

(l) "Offensive or Noxious" activity or behavior shall include but not be limited to a public nuisance or nuisance per se and shall also include any behavior or activity which is inconsistent with both the pleasurable use of the Resort area by a majority of the residents and their reasonable expections of enjoying their property and the available amenities and natural surroundings free of boorish, rude, excessively noisy, crude, tasteless behavior, flashing lights, racing vehicles, offensive or tasteless displays of public sexuality, radio, hi-fi or electronic music distractions, etc., or other similar behavior curtailing the pleasure of use of the facilities of the Resort. Public musical or other entertainment, parades, concerts, festivals, carnivals, competitions or shows conducted under permit from the Owner shall not constitute offensive or noxious activity or behavior unless such permit is withdrawn by the Owner.

(m) "Owner" shall mean and refer to Lakewood Links Associates, a South Carolina General Partnership, its successors and assigns.

(n) "Pertinent Laws" shall mean and refer to the statutes, ordinances, regulations, and other laws pertinent to the ownership, sale, use, and development of the property, as or codified or promulgated by the State of South Carolina, the County of Sumter, the Town of Sumter, the Government of the United States of America, and other public authorities having jurisdiction over the Property.

(o) "Property" and "Resort" shall mean and refer to the lands described in Part One, Article II, Section 1 hereof and Exhibit A, attached hereto, and additions thereto as provided in Part One, Article II, Section 2 hereof, as are subjected to this Declaration or any supplemental declaration under the provisions of Part One, Article II hereof.

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(p) "Property Owner" shall mean and refer to the owner (but shall not include the "Owner" except with respect to properties reacquired by the Owner after Owner's conveyance thereof) as shown by the real estate records of the Clerk of Court for Sumter County, whether it be one or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Residential Lot, Family Dwelling Unit, Golf Villa Tract, Development Unit Parcel, or Unsubdivided Land situated upon the Property but notwithstanding any applicable theory of mortgage, shall not mean or refer to the mortgagee or holder of a security deed, its successors or assigns, unless and until such mortgagee or holder of a security deed has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Property Owner" mean or refer to any lessee or tenant of a Property Owner. In the event that there is recorded with the Clerk of Court for Sumter County a long-term contract of sale covering any lot or parcel of land within the Property, the Property Owner of such lot or parcel of land shall be the purchaser under said contract and not the fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond nine (9) months from the date of the contract, and where the purchaser does not receive title to the property until such payments are made although the purchaser is given the use of said property.

(q) "Recreational Amenities" shall include those areas which may be designated by Owner as areas in which the Association may elect to construct a swimming pool, bath houses, and tennis courts; provided, however, that such properties shall also become "Common Properties" when deeded to the Association and designated in said deed as "Common Properties".

(r) "Referendum" shall mean and refer to the power of all or some specific portion of the Members to vote by mailed ballots on certain actions by the Board of Directors of the Association more particularly set forth herein including the levy of any Special Assessment and the addition or deletion of functions or services which the Association is authorized to perform. In the event 51% of the votes actually returned to the Association within the specified time shall be in favor of such action, the Referendum shall be deemed to "pass" and the action voted upon will be deemed to have been authorized by the Members; provided, however,

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that if a higher percentage required to "pass" shall be specifically expressed herein or be required for any particular issued by a vote of the Association, as determined by the procedures set forth herein, that higher percentage shall control in that instance.

(s) "Residential Lot" shall mean any unimproved parcel of land located within the Property which is intended for use as a site for a single family detached dwelling, as shown upon any recorded final subdivision plat of any part of the Property. A parcel of land shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently complete to reasonably permit habitation thereof.

(t) "Resort" shall mean Lakewood Links which shall include The Links of Lakewood Golf Course and the residential community.

(u) "The Links at Lakewood" shall mean the 18 hole championship golf course which is situate within the property around which the residential community will be developed and which will be retained by the Owner.

(v) "Undeveloped Land" shall be land owned by the Owner which is not improved, and which has not been designated as Open Space or Common Properties, whether subdivided or unsubdivided.

(w) "Use of Land" or "Intended for Use" shall mean the use designated in the deed of conveyance of a parcel or space or by separate declaration of covenants designating the use for which any particular parcel of land is restricted to in such declaration or incorporated by reference to a particular recorded declaration of covenants in deeds by which the Owner has conveyed such land. Reference to "uses" of land, or description of parcels on maps, master plans, and promotional material shall not constitute a designation of use for purposes of this Declaration nor shall such reference create any obligation for the Owner.

(x) "Use or Used for Residential Purposes" shall mean to be used as one's residence or normal and customary place of above and shall not include any use for business purposes as defined above. The use of a portion of a Family Dwelling Unit as an office shall be considered a residential use if such use does not create regular customer or client traffic to and from the Family Dwelling Unit sustained for a period longer than thirty (30) days in any one twelve-month period and no sign,

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symbol, logo, or nameplate identifying such business is affixed to or about the entrance to the Family Dwelling unit, except where the approval of the Owner has been given to such use.

ARTICLE II

PROPERTY DESCRIPTION

Section 1. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed, given, donated, leased and occupied subject to these Covenants is located in Sumter County, South Carolina and is more particularly described in Exhibit "A" attached hereto and by reference incorporated herein.

The Owner intends to develop the Property in accordance with the Master Plan, as subsequently modified from time to time, as a residential community centered around The Links at Lakewood Golf Course featuring areas reserved for recreation facilities and various amenities (which shall be constructed by the Association) and all other activities permitted by law which the Owner deems appropriate as uses for such property. The Owner reserves the right to review and modify the Master Plan at its sole option, from time to time, based upon its continuing research and design program. The Master Plan or any future Master Plan, shall not bind the Owner, its heirs, successors and assigns, to adhear to the Master Plan in the development of the land shown thereon. Properties conveyed to the Association shall become Common Property in accordance with their designation in the deed of conveyance from the Owner. The Owner shall not be required to follow any predetermined sequence or order of improvements and development; and it may bring within the plan of these covenants additional lands, and develop the same before completing the development of the Property. Other than as stated in this Section, the Owner shall have full power to add to, subtract from, or make changes in the Master Plan, including the addition of other nearby lands owned by Owner, such actions potentially altering membership of the Association.

Section 2. Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner:

(a) The Owner, its heirs, successors and assigns, shall have the right, without consent of the Association, to bring within the plan and operation of this Declaration, additional properties in future stages of the development. The additions authorized under this and the succeeding subsections shall be made by either deeding such additional property subject to this Declaration by specific reference in individual deeds

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or by filing a Supplementary Declaration of Covenants and Restrictions (hereinafter referred to as "The Supplementary Declaration") with respect to the additional property which shall extend the operation and effect of these Covenants to such additional property.

The Supplementary Declaration may contain such complimentary additions and/or modifications of these Covenants as may be necessary or convenient, in the judgment of the Owner, to reflect the different character, if any, of the added properties and as are not inconsistent with this Declaration, but such modifications shall have no effect on the Covenants as they apply to the Property.

(b) Upon approval in writing of the Association pursuant to three-fourths (3/4) of the vote of those present at a duly called meeting, the owner of any property who desires to add it to the plan of these Covenants and to subject it to the jurisdiction of the Association, may file or record a Supplementary Declaration with respect to the additional property which shall extend the operation and effect of these Covenants to such additional property.

The Supplementary Declaration may contain such complimentary additions and/or modification of these Covenants as may be necessary or convenient, in the sole judgment of the Association, to reflect the different character, if any, of the added properties and as are not inconsistent with this Declaration, but such modification shall have no effect on the Covenants as they apply to the Property.

(c) Upon merger or consolidation of the Association with another association, as provided for in the by-laws of the Association, its property rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the existing Property, together with the covenants and restrictions established upon any other properties, as one plant. No merger or consolidation shall effect any revocation, change or addition to these Covenants including, without limitation, the maximum limits on assessments and dues of the Association, or any other matter substantially affecting the interests of Members of the Association.

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(d) For any property subjected to this Declaration pursuant to the provisions of this Section, there may be established by the Owner an additional association limited to the owners and/or residents of such additional property in order to promote their social welfare, including their health, safety, education, culture, comfort, and convenience, to elect representatives on the Board of the Association, to receive from the Association a portion, as determined by the Board of Directors of the Association, of the annual assessments levied pursuant hereto and use such funds for its general purposes, and to make and enforce rules and regulations of supplementary covenants and restrictions, if any, applicable to such additional lands.

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PART TWO

COVENANTS AND RESTRICTIONS
APPLICABLE TO
COMMUNITY DEVELOPMENT
OF THE LAKEWOOD LINKS RESORT

ARTICLE I

GENERAL COVENANTS

Section 1. Purposes. The primary purpose of these Covenants and the foremost consideration in the origin of same has been the creation of a residential community which is aesthetically pleasing, which is functionally convenient, which is capable of maintaining itself, which provides areas reserved for recreational amenities and provides for the ultimate ownership, operation and maintenance, through the Association, of those areas. The establishment of objective standards relating to design, size and location of dwellings and other structures makes it impossible to take full advantage of the individual characteristics of each parcel of property and of technological advances and environmental values. For this reason, such standards are not established hereby, but may be suggested by the Owner in discussions with and materials submitted to Property Owners. These standards and this Declaration are consistent with and serve to complement the Subdivision Regulations of Sumter County, South Carolina. To implement these Covenants, the Owner shall, through the Architectural Review Board, establish and amend from time to time objective standards and guidelines which shall be in addition to and more restrictive than said governmental standards.

All Residential Lots in the Resort shall be used for residential purposes exclusively. The use of a portion of a dwelling on a Residential Lot as an office by the owner or tenant thereof shall be considered a residential use if such use does not create regular customer or client traffic to and from the lot. No structure, except as hereinafter provided shall be erected, altered, placed or permitted to remain on any Residential Lot other than one (1) single family dwelling, one (1) small one-story accessory building which may include a detached private garage or carport, provided the use of such accessory building does not overcrowd the site and provided further, that such building is not used for any activity normally conducted as a business. Such accessory building may not be constructed prior to the construction of the main building.

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The provisions of this Section shall not prohibit the Owner or its assignees from using a house or other family dwelling units as models for its sales program. Use as a model shall be limited to display purposes except as hereinafter provided.

Section 2. Architectural and Design Review.

(a) Purpose. In order to preserve the natural beauty of the Resort and its setting, to maintain the Resort as a pleasant and desirable environment, to establish and preserve a harmonious design for the community, and to protect and promote the value of property, no building, fence or other structure shall be erected, placed or altered until the proposed building plans, specifications, exterior color or finish, plot plan (showing the proposed location of such building or structure, drives and parking areas), landscape plan, and construction schedule shall have been approved in writing as hereinafter provided.

(b) Objectives. Architectural and Design review shall be directed towards attaining the following objectives for the Resort:

(1) Preventing excessive or unsightly grading, indiscriminate earth moving or clearing of property, removal of trees and vegetation which could cause disruption of natural water courses or scar natural landforms.

(2) Ensuring that the location and configuration of structures are visually harmonious with the terrain and vegetation of the Residential Lot and with surrounding Residential Lots and structures and does not unnecessarily block scenic views from existing structures or tend to dominate any general development or natural landscape.

(3) Ensuring that the architectural design of structures and their materials and colors are visually harmonious with the Resort's overall appearance, history and cultural heritage, with surrounding development, with natural landforms and native vegetations, and with development plans, officially approved by the Owner, or any governmental or public authority, if any, for the areas in which the structures are proposed to be located.

(4) Ensuring the plans for landscaping provide visually pleasing settings for structures on the same lot and on adjoining or nearby lots, and blend harmoniously with the natural landscape.

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(5) Ensuring that any development, structure, building or landscaping complies with the provisions of these covenants.

(6) Promoting building design and construction techniques that respond to energy consumption and environmental quality consideration such as heat loss, air emissions, and run-off water quality.

(c) Architectural Review Board.

(1) The Owner shall establish an Architectural Review Board (such board hereinafter referred to as the "Review Board") which shall consist of five (5) members. Three (3) members shall be appointed by the Owner and two (2) members shall be elected by the Association. The regular term of office for each member shall be one (1) year, coinciding with the fiscal year of the Owner. Any member appointed by the Owner may be removed with or without cause by the Owner at any time by written notice to such appointee. A successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. Any member elected by the Association shall be removed in accordance with the by-laws of the Association.

(2) The Review Board shall select its own Chairman and he, or in his absence, the Vice-Chairman shall be the presiding officer of its meetings. All meetings shall be held at least once in each calendar month or upon call of the Chairman; all meetings shall be held at the offices of the Owner at the Resort or at such other places as may be designated by the Chairman. Three (3) members shall constitute a quorum for the transaction of business, provided a minimum of two (2) members appointed by the Owner shall be present in order to have a quorum. The affirmative vote of a majority of the members of the Review Board shall constitute the action of the Review Board on any matter before it. The Review Board shall operate in accordance with its own rules of procedure; said rules shall be filed with the Association and maintained in the records of the Association.

(3) The Review Board is hereby authorized to retain the services of one or more consulting architects, landscape architects, urban designers, and/or attorneys, who need not be licensed to practice in

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the State of South Carolina, to advise and assist the Review Board in performing the design review functions herein prescribed.

(d) Transfer of Architectural Review Authority. Upon the sale of greater than 90% of the sites for the permitted Family Dwelling Units, the Owner may by filing a supplementary declaration of covenants and conditions with the Clerk of Court's Office for Sumter County, transfer the above described architectural review authority to a permanent Review Board which, subject to the covenants and conditions stated with the aforesaid supplemental declaration, shall be under the control of the Association. This section does not obligate the Owner to make such transfer, provided, however, that such transfer must be made no later than December 31, 1993.

(e) Review of Approval of Plans for Addition Alterations or Changes to Structures and Landscaping. No building, wall, fence, deck, pier, swimming pool, roof, exterior light or other structure or improvement of any kind shall be commenced or erected upon any Residential Lot or upon the exterior of any Family Dwelling Unit or upon the Common Properties, nor shall any landscaping be done, nor shall any addition to any existing building or alteration or change therein be made until the proposed building plans, specifications (including height, materials, and exterior finish), plot plan, and construction schedule shall have been submitted to and approved by the Review Board.

(f) Submission, Approval and Refusal of Architecture, Siting, Landscaping and Other Building Plans. Two copies of all plans and related data shall be in the records of the Review Board. The other copy shall be returned to the Property Owner marked "approved" or "disapproved." The Review Board shall establish a fee sufficient to cover the expense of reviewing plans and related data at the time they are submitted for review and to compensate any consulting architects, landscape architects, urban designers or attorney's retainer in accordance with subparagraph (c)(3) above. The Fee initially established by these Covenants shall be $50.00 for each submission. The Review Board shall have the right to increase this amount not more than once in any subsequent twelve (12) month period. Approvals shall be dated and shall not be effective for construction commenced more than six months after such approval. Disapproved plans and related data shall be accompanied by a reasonable statement of items found unacceptable. In the event approval of such plans is

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neither granted nor denied within thirty (30) days following receipt of Review Board of written request for approval, the provisions of this Section shall be thereby waived. Refusal of approval of plans, location or specification may be based by Review Board upon any ground which is consistent with the objectives of these covenants, including purely aesthetic considerations, so long as such ground is not arbitrary or capricious.

(g) Approval Not a Guarantee or Representation of Proper Design or Good Workmanship. No approval of plans, location or specifications, and no publication or architectural standards bulletins shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed residence. Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence or improvement thereto will be built in a good workmanlike manner. Neither the Owner, the Company nor the Review Board shall be responsible or liable for any defects in any plans or specifications submitted revised or approved under these covenants nor for any defects in construction pursuant to such plans and specifications. The Property Owner shall have sole responsibility for compliance with approved plans and does hereby hold the Review Board and the Owner harmless for any failure thereof caused by the Property Owner's architect or builder. The Owner reserves the right to prohibit the Property Owner's builder and/or general contractor from the site in the event it is determined that failure to comply with approved plans is determined to be intentional or due to gross negligence.

Section 3. Setback Lines. To assure that buildings and other structures will be located so that the maximum view, privacy and breeze will be available to each building or structure, and that structures will be located with regard to the topography of each property taking into consideration the location of large trees and other aesthetic and environmental considerations, the Review Board reserves unto itself, its successors and assigns, the right to control and to decide solely (so long as (a) its decisions are not arbitrary or capricious and (b) subject to the provisions of the pertinent land use regulations of public authorities having jurisdiction) the precise site and location of any building or structures on any property in the Resort.

The location shall be determined only after reasonable opportunity is afforded the Property Owner to recommend a specific site. Provided, however, that in the event an agreed location is stipulated in writing in the contract of purchase and

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approved by the Owner, and such location complies with the local town and county subdivision regulations, the Owner shall approve automatically such location for a residence or group of residential units.

Section 4. Parking. Each Property Owner subject to these Covenants shall provide space for the parking of two automobiles off public streets and community roads prior to the occupancy of any building or structure constructed on said property in accordance with reasonable standards established by the Review Board.

Section 5. Completion of Construction. The exterior of all houses and other structures must be completed within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the property Owner or builder due to strikes, fires, national emergency or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuance of construction the Property Owner shall require the contractor to maintain the Residential Lot in a reasonably clean and uncluttered condition. Upon completion of construction, the Property Owner shall cause the contractor to immediately remove all equipment, tools and construction material from the Lot. Any damage to roads, Common Properties or property owned by others caused by the Property Owner's contractor or other parties providing labor or services to the Property Owner shall be repaired by the Property Owner or by the Owner at Property Owner's expense. The landscaping plan for all Family Dwelling Units and other structures must be completed within ninety (90) days of occupancy or substantial completion, whichever date shall first occur.

Section 6. Service Yards. Each Property Owner shall provide a visually screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks or similar storage receptacles, electric gas meters, air conditioning equipment, clothes lines, and other unsightly objects must be placed or stored in order to conceal them from view from the road and adjacent properties.

Section 7. Signs. No signs or ornaments shall be erected or maintained on the Property by anyone including, but not limited to, the Property Owner, a realtor, a contractor or subcontractor, or except with the written permission of the Review Board or except as may be required by legal proceedings. If such permission is granted the Review Board reserves the right to restrict size, color and content of such signs.

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Section 8. Other Buildings and Vehicles. No mobile home, trailer, tent, or other similar out-building or structure shall be placed on any Residential Lot or Development Unit Parcel at any time, either temporarily or permanently without prior approval from the Review Board.

Section 9. Unsightly Conditions. It shall be the responsibility of each Property Owner and tenant thereof to prevent the accumulation of litter, trash, packing crates or rubbish or the development of any unclean, unsightly or unkept condition of buildings or grounds on his property either before, during or after construction, nor to permit accumulations which shall tend to substantially decrease the beauty of the community as a whole or the specific area.

Section 10. Lights. The design and location of all exterior lighting fixtures shall be subject to the approval of the Review Board. Neither these nor any other illumination devices, including but not limited to Christmas ornaments, located anywhere on the structures or grounds of any Residential Lot or Family Dwelling Unit shall be located, directed, or of such intensity to affect adversely the night-time environment of any adjacent property.

Section 11. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, kept or pastured on the Property, except that a reasonable number of common household pets such as dogs and cats may be kept in any one Family Dwelling Unit.

Section 12. Underground Electric Cable and Street Lighting. The developer reserves the right to subject the real property herein to a contract with Black River Electric Cooperative for the installation of underground electric cables and/or the installation of street lighting, either both of which may require an initial payment and/or continuing monthly payments to Black River Electric Cooperative or Carolina Power & Light by the owner of said property herein described.

Section 13. Repairs and Hazards. Any building or other improvement on the property that is destroyed partially or totally by fire, storm or any other means shall be repaired or demolished within a reasonable period of time, and the land restored to an orderly and attractive condition.

Section 14. Offensive Activity. No noxious or offensive activity shall be carried on upon any Residential Lot, Family Dwelling Unit, Development Unit Parcel, Common Properties, or any place within the Resort, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the community.

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Section 15. Certain Easements. The Owner reserves unto itself, its heirs and assigns, a perpetual, alienable and releasable easement and right on, over and under the ground of the Property to erect, maintain, and use electric, cable television, and telephone poles, wires, cables, conduits, drainage ways, sewers, wells, pumping stations, tanks, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, drainage or other public conveniences or utilities on, in or over those portions of such property as may be reasonably required for utility line purposes; provided, however, that no such utility easement shall be applicable to any portion of such property as may (a) have been used prior to the installation of such utilities for construction of a building whose plans were approved pursuant to these Covenants by the Owner, or (b) such portion of the Property as may be designated as the site for a building on a plot plan or for erection of a building which has been filed with the Review Board and which has been approved in writing by said Review Board.

These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. Any material disturbance to the grounds of any Property Owner caused by such utility installation shall be repaired and said grounds returned to their prior condition by the Owner or prompt and reasonable remuneration for such repair shall be made to such Property Owner by the Owner.

Section 16. Antennas. No television antenna, receiving "dish," radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of property within the Resort, nor radio, television signals, nor any other form of electromagnetic radiation shall be permitted to originate from any Family Dwelling Unit, Residential Lot, Golf Villa Tract, or Development Unit Parcel which may unreasonably interfere with the reception of television or radio signals upon any other of such properties, except as follows:

(a) The provisions of this Section shall not prohibit the Owner from installing equipment necessary for a master antenna system, security system, cable television and mobile radio systems of other similar systems within the Resort; and

(b) Should cable television services be unavailable and good television reception not be otherwise available, a Property Owner may make written application to the Review Board for permission to install a television antenna or receiving "dish," and such permission shall not be unreasonably withheld.

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Section 18. Trespass. Whenever the Association or the Owner is permitted by these Covenants to correct, repair, clean, preserve, clear out or do any action on taking such action shall not be deemed a trespass.

Section 19. Parcels. No Residential Lot shall be subdivided, or its boundary lines changed, except with the written consent of the Owner. However, the Owner hereby expressly reserves to itself, its successors or assigns, the right my mutual consent to replat any such lot or lots and to take such other steps as are reasonably necessary to make such replated lot suitable and fit as a building site including, but not limited to, the relocation of easements, walkways, rights-of-way, private roads, bridges, parks, recreational facilities and lots.

The provisions of this Section shall not prohibit the combining of two (2) or more continuous lots into one (1) larger lot. Following the combining of two (2) or more lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these Covenants. Consolidation of lots, as described above, must be approved by the Owner, said approval to be granted in the Owner's sole discretion upon such terms and conditions as may be established by the Owner from time to time, including specific provisions for the payment of assessments.

Section 20. Building Height. No Family Dwelling Unit structure shall be constructed which has a height exceeding three (3) stories above the minimum height established by applicable flood zone regulations of the United States. No townhouse, villa, or other multi-family dwelling structure shall be constructed which has a height exceeding five (5) stories above the minimum height established by applicable flood zone regulations of the United States. For purposes of this Section, the first parking level or deck underneath a building built at the above grade, shall not be considered a story.

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Section 21. Multiple Ownership of Properties: No Residential Lot or Family Dwelling Unit, with the exception of Phase III property may be owned by more than three (3) Owners at one time, except by inheritance. For purposes of this subparagraph, a married couple, and children (under 18) residing with the couple, constitutes a single owner; further the heirs at law of an owner, regardless of their number, constitutes a single owner.

Section 22. Access to Recreational Amenities. Until such times as the area reserved for Recreational Amenities are conveyed to the Association as provided in Part Three, Article II, hereof, the Owner reserves the sole and exclusive right to establish the rules and regulations for use of such facilities, including the extent and nature of guest privileges to be permitted, provided, however, that no rule or regulation shall be established by the Owner which shall have the effect of depriving a Member, as that term is herein defined, of access to the Recreational Amenities except as at Part III, Article II of these Covenants.

The lakes, excluding golf course lakes, shown on the Owners Master Plan will be for the exclusive use of the owners of the lots bordering said lakes. The owners will convey the lakes to a non-profit corporation which will govern the use and maintenance thereof.

Section 23. Golf Course. Easements to permit the doing of every act necessary and proper to the playing of golf on the Golf Course adjacent to those lots which are subject to these restrictions are hereby granted and established. These acts shall include, but shall not be limited to, the recovery of golf balls from such Lots, the flight of golf balls over and upon such Lots, the use of necessary and usual equipment upon such Golf Course, the usual and common noise level created by the playing of the game of golf, together with all the other common and usual activity associated with the game of golf and with all the normal and usual activities associated with the operation of a Country Club. The Declarant shall have the right to prescribe in writing to the governing body charged with operating the Golf Course the manner and extent to which the rights under this easement shall be exercised. In addition, the Declarant may, in its sole discretion, limit or withdraw or prohibit certain of the acts authorized by this easement, and it may limit the manner or place of doing all or certain of the acts authorized by this easement.

ARTICLE II

ENVIRONMENTAL CONTROLS

Section 1. Topography and Vegetation. Topographic and vegetation Characteristics of a Residential Lot or Development Unit Parcel shall not be altered by removal, reduction, cutting,

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excavation or any other means without the prior written approval of the Review Board. Written approval will be granted for the minimum amount of earth movement and vegetation reduction required in plans and specifications approved pursuant to the provisions of this Declaration.

Section 2. Tree Removal. No trees, bushes, or underbrush of any kind may be removed without the written approval of the Review Board. Approval for the removal of trees located within ten (10) feet of the main dwelling or accessory building or within ten (10) feet of the approved site for such building will be granted unless such removal will substantially decrease the beauty of the Property. Owner or Review Board reserves the right to have specimen trees preserved and to have site planning provided for their retention.

Section 3. Certain Controls. To implement effective and adequate erosion control and protect the beauty of the Property, the Owner, its successors, assigns (including but not limited to the Association), the Owner, its successors, assigns enter upon any property before or after a building or structure has been constructed thereon for the purpose of performing any grading or landscaping work or constructing and maintaining erosion prevention devices.

To implement effective insect, reptile and woods fire control, the Owner, its successors, assigns, and agents have the right to enter upon any property on which a building or structure has not been constructed and upon which no landscaping plan has been implemented for the purpose of mowing, removing, clearing, cutting, or pruning underbrush, weeds or other unsightly growth, removing draining standing water or dispensing pesticides.

Section 4. Erosion in Common Properties. The Owner, its successors and assigns shall have the right, but shall not be obligated, to protect all Common Properties from erosion, by planting trees, plants, and shrubs where and to the extent necessary or by such mechanical means as construction and maintenance of siltation basins, or other means deemed expedient or necessary by the Owner. The right is likewise reserved to the Owner to take steps necessary to provide and insure adequate drainage ways in Common Properties, to cut fire breaks, and to remove diseased, dead or dangerous trees and carry out other similar activities; the cost of which services is to be paid by assessments of the Property Owners in accordance with the provisions of Part Three of this Declaration.

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PART THREE

LAKEWOOD LINKS PROPERTY OWNERS' ASSOCIATION

ARTICLE I

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every Property Owner, including the Owner, shall be a Member of the Association, provided, however, that in the case of multiple ownership of any Residential Lot, Family Dwelling Unit or other properties in the Resort there shall be a maximum of one (1) Member. In the event of such multiple ownership of any kind, including by a partnership or corporation, the name of the Property Owner designated as Member shall be submitted to the Owner and/or the Association each year, not later than the first day of January of each year and only the designated Member shall be entitled to access to the Recreational Amenities as a Member of the Association. Remaining Property Owners shall be entitled to access only in accordance with rules and regulations established by the Owner, its successors and assigns, including the Association, for guests. If no designation of a Member is made by the multiple owners, all such Owners shall be required to pay such user fees as may be established by the Owner or Association.

Section 2. Voting Rights. The Association shall have two types of regular voting membership:

Class "A" - Class "A" Members shall be all those owners (including the Owner and Property Owners) of Residential Lots and any type of Family Dwelling Units, whether detached or attached. A Class "A" Member shall be entitled to one vote for each Family Dwelling Unit and/or Residential Lot which he owns, provided, however, a member casting a vote representing a Family Dwelling Unit owned by such Member shall not be entitled to cast an additional vote for the Residential Lot upon which said Family Dwelling Unit is situated.

Class "B" - Class "B" Members shall be all those owners of lands within the Property designated as Common Properties, or land reserved for future development ("Phase III"). A Class "B" Member shall be entitled to one vote for every one-half (1/2) acre of such lands which such Member owns, provided, however, that in computing the number of votes such Member shall have, the areas contained in such property shall be rounded to the nearest 0.25 acre.

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In addition to the Classes "A" and "B" regular voting Memberships described hereinabove, there shall be allowed with respect to each class, a Special Voting Membership for the Owner under the following circumstances:

So long as the Owner retains ownership of any Residential Lots or Development Unit Parcels on the Property, the Owner shall be allowed a Special Voting Membership with respect to each class by which he shall be entitled to the same number of votes in each of Class "A" and Class "B" as cumulatively held by all Members of each Class respectively (including itself), plus one. This provision, without further reference herein, shall be self-operative and its applicability determined, for any purposes, by reference to the Annual Statement for the preceding year, or years, required by this Declaration.

When any property entitling the Property Owner to membership as a Class "A" or "B" Member of the Association is owned of record in the name of two or more persons or entities, whether fiduciaries, joint tenants, tenants in common, tenants in partnership or in any other manner of joint or common ownership, or if two or more persons or entities have the same fiduciary relationship respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the Secretary of the Association, or unless the name of the designated Member has been submitted as approved in Section 1 above, their acts with respect to voting shall have the following effect:

(a) If only one votes, in person or by proxy, his act binds all;

(b) If more than one votes, in person or by proxy, the act of the majority so voting binds all;

(c) If more than one votes, in person or by proxy, but the vote is evenly split on any particular matter, each fraction shall be entitled its proportionate share of the vote or votes;

(d) If the instrument or order so filed shows that any such tenancy is held in unequal interest, a majority or even split for purposes of this paragraph shall me a majority or even split in interest; and

(e) The principles of this paragraph shall apply, insofar as possible, to execution of proxies, waivers, consents or objections and for the purpose of ascertaining the presence of a quorum.

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The voting rights of any Member may be assigned by said Member to his lessee who has entered into a lease with a term of two (2) years or more; provided, however, that the owner may not assign to such lessee any vote or votes not attributable to the property actually leased by such lessee. The Class "A" and "B" Members are sometimes hereinafter collectively referred to as the "Members."

Section 3. Board of Directors. The Association shall be governed by a Board of Directors consisting of three (3), five (5), seven (7), or nine (9) members. Initially, the Board shall consist of three (3) members, with the number in subsequent years to be determined by the members of the Board of Directors as provided for in the By-Laws of the Association. Each member of each Membership class shall be entitled to as many votes as equals the number of votes he is ordinarily entitled to, based on his ownership of one or more of the various classifications of property as computed by the formula set out hereinabove in Section 2, multiplied by the number of directors to be elected, and may cast all of such votes for any one director or may distribute them among the number to be voted for, or any two or more of them, as he may see fit, provided, however, that all votes must be cast in whole numbers and not fractions thereof. This right, when exercised, is termed "cumulative voting." Members are divided into classes for the sole purpose of computing voting rights and shall, in no event, vote as a class.

Section 4. Members to Have Power of Referendum in Certain Instances. Where specifically provided for herein, the Members, or some specific portion thereof, shall have the power to approve or reject certain actions proposed to be taken by the Association by Referendum including the levy by the Association of any Special Assessment, and the addition or deletion of functions or services which the Association is authorized to perform. In the event fifty-one (51%) percent, or more, of the votes actually returned to the Association within the specified time shall be in favor of such action, the Referendum shall be deemed to "pass" and the action voted upon will be deemed to have been authorized by the Members; provided, however, that if a higher percentage vote required to "pass" shall be specifically expressed herein, that higher percentage vote required to "pass" shall be specifically expressed herein, that higher percentage shall control in that instance. The Board of Directors may not undertake any action requiring a Referendum without complying with the provisions therefor.

In the event of a dispute as to whether a Referendum is required, the following action may be taken:

Within thirty (30) days after the adoption by the Directors of any action which is, in the opinion of the Members, subject to a Referendum, a petition signed by not less than

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twenty-five (25%) percent of the total Membership of the Association may be filed with the Secretary of the Association requesting that any such action be either repealed or submitted to a vote of the Members.

Regarding any issue, except those expressly provided for otherwise in this Declaration, which involves Special Assessments, extra-ordinary expenditures, or commitments by the Association that principally benefit the Owner, to the exclusion of other Property Owners, there shall be a Referendum in which the Owner shall not be permitted to cast his Special Voting Membership votes, as hereinabove described, but shall be limited to the votes allotted him under Classes "A" and "B" designations.

Section 5. Quorum Required for any Action Authorized at Regular or Special Meetings of the Association. The quorum required for any action which is subject to a vote of the Members at an open meeting of the Association (as distinguished from the Referendum) shall be as follows:

The first time a meeting of the Members of the Association is called to vote on a particular action proposed to be taken by the Association, the presence at the meeting of Members or proxies entitled to cast sixty (60%) percent of the total vote of the Membership shall constitute a quorum. If the required quorum is not forthcoming at any such meeting, a second meeting may be called subject to the giving of proper notice and the required quorum at such meeting shall be the presence of Members or proxies entitled to cast twenty-five (25%) percent of the total vote of the Membership of the Association. In the event the required quorum is not forthcoming at the second meeting, a third meeting may be called subject to the giving of proper notice and there shall be no quorum requirement for such third meeting. Unless otherwise provided, any reference hereafter to "votes cast at a duly called meeting" shall be construed to be subject to the quorum requirements established by this Article III, Section 5, and any other requirements of such "duly called meeting" shall be construed to be subject to the quorum requirements established by this Article III, Section 5, and any other requirements for such "duly called meeting" which may be established by the By-Laws of the Association. This provision shall not apply when the proposed action is the amendment of this Declaration and the quorum requirement established by Part Four, Article II shall govern in that instance. For the purpose of this Section, "proper notice" shall be deemed to be given when given each Member not less than thirty (30) days prior to the date of the meeting at which any proposed action is to be considered.

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Section 6. Proxies. All Members may vote and transact business at any meeting of the Association by proxy authorized in writing, provided, however, that proxies shall not be required for any action which is subject to a Referendum, in which case the votes of all the Members polled shall be made by specially provided ballots mailed to the Association.

ARTICLE II

COMMON PROPERTIES

Section 1. Common Properties. Subject to the provisions of these Covenants, the rules and regulations of the Association, and any charges established by the Association, every Class "A" Member shall have a right and easement of enjoyment in and to any property now or hereafter designated "Common Properties" pursuant to this Declaration and such easement shall be appurtenant to and shall pass with the title of every Residential Lot or Family Dwelling Unit, provided, however, that the privilege to use and enjoy the Common Properties may be denied to or withdrawn from such Member for violation of this Declaration, including the obligation to pay assessments when due. Area reserved for Recreational Amenities shall be conveyed to the Association as Common Properties upon the sale of ninety (90%) percent of the Residential Lots in the Resort but not later than December 31, 1999.

Section 2. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association to assume and pay any liens or encumbrances against the Common Property at the time of conveyance.

(b) The right of the Owner, its successors and assigns, or the Association by its Board of Directors, to dedicate or transfer to any public or private utility, utility easements on any part of the Common Properties.

(c) The right and easement of enjoyment to the Common Properties shall be limited to the Member and his or her spouse, children (under 18) permanently residing with the Member.

Section 3. The Owner covenants for itself, its successors and assigns, that, upon the sale of ninety (90%) percent of the Residential Lots in the Resort, but not later than December 31, 1999, it shall convey to the Association by deed, 99-year lease, or other instrument sufficient to convey to the Association the

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full beneficial use for at least ninety-nine (99) years, those properties to be designated as "Common Properties" including the properties listed in Section 4 of this Part Three, Article II.

The lakes, excluding golf course lakes, shown on the Owners Master Plan will be for the exclusive use of the owners of the lots bordering said lakes. The owners will convey the lakes to a non-profit corporation which will govern the use and maintenance thereof with restrictions as described in Part Four, Article I.

Section 4. The conveyance listed below shall be subject to all the restrictions and limitations of the various Articles of this Declaration, and any other restrictions and limitations of record:

As Common Properties. There shall be conveyed to the Association without charge by the Owner properties sufficient enough in size to accommodate a pool and tennis court(s).

ARTICLE III

MAINTENANCE AND RECREATIONAL ASSESSMENTS

Section 1. Payment of Assessments to Owner. Notwithstanding any provision hereinafter contained, until such time as the Owner has conveyed substantially all of the Common Properties, including the area reserved for Recreational Amenities, roadways, and maintenance facilities related to these properties, the assessments described in this Declaration shall be due and payable to the Owner, its successors or assigns and all rights hereby established on behalf of the Association, including the lien remedies, shall accrue to the benefit of the Owner.

While Ownership of such Common Properties is retained by the Owner, all funds necessary for the management, operation and maintenance of the properties which, upon conveyance to the Association, shall become Common Property, including the area reserved for Recreational Amenities, shall be derived from the assessments levied hereunder and any applicable user charges, annual user dues, security fees or maintenance fees.

Section 2. Creation of the Lien and Personal Obligations of Assessments. Each owner of any Residential Lot, Family Dwelling Unit, Development Unit Parcel, or Unsubdivided Land, whether or not it shall be so expressed in any such deed or other conveyance, agree to all terms and provisions of this Declaration and to pay to the Owner and, subsequently to the Association:

(1) Annual assessments or charges; and

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(2) Special assessments or charges for the purposes set forth in this Article, such assessments to be fixed, established and collected from time to time as hereinafter provided.

The Annual and Special Assessments together with such interest thereon and costs of collection therefor as hereinafter provided shall be a charge and continuing lien on the real property and improvements thereon against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall also be the personal obligation of the person who was the owner of such real property at the time when the assessment first become due and payable. In the case of co-ownership of a Residential Lot, Family Dwelling Unit, Development Unit Parcel, or any unsubdivided Land, all of such co-owners shall be jointly and severally liable for the entire amount of the assessment.

Section 3. Purpose of Assessments. The annual assessments levied hereunder shall be used exclusively for the improvement, maintenance management, enhancement, enlargement and operation of the areas reserved for Recreational Amenities (which ultimately shall be Common Properties), security system, insect control, vegetation control, drainage systems, Recreational Amenities, and for Common Properties, and to provide services which the Owner or Association is authorized to provide. In carrying out these duties, the Owner or Association may make payment of taxes and insurance thereon, make improvements on Common Properties, pay the cost of labor, equipment, materials, management, supervision, accounting, and Member information services, maintain offices and equipment, repay any loans made to the Owner or the Association, and take such other action as is necessary to carry out its authorized functions.

In the case of annual operation of Common Properties, upon conveyance to the Association all funds necessary for such operation need not be derived from the assessments levied by the Association, but rather may be derived from user charges and annual user dues for the particular facility as determined by the Association. Such user charges and user dues shall be in addition to and not in lieu of any other assessments herein provided for.

Section 4. Amount of Assessment. The annual assessment in the amount of $50 per Residential Lot shall be levied by the Owner of the Association commencing January 1, 1989. Assessments shall be pro-rated in the year in which a Residential Lot is conveyed to a purchaser by the Owner.

The developer reserves the right to subject the real property herein to a contract with Black River Electric Cooperative or Carolina Power & Light for the installation of underground

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electric cables and/or the installation of street lighting, either both of which may require an initial payment and/or continuing monthly payments to Black River Electric Cooperative by the owner of said property herein described.

Property shall not be classified for purposes of these covenants and these Annual Assessments as a Residential Lot until conveyed to the purchaser by the Owner.

From and after January 1, 1989, the annual assessment may be increased each year by the Owner or Board of Directors of the Association after the Common Properties are conveyed to the Association, by any amount not in excess of five (5%) percent per year, or the percentage increase between the first month and the last month of an annual assessment period in the Consumer Price Index, U.S. City Average, All Items (1967=100) (hereinafter "C.P.I.") issued by the U.S. City Average, Labor Statistics in its monthly report entitled "The Consumer Price Index, U.S. City Average and Selected Areas" whichever of these two percentage figures is larger. After conveyance of the Common Properties to the Association, three-fourths (3/4) of the votes cast at a duly called meeting of the Association, subject to the quorum requirement established by Part Three, Article I, Section 2 hereof, may vote against such increase or vote to increase said annual assessment by a greater amount or to decrease the annual assessment. In the event that the C.P.I. referred to above shall be discontinued, then there shall be used the most similar index published by the United States Government that may be procured indicating changes in the cost of living.

Section 5. Special Assessments for Improvements and Additions. In addition to the annual regular assessments authorized by Section 3 hereof, the Association, when it has been conveyed the Common Properties by the Owner, may levy special assessments, for the purpose of construction or reconstruction, repair or replacement of capital improvements upon the Common Properties, including the necessary fixtures and person property related thereto, or to provide for the necessary facilities and equipment to offer the services authorized herein, and to repay any loan made to the Association to enable it to perform the duties and functions authorized herein provided that such assessment shall have received the assent of a majority of the votes of the Members responding to a mail Referendum within thirty (30) days of mailing, with such mail Referendum to include a statement prepared by the Directors of the Association favoring such assessments stating the reasons therefor, together with a statement prepared by the Directors dissenting from such assessment provided, however, that neither of such statements may exceed a maximum length of five pages on each proposed assessment. This provision shall be interpreted to mean that the Association may make, in any one year, an annual assessment plus an additional special assessment.

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The Owner or the Association may establish reserve funds equal to ten (10%) percent of its receipts from its regular annual assessments to be held in reserve in an interest drawing account or investments as a reserve for (a) major rehabilitation or major repairs, and (b) for emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss.

Section 6. Quorum for any Action Authorized Under this Article. The quorum required for any action authorized to be taken by the Association Members under this Article shall be as follows:

The first time any meeting of the members of the Association if called to take action under this Article, the presence at the meeting of Members or proxies entitled to cast sixty (60%) percent of the total vote of the Membership, shall constitute a quorum. If the required quorum is not forthcoming at any such meeting, a second meeting may be called subject to the giving of proper notice and the required quorum at such subsequent meeting shall be the presence of Members or proxies entitled to cash twenty-five (25%) percent of the total vote of the membership of the Association.

Section 7. Date of Commencement and Proration of Annual Assessments. Due Date. Notwithstanding anything in the foregoing to the contrary, the annual assessments provided for herein shall commence no earlier than January 1, 1989.

The first annual assessment shall be made for the calendar year and shall become due and payable thirty (30) days after the day fixed for the commencement. The Owner or Board of Directors of the Association, after it has been conveyed the Common Properties, shall have the power to change the date upon which annual payment of annual assessments, i.e., lump sum, monthly installment, etc., provided, however, that the annual assessment shall be due and payable at least annually.

Section 8. Duties of the Board of Directors. The Owner, initially and thereafter the Board of Directors of the Association shall fix the amount of the assessment against each Residential Lot, Family Dwelling Unit, Development Unit Parcel, or Unsubdivided Land, and shall, at that time, direct the preparation of an index of the properties and assessments applicable thereto which shall be kept in the office of the Association and which shall be open to inspection by any Property Owner. Written notice of assessment shall thereupon be sent to every Property Owner subject thereto.

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The Association shall, upon demand at any time, furnish to any Property Owner liable for said assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence against all but the Property Owner of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non-Payment of Assessment: The Personal Obligation of the Property Owner; the Lien; Remedies of Association. If the assessment is not paid on or before the past-due date specified in Section 8 hereof, then such assessment shall become delinquent and shall, together with interest thereon at the rate of twelve (12%) percent per annum from the due date and cost of collection thereof as hereinafter provided, thereupon become a charge and continuing lien on the land and all improvements thereon, against which each such assessment is made, in the hands of the Property Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the Property Owner at the time when the assessment first become due and payable to pay such assessment, however, shall remain his personal obligation and shall not pass as a personal obligation days after receipt of such request. Such copy may be furnished to the Member either in person or by mail. Prior to such time as the Association assumes the aforesaid obligation, the Owner shall not be required to provide the aforesaid statement to the Property Owners.

ARTICLE VI

FUNCTIONS OF ASSOCIATION

Section 1. Ownership and Maintenance of Common Properties. The Association shall be authorized to own and maintain Common Properties and equipment, furnishings, and improvements devoted to the following uses:

(a) for providing any of the services which the Association is authorized to offer under Section 3 of this Article; and

(b) for swimming pool, tennis facilities, fishing facilities, and other recreational facilities of any nature.

Section 2. Ownership and Maintenance of Common Properties. The Association shall be authorized to construct, own and maintain the Recreational Amenities within the Resort. The Association shall be authorized to require the payment of user fees, annual user dues, or initiation charges.

Section 3. Services. The Association shall be authorized but not required to provide the following services:

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(a) clean-up, maintenance, landscaping, and lighting of all roads, parkways, lagoons, within the Property and also all public properties which are located within or in a reasonable proximity to the Property such that their deterioration would affect the appearance of the Property as a whole;

(b) transportation facilities other than privately owned automobiles, paid for by special assessment as provided for herein;

(c) garbage and trash collection and disposal;

(d) insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors of the Association to supplement the service provided by the State and local governments;

(e) the services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this Declaration;

(f) to take any and all actions necessary to enforce all covenants and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Property;

(g) to set up and operate the Review Board as hereinabove provided;

(h) to conduct recreation, sport, craft, and cultural programs of interest to Members, their children and guests;

(i) to provide safety equipment for storm emergencies;

(j) to monitor and support the operation of transportation services between key points of the Property and the airports, other public transportation terminals, schools, and public center serving the area surrounding the Property by the collection of user fees for the use thereof;

(k) to provide administrative services including but not limited to: legal; accounting and financial; and communication services informing Members of activities, Notice of Meetings, Referendums, etc., incident to the above listed services;

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(l) to provide liability and hazard insurance covering improvements and activities on the Common Properties, independently or in collaboration with the Owner; and

(m) to construct, maintain, operate and govern the Recreation Amenities on the Property once they are conveyed to the Association including the promulgation of Rules and Regulations for the administration thereof. Prior to conveyance the Owner shall have the sole responsibility to promulgate the said Rules and Regulations.

Section 4. Obligation of the Association. The Association shall not be obligated to carry out or offer any of the functions and services specified or implied in this Declaration. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association taking into consideration the funds available to the Association and the needs of the Members. Special assessments shall be submitted for Referendum as herein provided. The functions and services which the Association is authorized to provide may be added or reduced at any time upon the affirmative vote of fifty-one (51%) percent or more of those voting in a Referendum conducted by the Board of Directors under the same procedures as for a special assessment.

Section 5. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association only in performing its authorized functions.

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PART FOUR

SPECIAL RESTRICTIONS AFFECTING
COMMON PROPERTIES AND WATER FRONT AREAS

ARTICLE I

COMMON PROPERTIES AND WATERFRONT AREAS

Section 1. Trust Property. The Owner covenants and agrees to convey propertie(s) to the Association Common Properties on which the Association may contract tennis court(s) and pool.

Section 2. Water Front Lakes. The lakes, excluding golf course lakes, shown on the Owners Master Plan will be for the exclusive use of the owners of the lots bordering said lakes. The owners will convey the lakes to a non-profit corporation which will govern the use and maintenance thereof with restrictions as described in Part Four, Article I.

Section 3. Docks. Owners of lots fronting on the property described in Section 1 above, to be conveyed, may erect docks upon complying with the following terms and conditions of which the non-profit corporation must comply:

(a) Complete plans and specifications including site, color or finish must be submitted to the Review Board in writing;

(b) Written approval of the Review Board to such plans and specifications must be secured, the Review Board reserving the right in its uncontrolled discretion to disapprove such plans and specifications on any grounds, including purely aesthetic reasons; and

(c) Compliance with all governmental regulations, laws and ordinances.

Any alterations of the plans and specifications or of the completed structure must also be submitted to the Review Board in writing and the Review Board's approval in writing must be similarly secured prior to construction, the Review Board reserving the same rights to disapprove alterations as it retains for disapproving the original structures.

Section 4. Maintenance of Docks. All Property Owners who construct or cause to be constructed said docks must maintain said structures in good repair and keep the same safe, clean and orderly in appearance at all times, and further agree to paint or otherwise treat with preservatives all wood or metal located above the high water mark, exclusive of pilings, and to maintain

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such paint or preservatives in an attractive manner. The Owner shall be the judge as to whether the docks are safe, clean, orderly in appearance, and properly painted or preserved in accordance with reasonable standards, and where the Owner notifies the particular Property Owner in writing that said dock fails to meet acceptable standards, said Property Owner shall thereupon remedy such conditions within thirty (30) days to the satisfaction of the Owner, and that failing to so remedy such conditions, the Property Owners hereby covenant and agree that the Owner may make the necessary repairs, but is not obligated to make such repairs or take such actions as will bring said dock up to acceptable standards, all such repairs and actions to be at the expense, solely, of the lot owner in question.

Section 4. Trespass. Whenever the Owner is permitted by these covenants to correct, repair, clean, preserve, clear out or do any action on the property of any taking such action shall not be deemed a trespass.

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PART FIVE

GENERAL PROVISIONS

ARTICLE I

DURATION

Section 1. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, the Owner, or any Property Owner, their respective legal representatives, heirs, successors, and assigns, for a period of twenty-five (25) years from the date this Declaration is recorded. Upon the expiration of said twenty-five (25) year period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if, during the last year of the initial twenty-five (25) year period, three-fourths (3/4) of the votes cast at a duly held meeting of the Association vote in favor of terminating this Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such a proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given each Member at least thirty (30) days in advance of said meeting. In the event that the Association votes to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the number of votes necessary to adopt a resolution terminating this Declaration, the total number of votes cast against such resolution. Said certificate shall be recorded in the official real estate records for Sumter County, South Carolina, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

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ARTICLE II

AMENDMENTS

Section 1. The Owner specifically reserves to himself, his heirs and assigns, the right to amend this Declaration, or any portion thereof, on its own motion, from the date hereof until January 1, 1990, so long as the voting power of existing Members is not diluted thereby, nor the amounts of assessments of such existing Members raised or changed in any manner which would adversely affect such Members, after which time the procedure for amendment shall be as follows: All proposed amendments shall be submitted to a vote of the Members at a duly called meeting of the Association and any such proposed amendment shall be deemed approved if three-fourths (3/4) of the votes cast at such meeting at which such proposed amendment is to be considered are in favor of the amendment. If any proposed amendment to this Declaration is approved by the members as set forth above, the President and Secretary of the Association shall execute an Addendum to this Declaration which shall forth the amendment, the effective date of the amendment (which in no event shall be less than sixty (60) days after the date of the meeting of the Association at which such amendment was adopted), the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes cast against the amendment. Such Addendum shall be recorded in the official real estate records of Sumter County, South Carolina.

The quorum required for any action authorized to be taken by the Association under this Section 1 shall be as follows:

Section 2. The first time any meeting of the Members of the Association is called to take action under this Article, the presence at the meeting of the Members or proxies entitled to cast sixty (60%) percent of the total vote of the Membership shall constitute a quorum. If the required quorum is not forthcoming at any such meeting, a second meeting may be called subject to the giving of proper notice and the required quorum at such subsequent meeting shall be the presence of Members or proxies entitled to cast fifty (50%) percent of the total vote of the Association.

ARTICLE III

NOTICES

Section 1. Any notice required to be sent to any Member or Property Owner under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, with the proper postage affixed, to the last known

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address of the person or entity who appears as owner in the public records of Sumter County, South Carolina, on the first day of the calendar month in which said notice is mailed.

Section 2. Notice to one of two or more co-owners of a Residential Lot, Family Dwelling Unit or Development Unit Parcel shall constitute notice to all co-owners. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any change of address.

Section 3. Any person who becomes an owner and Member following the first day in the calendar month in which said notice is mailed shall be deemed to have been given notice if notice was given to his predecessor in title.

ARTICLE IV

ENFORCEMENT, SEVERABILITY AND INTERPRETATION

Section 1. Who May Enforce Generally. In the event of a violation or breach of any of the affirmative obligations or restrictions contained in this Declaration by any Property Owner or agent of such Property, the Owner or any other Property Owners or any of them jointly or severally shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event.

Section 2. Enforcement by the Association. In addition to the foregoing, the Association shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event. The Association may engage a person or persons to respond to complaints received as to violations of the covenants and shall inform the violators of such complaint. If the violation is not expeditiously terminated, the Owner or Association may engage legal counsel to bring an appropriate injunctive action, including any appeals, to enforce these covenants. Violators shall be obligated to reimburse the Association in full for all its direct and indirect costs, including but not limited to legal fees incurred by the Association in maintaining compliance with these covenants.

Section 3. Enforcement by the Owner. In addition to the foregoing, the Owner shall have the right, but shall not be obligated, to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event. Violators shall be obligated to reimburse the Association and/or the Owner in full for all its direct and indirect costs, including but not limited to legal fees incurred in maintaining compliance with these covenants.

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Section 4. Against Whom May the Covenants Be Enforced. The obligations and benefits prescribed by the covenants shall run with the Property and shall be enforceable against the Owner, its successors and assigns, the Lakewood Links Property Owners' Association, and against any Property Owner or other person whose activities bear a relation the the Property when the aforesaid parties engaged in activities (including omissions and failures to act) which constitute violations or attempts to violate or circumvent the covenants and restrictions set forth in this Declaration.

Section 5. Means of Enforcement. Enforcement of these Covenants shall be by any proceeding at law or in equity, whether it be to restrain violation or to recover damages or to create any lien created by these Covenants.

Section 6. Severability. Should any covenants or restriction herein contained, or any Part, Article, Section, paragraph, sentence, clause, phrase or term in this Declaration be declared to be void, invalid, illegal, or unenforceable for any reason by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgement shall in no wise affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 7. Interpretation. In all cases, the provisions of this Declaration shall be given that interpretation of construction which will best tend toward the consummation of the general plan of development of the Property. The provisions of these covenants shall be given full force and effect notwithstanding the existing of any zoning ordinance which allows a less restricted use of the Property.

Section 8. Authorized Action. All action which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board of Directors of the Association in the manner provided for in the By-Laws of the Association, unless the terms of this instrument provided otherwise.

Section 9. Trespass. Whenever the Association, and/or the Owner are permitted by these Covenants to correct, repair, clean, preserve, clear out or do any action on any property or on the easement areas adjacent thereto, entering the property and taking such action shall not be deemed a trespass.

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ARTICLE V

TERMINATION OF ASSOCIATION

Section 1. In the event that this Declaration be declared to be void, invalid, illegal, or unenforceable in its entirety, or in such a significant manner that the Association is not able to function substantially as contemplated by the terms hereof, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, and such adjudication occurs within ten (10) years of the date of recording this Declaration, all Common Properties belonging to the Association at the time of such adjudication shall revert to the Owner.

Section 2. The Owner shall own and operate said Common Properties as Trustee for use and benefit of owners of Residential Lots, Family Dwelling Units, and Development Unit Parcels within the Property, subject to the conditions and easements as set forth herein.

Section 3. If said adjudication shall occur on a date more than ten (10) years after the date of recording of this Declaration, or if the Members of the Association should vote not to renew and extend this Declaration as provided for herein, all Common Properties owned by the Association at such time shall be transferred to a Trustee appointed by the appropriate court of Sumter County, South Carolina, which Trustee shall own and operate said land for use and benefit of owners within the Property as set forth herein.

(a) Each lot or parcel of land located within the Property shall be subject to an annual assessment which shall be paid by the owner of each such lot or parcel to the Owner or Trustee, whichever becomes the successor in title to the Association. The amount of such annual assessment and its due date shall be determined solely by the Owner or the Trustee, as the case may be, but the amount of such annual assessment, on any particular lot or parcel, shall not exceed the amount actually assessed against that lot or parcel in the last year that assessments were levied by the Association, subject to the adjustments set forth in paragraph (b) below.

(b) The amount of the minimum and maximum annual assessment which may be charged by the Owner or Trustee hereunder on any particular lot or parcel shall be automatically increased each year by either five (5%) percent or the percentage increase between the first month and the last month of the annual assessment period in the Consumer Price Index, U.S. City Average, All Items

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(1967=100) (hereafter "C.P.I.") issued by the U.S. Bureau of Labor Statistics in its monthly report entitled "The Consumer Price Index, U.S. City Average and Selected Areas," whichever of these two percentage figures is larger. If the C.P.I. is discontinued, then there shall be used the most similar index published by the United States Government that may be procured.

(c) Any past due annual assessment together with interest thereon at a rate of twelve (12%) percent per annum from the due date and all costs of collection including reasonable attorney's fees shall be a personal obligation of the Property Owner at the time the annual assessment became past due, and it shall also constitute and become a charge and continuing lien on the lot or parcel of land and all improvements thereon, against which the assessment has been made, in the hands of the then owner, his heirs, devisees, personal representatives and assigns.

(d) The Owner or the Trustee, as the case may be, shall be required to use the funds collected as annual assessments for the operation, maintenance, repair and upkeep of the Common Properties. The Owner or Trustee may charge, as part of the cost of such functions, the reasonable value of its services in carrying out the duties herein provided for. Neither the Owner nor the Trustee shall have the obligation to provide for operation, maintenance, repair and upkeep of the Open Space or Common Properties, once the funds provided by the annual assessment have been exhausted.

(e) The Owner shall have the right to convey title to the Common Properties and to assign his rights and duties hereunder, provided that the transferee accepts such properties subject to the limitations and uses imposed hereby and affirmatively acknowledges its acceptance of the duties imposed hereby.

(f) The Trustee shall have the power to dispose of the Common Properties free and clear of the limitations imposed hereby; provided, however, that such disposition shall first be approved in writing by fifty-one (51%) percent of the Property Owners, or in the alternative, shall be found to be in the best interest of the Property Owners by the appropriate court of Sumter County, South Carolina. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Properties, then for the payment of any obligations incurred by the Trustee in the operation, maintenance, repair

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and upkeep of such properties, then for the payment of any obligations distributed among the owners of property within the Property, exclusive of the Trustees, in a proportion equal to the portion that the maximum annual assessment of property owned by a particular owner bears to the total maximum annual assessments for all property located within the Property.

Dated this 28th day of Dec., 1988.

WITNESSES:

OWNER:

LAKEWOOD LINKS ASSOCIATES, a South Carolina General Partnership

By: _____
Harold A. Sigmon,
Managing General Partner

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

PERSONALLY appeared before me the undersigned witness who, being duly sworn, deposes and says that (s)he saw the within named Lakewood Links Associates, a South Carolina General Partnership, by Harold A. Sigmon, its Managing General Partner, sign, seal and as its act and deed deliver the foregoing Declaration of Covenants and Restrictions, and that (s)he, together with the other witness whose name appears as a witness, witnessed the execution thereof.

SWORN to and subscribed before me,
this 28th day of Dec., 1988.

Notary Public for South Carolina
My Commission expires: _____

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EXHIBIT "A"

All those certain pieces, parcels or lots of land, lying, being and situate in Privateer Township, Sumter County, State of South Carolina, described as follows:

A. Lots 228 and 229 of "Lakewood Subdivision", Section 4, shown on that certain plat of Joseph R. Edwards, R.L.S., dated January 3, 1980, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-45, page 104.

B. Lot 9 of "Lakewood Subdivision", Section 30, shown on that certain plat of Joseph R. Edwards, R.L.S., dated July 16, 1980, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-44, page 289.

C. Lot 21 of "Lakewood Subdivision", Section 30, shown on that certain plat of Joseph R. Edwards, R.L.S., dated February 26, 1981, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-45, page 363.

D. Lot No. 189, plat of "Lakewood Subdivision", Section 3, made by Joseph R. Edwards, R.L.S., dated March 16, 1979, and recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-43, page 124.

E. All those certain lots Nos. 1 through 70, 81, 82, 187 through 209, 239, 61A, 62A and 63A on that certain plat of "Lakewood Links", Phase I, prepared by Carl J. Croft, R.L.S., dated September 28, 1988, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book 88, page 1292.

Dec 29, 1988 AT 4:[illegible] PM
RECORDED, VOL. 491 PG. 1277
HARRY E. JOHNSON
REGISTER OF MESNE CONVEYANCES
SUMTER, S.C.

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STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

SUPPLEMENTARY DECLARATION OF COVENANTS AND RESTRICTIONS

PURSUANT to Article II, Section 2(a), of those certain Restrictive Covenants recorded in the Office of the RMC for Sumter County in Deed Book 481, at page 1879, said covenants are extended to include the following described property:

> "All those certain lots of land in Phase I, First Addition, "Lakewood Links" Subdivision, shown and designated as Lots 64A thru 67A on that certain plat of Croft Engineering dated July 12, 1990 and filed for record in Plat Book 90, at page 927.

IN WITNESS WHEREOF, the undersigned has set its Hand and Seal this 1st day of August, 1990.

IN THE PRESENCE OF:

LAKEWOOD LINKS ASSOCIATES, A SOUTH CAROLINA GENERAL PARTNERSHIP

BY: HAROLD A. SIGMON
ITS: MANAGING PARTNER

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

PROBATE

PERSONALLY appeared before me the undersigned witness who, being duly sworn deposes and says that (s)he saw the within named Lakewood Links Associates, a South Carolina General Partnership, by Harold A. Sigmon, its Managing Partner, sign, seal and as its act and deed, deliver the within written instrument, and that deponent with the other witness named above, witnessed the execution thereof.

SWORN to before me this
1st day of August, 1990.

(LS)
NOTARY PUBLIC FOR S. C.
MY COMMISSION EXPIRES: 10-5-93

Filing Fee 10.00
Total 10.00

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EXHIBIT "A"

All those certain pieces, parcels or lots of land, lying, being and situate in Privateer Township, Sumter County, State of South Carolina, described as follows:

A. Lots 228 and 229 of "Lakewood Subdivision", Section 4, shown on that certain plat of Joseph R. Edwards, R.L.S., dated January 3, 1980, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-45, page 104.

B. Lot 9 of "Lakewood Subdivision", Section 30, shown on that certain plat of Joseph R. Edwards, R.L.S., dated July 16, 1980, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-44, page 289.

C. Lot 21 of "Lakewood Subdivision", Section 30, shown on that certain plat of Joseph R. Edwards, R.L.S., dated February 26, 1981, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-45, page 363.

D. Lot No. 189, plat of "Lakewood Subdivision", Section 3, made by Joseph R. Edwards, R.L.S., dated March 16, 1979, and recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-43, page 124.

E. All those certain lots Nos. 1 through 70, 81, 82, 187 through 209, 239, 61A, 62A and 63A on that certain plat of "Lakewood Links", Phase I, prepared by Carl J. Croft, R.L.S., dated September 28, 1988, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book 88, page 1292.

DEC 22 1988 AT 4:42 PM
RECORDED: VOL. 491 PG. 1979
HARRY E. JOHNSON
REGISTER OF MESNE CONVEYANCES
SUMTER, S.C.

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EXHIBIT P-2
Deed – 3020 Tidewater Drive

Assessor's Endorsement
01/13/2021 03:45:11 PM

BOOK: 1279
PGS: 1851 - 1854
D January 13, 2021 11:14:56 AM Pgs 4
Rec: $15.00 Total: $15.00
Cons: $0.00
VICKI M. MCCARTHY - REGISTER OF DEEDS SUMTER COUNTY
By: RBC

Auditor's Endorsement
01/15/2021 04:14:19 PM

* Curtis and Croft, LLC
325 W. Calhoun Street
Sumter, SC 29150
File No. Curtis & Croft 2020-2278

State of South Carolina)
)
County of Sumter)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, that **April W. Josey** , (hereinafter called "Grantor"), in consideration of **Five Dollars ($5.00),** and other good and valuable consideration, to the Grantor in hand paid at and before the sealing of these presents, by **April W. Josey and Jason M. Josey** (hereinafter called Grantee) in the State aforesaid, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold, and released, and by these presents does grant, bargain, sell and release unto **April W. Josey and Jason M. Josey** , as joint tenants with rights of survivorship, and not as tenants in common, the following described property, to wit:

All that certain piece, parcel or lot of land with the improvements thereon, if any, situate, lying and being in the County of Sumter, State of South Carolina, being shown and designated as Lot No. 269 of Lakewood Links Subdivision Phase VI on that certain plat prepared by Carl Croft, RLS, dated May 31, 1997, and recorded in the Office of the Register of Deeds for Sumter County in Plat Book PB97, page 814. This said lot has such metes, boundaries, courses and distances as are shown on said plat, which are incorporated herein in accordance with the provisions of Section 30-5-250 of the Code of Laws of South Carolina, 1976. This being the same property known as 3020 Tidewater Drive, Sumter, SC. Represented by Sumter County Tax Parcel No. 223-10-02-012.

This being the identical property conveyed unto April W. Josey by deed of Paula McCormick dated January 7 2021 and recorded in the Office of the Register of Deeds for Sumter County in Book 1279 at page 124 on January 11, 2021.

This conveyance is made subject to any restrictions, reservations, zoning ordinances or easements that may appear of record on the recorded plats or on the premises.

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining;

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the Grantee, and the Grantee's heirs and assigns forever.

And the Grantor does hereby bind the grantor and the grantor's heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the Grantee and the Grantee's heirs or successors and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Any reference to this instrument to the singular shall include the plural, and vice versa. Any reference to one gender shall include the others, including the neuter.

Such words of inheritance shall be applicable as are required by the gender of the Grantee.

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WITNESS the Grantor's hands and seals this the 8 day of January, 2021.

SIGNED, SEALED AND DELIVERED
in the presence of:

Witness #1
Printed Name Debra A. Hall

April W. Josey

Witness #2
Printed Name William H. Croft

State of South Carolina)
) Acknowledgment
County of Sumter)

I, the undersigned, a Notary Public do hereby certify that **April W. Josey** personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 8 day of January,2021.

Notary Public for South Carolina
Notary(Printed Name) William H. Croft
My commission Expires: 02/02/2022

Grantee's Address: 3020 Tidewater Drive
Sumter SC 29150

Deed Prepared by and Return to:
CURTIS & CROFT, LLC
P.O. Box 3220
Sumter, SC 29151
File No. Curtis & Croft 2020-2278

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STATE OF SOUTH CAROLINA)
) AFFIDAVIT
COUNTY OF SUMTER)

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property is being transferred is located at 3020 Tidewater Drive bearing Sumter County Tax Map Number 223-10-02-012, was transferred by **April W. Josey to April W. Josey and Jason M. Josey** on the date set forth herein.
3. Check one of the following: The deed is
   (a) ____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
   (b) ____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary.
   (c) __X__ exempt from the deed recording fee because (See Information section of affidavit) to add spouse
   (If exempt, please skip items 4-7, and go to item 8 of this affidavit.)
   If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes ____ or No ____
4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):
   (a) ____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of
   (b) ____ The fee is computed on the fair market value of the realty which is $ ____.
   (c) ____ The fee is computed on the fair market value of the realty as established for property tax purposes which is $ ____.
5. Check YES____ or NO __X__ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. (This includes, pursuant to Code Section 12-59-140(E)(6), any lien or encumbrance on reality in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer). If "YES," the amount of the outstanding balance of this lien or encumbrance is $ ____.
6. The deed recording fee is computed as follows:
   (a) Place the amount listed in item 4 above here: ($0.00)
   (b) Place the amount listed in item 5 above here: $ 0.00
   (If no amount is listed, place zero here.)
   (c) Subtract line 6(b) from line 6(a) and place the result here: ($0.00)
7. The deed recording fee due is based on the amount listed on line 6(c) above and the deed recording fee due is $ 999.00
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: **Grantor** .
9. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

April W. Josey
Responsible Person Connected with the Transaction

SWORN to before me this
8 day of January, 2021

Notary(Printed Name) William H. Croft
Notary Public for South Carolina
My Commission Expires: 02/02/2022 Curtis & Croft 2020-2278

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INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty.' Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. (This includes, pursuant to Code Section 12-59-140(E)(6), any lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer.) Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

(1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
(2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
(3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
(4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
(5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
(6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
(7) that constitutes a contract for the sale of timber to be cut;
(8) transferring realty to a corporation, a partnership, or a trust as a stockholder, partner, or trust beneficiary of the entity or so as to become a stockholder, partner, or trust beneficiary of the entity as long as no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in the stock or interest held by the grantor. However, except for transfers from one family trust to another family trust without consideration or transfers from a trust established for the benefit of a religious organization to the religious organization, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee, even if the realty is transferred to another corporation, a partnership, or trust;
(9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
(10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
(11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership;
(12) that constitutes a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed;
(13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagor or deed pursuant to foreclosure proceeding;
(14) transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty;
(15) transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act.

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EXHIBIT P-3
Application for Architectural Approval

ELECTRONICALLY FILED - 2022 Dec 29 10:07 AM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

Lakewood Links Property Owners Association
ARCHITECTURAL REVIEW BOARD
APPLICATION FOR ARCHITECTURAL APPROVAL

Property Owners Name:Jason & April Josey			Date: 07/02/2021
Property Address:3020 TIdewater Drive			Lot#
Telephone:	Home: 803-983-7168	Work:	
Email:apriljosey@outlook.com			
Estimated Completion Date:TBD due to availability			
Contractors Name and Telephone (if applicable):			
Reason for Change or Addition: We would like to install an inground pool			
Project Type:			

Addition	Deck/Patio	Fence	Landscaping	Other
☐	☐	☐	☐	☒

Project Description: Please describe briefly the proposed change or addition. Cite materials to be used and proposed color(s). Describe similarities to existing structures, if applicable. Use a separate sheet of paper if necessary. Please attach clear, legible drawings.

Inground Pool - concrete

Send completed form to LLPOA ARB – 3500 Green View Pkwy, Sumter, SC 29150 – LLPOAsumter@gmail.com

ARB Approval: ☐	Conditional Approval: ☐	Disapproval: ☐
ARB Comments:		
Signed: (ARB Chairperson):		Date:

Rev: 6/11/2018

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EXHIBIT P-4
Email Correspondence – Approval by Architectural Review Approval

Gmail

Lakewood Links <llpoasumter@gmail.com>

3020 Tidewater Dr ARB request

1 message

Lakewood Links <llpoasumter@gmail.com> Sat, Jul 3, 2021 at 10:04 AM
To: April Josey <apriljosey@outlook.com>, Lakewood Links <llpoasumter@gmail.com>

Thank you for submitting your ARB request, I am pleased to inform you that it has been approved. We would like to wish you good luck with your installation..

Please feel free to reach out with any questions.

--
Lakewood Links Property Owners Association
ARB Chair
Rory Hair

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EXHIBIT P-5
Email Correspondence – Notice to Remove Fence

Gmail

Lakewood Links <llpoasumter@gmail.com>

3020 Tidewater Dr / Privacy Fence

1 message

Lakewood Links <llpoasumter@gmail.com> Mon, Sep 6, 2021 at 9:12 PM
To: April Josey <apriljosey@outlook.com>, Lakewood Links <llpoasumter@gmail.com>

We have noticed that you have installed a privacy fence around your backyard, We have looked back and there was an ARB submission for a pool but there was no mention of a fence. New privacy fences of wood or vinyl are not allowed in the Lakewood Links HOA. We realize that there are several yards with wood privacy fencing around you but they are not a part of our HOA therefore we can not regulate what they install. There are also a few fences around that are in the yards of HOA properties but they were installed years ago when the HOA Assoc. was not very active in the community. These have been Grandfathered in and if ever replaced they will have to choose a different fencing. During the purchase of your home the realtor should have given you a copy of the covenants. I will attach a copy of the Covenants and paste the section where it addresses fences.

We respectfully request that you take down your privacy fence within 60 days of this email.

Only fencing of the backyard is permitted; a fence cannot extend further forward, toward the street, than the midway point of the sides of the house. Four feet (4') maximum height for coated black chain link fence, black wrought iron or black aluminum or combination of brick and black metal. Brick fences may be five (5') feet in height with six (6') foot pillars. Brick fences must be open design, e.g see through. Six foot (6') chain link, wooden or vinyl picket or privacy fences are not allowed. Fencing that does not meet these requirements must be brought into compliance when major renovation or replacement is required or performed.

Thank you for your cooperation

Lakewood Links Property Owners Association
ARB Chair
Rory Hair

2 attachments

Lakewood Convenants.pdf
2498K

LLPOA ConditionsRestrictions(12-10-2019)-2.pdf
133K

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July 22, 2022

VIA PROCESS SERVER
Mr. Jason Josey and Mrs. April Josey
3020 TIDEWATER DRIVE
SUMTER, SC 29150

RE: DEMAND LETTER – FENCE REMOVAL AND/OR ALTERATION

Dear Mr. and Mrs. Josey,

The Lakewood Links Property Association (LLPOA) Board has reviewed your response to their demand to remove the unauthorized fence on your property. The covenants creating the LLPOA are still in effect and include the following:

PART TWO, ARTICLE I, Section 2. (e) (p.14)
Review of Approval of Plans for Addition Alterations or Changes to Structures and Landscaping.
No building, wall, fence, deck, pier, swimming pool, roof, exterior light or other improvement of any kind shall be commenced or erected upon any Residential Lot or upon the exterior of any Family Dwelling Unit or upon the Common Properties, nor shall any landscaping be done, nor shall any addition to any existing building or alteration or change therein be made until the proposed building plans, specifications (including height, materials, and exterior finish), plot plan, and construction schedule shall have been submitted to and approved by the Review Board.

PART TWO, ARTICLE I, Section 2. (f) (p.14-15)
Submission, Approval and Refusal of Architecture, Siting, Landscaping and Other Building Plans.
.... Refusal of approval of plans, location or specification may be based by Review Board upon any ground which is consistent with the objectives of these covenants, including purely aesthetic considerations, so long as such ground is not arbitrary or capricious.

Once again the Board demands that you remove the unauthorized fence from your property within the next twenty one (21) days from receipt of this notice. Failure to remove the unauthorized fence will result in further legal action.

ELECTRONICALLY FILED - 2023 Mar 03 12:40 PM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

STATE OF SOUTH CAROLINA COUNTY OF SUMTER	IN THE COURT OF COMMON PLEAS FOR THE THIRD JUDICIAL CIRCUIT JUDICIAL CIRCUIT C/A No.: 2022-CP-43-2015
Lakewood Links Property Owners Association, Inc. Plaintiff, v. Jason M. Josey and April W. Josey, Defendants.	**ANSWER**

22347.1

TO: THE ABOVE-NAMED PLAINTIFF AND THEIR COUNSEL OF RECORD:

The Defendants in this action, Jason M. Josey and April W. Josey (hereinafter, collectively, the "Defendants"), hereby submit this Answer to Plaintiff's Complaint, and would respectfully show the following unto the Court:

1. Each and every allegation not expressly admitted is denied.
2. Paragraph 1 is admitted.
3. Paragraph 2 is admitted except to the extent it alleges that Defendants' property is subject to the restrictive covenants or that Plaintiff has the right to enforce any restrictive covenants against Defendants.
4. Paragraph 3 is admitted.
5. Paragraphs 4,5, and 6 are admitted except to the extent it alleges Defendants are legally obligated to receive approval from Plaintiff before making improvements to their property. Defendants deny that their property is subject to any restrictive covenants and

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to the extent restrictive covenants are applicable, Defendants assert Plaintiffs lacks authority to enforce them.

6. Paragraphs 7 and 8 are admitted.

7. Defendants admit so much of paragraph 9 as it alleges that Defendants failed to remove the fence. The remaining allegations of paragraph 9 are denied.

8. Paragraphs 10, 11, and 12 are denied.

9. Paragraphs 13, 14, 15, 16 and 17 are admitted.

10. Paragraphs 18 and 19 are denied.

FOR A FIRST DEFENSE

(Waiver, Estoppel, Laches, Release, and/or Unclean Hands)

11. The Defendants would show that the equities are balanced in their favor, and that some or all of Plaintiff's claims may be barred, in whole or in part, by the doctrines of waiver, release, estoppel, laches and/or unclean hands.

FOR A SECOND DEFENSE

(Privity)

12. Plaintiff lacks privity necessary to enforce any restrictions applicable to Defendants' property.

FOR A THIRD DEFENSE

(Reservation)

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13. Defendants specifically reserve the right to assert any further defenses as may be revealed by additional information acquired during discovery or otherwise from any other party herein.

Defendants request:

a. Plaintiff's Complaint be dismissed;
b. Defendants be awarded costs; and
c. For such other and further relief as may be just and proper.

Respectfully Submitted,

s/D. Ryan McCabe

D. Ryan McCabe, Jr. (SC Bar No.: 16977)
McCabe, Trotter & Beverly, PC
4500 Fort Jackson Blvd., Suite 650 (29210)
Columbia, South Carolina 29209
Telephone: (803) 724-5000
Facsimile: (803) 724-5005
Attorney for Defendants

Columbia, South Carolina
March 3, 2023

ELECTRONICALLY FILED - 2024 Jul 18 3:39 PM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

STATE OF SOUTH CAROLINA COUNTY OF SUMTER Lakewood Links Property Owners Association, Inc. Plaintiff, v. Jason M. Josey and April W. Josey, Defendants.	IN THE COURT OF COMMON PLEAS THE THIRD JUDICIAL CIRCUIT C/A No.: 2022-CP-43-02015 **NOTICE OF MOTION AND MOTION TO AMEND ANSWER & COUNTERCLAIM OF DEFENDANTS JASON M. JOSEY AND APRIL W. JOSEY**

(22347.1)

YOU WILL PLEASE TAKE NOTICE that 10 (ten) days after service hereof, or as soon thereafter as may be heard, the Defendants will move the court for an Order granting the Defendants the opportunity to file and serve an Amended Answer and Counterclaim in this case. This Motion is made pursuant to Rule 15(a) and Rule 15(b) of the South Carolina Rules of Civil Procedure and is based on the pleadings and records on file and upon recently discovered facts and evidence. The proposed Amended Answer & Counterclaim is attached as **Exhibit B**. The relevant changes and additions are highlighted in yellow.

The undersigned certifies, pursuant to Rule 11 of the South Carolina Rules of Civil Procedure, that he consulted with counsel for Plaintiff but did not receive consent or an objection.

s/ D. Ryan McCabe
D. Ryan McCabe (SC Bar 16977)
Stephanie Trotter Kellahan (SC Bar 77680)
McCabe Trotter & Beverly, PC
4500 Fort Jackson Blvd., Suite 335
Columbia, SC 29209
Office: (803) 724-5000
Fax: (803) 724-5001
Email: ryan.mccabe@mccabetrotter.com
stephanie.kellahan@mccabetrotter.com
ATTORNEYS FOR DEFENDANTS

EXHIBIT B

ELECTRONICALLY FILED - 2024 Jul 18 3:39 PM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

STATE OF SOUTH CAROLINA COUNTY OF SUMTER Lakewood Links Property Owners Association, Inc. Plaintiff, v. Jason M. Josey and April W. Josey, Defendants. 22347.1	IN THE COURT OF COMMON PLEAS FOR THE THIRD JUDICIAL CIRCUIT JUDICIAL CIRCUIT C/A No.: 2022-CP-43-02015 **AMENDED ANSWER AND COUNTERCLAIM**

TO: THE ABOVE-NAMED PLAINTIFF AND THEIR COUNSEL OF RECORD:

The Defendants in this action, Jason M. Josey and April W. Josey (hereinafter, collectively, the "Defendants"), hereby submit this Amended Answer and Counterclaim to Plaintiff's Complaint, and would respectfully show the following unto the Court:

1. Each and every allegation not expressly admitted is denied.

2. Paragraph 1 is admitted.

3. Paragraph 2 is admitted except to the extent it alleges that Defendants' property is subject to the restrictive covenants or that Plaintiff has the right to enforce any restrictive covenants against Defendants.

4. Paragraph 3 is admitted.

5. Paragraphs 4, 5, and 6 are admitted except to the extent it alleges Defendants are legally obligated to receive approval from Plaintiff before making improvements to their property. Defendants deny that their property is subject to any restrictive covenants and to the extent restrictive covenants are applicable, Defendants assert Plaintiffs lacks authority to enforce them.

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6. Paragraphs 7 and 8 are admitted.

7. Defendants admit so much of paragraph 9 as it alleges that Defendants failed to remove the fence. The remaining allegations of paragraph 9 are denied.

8. Paragraphs 10, 11, and 12 are denied.

9. Paragraphs 13, 14, 15, 16 and 17 are admitted.

10. Paragraphs 18 and 19 are denied.

FOR A FIRST DEFENSE
(Waiver, Estoppel, Laches, Release, and/or Unclean Hands)

11. The Defendants would show that the equities are balanced in their favor, and that some or all of Plaintiff's claims may be barred, in whole or in part, by the doctrines of waiver, release, estoppel, laches and/or unclean hands.

FOR A SECOND DEFENSE
(Privity)

12. Plaintiff lacks privity necessary to enforce any restrictions applicable to Defendants' property.

FOR A THIRD DEFENSE
(Abandonment)

13. Plaintiff has abandoned the restriction against wooden privacy fences by failing to enforce the restriction, as evidenced by the multitude of wooden privacy fences throughout the community.

FOR A FOURTH DEFENSE
(Selective Enforcement)

14. Plaintiff cannot enforce the restriction against Defendants because it has failed to enforce the restriction against other members of Plaintiff.

FOR A FIFTH DEFENSE
(Reservation)

15. Defendants specifically reserve the right to assert any further defenses as may be revealed by additional information acquired during discovery or otherwise from any other party herein.

FOR A SIXTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Declaratory Judgment – Violation of S.C. Code § 27-30-130)

16. Defendants incorporate all previous allegations as if repeated herein verbatim.

17. This cause of action is brought pursuant to the Uniform Declaratory Judgments Act, S.C. Code § 15-53-10, et seq., for the purpose of determining a question of actual controversy between the parties as hereinafter more fully appears.

18. Sometime during 2019, Plaintiff purported to adopt new rules and regulations governing architectural standards.

19. The 2019 architectural rules and regulations had to be recorded before January 10, 2020 in order to remain effective pursuant to S.C. Code § 27-30-130.

20. Plaintiff did not record the architectural rules and regulations until March 5, 2020. Therefore, the architectural rules and regulations the Plaintiff is attempting to enforce against Defendants became invalid on January 11, 2020 when they were not recorded.

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ELECTRONICALLY FILED - 2024 Jul 18 3:39 PM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

21. The 2019 architectural rules and regulations had to be recorded by January 10th of each following year to remain enforceable. Plaintiff has never recorded the architectural rules and regulations after March 5, 2020 as required by S.C. Code § 27-30-130.

22. Defendants assert that a justiciable controversy exists as to whether the 2019 architectural rules and regulations are enforceable against Defendants. Defendants request the Court declare the architectural rules and regulations unenforceable.

FOR A SEVENTH DEFENSE AND A SECOND COUNTERCLAIM
(Declaratory Judgment – Failure to Amend Restrictive Covenants)

23. Defendants incorporate all previous allegations as if repeated herein verbatim.

24. This cause of action is brought pursuant to the Uniform Declaratory Judgments Act, S.C. Code § 15-53-10, et seq., for the purpose of determining a question of actual controversy between the parties as hereinafter more fully appears.

25. Plaintiff claims the Lakewood Links community voted to disallow wooden privacy fences in 2005.

26. Before 2005, wooden privacy fences were allowed and existed throughout the community.

27. Plaintiff's 2005 attempt to prohibit wooden privacy fences constituted a new restriction on the property that had to be adopted as an amendment to the restrictive covenants in order to be valid.

28. Plaintiff has not amended the restrictive covenants to prohibit wooden privacy fences.

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29. Defendants assert that a justiciable controversy exists as to whether Plaintiff may prohibit wooden privacy fences without first amending the restrictive covenants. Defendants request the Court declare the Plaintiff's prohibition on wooden privacy fences unenforceable.

FOR AN EIGHTH DEFENSE AND A FOURTH COUNTERCLAIM
(Declaratory Judgment – Lack of Common Scheme)

30. Defendants incorporate all previous allegations as if repeated herein verbatim.

31. This cause of action is brought pursuant to the Uniform Declaratory Judgments Act, S.C. Code § 15-53-10, et seq., for the purpose of determining a question of actual controversy between the parties as hereinafter more fully appears.

32. The property owners within Lakewood Links have installed fences of all sizes, colors, materials, and types. There is no common scheme with regard to the appearance of fences within Lakewood Links.

33. Because there is no common scheme within Lakewood Links, the Plaintiff cannot prohibit Defendants from installing a wooden privacy fence.

34. Defendants assert that a justiciable controversy exists as to whether Plaintiff may prohibit wooden privacy fences when there is no common scheme regarding the appearance of fences within Lakewood Links. Defendants request the Court declare the Plaintiff's prohibition on wooden privacy fences unenforceable.

FOR A NINTH DEFENSE AND A FOURTH COUNTERCLAIM
(Declaratory Judgment – Waiver Pursuant to Part Two, Article I, § 2 of Declaration)

35. Defendants incorporate all previous allegations as if repeated herein verbatim.

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36. This cause of action is brought pursuant to the Uniform Declaratory Judgments Act, S.C. Code § 15-53-10, et seq., for the purpose of determining a question of actual controversy between the parties as hereinafter more fully appears.

37. Defendants submitted a request for architectural approval ono r about June 13, 2022.

38. Pursuant to Part Two, Article, I, § 2 of the Declaration, Plaintiff was required to approve or deny Defendants' application within thirty (30) days.

39. Plaintiff did not approve or deny Defendants' application within thirty (30) days.

40. By failing to approve or deny the application within thirty (30) days, Plaintiff has waived its right to exercise architectural review and control of Defendants' fence.

41. Defendants assert that a justiciable controversy exists as to whether Plaintiff waived its right to prohibit Defendants' fence. Defendants request the Court declare the Plaintiff waived its right to prohibit Defendants' fence.

Defendants request:

a. Plaintiff's Complaint be dismissed;

b. Declaratory relief in favor of Defendants as requested herein;

c. Defendants be awarded costs; and

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

s/ D. Ryan McCabe
D. Ryan McCabe (SC Bar 16977)
Stephanie Trotter Kellahan (SC Bar 77680)
McCabe Trotter & Beverly, PC
4500 Fort Jackson Blvd., Suite 335
Columbia, SC 29209
Office: (803) 724-5000
Fax: (803) 724-5001
Email: ryan.mccabe@mccabetrotter.com

stephanie.kellahan@mccabetrotter.com
ATTORNEYS FOR DEFENDANTS

Columbia, SC
July 18, 2024

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ELECTRONICALLY FILED - 2024 Sep 13 11:35 AM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

STATE OF SOUTH CAROLINA COUNTY OF SUMTER	IN THE COURT OF COMMON PLEAS 2022-CP-43-02015
Lakewood Links Property Owners Association, Inc. Plaintiff, vs. Jason M. Josey and April W. Josey, Defendants.	**NOTICE OF MOTION AND MOTION FOR TO AMEND COMPLAINT**

TO: D. RYAN MCCABE, ATTORNEY FOR DEFENDANTS, AND THE DEFENDANTS HEREIN, JASON M. JOSEY AND APRIL W. JOSEY

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, Lakewood Links Property Owners Association, Inc., by and through its attorney, will move before the Master-in-Equity for Sumter County at the Sumter County Courthouse, 215 N. Harvin Street, Sumer, South Carolina, to be heard on **September 25, 2024, at 11:00 a.m.** for an order allowing Plaintiff to amend the allegations of its Complaint pursuant to Rule 15 of the South Carolina Rules of Civil Procedure because justice so requires, and the grant of this amendment does not prejudice the Defendants because:

(a) The Defendants had notice of their own June 13, 2022, request to the Architectural Review Board (ARB) with the application for construction of the following:

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2-car garage/workshop/pool house in back
Brick to match the house
Vinyl to match the house
Approximately 30X56
Removal of trees from backyard (Approximately 6 total)
Fence Alteration - 5' brick fencing/6' pillars along between house & proposed garage/addition

(b) The Defendants have questioned the Plaintiff in a 30(b)(6) deposition of Gary Jones on July 11, 2024, regarding this document, and the Plaintiff agreed to provide copies of this signed document to the Plaintiff which it did on July 17, 2024, as evidenced by the attached July 17, 2024, letter of Plaintiff's attorney with attachments of Bates stamp #0305 through #0309.

(c) The Defendants were served with a copy of Exhibit P-7A and 7B.

Plaintiff moves to amend its Complaint as follows:

1. Amend paragraph 2 of the Complaint to take the apostrophe from the name of the corporation to conform the name of the corporation with that set forth in the caption of this case and the allegations of the Complaint.
2. Insert a new paragraph 8 along with Exhibits P-7A and P-7B that include the following allegations:

8. On June 13, 2022, the Defendants filed the ARB request forms with the Architectural Review Board which are attached hereto and incorporated herein by reference to make them a part and portion of this Complaint as Exhibits 7A and 7B.

(a) Exhibit 7A provides:

(i) "Reason for change or addition:" as: "Fence Alteration"

(ii) "Project description" as: "5' brick fencing/6' pillars along between house & proposed garage/addition."

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(b) Exhibit 7B provides

(i) "Reason for change or additions" as: "Construction of 2-car garage/workshop"

(ii) "Project description" as: 2-car garage/workshop/poolhouse in back
Brick to match the house
Vinyl to match the house
Approximately 30X56
Removal of trees from backyard (Approximately 6 total)"

The Plaintiff would show that both of these requests were approved on June 15, 2022, two days after they were received on June 12, 2022, and such approvals were provided to the Defendants. Even so, the Defendants have failed and refused to pursue and complete the construction for which they sought approval. The Plaintiff would affirmatively plead estoppel, ratification, accord and satisfaction, and waiver.

JONES SETH & JONES, *L.L.P*

s/ Richard C. Jones

Richard C. Jones, Bar No. 3206
5 Law Range -- P. O. Box 1268
Sumter, South Carolina 29151-1268
(803) 773-8676
Attorney for Plaintiff
richardcjones@jonesethjones.com

September 13, 2024

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July 17, 2024

D. Ryan McCabe, Jr.
McCabe, Trotter & Beverly, PC
4500 Fort Jackson Blvd., Suite 250
Columbia, SC 29209

RE: Lakewood Links Property Owners Association, Inc. vs. Jason M. Josey and April W. Josey
Case No. 2022-CP-43-02015

Dear Ryan:

Please find enclosed copies of the ARB Request Forms submitted by your clients on June 13, 2022, for both the fence alteration and the construction of a two-car garage/workshop, which I am providing to you as supplemental discovery responses.

Should you have any questions, please feel free to contact me.

Sincerely,

Richard C. Jones
Attorney at Law

RCJ/mlb
Enclosures
cc: Lakewood Links Property Owners Association, Inc.

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ARB REQUEST FORM

Lakewood Links Property Owners Association
ARCHITECTURAL REVIEW BOARD
APPLICATION FOR ARCHITECTURAL APPROVAL

Property Owners Name: Jason & April Josey			Date: 06/13/2022
Property Address: 3020 Tidewater Drive			Lot# 269
Telephone:	Home: 803-983-7168	Work: 803-983-2862	
Email: aprilnicole131@gmail.com			
Estimated Completion Date: TBD pending approval from LL POA			
Contractors Name and Telephone (if applicable): Jason Josey dba Josey Builders 803-983-2862			
Reason for Change or Addition: Fence alteration			

Project Type:

Addition	Deck/Patio	Fence	Landscaping	Other
☐	☐	☑	☐	☐

Project Description: Please describe briefly the proposed change or addition. Cite materials to be used and proposed color(s). Describe similarities to existing structures, if applicable. Use a separate sheet of paper if necessary. Please attach clear, legible drawings.

5' brick fencing/6' pillars along between house & proposed garage/ addition.

Send completed form to LLPOAARB – 3500 Green View Pkwy, Sumter, SC 29150 – LLPOAsumter@gmail.com

ARB Approval: ☑	Conditional Approval: ☐	Disapproval: ☐
ARB Comments:		
Signed: (ARB Chairperson)		Date: 6/15/22

Rec 6/15/2022

6/15/22

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Jason and April Josey
3020 Tidewater Drive
Sumter, SC 29150
06/13/2022

Law Office of Jason L. Reddick
132 North Main Street
Sumter SC 29150

Lakewood Links Property Owners Association:
3500 Greenview Parkway
Sumter, SC 29150

Dear Mr. Jason L. Reddick and Board Members of the Lakewood Links Property Owners Association:

We have received a demand letter from the office of Jason Lee Reddick, Attorney at Law on behalf of the LL POA in regard to the privacy fence erected on our property. At issue is the absence of prior approval from the review board for said fence. Mr. Reddick's letter references a previous demand from the Association which required removal of the offending fence by November 2021. However, we are unaware of and have not received such official communication. We were informed by a neighbor that minute notes from a board meeting indicated a certified letter was to be sent to us; however, to date we have not received any such letter and believe the demand letter delivered via process server to be our first notice.

We would like to take this opportunity to address the complaint. Firstly, we did request an approval for an inground pool sometime last year, which was approved. However, due to demand and scheduling we have not completed this project to date. Secondly, there was an existing 8' fence adjacent to our property when we moved in; we simply continued the fence along the unprotected barriers of our backyard. As there are many similar fences in the neighborhood, especially along our street, we did not realize continuing the fence would be an issue.

Additionally, the original bylaws, conditions and restrictions effected in 1988 did not include specifications for fencing. Per those guidelines, our fence would not be in violation of the conditions and restrictions. The Association did adopt new by-laws, conditions and restrictions at the November 11th, 2019 meeting. However, the process followed by the Association when implementing these new by-laws, conditions and restrictions appears to be problematic and inconsistent with the Association's own existing bylaws and South Carolina state law for the reasons stated as follows:

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I. These changes to the original By-Laws, Conditions & Restrictions dated December 29, 1988 *were never voted upon by the members of Lakewood Links Property Owners Association as required by those by-laws*. Page 37, Article II, Section I states "All proposed amendments shall be submitted to a vote of the Members at a duly called meeting of the Association and any such proposed amendment shall be deemed approved if three-fourths (3/4) of the votes cast at such meeting at which such proposed amendment is to be considered are in favor of the amendment. If any proposed amendment to this Declaration is approved by the members as set forth above, the President and Secretary of the Association shall execute an Addendum to this Declaration which shall forth the amendment, the effective date of the amendment (which in no event shall be less than sixty (60) days after the date of the meeting of the Association at which such amendment was adopted), the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes cast against the amendment. Such addendum shall be recorded in the official real estate records of Sumter County, South Carolina". If such a vote was not held, it stands to reason the 2019 changes violate the Association's long established by-laws.

II. The "South Carolina Homeowners Association Act" was passed on May 17, 2018. Section 27-30-130 addresses the timeline for HOA's to file amendments of their governing documents with the clerk of court. Item B, Number 2 states, "***In order to remain enforceable***, a homeowners association's rules, regulations, and amendments to rules and regulations must be recorded in the clerk of courts, Register of Mesne Conveyance (RMC), or register of deeds office in the county in which the property is located ***by January Tenth of each year following their adoption or amendment***." As the updated by-laws and Conditions & Restrictions were adopted on November 11, 2019 but were not recorded in the Sumter County Register of Deeds until March 5, 2020, the new Bylaws, Conditions & Restrictions are unenforceable by state law.

Mr. Reddick's letter indicated we have until June 17th, 2022 to comply with the demand for fence removal unless otherwise agreed by the Association. In light of the above outlined concerns with the current by-laws, we are asking the Association to retroactively approve our existing fence in good faith as the fencing is in compliance with the previous Conditions & Restrictions established in 1988.

Further, Mr. Reddick's letter indicated we could request alternative options, and as such we would like to use this opportunity to submit requests for additional improvements to our property which we humbly ask to be considered separately from the current privacy fence at issue. We ask that the board also consider our individual circumstances when making their decision.

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Very recently, we have made the decision to move our elderly grandmother into our home as she is increasingly unable to maintain her own independent residence. This will create a need in the very near future for more storage space, etc. on our property. It is our intention to request approval from the Association for a separate garage/workshop/pool house, which will in good faith comply with the specifications outlined in the current yet problematic Conditions & Restrictions. Additionally, we would revise our fence along the front of the property accordingly as such an addition would require partial fence removal and replacement. As we have two very large, energetic dogs who require a barrier to keep them contained on our property, we ask that the Association kindly and generously consider our proposals for said garage/workshop and updated fencing while allowing our current fence to remain in place (for the reasons described above). Along with this letter, please find the attached preliminary requests for the proposed garage/workshop, updated fencing replacement, and tree removals necessary to begin construction.

Finally, we aim to maintain complete property records for our personal use and believe documentation specific to our property's incorporation into the LL POA is vital to this collection of information. We are aware the neighborhood has multiple homeowner's associations and entire sections of the neighborhood are excluded from HOAs altogether. As we have been unable to procure any documentation from our real estate attorney or the Sumter County Courthouse which definitively states which Association our property belongs to, we would ask that the Lakewood Links Property Owners Association kindly provide copies of any such documentation pertaining to our property located at 3020 Tidewater Drive.

We sincerely thank the members of the board in advance for taking the time to consider our requests in response to the Association's demand letter and look forward to their reply.

Respectfully,

Jason and April Josey

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ARB REQUEST FORM

Lakewood Links Property Owners Association
ARCHITECTURAL REVIEW BOARD
APPLICATION FOR ARCHITECTURAL APPROVAL

Property Owners Name: Jason & April Josey			Date: 06/13/2022
Property Address: 3020 Tidewater Drive			Lot# 269
Telephone:	Home: 803-983-7168	Work: 803-983-2862	
Email: aprilnicole131@gmail.com			
Estimated Completion Date: TBD pending approval from LL POA			
Contractors Name and Telephone (if applicable): Jason Josey dba Josey Builders 803-983-2862			
Reason for Change or Addition: Construction of 2-car garage/workshop			

Project Type:

Addition	Deck/Patio	Fence	Landscaping	Other
☑	☐	☐	☑	☐

Project Description: Please describe briefly the proposed change or addition. Cite materials to be used and proposed color(s). Describe similarities to existing structures, if applicable. Use a separate sheet of paper if necessary. Please attach clear, legible drawings.

2- car garage/workshop/poolhouse in back
Brick to match the house
Vinyl to match the house
Approximately 30x56
Removal of trees from backyard (approximately 6 total)

Send completed form to LLPOAARB – 3500 Green View Pkwy, Sumter, SC 29150 – LLPOAsumter@gmail.com

ARB Approval: ☑	Conditional Approval: ☐	Disapproval: ☐
ARB Comments:		
Signed: (ARB Chairperson):		Date: 6/15/22

Rec 6/15/2022 6/15/22

ELECTRONICALLY FILED - 2024 Sep 26 11:59 AM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

STATE OF SOUTH CAROLINA COUNTY OF SUMTER	IN THE COURT OF COMMON PLEAS Case No.: 2022-CP-43-002015
Lakewood Links Property Owners Association, Inc., Plaintiff, vs. Jason M. Josey and April W. Josey, Defendants.	**SUMMONS TO AMENDED COMPLAINT** **(Non-Jury)**

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Amended Complaint herein, a copy of which is herewith served upon you, or otherwise appear and defend, and to serve a copy of your Answer to said Amended Complaint upon the subscriber at his office, 5 Law Range, Post Office Box 1268, Sumter, South Carolina, 29151-1268, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Amended within the time aforesaid, or otherwise appear and defend, the Plaintiff in this action will apply to the Court for the relief demanded therein, and judgment by default will be rendered against you for the relief demanded in the Amended Complaint.

JONES SETH & JONES, *L.L.P*

s/ Richard C. Jones

Richard C. Jones, Bar No. 3206
5 Law Range -- P. O. Box 1268
Sumter, South Carolina 29151-1268
(803) 773-8676
Attorney for Plaintiff
richardcjones@jonesethjones.com

Sumter, South Carolina
September 26, 2024

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STATE OF SOUTH CAROLINA COUNTY OF SUMTER	IN THE COURT OF COMMON PLEAS Case No.: 2022-CP-43-2015
Lakewood Links Property Owners Association, Inc., Plaintiff, vs. Jason M. Josey and April W. Josey, Defendants.	**AMENDED COMPLAINT FOR INJUNCTIVE RELIEF** **[NON-JURY]**

NOW COMES Lakewood Links Property Owners Association (hereafter "POA"), complaining of Jason M. Josey and April W. Josey (hereafter "Property Owners"), which would show unto the Court as follows:

1. This Court has jurisdiction over both the parties and the subject matter of this lawsuit.

2. The Plaintiff, Lakewood Links Property Owners Association, Inc., is a South Carolina non-profit corporation in good standing that is and has been empowered as provided in the "Declaration of Covenants and Restrictions for Lakewood Links And Provisions For the Lakewood Links Property Owners' Association, Inc." [hereinafter "Restrictive Covenants"] found in Book 481 at Page 1879 and recorded in the Office of the Register of Deeds for Sumter County on December 28, 1988, and in the "Supplementary Declaration of Covenants and Restrictions"

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that is likewise found in the Office of the Register of Deeds for Sumter County in Book 511 at Page 241 and recorded on the August 2, 1990, copies of which are attached hereto as **Exhibit P-1** and incorporated herein by reference to make them a part and portion of this Complaint, to:

> (f) to take any and all actions necessary to enforce all covenants and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the property; (See Ex. P-1; Art I; Section)
>
> (g) to set up and operate the Review Board as hereinabove provided; (See Art. I; Section 2)

3. The Defendants, Jason M. Josey and April W. Josey (hereafter "Property Owners"), as shown by the real estate records of the Clerk of Court for Sumter County holding, upon information and belief, fee simple title to that residential lot bearing the property address of 3020 Tidewater Drive, Sumter, South Carolina and tax parcel number 223-10-02-012 by virtue of that Deed into the name of Jason M. Josey and April W. Josey January 8, 2021, and recorded in the Register of Deeds for Sumter County in Book 1279 at Page 1851. A copy of this deed is attached hereto and incorporated herein by reference to make it a part and portion of this Complaint as **Exhibit P-2.**

4. On July 2, 2021, the Property Owners made inquiry relative to construction of an inground-concrete pool upon their residential lot which is and was a part of Lakewood Links Subdivision subject to the Covenants and Restrictions which are the subject of this action. A copy of this Application for Architectural Approval seeking approval of the construction of this in-ground concrete pool by and from the Architectural Review Board, as provided by the above bylaws, is attached

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hereto and incorporated herein by reference to make them a part and portion of this the allegations of this Complaint as **Exhibit P-3.**

5. On July 3, 2021, the POA granted written approval of the Property Owners' application to install an in-ground pool. A copy of the e-mail granting such approval and permission consistent with the Restrictive Covenants is attached hereto and incorporated herein by reference to make it a part and portion of the allegations of this Complaint as **Exhibit P-4.**
6. Between July 3, 2021, when the POA approved the installation of the in-ground concrete pool, and September 6, 2021, the Property Owners, without approval of the Architectural Review Board and fully informed of the requirements of the Covenants and Restrictions, unilaterally, and without approval of the Architectural Review Board and/or the POA, installed a privacy fence around the back yard of 3020 Tidewater Drive, Sumter, South Carolina in violation of the Restrictive Covenants, **Exhibit P-1**.
7. On September 6, 2021, the POA sent written notice to the Property Owners instructing the Property Owners to remove the privacy fence that was and had been constructed without approval of the Architectural Review Committee in violation of the Restrictive Covenants within sixty (60) days of the date of the e-mail. A copy of this e-mail is attached hereto and incorporated herein to make it a part and portion of this Complaint as **Exhibit P-5.**
8. On June 13, 2022, the Defendants filed the ARB request forms with the Architectural Review Board which are attached hereto and incorporated herein by reference to make them a part and portion of this complaint as **Exhibits P-7A and P-7B.**

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(a) **Exhibit P-7A** provides:

(i) "Reason for change or addition:" as:
"Fence Alteration"

(ii) "Project description" as:
"5' brick fencing/6' pillars along between house & proposed garage/addition."

(b) **Exhibit P-7B** provides

(i) "Reason for change or additions" as:
"Construction of 2-car garage/workshop"

(ii) "Project description" as:
2-car garage/workshop/poolhouse in back
Brick to match the house
Vinyl to match the house
Approximately 30X56
Removal of trees from backyard (Approximately 6 total)"

The Plaintiff would show that both of these requests were approved on Jun 15, 2022, two days after they were received on June 15, 2022. Even so, the Defendants have failed and refused to pursue and complete the construction for which they sought approval. The plaintiff would affirmatively plead estoppel, ratification, accord & satisfaction, waiver

9. On July 22, 2022, the Property Owners were served with demand that the wooden fence, which is the subject of this lawsuit, be removed consistent with the terms of the Covenants and Restrictions within 21 days. A copy of the letter from Attorney Jason Reddick is attached hereto and incorporated herein by reference to make it a part and portion of the allegations of this Complaint as **Exhibit P-6.**

The Property Owners have failed and refused to remove the fence in the face of these express demands (**Exhibits P-5 and P-6**), thus necessitating by this lawsuit of the POA and the costs and attorney fees it has incurred in the pursuit of the relief sought herein.

10. The Property Owners have failed and refused to conform to the Covenants and Restrictions to which their real property is subject.

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11. POA has enforced and is enforcing this restriction precluding the erection of a wooden, privacy fence consistent with its precedent of denial of such fences in the past.

12. POA would show that Property Owners' blatant violation in direct contravention of the requirements of the Restrictive Covenants to which their real property and all other real property in the subdivision is subject undermines and threatens the integrity of the subdivision and the owners and members therein who purchased property in reliance upon and in contemplation of development and maintenance of the subdivision consistent with the Restrictive Covenants.

13. ARTICLE I(a): Section 2: of the Restrictive Covenants found on page 11 of Exhibit P-1 provides:

> No building, fence or other structure shall be erected, placed or altered until the proposed building plans, specifications, exterior color or finish, plot plan (Showing the proposed location of such building or structure, drives and parking areas), landscape plan, and construction schedule shall have been approved in writing as herein provided.

14. ARTICLE I: Section 2(e): of the Restrictive Covenants found on page 14 of Exhibit P-1 provides:

> Review of approval of plans for addition alterations or changes to structures and landscaping. No building, wall, fence, deck, pier, swimming pool, roof, exterior light or other structures or improvement of any kind shall be commenced or erected upon any Residential Lot or upon the exterior of any Family Dwelling Unit or upon the Common Properties, nor shall any landscaping be done, nor shall any addition to any existing building or alteration or change therein be made until the proposed building plans, specifications (including height, materials, and exterior finish), plot plan, and construction schedule shall have been submitted to and approved by the Review Board.

15. ARTICLE IV: Section 2: Enforcement by the Association: of the Restrictive Covenants found on page 38 of Exhibit P-1 provides:

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> In addition to the foregoing, the Association shall have the right to proceed at law or in equity to compel compliance to the terms hereof or to prevent the violation or breach in any event....If the violation is not expeditiously terminated, the Owner or Association may engage legal counsel to bring an appropriate injunctive action, including any appeals, to enforce these covenants. Violators shall be obligated to reimburse the Association in full for all its direct and indirect costs, including but not limited to legal fees incurred by the Association in maintaining compliance with these covenants.

16. ARTICLE IV: Section 4: Against Whom May the Covenants be Enforced: of the Restrictive Covenants found on Page 39 provides:

> The obligations and benefits prescribed by the covenants shall run with the Property and shall be enforceable against the Owner, its successors and assigns, the Lakewood Links Property Owners' Association, and against any Property Owner when the aforesaid parties engaged in activities (Including omissions and failure to act) which constitute violations or attempts to violate or circumvent the covenant and the restrictions set forth in this Declaration.

17. ARTICLE IV: Section 5: Means of Enforcement: Of the Restrictive Covenants found on Page 39 Provides:

> Enforcement of these Covenants shall be by any proceeding at law or in equity, whether it be to restrain violation or to recover damages or to create any lien created by these Covenants.

18. POA requests that this Court compel, enjoin, and order the Property Owners, under threat of contempt, to immediately and without delay remove the wooden, privacy fence they have wrongfully, contrary to the provisions of the Restrictive Covenants and without the approval required therein, constructed on their real property bearing property address of 3020 Tidewater Drive, Sumter, South Carolina.

19. POA requests that it be reimbursed for the legal fees it is incurring and has incurred for the prosecution of this action to enforce the terms and provisions of the

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Restrictive Covenants to which the real property of the Property Owners herein are subject.

NOW THEREFORE, based upon the foregoing, the POA does hereby pray that the Court:

1. ORDER that the Property Owners be compelled and enjoined, under threat of contempt, to immediately and without delay remove the privacy fence from their real property bearing property address 3020 Tidewater Drive, Sumter, South Carolina;
2. ORDER that the Property Owners be required to reimburse the POA for all of those legal fees and costs that are being incurred and have been incurred by the POA in the enforcement of the provisions of the Restrictive Covenants;
3. ORDER that the Property Owners be held in contempt of Court should they fail and/or refuse to remove the said privacy fence on their real property bearing property address of 3020 Tidewater Drive, Sumter, South Carolina.
4. ORDER that the Court grant any and other further relief as this Court my find just and proper.

JONES SETH & JONES, L.L.P.

s/ Richard C. Jones
Richard C. Jones
Attorney for Plaintiff
5 Law Range - - P.O. Box 1268
Sumter, SC 29151
(803) 773-8676
richardcjones@jonessethjones.com

September 26, 2024

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HARRY O. [illegible]
SUMTER CO S.C.

RECORDED
VOL 497 PG 1259
SUMTER COUNTY S.C.

STATE OF SOUTH CAROLINA	)	DECLARATION OF COVENANTS AND RESTRICTIONS FOR LAKEWOOD LINKS AND PROVISIONS FOR THE LAKEWOOD LINKS PROPERTY OWNERS' ASSOCIATION, INC.
	)	
	)	
COUNTY OF SUMTER	)	

THIS DECLARATION, made this 21st day of December, 1988, by Lakewood Links Associates, a South Carolina General Partnership, hereinafter referred to as the "Owner."

WITNESSETH:

WHEREAS, Owner holds title in fee simple to the certain lands (hereinafter referred to as the "Property") described in Part One, Article II, Section I of this Declaration and in the Master Plan (which has been made available for inspection by prospective property owners) and intends to plan and develop a community comprised of the Property and known as "Lakewood Links" with certain facilities, amenities and services for the use and benefit of all property owners within such community; and

WHEREAS, Owner desires to provide for the preservation of the values and amenities and for the maintenance of common facilities, services and properties; and, to this end, Owner has consented to subject the Property together with such additions as may hereafter be made, as provided in Part One, Article II, to the covenants, restrictions, easements, affirmative obligations, charges and liens, hereinafter set forth (hereinafter referred to as the "Covenants"), each and all of which is and hereby declared to be for the benefit of the Property and every owner of any and all parts thereof; and

WHEREAS, Owner deems it desirable, for the efficient preservation of the values and amenities in the community, to create an agency to which should be ultimately delegated and assigned by the Owner authority to maintain and administer the common properties and services, to enforce the Covenants governing the same, and to disburse all assessments and charges necessary for such maintenance, administration and enforcement; and

WHEREAS, The Owner has caused or will cause to be incorporated under the laws of the State of South Carolina, a non-profit corporation, Lakewood Links Property Owners' Association, Inc., for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth; and

WHEREAS, this Declaration will be referred to as the "Lakewood Links Covenants of 1988," and will be recored in the Office of the Clerk of Court for Sumter County, South Carolina, and may be incorporated by reference to the Book and Page of recording in the records of said Office.

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STATE OF SOUTH CAROLINA)
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DECLARATION OF COVENANTS AND RESTRICTIONS FOR LAKEWOOD LINKS AND PROVISIONS FOR THE LAKEWOOD LINKS PROPERTY OWNERS' ASSOCIATION, INC.

THIS DECLARATION, made this 21st day of December, 1988, by Lakewood Links Associates, a South Carolina General Partnership, hereinafter referred to as the "Owner."

WITNESSETH:

WHEREAS, Owner holds title in fee simple to the certain lands (hereinafter referred to as the "Property") described in Part One, Article II, Section I of this Declaration and in the Master Plan (which has been made available for inspection by prospective property owners) and intends to plan and develop a community comprised of the Property and known as "Lakewood Links" with certain facilities, amenities and services for the use and benefit of all property owners within such community; and

WHEREAS, Owner desires to provide for the preservation of the values and amenities and for the maintenance of common facilities, services and properties; and, to this end, Owner has consented to subject the Property together with such additions as may hereafter be made, as provided in Part One, Article II, to the covenants, restrictions, easements, affirmative obligations, charges and liens, hereinafter set forth (hereinafter referred to as the "Covenants"), each and all of which is and hereby declared to be for the benefit of the Property and every owner of any and all parts thereof; and

WHEREAS, Owner deems it desirable, for the efficient preservation of the values and amenities in the community, to create an agency to which should be ultimately delegated and assigned by the Owner authority to maintain and administer the common properties and services, to enforce the Covenants governing the same, and to disburse all assessments and charges necessary for such maintenance, administration and enforcement; and

WHEREAS, The Owner has caused or will cause to be incorporated under the laws of the State of South Carolina, a non-profit corporation, Lakewood Links Property Owners' Association, Inc., for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth; and

WHEREAS, this Declaration will be referred to as the "Lakewood Links Covenants of 1988," and will be recored in the Office of the Clerk of Court for Sumter County, South Carolina, and may be incorporated by reference to the Book and Page of recording in the records of said Office.

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NOW, THEREFORE, Owner hereby declares that the Property and such additions thereto as may hereafter be made pursuant to Part One, Article II hereof are and shall be held, transferred, sold, conveyed, given, purchased, leased, occupied, and used subject to the Covenants. These Covenants, the benefits of these Covenants, and the affirmative and negative burden of these Covenants, shall touch and concern and run with the land herein referred to as the Property. The Owner reserves the right to add additional covenants in respect to the property owned by the Owner at the time of the adoption of the additional covenants but not to property previously conveyed to others. Any rights and easements reserved by the Owner under these Covenants shall also be reserved to the assigns and successors in interest of the Owner.

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PART ONE

GENERAL REFERENCES

ARTICLE I

DEFINITIONS

Section 1. The following words and terms when used in this Declaration or any supplemental declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

(a) "Approved by the Owner" shall mean written approval issued by the Owner signed by its Managing General Partner or by a designated representative.

(b) "Association" shall mean and refer to the Lakewood Links Property Owners' Association, Inc., a South Carolina non-profit corporation, its successors and assigns.

(c) "Business Purposes" shall include, but not be limited to, any use as a fire department or other public services facility, a medical facility, professional office, entertainment, recreational, commercial or like facility. The use of a Family Dwelling Unit as a model dwelling display or real estate sales office maintained by the Owner or those granted a written license for such use by the Owner, however, shall not be deemed use for business purposes.

(d) "Commercial Property" shall mean and refer to any land which is designated for use for business purposes as defined in this section in a deed of conveyance or lease.

(e) "Common Properties" shall mean and refer to those areas of land with any improvements thereon which are deeded or leased to the Association and designated in said deed as "Common Properties." The term "Common Properties" shall include areas reserved for Recreational Amenities to be constructed by the Association on properties deeded to the Association by the Owner and any personal property acquired by the Association if said property is designated as "Common Property." All Common Properties are to be devoted to and intended for the common use and enjoyment of the Property Owners, their tenants, guests and invitees, at uniform fees, charges, and assessments established herein as may be modified from time to time by the Association. The designation and dedication of land or improvements as

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Common Properties shall not mean or imply that the public at large or Property Owners, their tenants, guests and invitees acquire an easement of use or enjoyment therein except at such fees, and under such rules and regulations for operation as may be established from time to time by the Association.

(f) "Covenants" shall mean and refer to the "Lakewood Links Covenants of 1988," including all covenants, conditions, restrictions, and obligations set forth in this Declaration.

(g) "Development Unit Parcels" shall mean and refer to those parcels or tracts of land ("Golf Villa Tracts" - Designated as "Phase III" on the recorded Plat of Lakewood Links) conveyed by the Owner to third parties under these covenants and restrictions permitting the division of such parcel or tract into smaller land units such as Residential Lots or Townhouse Residential Tracts/Golf Villa Tracts.

(h) "Family Dwelling Unit" shall mean and refer to any improved property intended for use as a single-family detached dwelling, townhouse unit or cluster unit, whether detached or attached, located within the Property.

(i) "Golf Villa Tract" shall mean those unimproved parcel of land located within the Property designated as "Phase III", intended for use as a site for residential lots and/or multi-family type dwellings and/or patio dwellings which shall be conveyed either in fee simple or as condominium apartments.

(j) "Master Plan" shall mean and refer to the drawings which represent the conceptual research plan for the future development of the Resort, held by the Owner and made available for inspection by prospective land purchasers. Since the concept of the future development of the undeveloped parcels of the Resort retained by, and remaining in the Owner's ownership is subject to continuing revision and change at the discretion of the Owner as provided in Section 1, Article II, Part One hereof, present and future references to the "Master Plan" by the Owner, its employees or agents shall be references to the latest revision thereof. In addition, no implied reciprocal Covenants shall arise with respect to lands which have been retained by the Owner for future development restricting their uses except that all the covenants, restrictions, obligations and conditions set forth in this Declaration shall apply to all portions of the Property retained by

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the Owner. This Declaration does not designate any portion of the Property for any particular use, such designations to be made by separate subsequent declaration or by recorded plat with such designation clearly and unequivocally shown thereon. The Owner shall not be bound by any development plan, use or restriction of use shown on any Master Plan.

(k) "Member" shall mean and refer to the Owner and all those Property Owners who are Members of the Association as provided in Article I, Part Three hereof, including the spouse and children (under 18) permanently residing with the said Property Owner.

(l) "Offensive or Noxious" activity or behavior shall include but not be limited to a public nuisance or nuisance per se and shall also include any behavior or activity which is inconsistent with both the pleasurable use of the Resort area by a majority of the residents and their reasonable expections of enjoying their property and the available amenities and natural surroundings free of boorish, rude, excessively noisy, crude, tasteless behavior, flashing lights, racing vehicles, offensive or tasteless displays of public sexuality, radio, hi-fi or electronic music distractions, etc., or other similar behavior curtailing the pleasure of use of the facilities of the Resort. Public musical or other entertainment, parades, concerts, festivals, carnivals, competitions or shows conducted under permit from the Owner shall not constitute offensive or noxious activity or behavior unless such permit is withdrawn by the Owner.

(m) "Owner" shall mean and refer to Lakewood Links Associates, a South Carolina General Partnership, its successors and assigns.

(n) "Pertinent Laws" shall mean and refer to the statutes, ordinances, regulations, and other laws pertinent to the ownership, sale, use, and development of the property, as or codified or promulgated by the State of South Carolina, the County of Sumter, the Town of Sumter, the Government of the United States of America, and other public authorities having jurisdiction over the Property.

(o) "Property" and "Resort" shall mean and refer to the lands described in Part One, Article II, Section 1 hereof and Exhibit A, attached hereto, and additions thereto as provided in Part One, Article II, Section 2 hereof, as are subjected to this Declaration or any supplemental declaration under the provisions of Part One, Article II hereof.

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(p) "Property Owner" shall mean and refer to the owner (but shall not include the "Owner" except with respect to properties reacquired by the Owner after Owner's conveyance thereof) as shown by the real estate records of the Clerk of Court for Sumter County, whether it be one or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Residential Lot, Family Dwelling Unit, Golf Villa Tract, Development Unit Parcel, or Unsubdivided Land situated upon the Property but notwithstanding any applicable theory of mortgage, shall not mean or refer to the mortgagee or holder of a security deed, its successors or assigns, unless and until such mortgagee or holder of a security deed has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Property Owner" mean or refer to any lessee or tenant of a Property Owner. In the event that there is recorded with the Clerk of Court for Sumter County a long-term contract of sale covering any lot or parcel of land within the Property, the Property Owner of such lot or parcel of land shall be the purchaser under said contract and not the fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond nine (9) months from the date of the contract, and where the purchaser does not receive title to the property until such payments are made although the purchaser is given the use of said property.

(q) "Recreational Amenities" shall include those areas which may be designated by Owner as areas in which the Association may elect to construct a swimming pool, bath houses, and tennis courts; provided, however, that such properties shall also become "Common Properties" when deeded to the Association and designated in said deed as "Common Properties".

(r) "Referendum" shall mean and refer to the power of all or some specific portion of the Members to vote by mailed ballots on certain actions by the Board of Directors of the Association more particularly set forth herein including the levy of any Special Assessment and the addition or deletion of functions or services which the Association is authorized to perform. In the event 51% of the votes actually returned to the Association within the specified time shall be in favor of such action, the Referendum shall be deemed to "pass" and the action voted upon will be deemed to have been authorized by the Members; provided, however,

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that if a higher percentage required to "pass" shall be specifically expressed herein or be required for any particular issued by a vote of the Association, as determined by the procedures set forth herein, that higher percentage shall control in that instance.

(s) "Residential Lot" shall mean any unimproved parcel of land located within the Property which is intended for use as a site for a single family detached dwelling, as shown upon any recorded final subdivision plat of any part of the Property. A parcel of land shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently complete to reasonably permit habitation thereof.

(t) "Resort" shall mean Lakewood Links which shall include The Links of Lakewood Golf Course and the residential community.

(u) "The Links at Lakewood" shall mean the 18 hole championship golf course which is situate within the property around which the residential community will be developed and which will be retained by the Owner.

(v) "Undeveloped Land" shall be land owned by the Owner which is not improved, and which has not been designated as Open Space or Common Properties, whether subdivided or unsubdivided.

(w) "Use of Land" or "Intended for Use" shall mean the use designated in the deed of conveyance of a parcel or space or by separate declaration of covenants designating the use for which any particular parcel of land is restricted to in such declaration or incorporated by reference to a particular recorded declaration of covenants in deeds by which the Owner has conveyed such land. Reference to "uses" of land, or description of parcels on maps, master plans, and promotional material shall not constitute a designation of use for purposes of this Declaration nor shall such reference create any obligation for the Owner.

(x) "Use or Used for Residential Purposes" shall mean to be used as one's residence or normal and customary place of above and shall not include any use for business purposes as defined above. The use of a portion of a Family Dwelling Unit as an office shall be considered a residential use if such use does not create regular customer or client traffic to and from the Family Dwelling Unit sustained for a period longer than thirty (30) days in any one twelve-month period and no sign,

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symbol, logo, or nameplate identifying such business is affixed to or about the entrance to the Family Dwelling unit, except where the approval of the Owner has been given to such use.

ARTICLE II

PROPERTY DESCRIPTION

Section 1. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed, given, donated, leased and occupied subject to these Covenants is located in Sumter County, South Carolina and is more particularly described in Exhibit "A" attached hereto and by reference incorporated herein.

The Owner intends to develop the Property in accordance with the Master Plan, as subsequently modified from time to time, as a residential community centered around The Links at Lakewood Golf Course featuring areas reserved for recreation facilities and various amenities (which shall be constructed by the Association) and all other activities permitted by law which the Owner deems appropriate as uses for such property. The Owner reserves the right to review and modify the Master Plan at its sole option, from time to time, based upon its continuing research and design program. The Master Plan or any future Master Plan, shall not bind the Owner, its heirs, successors and assigns, to adhear to the Master Plan in the development of the land shown thereon. Properties conveyed to the Association shall become Common Property in accordance with their designation in the deed of conveyance from the Owner. The Owner shall not be required to follow any predetermined sequence or order of improvements and development; and it may bring within the plan of these covenants additional lands, and develop the same before completing the development of the Property. Other than as stated in this Section, the Owner shall have full power to add to, subtract from, or make changes in the Master Plan, including the addition of other nearby lands owned by Owner, such actions potentially altering membership of the Association.

Section 2. Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner:

(a) The Owner, its heirs, successors and assigns, shall have the right, without consent of the Association, to bring within the plan and operation of this Declaration, additional properties in future stages of the development. The additions authorized under this and the succeeding subsections shall be made by either deeding such additional property subject to this Declaration by specific reference in individual deeds

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or by filing a Supplementary Declaration of Covenants and Restrictions (hereinafter referred to as "The Supplementary Declaration") with respect to the additional property which shall extend the operation and effect of these Covenants to such additional property.

The Supplementary Declaration may contain such complimentary additions and/or modifications of these Covenants as may be necessary or convenient, in the judgment of the Owner, to reflect the different character, if any, of the added properties and as are not inconsistent with this Declaration, but such modifications shall have no effect on the Covenants as they apply to the Property.

(b) Upon approval in writing of the Association pursuant to three-fourths (3/4) of the vote of those present at a duly called meeting, the owner of any property who desires to add it to the plan of these Covenants and to subject it to the jurisdiction of the Association, may file or record a Supplementary Declaration with respect to the additional property which shall extend the operation and effect of these Covenants to such additional property.

The Supplementary Declaration may contain such complimentary additions and/or modification of these Covenants as may be necessary or convenient, in the sole judgment of the Association, to reflect the different character, if any, of the added properties and as are not inconsistent with this Declaration, but such modification shall have no effect on the Covenants as they apply to the Property.

(c) Upon merger or consolidation of the Association with another association, as provided for in the by-laws of the Association, its property rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the existing Property, together with the covenants and restrictions established upon any other properties, as one plant. No merger or consolidation shall effect any revocation, change or addition to these Covenants including, without limitation, the maximum limits on assessments and dues of the Association, or any other matter substantially affecting the interests of Members of the Association.

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(d) For any property subjected to this Declaration pursuant to the provisions of this Section, there may be established by the Owner an additional association limited to the owners and/or residents of such additional property in order to promote their social welfare, including their health, safety, education, culture, comfort, and convenience, to elect representatives on the Board of the Association, to receive from the Association a portion, as determined by the Board of Directors of the Association, of the annual assessments levied pursuant hereto and use such funds for its general purposes, and to make and enforce rules and regulations of supplementary covenants and restrictions, if any, applicable to such additional lands.

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PART TWO

COVENANTS AND RESTRICTIONS
APPLICABLE TO
COMMUNITY DEVELOPMENT
OF THE LAKEWOOD LINKS RESORT

ARTICLE I

GENERAL COVENANTS

Section 1. Purposes. The primary purpose of these Covenants and the foremost consideration in the origin of same has been the creation of a residential community which is aesthetically pleasing, which is functionally convenient, which is capable of maintaining itself, which provides areas reserved for recreational amenities and provides for the ultimate ownership, operation and maintenance, through the Association, of those areas. The establishment of objective standards relating to design, size and location of dwellings and other structures makes it impossible to take full advantage of the individual characteristics of each parcel of property and of technological advances and environmental values. For this reason, such standards are not established hereby, but may be suggested by the Owner in discussions with and materials submitted to Property Owners. These standards and this Declaration are consistent with and serve to complement the Subdivision Regulations of Sumter County, South Carolina. To implement these Covenants, the Owner shall, through the Architectural Review Board, establish and amend from time to time objective standards and guidelines which shall be in addition to and more restrictive than said governmental standards.

All Residential Lots in the Resort shall be used for residential purposes exclusively. The use of a portion of a dwelling on a Residential Lot as an office by the owner or tenant thereof shall be considered a residential use if such use does not create regular customer or client traffic to and from the lot. No structure, except as hereinafter provided shall be erected, altered, placed or permitted to remain on any Residential Lot other than one (1) single family dwelling, one (1) small one-story accessory building which may include a detached private garage or carport, provided the use of such accessory building does not overcrowd the site and provided further, that such building is not used for any activity normally conducted as a business. Such accessory building may not be constructed prior to the construction of the main building.

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The provisions of this Section shall not prohibit the Owner or its assignees from using a house or other family dwelling units as models for its sales program. Use as a model shall be limited to display purposes except as hereinafter provided.

Section 2. Architectural and Design Review.

(a) Purpose. In order to preserve the natural beauty of the Resort and its setting, to maintain the Resort as a pleasant and desirable environment, to establish and preserve a harmonious design for the community, and to protect and promote the value of property, no building, fence or other structure shall be erected, placed or altered until the proposed building plans, specifications, exterior color or finish, plot plan (showing the proposed location of such building or structure, drives and parking areas), landscape plan, and construction schedule shall have been approved in writing as hereinafter provided.

(b) Objectives. Architectural and Design review shall be directed towards attaining the following objectives for the Resort:

(1) Preventing excessive or unsightly grading, indiscriminate earth moving or clearing of property, removal of trees and vegetation which could cause disruption of natural water courses or scar natural landforms.

(2) Ensuring that the location and configuration of structures are visually harmonious with the terrain and vegetation of the Residential Lot and with surrounding Residential Lots and structures and does not unnecessarily block scenic views from existing structures or tend to dominate any general development or natural landscape.

(3) Ensuring that the architectural design of structures and their materials and colors are visually harmonious with the Resort's overall appearance, history and cultural heritage, with surrounding development, with natural landforms and native vegetations, and with development plans, officially approved by the Owner, or any governmental or public authority, if any, for the areas in which the structures are proposed to be located.

(4) Ensuring the plans for landscaping provide visually pleasing settings for structures on the same lot and on adjoining or nearby lots, and blend harmoniously with the natural landscape.

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(5) Ensuring that any development, structure, building or landscaping complies with the provisions of these covenants.

(6) Promoting building design and construction techniques that respond to energy consumption and environmental quality consideration such as heat loss, air emissions, and run-off water quality.

(c) Architectural Review Board.

(1) The Owner shall establish an Architectural Review Board (such board hereinafter referred to as the "Review Board") which shall consist of five (5) members. Three (3) members shall be appointed by the Owner and two (2) members shall be elected by the Association. The regular term of office for each member shall be one (1) year, coinciding with the fiscal year of the Owner. Any member appointed by the Owner may be removed with or without cause by the Owner at any time by written notice to such appointee. A successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. Any member elected by the Association shall be removed in accordance with the by-laws of the Association.

(2) The Review Board shall select its own Chairman and he, or in his absence, the Vice-Chairman shall be the presiding officer of its meetings. All meetings shall be held at least once in each calendar month or upon call of the Chairman; all meetings shall be held at the offices of the Owner at the Resort or at such other places as may be designated by the Chairman. Three (3) members shall constitute a quorum for the transaction of business, provided a minimum of two (2) members appointed by the Owner shall be present in order to have a quorum. The affirmative vote of a majority of the members of the Review Board shall constitute the action of the Review Board on any matter before it. The Review Board shall operate in accordance with its own rules of procedure; said rules shall be filed with the Association and maintained in the records of the Association.

(3) The Review Board is hereby authorized to retain the services of one or more consulting architects, landscape architects, urban designers, and/or attorneys, who need not be licensed to practice in

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the State of South Carolina, to advise and assist the Review Board in performing the design review functions herein prescribed.

(d) Transfer of Architectural Review Authority. Upon the sale of greater than 90% of the sites for the permitted Family Dwelling Units, the Owner may by filing a supplementary declaration of covenants and conditions with the Clerk of Court's Office for Sumter County, transfer the above described architectural review authority to a permanent Review Board which, subject to the covenants and conditions stated with the aforesaid supplemental declaration, shall be under the control of the Association. This section does not obligate the Owner to make such transfer, provided, however, that such transfer must be made no later than December 31, 1993.

(e) Review of Approval of Plans for Addition Alterations or Changes to Structures and Landscaping. No building, wall, fence, deck, pier, swimming pool, roof, exterior light or other structure or improvement of any kind shall be commenced or erected upon any Residential Lot or upon the exterior of any Family Dwelling Unit or upon the Common Properties, nor shall any landscaping be done, nor shall any addition to any existing building or alteration or change therein be made until the proposed building plans, specifications (including height, materials, and exterior finish), plot plan, and construction schedule shall have been submitted to and approved by the Review Board.

(f) Submission, Approval and Refusal of Architecture, Siting, Landscaping and Other Building Plans. Two copies of all plans and related data shall be in the records of the Review Board. The other copy shall be returned to the Property Owner marked "approved" or "disapproved." The Review Board shall establish a fee sufficient to cover the expense of reviewing plans and related data at the time they are submitted for review and to compensate any consulting architects, landscape architects, urban designers or attorney's retainer in accordance with subparagraph (c)(3) above. The Fee initially established by these Covenants shall be $50.00 for each submission. The Review Board shall have the right to increase this amount not more than once in any subsequent twelve (12) month period. Approvals shall be dated and shall not be effective for construction commenced more than six months after such approval. Disapproved plans and related data shall be accompanied by a reasonable statement of items found unacceptable. In the event approval of such plans is

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neither granted nor denied within thirty (30) days following receipt of Review Board of written request for approval, the provisions of this Section shall be thereby waived. Refusal of approval of plans, location or specification may be based by Review Board upon any ground which is consistent with the objectives of these covenants, including purely aesthetic considerations, so long as such ground is not arbitrary or capricious.

(g) Approval Not a Guarantee or Representation of Proper Design or Good Workmanship. No approval of plans, location or specifications, and no publication or architectural standards bulletins shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed residence. Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence or improvement thereto will be built in a good workmanlike manner. Neither the Owner, the Company nor the Review Board shall be responsible or liable for any defects in any plans or specifications submitted revised or approved under these covenants nor for any defects in construction pursuant to such plans and specifications. The Property Owner shall have sole responsibility for compliance with approved plans and does hereby hold the Review Board and the Owner harmless for any failure thereof caused by the Property Owner's architect or builder. The Owner reserves the right to prohibit the Property Owner's builder and/or general contractor from the site in the event it is determined that failure to comply with approved plans is determined to be intentional or due to gross negligence.

Section 3. Setback Lines. To assure that buildings and other structures will be located so that the maximum view, privacy and breeze will be available to each building or structure, and that structures will be located with regard to the topography of each property taking into consideration the location of large trees and other aesthetic and environmental considerations, the Review Board reserves unto itself, its successors and assigns, the right to control and to decide solely (so long as (a) its decisions are not arbitrary or capricious and (b) subject to the provisions of the pertinent land use regulations of public authorities having jurisdiction) the precise site and location of any building or structures on any property in the Resort.

The location shall be determined only after reasonable opportunity is afforded the Property Owner to recommend a specific site. Provided, however, that in the event an agreed location is stipulated in writing in the contract of purchase and

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approved by the Owner, and such location complies with the local town and county subdivision regulations, the Owner shall approve automatically such location for a residence or group of residential units.

Section 4. Parking. Each Property Owner subject to these Covenants shall provide space for the parking of two automobiles off public streets and community roads prior to the occupancy of any building or structure constructed on said property in accordance with reasonable standards established by the Review Board.

Section 5. Completion of Construction. The exterior of all houses and other structures must be completed within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the property Owner or builder due to strikes, fires, national emergency or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuance of construction the Property Owner shall require the contractor to maintain the Residential Lot in a reasonably clean and uncluttered condition. Upon completion of construction, the Property Owner shall cause the contractor to immediately remove all equipment, tools and construction material from the Lot. Any damage to roads, Common Properties or property owned by others caused by the Property Owner's contractor or other parties providing labor or services to the Property Owner shall be repaired by the Property Owner or by the Owner at Property Owner's expense. The landscaping plan for all Family Dwelling Units and other structures must be completed within ninety (90) days of occupancy or substantial completion, whichever date shall first occur.

Section 6. Service Yards. Each Property Owner shall provide a visually screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks or similar storage receptacles, electric gas meters, air conditioning equipment, clothes lines, and other unsightly objects must be placed or stored in order to conceal them from view from the road and adjacent properties.

Section 7. Signs. No signs or ornaments shall be erected or maintained on the Property by anyone including, but not limited to, the Property Owner, a realtor, a contractor or subcontractor, or except with the written permission of the Review Board or except as may be required by legal proceedings. If such permission is granted the Review Board reserves the right to restrict size, color and content of such signs.

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Section 8. Other Buildings and Vehicles. No mobile home, trailer, tent, or other similar out-building or structure shall be placed on any Residential Lot or Development Unit Parcel at any time, either temporarily or permanently without prior approval from the Review Board.

Section 9. Unsightly Conditions. It shall be the responsibility of each Property Owner and tenant thereof to prevent the accumulation of litter, trash, packing crates or rubbish or the development of any unclean, unsightly or unkept condition of buildings or grounds on his property either before, during or after construction, nor to permit accumulations which shall tend to substantially decrease the beauty of the community as a whole or the specific area.

Section 10. Lights. The design and location of all exterior lighting fixtures shall be subject to the approval of the Review Board. Neither these nor any other illumination devices, including but not limited to Christmas ornaments, located anywhere on the structures or grounds of any Residential Lot or Family Dwelling Unit shall be located, directed, or of such intensity to affect adversely the night-time environment of any adjacent property.

Section 11. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, kept or pastured on the Property, except that a reasonable number of common household pets such as dogs and cats may be kept in any one Family Dwelling Unit.

Section 12. Underground Electric Cable and Street Lighting. The developer reserves the right to subject the real property herein to a contract with Black River Electric Cooperative for the installation of underground electric cables and/or the installation of street lighting, either both of which may require an initial payment and/or continuing monthly payments to Black River Electric Cooperative or Carolina Power & Light by the owner of said property herein described.

Section 13. Repairs and Hazards. Any building or other improvement on the property that is destroyed partially or totally by fire, storm or any other means shall be repaired or demolished within a reasonable period of time, and the land restored to an orderly and attractive condition.

Section 14. Offensive Activity. No noxious or offensive activity shall be carried on upon any Residential Lot, Family Dwelling Unit, Development Unit Parcel, Common Properties, or any place within the Resort, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the community.

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Section 15. Certain Easements. The Owner reserves unto itself, its heirs and assigns, a perpetual, alienable and releasable easement and right on, over and under the ground of the Property to erect, maintain, and use electric, cable television, and telephone poles, wires, cables, conduits, drainage ways, sewers, wells, pumping stations, tanks, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, drainage or other public conveniences or utilities on, in or over those portions of such property as may be reasonably required for utility line purposes; provided, however, that no such utility easement shall be applicable to any portion of such property as may (a) have been used prior to the installation of such utilities for construction of a building whose plans were approved pursuant to these Covenants by the Owner, or (b) such portion of the Property as may be designated as the site for a building on a plot plan or for erection of a building which has been filed with the Review Board and which has been approved in writing by said Review Board.

These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. Any material disturbance to the grounds of any Property Owner caused by such utility installation shall be repaired and said grounds returned to their prior condition by the Owner or prompt and reasonable remuneration for such repair shall be made to such Property Owner by the Owner.

Section 16. Antennas. No television antenna, receiving "dish," radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of property within the Resort, nor radio, television signals, nor any other form of electromagnetic radiation shall be permitted to originate from any Family Dwelling Unit, Residential Lot, Golf Villa Tract, or Development Unit Parcel which may unreasonably interfere with the reception of television or radio signals upon any other of such properties, except as follows:

(a) The provisions of this Section shall not prohibit the Owner from installing equipment necessary for a master antenna system, security system, cable television and mobile radio systems of other similar systems within the Resort; and

(b) Should cable television services be unavailable and good television reception not be otherwise available, a Property Owner may make written application to the Review Board for permission to install a television antenna or receiving "dish," and such permission shall not be unreasonably withheld.

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Section 18. Trespass. Whenever the Association or the Owner is permitted by these Covenants to correct, repair, clean, preserve, clear out or do any action on taking such action shall not be deemed a trespass.

Section 19. Parcels. No Residential Lot shall be subdivided, or its boundary lines changed, except with the written consent of the Owner. However, the Owner hereby expressly reserves to itself, its successors or assigns, the right my mutual consent to replat any such lot or lots and to take such other steps as are reasonably necessary to make such replated lot suitable and fit as a building site including, but not limited to, the relocation of easements, walkways, rights-of-way, private roads, bridges, parks, recreational facilities and lots.

The provisions of this Section shall not prohibit the combining of two (2) or more continuous lots into one (1) larger lot. Following the combining of two (2) or more lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these Covenants. Consolidation of lots, as described above, must be approved by the Owner, said approval to be granted in the Owner's sole discretion upon such terms and conditions as may be established by the Owner from time to time, including specific provisions for the payment of assessments.

Section 20. Building Height. No Family Dwelling Unit structure shall be constructed which has a height exceeding three (3) stories above the minimum height established by applicable flood zone regulations of the United States. No townhouse, villa, or other multi-family dwelling structure shall be constructed which has a height exceeding five (5) stories above the minimum height established by applicable flood zone regulations of the United States. For purposes of this Section, the first parking level or deck underneath a building built at the above grade, shall not be considered a story.

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Section 21. Multiple Ownership of Properties. No Residential Lot or Family Dwelling Unit, with the exception of Phase III property may be owned by more than three (3) Owners at one time, except by inheritance. For purposes of this subparagraph, a married couple, and children (under 18) residing with the couple, constitutes a single owner; further the heirs at law of an owner, regardless of their number, constitutes a single owner.

Section 22. Access to Recreational Amenities. Until such times as the area reserved for Recreational Amenities are conveyed to the Association as provided in Part Three, Article II, hereof, the Owner reserves the sole and exclusive right to establish the rules and regulations for use of such facilities, including the extent and nature of guest privileges to be permitted, provided, however, that no rule or regulation shall be established by the Owner which shall have the effect of depriving a Member, as that term is herein defined, of access to the Recreational Amenities except as at Part III, Article II of these Covenants.

The lakes, excluding golf course lakes, shown on the Owners Master Plan will be for the exclusive use of the owners of the lots bordering said lakes. The owners will convey the lakes to a non-profit corporation which will govern the use and maintenance thereof.

Section 23. Golf Course. Easements to permit the doing of every act necessary and proper to the playing of golf on the Golf Course adjacent to those lots which are subject to these restrictions are hereby granted and established. These acts shall include, but shall not be limited to, the recovery of golf balls from such Lots, the flight of golf balls over and upon such Lots, the use of necessary and usual equipment upon such Golf Course, the usual and common noise level created by the playing of the game of golf, together with all the other common and usual activity associated with the game of golf and with all the normal and usual activities associated with the operation of a Country Club. The Declarant shall have the right to prescribe in writing to the governing body charged with operating the Golf Course the manner and extent to which the rights under this easement shall be exercised. In addition, the Declarant may, in its sole discretion, limit or withdraw or prohibit certain of the acts authorized by this easement, and it may limit the manner or place of doing all or certain of the acts authorized by this easement.

ARTICLE II

ENVIRONMENTAL CONTROLS

Section 1. Topography and Vegetation. Topographic and vegetation Characteristics of a Residential Lot or Development Unit Parcel shall not be altered by removal, reduction, cutting,

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excavation or any other means without the prior written approval of the Review Board. Written approval will be granted for the minimum amount of earth movement and vegetation reduction required in plans and specifications approved pursuant to the provisions of this Declaration.

Section 2. Tree Removal. No trees, bushes, or underbrush of any kind may be removed without the written approval of the Review Board. Approval for the removal of trees located within ten (10) feet of the main dwelling or accessory building or within ten (10) feet of the approved site for such building will be granted unless such removal will substantially decrease the beauty of the Property. Owner or Review Board reserves the right to have specimen trees preserved and to have site planning provided for their retention.

Section 3. Certain Controls. To implement effective and adequate erosion control and protect the beauty of the Property, the Owner, its successors, assigns (including but not limited to the Association), the Owner, its successors, assigns enter upon any property before or after a building or structure has been constructed thereon for the purpose of performing any grading or landscaping work or constructing and maintaining erosion prevention devices.

To implement effective insect, reptile and woods fire control, the Owner, its successors, assigns, and agents have the right to enter upon any property on which a building or structure has not been constructed and upon which no landscaping plan has been implemented for the purpose of mowing, removing, clearing, cutting, or pruning underbrush, weeds or other unsightly growth, removing draining standing water or dispensing pesticides.

Section 4. Erosion in Common Properties. The Owner, its successors and assigns shall have the right, but shall not be obligated, to protect all Common Properties from erosion, by planting trees, plants, and shrubs where and to the extent necessary or by such mechanical means as construction and maintenance of siltation basins, or other means deemed expedient or necessary by the Owner. The right is likewise reserved to the Owner to take steps necessary to provide and insure adequate drainage ways in Common Properties, to cut fire breaks, and to remove diseased, dead or dangerous trees and carry out other similar activities, the cost of which services is to be paid by assessments of the Property Owners in accordance with the provisions of Part Three of this Declaration.

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PART THREE

LAKEWOOD LINKS PROPERTY OWNERS' ASSOCIATION

ARTICLE I

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every Property Owner, including the Owner, shall be a Member of the Association, provided, however, that in the case of multiple ownership of any Residential Lot, Family Dwelling Unit or other properties in the Resort there shall be a maximum of one (1) Member. In the event of such multiple ownership of any kind, including by a partnership or corporation, the name of the Property Owner designated as Member shall be submitted to the Owner and/or the Association each year, not later than the first day of January of each year and only the designated Member shall be entitled to access to the Recreational Amenities as a Member of the Association. Remaining Property Owners shall be entitled to access only in accordance with rules and regulations established by the Owner, its successors and assigns, including the Association, for guests. If no designation of a Member is made by the multiple owners, all such Owners shall be required to pay such user fees as may be established by the Owner or Association.

Section 2. Voting Rights. The Association shall have two types of regular voting membership:

Class "A" - Class "A" Members shall be all those owners (including the Owner and Property Owners) of Residential Lots and any type of Family Dwelling Units, whether detached or attached. A Class "A" Member shall be entitled to one vote for each Family Dwelling Unit and/or Residential Lot which he owns, provided, however, a member casting a vote representing a Family Dwelling Unit owned by such Member shall not be entitled to cast an additional vote for the Residential Lot upon which said Family Dwelling Unit is situated.

Class "B" - Class "B" Members shall be all those owners of lands within the Property designated as Common Properties, or land reserved for future development ("Phase III"). A Class "B" Member shall be entitled to one vote for every one-half (1/2) acre of such lands which such Member owns, provided, however, that in computing the number of votes such Member shall have, the areas contained in such property shall be rounded to the nearest 0.25 acre.

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In addition to the Classes "A" and "B" regular voting Memberships described hereinabove, there shall be allowed with respect to each class, a Special Voting Membership for the Owner under the following circumstances:

So long as the Owner retains ownership of any Residential Lots or Development Unit Parcels on the Property, the Owner shall be allowed a Special Voting Membership with respect to each class by which he shall be entitled to the same number of votes in each of Class "A" and Class "B" as cumulatively held by all Members of each Class respectively (including itself), plus one. This provision, without further reference herein, shall be self-operative and its applicability determined, for any purposes, by reference to the Annual Statement for the preceding year, or years, required by this Declaration.

When any property entitling the Property Owner to membership as a Class "A" or "B" Member of the Association is owned of record in the name of two or more persons or entities, whether fiduciaries, joint tenants, tenants in common, tenants in partnership or in any other manner of joint or common ownership, or if two or more persons or entities have the same fiduciary relationship respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the Secretary of the Association, or unless the name of the designated Member has been submitted as approved in Section 1 above, their acts with respect to voting shall have the following effect:

(a) If only one votes, in person or by proxy, his act binds all;

(b) If more than one votes, in person or by proxy, the act of the majority so voting binds all;

(c) If more than one votes, in person or by proxy, but the vote is evenly split on any particular matter, each fraction shall be entitled its proportionate share of the vote or votes;

(d) If the instrument or order so filed shows that any such tenancy is held in unequal interest, a majority or even split for purposes of this paragraph shall me a majority or even split in interest; and

(e) The principles of this paragraph shall apply, insofar as possible, to execution of proxies, waivers, consents or objections and for the purpose of ascertaining the presence of a quorum.

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The voting rights of any Member may be assigned by said Member to his lessee who has entered into a lease with a term of two (2) years or more; provided, however, that the owner may not assign to such lessee any vote or votes not attributable to the property actually leased by such lessee. The Class "A" and "B" Members are sometimes hereinafter collectively referred to as the "Members."

Section 3. Board of Directors. The Association shall be governed by a Board of Directors consisting of three (3), five (5), seven (7), or nine (9) members. Initially, the Board shall consist of three (3) members, with the number in subsequent years to be determined by the members of the Board of Directors as provided for in the By-Laws of the Association. Each member of each Membership class shall be entitled to as many votes as equals the number of votes he is ordinarily entitled to, based on his ownership of one or more of the various classifications of property as computed by the formula set out hereinabove in Section 2, multiplied by the number of directors to be elected, and may cast all of such votes for any one director or may distribute them among the number to be voted for, or any two or more of them, as he may see fit, provided, however, that all votes must be cast in whole numbers and not fractions thereof. This right, when exercised, is termed "cumulative voting." Members are divided into classes for the sole purpose of computing voting rights and shall, in no event, vote as a class.

Section 4. Members to Have Power of Referendum in Certain Instances. Where specifically provided for herein, the Members, or some specific portion thereof, shall have the power to approve or reject certain actions proposed to be taken by the Association by Referendum including the levy by the Association of any Special Assessment, and the addition or deletion of functions or services which the Association is authorized to perform. In the event fifty-one (51%) percent, or more, of the votes actually returned to the Association within the specified time shall be in favor of such action, the Referendum shall be deemed to "pass" and the action voted upon will be deemed to have been authorized by the Members; provided, however, that if a higher percentage vote required to "pass" shall be specifically expressed herein, that higher percentage vote required to "pass" shall be specifically expressed herein, that higher percentage shall control in that instance. The Board of Directors may not undertake any action requiring a Referendum without complying with the provisions therefor.

In the event of a dispute as to whether a Referendum is required, the following action may be taken:

Within thirty (30) days after the adoption by the Directors of any action which is, in the opinion of the Members, subject to a Referendum, a petition signed by not less than

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twenty-five (25%) percent of the total Membership of the Association may be filed with the Secretary of the Association requesting that any such action be either repealed or submitted to a vote of the Members.

Regarding any issue, except those expressly provided for otherwise in this Declaration, which involves Special Assessments, extra-ordinary expenditures, or commitments by the Association that principally benefit the Owner, to the exclusion of other Property Owners, there shall be a Referendum in which the Owner shall not be permitted to cast his Special Voting Membership votes, as hereinabove described, but shall be limited to the votes allotted him under Classes "A" and "B" designations.

Section 5. Quorum Required for any Action Authorized at Regular or Special Meetings of the Association. The quorum required for any action which is subject to a vote of the Members at an open meeting of the Association (as distinguished from the Referendum) shall be as follows:

The first time a meeting of the Members of the Association is called to vote on a particular action proposed to be taken by the Association, the presence at the meeting of Members or proxies entitled to cast sixty (60%) percent of the total vote of the Membership shall constitute a quorum. If the required quorum is not forthcoming at any such meeting, a second meeting may be called subject to the giving of proper notice and the required quorum at such meeting shall be the presence of Members or proxies entitled to cast twenty-five (25%) percent of the total vote of the Membership of the Association. In the event the required quorum is not forthcoming at the second meeting, a third meeting may be called subject to the giving of proper notice and there shall be no quorum requirement for such third meeting. Unless otherwise provided, any reference hereafter to "votes cast at a duly called meeting" shall be construed to be subject to the quorum requirements established by this Article III, Section 5, and any other requirements of such "duly called meeting" shall be construed to be subject to the quorum requirements established by this Article III, Section 5, and any other requirements for such "duly called meeting" which may be established by the By-Laws of the Association. This provision shall not apply when the proposed action is the amendment of this Declaration and the quorum requirement established by Part Four, Article II shall govern in that instance. For the purpose of this Section, "proper notice" shall be deemed to be given when given each Member not less than thirty (30) days prior to the date of the meeting at which any proposed action is to be considered.

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Section 6. Proxies. All Members may vote and transact business at any meeting of the Association by proxy authorized in writing, provided, however, that proxies shall not be required for any action which is subject to a Referendum, in which case the votes of all the Members polled shall be made by specially provided ballots mailed to the Association.

ARTICLE II

COMMON PROPERTIES

Section 1. Common Properties. Subject to the provisions of these Covenants, the rules and regulations of the Association, and any charges established by the Association, every Class "A" Member shall have a right and easement of enjoyment in and to any property now or hereafter designated "Common Properties" pursuant to this Declaration and such easement shall be appurtenant to and shall pass with the title of every Residential Lot or Family Dwelling Unit, provided, however, that the privilege to use and enjoy the Common Properties may be denied to or withdrawn from such Member for violation of this Declaration, including the obligation to pay assessments when due. Area reserved for Recreational Amenities shall be conveyed to the Association as Common Properties upon the sale of ninety (90%) percent of the Residential Lots in the Resort but not later than December 31, 1999.

Section 2. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association to assume and pay any liens or encumbrances against the Common Property at the time of conveyance.

(b) The right of the Owner, its successors and assigns, or the Association by its Board of Directors, to dedicate or transfer to any public or private utility, utility easements on any part of the Common Properties.

(c) The right and easement of enjoyment to the Common Properties shall be limited to the Member and his or her spouse, children (under 18) permanently residing with the Member.

Section 3. The Owner covenants for itself, its successors and assigns, that, upon the sale of ninety (90%) percent of the Residential Lots in the Resort, but not later than December 31, 1999, it shall convey to the Association by deed, 99-year lease, or other instrument sufficient to convey to the Association the

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full beneficial use for at least ninety-nine (99) years, those properties to be designated as "Common Properties" including the properties listed in Section 4 of this Part Three, Article II.

The lakes, excluding golf course lakes, shown on the Owners Master Plan will be for the exclusive use of the owners of the lots bordering said lakes. The owners will convey the lakes to a non-profit corporation which will govern the use and maintenance thereof with restrictions as described in Part Four, Article I.

Section 4. The conveyance listed below shall be subject to all the restrictions and limitations of the various Articles of this Declaration, and any other restrictions and limitations of record:

As Common Properties. There shall be conveyed to the Association without charge by the Owner properties sufficient enough in size to accommodate a pool and tennis court(s).

ARTICLE III

MAINTENANCE AND RECREATIONAL ASSESSMENTS

Section 1. Payment of Assessments to Owner. Notwithstanding any provision hereinafter contained, until such time as the Owner has conveyed substantially all of the Common Properties, including the area reserved for Recreational Amenities, roadways, and maintenance facilities related to these properties, the assessments described in this Declaration shall be due and payable to the Owner, its successors or assigns and all rights hereby established on behalf of the Association, including the lien remedies, shall accrue to the benefit of the Owner.

While Ownership of such Common Properties is retained by the Owner, all funds necessary for the management, operation and maintenance of the properties which, upon conveyance to the Association, shall become Common Property, including the area reserved for Recreational Amenities, shall be derived from the assessments levied hereunder and any applicable user charges, annual user dues, security fees or maintenance fees.

Section 2. Creation of the Lien and Personal Obligations of Assessments. Each owner of any Residential Lot, Family Dwelling Unit, Development Unit Parcel, or Unsubdivided Land, whether or not it shall be so expressed in any such deed or other conveyance, agree to all terms and provisions of this Declaration and to pay to the Owner and, subsequently to the Association:

(1) Annual assessments or charges; and

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(2) Special assessments or charges for the purposes set forth in this Article, such assessments to be fixed, established and collected from time to time as hereinafter provided.

The Annual and Special Assessments together with such interest thereon and costs of collection therefor as hereinafter provided shall be a charge and continuing lien on the real property and improvements thereon against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall also be the personal obligation of the person who was the owner of such real property at the time when the assessment first become due and payable. In the case of co-ownership of a Residential Lot, Family Dwelling Unit, Development Unit Parcel, or any unsubdivided Land, all of such co-owners shall be jointly and severally liable for the entire amount of the assessment.

Section 3. Purpose of Assessments. The annual assessments levied hereunder shall be used exclusively for the improvement, maintenance management, enhancement, enlargement and operation of the areas reserved for Recreational Amenities (which ultimately shall be Common Properties), security system, insect control, vegetation control, drainage systems, Recreational Amenities, and for Common Properties, and to provide services which the Owner or Association is authorized to provide. In carrying out these duties, the Owner or Association may make payment of taxes and insurance thereon, make improvements on Common Properties, pay the cost of labor, equipment, materials, management, supervision, accounting, and Member information services, maintain offices and equipment, repay any loans made to the Owner or the Association, and take such other action as is necessary to carry out its authorized functions.

In the case of annual operation of Common Properties, upon conveyance to the Association all funds necessary for such operation need not be derived from the assessments levied by the Association, but rather may be derived from user charges and annual user dues for the particular facility as determined by the Association. Such user charges and user dues shall be in addition to and not in lieu of any other assessments herein provided for.

Section 4. Amount of Assessment. The annual assessment in the amount of $50 per Residential Lot shall be levied by the Owner of the Association commencing January 1, 1989. Assessments shall be pro-rated in the year in which a Residential Lot is conveyed to a purchaser by the Owner.

The developer reserves the right to subject the real property herein to a contract with Black River Electric Cooperative or Carolina Power & Light for the installation of underground

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electric cables and/or the installation of street lighting, either both of which may require an initial payment and/or continuing monthly payments to Black River Electric Cooperative by the owner of said property herein described.

Property shall not be classified for purposes of these covenants and these Annual Assessments as a Residential Lot until conveyed to the purchaser by the Owner.

From and after January 1, 1989, the annual assessment may be increased each year by the Owner or Board of Directors of the Association after the Common Properties are conveyed to the Association, by any amount not in excess of five (5%) percent per year, or the percentage increase between the first month and the last month of an annual assessment period in the Consumer Price Index, U.S. City Average, All Items (1967=100) (hereinafter "C.P.I.") issued by the U.S. City Average, Labor Statistics in its monthly report entitled "The Consumer Price Index, U.S. City Average and Selected Areas" whichever of these two percentage figures is larger. After conveyance of the Common Properties to the Association, three-fourths (3/4) of the votes cast at a duly called meeting of the Association, subject to the quorum requirement established by Part Three, Article I, Section 2 hereof, may vote against such increase or vote to increase said annual assessment by a greater amount or to decrease the annual assessment. In the event that the C.P.I. referred to above shall be discontinued, then there shall be used the most similar index published by the United States Government that may be procured indicating changes in the cost of living.

Section 5. Special Assessments for Improvements and Additions. In addition to the annual regular assessments authorized by Section 3 hereof, the Association, when it has been conveyed the Common Properties by the Owner, may levy special assessments, for the purpose of construction or reconstruction, repair or replacement of capital improvements upon the Common Properties, including the necessary fixtures and person property related thereto, or to provide for the necessary facilities and equipment to offer the services authorized herein, and to repay any loan made to the Association to enable it to perform the duties and functions authorized herein provided that such assessment shall have received the assent of a majority of the votes of the Members responding to a mail Referendum within thirty (30) days of mailing, with such mail Referendum to include a statement prepared by the Directors of the Association favoring such assessments stating the reasons therefor, together with a statement prepared by the Directors dissenting from such assessment provided, however, that neither of such statements may exceed a maximum length of five pages on each proposed assessment. This provision shall be interpreted to mean that the Association may make, in any one year, an annual assessment plus an additional special assessment.

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The Owner or the Association may establish reserve funds equal to ten (10%) percent of its receipts from its regular annual assessments to be held in reserve in an interest drawing account or investments as a reserve for (a) major rehabilitation or major repairs, and (b) for emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss.

Section 6. Quorum for any Action Authorized Under this Article. The quorum required for any action authorized to be taken by the Association Members under this Article shall be as follows:

The first time any meeting of the members of the Association if called to take action under this Article, the presence at the meeting of Members or proxies entitled to cast sixty (60%) percent of the total vote of the Membership, shall constitute a quorum. If the required quorum is not forthcoming at any such meeting, a second meeting may be called subject to the giving of proper notice and the required quorum at such subsequent meeting shall be the presence of Members or proxies entitled to cash twenty-five (25%) percent of the total vote of the membership of the Association.

Section 7. Date of Commencement and Proration of Annual Assessments. Due Date. Notwithstanding anything in the foregoing to the contrary, the annual assessments provided for herein shall commence no earlier than January 1, 1989.

The first annual assessment shall be made for the calendar year and shall become due and payable thirty (30) days after the day fixed for the commencement. The Owner or Board of Directors of the Association, after it has been conveyed the Common Properties, shall have the power to change the date upon which annual payment of annual assessments, i.e., lump sum, monthly installment, etc., provided, however, that the annual assessment shall be due and payable at least annually.

Section 8. Duties of the Board of Directors. The Owner, initially and thereafter the Board of Directors of the Association shall fix the amount of the assessment against each Residential Lot, Family Dwelling Unit, Development Unit Parcel, or Unsubdivided Land, and shall, at that time, direct the preparation of an index of the properties and assessments applicable thereto which shall be kept in the office of the Association and which shall be open to inspection by any Property Owner. Written notice of assessment shall thereupon be sent to every Property Owner subject thereto.

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The Association shall, upon demand at any time, furnish to any Property Owner liable for said assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence against all but the Property Owner of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non-Payment of Assessment: The Personal Obligation of the Property Owner; the Lien; Remedies of Association. If the assessment is not paid on or before the past-due date specified in Section 8 hereof, then such assessment shall become delinquent and shall, together with interest thereon at the rate of twelve (12%) percent per annum from the due date and cost of collection thereof as hereinafter provided, thereupon become a charge and continuing lien on the land and all improvements thereon, against which each such assessment is made, in the hands of the Property Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the Property Owner at the time when the assessment first become due and payable to pay such assessment, however, shall remain his personal obligation and shall not pass as a personal obligation days after receipt of such request. Such copy may be furnished to the Member either in person or by mail. Prior to such time as the Association assumes the aforesaid obligation, the Owner shall not be required to provide the aforesaid statement to the Property Owners.

ARTICLE VI

FUNCTIONS OF ASSOCIATION

Section 1. Ownership and Maintenance of Common Properties. The Association shall be authorized to own and maintain Common Properties and equipment, furnishings, and improvements devoted to the following uses:

(a) for providing any of the services which the Association is authorized to offer under Section 3 of this Article; and

(b) for swimming pool, tennis facilities, fishing facilities, and other recreational facilities of any nature.

Section 2. Ownership and Maintenance of Common Properties. The Association shall be authorized to construct, own and maintain the Recreational Amenities within the Resort. The Association shall be authorized to require the payment of user fees, annual user dues, or initiation charges.

Section 3. Services. The Association shall be authorized but not required to provide the following services:

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(a) clean-up, maintenance, landscaping, and lighting of all roads, parkways, lagoons, within the Property and also all public properties which are located within or in a reasonable proximity to the Property such that their deterioration would affect the appearance of the Property as a whole;

(b) transportation facilities other than privately owned automobiles, paid for by special assessment as provided for herein;

(c) garbage and trash collection and disposal;

(d) insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors of the Association to supplement the service provided by the State and local governments;

(e) the services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this Declaration;

(f) to take any and all actions necessary to enforce all covenants and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Property;

(g) to set up and operate the Review Board as hereinabove provided;

(h) to conduct recreation, sport, craft, and cultural programs of interest to Members, their children and guests;

(i) to provide safety equipment for storm emergencies;

(j) to monitor and support the operation of transportation services between key points of the Property and the airports, other public transportation terminals, schools, and public center serving the area surrounding the Property by the collection of user fees for the use thereof;

(k) to provide administrative services including but not limited to: legal; accounting and financial; and communication services informing Members of activities, Notice of Meetings, Referendums, etc., incident to the above listed services;

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(l) to provide liability and hazard insurance covering improvements and activities on the Common Properties, independently or in collaboration with the Owner; and

(m) to construct, maintain, operate and govern the Recreation Amenities on the Property once they are conveyed to the Association including the promulgation of Rules and Regulations for the administration thereof. Prior to conveyance the Owner shall have the sole responsibility to promulgate the said Rules and Regulations.

Section 4. Obligation of the Association. The Association shall not be obligated to carry out or offer any of the functions and services specified or implied in this Declaration. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association taking into consideration the funds available to the Association and the needs of the Members. Special assessments shall be submitted for Referendum as herein provided. The functions and services which the Association is authorized to provide may be added or reduced at any time upon the affirmative vote of fifty-one (51%) percent or more of those voting in a Referendum conducted by the Board of Directors under the same procedures as for a special assessment.

Section 5. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association only in performing its authorized functions.

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PART FOUR

SPECIAL RESTRICTIONS AFFECTING
COMMON PROPERTIES AND WATER FRONT AREAS

ARTICLE I

COMMON PROPERTIES AND WATERFRONT AREAS

Section 1. Trust Property. The Owner covenants and agrees to convey propertie(s) to the Association Common Properties on which the Association may contract tennis court(s) and pool.

Section 2. Water Front Lakes. The lakes, excluding golf course lakes, shown on the Owners Master Plan will be for the exclusive use of the owners of the lots bordering said lakes. The owners will convey the lakes to a non-profit corporation which will govern the use and maintenance thereof with restrictions as described in Part Four, Article I.

Section 3. Docks. Owners of lots fronting on the property described in Section 1 above, to be conveyed, may erect docks upon complying with the following terms and conditions of which the non-profit corporation must comply:

(a) Complete plans and specifications including site, color or finish must be submitted to the Review Board in writing;

(b) Written approval of the Review Board to such plans and specifications must be secured, the Review Board reserving the right in its uncontrolled discretion to disapprove such plans and specifications on any grounds, including purely aesthetic reasons; and

(c) Compliance with all governmental regulations, laws and ordinances.

Any alterations of the plans and specifications or of the completed structure must also be submitted to the Review Board in writing and the Review Board's approval in writing must be similarly secured prior to construction, the Review Board reserving the same rights to disapprove alterations as it retains for disapproving the original structures.

Section 4. Maintenance of Docks. All Property Owners who construct or cause to be constructed said docks must maintain said structures in good repair and keep the same safe, clean and orderly in appearance at all times, and further agree to paint or otherwise treat with preservatives all wood or metal located above the high water mark, exclusive of pilings, and to maintain

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such paint or preservatives in an attractive manner. The Owner shall be the judge as to whether the docks are safe, clean, orderly in appearance, and properly painted or preserved in accordance with reasonable standards, and where the Owner notifies the particular Property Owner in writing that said dock fails to meet acceptable standards, said Property Owner shall thereupon remedy such conditions within thirty (30) days to the satisfaction of the Owner, and that failing to so remedy such conditions, the Property Owners hereby covenant and agree that the Owner may make the necessary repairs, but is not obligated to make such repairs or take such actions as will bring said dock up to acceptable standards, all such repairs and actions to be at the expense, solely, of the lot owner in question.

Section 4. Trespass. Whenever the Owner is permitted by these covenants to correct, repair, clean, preserve, clear out or do any action on the property of any taking such action shall not be deemed a trespass.

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PART FIVE

GENERAL PROVISIONS

ARTICLE I

DURATION

Section 1. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, the Owner, or any Property Owner, their respective legal representatives, heirs, successors, and assigns, for a period of twenty-five (25) years from the date this Declaration is recorded. Upon the expiration of said twenty-five (25) year period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if, during the last year of the initial twenty-five (25) year period, three-fourths (3/4) of the votes cast at a duly held meeting of the Association vote in favor of terminating this Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such a proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given each Member at least thirty (30) days in advance of said meeting. In the event that the Association votes to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the number of votes necessary to adopt a resolution terminating this Declaration, the total number of votes cast against such resolution. Said certificate shall be recorded in the official real estate records for Sumter County, South Carolina, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

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ARTICLE II

AMENDMENTS

Section 1. The Owner specifically reserves to himself, his heirs and assigns, the right to amend this Declaration, or any portion thereof, on its own motion, from the date hereof until January 1, 1990, so long as the voting power of existing Members is not diluted thereby, nor the amounts of assessments of such existing Members raised or changed in any manner which would adversely affect such Members, after which time the procedure for amendment shall be as follows: All proposed amendments shall be submitted to a vote of the Members at a duly called meeting of the Association and any such proposed amendment shall be deemed approved if three-fourths (3/4) of the votes cast at such meeting at which such proposed amendment is to be considered are in favor of the amendment. If any proposed amendment to this Declaration is approved by the members as set forth above, the President and Secretary of the Association shall execute an Addendum to this Declaration which shall forth the amendment, the effective date of the amendment (which in no event shall be less than sixty (60) days after the date of the meeting of the Association at which such amendment was adopted), the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes cast against the amendment. Such Addendum shall be recorded in the official real estate records of Sumter County, South Carolina.

The quorum required for any action authorized to be taken by the Association under this Section 1 shall be as follows:

Section 2. The first time any meeting of the Members of the Association is called to take action under this Article, the presence at the meeting of the Members or proxies entitled to cast sixty (60%) percent of the total vote of the Membership shall constitute a quorum. If the required quorum is not forthcoming at any such meeting, a second meeting may be called subject to the giving of proper notice and the required quorum at such subsequent meeting shall be the presence of Members or proxies entitled to cast fifty (50%) percent of the total vote of the Association.

ARTICLE III

NOTICES

Section 1. Any notice required to be sent to any Member or Property Owner under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, with the proper postage affixed, to the last known

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address of the person or entity who appears as owner in the public records of Sumter County, South Carolina, on the first day of the calendar month in which said notice is mailed.

Section 2. Notice to one of two or more co-owners of a Residential Lot, Family Dwelling Unit or Development Unit Parcel shall constitute notice to all co-owners. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any change of address.

Section 3. Any person who becomes an owner and Member following the first day in the calendar month in which said notice is mailed shall be deemed to have been given notice if notice was given to his predecessor in title.

ARTICLE IV

ENFORCEMENT, SEVERABILITY AND INTERPRETATION

Section 1. Who May Enforce Generally. In the event of a violation or breach of any of the affirmative obligations or restrictions contained in this Declaration by any Property Owner or agent of such Property, the Owner or any other Property Owners or any of them jointly or severally shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event.

Section 2. Enforcement by the Association. In addition to the foregoing, the Association shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event. The Association may engage a person or persons to respond to complaints received as to violations of the covenants and shall inform the violators of such complaint. If the violation is not expeditiously terminated, the Owner or Association may engage legal counsel to bring an appropriate injunctive action, including any appeals, to enforce these covenants. Violators shall be obligated to reimburse the Association in full for all its direct and indirect costs, including but not limited to legal fees incurred by the Association in maintaining compliance with these covenants.

Section 3. Enforcement by the Owner. In addition to the foregoing, the Owner shall have the right, but shall not be obligated, to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event. Violators shall be obligated to reimburse the Association and/or the Owner in full for all its direct and indirect costs, including but not limited to legal fees incurred in maintaining compliance with these covenants.

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Section 4. Against Whom May the Covenants Be Enforced. The obligations and benefits prescribed by the covenants shall run with the Property and shall be enforceable against the Owner, its successors and assigns, the Lakewood Links Property Owners' Association, and against any Property Owner or other person whose activities bear a relation the the Property when the aforesaid parties engaged in activities (including omissions and failures to act) which constitute violations or attempts to violate or circumvent the covenants and restrictions set forth in this Declaration.

Section 5. Means of Enforcement. Enforcement of these Covenants shall be by any proceeding at law or in equity, whether it be to restrain violation or to recover damages or to create any lien created by these Covenants.

Section 6. Severability. Should any covenants or restriction herein contained, or any Part, Article, Section, paragraph, sentence, clause, phrase or term in this Declaration be declared to be void, invalid, illegal, or unenforceable for any reason by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgement shall in no wise affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 7. Interpretation. In all cases, the provisions of this Declaration shall be given that interpretation of construction which will best tend toward the consummation of the general plan of development of the Property. The provisions of these covenants shall be given full force and effect notwithstanding the existing of any zoning ordinance which allows a less restricted use of the Property.

Section 8. Authorized Action. All action which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board of Directors of the Association in the manner provided for in the By-Laws of the Association, unless the terms of this instrument provided otherwise.

Section 9. Trespass. Whenever the Association, and/or the Owner are permitted by these Covenants to correct, repair, clean, preserve, clear out or do any action on any property or on the easement areas adjacent thereto, entering the property and taking such action shall not be deemed a trespass.

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SUMTER COUNTY, S.C.

ARTICLE V

TERMINATION OF ASSOCIATION

Section 1. In the event that this Declaration be declared to be void, invalid, illegal, or unenforceable in its entirety, or in such a significant manner that the Association is not able to function substantially as contemplated by the terms hereof, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, and such adjudication occurs within ten (10) years of the date of recording this Declaration, all Common Properties belonging to the Association at the time of such adjudication shall revert to the Owner.

Section 2. The Owner shall own and operate said Common Properties as Trustee for use and benefit of owners of Residential Lots, Family Dwelling Units, and Development Unit Parcels within the Property, subject to the conditions and easements as set forth herein.

Section 3. If said adjudication shall occur on a date more than ten (10) years after the date of recording of this Declaration, or if the Members of the Association should vote not to renew and extend this Declaration as provided for herein, all Common Properties owned by the Association at such time shall be transferred to a Trustee appointed by the appropriate court of Sumter County, South Carolina, which Trustee shall own and operate said land for use and benefit of owners within the Property as set forth herein.

(a) Each lot or parcel of land located within the Property shall be subject to an annual assessment which shall be paid by the owner of each such lot or parcel to the Owner or Trustee, whichever becomes the successor in title to the Association. The amount of such annual assessment and its due date shall be determined solely by the Owner or the Trustee, as the case may be, but the amount of such annual assessment, on any particular lot or parcel, shall not exceed the amount actually assessed against that lot or parcel in the last year that assessments were levied by the Association, subject to the adjustments set forth in paragraph (b) below.

(b) The amount of the minimum and maximum annual assessment which may be charged by the Owner or Trustee hereunder on any particular lot or parcel shall be automatically increased each year by either five (5%) percent or the percentage increase between the first month and the last month of the annual assessment period in the Consumer Price Index, U.S. City Average, All Items

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(1967=100) (hereafter "C.P.I.") issued by the U.S. Bureau of Labor Statistics in its monthly report entitled "The Consumer Price Index, U.S. City Average and Selected Areas," whichever of these two percentage figures is larger. If the C.P.I. is discontinued, then there shall be used the most similar index published by the United States Government that may be procured.

(c) Any past due annual assessment together with interest thereon at a rate of twelve (12%) percent per annum from the due date and all costs of collection including reasonable attorney's fees shall be a personal obligation of the Property Owner at the time the annual assessment became past due, and it shall also constitute and become a charge and continuing lien on the lot or parcel of land and all improvements thereon, against which the assessment has been made, in the hands of the then owner, his heirs, devisees, personal representatives and assigns.

(d) The Owner or the Trustee, as the case may be, shall be required to use the funds collected as annual assessments for the operation, maintenance, repair and upkeep of the Common Properties. The Owner or Trustee may charge, as part of the cost of such functions, the reasonable value of its services in carrying out the duties herein provided for. Neither the Owner nor the Trustee shall have the obligation to provide for operation, maintenance, repair and upkeep of the Open Space or Common Properties, once the funds provided by the annual assessment have been exhausted.

(e) The Owner shall have the right to convey title to the Common Properties and to assign his rights and duties hereunder, provided that the transferee accepts such properties subject to the limitations and uses imposed hereby and affirmatively acknowledges its acceptance of the duties imposed hereby.

(f) The Trustee shall have the power to dispose of the Common Properties free and clear of the limitations imposed hereby; provided, however, that such disposition shall first be approved in writing by fifty-one (51%) percent of the Property Owners, or in the alternative, shall be found to be in the best interest of the Property Owners by the appropriate court of Sumter County, South Carolina. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Properties, then for the payment of any obligations incurred by the Trustee in the operation, maintenance, repair

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and upkeep of such properties, then for the payment of any obligations distributed among the owners of property within the Property, exclusive of the Trustees, in a proportion equal to the portion that the maximum annual assessment of property owned by a particular owner bears to the total maximum annual assessments for all property located within the Property.

Dated this 28th day of Dec., 1988.

WITNESSES:

Lettie B. Jackson

Hattie W. Odom

OWNER:

LAKEWOOD LINKS ASSOCIATES, a South Carolina General Partnership

By: Harold A. Sigmon
Harold A. Sigmon,
Managing General Partner

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

PERSONALLY appeared before me the undersigned witness who, being duly sworn, deposes and says that (s)he saw the within named Lakewood Links Associates, a South Carolina General Partnership, by Harold A. Sigmon, its Managing General Partner, sign, seal and as its act and deed deliver the foregoing Declaration of Covenants and Restrictions, and that (s)he, together with the other witness whose name appears as a witness, witnessed the execution thereof.

Lettie B. Jackson

SWORN to and subscribed before me,
this 28th day of Dec., 1988.

Hattie W. Odom
Notary Public for South Carolina
My Commission expires: _____

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EXHIBIT "A"

All those certain pieces, parcels or lots of land, lying, being and situate in Privateer Township, Sumter County, State of South Carolina, described as follows:

A. Lots 228 and 229 of "Lakewood Subdivision", Section 4, shown on that certain plat of Joseph R. Edwards, R.L.S., dated January 3, 1980, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-45, page 104.

B. Lot 9 of "Lakewood Subdivision", Section 30, shown on that certain plat of Joseph R. Edwards, R.L.S., dated July 16, 1980, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-44, page 289.

C. Lot 21 of "Lakewood Subdivision", Section 30, shown on that certain plat of Joseph R. Edwards, R.L.S., dated February 26, 1981, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-45, page 363.

D. Lot No. 189, plat of "Lakewood Subdivision", Section 3, made by Joseph R. Edwards, R.L.S., dated March 16, 1979, and recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-43, page 124.

E. All those certain lots Nos. 1 through 70, 81, 82, 187 through 209, 239, 61A, 62A and 63A on that certain plat of "Lakewood Links", Phase I, prepared by Carl J. Croft, R.L.S., dated September 28, 1988, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book 88, page 1292.

Dec 29 1988 AT 4:44 PM
RECORDED VOL. 491 PG. 1277
HARRY E. JOHNSON
REGISTER OF MESNE CONVEYANCES
SUMTER, S.C.

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STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

SUPPLEMENTARY DECLARATION OF COVENANTS AND RESTRICTIONS

PURSUANT to Article II, Section 2(a), of those certain Restrictive Covenants recorded in the Office of the RMC for Sumter County in Deed Book 481, at page 1879, said covenants are extended to include the following described property:

> "All those certain lots of land in Phase I, First Addition, "Lakewood Links" Subdivision, shown and designated as Lots 64A thru 67A on that certain plat of Croft Engineering dated July 12, 1990 and filed for record in Plat Book 90, at page 927.

IN WITNESS WHEREOF, the undersigned has set its Hand and Seal this 1st day of August, 1990.

IN THE PRESENCE OF:

LAKEWOOD LINKS ASSOCIATES, A SOUTH CAROLINA GENERAL PARTNERSHIP

BY: _____
HAROLD A. SIGMON
ITS: MANAGING PARTNER

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

PROBATE

PERSONALLY appeared before me the undersigned witness who, being duly sworn deposes and says that (s)he saw the within named Lakewood Links Associates, a South Carolina General Partnership, by Harold A. Sigmon, its Managing Partner, sign, seal and as its act and deed, deliver the within written instrument, and that deponent with the other witness named above, witnessed the execution thereof.

SWORN to before me this
1st day of August, 1990.

_____ (LS)
NOTARY PUBLIC FOR S. C.
MY COMMISSION EXPIRES: 10-5-93

FILING FEE 10.00
TOTAL 10.00

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EXHIBIT "A"

All those certain pieces, parcels or lots of land, lying, being and situate in Privateer Township, Sumter County, State of South Carolina, described as follows:

A. Lots 228 and 229 of "Lakewood Subdivision", Section 4, shown on that certain plat of Joseph R. Edwards, R.L.S., dated January 3, 1980, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-45, page 104.

B. Lot 9 of "Lakewood Subdivision", Section 30, shown on that certain plat of Joseph R. Edwards, R.L.S., dated July 16, 1980, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-44, page 289.

C. Lot 21 of "Lakewood Subdivision", Section 30, shown on that certain plat of Joseph R. Edwards, R.L.S., dated February 26, 1981, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-45, page 363.

D. Lot No. 189, plat of "Lakewood Subdivision", Section 3, made by Joseph R. Edwards, R.L.S., dated March 16, 1979, and recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book Z-43, page 124.

E. All those certain lots Nos. 1 through 70, 81, 82, 187 through 209, 239, 61A, 62A and 63A on that certain plat of "Lakewood Links", Phase I, prepared by Carl J. Croft, R.L.S., dated September 28, 1988, recorded in the Office of the Register of Mesne Conveyances for Sumter County in Plat Book 88, page 1292.

Dec 29 1988 AT 4:44 PM
RECORDED: VOL. 491 PG. 1979
HARRY D. JOHNSON
REGISTER OF MESNE CONVEYANCES
SUMTER, S.C.

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EXHIBIT P-2
Deed – 3020 Tidewater Drive

Assessor's Endorsement
01/13/2021 03:45:11 PM

BOOK: 1279
PGS: 1851 - 1854
D January 13, 2021 11:14:56 AM Pgs 4
Rec: $15.00 Total: $15.00
Cons: $0.00
VICKI M. MCCARTHY - REGISTER OF DEEDS SUMTER COUNTY
By: RBC

Auditor's Endorsement
01/15/2021 04:14:19 PM

* Curtis and Croft, LLC
325 W. Calhoun Street
Sumter, SC 29150
File No. Curtis & Croft 2020-2278

State of South Carolina)
)
County of Sumter)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, that **April W. Josey** , (hereinafter called "Grantor"), in consideration of **Five Dollars ($5.00),** and other good and valuable consideration, to the Grantor in hand paid at and before the sealing of these presents, by **April W. Josey and Jason M. Josey** (hereinafter called Grantee) in the State aforesaid, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold, and released, and by these presents does grant, bargain, sell and release unto **April W. Josey and Jason M. Josey** , as joint tenants with rights of survivorship, and not as tenants in common, the following described property, to wit:

All that certain piece, parcel or lot of land with the improvements thereon, if any, situate, lying and being in the County of Sumter, State of South Carolina, being shown and designated as Lot No. 269 of Lakewood Links Subdivision Phase VI on that certain plat prepared by Carl Croft, RLS, dated May 31, 1997, and recorded in the Office of the Register of Deeds for Sumter County in Plat Book PB97, page 814. This said lot has such metes, boundaries, courses and distances as are shown on said plat, which are incorporated herein in accordance with the provisions of Section 30-5-250 of the Code of Laws of South Carolina, 1976. This being the same property known as 3020 Tidewater Drive, Sumter, SC. Represented by Sumter County Tax Parcel No. 223-10-02-012.

This being the identical property conveyed unto April W. Josey by deed of Paula McCormick dated January 7 2021 and recorded in the Office of the Register of Deeds for Sumter County in Book 1279 at page 124 on January 11, 2021.

This conveyance is made subject to any restrictions, reservations, zoning ordinances or easements that may appear of record on the recorded plats or on the premises.

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining;

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the Grantee, and the Grantee's heirs and assigns forever.

And the Grantor does hereby bind the grantor and the grantor's heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the Grantee and the Grantee's heirs or successors and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Any reference to this instrument to the singular shall include the plural, and vice versa. Any reference to one gender shall include the others, including the neuter.

Such words of inheritance shall be applicable as are required by the gender of the Grantee.

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WITNESS the Grantor's hands and seals this the 8 day of January, 2021.

SIGNED, SEALED AND DELIVERED
in the presence of:

Witness #1
Printed Name Debra A. Hall

Witness #2
Printed Name William H. Croft

April W. Josey

State of South Carolina)
)
County of Sumter)

Acknowledgment

I, the undersigned, a Notary Public do hereby certify that **April W. Josey** personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 8 day of January,2021.

Notary Public for South Carolina
Notary(Printed Name) William H. Croft
My commission Expires: 02/02/2022

Grantee's Address: 3020 Tidewater Drive
Sumter SC 29150

Deed Prepared by and Return to:
CURTIS & CROFT, LLC
P.O. Box 3220
Sumter, SC 29151
File No. Curtis & Croft 2020-2278

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STATE OF SOUTH CAROLINA)
) AFFIDAVIT
COUNTY OF SUMTER)

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property is being transferred is located at 3020 Tidewater Drive bearing Sumter County Tax Map Number 223-10-02-012, was transferred by **April W. Josey to April W. Josey and Jason M. Josey** on the date set forth herein.
3. Check one of the following: The deed is
   (a) ____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
   (b) ____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary.
   (c) __X__ exempt from the deed recording fee because (See Information section of affidavit) to add spouse
   (If exempt, please skip items 4-7, and go to item 8 of this affidavit.)
   If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes ____ or No ____
4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):
   (a) ____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of
   (b) ____ The fee is computed on the fair market value of the realty which is $____.
   (c) ____ The fee is computed on the fair market value of the realty as established for property tax purposes which is $____.
5. Check YES____ or NO __X__ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. (This includes, pursuant to Code Section 12-59-140(E)(6), any lien or encumbrance on reality in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer). If "YES," the amount of the outstanding balance of this lien or encumbrance is $____.
6. The deed recording fee is computed as follows:
   (a) Place the amount listed in item 4 above here: ($0.00)
   (b) Place the amount listed in item 5 above here: $ 0.00
   (If no amount is listed, place zero here.)
   (c) Subtract line 6(b) from line 6(a) and place the result here:($0.00)
7. The deed recording fee due is based on the amount listed on line 6(c) above and the deed recording fee due is $ 999.00
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: **Grantor** .
9. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

April W. Josey
Responsible Person Connected with the Transaction

SWORN to before me this
9 day of January, 2021

Notary(Printed Name) William H. Croft
Notary Public for South Carolina
My Commission Expires: 02/02/2022 Curtis & Croft 2020-2278

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INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty.' Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. (This includes, pursuant to Code Section 12-59-140(E)(6), any lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer.) Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

(1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
(2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
(3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
(4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
(5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
(6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
(7) that constitutes a contract for the sale of timber to be cut;
(8) transferring realty to a corporation, a partnership, or a trust as a stockholder, partner, or trust beneficiary of the entity or so as to become a stockholder, partner, or trust beneficiary of the entity as long as no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in the stock or interest held by the grantor. However, except for transfers from one family trust to another family trust without consideration or transfers from a trust established for the benefit of a religious organization to the religious organization, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee, even if the realty is transferred to another corporation, a partnership, or trust;
(9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
(10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
(11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership;
(12) that constitutes a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed;
(13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagor or deed pursuant to foreclosure proceeding;
(14) transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty;
(15) transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act.

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EXHIBIT P-3
Application for Architectural Approval

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Lakewood Links Property Owners Association
ARCHITECTURAL REVIEW BOARD
APPLICATION FOR ARCHITECTURAL APPROVAL

Property Owners Name:Jason & April Josey			Date: 07/02/2021
Property Address:3020 Tidewater Drive			Lot#
Telephone:	Home: 803-983-7168	Work:	
Email:apriljosey@outlook.com			
Estimated Completion Date:TBD due to availability			
Contractors Name and Telephone (if applicable):			
Reason for Change or Addition: We would like to install an inground pool			

Project Type:

Addition	Deck/Patio	Fence	Landscaping	Other
☐	☐	☐	☐	☒

Project Description: Please describe briefly the proposed change or addition. Cite materials to be used and proposed color(s). Describe similarities to existing structures, if applicable. Use a separate sheet of paper if necessary. Please attach clear, legible drawings.

Inground Pool - concrete

Send completed form to LLPOA ARB – 3500 Green View Pkwy, Sumter, SC 29150 – LLPOAsumter@gmail.com

ARB Approval: ☐	Conditional Approval: ☐	Disapproval: ☐
ARB Comments:		
Signed: (ARB Chairperson):		Date:

Rev: 6/11/2018

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EXHIBIT P-4
Email Correspondence – Approval by Architectural Review Approval

Gmail Lakewood Links <llpoasumter@gmail.com>

3020 Tidewater Dr ARB request

1 message

Lakewood Links <llpoasumter@gmail.com> Sat, Jul 3, 2021 at 10:04 AM
To: April Josey <apriljosey@outlook.com>, Lakewood Links <llpoasumter@gmail.com>

Thank you for submitting your ARB request, I am pleased to inform you that it has been approved. We would like to wish you good luck with your installation..

Please feel free to reach out with any questions.

--
Lakewood Links Property Owners Association
ARB Chair
Rory Hair

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EXHIBIT P-5
Email Correspondence – Notice to Remove Fence

Gmail

Lakewood Links <llpoasumter@gmail.com>

3020 Tidewater Dr / Privacy Fence

1 message

Lakewood Links <llpoasumter@gmail.com> Mon, Sep 6, 2021 at 9:12 PM
To: April Josey <apriljosey@outlook.com>, Lakewood Links <llpoasumter@gmail.com>

We have noticed that you have installed a privacy fence around your backyard, We have looked back and there was an ARB submission for a pool but there was no mention of a fence. New privacy fences of wood or vinyl are not allowed in the Lakewood Links HOA. We realize that there are several yards with wood privacy fencing around you but they are not a part of our HOA therefore we can not regulate what they install. There are also a few fences around that are in the yards of HOA properties but they were installed years ago when the HOA Assoc. was not very active in the community. These have been Grandfathered in and if ever replaced they will have to choose a different fencing. During the purchase of your home the realtor should have given you a copy of the covenants. I will attach a copy of the Covenants and paste the section where it addresses fences.

We respectfully request that you take down your privacy fence within 60 days of this email.

Only fencing of the backyard is permitted; a fence cannot extend further forward, toward the street, than the midway point of the sides of the house. Four feet (4') maximum height for coated black chain link fence, black wrought iron or black aluminum or combination of brick and black metal. Brick fences may be five (5') feet in height with six (6') foot pillars. Brick fences must be open design, e.g see through. Six foot (6') chain link, wooden or vinyl picket or privacy fences are not allowed. Fencing that does not meet these requirements must be brought into compliance when major renovation or replacement is required or performed.

Thank you for your cooperation

Lakewood Links Property Owners Association
ARB Chair
Rory Hair

2 attachments

Lakewood Convenants.pdf
2498K

LLPOA ConditionsRestrictions(12-10-2019)-2.pdf
133K

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July 22, 2022

VIA PROCESS SERVER
Mr. Jason Josey and Mrs. April Josey
3020 TIDEWATER DRIVE
SUMTER, SC 29150

RE: DEMAND LETTER – FENCE REMOVAL AND/OR ALTERATION

Dear Mr. and Mrs. Josey,

The Lakewood Links Property Association (LLPOA) Board has reviewed your response to their demand to remove the unauthorized fence on your property. The covenants creating the LLPOA are still in effect and include the following:

PART TWO, ARTICLE I, Section 2. (e) (p.14)
Review of Approval of Plans for Addition Alterations or Changes to Structures and Landscaping.
No building, wall, fence, deck, pier, swimming pool, roof, exterior light or other improvement of any kind shall be commenced or erected upon any Residential Lot or upon the exterior of any Family Dwelling Unit or upon the Common Properties, nor shall any landscaping be done, nor shall any addition to any existing building or alteration or change therein be made until the proposed building plans, specifications (including height, materials, and exterior finish), plot plan, and construction schedule shall have been submitted to and approved by the Review Board.

PART TWO, ARTICLE I, Section 2. (f) (p.14-15)
Submission, Approval and Refusal of Architecture, Siting, Landscaping and Other Building Plans.
.... Refusal of approval of plans, location or specification may be based by Review Board upon any ground which is consistent with the objectives of these covenants, including purely aesthetic considerations, so long as such ground is not arbitrary or capricious.

Once again the Board demands that you remove the unauthorized fence from your property within the next twenty one (21) days from receipt of this notice. Failure to remove the unauthorized fence will result in further legal action.

EXHIBIT P-7A AND P-7B
ARB Request Forms

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EXHIBIT
P-7A

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ARB REQUEST FORM

Lakewood Links Property Owners Association
ARCHITECTURAL REVIEW BOARD
APPLICATION FOR ARCHITECTURAL APPROVAL

Property Owners Name: Jason & April Josey			Date: 06/13/2022
Property Address: 3020 Tidewater Drive			Lot# 269
Telephone:	Home: 803-983-7168	Work: 803-983-2862	
Email: aprilnicole131@gmail.com			
Estimated Completion Date: TBD pending approval from LL POA			
Contractors Name and Telephone (if applicable): Jason Josey dba Josey Builders 803-983-2862			
Reason for Change or Addition: Construction of 2-car garage/workshop			

Project Type:

Addition	Deck/Patio	Fence	Landscaping	Other
☑	☐	☐	☑	☐

Project Description: Please describe briefly the proposed change or addition. Cite materials to be used and proposed color(s). Describe similarities to existing structures, if applicable. Use a separate sheet of paper if necessary. Please attach clear, legible drawings.

2- car garage/workshop/poolhouse in back
Brick to match the house
Vinyl to match the house
Approximately 30x56
Removal of trees from backyard (approximately 6 total)

Send completed form to LLPOAARB – 3500 Green View Pkwy, Sumter, SC 29150 – LLPOAsumter@gmail.com

ARB Approval: ☑	Conditional Approval: ☐	Disapproval: ☐
ARB Comments:		
Signed: (ARB Chairperson): [signature]		Date: 6/15/22

Rec'd 6/15/22 [signature] 6/15/22

V112019

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EXHIBIT
P-7B

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ARB REQUEST FORM

Lakewood Links Property Owners Association
ARCHITECTURAL REVIEW BOARD
APPLICATION FOR ARCHITECTURAL APPROVAL

Property Owners Name: Jason & April Josey			Date: 06/13/2022
Property Address: 3020 Tidewater Drive			Lot# 269
Telephone:	Home: 803-983-7168	Work: 803-983-2862	
Email: aprilnicole131@gmail.com			
Estimated Completion Date: TBD pending approval from LL POA			
Contractors Name and Telephone (if applicable): Jason Josey dba Josey Builders 803-983-2862			
Reason for Change or Addition: Fence alteration			

Project Type:

Addition	Deck/Patio	Fence	Landscaping	Other
☐	☐	☑	☐	☐

Project Description: Please describe briefly the proposed change or addition. Cite materials to be used and proposed color(s). Describe similarities to existing structures, if applicable. Use a separate sheet of paper if necessary. Please attach clear, legible drawings.

5' brick fencing/6' pillars along between house & proposed garage/ addition.

Send completed form to LLPOA ARB – 3500 Green View Pkwy, Sumter, SC 29150 – LLPOAsumter@gmail.com

ARB Approval: ☑	Conditional Approval: ☐	Disapproval: ☐
ARB Comments:		
Signed: (ARB Chairperson): [signature]		Date: 6/15/22

Rev: 6/11/2018

[signature] 6/15/22

[signature]

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ELECTRONICALLY FILED - 2024 Oct 04 8:39 AM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

STATE OF SOUTH CAROLINA COUNTY OF SUMTER	IN THE COURT OF COMMON PLEAS 2022-CP-43-02015
Lakewood Links Property Owners Association, Inc.	**PLAINTIFF'S REPLY TO AMENDED ANSWER AND COUNTERCLAIM**
vs.	
Jason M. Josey and April W. Josey,	
Defendants.	

TO: THE ABOVE-NAMED DEFENDANTS AND THEIR COUNSEL OF RECORD

The Plaintiff in this action, Lakewood Links Property Owners Association, Inc., hereby submit this Reply to the Amended Answer and Counterclaim and would respectfully show the following unto this Court:

1. Each and every allegation set forth in the Amended Answer and Counterclaim is hereby denied unless expressly admitted herein.

2. The Plaintiff admits the allegations set forth in paragraphs 4, 6, 9, 28, 37, and 38 of the Amended Answer and Counterclaim.

3. The Plaintiff admits so much of the allegations of paragraphs 1, 2, 3, 5, 7, 16, 23, 30, 35 and 36 of the Amended Answer and Counterclaim as would admit the allegations of the Complaint and would deny the balance of the allegations set forth therein.

4. The Plaintiff denies the allegations set forth in paragraphs 8, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 29, 31, 32, 33, 34, 39 and 40 of the Amended Answer and Counterclaim.

5. The Plaintiff would affirmatively plead the defenses of estoppel, waiver, accord and satisfaction, merger, unclean hands, and ratification.

JONES SETH & JONES, L.L.P.

s/ Richard C. Jones
Richard C. Jones
Attorney for Plaintiff
5 Law Range - - P.O. Box 1268
Sumter, SC 29151
(803) 773-8676
richardcjones@jonessethjones.com

October 4, 2024

ELECTRONICALLY FILED - 2024 Oct 04 8:39 AM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

ELECTRONICALLY FILED - 2025 Jul 18 12:04 PM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

STATE OF SOUTH CAROLINA COUNTY OF SUMTER	IN THE COURT OF COMMON PLEAS 2022-CP-43-02015
Lakewood Links Property Owners Association, Inc. Plaintiff, vs. Jason M. Josey and April W. Josey, Defendants.	**NOTICE OF MOTION AND MOTION TO RECONSIDER, ALTER OR AMEND JUDGMENT PURSUANT TO RULE 59, SCRCP**

TO: D. RYAN MCCABE, ATTORNEY FOR DEFENDANTS, AND THE DEFENDANTS HEREIN, JASON M. JOSEY AND APRIL W. JOSEY

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, Lakewood Links Property Owners Association, Inc., by and through its attorney, will move before the Master-in-Equity for Sumter County at the Sumter County Courthouse, 215 N. Harvin Street, Sumer, South Carolina, to be heard on the tenth day after service, or as soon thereafter as may be heard, pursuant to Rule 59 of the South Carolina Rules of Civil Procedure, to reconsider, alter or amend the Final Order of the Honorable Michael M. Jordan dated July 7, 2025, and filed on July 8, 2025, to the extent that the Plaintiff herein be awarded all of the attorney's fees and costs sought by the Plaintiff at trial. Reference is made to Plaintiff's Exhibit #30, the Affidavit of Attorney's Fees and Costs, which was entered into evidence, a copy of which is attached hereto and incorporated herein by reference to make it a part and portion of this Motion.

Plaintiff would show unto the Court as follows:

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1. These attorney's fees and costs are recoverable because they are authorized by the terms and provisions of the 1988 Covenant (see Plaintiff's Exhibit #1, Part Five, Art. IV, Sect. 1, 2 and 3).
2. The Restrictive Covenants provide for enforcement by the Association and the Owner and for recovery reimbursement of all its direct and indirect costs including, but not limited to, legal fees incurred by the Association or owner in maintain compliance with these Covenants (see Plaintiff's Exhibit #1, Part Five, Art. IV, Sect. 1, 2 and 3).
3. "The Restrictive Covenants are contractual by nature." Hoffman v. Cohen, 262 S.C. 71, 75, 202 S.E.2d 363, 365 (1974); see also Seabrook Island Property Owners Ass'n v. Pelzer, 292 S.C. 343, 347, 356 S.E.2d 411, 414 (Ct.App.1987) ("Restrictive Covenants are contractual in nature and bind the parties thereto in the same manner as any other contract."). The Covenants for Lakewood Links Subdivision bind all property owners in the subdivisions to the obligations set forth in the Covenants. Thus, the Master-in-Equity, the trial judge in this case, has discretion to grant such attorney's fees and costs.
4. "'Where there is a contract, the award of attorney's fees is left to the discretion of the trial judge and will not be disturbed unless an abuse of discretion is shown." Baron Data Sys., Inc. v. Loter, 297 S.C. 382, 384, 377 S.E.2d 296, 297 (1989)
5. There are six factors to consider in determining an award of attorney's fees: 1) nature, extent and difficulty of the legal services rendered; 2) time and labor devoted to the case; 3) professional standing of counsel; 4) contingency of compensation; 5) fee customarily charged in the locality for similar services; and (6) beneficial results obtained. Blumberg v. Nealco, Inc., 310 S.C. at 494, 427 S.E.2d at 660 (S.C. 1993).
6. This three-day trial was extensive litigation, and the attorney's fees incurred were reasonable. The Plaintiff submitted 30 multi-page exhibits, and the Defendants submitted 8 multi-page exhibits. Combined exhibits total approximately 500 pages.

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7. The attorney's fees were reasonably incurred by Plaintiff. The Plaintiff's incurred legal fees are $35,210.00 and costs are $1,937.37. Based on the hourly rate and experience of counsel, this is not unreasonable. This case required focused, comprehensive and extensive preparation and was zealously tried by Plaintiff's attorney, who has 45 years of experience in the area of property law, both in litigation and in transactions. Plaintiff's attorney has been elected and served as the President of the Sumter County Bar by his colleagues. This case required focus and intense preparation for and trial by the Plaintiff's attorney.
8. The Complaint of the Plaintiffs has always alleged violation of and call for enforcement of the 1988 Covenants. The Defendants executed a deed acknowledging that the real property conveyed to the Defendants was subject to the 1988 Covenants. The Defendants executed documents at and before closing of the purchase of the real property which is the subject of this action, acknowledging full disclosure that the 1988 Covenants were enforceable against the real property they purchased.
9. The Defendants challenged the very authority of the POA to enforce the terms of the 1988 Covenants attacking the validity of the covenants requiring existential litigation far beyond removal of just the fence on the real property of the Defendants. The Plaintiff met the challenge to its very existence and has prevailed.
10. The 1988 Covenants run with the land and the Defendants required that the 273 homeowners spend thousands of dollars to secure the ruling that was given by the ARB pursuant to the provisions of the 1988 Covenants long before this lawsuit was filed.
11. The Plaintiff's fees and costs will necessarily come from assessment in some form from all 273 property owners in the subdivision, after the Defendants applied for approval, and constructed the fence before the ARB was given an opportunity to consider the application of the Defendants and issue a ruling.

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12. Generally, the balancing of equities in determining whether to issue an injunction favors enforcement of restrictions under which the property owner has freely placed himself or herself because the other owners in the restricted area have relied on this restriction in purchasing the property. Midway Properties, Inc. v. Pfister, 292 S.C. 104, 106, 354 S.E.2d 926, 927 (Ct. App. 1987)

13. Even if the Defendants suffer hardship in removal of the fence, the equities do not require that they be allowed to leave the fence in place because the hardship was caused by the Defendants' own actions and knowingly failing to comply with the Restrictions or to seek proper means for their amendment. Omoti v. Lukie, 350 S.C. 177, 564 S.E.2d 691 (Ct. App. 2002); Siau v. Kassel, 369 S.C. 631, 632 S.E.2d 888 (Ct. App. 2006)

14. Plaintiff would show that it has incurred additional and further attorney's fees and costs since the above Affidavit (Plaintiff's Exhibit #30), and the Plaintiff would request that the Court award additional and further attorney's fees incurred up through the filing of this Motion on July 18, 2025.

JONES SETH & JONES, *L.L.P*

s/ Richard C. Jones
Richard C. Jones, Bar No. 3206
5 Law Range -- P. O. Box 1268
Sumter, South Carolina 29151-1268
(803) 773-8676
Attorney for Plaintiff
richardcjones@jonesethjones.com

July 18, 2025

ELECTRONICALLY FILED - 2025 Jul 18 12:04 PM - SUMTER - COMMON PLEAS - CASE#2022CP4302015

STATE OF SOUTH CAROLINA COUNTY OF SUMTER	IN THE COURT OF COMMON PLEAS Case No.: 2022-CP-43-02015
Lakewood Links Property Owners Association, Inc., Plaintiff, vs. Jason M. Josey and April W. Josey, Defendants.	**AFFIDAVIT OF ATTORNEY'S FEES, SUIT MONEY AND COSTS**

PERSONALLY appeared before me, Richard C. Jones, Attorney at Law, who being duly sworn, does state as follows:

1. That he is the attorney for the Plaintiff above named, Lakewood Links Property Owners Association, Inc., and that he represents the Plaintiff at his request and by contract between them either oral or written.

2. That Richard C. Jones has represented the Plaintiff above named in the proceedings which have been pending before this Court and this Affidavit is filed in support of the motion, on behalf of his client, for attorney's fees, suit money and costs incurred in the pursuit of this action on behalf of and for the protection of the rights of the client.

3. That Richard C. Jones relies upon the discretion of this Court in the determination of the amount of fees, based, among other things, upon the Court's files and the Court's knowledge of the litigation between these parties, which reflects the difficulty of the services rendered, the time necessarily expended, the result accomplished, the professional standing of counsel and fees customarily charged in this area for similar legal services, and the opposing party's ability to pay.

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4. That he is informed and believes that during the preparation for the trial of this case, the trial itself, that the time devoted to the pursuit of this matter was necessary to the protection of the client's interest and in order to make presentation to the Court of the issues in a manner fitting and becoming to a member of the South Carolina Bar and the Sumter County Bar.

5. That the undersigned, in accordance with his time and expense records, which he maintains on a daily basis, states to the Court that the following time and expenses were necessarily expended by him in preparation for and in trial of this cause in the amount of $35,210.00 in attorney's fees and $1,937.97 in costs and expenses for a total of $37,147.97.

6. Richard C. Jones, Esquire, is a member of the Sumter County Bar, the South Carolina Bar and the South Carolina Association for Justice. In addition to these qualifications, he has been practicing law for a substantial amount of time and devotes much of his practice to representation of clients in the civil courts.

7. That based on the time and other criteria which have been held relevant in the setting of attorney's fees, costs and suit money, the affiant, Richard C. Jones, on behalf of his client's request that this Court study the file on record with the Court along with this Affidavit, and grant a judgment in favor of the client of Richard C. Jones against the Defendants in an amount deemed reasonable attorney's fees, costs and suit money, and that the Defendants be required to pay the same within a reasonable time as may be determined by the Court.

Richard C. Jones
Attorney for Plaintiff

SWORN to before me this
7th day of October, 2024.

Mary L. Bass L.S.
Notary Public for South Carolina
My Commission Expires: 2/6/34

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ITEMIZATION OF FEES AND COSTS
LAKEWOOD LINKS VS. JOSEY
2022-CP-43-02015

11/22/22	Office conference with Gary Jones and Charlie Carr to review timeline of events, email correspondence, restrictive covenants	1.05
11/30/22	Review of notebook provided by Charlie Carr including emails, restrictive covenants, bylaws, conditions and restrictions, statutory law; telephone conference with Charlie Carr	.75
11/30/22	Telephone conference with Charlie Carr regarding documents review; review of facts of case	.35
12/07/22	Telephone conference with Charlie Carr and Rory Hair regarding the facts of the Josey violation of covenants on real property	.40
12/12/22	Legal research; review of covenants; review of emails; draft of proposed Complaint	1.15
12/13/22	Telephone conference with Nelle Tomlinson regarding the existence of the Property Owners' Association incorporation	.10
12/21/22	Preparation of Complaint seeking injunctive relief; review of restrictive covenant provisions; review of statutory law; review of documents to attach to Complaint; telephone conference with Charlie Carr regarding precedent of refusing wooden fences and request for demand letter from Reddick to property owner	1.20
12/22/22	Preparation of Complaint; review of prior fence rulings in subdivision; telephone conference with Charlie Carr asking for documentation to support the demand	.2
12/17/22	Telephone conference with Charlie Carr regarding the height of Josey fence and to request any documents they have from prior litigation and specifically court orders; draft of Joey Complaint; review of exhibits and facts for allegations	1.60
12/28/22	Telephone conference with Charlie Carr (2) regarding fence line location on only one boundary; report of location of documents from prior litigation on similar enforcement; review of Complaint and exhibits	.50
12/28/22	Email correspondence to Charlie Carr	.10
12/28/22	Email correspondence to Charlie Carr with response from RCJ on steps to follow to gain approval of the draft of pleadings	.10
01/13/23	Telephone conference with McCabe regarding facts of the case and pleadings	.40
01/13/23	Telephone conference with Charlie Carr and Gary Jones regarding contact from Josey's lawyer; discussion of situation of Josey property near other subdivision that is defunct and grandfathered-in property	.40
01/21/23	Outside conference with Gary Jones and Charlie Carr at Lakewood Links to view and take photos of property	.75
01/17/23	Telephone conference with Ryan McCabe regarding terms of construction of brick wall	.30
01/18/23	Telephone conference with Charlie Carr regarding conversations with lawyer for Josey and verification of facts discussed and possible board reaction; telephone conference	.30

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	with McCabe to report status of case and scheduled visit to property	
01/23/23	Telephone conference with McCabe regarding our position on removal of all fences as well as his questions about building an out-building; telephone conference with Charlie Carr	.50
01/23/23	Email correspondence with McCabe; email correspondence with Carr; review of documents attached to McCabe's email; review of Restrictive Covenants referenced in McCabe's correspondence; telephone conference with Charlie Carr regarding documents	.80
01/24/23	Telephone conference with Charlie Carr regarding the position of Josey that 30 days have passed so his request is granted and to discuss the substance of his meeting of the HOA	.30
01/31/23	Telephone conference with McCabe's paralegal regarding extension of time to answer; Email correspondence to Charlie Carr confirming grant of extension of time	.30
02/11/23	Telephone conference with McCabe regarding sketch of work Josey proposes and title examination work; review of facts and law of case to frame issues/questions to be addressed in statute vs. recorded Restrictive Covenants	.50
03/01/23	Telephone conference with Charlie Carr regarding location of corporate documents	.10
03/01/23	Telephone conference with title examiner regarding information needed; email correspondence with title examiner; review of Restrictive Covenants to narrow down what documents are needed from title examiner; telephone conference with Charlie Carr relative to location of HOA documents	.50
03/23/23	Review of title work on chain of title including the conveyance from original owner into the Restrictive Covenants	.20
03/29/23	Telephone conference with Charlie Carr regarding status of case; telephone conference with title examiner regarding plats to match deeds; email correspondence to title examiner with written request; email correspondence to Charlie Carr seeking attachment from prior email	.30
04/11/23	Review of title work relative to conveyances to establish Restrictive Covenants binding upon properties	.60
04/12/23	Email correspondence with Carolina Professional Title asking for documented path showing encumbrance of properties by Restrictive Covenants	.10
04/19/23	Review of title work establishing Restrictive Covenants on Lot 69 and 78; email correspondence to Charlie Carr sending title work	.25
05/08/23	Preparation of Interrogatories; telephone conference with Denise Pavkov regarding affidavit in support of Summary Judgment Motion; review of pleadings	2.0
05/09/23	Written correspondence to McCabe with discovery requests	.20
05/09/23	Preparation of Lis Pendens, Motion for Reference to Master in Equity, Order of Reference	.70
05/10/23	Written correspondence to Ryan McCabe with Lis Pendens	.20

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06/29/23	Email correspondence to Charlie Carr asking for documents relative to history of dissolution and reinstatement of corporation; review of Restrictive Covenants for waiver clause and standing to bring suit	.60
07/11/23	Telephone conference with Charlie Carr regarding minutes and/or other documentation relative to reinstatement of the corporation and fences and sheds that were grandfathered to leave them in place so long as not repaired and must be removed if house was sold	.10
07/11/23	Telephone conference with Gary Jones to explain the supporting documents I need regarding the administrative dissolution of the corporation and the grandfathered fences and sheds allowed by the Board	.10
07/18/23	Review of minutes, letters and emails from Gary Jones; telephone conference with Gary Jones	.40
07/26/23	Telephone conference with Emily Banar in mapping to set appointment to secure aerial photo of subdivision; review of minutes and correspondence relative to fences and outbuildings; legal research of disclosure statement requirements to reveal restrictive covenants to buyer	.65
07/27/23	Telephone conference with Nelle Tomlinson regarding whether or not she has any other minutes and documents	.10
07/28/23	Outside conference with Emily Banar to review plats and tax parcels showing lots of land and overall subdivision	.65
07/28/23	Telephone conference with Gary Jones and Charlie Carr to set time to review plats; legal research on equitable estoppel, doctrine of law and res judicata	1.00
08/02/23	Outside conference with Charlie Carr and Gary Jones to review plats	1.00
08/02/23	Outside conference with Bruce Banar and Emily Banar in Mapping Department to show the marked survey of Lakewood Links lots; outside conference with title examiner to verify where lots were cut out of subdivision; preparation of witness list	.60
08/07/23	Outside conference with Denise Pavkov to verify highlighted plat of subdivision; review of surveys and plats	.50
08/10/23	Telephone conference with Mack Kolb regarding history of subdivision and enforcement of covenants; telephone conference with McCabe regarding legal arguments, absence of assignment from the original owner's authority on the property; possible settlement terms and negotiations	1.30
08/16/23	Email correspondence with McCabe on notice of violation of ARB; review of file to secure documents in support of notice to Josey	.40
08/22/23	Telephone conference with Denise Pavkov regarding status of title work	.10
08/22/23	Telephone conference with Ken Young asking for records; review of chain of title, plats and title work in search of link between stated parcels covered by the Restrictive Covenants	1.00
08/24/23	Telephone conference with Rory Hair	.20

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08/24/23	Outside conference with Denise Pavkov to review the development of Lakewood Links on plat and to discuss chain of title	1.40
08/24/23	Email correspondence with professor regarding legal theories included in defense positions; review of legal arguments made by Josey's attorney	.60
08/25/23	Telephone conference with McCabe to set meeting on merits of case; review of Josey's discovery responses; telephone conference with Carr and Jones to discuss the information Rory Hair provided regarding walking by the house and the repair of dormer by Josey	1.60
08/26/23	Review of notes of 8/24/23 meeting with Pavkov; review of discovery responses from defense and issues raised	1.20
08/29/23	Telephone conference with Pavkov on plats setting out Lakewood Links as opposed to Lakewood Estates; research of Secretary of State's corporate records for information relative to formation and dissolution of corporation; research of law on effect of reincorporation in same name after first corporation was dissolved; research of law of power of unincorporated association to prosecute claims even after the original corporation was dissolved; review of notes and Restrictive Covenants	1.50
08/30/23	Preparation of responses to Josey position for meeting with Carr and Jones on 8/31/23, in preparation for meeting with McCabe on 9/1/23; legal research on unincorporated association and estoppel; review of documentation; draft of summary of case issues	4.00
08/31/23	Office conference with Gary Jones and Charlie Carr to review settlement negotiations and defenses	1.50
08/31/23	Review of Restrictive Covenants language relative to the Master Plan Part One, Article I, Section 1(j)	.10
09/01/23	Travel to/from Columbia for meeting with McCabe; negotiations with McCabe	3.00
09/04/23	Telephone conference with Gary Jones regarding price of putting in hurricane fence and shrubs on Josey property	.20
09/04/23	Email correspondence to Gary Jones and Charlie Carr relative to the counter settlement offer from McCabe to remove fence within 12 months	.20
09/06/23	Telephone conference with Charlie Carr to discuss response to Defendant's settlement offer	.50
09/06/23	Review of notes from meeting with McCabe and composition of summary of defenses and settlement offers exchanged between the parties	1.00
09/08/23	Telephone conference with Prof. Eagle at USC Law School relative to theory arguments of the defense	.35
09/11/23	Review of facts and legal authorities and issues raised by McCabe	1.80
09/23/23	Preparation of chart showing timeline, documents and restrictions in chain of title; review of Restrictive Covenants,	4.40

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	parcels that were taken into Lakewood Links by annexation and/or by deed	
09/27/23	Review of case law and Restrictive Covenants as related to prosecution of our position	.75
10/02/23	Telephone conference with Charlie Carr regarding Summary Judgment motion and setting the final hearing; strategy of the defense relative to upcoming board elections	.25
10/19/23	Legal research on corporate necessity of Bylaws to function	1.25
10/20/23	Preparation of Affidavit of Gary Jones; telephone conference with Gary Jones	.60
10/21/23	Trip to/from Gary Jones office to execute Affidavit; telephone conference with Gary Jones; telephone conference with Charlie Carr; review of chain of title of section in which LaCosta Court is involved to show in same chain of title as Josey property; legal research on successor in interest and successor enforcement of Restrictive Covenants	4.50
10/24/23	Outside conference with Glenn Cockerill at his house to review documents; telephone conference with Gobe McElveen regarding the enforcement of the covenants and the grandfathered in fences	1.35
10/25/23	Telephone conference with Glenn Woodrum regarding history of Lakewood Links; telephone conference with Bubba Rabon regarding history of Lakewood Links; telephone conference with Ben Griffith regarding history of Lakewood Links; telephone conference with Gary Jones about his affidavit	.35
10/25/23	Telephone conference with Ben Griffith regarding when the corporation was turned over to the POA independent of Griffith, Nock and Rabon; review of statutory argument from the non-profit corporate statute; review of argument relative to succession of authority from first corporation to second corporation	.50
10/30/23	Preparation of draft of Memorandum of Law in opposition to Motion for Summary Judgment; review of Declaration of Covenants relative to our defense; legal research of unincorporated association as successor in title; outline of argument in light of law and facts of case	5.00
10/30/23	Review of past court orders denying outbuilding and fences; review of newsletters done by Cockerill; review of minutes provided by Cockerill; preparation for meeting with Cockerill	.60
10/30/23	Outside conference with Glenn Cockerill at his home to review results of his search; telephone conference with Charlie Carr relative to grandfather clause for fences and outbuildings; review of history of enforcement of Declaration of Covenants	1.10
10/30/23	Telephone conference with Glenn Hesselbart regarding his letter of December of 2001 and request execution of Affidavit; telephone conference with David Johnston; preparation of Affidavit of Hesselbart; amendment of Johnston affidavit; review of documents from Cockerill	.75

10/31/23	Telephone conference with David Johnston to arrange for meeting; travel to/from Manning to meet with David Johnston to execute his affidavit; modification of affidavit to attach letter received from Glenn Cockerill's research; review of Hesselbart affidavit; telephone conference with Hesselbart to discuss affidavit; preparation of affidavit of Cockerill; telephone conference with Prof. Jaclyn Cherry at USC Law School regarding covenants as bylaws and authority of second corporation	2.20
10/31/23	Telephone conference with Glenn Cockerill regarding modification to affidavit; travel to/from Cockerill's home for execution of affidavit	.45
11/01/23	Telephone conference with Tim Clepper regarding his involvement with the ARB, the POA Board; discussion of history of enforcement between the years 2001 and 2011; discussion of enforcement of fences	.20
11/22/23	Telephone conference with Gary Jones in response to the August 2009 letter from Gene Ducom to the homeowners association and how I can get in contact with Gene Ducom	.10
11/28/23	Telephone conference with Gene Ducom regarding his letter of 2009 and the facts therein	.40
12/28/23	Telephone conference with Gary Jones and Charlie Carr regarding Offer of Judgment filed by Josey	.20
12/28/23	Telephone conference with Glenn Cockerill alerting him to the Subpoena Duces Tecum that will be served upon him seeking documentation	.10
01/04/24	Telephone conference with Charlie Carr regarding terms of our Offer of Judgment; review of statute on Offer of Judgment; review of terms of Rule 68; draft of Plaintiff's Offer of Judgment; review of case law on award of attorney's fees	.90
01/29/24	Telephone conference with Glenn Cockerill response to Subpoena	.10
02/28/24	Preparation of responses to Defendant's discovery requests; review of notes and documents in file	1.00
03/06/24	Telephone conference with Denise Pavkov on CV for expert qualification and to schedule appointment to review exhibits	.10
03/07/24	Preparation of Subpoena and correspondence to Warren Curtis	.50
03/12/24	Email correspondence with Warren Curtis regarding release of closing file requiring consent and/or court order; email correspondence with McCabe asking that he consent to allow Curtis to release his closing file	.40
03/12/24	Outside conference with Denise Pavkov to review sketch of lots included in Lakewood Links Subdivision and supporting exhibits	.60
03/13/24	Written correspondence to McCabe with discovery responses	.20
03/28/24	Preparation of Motion for Pre-Trial Conference	.30
03/29/24	Written correspondence to Judge Jordan requesting hearing for Motion for Pre-Trial Conference	.10
04/16/24	Preparation of Notice of Hearing	.20
05/07/24	Email correspondence with McCabe regarding providing closing documents	.40

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05/20/24	Conduct of hearing on Motion for Pre-Trial Conference before Judge Jordan	1.00
05/20/24	Preparation of Scheduling Order	.50
05/31/24	Written correspondence to all witnesses regarding dates for trial	.10
06/06/24	Telephone conference with Gene Ducom	.10
06/20/24	Telephone conference with Gary Jones to schedule meeting to discuss selection of 30(b)(6) witness; email correspondence to Charlie Carr and Gary Jones relative to 30(b)(6) deposition and questions that will be asked	.30
07/09/24	Preparation for session with Gary Jones and Charlie Carr regarding 30(b)(6) deposition; review of topics; review of pleadings; review of discovery exchanged; review of Memorandum of Law; review of highlighted maps; review of prior litigation; review of Offer of Judgment; review of affidavits	4.00
07/10/24	Office conference with Gary Jones and Charlie Carr to prepare for 30(b)(6) deposition; review of legal arguments, affidavits, covenants, plats and surveys; telephone conference with Denise Pavkov to confirm plat	2.30
07/11/24	Trip to/from McCabe's office in Columbia for 30(b)(6) deposition; conduct of deposition; settlement conference with McCabe	7.00
07/17/24	Preparation of Plaintiff's Supplemental Answer to Defendants' Interrogatories; written correspondence to McCabe	.20
07/19/22	Review of 30(b)(6) deposition notes to summarize and outline the issues raised by McCabe; review of Summary Judgment Motion; review of Memorandum of Law; review of Restrictive Covenants	2.00
07/22/24	Telephone conference with Mack Kolb to arrange meeting to pick up records he has of enforcement of the fence restrictions; Travel to and from Mack Kolb's office to meet with him to discuss the documents he has discovered evidencing the enforcement of the covenants since the subdivision was opened.	.50
07/27/24	Telephone conference with Gary Jones and Charlie Carr to arrange meeting to discuss issues and facts surrounding deposition of Gary Jones	1.25
07/30/24	Telephone conference with Rory Hair regarding Josey request sent to ARB	.10
07/30/24	Telephone conference with Rory Hair regarding facts to be included in Affidavit; review of statute regarding HOAs; review of Restrictive Covenants for specific provisions	3.00
08/05/24	Telephone conference with Gobe McElveen relative to facts of case, fence enforcement and grandfather clause; Call to Rory Hair asking for any documents he had relative to the grandfather in of the fences; Review of Gene Ducom minutes and documents.	.45
08/10/24	Telephone conference with Rory Hair regarding location of approval of the fence at his home; E-mail to Charlie Carr asking that he go view the properties identified in Mack Kolb's files as having been approved; Review of Mack Kolb's files of approvals; Review of Ducom's files of activity relative to fences and approvals	1.85

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08/12/24	Preparation of Plaintiff's Supplemental Responses to Defendants' Requests for Production; written correspondence to McCabe	.50
08/21/24	E-mail correspondence with Jones, Cockerill, and Carr relative to grandfather clauses and history of enforcement of enforcement of fence policy attaching spread sheets; Review of Cockerill file and preparation of witness testimony outline.	2.00
08/29/24	Review of Josey Amended Answer and Counterclaim and preparation of Reply to Answer and Counterclaim	.65
08/30/24	Preparation of Reply by reviewing the allegations set forth in the Proposed Amended Answer and Counterclaim, and reviewing documentation relative to the application for approval of fence and/or garage and brick fence; Review of 06-13-22 Response of Josey to Reddick's letter of 05-31-22	1.00
08/31/24	Preparation of Reply to proposed Answer and Counterclaim and response to Summary Judgment Motion; Secure and review in-ground pool construction request and approval; Review minutes from 2021 and 2022 board meetings; Review Rory Hair Affidavit to refute Josey letter; Assemble memo in support of Summary Judgement motion defense; Reviewed Josey's dorma request, pool request and garage request; Review of e-mail correspondence regarding pool installation; Research of law of ratification and estoppel.	3.80
09/03/24	Organize all minutes we have been able to recover throughout the case; Look up, review and copy statutes raised in the pleadings and legal arguments to present at trial; Prepare rough draft of Return to Motion for Summary Judgment with reference to specific portions of the Covenants; Secure and attach relevant and necessary exhibits to the return to Summary Judgment Motion.	1.25
09/14/24	Preparation of amendment of allegations of Complaint; Telephone Conference with David Johnston regarding status of case and his testimony; Revise witness list; Telephone conference with attorney for Josey regarding continuance; Preparation of Return to Def. Motion for Summary Judgment.	4.00
09/14/24	Preparation of Return to Motion for Summary Judgment; Review of statutory law involved; Review of case authority; Research the law of ratification, Accord & Satisfaction and Estoppel; Review of Rule 408 of SCRE relative to admissibility of offers of compromise	3.00
09/18/24	Telephone conference with Glenn Cockerill regarding exceptions to the policies relative to the fence; telephone conference with Gary Jones relative to exceptions to policies of the fence; email correspondence with Gene Ducom relative to his attendance on the first day of trial; draft of Affidavit of Cockerill and email to him for review; review of Pavkov affidavit and documents; review of 30(b)(6) deposition of Gary Jones to pull excerpts to use to defend Summary Judgment motion; review of Memorandum of Law	7.00

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09/25/24	Conduct of hearing on Plaintiff's Motion to Amend, Defendant's Motion to Amend, Defendant's Motion for Continuance, Defendant's Motion for Summary Judgment	2.30
09/30/24	Outside conference with Denise Pavkov relative to the chain of title and Lakewood Estates vs. Lakewood Links; schedule the time of her testimony at trial; outside conference with Emily Banar at Mapping Department; telephone conference with David Johnston relative to time of his testimony; telephone conference with Gene Ducom to schedule time for his testimony; telephone conference with Gary relative to meeting to prepare for trial; telephone conference with Glenn Hesselbart relative to time for his testimony; telephone conference with Glenn Cockerill and Rory Hair; telephone conference with Charlie Carr; review of photos of Josey property	6.00
10/01/24	Review of pleadings and issues raised in the pleadings; research of law of privity in enforcement; review of Boufonte case raised by Defendant in Summary Judgment motion as related to answer within 30 days; meeting with Gene Ducom to review exhibits and to discuss the case; review of Gene Ducom documents; review of Defendant's Summary Judgment motion and Gary Jones' deposition testimony; review of Charlie Carr file	6.00
10/02/24	Office conference with Charlie Carr to review his testimony and the position of the defense; travel to and from Lakewood Links to take photos of Josey fence; meet with Mack Kolb to prepare him for his testimony; call to Gary Jones regarding employment of court reporter for hearing; call to Denise Pavkov relative to using the tax parcel to depict which lots were in and out of Lakewood Estates; witness outline completion. Pavkov, Carr, Kolb and Josey	7.00
10/03/24	Office conference with Rory Hair to review his testimony and documents involved; modify the lots and fences alleged to be in violation in affidavit of Josey to reflect which are in violation and which are not; call to Charlie Carr and Gary Jones; review of covenants and objectives of the resort; telephone conference with McCabe; preparation of Glenn Cockerill's outline and review of his affidavit; telephone conference with David Johnston	7.00
10/04/24	Office conference with Glenn Cockerill in preparation of his testimony; review of facts of case and exhibits with Cockerill; office conference with Hesselbart to prepare for his testimony and review documents included; preparation of Memorandum of Law in response to Buonforte case; review of statutory law relative to costs to be paid by parties; review of June 13, 2013, letter from Josey to Reddick; review of SCRE 408 relative to admissibility of settlement negotiations	4.50

Total: 167.05 Hrs.

18.00 Hrs. @ $300/Hr.	$ 5,400.00
149.05 Hrs. @ $200/Hr.	$29,810.00
Total Fees	**$35,210.00**

Costs:	
Filing Fees	$ 257.10
Map Copies	$ 10.00
Service of Process	$ 60.00
Title Examinations	$ 1,610.87
	$ 1,937.97

TOTAL FEES AND COSTS $37,147.97

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RECEIVED
Feb 23 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SUMTER COUNTY
Master in Equity

Michael McKinney Jordan,
Master in Equity

Case No. 2022CP4302015

Lakewood Links Property Owners Association, Inc., Respondent,

v.

Jason M. Josey and April W. Josey,

Appellants.

NOTICE OF APPEAL

Jason M. Josey and April W. Josey appeal the order of the Honorable Michael McKinney Jordan dated June 8, 2025 and the corresponding order denying Respondent's Motion to Alter or Amend pursuant to Rule 59(e), SCRCP dated January 30, 2026. Appellants received written notice of entry of the order denying Respondent's Rule 59(e) motion on January 30, 2026.

February 23, 2026

s/ D. Ryan McCabe, Jr.
D. Ryan McCabe, Jr. (SC Bar 16977)
Stephanie Trotter Kellahan (SC Bar 77680)
McCabe, Trotter & Beverly, P.C.
4500 Fort Jackson Blvd. Suite 335
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Attorney for Appellants

Other Counsel of Record:
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(803) 773-8676
richardcjones@jonessethjones.com
Attorney for Respondent

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER)	2022-CP-43-02015
Lakewood Links Property Owners Association, Inc.,	VOLUME ONE
Plaintiff,	DAYS ONE AND TWO OF THREE DAY HEARING
vs.	
Jason M. Josey and April W. Josey,	
Defendants.	

Hearing held before the Honorable Michael M. Jordan, Master in Equity for Sumter County, at the Sumter County Judicial Center, 215 North Harvin Street, Sumter, South Carolina, commencing at 1:03 P.M. on October 7, 2024, and reconvened at 10:01 A.M. on October 8, 2024, and taken by Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES

FOR THE PLAINTIFF:
Richard C. Jones
Jones Seth & Jones
Post Office Box 1268
Sumter, South Carolina

FOR THE DEFENDANTS:
Ryan McCabe
McCabe, Trotter & Beverly
Suite 335
3500 Fort Jackson Boulevard
Columbia, South Carolina

Doris Tompkins Brown
COPY
Certified Verbatim Reporter
Post Office Box 603
Sumter, South Carolina 29150
(803) 499-9434
COPY

EXHIBIT INDEX

Declaration of Covenants and Restrictions for Lakewood Links and Provisions for the Lakewood Links Property Owners' Association	Pl. Ex. 1
Chart of Josey Chain of Title	Pl. Ex. 2
Diagram shown marked in blue and yellow	Pl. Ex. 3
Copies of Titles to Real Estate	Pl. Ex. 4
Property Owner's Associatioin Architectural Review 1999 Through 2000	Pl. Ex. 5
Photographs A - F	Pl. Ex. 6
Deed from Plowden Construction Co., Inc. to David Johnston and Cynthia Johnston	Pl. Ex. 7
Color photo of entrance to Lakewood Subdivision	Pl. Ex. 8
Letter dated May 7, 2007 addressed to "Dear Homeowner" from David Johnston	Pl. Ex. 9
Survey Restrictive Covenant and Tax Affidavit	Pl. Ex. 10
Lakewood Links Property Owners Association Architectural Review Board Application for Architectural Approval	Pl. Ex. 11
Emails between April Josey and Lakewood Links Property Owners Association	Pl. Ex. 12
Lakewood Links Property Owners Association Architectural Review Board Application for Architectural Approval	Pl. Ex. 13

EXHIBIT INDEX CONTINUED

Lakewood Links Property Owners Association Architectural Review Board Application for Architectural Approval — Pl. Ex. 14

Lakewood Links Property Owners Association Architectural Review Board Application for Architectural Approval — Pl. Ex. 15

Letter from The Law Office of Jason L. Reddick, LLC dated May 31, 2022 to Mr. and Mrs. Jason Josey — Pl. Ex. 16

Title to Real Estate from Plowden Construction Co., Inc. to Glenn A. Hesselbart and Karen E. Hesselbart — Pl. Ex. 17

Letter from Glenn and Karen Hesselbart addressed to "Dear Neighbor" dated December 17, 2001 — Pl. Ex. 18

Document from Secretary of State Nonprofit Corporation Articles of Incorporation — Pl. Ex. 19

South Carolina Secretary of State Business Entities Online — Pl. Ex. 20

Department of State Declaration of Dissolution by Forfeiture — Pl. Ex. 21

Title to Real Estate Survivorship Deed to Glenn A. Cockerill and Tanaporn K. Cockerill — Pl. Ex. 22

EXHIBIT INDEX CONTINUED

Lakewood Links Property Owner's Associatioin Newsletter	Pl. Ex. 23
Lakewood Links Property Owners Newsletter	Pl. Ex. 24
Court Enforcement of Covenants	Pl. Ex. 25
Deed from Lakewood of Sumter, LLC to Eugene M. Ducom and Linda O. Ducom	Pl. Ex. 26
Letter addressed to "Dear Neighbor" dated August 24, 2009	Pl. Ex. 27
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Cockerill Inventory of Fences 2017 Carr On-site Inspection Inventory	Pl. Ex. 29
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Lakewood Links Property Owners Association, Inc. By-Laws	Def. Ex. 1
Lakewood Links Homeowners' Association Annual Meeting Minutes 17 February 2008	Def. Ex. 2
Lakewood Links Property Owners Association letter addressed "Dear Neighbor" dated 24 August 2009	Def. Ex. 3
Letter to Jason and April Josey, Law Office of Jason L. Reddick and Lakewood Property Owners Association dated 6/13/22	Def. Ex. 4
Emails with Jason Reddick and April Josey	Def. Ex. 5
Emails from Glenn Cockerill to Lakewood	

Links	Def. Ex. 6
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(ALL EXHIBITS ARE IN ONE BINDER)

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(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER)

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION, INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

THE COURT: All right. We will get some procedural history and list the appearances on the record, and then we will get started.

MR. JONES: Okay.

THE COURT: So, this is Lakewood Links Property Owners Association, Inc., Plaintiff, and Jason M. Josey and April W. Josey, Defendants. It is Case I.D. 2022-CP-43-02015. And procedurally, it looks like I have a Summons and Complaint originally filed December 29th, 2022 and an Answer March 3rd, 2023, an Order referring it to the Master in Equity May 10th, 2023. And so, this Court has jurisdiction. Various Motions and Exhibits filed or Notices filed, a Scheduling Order from June 6th, 2024, and most recently, it looks like an Amended Summons and Complaint of September 26th, 2024, and an Answer to that or Reply October 4th, 2024. I think the Answer was attached to the offer and the Motion to Amend from September 13th, 2024 and July 18th, 2024. So, is that correct procedurally on the history?

MR. JONES: Your Honor, I think you have a Reply. I think you mentioned the Reply; we put in

a Reply in recent days, and I think you recited that.

THE COURT: That was October 4, 2024.

MR. JONES: Okay. Thank you, Judge.

THE COURT: Okay. Is anything missing from the procedural history?

MR. McCABE: I don't believe so.

THE COURT: Okay. So, ya'll each, starting with the attorney for the Plaintiff, put your appearances on the record.

MR. JONES: Your Honor, I am Richard C., Dickie Jones, and I represent Lakewood Links Property Owners Association.

THE COURT: All right. Mr. McCabe.

MR. McCABE: Ryan McCabe with McCabe, Trotter & Beverly. I represent the Defendants.

THE COURT: Okay. Anything we need to -- any Pretrial Motions or anything we need to go over before we get started, or if ya'll want to do opening statements or we will just start with the testimony?

MR. JONES: Your Honor, first of all, this is -- we have agreed, Plaintiff's Number One, will come into evidence which is the Declaration of Covenants and Restrictions for Lakewood Links.

THE COURT: Okay.

MR. JONES: Before -- we have agreed that that Plaintiff's Exhibit Number One goes in without objection. I just -- I put that before the Court and I give this to Ms. Brown now.

THE COURT: Okay.

MR. JONES: Your Honor, as ---

THE COURT: And Mr. McCabe, this is the '88 Covenants in as Plaintiff's One without objection?

MR. McCABE: We don't object to Plaintiff's Exhibit Number One, Your Honor.

(1988 COVENANTS OF LAKEWOOD LINKS PROPERTY OWNERS ASSOCIATION, INC. MARKED AS PLAINTIFF'S EXHIBIT NUMBER ONE)

MR. JONES: Judge, as to the question of an opening statement. I don't have any need to put in an opening statement. We can begin with evidence as far as I am concerned.

THE COURT: Okay. Mr. McCabe?

MR. McCABE: Yes, sir, I believe we agreed to that last week. I would move to sequester the witnesses.

THE COURT: Mr. Jones, do you agree with

that or disagree?

MR. JONES: Your Honor, I don't see a need to sequester witnesses in this case because what's happening is, I gather their -- their witnesses are seated at counsel table, and so, we are at an advantage that they can go through ---

THE COURT: Well, they're a party?

MR. JONES: Yeah, they are parties.

THE COURT: And how many of yours are parties?

MR. JONES: You are right. And one seated here is a party.

THE COURT: Okay. And so, Mr. McCabe, tell me. I believe sequestration is kind of -- pretty much a matter of right, but obviously, all evidence is subject to the discretion of the Court. Is it -- and I want to say, I know ya'll have taken extensive depositions, and 30(b)(6) is the sequestration that can keep confusion down and do witnesses one at a time or is there a danger of hearing prior testimony or previous testimony of a witness and making that overlap or dovetail into it? What -- tell me a little more,

and obviously, I'm pretty sure it's routinely granted, but is there a danger of ---

MR. McCABE: I think there's some -- in my review of the evidence, there's some disputes about the approval.

THE COURT: Okay.

MR. McCABE: So, I really think the parties will provide the testimony and I prefer that several witnesses not hear the testimony that other witnesses will provide especially on that particular point.

THE COURT: Okay. All right. So, Mr. Jones, I am inclined to grant the sequestration. I think it's -- you know, the party asked for it; counsel asked for it. I think it is a pretty common practice to allow that. So, do you want to keep -- but you have certainly got the right to say which person in my party is going to be here for the whole thing and then which are witnesses, just -- just witnesses.

MR. JONES: Yes, sir. Mr. Gary Jones is seated at the counsel table with me.

THE COURT: Okay. He will be -- he's representing the corporation.

THE COURT: Okay. And so, he can stay

the entire time?

MR. JONES: That's correct.

THE COURT: Any objection to that, Mr. McCabe?

MR. McCABE: No, sir. No objection.

THE COURT: Okay. So, would everybody else -- I guess we need to seat them in the waiting area as their -- until their time is called.

MR. JONES: Yes, sir.

THE COURT: Mr. McCabe, that applies both ways. Any witnesses that you have that aren't parties?

MR. McCABE: No, sir.

THE COURT: Okay. So, anybody other than Mr. Jones and maybe the first witness, whoever the first witness is, if you would have a seat, and there should be two waiting areas right outside those double doors.

MR. JONES: Okay. Thank you, Judge. Your Honor, we have our first witness whenever you're ready.

THE COURT: Okay. Let's go.

MR. JONES: We have Ms. Pavkov?

MS. PAVKOV: Pavkov.

MR. JONES: Thank you.

THE COURT: Ms. Pavkov, if you will come around.

MR. JONES: It's got two syllables, and I mess it up every time.

MS. PAVKOV: Sit right here?

MR. JONES: Yes, in that chair right here.

MS. PAVKOV: Thank you.

THE COURT: I don't see a Bible, but if you will raise your right hand. Do you swear or affirm that everything you tell me today will be the truth, the whole truth and nothing but the truth under penalty of perjury?

MS. PAVKOV: I do.

THE COURT: Okay. You are sworn. If you will give your name and spelling to the court reporter.

MS. PAVKOV: Denise Pavkov, and that is P-A-V-K-O-V.

THE COURT: Answer any questions posed to you by Mr. Jones.

MS. PAVKOV: Yes, sir.

MR. JONES: If you will bear with me for just a minute.

THE COURT: Yes, sir.

MR. JONES: If I can show him this.

MR. McCABE: (To Mr. Jones). Are you just going -- is this just the Chain of Title?

MR. JONES: That is. (To Court): Judge, if you will bear with us.

THE COURT: Yes, sir.

MR. JONES: Mr. McCabe said we may be able to stipulate to some changes.

THE COURT: Okay.

(Messrs. Jones and McCabe confer)

MR. JONES: Judge, thank you for your patience.

THE COURT: Yeah, sure.

MR. JONES: We may be able to stipulate to some of this.

THE COURT: Yeah. I consider that an overlapping use of time. Multi-tasking or anything that ya'll view and agree to means less time that we spend I guess here today.

MR. McCABE: I will stipulate that this is the chain of title for the Josey's property. What I don't agree to is a title abstractor providing legal opinions as to what lots are bound. I think that's a question for the Court.

THE COURT: Okay. Mr. Jones.

MR. JONES: Your Honor, I want to get this Chain of Title in and it has the Deed and it has -- we have the summary on the top under the Rules of Evidence, 1006, and she sets out the Chain of Title on behalf of the Deed and everything that is associated with the Deed -- I say everything associated -- it sets out where the Covenants are referenced or not referenced; that's what this is about.

THE COURT: Is that -- is this Chain of Title only for the Josey's property or is it other property in Lakewood Links?

MR. JONES: This is only for the Josey Chain of Title, this Exhibit here.

THE COURT: Okay.

MR. JONES: So, it's -- some would say it's a vertical -- it's a vertical chain.

THE COURT: Okay. So, Mr. McCabe, the objection is to Ms. Pavkov giving testimony as to other than the Josey's which are bound by the Covenants or any opinion as to whether the Covenants are binding?

MR. McCABE: Both. I mean, I don't want -- we will stipulate that this is the Chain of Title.

THE COURT: Okay.

MR. McCABE: And the Court can ---

THE COURT: Okay.

MR. JONES: And the documents associated with it, I guess.

THE COURT: Okay.

MR. McCABE: And so, we don't -- we don't object to that.

THE COURT: Okay. So, that would be Plaintiff's Two?

MR. JONES: That would be Plaintiff's Number Two, Your Honor.

THE COURT: Okay. It's labeled a "Chart of Josey's Chain of Title" and I hand that up to Ms. Brown to mark.

(CHAIN OF TITLE MARKED AS PLAINTIFF'S EXHIBIT NUMBER TWO).

MR. JONES: And I hand this to the Court.

THE COURT: Okay. I am just noting in my notes that Mr. McCabe is just objecting to the opinion as to whether the Covenants are binding and that being a legal determination for the Court as opposed to testimony of a witness.

MR. JONES: Okay.

MR. McCABE: And this -- we can discuss

whenever, but this -- but this one requires her to draw a conclusion about which lots are bound by the restriction; correct?

MR. JONES: Well, it does. It would say that these lots are -- it has an annotation saying that they are bound by the Restrictive ---

(Discussion between Messrs. McCabe and Jones)

MR. JONES: Your Honor, we have a document that -- we -- there is some objection to it.

THE COURT: Okay.

MR. JONES: But I guess the way to proceed is to present it to Ms. Pavkov and get her to testify to it, and then if he has an objection for the record, we can ---

THE COURT: Okay.

MR. JONES: Thank you.

THE COURT: Are you ready?

MR. JONES: Yes.

(Denise Pavkov, having been duly sworn, testifies as follows:)

EXAMINATION BY MR. JONES:

Q. Denise, I'm handing you a document here; can you identify what that document is?

A. That is a portion of a tax map; it looks like it's by address.
Q. Okay.
A. Okay.
MR. McCABE: You want to get her to talk ---
MS. PAVKOV: Is this on?
MR. JONES: It's on. Speak to that.
MS. PAVKOV: Okay. Sorry about that.
Q. Okay.
A. This is a portion of the tax map.
THE COURT: I don't think -- I don't know -- is that microphone on? Because I'm having a little trouble.
MS. PAVKOV: Hello.
THE COURT: It's got to come through two layers of glass. Give me one second.
MS. PAVKOV: Can you hear me now?
THE COURT: Yes.
MR. JONES: Yes.
MR. McCABE: That's good.
THE COURT: Okay. Very good.
Q. Okay. Let me ask you about this. These lots you're showing here that's included -- these are -- they are along Lakewood Drive in the subdivision?

A. Correct.
Q. Okay. And I see here that you have got -- it says 450, 465, 455, 445 and so on?
A. Yes.
Q. And these lots here, are these lots -- what do these lots show?
A. Well, the blue lots show a particular section of the subdivision of Lakewood, and the yellow is a lot on another subdivision.
Q. Okay. All right. And so, when you say "Lakewood," the blue lots show Lakewood; which Lakewood?
A. That is known as Lakewood Estates.
Q. Okay.

MR. McCABE: Same -- same objection. And if you want to put in some -- a Chain of Title, I certainly don't object to that; if she is going to give an opinion about what in her examination, which lots are subject to Restrictive Covenants, then I think I would object to that.

MR. JONES: Okay.

THE COURT: Mr. Jones.

MR. JONES: Yes.

Q. Denise, do you have any documents to back up how you

came to the conclusion that this ---

MR. JONES: And incidentally, Judge, I didn't qualify her. I should do so; I'm sorry. In my efforts to move along.

Q. Denise, let me retrace my steps a little bit. What do you do; what is your job?

A. I'm a title abstractor for forty-one (41) years here in Sumter.

Q. Okay.

A. And throughout the state.

Q. The name of your business is what?

A. It is Carolina Professional Title Searches, Incorporated.

Q. Okay. And have you been qualified as an expert on title abstracting?

A. Yes, sir.

Q. In the Courts here in South Carolina?

A. Yes, sir.

Q. Okay. And let me talk to you about experience. I think you said forty-one (41) years you have been doing this?

A. Yes, sir.

Q. Okay. And as far as that, you have got experience, but have you had any formal training regarding abstracting titles?

A. I have.
Q. Okay. Go ahead.
A. So, I've been through the paralegal program, and then came under a senior attorney, Wilbur Bryan, who decided that I would come out of that program and go under his guidance and teaching for half a year every day, and when I finished that, then he allowed me to do title work in his law firm; I did that for several years, probably about three or four years, and then asked if they would allow me to go out on my own, and so, I did.
Q. Okay. You have heard me ask ---

MR. JONES: Your Honor, we would move to qualify her as an expert in title abstracting.

THE COURT: Okay. Mr. McCabe?

MR. McCABE: Again, I don't object to her being an expert in pulling abstracts. If she's going to draw a conclusion contending that certain lots are bound by the Restrictions, I object to that.

THE COURT: Okay.

MR. McCABE: I -- I would be open to stipulate to any Chain of Title that I have an opportunity to review.

THE COURT: Okay. So, you know, I guess we are kind of just moving along at this point, but -- and so, you don't object to her being qualified as an expert in title examination but certainly you want to make sure that her opinion as to whether a lot is bound and whether they're applicable or not remains with the Court. And as I understand the Rules of Evidence, if she is qualified as an expert, she can testify beyond what a layperson can testify to to include an opinion as to the ultimate issue. But that certainly wouldn't mean that the Court is bound to accept -- and that's just a piece of evidence, but -- so, did you want -- I guess you don't want to voir dire, but you are saying that I stipulate that she's qualified?

MR. McCABE: Not to nitpick on words, I think you said "examined." I agree that she is able to pull titles and Chain of Title to pull Abstracts; I don't agree that she is qualified to examine a title.

THE COURT: Okay. So, I am going to admit her as an expert for forty-one (41) years of training, and the Court is familiar with her in private practice; the Court is familiar with

Carolina Professional Title. And so, I am going to move to qualify her as an expert and allow her to testify consistent with the Rules subject -- and you don't have to, but I guess you can renew this objection but you will be protected on the record if she testifies to something that is beyond her abilities or expertise and, of course, there's no jury here. So, the Court is both the finder of fact and decides on the law. So, I certainly, you know, just because it is put into evidence doesn't mean that the Court is necessarily bound to accept it. I think the standard jury instructions say, you know, the fact-finder is free to consider and adopt part of a witness' testimony but not the entire testimony. And so, I am going to admit Ms. Pavkov -- did I say that right?

MR. PAVKOV: Yes, sir.

THE COURT: -- as an expert, and it will be subject to your objection on the record and that will be continuing.

MR. McCABE: Okay.

THE COURT: All right. Mr. Jones, you may proceed.

MR. JONES: All right.

EXAMINATION OF MS. PAVKOV BY MR. JONES CONTINUED:

Q. Denise, this -- you have on this exhibit that you have in front of you, there are certain lots that are in blue?

A. Yes.

Q. Did you look at the Deeds to those lots, the blue lots?

A. I did.

Q. Okay. And how did you arrive at what to put in blue lots and what not to put in blue lots?

A. By virtue of the Deed that referred to a plat, I went to the plat, I traced the plat back to -- you get a lot and it comes from a certain section that is cut out, and I traced it back to that and then linked that to the Restrictive Covenants that showed the section and the plat to show which lot applies.

Q. Okay.

A. And so, that's how I came up with the blue is in a different section than the yellow.

Q. Okay. All right.

MR. JONES: Your Honor, we would move this into evidence as Plaintiff's Exhibit Number Three.

THE COURT: Okay. Mr. McCabe, any objection?

MR. McCABE: Just continue the same objection ---

THE COURT: Okay.

MR. McCABE: -- that draws up a solution leading to a conclusion.

THE COURT: All right. So, I am going to admit that subject to Defendant's objection. That will be Plaintiff's Three.

(DOCUMENT SHOWING LOTS IN BLUE AND LOTS IN YELLOW MARKED AS PLAINTIFF'S EXHIBIT NUMBER THREE)

Q. Denise, do you have -- do you have the Deeds that show these properties being conveyed in?

A. Yes, sir.

Q. And are they with you?

A. They're with you.

Q. They are with me?

A. Yes, sir.

Q. Okay.

MR. JONES: Excuse me, please, Your Honor.

THE COURT: Yes, sir.

Q. Denise, I hand these documents to you and let me get another copy of those blue blocks so you can back them up; okay?

A. Okay.
Q. Denise, I've got copies of them; I need -- I just want you to have that.
A. Okay.
Q. Is that one copy each?
A. It looks like one copy each.
Q. Okay. All right. Let me pass that on to them, okay, and let them see it. Okay?
A. Okay.

MR. JONES: Your Honor, I am handing copies of these Deeds to counsel.

THE COURT: Okay.

(Mr. Jones provides copy to counsel).

Q. All right. Denise, I hand you these Deeds here and ask if you will relate these Deeds if you will to Exhibit -- Plaintiff's Number Three, which is the blue lots. Would you relate that to them?
A. I will. Do you want me to go through with how these are right here (witness indicates)?
Q. Yes.
A. The lots -- let me get to it -- 225, and which is known as 415 Lakewood Drive.
Q. Okay. All right. And what does the Deed -- does the Deed make reference to that lot ---

A. 225.
Q. It is 225, but it's Lot -- the address is what?
A. 415 Lakewood Drive.
Q. 415. Does it make reference to Restrictive Covenants there?
A. It does.
Q. It does?
A. Yes.
Q. And what Restrictive Covenants -- to what Restrictive Covenants do they refer?
A. Volume 281 at 802.
Q. Okay. Is Volume 281 at 802 is -- I'm looking at Plaintiff's Number One, is that the same volume as ---
A. No, sir.
Q. What is the volume of Plaintiff's Number One?
A. 481 at 1879.
Q. And those are the Declarations for which Covenants?
A. Those are the Declarations for 3020 Tidewater Drive.
Q. Which is the yellow lot?
A. Yes.
Q. Okay. All right. If you would go -- I think you just talked about what, 415 did you say?

A. That is 415 Lakewood Drive.
Q. Okay.
A. Now, the next one is going to be Lot 224, which is 435 Lakewood Drive.
Q. Okay. All right. And does it make reference to Restrictive Covenants?
A. Yes, barring 281 and 802.
Q. Okay. All right. Please go to the next one.
A. Lot 222 is 445 Lakewood Drive.
Q. Okay.
A. 445 Lakewood Drive.
Q. Does it make reference to Restrictive Covenants?
A. Volume 281 at 802.
Q. Okay.
A. The next one is Lot 221, which is 455 Lakewood Drive, and it shows Restrictions or requests Restrictions as 281 and 804.
Q. And those Restrictions 281 and 804, those Restrictions are for what subdivision?
A. That would be Lakewood Estates.
Q. Okay.
A. And it should say 281 and 802. I can see that the page is wrong, the Restrictions; that's the second page of the Restrictions.
Q. Okay. And what is the next one?

A. The next one is Lot 220; that's what it appeared. And that is 465 Lakewood Drive, and then 165 Lakewood is not reflecting Restrictive Covenants that I can see. I'm just going to go through it real quick. It simply says "It is subject to a Restriction Deed, note for record."

Q. Okay. And that was Lot 465?

A. That is the address, 465 Lakewood Drive; it is Lot 220.

Q. Okay. In your research, did you find any reference to Lakewood Estates in your research as the Lot 465 specifically?

A. Yes.

Q. Okay. And what did you find in your research as to the Restrictive Covenants that ---

A. That were for that Lot 220?

Q. Yes.

A. It would have been 281 and 802.

Q. Which is the Lakewood Estate?

A. Yes.

Q. Okay.

MR. JONES: I would like to move these Deeds into evidence as -- that will be Plaintiff's Exhibit Four, and it's -- they are foundational documents

in support of Number Three, Plaintiff's Number Three.

THE COURT: Mr. McCabe, on Exhibit Four?

MR. McCABE: No objection.

THE COURT: Thank you.

MR. McCABE: There are five Deeds, I think, Your Honor.

THE COURT: Without objection. Plaintiff's Four consisting of five title records in evidence.

MR. JONES: Your Honor, I have no further questions of this witness. Thank you.

THE COURT: Mr. McCabe, Cross-examination?

MR. McCABE: Yes, sir. Thank you.

CROSS-EXAMINATION OF MS. PAVKOV BY MR. McCABE:

Q. Good afternoon.

A. Hello.

Q. How are you?

A. Good.

Q. Are you familiar with Lakewood Links Subdivision?

A. I am.

Q. How long have you lived in Sumter?

A. Probably twenty, thirty, forty -- fifty something years, yeah.

Q. And on how many occasions would you estimate that you have had the opportunity to be in -- to drive through Lakewood Links Subdivision?
A. I have done it once.
Q. Once. And you ---
A. It is off a road that is completely opposite of the side of town I live on.
Q. Okay. Do you have any friends that live there?
A. I have no friends that have told me they live there.
Q. Okay. Are you familiar with the scheme of development in Lakewood Links Subdivision?
A. Somewhat, yes.
Q. Okay. And are there wood fences within Lakewood Links?
A. I have not driven through Lakewood Links; so, I'm not familiar with wood fences there or not.
Q. When you did drive through, can you tell the difference between the two different sets -- the lots bound by the two different sets of Restrictions?
A. I will be honest; I probably drove through there ten (10) years ago, and I don't believe I was looking at fences.
Q. Okay. Do you have any documents up there with you?

A. I do.
Q. What documents do you have with you?
A. What Mr. Jones gave me, and then I have the Restrictive Covenants for the section he was asking me about and then I have the plat that refers specifically to those lots for the lots he was asking me about in blue, and then I have the Josey's plat, which I took that, the next plat to the forties which is where it comes from and then I copied the plat.
Q. Did you bring your title search with you?
A. No, I did not.

MS. PAVKOV: (To Mr. Jones). Did you have your title search?

MR. JONES: I have it on my computer, Judge. I don't have a hard copy.

A. I did not.
Q. Do you recall if the By-laws were recorded?
A. Of the Josey lot?
Q. For Lakewood Links Subdivision.
A. There are several different By-laws involved in different subdivisions that goes under the heading of "Lakewood." There could be Links, there could be Estate, there could just be, like, the subdivision and all the different sections.

MR. McCABE: Your Honor, may I approach?

THE COURT: Yes, sir.

Q. I want to hand you a document; would you take a look at that and tell me if you recognize that document?

A. (Witness reviews document). I do.

Q. Okay. And what is it?

A. Lakewood Links Property Owners Association, Inc. By-laws.

Q. And looking in the upper right-hand, do you see a stamp?

A. Yes.

Q. And do you recognize that stamp?

A. I do.

Q. What does that stamp tell you?

A. That it was recorded in the year 2020.

Q. Do you recall pulling this document when you performed an abstract for Mr. Jones?

A. Yes.

Q. Okay. And did you pull this from the records here in Sumter County Register of Deeds?

A. Yes, I did.

Q. Okay. Will you go to -- go to Page Twelve (12).

A. Okay.

Q. And do you see there is an execution date on these By-laws?

A. I do.
Q. And what is the date?
A. The dates is the 11th day of November, 2019.
Q. Okay. And what is the next page?
A. A signature page of the document.
Q. And turn to the next page, please. Can you tell me what that page is?
A. It says "Lakewood Links Property Owners Association, Green View Parkway, Sumter," and it's Property Owners Conditions and Restrictions.
Q. And look at the top left-hand corner of that document and tell me if you recognize the annotation there at the top.
A. (Witness reviews page). Book 1265 at 5797.
Q. Is this part of the same document, these By-laws and the Conditions and Restrictions?
A. I'm going to look at what I printed from the courthouse.
Q. Sure. Sure.
A. Because what I -- (witness reviews document). Yes, that is of record.
Q. And did you pull this as a part of your title work for Mr. Jones?
A. Yes. Yes.
Q. Okay. This Lakewood Links Conditions and

Restrictions, is this immediately filed within the book and page?

A. It's part of the document.

Q. The same document?

A. Yes, it's part of the same document.

Q. All right. And do you know what a Condition is in terms of a real estate instrument; do you know what a Condition is?

MR. JONES: Your Honor, I'm objecting on the same grounds as Mr. McCabe objected.

THE COURT: Mr. McCabe, were you opening the door?

MR. McCABE: I'm not asking for an opinion; I'm just asking her if she knows what it is.

THE COURT: Well, I haven't heard her answer yet. So, the question was, do you know what a Condition is; is that -- is that ---

MR. McCABE: Correct. And my next question will be, does she know what a Restriction is?

MR. JONES: Well, I think that calls for an opinion of what a Restriction is and a Covenant. They say that she's an examiner and ---

THE COURT: But, Mr. Jones, I think if he opens the door, then wouldn't you be free to

follow up on that? I mean, -- I guess -- let me hear what her answer is. Obviously, the witness is qualified to testify as to title research, title examination, and I guess there's probably a really fine line in there when it becomes application of the law and a legal defendant. But I guess we will know when we get to it or step over it, because you guys aren't going to miss it. So, at this point, I think I am going to allow her to answer the question, but Mr. McCabe, that was my thought too; if you open the door, then I'm going to allow Mr. Jones to make sure that in fairness that that issue is -- that that testimony is in balance; so, just proceed with caution.

MR. McCABE: Well, it's not my intention to ask her for an opinion on these things.

THE COURT: But her answer -- you asked her the question, she makes the answer, you might be stuck with that, and it might open the door, even if you say -- I didn't intend for her to answer that way; if she does and it leads into -- I mean, and I just - and the whole purpose is just fairness. So, I'll need to decide on that. But I do recognize

-- Mr. Jones, the ruling would be overruled premature at this point, but point well taken, we might -- that might open the door. We might have to allow testimony as to a legal analysis of those terms. But you can proceed with. ---

MR. McCABE: Sure.

THE COURT: -- those and the conditions ---

MR. McCABE: And the reason for my objection was to save time, just getting ready to -- whatever the documents were.

THE COURT: Yes, sir.

CROSS-EXAMINATION BY MR. McCABE CONTINUED:

Q. Nevertheless, the -- what is the -- what does the word "Condition" mean to you in the context of a recorded instrument?

MR. JONES: Note my objection.

THE COURT: Yes, sir. Objection noted.

The witness may answer.

A. And so, the Conditions as I would say within this document are the Restrictions that sets out different stipulations as to the building size or the lots, what can be done with it. It probably also -- I'm looking -- it gives the Condition of probably an architectural review; I mean, it

typically will list all of the Conditions, all of the stipulations that this particular area would be subject to.

Q. Okay. And again, the word "Restriction," what does that mean to you?

A. Okay. Restrictions, again, when you say Restrictions with the Restrictive Covenants, it is restricting, let's say, your building's setback line, how tall your building can be, where you can build, where you cannot build, what can you build on it; the list is very lengthy as to what the Restrictions can be.

Q. So, do you know what document P-One does not include in these Covenants, these Conditions and Restrictions?

A. What is P-One?

Q. That is the Exhibit?

A. Oh, this is P-One?

Q. No. Well, ---

MR. McCABE: May I approach?

THE COURT: Yes, sir.

A. These are the original Restrictive Covenants.

Q. Okay.

A. And when I read them, it did stipulate that they could be amended and changed, and so, these came after -- the ones you just handed me were subsequent to the original Restrictive Covenants.

Q. Okay.
A. And so, they both apply.
Q. Okay. And so, you consider these Declaration or Conditions that were Restrictions, Conditions, Covenants, that sort of thing?
A. An Amendment to this, additional to this.
Q. Okay. Thank you.

Mr. McCABE: Your Honor, at this time, I would move that document in as Defendant's Exhibit One.

THE COURT: Mr. Jones.

MR. JONES: Objection, Your Honor, on the grounds that it is not relevant. This case involved the 1988 Covenants; we are -- those Restrictions, we are not trying to enforce those. Those are not a part of what is before the Court, and we would ask that the Court deny bringing that in because it is irrelevant and shouldn't come into evidence. It is prejudicial beyond its probative value there.

THE COURT: I don't want to give Mr. McCabe his argument, but is the one that was based on the Mr. Reddick letter?

MR. McCABE: Not only the Mr. Reddick

letter but the letter from the ARB, all of the communications to the Josey's relevant to the violation of these Covenants. These Conditions and Restrictions -- again, that they are amended, whether they were amended properly or improperly, the Restrictions are the 1988 Covenants as amended. Now, whether the Court believes they were properly amended remains -- ultimately, that will be a decision for you to make. But the record is replete with references to these Conditions and Restrictions.

THE COURT: And so, are you saying these are a part of your case?

MR. McCABE: Yes, sir.

THE COURT: But you are not saying that these undermine or eliminate consideration of the '88 Covenants?

MR. McCABE: I'm -- I don't think our position has ever been that these Covenants are invalid.

THE COURT: Okay. So, I am going to admit that as Defendant's One over the objection. The Plaintiff will be protected on the record. This will be Defendant's Exhibit One.

MR. JONES: Thank you, Your Honor.

THE COURT: You may proceed.

(LAKEWOOD LINKS PROPERTY OWNERS ASSOCIATION, INC. BY-LAWS MARKED AS DEFENDANT'S EXHIBIT NUMBER ONE)

MR. McCABE: The Court's indulgence.

THE COURT: Yes, sir.

MR. McCABE: No further questions for this witness. Thank you.

THE COURT: Mr. Jones, he walked a pretty fine line not opening the door.

MR. JONES: Your Honor, ---

THE COURT: Do you agree that pinballs that tight rope? I didn't hear that magic question, applicability.

MR. JONES: Well, her answer said, "These -- they're subject to;" that was one of her responses when he asked what these are. And she said, "They are subject to." So, that's why she -- so, I need to follow up on that by asking what she means by "subject to."

THE COURT: Okay. Well, certainly, I'm going to allow that. Do you agree with me he walked a pretty fine line in not asking for a legal opinion?

MR. JONES: Well, I thought he did ask

for an opinion as to subject to, you know.

THE COURT: Okay.

REDIRECT EXAMINATION OF MS. PAVKOV BY MR. JONES:

Q. Denise, I am handing you Plaintiff's Exhibit Number One.

A. Okay.

Q. Okay. From your experience of forty-one (41) years and your training, ---

A. Okay.

Q. -- are those -- excuse me -- the lots, the blue-colored lots, okay, that are on Exhibit Number -- Plaintiff's Exhibit Number Three, are they subject to the Lakewood Estates?

A. Yes, and not what you just handed me.

Q. And not the P-One?

A. No, not the P-One.

Q. But in your opinion, they are subject -- the blue lots are subject to the Lakewood Estates?

A. Exactly.

Q. Okay.

MR. JONES: I have no further questions of this witness, Your Honor.

THE COURT: Okay. Thank you.

MR. JONES: Thank you, Your Honor.

THE COURT: Ms. Pavkov, you can step down.

MR. JONES: Your Honor, shall we call our next witness?

THE COURT: Yes, sir.

MR. JONES: Okay. Your Honor, we would call Mr. Mack Kolb to the stand, please.

THE COURT: Mr. Kolb, if you will come around and be sworn.

MR. JONES: Mack, you go around the side there.

MR. KOLB: Okay.

MR. JONES: Sit right there (counsel indicates place).

THE COURT: Let me just ask ya'll. Just trying the tech equipment to make sure we're good on sound. So, it seems like that microphone is now working. Obviously, I just wanted to check -- I wanted to check with the Clerk of Court and see if everybody is good on being able to hear the microphone of the witness.

MR. JONES: I am, Your Honor.

THE COURT: Mr. McCabe, did that get resolved?

MR. McCABE: Yes, sir.

THE COURT: Okay. I was going to send to I.T., but I will just tell them I think we're

good. Your witness, Mr. Jones.

MR. JONES: Thank you.

THE COURT: I swore you last time; I've got to swear you this time. Left hand on there and raise your right hand. Right hand today. Do you swear or affirm that everything you tell me today will be the truth, the whole truth and nothing but the truth under the penalty of perjury?

MR. KOLB: I do.

THE COURT: You're sworn. Mr. Jones, your witness.

(Mack Kolb, having been duly sworn, testifies as follows):

EXAMINATION OF MACK KOLB BY MR. JONES:

Q. Mack, I want to introduce you to the Court a little bit if I can.

A. Okay.

Q. You are a real estate broker?

A. I am.

Q. Okay. How long have you been doing real estate?

A. Over fifty (50) years.

Q. And over the course of being a real estate broker, have you developed subdivisions?

A. I have.

Q. Okay. And in the course of being a real estate

broker, have you ever served on an Architectural Review Board?

A. I have.

Q. And in the course of being a real estate developer, have you worked with Lakewood Links?

A. I have.

Q. Okay. I want to talk to you a little bit about your exposure to Lakewood Links.

A. Okay.

Q. Tell me -- tell the Court the history of Lakewood Links as you know it; I think you lived out there one time, didn't you?

A. I lived out there from 1979 till 1989, was actually the first person to build a house in Lakewood Estates, and then in the early '80's, I sold the entire development to a group out of Canada and they focused primarily on building the golf course and were undercapitalized and they ended up having to put it up for sale. And they -- and then I subsequently sold the whole development to Harold Sigmon, and that was when Lakewood Links was formed.

Q. Okay. And so, I want to ask you this. There's -- I want to show you a document; it's Plaintiff's Exhibit Number one and it's labeled "Declaration of Covenants

and Restrictions for Lakewood Links and Provisions for the Lakewood Links Property Owners Association." Do you see that?

A. I do.

Q. And are you familiar with that over the years?

A. I am.

Q. And did you actually serve on the Architectural Review Board for Lakewood Links Property Owners?

A. I did.

Q. Okay. And I want to hand you a document and ask if you can identify this document for me, please. I want to hand you this document and ask you if you can -- just look it through and I'm going to ask you some questions about it.

A. (Witness reviews document). Okay.

Q. Okay. Do you recognize that document?

A. I do.

Q. And the attachments that go with it?

A. I do.

Q. And in fact, these attachments, they came from you; correct?

A. Surprisingly, we kept a file this long, but we did.

Q. Okay.

MR. JONES: Your Honor, I want to mark this as Plaintiff's Exhibit Number

I guess, Four, I think.

THE COURT: Four was the five Title records. I think this would be Five.

MR. JONES: Number Five.

THE COURT: Just mark it for I.D. right now?

MR. JONES: It is. Yes, Your Honor.

(ARCHITECTURAL REVIEW BOARD DOCUMENT, 1999-2000 COMMON SCHEME OR PLAN MARKED FOR ID AS PLAINTIFF'S EXHIBIT NUMBER FIVE)

Q. Mack, I want to ask you some questions about the structure of this because I want to move it into evidence; okay?

A. Okay.

Q. All right. On the front page on the left-hand side is the addresses; correct?

A. That's correct.

Q. And those addresses came right off of these documents that you provided; correct?

A. That's correct.

Q. And these documents, they have dates on the documents when these -- when the actual approval was done; correct?

A. That's correct.

Q. Okay. And so, these documents that are attached

are a part of the Architectural Review Committee for Lakewood Links; correct?

A. That is correct.

Q. And they have the dates on them?

A. Uh-huh (affirmative response).

Q. And also sets out what was done when it went before the Architectural Review Board?

A. That's correct.

Q. Okay.

MR. JONES: Your Honor, I would like to have him testify about this and I would like to move this into evidence as Plaintiff's Exhibit Number Five.

THE COURT: Mr. McCabe, have you seen it?

MR. McCABE: Your Honor, I hate to be objecting to everything, but ---

THE COURT: Sometimes you have to.

MR. McCABE: But the relevance, the issue is, are these folks allowed to keep their wooden fence?

THE COURT: Uh-huh (affirmative response)

MR. McCABE: I'm just not sure I understand the purpose of ---

THE COURT: I'm not going to make Dickie's argument for him, but what -- was common scheme

or plan included in the Pleadings or at least raised as an issue and possibly also waiver or abandonment of common scheme or plan?

MR. McCABE: Well, if he's going to testify as to the common scheme or plan, I'll withdraw my objection.

THE COURT: I don't know if he is or not. Mr. Jones, the relevancy of it, and so, Mr. McCabe says, you know, the same as I guess your objection on the prior document about the restrictions that were from 2019, recorded 2020; is this document -- does it help you prove your case, is it relevant to the case?

MR. JONES: It is indeed.

THE COURT: Can you tell me how?

MR. JONES: Yes, sir.

THE COURT: Okay.

MR. JONES: Your Honor, what has happened is consistent for thirty-five (35) years; these Restrictive Covenants, Plaintiff's Exhibit Number One, have been in force consistently for thirty-five (35) continuous years. And so, what he is testifying to, that he was -- he not only lived there but he had -- we have records that go back as early as 1999, and he can testify

to those in a deliberative process on each one of these lots; it wasn't just capricious and arbitrary, but they went through a deliberative process back on these times and decided that they should pass. That goes directly to the argument they say that they have argued in their motions that it is arbitrary and capricious, but what we're saying is no, this is evidence from Mr. Mack Kolb who has evidence from twenty-five (25) years ago that he personally was there working and they considered each one of these and they decided which ones they would allow and which ones they wouldn't which is consistent with our construction and our P-One, which says that there are no objective standards but that the Architectural Review Board needs to consider each and every lot individually. And their counter to that is -- well, you have a de facto set of -- an Amendment, a de facto Amendment, and our position is, we don't have a de facto Amendment. Since the inception of this organization as evidenced by Mr. Kolb, they have been given a deliberative fallout process on each one of the lots when they allowed fences or -- and then some of

them say wooden privacy fences; there was not a blanket exclusion, and that has been the case throughout.

THE COURT: Mr. McCabe, anything else you want to say before I rule?

MR. McCABE: No, sir.

THE COURT: Okay. So, I'm going to allow over objection Plaintiff's Exhibit Five that was admitted for ID. So, I'm going to allow that and the witness to testify. The witness testified that he lived out there for ten (10) years and has experience and also has real estate development experience with the sub-division. And so, I'm going to allow the exhibit into evidence.

(EXHIBIT NUMBER FIVE NOW ADMITTED INTO EVIDENCE RATHER THAN FOR I.D.).

MR. JONES: Okay. Thank you.

THE COURT: Mr. Jones, you may proceed.

MR. JONES: Thank you.

EXAMINATION BY MR. JONES OF MACK KOLB CONTINUED:

Q. Mr. Kolb, I'll stand over here so you can look at him. Okay. Let me ask about -- I see that these forms have been attached and it has a list of names on the left and that looks John

Quackenbush, Burke Watson, Mack Kolb. There was an Architectural Review Board in existence at that time?

A. That's correct.

Q. Okay. And I gather what would happen is, somebody would make a request -- and by the way -- were people required -- the people who were in Lakewood Links, were they required to come to the Architectural Review Board to get approval?

A. That is correct.

Q. And so, when a request would be made, what process would you go through? I see that you have got names here. What happened?

A. Well, that's true. Everybody on the Architectural Review Committee received the request, and then I would poll those members until I had a majority one way or the other, either approval or denial.

Q. Now, I notice that these -- you have these that were approved, but did you have some that were not approved?

A. I can't tell you that we ever had an issue that we could not resolve, such as, you know, somebody wanting to put up a fence, lake-front or a golf course, and we'd explain to them that we did not want anything that obstructed the view, and so,

they would modify their request and, comply with, you know, what we were trying to communicate to them to reach an approval.

Q. Okay. And is this document, Plaintiff's Exhibit Number Five, the Architectural Review Board was in place at the time; correct?

A. That's correct.

Q. And you guys were making a deliberative process on each lot?

A. Absolutely.

Q. And throughout the time that you were there since 1988, has that been the process that has been followed?

A. Yes, sir.

Q. Do you know that of your own knowledge?

A. I was on the Board.

Q. Okay.

MR. JONES: Your Honor, I have no further questions of this witness.

THE COURT: Mr. McCabe, your witness. Cross-examine.

MR. McCABE: Okay. Thank you.

CROSS-EXAMINATION OF MACK KOLB BY MR. McCABE:

Q. Good afternoon, Mr. Kolb.

A. Good afternoon.

Q. I am Ryan McCabe.
A. Okay.
Q. All right. I am going to re-plow a little ground here just to make sure I understand. Tell me when you first became involved with Lakewood Links.
A. Lakewood Links would be in the early '80's when the Canadians bought it. There were no lots sold when the Canadians had it; the conveyance of lots happened when Harold Sigmon bought it. So, actually, when the Canadians bought it, you know, they were Pinelands Plantation, but they were developing Lakewood Links focused primarily on building the golf course. We had a reservation list for lots. The ones the improvements were put in we could convey them, but we never conveyed a lot while the Canadians, Pineland Plantation, owned it. It was after Sigmon bought it.
Q. When I say "Lakewood Links Subdivision," I am generally referring to Lakewood Estates and Lakewood Links?
A. Lakewood Estates was pre-golf course.
Q. Okay.
A. Lakewood Estates was when Burke Watson and Buxton Moses had it; they had no vision of Lakewood Links.
Q. Okay. But you would agree that the Lakewood Links lots and the Lakewood Estates lots are intertwined out

at the golf course now?

A. They are not intertwined, because Lakewood Estates was different than Lakewood Links.

Q. If I drive into the front entrance at Lakewood Subdivision, would I be able to drive through the community and tell which lots are Lakewood Estates and which lots are Lakewood Links?

A. Not unless you had a plat in your hand with it marked up.

Q. Right. Because it's a homogenous looking community, isn't it?

A. I mean, you would know if you bought something in there whether you were part of Lakewood Estates or Lakewood Links by the Restrictive Covenants.

Q. Right. But let's say that I'm just somebody driving through looking at it and scheming it up. Is there a common scheme of development between Lakewood Estates and Lakewood Links?

A. General stuff, yeah.

Q. Okay.

A. I mean, the roads connect; so, you don't know whether you're in Lakewood Estates or Lakewood Links.

Q. Okay. And is there a difference between -- in the architecture between the two?

A. Lakewood Estates is not governed by Lakewood Links' Restrictive Covenants.
Q. Right. I understand that. I agree with you. I agree there are two different sets of Restrictions. What I'm trying to figure out is, if I drive through that community, can I look at one house and say -- that's definitely in the Lakewood Estates scheme of development and this one over here is in the Lakewood Links scheme of development?
A. If you knew about the development and it was on the golf course, you would know it's in Lakewood Links, but that would be the only way you could know you're in one place or the other, I think.
Q. Right. But if I'm just riding through the community looking at the scheme of things, ---
A. There are no signs up -- Now entering Lakewood Links, no.
Q. It looks the same?
A. Sure.
Q. Okay. Now, can you tell me when the first Lakewood Links lots were sold?
A. I think it was in the '80's.
Q. Okay. And there were wooden fences put up in the '80's?
A. We did approve some wooden fences depending on

the location. If it was not on the lake front, if it was not on the golf course, we -- we -- I can see right here (witness indicates) that we approved some wooden fences.

Q. Right. And I hate to drag you through those, but the scene of development out there includes wooden fences, doesn't it?

A. In certain circumstances. Not across the board.

Q. Okay. But there are wooden fences out there and there have always been wooden fences out there; correct?

A. We approved some wooden fences.

Q. Okay. And there were wooden fences there from the beginning; correct?

A. Since I'd say 2000, as far as my knowledge of it.

Q. Well, since your approval, but you were living there and working there before, and you know that there were wooden fences there before 1999, don't you?

A. I can't tell you that for sure.

Q. You can't?

A. Not to be certain.

Q. Okay. Have there been wooden fences located within Lakewood Links continuously since 1999?

A. I can't say continuous; all I can say is from the time I was involved in it.

Q. Okay. Fair enough. And in 2000, you approved a

wooden fence at 2915 Tidewater Drive; correct?
A. Yeah.
Q. That is pretty close to where the Josey's live, isn't it?
A. Yeah, we approved it.
Q. You approved a white picket fence at 3265 Green View Parkway in 2000; correct?
A. Yes.
Q. And there was a privacy fence at 100 Banff Springs in 2000; you were even approving chain-link fences?
A. We -- we approved -- I would have to say -- this would probably not be on the golf course. So, we approved that one -- let me look at it real quick. Some of them we approved that were not the entire backyard, but ---
Q. But you approved ---
A. -- contained -- it may contain a pad or something like that.
Q. Okay. But you approved a chain-link fence?
A. We did.
Q. Okay. You approved a green plastic coated chain-link fence also?
A. Uh-huh (affirmative response). Yeah.
Q. You approved some other wooden privacy fences in the

community too, didn't you?
A. Yeah.
Q. And you approved some link vinyl fences?
A. Uh-huh (affirmative response).
Q. That is a yes?
A. Yes.
Q. I'm not picking on you; she can't transcribe that.
A. Yes.
Q. Thank you. And you approved brick fences?
A. We did.
Q. And a brick fence costs a whole lot more than a wooden privacy fence, doesn't it?
A. Say that again.
Q. A brick fence, a brick privacy fence, ---
A. Oh, yeah.
Q. -- costs a whole lot more, right, than a wooden fence?
A. Oh, yeah. Certainly.
Q. And so, what is the scheme of development between 1999 -- this says 1999 through 2000 -- but it actually happened in 2001 on here; correct?
A. That's correct.
Q. And so, what exactly was the scheme of development with regard to fences between 1999 and 2001?
A. Once again, it depended on where the property was

located; if it borders the golf course or the lake, we took a different position on containment of a fence to the perimeters of a backyard. If it was not bordering either the golf course or the lake and somebody wanted a material, whether it be white vinyl, whether it be whatever, then we took it case by case.

Q. Okay. Do you know where the Josey's live?

A. I do not.

Q. Okay. So, is it fair to say that during your tenure, the scheme of development with respect to fences included wooden privacy fences?

A. Depending on where it's located.

Q. I'm -- I'm not talking about location; I understand what you're saying about location. I'm just asking you if wooden fences were one of the things ---

A. We approved them case by case.

Q. Okay. So, wooden fences were included in the scheme of development? I'm not saying that in every circumstance. I'm just saying ---

A. I mean, it's part of what we had approved.

Q. Okay. Now, who did you work for between 1999 and 2001 time frame?

A. Myself.

Q. Okay. And who was yourself?

A. Century 21, Hawkins and Kolb.

Q. Okay. And how were you professionally involved in the Lakewood Links start-up?
A. Well, once again, I sold it to Harold Sigmon and his group, and I marketed the lots for them during that period of ownership with Harold Sigmon and some subsequent owners.
Q. Okay. Did you market lots for CDL?
A. I did.
Q. Okay. Did you market lots for Plowden Holdings?
A. Who is that?
Q. Plowden Holdings?
A. Yes, I did.
Q. Did you market lots for Plowden Construction?
A. Plowden Construction originally bought the entire subdivision, golf course and subdivision, and then he transferred the two Plowden holders; it was the same guy, Buster Plowden.
Q. And so, you worked for Plowden Construction?
A. I represented them.
Q. Yes; you were an agent?
A. I was an agent.
Q. All right. And what years did you work in some capacity as related to the Architectural Review at Lakewood Links?
A. It looks like from 1999 through 2001, but I'm

pretty sure I served on it after that; this is just the files I had. But during the ownership, whatever the time of ownership of Lakewood Links being owned by the Sigmon Group and with Plowden Holdings and with CDL, I was on the Architectural Review Committee.

Q. Okay. Thank you. I believe you also testified that you lived in Lakewood Links?

A. 1979 to 1989.

Q. And what was your address?

A. 2901 Waverly Drive.

Q. Was that subject to the Lakewood Estates Restrictions?

A. Lakewood Estates.

Q. Lakewood Estates?

A. Yeah.

Q. Did you also do architectural approvals for Lakewood Estates?

A. I did not.

Q. Okay. Now, would you have approved wood privacy fences if you believed that they would diminish property values?

MR. JONES: Your Honor, objection.

THE COURT: Yes, sir.

MR. JONES: That certainly calls for speculation as to what he would have done.

He can ask him questions about what the facts are and what he knows but what he would have done is complete conjecture.

THE COURT: Mr. McCabe.

MR. JONES: Well, what I'm asking him about are the specific instances where he approved wooden fences.

THE COURT: Okay. So, I'm going to overrule the objection. The witness has vast experience, both as a resident from '79 to '89, it looks like he has had involvement throughout the different years of the development including the different owners all the way from the original through the Canadians, through Plowden, through Sigmon, and so, I think he has the requisite background. So, I'm going to allow him to answer your question and protection for your objection.

MR. McCABE: Okay.

THE COURT: Mr. Kolb, if you remember the question, you can answer it because I've forgotten it by now. Mr. McCabe, why don't you restate that question?

MR. McCABE: Well, that was the strategy.

THE COURT: Okay.

CROSS-EXAMINATION BY MR. McCABE CONTINUED:

Q. Okay. Let's look back at this Exhibit Number -- what is the exhibit number?

MR. JONES: Five. Five, I think.

Q. All right. If you go back to Plaintiff's Exhibit Five, do you recall when 2915 Tidewater Drive -- do you recall the approval for it?

A. 15 Tidewater?

Q. Yes, sir. Will you look at Exhibit Number Five?

A. 2915 Tidewater?

Q. Yes, sir.

MR. McCABE: May I approach, Judge?

THE COURT: Yes, sir.

MR. McCABE: Yeah, this is it.

Q. Do you recall that approval?

A. So, what this was was a partial fencing of a backyard, forty (40) foot perpendicular from the back corners of the house, eighty (80) foot into the backyard.

Q. Do you recall, do you know Mr. Jay McElveen?

A. Sir?

Q. Do you know Jay McElveen?

A. I'm not sure I know that Jay McElveen, but Jay McElveen maintains my yard and a lot of other properties for me, but I don't believe that's

this Jay McElveen.

Q. Do you recall this particular address?

A. Not really, no.

Q. It's fair to say you wouldn't have approved a wooden fence if you believed it would diminish the property value -- values in Lakewood Links, would you?

A. What I'm saying, this appears to me wood fence and partial part of the backyard and then chain-link fence across the back.

Q. All right. Let me break it down for you. This wood fence -- this wood privacy fence was denied; correct?

A. The fence will be six foot, wood -- called a wood fence, four foot from the back corners of the house and approximately eighty (80) down in the backyard. Then we'll be putting a chain-link fence across the back that should not be visible from anywhere except the backyard itself to keep the young child contained.

Q. Okay. You don't ---

A. So, this would be a case of we thought that if we let them totally run the perimeter of it, it was obstructing the view of neighboring properties.

Q. And that ---

A. That would be an example of this.

Q. I thought you testified you don't recall the

specifics?
A. By reasoning, I can see where we were going with it.
Q. Okay. You wouldn't have allowed a wooden fence to be installed on property if you believed it would diminish the value of lots within, any lots within Lakewood?
A. If we approved one that totally fenced the backyard, we did not think it would hurt any neighboring properties.
Q. Okay. The same goes for a chain-link fence; you ---
A. Yeah.
Q. Okay.
A. Chain-link, you can see through it where wood, you can't, you know. So, more obstruction of view issue I think.
Q. Okay. Were you aware of any other nice neighborhoods that allow a chain-link fence?
A. Sure. In fact, that property line doesn't border any other part of Sumter.
Q. I mean, specific neighborhoods that allow chain-link fences?
A. We approved some in Timberline Meadows that were perimeter-wise, you know, that went across the back

that nobody, other than the homeowner, would know it was there.

Q. On 100 Banff Springs, you allowed a four to five foot privacy fence in the backyard; correct?

A. Yes.

Q. And it is very ---

A. Let me see.

Q. Just let me know when you're ready. It's the fifth one.

A. We approved a four to five foot high privacy fence.

Q. And you would not have approved that fence if you believed it would have diminished the value of the adjacent property or any other property for that matter, would you?

A. That's correct.

Q. Okay. And the same goes for all these other ones that you approved; right?

A. Once again, case by case.

Q. I understand. And you don't believe the mere fact that a fence that's made out of wood to allow location, things of that nature, just the mere existence of a wooden fence does not diminish the value of adjacent properties, does it?

A. Depending on where it's located.

Q. Right. For purposes of the question, I asked you

to disregard the location; I'm just saying, wood fence in and of itself, do they diminish the value of the properties within the subdivision?

A. I can't prove that yes or no.

Q. Well, you just testified you wouldn't have approved them had they diminished the value of other properties, didn't you?

A. Depending on where it's located.

Q. I understand. But for my question, I asked you to disregard the location; I'm just asking you, wood material itself, the construction of a wooden fence, does it diminish the value of adjacent properties? It's a simple question.

A. I've got to hang my hat on where -- determining where it's located. I mean, if we're saying wood fence can be put anywhere, that's carte blanche saying it's good anywhere, and I take the position that I say -- if you want a wood fence, we'll approve it, and I'm saying that we did it case by case. If it was lakeside, we did wrought iron so that you could see through it. And so, I'm not going to say -- sit on this witness stand and tell you that we'd approve it anywhere any time.

Q. And I don't think that was the question.

A. Good. Well, phrase it in a different way.

Q. The question is, this wooden privacy fence, disregard the location, would the wooden privacy fence, a fence built out of wood, in and of itself diminish the value of the adjacent property?
A. Dependent on where it's located.
Q. Okay. Now, I believe you also testified that you also served on the Board of Directors?
A. No.
Q. Just the Architectural Review Board?
A. Just the Architectural Review Board.
Q. And that was just between 1999 and 2001; correct?
A. No. That would have been before the ownership at that time, which was -- during that period, I believe that was the Harold Sigmon time frame.
Q. Okay. So, were you serving in an Architectural Review authority capacity as a representative of the developer or for the Homeowners Association?
A. Representative of the developer.
Q. Okay. And do you know when the Association was formed and turned over to the homeowners?
A. I can't tell you I know the dates of that.
Q. Did you have any involvement in that?
A. No. No, sir.
Q. Okay.

MR. McCABE: The Court's indulgence.

THE COURT: Yes, sir.

Q. Are you familiar with the Restrictive Covenants for Lakewood Links?

A. Sure, I am.

Q. Is there any prohibition against wooden fences?

A. In the Covenants, to the best of my knowledge, it doesn't state out any materials; it just said that any improvement has to be approved by the Architectural Review Committee.

Q. Okay. Is there any restriction against using -- having a privacy fence?

A. I don't know of any restrictions that identified certain things you could or could not do.

Q. Okay. Do you recall that the Architectural Review authority was required to respond within thirty (30) days of a written request to them?

A. I can't tell you I remember that.

Q. Okay.

A. But, I mean, when we received a request, we processed it.

Q. Okay.

MR. McCABE: May I approach, Your Honor?

THE COURT: Yes, sir.

MR. McCABE: Thank you.

Q. I am showing you what is marked as Plaintiff's Exhibit Number Three. Can you take a look at that and tell me if you recognize it?
A. (Witness reviews document). I do.
Q. Are you familiar with that area?
A. I am.
Q. Do you see that there is a lot that is highlighted in yellow?
A. I do.
Q. It's 3020; is it located on the golf course?
A. It is not.
Q. Is it located on the lake?
A. It is not.
Q. Is the rear of that property visible from the street?
A. It is not.
Q. Thank you.

MR. McCABE: No further questions. Thank you, Mr. Kolb.

THE COURT: Mr. Jones, Redirect?

MR. JONES: Thank you, Your Honor.

REDIRECT EXAMINATION OF MR. KOLB BY MR. JONES:

Q. Mack, you have got Exhibit Number Three there in front of you?
A. Yes, sir.

Q. And Exhibit Number Three, do you see that that is on a cul-de-sac?
A. Uh-huh (affirmative response).
Q. When you are putting fences on a cul-de-sac, are there different considerations that you give to a cul-de-sac lot that you might not give to a lot that is a hundred and eighty degrees on the property?
A. The house is going to face the cul-de-sac, and so, you are going to have fence down the street side and then tied into the corner of the house, cross the back of the lot and then tied into the corner of the house.
Q. Okay. And so, you made determinations about fences as to whether or not they matched the overall plan of development; correct?
A. Yes, sir.
Q. And you are somewhat familiar with what the overall plan of developments are around Tidewater that you just talked about; correct?
A. Uh-huh (affirmative response).
Q. Yes?
A. Yes.
Q. Okay. I understood you; we just have to have it down.
A. All right.

MR. JONES: Excuse me, Your Honor.

Your Honor, I would like to mark this exhibit for I.D. purposes only. I would like to mark this as Plaintiff's Number ---

THE COURT: I think it's going to be Six.

MR. JONES: -- Six?

THE COURT: It's going to be Six.

MR. JONES: Okay. That is marked for I.D. purposes only.

(PHOTOS A THROUGH F MARKED FOR I.D. AS PLAINTIFF'S EXHIBIT NUMBER SIX).

Q. Mack, I hand you a document.

MR. JONES: What number would it be?

COURT REPORTER: Six.

THE COURT: Six.

MR. JONES: Six. I'm sorry.

Q. And I want to show you -- it is Lot Number Six, and it is A through F. Would you flip through those, please?

A. (Witness looks at photographs). Okay.

Q. You worked on the Architectural Review Committee yourself; correct?

A. I did.

Q. Okay. In fact, part of what you all approved were some fences in the Tidewater area; correct?

A. We did.

Q. Okay. Looking at this, does this match the overall theme plan of development? That's Six-A through Six-F.
A. Parts of it look better than other parts of it, but I mean, -- I mean, once again, it would have been submitted in writing to the Architectural Review Committee. There would not be a decision made by me alone; it would be a committee with a decision.
Q. Okay.
A. Case by case
Q. Okay. Hold on a second there. Mr. McCabe asked you about the Covenants, whether you were familiar with the 1988 Covenants; do you remember that?
A. I've seen it.
Q. Okay. Let me -- I'll hand you a notebook that has got -- which is Plaintiff's Exhibit Number One -- and it's the Covenants. I want you to turn to Page Fourteen (14) of the Covenants if you would. We've got tabs on there too; it's Part Two, Page Fourteen (14) of the Covenants.
A. Okay.
Q. And I want you to look at Section Two-E; you see E right in the middle of the page; do you see

that?

A. Yes, sir.

Q. Okay. Let me read that to you and see if I'm reading it right. It says -- I'm going past the heading -- it says, "No building, wall, fence, deck, pier, swimming pool, roof, exterior-like or other structure improvements of any kind shall be commenced or erected upon residential lots or upon the exterior of the family dwelling unit or upon the common properties nor shall any landscaping be done nor shall any addition to any existing building, operation or change therein be made until the proposed building plans, investigations including height, material and exterior finish plot or plan and construction schedule shall have been submitted to and approved by the Review Board." Did I read that correctly?

A. You did.

Q. And your understanding was that if there was a request for a fence, it had to be submitted to the Review Board; correct?

A. That's correct.

Q. And the reason was because it was a deliberative process that was afforded; correct?

A. That's correct.
Q. All right. Let's go to Page Eleven (11) of that same Covenant.
A. Okay.
Q. All right. I want you to look at Section One; now, you had testified that it was a lot by lot consideration?
A. Right.
Q. I just want to look at Section One and let me read this if I can.
A. Yes, sir.
Q. "The primary purpose of these Covenants and the foremost consideration of the origin of the same has been the creation of a residential community which is aesthetically pleasing." Now, tell me about wooden fences as you know them. You're experienced this. What is your experience about aesthetic values of wooden privacy fences?
A. I mean, we approved them, once again, depending on the location. But I wouldn't say we prioritized them and because somebody said -- I'll build brick or I'll do wood, we would say -- well, do brick, you know. But we did approve wood.
Q. Why would you say do the brick as opposed to a wooden

fence?

A. It aesthetically looks better.

Q. What aspects of it looks better?

A. It's brick.

Q. Okay. All right. Let me read on. "Which is capable of maintaining itself, which provides areas reserved for recreational amenities and provides for the ultimate ownership, operation and maintenance through the Association of those areas." And I'm reading here; see if I'm reading this right. "The establishment of the objective standards relating to design, size and location of the dwellings or other structures makes it impossible to take full advantage of the individual characteristics of each parcel of property and of technological advantages in environmental values. For this reason," -- see if I'm reading this right -- "for this reason, such standards are not established hereby but may be suggested by the owner in discussion with and materials submitted to the property owner." Now, you had said it is a case by case basis, and you have referred to the Covenants; is that what you are referring to?

A. Yes, sir.

Q. Okay. On each one of the evaluations that's done by the Board, did you take into consideration whether or not it would accomplish the overall purposes of the development?
A. I think that was our objective.
Q. Yes. Okay. And I believe when you were on the Board, the Architectural Review Board, you guys could make decisions if it was only for aesthetic reasons; correct?
A. Yes.
Q. Okay. And you could use any reason so long as it was not arbitrary and capricious; correct?
A. I think we tried to adhere to what the Covenants were and look out for the best interests of the entire subdivision, not just one individual.
Q. Okay. I have another exhibit marked. I want to ask you another question on the exhibit marked 6-A; it is for I.D. purposes only. This is a copy of it here.
A. Okay.
Q. If I told you that that fence was being constructed on or was constructed on -- I think it is Exhibit Number Three -- yes, Exhibit Three -- have you got Exhibit Three?
A. Uh-huh (affirmative response).

Q. If I told you that that was being constructed, that that fence was constructed on that cul-de-sac lot, would that be something you would take into consideration as to whether or not that that was approved or not?
A. Being that it is on a cul-de-sac lot?
Q. Yes, yes.
A. Well, the consideration would be because you have a street side that would have a fence along it and then you have the fence to the corners of the house so the house is facing the cul-de-sac.
Q. Well, if the house faced the street instead of the cul-de-sac?
A. No, it would face the cul-de-sac.
Q. Okay. But if it did face the street instead of the cul-de-sac, what would that do by way of exposure of the fence to view from the neighbor and from people driving down Tidewater?
A. They would see it; there would be more exposure.
Q. And so, as far as the scenic view of it, if the house was facing the -- Tidewater and not the cul-de-sac, would the effect -- would it affect the scenic value of that neighborhood?
A. I think either way, you're going to have one street side that's going to be showing the fence

whether it's facing the cul-de-sac or whether it's facing to Tidewater.

Q. And your experience has been, a brick fence, you would rather have that than a wooden fence; correct?

A. You would, but I mean, the reason you approve wooden fences would be because of acknowledgement of the cost difference between brick and wood. And that would be it.

Q. Okay. But as far as the fact of the aesthetic qualities, you have mentioned that about wooden fences, the aesthetic qualities of wooden fences are not the same as a brick fence; correct?

A. In my opinion, that would be correct.

Q. Okay.

MR. JONES: Your Honor, I have no further questions of this witness.

THE COURT: Mr. McCabe, any Recross?

MR. McCABE: No, sir. Thank you. I appreciate it.

THE COURT: I've got a couple of questions.

MR. KOLB: Okay.

THE COURT: And so, when you lived out there and you said it was you and Burke Watson, and ya'll were the original -- had the original

idea and were going to develop it but no golf course; is that right?

MR. KOLB: That is correct.

THE COURT: Okay.

MR. KOLB: To kind of give you a summary of that is this south side of Sumter was just not the place that the people at the time wanted to live. There were not any grocery stores out there, there wasn't even any little convenience stores, you know. And so, it was -- basically, every time you left out, you turned back to town. And so, it was kind of a remote side. And so, the idea of the golf course kind of started by myself and Eldridge Reynolds as to what do you do with six hundred (600) acres that's not exactly moving along in any quick development pattern.

THE COURT: The Dinkins owned it originally?

MR. KOLB: Do what now?

THE COURT: Was it Dinkins' property originally?

MR. KOLB: Uh-uh (negative response).

THE COURT: It wasn't?

MR. KOLB: No.

THE COURT: And then was Harold -- was the -- the Canadians came after you, Burke Watson and that group?

MR. KOLB: That's correct.

THE COURT: And they wanted -- was it Sigmon who had the idea of the golf course or the Canadians?

MR. KOLB: No. No. The Canadians came down here; originally, their entity was Pineland; they were going to buy Pineland Plantation from Mac Dabbs out at 378 and I-95.

THE COURT: Okay.

MR. KOLB: So, they came down here prepared to close out, and Mac Dabbs backed out on them. So, that's when Jule Eldridge introduced me to the Canadians and, you know, they told us that Dabbs had backed out on them. We presented the conceptual plan of building the golf course at Lakewood, and he said, "Let's do it."

THE COURT: And then they had financial troubles or Sigmon did?

MR. KOLB: The Canadians had -- they had enough capital and they burned it all, you know, trying to get the golf course developed and didn't; then they should have been doing

subdivision improvements so we could convey the lots and generate some cash flow for them. So, they were forced to have to sell. Sigmon had been following; he had Sig-Field Golf Course down at Goat Island. And his firm would call me up in that time, and so, he knew there was -- it was left with thirty (30) to fifty (50) lots that people wanted to put deposits up, and so, when the Canadians were forced to sell, I got -- Sigmon got in touch with me and I went down there and explained to him what was there; he said, "If what you say is what it is, I'll buy it." And so, he bought it, and then his problem was, the Sigmon's were in the coal-mining business in Kentucky and Tennessee and he had taken the money that he made out of that, bought a farm in Silver and lost a ton of money farming and was trying to write off his farming losses against some gains out of the coal-mining business, and he had a contested IRS bill on him from day one and they finally put the hammer down on him.

THE COURT: And that's -- then after that, the Plowden?

MR. KOLB: Plowden bought it.

THE COURT: That was the process?

MR. KOLB: Plowden had it, and then Plowden then sold the golf course to an entity and then we sold the subdivision portion to CDL, which is Bubba Rabon, Ben Griffith and Bill Nock, and they had it and then they sold the remainder of what they had to Lynn Turner.

THE COURT: Any follow-ups from either Plaintiff or Defendant based on that short history on the origination of it?

MR. JONES: None from the Plaintiff, Your Honor.

THE COURT: Okay.

MR. McCABE: No, sir. Thank you.

THE COURT: Thank you, Mr. Kolb, you may step down.

MR. JONES: I would call our next witness.

THE COURT: Yes, sir.

MR. JONES: I would call David Johnston.

THE COURT: Yes, sir. If you would raise your right hand. Do you swear or affirm that everything you tell me today will be the truth, the whole truth and nothing but the truth under penalty under perjury?

MR. JOHNSTON: Yes, sir.

THE COURT: You are sworn. Mr. Jones, your witness.

(David Johnston, having been duly sworn, testifies as follows):

EXAMINATION OF DAVID JOHNSTON BY MR. JONES:

Q. You live down in Summerton; is that right?

A. Yes, sir.

Q. But you also spend time in Florida too, don't you?

A. Yes, sir.

Q. But you lived in Lakewood Links too, didn't you?

A. I lived there from about '94 to 2008.

Q. Okay. And while you were there, you actually built a house, of course, and while you were there, you were also part of the Architectural Review Board and the Board of Directors; right?

A. Very.

Q. All right. So, while you lived there, was the Architectural Review Board active?

A. Yes.

Q. Okay. Tell the Court what you mean by it being active in '94 when you moved there.

A. We would -- any issues that came up with people that lived there wanting to build outbuildings, fences and with contractors wanting to build houses, we would

look at the house plans, build some; we looked at the plans and had to approve them. And if a homeowner wanted to build a swimming pool or a fence or whatever they wanted to build, we had to approve that. And we all went along with the Covenants when we bought the land, and we would basically just follow the Covenants.

Q. Okay. Well, the governing documents for the Homeowners Association was the Covenants?

A. Yes, sir.

Q. Okay. Let me ask you some questions. First of all, as far as these documents I wanted to ask you about, this will establish how you were involved. I hand you a Deed and that Deed is dated 1993 it looks like. 1993, I'm handing you a copy of it; is that a Deed into you?

A. Yes.

Q. Hold that one second, please. Is that when you bought the property, in '93?

A. Right. Yes, sir.

MR. JONES: Your Honor, we would like to move that into evidence as Plaintiff's Exhibit Number Seven, I believe.

THE COURT: Mr. McCabe?

MR. McCABE: No objection.

THE COURT: That exhibit without objection is Plaintiff's Exhibit Number Seven.

(DEED TO DAVID JOHNSTON DATED 1993 MARKED AS PLAINTIFF'S EXHIBIT NUMBER SEVEN)

MR. JONES: I hand this up to the Court.

THE COURT: Yes, sir.

Your Honor, as Plaintiff's Exhibit Seven.

Q. David, I want to ask you a question or two about that exhibit. If you will look down, it's about the one, two, three -- the fourth paragraph down; do you see that fourth paragraph?

A. Uh-huh (affirmative response).

Q. See if I'm reading it right. "The above property is subject to all visible and recorded easements, rights of ways and restrictions affecting said property including but not limited to Restrictive Covenants filed for referencing in the said Register -- in Register's Office at Volume 481 at 1879. Do you see that?

A. Yes, sir.

Q. And that is the same as Plaintiff's Exhibit Number One; correct?

A. Right.

Q. Yes?

A. Yes.

Q. All right. Okay. David, do you remember in 2002 talking to a fellow named Glen Cockerill when he moved in there?
A. Glen lived down the street.
Q. Do you remember what you told him at that time?
A. Well, any time we would find out who was moving in, we would tell them about the Covenants and the Association and in fact, coming in -- the first road coming from the south would be Green View, I think. We had a big sign on the left that stated that you are entering a neighborhood that has Restrictive Covenants and a Homeowners Association. Now, I think that sign is moved over to the right going down Green View and there's no other signs than what we originally had. So, that lets you know coming in looking that you have Restrictive Covenants.
Q. Okay. I want to -- you talked about that sign; I want to hand you a picture of a sign and ask you if you can -- do you recognize this sign right here? I'm handing you a picture; do you recognize that sign right there?
A. Yes, sir.
Q. What is that?
A. That's the sign we're talking about. It says

about a dues paying community and Covenants and Restrictions and a Board of Directors.

Q. Okay.

MR. JONES: Your Honor, we would move that into evidence as Plaintiff's Exhibit Number Eight.

A. That's on Green View Parkway.

Q. I'm sorry. Thank you.

MR. JONES: Your Honor, we would move that into evidence as Plaintiff's Exhibit Number ---

THE COURT: Eight.

(PHOTOGRAPH MARKED AS PLAINTIFF'S EXHIBIT NUMBER EIGHT).

THE COURT: Mr. McCabe?

MR. McCABE: No objection.

THE COURT: Plaintiff's Exhibit Number Eight without objection.

Q. Mr. Johnston, I am handing you a letter which appears to have your signature on it dated May the 7th, 2007; do you see that?

A. Yes, sir.

Q. Okay. Is that your letter?

A. Yes, sir.

Q. Okay. I want to ask you some questions about it.

MR. JONES: Your Honor, I would like to move this into evidence as Plaintiff's Exhibit Number Nine.

THE COURT: Mr. McCabe, any objection?

MR. McCABE: No objection.

(LETTER DATED MAY 7, 2007 TO ALL HOME-OWNERS FROM DAVID JOHNSTON MARKED AS PLAINTIFF'S EXHIBIT NUMBER NINE)

THE COURT: Admitted into evidence as Plaintiff's Exhibit Number Nine.

Q. David, I will ask you some questions about this now.

A. Okay.

Q. This is dated May the 7th, 2007. This is -- this is a letter that was sent to all homeowners?

A. Yes, sir.

Q. All right. I want you to go to the third paragraph there. The third paragraph, I want to read that and I'm going to ask you why you wrote this. But it says, "It is important to note that all property owners do not belong to the Association. All property owners are subject to Architectural Review and Property Provisions." Can you explain that to the Court?

A. I think that's pertaining to -- it's two different groups there. You have the original

Lakewood Estates; I think that's what it's called, and then you have the Lakewood Links. And the people in the original sections, there's some stuff over there that's not allowed in the golf course side.

Q. Okay.

A. So, basically, that's what I was trying to imply.

Q. Okay. Then I go to the next paragraph which is the next one down, and I read, "The first thing you will hear when we point out something that is not important to the Covenants or the guidelines as developed by the Architectural Review Board at the time these properties are not in accordance with the Covenants. The Covenants could not -- could never be written to include every topical condition, circumstance or design." Could you explain to the Court what you were telling the subdivision?

A. Well, Dickie, my guess is, basically, you know, we can't cover everything; that's what it says here. It can't include every possible condition, circumstance or the home design. But it can include the major issues we have and the issues you don't want in a golfing community. I mean, a man that buys a lot on the golf course or in

the area of a golf course, he paid a premium price and he wants a premium neighborhood, and that's basically what I'm trying to point out here.

Q. All right.

A. Now, you've got to remember -- this has been how many years ago? 2007?

Q. Yes, sir. That's seventeen (17) years. Okay.

MR. JONES: Thank you, Your Honor. I think I have already moved that into evidence as I recall.

THE COURT: That is Exhibit Nine without objection.

MR. JONES: Okay. Thank you.

THE COURT: Dickie, I don't want to interrupt you, but I'm going to take three minutes with I.T. to make sure we are all sounding good.

MR. JONES: Okay.

(OFF THE RECORD)

THE COURT: All right. We can continue.

EXAMINATION OF DAVID JOHNSTON BY MR. JONES CONTINUED:

Q. Right in front of you, you have got, David, that white notebook; do you see that white bound notebook there?

A. Yes, sir.

Q. Okay. I want you to look at Page Fourteen (14) of those documents and look at the Paragraph E right there in the middle of the page; do you see that?
A. Uh-huh (affirmative response).
Q. And it says "No building, wall, fence, deck, pier, swimming pool, roof, exterior light or other structural improvement of any kind shall be commenced or erected upon any residential lot or upon the exterior of any family dwelling unit or upon the common property nor shall any landscaping be done or shall any addition to any existing building or alteration or change therein be made until the proposed building plans, specifications, including height, material, exterior finish, plot plans and construction schedule shall have been submitted to and approved by the Review Board." When you were operating on this, when you were there in the subdivision on the Architectural Review Board, did you guys follow that?
A. Yes, we did.
Q. Okay.
A. In fact, I built a -- had a brick fence built around my patio in my yard, and I had to get approval.

Q. Okay. All right. Look at Page Eleven (11) if you would of that same document that you have got in front of you. Okay. I'm reading -- I'm reading Paragraph A there; it says, "Purpose." Do you see that?

A. Uh-huh (affirmative response).

Q. At the top. And I'm reading down here. It says, "In order to preserve the natural beauty of the resort and its setting, to maintain the resort as a pleasant and desirable environment, to establish and preserve a harmonious design for the community and to protect and promote the value of the property, no building, fence or other structure shall be let in place or altered without -- until the proposed building plan specifications, exterior color or finish, plot plans, specifications showing that the proposed location or such building or structure driving -- driving and parking areas, landscaping and construction shall have been approved in writing." Is that what you did while you were on the Board?

A. Yes, sir.

Q. Okay. And then look at Page Eleven (11) of those same covenants. Okay. Can you flip over to the next page?

A. Yes, sir.

Q. And I'm going to read in Subsection One, Article

One, Section One, Page Eleven (11), Part Two, I'm reading down -- about two sentences down, it says, "The Establishment of Objective Standards." Do you see that; do you see where I'm reading?

A. Uh ---

Q. Come down about seven lines.

A. Yes, sir. Yes, sir, I see it.

Q. "The Establishment of objective standards relating to design, size and location of dwelling or other structures makes it impossible to take full advantage of the individual characteristics of each parcel of property and of technological advantage of environmental value. For this reason, such standards are not established hereby but may be suggested by the owner in discussions with the material submitted to the property owner." So, what was happening as to each lot; when these proposals were submitted, what would you guys do with these lots?

A. What we would -- well, the Review Board would review what the owners wanted and we would talk to the owners if we had any questions. And, you know, if they wanted to put some type of exterior for, say, for material use, you know, we'd listen to them, and I think most of the time, we all got our happy place. I don't really know of any bad issues that we had

going on when I left there in 2008. But, you know, these things are kind of plain.

Q. You mean the Covenants?

A. Yeah, the Covenants. I mean, they basically state what you can and can't do and what you shouldn't do and, you know, and the Board is willing to work. But some things -- privacy fences is one that we did, you know.

Q. While we're talking about privacy fences, you said that you didn't like it; are you talking about wooden privacy fences?

A. Well, any kind of privacy fence.

Q. Okay. Go ahead.

A. Because if somebody has got a lot, this can't -- this is in the golf course lots; you know, you buy a lot and you want to look at the golf course and if someone has got a privacy fence there, you can't look past that fence unless you step out on the golf course. I don't really know where this is. But it's the same way with buildings, outbuildings; you know, they want to bring in a metal outbuilding, which wasn't allowed, you can brick it up to match your house, change the roof line and get it passed. But it's just, you know, you buy expensive property and what you do reflects on your neighbor, affects your neighbor.

Q. I want to ask you -- I want to look at Plaintiff's Exhibit Number Three; I want to hand that to you. Here it is right here. This Exhibit Number Three, that yellow lot, it has been established here, is the lot that is owned by Mr. Josey; it is on Tidewater. Do you see Tidewater?

A. Yes, sir.

Q. That is a cul-de-sac lot. Is there a factor that you would take into consideration as to whether or not there would be a privacy fence, a wooden privacy fence or not?

A. No, because if it's on our required Covenants, because of the cul-de-sac, this guy that buys this one on the golf course might want the same thing and say -- well, he's got one. And so, you've set a precedent over there.

Q. Okay.

A. And nowhere in this Covenant does it say that if you're in a cul-de-sac you can have a privacy fence that I was told. That's not my understanding.

Q. Yes, sir. And so, when you consider a lot that isn't on the golf course, did you guys consider whether or not it fit with your overall plans there?

A. Yes, absolutely.

Q. Okay.

A. You know, you've got other neighbors around that, I mean, that are in the immediate area.
Q. What do you mean by that?
A. There's other neighbors around that may want one, and the next thing you know, you've got a whole group here that takes on an eight foot privacy fence, wooden privacy fence.
MR. JONES: Excuse me, please, Your Honor.
THE COURT: Yes, sir.
Q. Now, I know that -- the question I have, I want you to look at Page Fourteen (14) if you would. On Page Fourteen (14) and actually on Page Fifteen (15) as well. Look at Page Fifteen (15); do you have Page Fifteen (15) in front of you?
A. Yes.
Q. Right at the top of the page there, do you see at the beginning of Paragraph G, Paragraph G, it says, "Specifications may be based by the Review Board upon any grounds which is consistent with the objectives of these Covenants"?
A. Hold on, please.
Q. Are you looking at the top paragraph?
A. It starts with "Neither granted or denied"?
Q. Yeah and go down to the first -- the first page there.

A. Yeah, I've got it.
Q. I'm sorry. That was my fault.
A. Okay.
Q. It says, "Refusal or approval of the plans, location or specification may be based by the Review Board upon any ground which may be consistent with the objectives of these Covenants including purely aesthetic consideration so long as the ground is not arbitrary or capricious." Do you understand that?
A. Yeah.
Q. Okay. Now, when you were on the Board, when a request was made to the Board, what did you guys do when it came to you; what did you do?
A. Well, we just -- the first thing we did was discuss it, just looked at it to see if it fit the Covenants, and we talked about it and made our decisions based on -- most of them was based on the Covenants.
Q. When you say the "Covenants," the overall plan of development?
A. The whole -- this whole thing, we'd read it.
Q. Okay. So, in Lakewood Links, it wasn't just the golf course lots, it was all of the lots in Lakewood Links?
A. Yeah.
Q. Correct?

A. Right.
Q. And you considered that?
A. Right.
Q. Okay. Now, you have issued an Affidavit in this case, and in that Affidavit, you said, "Wooden fences frustrated the whole plan of development for the entire subdivision." Do you remember that?
A. Yes.
Q. Why did you say "Wooden fences frustrated the whole plan of development of the entire subdivision"?
A. Well, the first thing, after a year, I've never seen one that looked good. And you can stain them, you can paint them, you can do whatever on them, they're not good. If you had to have a wooden fence, I mean, had to have a privacy fence, vinyl would look better but the wooden ones just deteriorate so fast, and it just makes the whole neighborhood look bad. And that was our feeling.

MR. JONES: Your Honor, I have no further questions of this witness. Thank you very much.

THE COURT: Mr. McCabe, Cross-examine.

CROSS-EXAMINATION OF MR. JOHNSTON BY MR. McCABE:

Q. Where do you live in Summerton?
A. I live down on the lake.
Q. Do you live in a community?
A. No, I live on Club House Road.
Q. Where did you work in Summerton?
A. I own a hose and equipment company; I do a lot of industrial supply business.
Q. Okay. Did you build a house in Wyboo?
A. Yeah.
Q. Did you have a dry-wall man come in there and fix some of that dry-wall, a McCabe guy?
A. I had Lee -- Lee Hemingway.
Q. I believe you did. How are you doing?
A. Good. How about you?
Q. I'm better than I deserve.
A. But, yeah, I built a house; Mike Griffin built it for me. But that's not at Wyboo; that wasn't on the Plantation.
Q. So, did you build one on the lake?
A. Yeah. I built a new one in '15.
Q. Oh, '15. It was long before that.
A. I built another one; my parents built one right by me in 2000.
Q. Right.
A. My twin brother was a contractor.

Q. Yeah. What did you with your industrial business?
A. I sold it.
Q. Good for you.
A. And I quit; that was in '08.
Q. Well, you look good.
A. Thanks.
Q. Your hair has turned white since the last time.
A. Yeah, my hair has turned -- well, it hadn't turned blue.

THE COURT: Are ya'll looking at me?

MR. JONES: You've got a head full of hair. I wish I had it.

Q. Mr. Johnston, I'm going to jump around a little bit; all right?
A. All right.
Q. You said you lived in Lakewood Links between 1994 and 2008; correct?
A. Right. Yeah.
Q. You will have to answer because she can't pick it up.
A. Yeah, I know.
Q. I will definitely know what you're saying.
A. Yeah.
Q. But will you pull that microphone back if you're going to lean back?

A. Oh, I'm sorry.
Q. You can lean back; I don't care. You moved in in 1994?
A. Uh-huh (affirmative response).
Q. That is a yes?
A. '94 or '95, somewhere around in there; I think it was '94.
Q. And what was your address?
A. 610 Torrey Pines.
Q. And do you remember -- are you familiar with the neighborhood itself, the layout?
A. Yeah.
Q. Do you know where the Josey's live?
A. I know where Tidewater is.
Q. Do you know the Josey's?
A. No.
Q. Do you know any of the people on the Board now?
A. I know Gary Jones.
Q. Is Mr. Jones a pretty good friend of yours?
A. Yeah.
Q. Do you talk to him frequently?
A. Not real often. He owes me Fifty Dollars ($50). I'll have to talk to him.
Q. Did you call him before his deposition?
A. Not before his deposition, no.

Q. Did you talk to him afterwards?
A. Yeah.
Q. You moved in in 1994, but you didn't start serving on the Architectural Review Board in 1994, did you?
A. No.
Q. When did you first serve on the Architectural Review Board?
A. I think it was probably '98-ish, '97, '98-ish.
Q. Did you serve contemporaneously with Mr. Kolb, Mack Kolb?
A. He was one of the -- he was the one that basically was -- but I wasn't on the Board with him, no.
Q. So, you served on the Architectural Review Board after?
A. After.
Q. And so, after 2001 or later?
A. Right.
Q. Does that sound right?
A. Right.
Q. And what was the last year that you served on the Architectural Review Board for Lakewood Links?
A. Probably '07.
Q. Okay.
A. And I'm kind of guessing at that because I think

I was still on it or had just gotten off of it when we moved.

Q. Did you serve every year once you started continuously from '01 to '08?

A. No, because I was on the -- I wasn't on the Architectural -- I was the President of the Association for a while. So, I guess you could say that would be the Board.

Q. Okay. And, you know, looking back at your letter, which is Exhibit Number Seven, do you have that in front of you?

A. I think so.

Q. Mr. Jones asked you to read or he read it to you the beginning of the third paragraph which starts with, "It is important to note that although all property owners do not belong to the Association, all properties are subject to the architectural review and property conditions." Do you see that?

A. Uh-huh (affirmative response).

Q. You lived in Lakewood Estates?

A. No. Lakewood Estates was not subject to our Covenants.

Q. Right. And so, that sentence can't mean that you were saying that, even though everybody doesn't belong to

the Lakewood Links Association, all property over there is subject to the Architectural Review of Lakewood Links, does it? The Lakewood Estates was not subject to Architectural Review was it?

A. No.

Q. Maybe -- would it refresh your memory if you went back to the 2003 time frame when people were trying to restart an Associatioin?

A. Well, you know, I never knew the Associatiion lapsed or whatever because these Covenants, we always, even if it was lapsed -- was this built -- was the fence built in 2003?

Q. No, sir. It was after that.

A. Okay. When the fence was built, was the Association back? Everything was good; right?

Q. Well, we can't answer your questions.

A. Well, I ---

Q. I'm sorry. You can't ask me questions; I'm not beating you up.

A. Okay. Good. Well, I'm just wondering why we're going back to 2003 or -- if the fence was built a few years ago.

Q. Well, I want you to clarify what this sentence means because ---

A. Okay. Okay.

Q. -- my understanding was what you testified to was that ---
A. Basically, what I think the sentence means is that if you live in Lakewood Links, which is what these Covenants cover, and you -- you need to go by these Covenants.
Q. And these Covenants, you're referring to the Lakewood Links Covenants?
A. These Covenants right here (witness indicates).
Q. Well, what did you mean when you said ---
A. Covenants.
Q. -- "Although all property owners do not belong to the Association"?
A. I can't tell you right off what I meant by that.
Q. Could it mean that ---
A. Because if they don't live in Lakewood Links where Tidewater is, they do belong to the Association.
Q. So, do all of the lots in Tidewater belong ---
A. No. Part of the lots on Tidewater is in the old section ---
Q. Okay.
A. -- if I remember correctly.
Q. Okay.
A. In fact, Henry Griffin lives on Tidewater on the -- no, he lives on Lakewood; in fact, that's in the

Tidewater area, and he lives in the old part.
Q. Well, it's been a long time ago.
A. Yeah, it has been.
Q. It's been twenty (20) years ago. But when you moved wrote this in 2007, you said, and to sort of keep this -- I want to get you to answer this question.
A. All right.
Q. You said, "Although," -- you said, "It is important to note that although all property owners do not belong to the Association, all property owners are subject to Architectural Review and property conditions." And could you have been referring to a situation that occurred just a couple of years before this where it came -- where the owners were going through a process of restarting the Homeowners Association?
A. I could have; I don't know. I never knew it was ---
Q. Very well.
A. I guess it was restarted when we started the -- when we started the Association, the original -- we were in a meeting and the owners said, "We have sold enough lots, and so, we're going to turn the Association over to ya'll." And that was Ben Griffith and his brother, Chris, but anyway, there was a group of them that

owned it. And that's when we got involved.
Q. Well, do you ---
A. I don't know. This could mean -- could it mean the ones that hadn't paid their dues because, you know, the dues were a Hundred Dollars ($100) a year, and we had people that wanted to fight over a Hundred ($100).
Q. Well, some people were saying that they weren't members of this particular Association that ya'll formed; were they?
A. Well, some of them were.
Q. Okay. Because it was a different Association, wasn't it?
A. Well, it was a different one compared to the original one.
Q. It was a different corporation?
A. A different corporation; yeah, new owners.
Q. Right. And so, did you ever receive an Assignment from the prior developers?
A. Not to my knowledge.
Q. Did ya'll ever receive a document that said, "I hereby assign and control all my rights to the Association"?
A. I would have to -- we would have to get with our attorney then, and that was John Miles, and see if he would have that; I can't tell you that far back whether or not I ever received one of those.

Q. Uh-huh (affirmative response).
A. That's been a long time ago. Man, I couldn't even tell you whether or not you did sheetrock.
Q. Well, that was years before that, actually, eight years before that. So, I'm going to forgive you for that. Did -- but do you recall if there were owners that said -- this is a different corporation and it wasn't assigned by a developer and we're not going to do that?
A. I don't recall any of those issues.
Q. Well, would it be helpful to see some old Minutes?
A. Some old Minutes?
Q. Yes, sir.
A. Well, I guess it could, but ---
Q. Did you -- I understood you served ---
A. I ---
Q. I'm sorry.
A. Go ahead.
Q. I cut you off; I'm sorry.
A. No. I'm done; go ahead.
Q. Did you serve on the Board of Directors also?
A. I was on the -- I was the president of the Association for a while and on the Architectural Review Board. I served on the Architectural Review Board for a while.

Q. What year were you the president?
A. I -- I can't tell you.
Q. Was it 2006?
A. It could be.
Q. Or was it 2007?
A. I don't know; I don't have any of that documentation. I don't remember.
Q. Is the Josey property located on the golf course?
A. I don't believe it is.
Q. Is it located I guess at the lake?
A. Well, I don't believe it is.
Q. Is it possible that their privacy fence located on their property to block the view to the golf course?
A. No, sir, I don't think it would.
Q. Is it possible for a wooden fence on their property to block the view of the lake?
A. No, sir, I don't think it does.
Q. When you purchased your property in 1994, there were privacy fences in Lakewood Links, weren't there?
A. In the old part.
Q. Those were in Lakewood Links?
A. Not that I know of.
Q. Well, ---
A. When I bought my lot, there wasn't -- I was like the

third house out there.
Q. I see. Well, were there privacy fences in Lakewood Links by 1999?
A. I don't know of any.
Q. Were there ---
A. I know that we had several people that wanted to build them, and then after we talked to them, they didn't. They just didn't, you know, build a fence.
Q. What about by 2000?
A. You -- I can't tell you.
Q. What about by 2001?
A. Where -- I mean, I'm just trying. I don't know what -- you're wanting to tell you on this lot there was a fence -- man, I don't remember where I was in 2001.
Q. Well, you ---
A. That was twenty-three (23) years ago.
Q. I understand.
A. The bottom line here is whether or not his fence fits the Covenants for the property he purchased.
Q. Right.
A. And so, I don't understand it; I mean, really, I don't. I mean, I think you -- I don't know, Mr. McCabe, but I think you're trying to push me up to your previous job. But, you know, it's kind

of a no-brainer.

Q. Well, ---

A. I don't care whether it's on a golf course or it's on a pond, if it's not supposed to be there -- what does the neighbors think about it. Have you petitioned the neighbors?

Q. You say that ---

A. Have you petitioned other people at the golf course; do they want their property -- wooden -- eight foot wooden fences on their neighbors? What does it do to their property? I mean, that would be the questions I'd be asking, not whether there was a fence in 2006 somewhere. I have no idea. I didn't go around taking counts of fences. But I know, to my knowledge, we never approved a wooden privacy fence the whole time I was at Lakewood and our Association.

Q. You don't ---

A. No more than we approved metal outbuildings.

Q. Your testimony is, just to make sure I'm clear, that between 2003 and 2008, that no wooden fences were approved?

A. I'm telling you I don't recall us approving any wooden fences between that period.

Q. And do you know if wooden fences were approved prior to that?

A. No.
Q. Were there any wooden fences installed within the subdivision when you lived there?
A. Not to my knowlege.
Q. None?
A. None, of my knowledge.
Q. Okay. What about privacy fences, were there any privacy fences installed when you lived out there?
A. Well, wooden fences, I would consider a privacy fence, would you not?
Q. Well, I guess you could have a vinyl privacy fence; right?
A. Right.
Q. There were vinyl privacy fences installed while you were out there, weren't there?
A. Not to my knowledge; not privacy, no.
Q. No vinyl?
A. Not to my knowlege. Now, on the golf course -- now, over here, (witness indicates area), I don't think so. You know, that's been a long time.
Q. I understand.
A. That's been a long time ago.
Q. But the sign was definitely put up in 2003?
A. The sign was put up when we started that Association.

I have a friend that lived in the old section because I've seen that sign over there.

Q. The old -- when you say "old section," you mean?

A. I mean, the original Deschamps ---

Q. Lakewood Links?

A. The whole Lakewood Links -- I mean, Lakewood Estates.

Q. Were there chain-link fences in ---

A. Not a chain-link fence.

Q. Were there white picket fences?

A. I don't know.

Q. Were there white vinyl fences?

A. I don't think so.

Q. Okay. Did you testify that wooden fences were not allowed in Lakewood Links?

A. Reading these Covenants, wooden fences are not allowed; no privacy fences are allowed. Wooden, steel, vinyl.

MR. McCABE: May I approach the witness?

THE COURT: Yes, sir.

Q. I'm going to give you an orange Magic Marker or Highlighter. Do you mind highlighting where these Covenants say you can't have a wooden fence?

MR. JONES: Your Honor, I would ask that he use another document because that ---

THE COURT: Hold on a second.

MR. JONES: -- is a document we used for the witness to testify; it's not in evidence, by the way.

MR. McCABE: Well, there's a ---

THE COURT: All right. Hang on just a second and let's find the ---

MR. JONES: David, there you go. There you go. I'm handing him Plaintiff's Exhibit Number One.

MR. JOHNSTON: I don't' know where this --

Q. All right.

A. I don't know where it is. Have ya'll got some time?

Q. Yes.

A. Do you expect me to -- I mean, have you not read this?

Q. Yes.

A. Didn't Dickie just read about the privacy fences?

MR. JOHNSTON: (To Mr. Jones) Dickie, do you remember where you read that?

THE COURT: Mr. Johnston, hold on just

a second.

MR. JOHNSTON: I can't ask him questions, can I?

THE COURT: No, you can't. And don't get frustrated.

MR. JOHNSTON: Well, I am getting frustrated.

THE COURT: Well, don't get frustrated.

MR. JOHNSTON: I'm stressed out too.

THE COURT: Don't get frustrated.

MR. JOHNSTON: Okay.

THE COURT: He's not trying to trick you or trap you.

MR. JOHNSTON: Okay.

THE COURT: It's just the process we go through.

MR. JOHNSTON: Okay.

A. Does it have to have "wooden" in it? I thought it said, "No fence, wall, golf, pier, swimming pool, roof exterior" -- would that work?

Q. Sure. Anything you think applies.

A. Oh, I'm asking you. You're wanting this ---

Q. Well, you specifically testified that the document prohibits wooden fences. And I will represent to you that I haven't found that in that document. Now, it

is in the Conditions and Restrictions, but it's not in the what the Plaintiffs call the 1988 Covenants. Now, if you are informed that I am incorrect about that, then I would kindly ask you to point that out.

A. Okay. Well, without me sitting here reading this whole document, which I don't really want to have to do and I don't think you want me to sit here and read this whole document, but it can say -- but it does say, "A fence has to be approved -- has to be permitted to and approved by the Review Board." The fence could be wooden, could be vinyl, could be -- anyway, I've got that word "fence" highlighted for you.

Q. And so, there is a provision in here about Architectural approval. Are you aware of where in this document, P-One, where it prohibits privacy fences?

A. Not right out of my head, no, I'm not.

Q. Would it surprise you to know that Mr. Kolb approved several wooden fences?

A. It may.

Q. Were you ---

A. Did you ask ---

MR. JOHNSTON: (To the Court) Can I ask you?

THE COURT: You can explain your answers.

MR. JOHNSTON: Okay.

THE COURT: If you don't know, you just say, you know, -- I don't know. But if you've Highlighted it, then you've responded. Sometimes, the answer may be all you have or the lawyer may or may not be satisfied with it, but if it's all you have, then that's kind of all there is.

A. Well, when he asked me if Mr. Kolb approved, then he had to be asked about it. Did this gentleman ask about the privacy fence?

Q. Well, in fact, he did.

A. Was it approved?

Q. He didn't get any response.

A. Pardon?

Q. There was no response.

MR. McCABE: Your Honor, may I approach?

THE COURT: Yes, sir.

(Mr. McCabe looks through Exhibits)

Q. Let the record reflect that on Page Fourteen (14) of the Complaint, you Highlighted the word "Fence."

A. Okay.
Q. Do you think Lakewood Links is a nice neighborhood?
A. Yeah.
Q. Would you hesitate to buy property there today?
A. Probably not.
Q. I know you're happy in God's country, Clarendon County, but -- do you recall whether there is a provision in the Restrictive Covenants to require the Architectural Review Board to respond within thirty (30) days?
A. Not to my knowledge I don't, but I know we did.
Q. And do you think that that is important?
A. I believe the people need to know what they can do. And if a contractor wants to build a house, they don't want to have to sit and wait on us. When Donald Morris brings you a plan, a set of plans, he wanted to know something now. Well, not just him -- Herb Griffin or whoever is building it. And if somebody wanted to put up an outbuilding or a fence, they want to know what they can do. So, we responded quickly.
Q. Do you recall that towards the end of the time period that you lived there, that there were some meetings and discussion about a rule that would prohibit wooden fences?

A. No. We talked about it a lot of times. I don't remember any meetings just specifically on that.

MR. McCABE: Hold on one second, please. Your Honor, may I approach?

THE COURT: Yes, sir.

MR. McCABE: Your Honor, could we mark this for illustrative purposes?

MR. JONES: Thank you.

THE COURT: Defendant's Exhibit Two for I.D. Mr. Jones, did you see it?

MR. JONES: I've got it, Your Honor.

THE COURT: Okay.

MR. McCABE: I've got an extra one. May I approach?

THE COURT: Yes, sir.

(LAKEWOOD LINKS HOMEOWNERS' ASSOCIATION'S MINUTES OF FEBRUARY, 2008 MARKED AS DEFENDANT'S EXHIBIT TWO FOR I.D.).

MR. McCABE: Thank you.

Q. I am going to show you what is marked as D-Two; do you recognize that document?

A. I guess that's the Minutes to a meeting we had in February of 2008, which was sixteen (16) years ago.

Q. Okay. And so, were you still on the Board in 2008?

A. Yes, sir. It states that I was the president, on the first sheet.
Q. Would you go to Page Three? You are looking at Lakewood, it says, "Older section known as Lakewood Estates"?
A. Uh-huh (affirmative response).
Q. "Homeowners Association of Lakewood Links." This goes back to that wording that may refresh your memory. It says, "Lakewood Estates, only six joined Lakewood Links Association out of the one hundred and twenty (120) residents." Do you recall what that was about?
A. No, not unless they had an option to join it.
Q. Okay. And when ya'll first formed this Association or restarted it, wasn't it voluntary?
A. I don't recall, no.
Q. Go to the next section. It says, "Lakewood Links." It says "Lakewood Links Homeowners' Association Board," it says, "approved to divorce Lakewood Estates." Did ya'll ever divorce Lakewood Estates?
A. No.
Q. What does that mean?
A. I guess that just means that, really, they were there a lot longer than we were. They were there first. We

really had no control over what they did, but from a certain point, if they wanted to join us, they could. That's what I'm assuming this letter says. But again, I refer back to -- that was fourteen (14) years ago.

Q. Well, isn't there a provision of your Declaration that says how you would enact or bring in new properties or members; correct?

A. Is there one?

Q. Yes, sir.

A. Again, like I said, I'd have to sit here and read this.

Q. Well, did ya'll propose that Lakewood Estates' owners be annexed into the Lakewood Links?

A. That's what I'm reading right here.

Q. Okay. It says, "Checks received from Lakewood Estates' residents will be returned for nonmember area residents." Do you know what that means?

A. Not really. If you read the next one, it says, "The majority of the Lakewood Estates' residents prefer not to be a member of the Lakewood Links." They don't want to spend the money.

Q. Well, I understand that.

A. And they don't want to have to go by the Covenants, and I guess it was their choice.

Q. Does that shed any light on this letter, what you

meant in this letter?

A. Well, it could; it could.

Q. Okay. And did you serve with Mr. Gene Ducom -- how do you pronounce his name?

A. You did good; it's Ducom.

Q. I'm sorry. Say it again.

A. Ducom.

Q. Ducom.

A. Mr. McCabe, can I ask you a question?

Q. You answered that one.

THE COURT: If you need clarification to a question -- it's only a format of the lawyer asks and the witness answers. But if you need clarification as to one of his questions, you can certainly say -- I don't understand.

MR. JOHNSTON: But, you know, he was just asking me about ---

THE COURT: But if you see something ---

MR. JOHNSTON: Huh?

THE COURT: If you see something in there that is relative that was previously asked, then you can certainly ask. But you certainly can't ---

MR. JOHNSTON: Well, he had asked me

about wooden fences. And in these Minutes, it shows where one six foot wooden fence and one vinyl fence, the families had to remove the fences that were not approved by the Architectural Review Board.

THE COURT: So, if you would use that to clarify or add to your prior answer, you certainly can about the fences.

A. Here's documentation that two families had been turned down and a reminder to get ARB, Architectural Review Board, approval before any improvements are attempted on the property.

Q. And do you recall the details of these two families with the fences?

A. No. I do not. But in the report, there was two.

Q. Okay.

MR. McCABE: The Court's indulgence.

THE COURT: We can take a break. It's 3:35, and so, we have been at it two and one-half hours. Why don't we take fifteen (15) minutes and then we will resume with Cross-examination. The witness can step down. Mr. Johnston, you are still under oath, but while you are under oath, you can't talk to anybody about your testimony.

We will be in recess and everybody will have the opportunity to use the rest-room. We will take fifteen (15) minutes, and we will start back about 3:40 -- that will be 3:50. We will be in recess until 3:50.

(OFF THE RECORD FROM 3:35 UNTIL 3:50 P.M.).

THE COURT: All right. Mr. McCabe.

MR. McCABE: Your Honor, at this time, I would like to admit Exhibit Number Two into evidence.

(MINUTES OF FEBRUARY 17, 2008 MEETING MARKED AS DEFENDANT'S EXHIBIT NUMBER TWO ADMITTED INTO EVIDENCE).

MR. JONES: Is that the February 17 Minutes?

MR. McCABE: Yes.

MR. JONES: No objection, Your Honor.

THE COURT: Okay. Exhibit Two, formerly for I.D. only, is admitted into evidence.

MR. McCABE: And may I mark Exhibit Number Three for illustrative purposes only at this point?

LAKEWOOD LINKS PROPERTY OWNERS ASSOCIATION LETTER DATED AUGUSTS 24, 2009 ADDRESSED TO

"DEAR NEIGHBOR" FROM GENE DUCOM MARKED FOR I.D.
AS DEFENDANT'S EXHIBIT NUMBER THREE

THE COURT: Number Three for I.D.

EXAMINATION BY OF DAVID JOHNSTON MR. McCABE CONTINUED:

Q. I want to ask you -- you may maintain you weren't there -- but would you take a look at this 2008 letter and tell me if you recognize it? And it may save some time if you look on the back. I'm just trying to figure out if you were still in the community.

A. I moved in May of '08. This letter is dated August of '09.

Q. Okay.

A. I mean, of 2009.

Q. Okay. So, if you will -- this is -- I will represent to you this is a letter that went out to the owners from the Board. Is -- did Gene Ducom follow you as president of the Association?

A. (Witness pauses).

Q. If you don't know, that's ---

A. I -- I can't answer that; I know this letter is dated after I left.

Q. Okay. But you were still there in 2006; correct?

A. Right.

Q. Will you turn to the last page, the section that is circled?

MR. JONES: I ---

THE COURT: Yes, sir, Dickie.

MR. JONES: That is a letter that was penned by somebody else, and Mr. Johnston said he was not there in 2009.

MR. JOHNSTON: No.

MR. JONES: It's got to be hearsay. This document did not -- is not reflecting on a document that's hearsay, and secondly, the document, if Mr. McCabe wants to put it in, it has to come in through somebody else, preferable Mr. Ducom, but not through Mr. Johnston.

THE COURT: Mr. McCabe, all right and so, you marked it for I.D.; This witness didn't write it physically. He was certainly living in the area in the 2006 time frame. But what is the purpose of the document; are you trying to trigger his recollection and memory or what?

MR. McCABE: Yes, sir. And I don't need to offer this through Mr. Johnston.

THE COURT: Okay. So, on that basis, I'm going to overrule the objection and allow him to -- either he knows -- either it refreshes or it doesn't refresh, but he doesn't -- he

cannot authenticate the document and so, it's not being offered. But Mr. Johnston, you can -- does that Highlighted section trigger any recollection on your part or can you answer that in the prior question? Or either you can't answer it.

Q. I was going to ask you if you recall if there was a vote in 2006 at an annual meeting or a members' meeting to ban six foot high wooden or vinyl fences?

A. I don't recall that.

Q. I'm sorry?

A. I do not recall that meeting.

Q. You do not recall. Okay. Do you recall voting or having any kind of meeting to vote on fences or changing the rules on fences?

A. No. I don't recall having covered it. It was basically covered in the Covenants.

Q. Okay. Can you recall the result of any discussions during your tenure about the lack of power?

A. No, sir.

Q. Okay.

MR. McCABE: Thank you. Appreciate it.

MR. JOHNSTON: Yes, sir.

THE COURT: Redirect?

MR. JONES: Yes. Thank you, Your Honor.

REDIRECT EXAMINATION OF MR. JOHNSTON BY MR. JONES:

Q. Let me ask you some questions about when somebody came before your committee or the Architectural Review Board, what you guys considered. When somebody came I'll say for a wooden fence, okay, I want you to turn to Page Fifteen (15) of those Minutes in that notebook there. And it's Section -- Page Fifteen (15), Section -- excuse me, please -- let's go first with Page Twelve (12); I'm sorry. Let's go to Page Twelve (12) first. Look at Section Two that is on Page -- Section Two and then underneath that is Two (A); do you see that on Page Twelve (12)?

A. Yeah.

Q. And you recall I read this during your testimony already, when you or when a fence was placed before you guys, before the Board, the Architectural Review Board, did each of you consider the fence whether it would fit in with the harmonious design?

A. Oh, yes.

Q. And did you look at the building plans, what material it was made out of?

A. I would have to say yes because we allowed some chain-link fences, four foot tall chain-link fences.
Q. Okay. And then -- and by the way, the wooden fences, you have already testified about wooden fences as to why, but why didn't you -- why didn't -- why were you not in favor of wooden fences while you were on the Architectural Review Board?
A. Well, the appearance of them for one thing was a major factor, and the fact that it would block the view from neighbors.
Q. And by the way, you see -- you see this Exhibit Number Three that I've talked about; it's on a cul-de-sac?
A. Right.
Q. And was the view of the neighbors, whether they live on a golf course or not, was the view of the neighbors taken into consideration?
A. Do I think they were?
Q. Yes.
A. I don't think they were.
Q. Okay.
A. I mean, what does the neighbor think when she looks out her back -- the kitchen window, cooking, and she sees a privacy fence?
Q. So, does the fact that that's not on a golf course

seem ---

A. That doesn't have anything to do with it.

Q. Say that again.

A. I don't think that has anything to do with it.

Q. And why not?

A. Because if you let one person do it that's not on the golf course but in the Association, in the community, then you're going to have to let the guy on the golf course do it.

Q. Okay.

A. And all of them.

Q. Look at Page -- I've already talked to you about Page Fifteen (15), but look at Page Twelve (12), and I want you to look at Part Two, Article One, Section Two, and just see -- you see on Page Twelve, it starts ---

MR. McCABE: Your Honor, ---

THE COURT: Hang on just a second. Hold on just a second, Dickie.

MR. McCABE: Is he going to ask -- is he going to speak within the confines of the Cross on Redirect or is this -- we do it all over again?

THE COURT: No, we're not planning on doing it all over again. Mr. Jones, his objection is, it's outside the scope of

Cross. Of course, the Cross was pretty broad, but if it's outside the scope of Cross, then tell me what the ---

MR. JONES: Yes.

THE COURT: -- tell me what the objection is.

MR. JONES: Your Honor, in the By-laws and Covenants, these (counsel indicates), they set out criteria that the Board uses to consider it, and I'm going through the criteria.

THE COURT: Okay.

MR. JONES: He asked about wooden fences, and I'm going through the criteria and the location of the criteria in the Covenants so that it's a matter of record and so the Court can be pointed directly to the criteria and sections that are to be considered and weighed because there's no objective standard. That's what I'm asking about. And we have evidence in there that there's no objective standards.

THE COURT: I see -- I'm looking at my notes. Mr. McCabe asked about using lots and privacy fences and then wooden fences. So, Mr. McCabe, is his next question outside the

scope of Cross, I mean, as far as -- it's hard for me to tell exactly what we didn't cover or what we went over in Cross and whether or not it's related. And so, tell me again your objection, tell me again, you know, what -- the area you want to cover. Are you saying it was not within the scope of Cross or are you saying you covered it in Cross or are we restarting going through the ---

MR. JONES: No, no. I think he covered it in Cross; he talked about whether or not there was -- it was an automatic -- I'm using -- I'm paraphrasing.

THE COURT: Right.

MR. JONES: He asked Mr. Johnston whether it was automatically turned down on what the process was.

THE COURT: Right.

MR. JONES: And I'm asking ---

THE COURT: And he was saying he never approved wooden fences, don't recall any wooden fences, none were installed during then, some chain-link fences, not white picket fences, not white vinyl fences, not

-- and so, that was on Cross. But are you asking him to go through the design criteria? I don't remember him asking about design criteria, and I think we did go through that in Direct though.

MR. JONES: Your Honor, I -- what I am trying to do is say that he -- that these criteria, I am asking him whether they considered that. This is the deliberative process they went through to try to avoid de facto arguments and Summary Judgment Motions, if not de facto Amendments. What they are doing is they went by the By-laws and the Covenants and they went through the Covenants and they considered these things and weighed all of them, and I'm asking him what those provisions are and did they weigh them.

THE COURT: I don't know that he -- I mean, I remember that from your Direct, but I don't know that he covered that in Cross, and he's saying you're limited to in Redirect, not rebuilding the case but going through what he went through on Cross. I'm going to sustain that objection.