STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen Tevis Mullen, Circuit Court Judge
Civil Action No.: 2004-CP-07-633
390 S.C. 470, 702 S.E. 2d 378 (Ct. App. 2010)

Robert L. Cullen, Andrew A. Corriveau,
and Andrea Hucks,.....Petitioners,

v.

J. Bennett McNeal, B. McNeal Partnership, L.P.,
Anthony R. Porter, and Wright's Point Home
Owners Association,.....Respondents.

PETITIONERS' BRIEF ON CERTIORARI

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QUESTIONS PRESENTED

I. Did the Court of Appeals err in failing to find that the Developer's rights established in restrictive covenants were personal to the Developer and were extinguished when the Developer conveyed the land to which the covenants applied?

II. Did the Court of Appeals err when it found that a subsequent land owner could acquire, solely by assignment, the Developer's rights when those rights had already been extinguished, when the clear and unambiguous language of the Declaration requires that a successor developer be one who succeeds to the Developer's interest in the "Property", and when the assignment disclaimed responsibility for the prior acts of the original Developer?

III. Did the Court of Appeals err in finding that, under the restrictive covenants, the "Subdivision" included portions of the "Property" that had not yet been subdivided into "Lots"?

IV. Did the Court of Appeals err in failing to apply the rule of law that, after the time reasonably necessary to protect its financial interest in a development, a developer has a duty to transfer control of the affairs of the Subdivision to the homeowners whose financial interests are at stake?

V. Did the Court of Appeals err when it failed to apply the basic principles of contract construction and simultaneously found the restrictive covenants to be unambiguous but affirmed the circuit court's reliance on extrinsic evidence to construe and interpret them?

INTRODUCTION

This case concerns the legal ability of successive owners of undeveloped real estate to exercise the personal rights of the original developer ("Developer") granted in the applicable restrictive covenants (the "Declaration") to develop and to incorporate newly created lots into an existing developed subdivision ("Subdivision") and to control the governing bodies of the homeowner's association ("Association") by obtaining an assignment ("Assignment") of the rights of the Developer more than five years after the Developer had conveyed to third parties all of his interest in the property to which the personal rights had attached. In affirming the ruling of the circuit court, the Court of Appeals disregarded the precedent of this Court, its own prior opinions, and the well-established rule of law that rights, such as those at issue in this litigation are personal to the developer and are extinguished when the developer conveys to others his interest in the subject property.

The facts relevant to a resolution of the issues presented are undisputed.

STATEMENT OF THE CASE

This action for a Declaratory Judgment was commenced on March 31, 2004, by the Petitioners (the "Homeowners"), all of whom were owners of "Lots", as defined in the Declaration, within a Subdivision commonly known as Wright's Point ("Wright's Point"). (Complaint, R. p. 28)

In their Complaint, the Homeowners sought a declaratory judgment interpreting the applicable Declaration concerning whether previously unplatted real estate could be subdivided, developed, and added to the existing Subdivision and whether the Respondent, Anthony R. Porter ("Porter"), who was the "Developer" as defined in the Declaration, continued to have the right to control the Wright's Point Home Owners Association ("Association"), which owns the Subdivision common areas and amenities and which is the

governing body for the Subdivision, and to control the Subdivision architectural review committee.

In their Answer, Respondents denied the allegations of the Complaint and alleged that the Developer was entitled to continue to control the Association and that the undeveloped land that had been conveyed by the Developer to third parties could be added to the Subdivision. (Answer and Counterclaim, R. p. 68)

In addition, the Respondents asserted a multiple count counterclaim ("Counterclaim") against the Homeowners, alleging various tort causes of action. (Answer and Counterclaim, R. p. 68; Amended Reply, R. p. 165).

On October 26, 2007, the circuit court issued its order finding generally in favor of the Respondents on all issues, but found for the Homeowners on the Counterclaim and dismissed those claims. (Order, R. pp. 1 - 26). On February 19, 2008, the Homeowners served their Notice of Appeal. (Notice, R. p. 168). On October 26, 2010, the Court of Appeals affirmed the circuit court. The Homeowners filed their Petition for Rehearing, which was finally disposed of on July 1, 2011, by the issuance of a substantively identical substituted opinion and a denial of the Petition for Rehearing.

On June 12, 2014, this Court granted Petitioner's Petition for Writ of Certiorari to review the decision of the Court of Appeals.

STATEMENT OF THE FACTS

1. On December 31, 1997, Porter acquired 1.7 acres of undeveloped real estate described as parcels B and C in a December 17, 1997 plat (the "Boundary Survey"). (Deed, Exhibit 16, R. p. 588; Deed, Exhibit 18, R. p. 597; Plat, Exhibit 15, R. p. 584).

2. On December 31, 1997, Porter's father, Jimmy W. Porter ("Jimmy") acquired undeveloped real estate described as parcel D in the Boundary Survey. (Exhibit 17, R. p. 592).

3. Pursuant to a plat, dated March 3, 1998, and recorded at book 64, page 150, ("Plat"), a portion of this land was subdivided into 44 separate lots, ("the 44 Lots"), roads, and community spaces. (Exhibit 19, R. p. 602).

4. On June 2, 1998, the "Declaration of Conditions, Restrictions, and Easements for Wright's Point" ("Declaration"), dated April 24, 1998, was recorded which subjected all of the land which had been acquired by Porter and Jimmy (the "Property") to the Declaration. (Declaration, Exhibit 20, R. p. 603)

5. Defendant Anthony R. Porter ("Porter") is the "Developer" of Wright's Point as defined in ¶ 1.12 of the applicable Declaration.

6. The majority of the land within parcels B and D was depicted in the Plat as "Phase II" "Future Development" and was not subdivided into lots. (Exhibit 19, R. p. 602).

7. In the Declaration, the official "Plat" "of Wright's Point Subdivision" ("Subdivision") was defined as the March 3, 1998, Plat that depicted the 44 Lots and common areas. (Declaration, ¶ 1.18, Exhibit 20, R. p. 605).

8. In the Declaration, the term "Lot" was defined as those 44 Lots shown on the Plat. (Declaration, ¶ 1.13, Exhibit 20, R. p. 605).

9. The Declaration provided for the creation of the Association and conferred membership in the Association only on the owners of each of the Lots on the Plat and not on the owners of "Phase II" and "Future Development" land that had not been subdivided into "Lots". (Declaration, ¶1.03, Exhibit 20, R. p. 604; Declaration, Article IV, Exhibit 20, R. p. 609).

10. Only an "Owner" of a "Lot" could use the Common Areas of the Subdivision. (Declaration, ¶2.01, Exhibit 20, R. p. 608), and only an "Owner" of a "Lot" was subject to assessments for the expenses of the development. (Declaration, ¶2.01, Exhibit 20, R. p. 614-617).
11. Under the Declaration, only Lots within the Subdivision had restrictions on use, (Declaration, ¶2.01, Exhibit 20, R. p. 606), and were subjected to the plan of development (Declaration, ¶2.01, Exhibit 20, R. p. 607).
12. The Declaration provided that the official Plat could be modified, amended, revised by the Developer to subdivide and add additional "Lots" to the Subdivision (Declaration, ¶ 2.03, Exhibit 20, R. p. 607) and also reserved to the Developer "the right to develop and submit additional phases to this Declaration" pursuant to a specific mechanism for doing so. (Declaration, ¶ 2.03, Exhibit 20, R. p. 607).
13. On March 29, 1999, the common areas shown on the Plat were conveyed to the Association. (Porter, R. p. 332, lines 4-9; Exhibit 21, R. p. 634).
14. In April, 1999, Porter conveyed four of the 44 Lots and undeveloped parcel B to the Respondent, J. Bennett McNeal ("McNeal"). (Deed, Exhibit 22, R. p. 638; Deed, Exhibit 23, R. p. 642).
15. On July 16, 2002, Jimmy conveyed undeveloped parcel D to the Respondent, B. McNeal Partnership, L.P. ("McNeal L.P.") (Exhibit 32, R. p. 679; Exhibit 33, R. p. 683).
16. As of December, 2003, all of the 44 Lots had been sold or otherwise conveyed by the Developer. (R. p. 308, lines 2-17)[1].

[1] The 44 Lots were owned by Porter and conveyed by him. Two of the Lots were conveyed to a separate Trust that held title to a residence of Porter.

17. At the time that the Complaint was filed, the Defendants, McNeal and McNeal L.P., each owned portions of the undeveloped land that was proposed to be added to the existing Subdivision.

18. On February 27, 2007, McNeal L.P., the owner at that time of all the Property other than the 44 Lots depicted on the official Plat, conveyed to Richard Ratcliff Homes, Inc. ("Ratcliff"), a portion of the property that McNeal had acquired from Porter and a portion of the property that McNeal L.P. had acquired from Jimmy ("Ratcliff Property"). (Exhibit 49, R. p. 748).

19. Ratcliff also claimed the right to subdivide and develop its portion of the land and add it into the existing Subdivision and thereafter purported to subdivide its land pursuant to two unsigned plats, dated February 27, 2007, and February 28, 2007. (Exhibit 50, R. p. 752; Exhibit 51, R. p. 755).

20. Porter and Jimmy, on February 28, 2007, one month before the commencement of the trial in this matter, executed a document entitled "Supplemental Declaration To Declaration of Conditions, and Restrictions for Wright's Point Declaration", ("Supplemental Declaration") purporting to subdivide the Ratcliff Property, that neither had had any interest in for five years, into "Lots" and to add them to the existing Subdivision of 44 Lots, which would entitled the owners to membership in the Association and access to Association owned amenities. (Exhibit 40, R. p. 699).

21. On June 12, 2007, Porter and Jimmy executed a document entitled Assignment of Developer's Rights, ("Assignment") pursuant to which the "Developer's rights", were purportedly assigned to McNeal L.P., including the personal rights of the original Developer provided under Articles II, VII, and XII of the Declaration. (Affidavit, Exhibit A, R. p. 162). The Assignment specifically disclaimed any responsibility of McNeal L.P. for the prior acts of the Developer under the Declaration.

SUMMARY OF THE ARGUMENT

When the Court of Appeals found that McNeal L.P., received, through the Assignment, the ability to exercise the original Developer's personal rights reserved in the Declaration five years after the Developer had conveyed the land to which those rights applied, it failed to apply both South Carolina precedent and failed to enforce the unambiguous language of the Declaration as written.

Under South Carolina law, rights such as those at issue in this litigation are "personal" to the developer, and are extinguished when the developer conveys his interest in the land over which the rights were granted or for some other reason has no sufficient "property interest" in the real estate development. In finding that McNeal L.P. acquired those rights through the "Assignment" years after the Developer had conveyed the land to which the rights applied, the Court of Appeals failed to follow applicable precedent and ignored its own prior rulings to the contrary.

Further, in finding McNeal L.P. to be a "Successor Developer" possessing all the personal rights of the original Developer, based on the Assignment, the Court of Appeals failed to apply the unambiguous language of the Declaration which described the requirements to become a "Successor Developer", which included that any Successor Developer must succeed to the original developer's interest *in all of the property* subject to the Declaration, and not merely obtain a purported assignment of rights while simultaneously disclaiming obligations of the Developer.

Finally, in resolving the issues presented, the Court of Appeals violated the established rules of construction that an unambiguous Declaration is to be interpreted based on the language of the Declaration itself, and not on testimony of "intent" or other extrinsic evidence.

ARGUMENT AND AUTHORITIES

I.

The Court of Appeals erred in failing to find that the Developers' rights established in the Declaration, were personal to the Developer and were extinguished when the Developer conveyed all of the land to which the Declaration applied.

At issue in this litigation is the bundle of rights reserved in the Declaration by the Developer, including the right to control the Association and the architectural review committee, and to amend the Subdivision Plat so that the Subdivision could be expanded to include more than the original 44 Lots. The centerpiece of the Homeowners' argument is that the rights at issue were personal to the Developer and, after the Developer[2] had conveyed all his remaining interest in the property to which the Declaration applied, those rights were extinguished. The Assignment, executed by the Developer five years later, could confer no rights upon McNeal L.P. or upon any other person or entity because, at that point in time, the Developer had no rights to convey.

The Court of Appeals simply disregarded the Homeowners' argument and the precedent of its own decisions and of those of this Court, and held that, based upon the Assignment, alone, that McNeal was the "Successor Developer".

> Here, McNeal did not become a successor developer through a deed, but rather through the Assignment of Developer's Rights.

Cullen v. McNeal, 390 S.C. 470, 487, 702 S.E. 2d 378, 387 (Ct. App. 2010), *reh. denied,* 2011, *cert. granted,* 2014.[3]

The Homeowners' position on this issue is based on settled South Carolina law that, like in other jurisdictions, considers the rights of a developer reserved in the applicable

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[2] Although there was an issue at trial as to whether the term "Developer" was Anthony Porter or both Anthony Porter and Jimmy Porter, for purposes of this argument it does not matter. After 2002, neither of them had any interest in the undeveloped property and after 2003, neither of them had any interest in the platted Lots.

[3] The Court of Appeals further confused matters by referring to the rights at issue in terms of real covenants, which run with the land. ["the provisions of the Declarations 'shall run with and bind title to the Property.'"] *Id.* at 487, 387.

conveyances or restrictive covenants to be personal to the developer. Unlike real covenants, which run with the land and can be enforced by successive grantees, the rights reserved by a developer are personal, enforceable only by him, and extinguished upon disposition of the developer's interest in the land.[4]

In *Peoples Federal Savings and Loan Association of South Carolina v. Resources Planning Corporation*, 358 S. C. 460, 596 S.E. 2d 51 (2004), this Court recognized the principle that the rights reserved to the developer in a declaration are personal in nature and that only under "unusual circumstances" can a successor exercise those rights.[5] 358 S.C. at 479.

The personal nature of the rights here at issue is clear from the language of the Declaration, itself. At ¶ 2.03 (R. p. 607), the Declaration provides that the "Developer" "reserves unto himself" "the right to develop and submit" additional phases to the Subdivision and "to modify, amend, revise and add to the Plat". Thus, by the specific and unambiguous language of the Declaration, the ability to subdivide the undeveloped land into Lots and to "amend and add to" the Plat of the Subdivision is a "right" reserved to the Developer.

The Declaration at ¶ 7.01 (R. p. 613) further provides that control of the Association is a "right" of the Developer that terminates when the Lots in the Subdivision are sold or the Developer amends the Declaration to so provide. ¶ 1.01 (R. p. 603-4) provides that the Developer's "rights" to control the architectural committee terminate when all the Lots are sold. That the Declaration contemplates termination of the

[4] Even with respect to covenants that run with the land, in South Carolina, a developer seeking to enforce them must have a property interest in the development. *AJG Holdings LLC, et al v. Dunn, et al.* 392 S.C. 160, 166, 708 S.E. 2d. 218, 222 (Ct. App. 2011*), cert. granted,* 2014.

[5] The unusual circumstance was a lender who purchased its collateral at a foreclosure sale and was then subjected to a hostile homeowners association, which imposed the obligation on the lender to pay all association assessments from which the developer had been immune.

Developer's rights establishes that they are personal to him and are not covenants that run with the land to be exercised by a subsequent grantee.

Accordingly, the finding of the Court of Appeals is contrary to the rule of law generally applied in other jurisdictions and South Carolina precedent as articulated in *Queen's Grant II Horizontal Property Regime v. Greenwood Development Corp.*, 368 S.C. 342, 628 S.E. 2d 902 (Ct. App., 2006), reaffirmed in *AJG Holdings LLC, et al v. Dunn, et al.* 392 S.C. 160, 708 S.E. 2d. 218 (Ct. App. 2011*), cert. granted,* 2014, and again applied in *Highlands Property Owners Association, Inc. v. Shumaker Land, LLC,* 397 S.C. 432, 724 S.E. 2d 685 (Ct. App. 2012).

In *Queens Grant,* the Court of Appeals acknowledged the rule that "when a subdivision developer is divested of all interest in the subdivision, a reserved right to amend restrictive covenants is extinguished". *Id.* at 362, 363, 913, 914. Five years later, the Court of Appeals in *AJG Holdings* applied the *Queen's Grant* holding to preclude the exercise of the developer's rights by a third party who had purportedly acquired them through an assignment.[6]

> Focusing on the second condition of Queen's Grant, the circuit court found that because Sasser conveyed all the property she owned in the subdivision in 1991, she no longer retained a sufficient property interest in the subdivision to convey developer's rights to the Dunns.
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> * * * * * *
>
> As Queen's Grant makes clear, the reservation itself is allowed only when the five conditions are met, and one of those conditions is that the developer possess a sufficient property interest in the development. For this condition to be a meaningful one, the property interest must necessarily be something more that a purported reservation of the developer's rights. This is so regardless of whether the restrictive covenants run with the land or are personal to Sasser.
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> Because Sasser did not retain any property interest in the development, she did not retain developer's rights. Accordingly, we affirm the trial court's

[6] The AJG decision was brought to the attention of the Court of Appeals pursuant to rule 208(b)(7) SCACR by letter dated January 28, 2011.

> grant of summary judgment with regard to Sasser's inability to assign developer's rights to the Dunns.

AJG Holdings at 165, 166, 221, 222.

Consistent with *Queen's Grant* and *AJG Holdings,* the Court in *Highlands Property Owners Association, Inc.v. Shumaker Land, LLC,* 397 S.C. 432, 724 S.E. 2d 685 (Ct. App. 2012) nullified a purported assignment of developer's rights when the assignment was attempted two years after the original declarant who held those rights had sold its remaining interest in the property to which the rights attached.

> ...at the time it executed the Assignment to Shumaker, LLC, HDLP no longer retained any rights, title or interest in the seven lots as the limited partnership already transferred its interest in the property to Shumaker on July 28, 2006. As a result, HDLP's subsequent attempt to execute the August 25, 2008, Assignment is invalid.

Under *Queen's Grant, AJG Holdings*, and *Highlands Property Owners,* the assignment of rights by a developer who no longer has a property interest in the development is a nullity.

The law in South Carolina is consistent with that of other jurisdictions that hold that a developer's rights are extinguished when the developer disposes of his interest in the property. *See: Peoples Federal Savings and Loan, supra*, citing *Board of Managers of Medinah on the Lake Homeowners Association v. Bank of Ravenswood*, 295 Ill App. 3d 131, 692 N.E. 2d 402 (1998) and the authorities cited in that case.

Because the Developer's right to control the Association (¶7.01 R. p. 47) and the architectural review committee (¶ 1.01 R. p. 37) were personal to the Developer, those rights were extinguished when the Developer conveyed the land and were not resurrected by the purported Assignment.

With respect to bringing the previously undeveloped land into the existing 44 Lot Subdivision, the Court of Appeals concluded that, because the undeveloped land conveyed to McNeal was designated on the Subdivision Plat as "Phase II" and "Future

Development", that it was "already" a part of the Subdivision and no further action was necessary. C*ullen* at 484, 485, 386.

As discussed more completely in a following section, that interpretation conflicts with the provisions of the Declaration that make it clear that the Subdivision included only the 44 Lots shown on the Plat and did not include the "Phase II" and "Future Development" undeveloped property. As more fully discussed later herein, in order for the Developer to develop an additional phase of the Subdivision, so that additional land would be subdivided into "Lots", the "Owners" of which would be Members of the Association, the additional land had to be platted and submitted, and the existing Subdivision Plat amended to reflect the creation of the additional "Lots". In this case, the Developer did not comply with the requirements of the Declarations with respect to submittal of additional phases of development to the existing 44 Lot Subdivision before the subject land was sold and the Developer's right to do so extinguished. Thereafter, no person or entity could exercise such right to add "Lots" to the Subdivision.

Fairways of Country Lakes Townhouse Association v. Shenandoah Development Corporation, 113 Ill. App. 3d 932, 447 N. E. 2d 1367 (Ill. App. 1983) is on point with respect to the right of a developer to annex previously undeveloped land into the subdivision. In *Fairways*, the original developer conveyed undeveloped property to an unrelated entity, which in turn conveyed it to the party to the litigation. Similar to the Declaration here, the restrictive covenants at issue allowed the developer to bring additional property into the development by filing a "Supplemental Declaration" describing the property to be annexed.

The *Fairways* court determined that the right to expand the development was personal to the original developer and that that right was extinguished when it no longer had a property interest in the development.

> This Court has considered analogous provisions which provided for the unilateral modification or revocation of restrictive covenants already imposed upon land by a developer. In those situations, we held that such reserved powers to modify or revoke restrictive covenants contained in a deed are personal covenants which can be exercised only by the one who imposed the restrictions, particularly where the power can be exercised without the consent of the property owners. (internal citations omitted). *In these cases it was determined that once the title to the property passed from the hands of the one holding such a reservation of rights, the power can no longer be exercised by him or any other person notwithstanding that the declaration provided that all covenants were to run with the land.* (internal citations omitted) (emphasis supplied).
>
> We see no basis for interpreting the provisions of the Fairway Declarations differently and consider that the disputed provisions established a personal right to be exercised only by the original developer.
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> * * * * *
>
> *Defendants' argument, taken to its logical conclusion would permit any number of persons who may have acquired portions of the Greens property, instead of the one corporation here, to separately choose to exercise the rights of the developer and annex his property on a piecemeal basis.* (emphasis supplied) Such an intention cannot be found with the Fairway Declarations and we may not supply it.

Fairways at 936, 937, 1370, 1371. *See, also*: *Orange Beach Marina, Inc. v. Warner*, 500 So. 2d 1068 (Ala. 1986) [purported amendment to Declaration by developer ineffective where developer had no continuing interest in the land].

In this case, McNeal, McNeal L.P., and Ratcliff all owned portions of the land formerly owned by the Developer and all purport to be able to take advantage of the Developer's personal rights reserved in the Declaration to control the Association and its architectural review committee and to amend the official Plat to bring the land that they own into the Subdivision. The scenario disapproved by the *Fairways* court is precisely what has occurred in this case and, as in *Fairways*, the Declaration at issue cannot be read to allow subsequent takers of the land to simultaneously exercise the personal rights of the original Developer.

The finding of the Court of Appeals that the Assignment conveyed the personal rights of the Developer to control the Association and its architectural committee and to

expand the Subdivision by amending the Plat to incorporate additional property to the existing 44 Lot development should be reversed.

II.

The Court of Appeals erred when it found that a subsequent land owner could acquire, solely by assignment, the Developer's rights when those rights had already been extinguished, when the clear and unambiguous language of the Declaration requires that a successor developer be one who succeeds to the Developer's interest in the "Property", and when the assignment disclaimed responsibility for the prior acts of the original Developer.

In its Opinion, the Court of Appeals found that McNeal L.P. is the "Successor Developer" with the rights and powers of the Developer as defined in the Declaration, based solely on the June, 2007, Assignment by Porter and Jimmy Porter of "Developer's rights" to McNeal. (R. p. 162). As set forth above, the development rights purportedly assigned to McNeal L.P. by Porter and Jimmy had been extinguished years before when they conveyed to third parties the land to which those rights attached. As a matter of law, in 2007, the Porters no longer had any "developer's rights" to convey to anyone.

Further, it is axiomatic that an unambiguous restrictive covenant must be interpreted strictly, as written, without reliance on extrinsic evidence. *oontz v.* Thomas, 333 S.C. 702, 708, 511 S. E. 2d 407, 410 (Ct. App. 1999). The Declaration unambiguously provides the mechanism for qualifying as a Successor Developer and that mechanism does not contemplate an "assignment" of "rights". The unambiguous language of ¶1.12, of the Declaration (R. p. 605) provides that, in order to act as a Successor Developer, the successor must succeed to the Developer's interest in **all** of the **property** subject to the Declaration and not just acquire Developer's rights through an assignment. The specific language employed in the Declaration imposes the following conditions on who can become a Successor Developer.

a. the successor Developer must succeed to "all of the Property then subject to this Declaration";

b. the instrument conveying the interest in all of the "Property" must designate any such successor as the "Developer"; and

c. the grantor of such conveyance must be the "Developer" at the time of the conveyance is made.

"Property" is defined in ¶ 1.19 of the Declaration by reference to Exhibit A, on which parcels B, C, and D are described. (R. p. 605) [7] It is undisputed that the deeds conveying Parcels B and D to McNeal and McNeal L.P. did not designate either grantee as "Developer" as required by the Declaration. Accordingly, neither McNeal nor McNeal L.P. could exercise the rights of a "Successor Developer" based upon those conveyances. The finding of the Court of Appeals that "there was no requirement that the deeds to Parcels B and D designate McNeal L.P. as a successor developer" ignores the specific requirement of ¶1.12 of the Covenants.

In its Opinion, the Court of Appeals focused on the Assignment as the source of McNeal's ability to act as "Successor Developer". However, that document is not a conveyance of the "Property" as required by the Declaration, but is merely an assignment of purported "rights". In order to be a Successor Developer under the Declaration, ¶1.12 requires that the successor succeed to "all of the *Property then subject to the Declaration"* and not as the Court of Appeals found, simply succeed to purported development "rights". Under the specific and unambiguous language of the Declaration, McNeal L.P. cannot be a Successor Developer because the deeds by which McNeal L.P. acquired the "Property" did not designate it as Successor Developer"; because the grantor of Parcel "B" was McNeal and not the Developer; and because the Assignment was merely an assignment of purported rights; which had long been extinguished and was not a conveyance of an interest in the "Property" subject to the Declaration.

[7] At no point was any Property released from the Covenants. This Court of Appeals suggestion that the Homeowners' argued that the Lots were not subject to the Covenants is factually incorrect.

Equally significant, even if the Assignment was the kind of conveyance contemplated by the Declaration, on the date of the Assignment, McNeal L.P. had already further conveyed a portion of the Property to Ratcliff, who was also purporting to exercise the rights of the "Developer" with respect to its portion of the Property. (R. p. 748)[8]. Under any construction of the facts, McNeal L.P. did not succeed to the Developer's interest in "all of the Property" subject to the Declaration and could not be a Successor Developer of any of the undeveloped land, and especially the undeveloped land owned by Ratcliff.[9]

The Declaration must be construed reasonably. The Declaration unambiguously allows for a Successor Developer, but only if the successor takes "all" of the "Property" subject to the Declaration and only if the conveyance clearly designates that person as the "successor", implying the acceptance of both the rights and the burdens of the Developer. However, the Assignment, by it terms, assigned to McNeal the rights of the Developer, but specifically disavowed any responsibility for the prior acts of the Developer. (R. p. 162) To sanction the grant of the Developer's rights for the benefit of two different entities, neither of which assume responsibility for the previous actions of the Developer, is the utmost in unfairness and cannot be allowed to stand as a valid application of the law in this State.

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[8] The Homeowners further correctly pointed out that, after the original 44 Lots were all sold, no successor could succeed to "all of the Property" subject to the Declaration because the 44 Lots, were all subject to the Declaration and were owned by the Homeowners.

[9] The Supplemental Declaration purported to add lots to the Subdivision that were created by Ratcliff from a part of the property conveyed to him by McNeal. It is undisputed that Ratcliff had no business relationship with Porter, personally, nor any business arrangements to share profits with McNeal, the purported "successor developer". (Ratcliff, R. p. 373, line 6 – p. 375, line17). Neither Porter nor McNeal had any interest in the company owned by Ratcliff. (Ratcliff, R. p. 375, line 15 – p. 376, line 12). The expense of subdividing and developing the undeveloped land into lots for sale was paid by Ratcliff's company. (Ratcliff, R. p. 397, lines 5 -11). All of the profits or losses that relate to the subdivision of the 20 new lots in Phase II inured solely to Ratcliff, his wife, and his bank. (Ratcliff, R. p. 397, line 24 – p. 398, line 7).

The effect of the Opinion of the Court of Appeals is to also allow a unilateral change in the relationship between the Developer and the Homeowners, subjecting them to multiple "Successor Developers". The Declaration identified the Developer. The Homeowners knew when they purchased a Lot who was to be responsible for the Developer's obligations and with whom they would deal. A unilateral change in that relationship by the Developer's "Assignment", years after the Developer no longer had any property or financial interest in the land, essentially rewrites the contract represented by the Declaration and unfairly imposes upon the Homeowners a succession of "developers" with purported "rights", with whom they never agreed to deal, and who have no obligation to them for the prior acts of the Developer. The resulting financial consequences to the Homeowners of that construction of the Declaration is unreasonable and undermines the clear South Carolina precedent that a Developer's rights are deemed personal and extinguished when the Developer no longer has a financial interest at stake.[10]

The Opinion of the Court of Appeals that sanctions two separate entities exercising the personal rights of the Developer without complying with the clear requirements of the Declaration to become the "Successor Developer" and without being responsible for the obligations of the Developer must be reversed.

III.

The Court of Appeals erred in finding that, under the Declaration, the "Subdivision" included portions of the "Property" that had not yet been subdivided into "Lots".

The circuit court was asked to determine whether the undeveloped property was or was not part of the "Subdivision" as that term was used in the Declaration. The result of that analysis is the determination of whether owners of lots ultimately created from the

[10] The Court of Appeals' finding that the Homeowners have not "proved" that a successor developer can take the rights of a developer and disclaim its responsibilities is erroneous. That issue is one of law and not fact, and successor developers have been held liable for their predecessor's obligations. *See*: *Concerned Dunes W. Residents v. Georgia-Pacific Corp.*, 349 S.C. 251, 562 S.E. 2d 633 (2002).

undeveloped property are entitled to become Members of the Association and thereby entitled to use the amenities, particularly the waterfront amenities, that the Association owns.[11] The resolution of this issue requires a careful analysis of the Declaration, which must be strictly construed. Since the Court of Appeals found that the circuit court correctly found the Declaration to be unambiguous, its analysis in reviewing the circuit court's Order should have been confined to the Declaration, itself, without resort to extrinsic evidence.[12]

However, instead of analyzing the language of the Declaration, the Court of Appeals merely affirmed the circuit court's conclusion that the "property" was "already" a part of the "Subdivision". That conclusion not only begs the question presented, but is based upon extrinsic evidence improperly considered by the circuit court and is wholly inconsistent with the provisions of the Declaration which provide a specific mechanism for adding "Lots" to the existing Subdivision.

The critical issue was not whether the undeveloped land was subject to the Declaration, which it definitely was, but whether the undeveloped land that had not yet been subdivided into "Lots" by the Developer and submitted as an additional phase of the development was a part of the "Subdivision" as that term was defined in the Declaration.

The circuit court's Order[13], affirmed by the Court of Appeals, summarily concluded:

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[11] Obviously, that outcome inures only to the benefit of McNeal L.P. and Ratcliff and to the detriment of the Homeowners who were led to believe that theirs was an exclusive, waterfront development.

[12] As pointed out in the Homeowners' Brief in the Court of Appeals, and in the following section, the lower court heavily relied upon extrinsic evidence in interpreting the Declaration, although all parties and the Court of Appeals agreed that the document was unambiguous. The Court of Appeals excuses this clear error by holding that the use of that evidence was to determine the "rights" of the parties, not the "intent" expressed in the Declaration. That is a distinction without a difference.

[13] Without any reference to the applicable provisions of the Declaration, or identifying any ambiguity in it, the circuit court relied upon the testimony of Porter and McNeal, that "Wrights Point was conceived, designed and developed as a "walking community" whereby property owners have access to all amenities and designated common areas, regardless of which phase of the development their properties may be located." The Court of Appeals affirmed that finding. (R. p. 23).

> "Wright's Point development is not confined to the properties within Phase I. I find that the development consists of the four parcels [B, C, D, and 1.7 acres] described in Exhibit "A" attached to the [Declaration] previously described herein."

(R.p.19).

The circuit court apparently reasoned that, if the undeveloped land was subject to the Declaration and described on the official Plat as "Future Development", then no further analysis was required to conclude that it was part of the Subdivision. That conclusion disregards the specific language of the Declaration.

¶ 1.18 the Declaration makes it clear that the "Wrights Point Subdivision" is that depicted by the "Plat", as same may be amended from time to time by the Developer. (¶ 1.18, Exhibit 20, R. p. 605). The only "Lots" depicted on the "Plat" filed by the Developer were the original 44 Lots. (Exhibit 19, R. p. 602). Only "Members" of the Association were permitted to have access to and enjoyment of the property and amenities owned by the Association. (R. p. 608). Membership in the Association is conferred only upon an "Owner". (R. p.609). The Declaration defines "Owner" as one with fee simple title to a "Lot". (R. p. 605). A "Lot" is defined as one of the lots shown on the official Plat. (R. p.605). The "Subdivision" is **not** all of the Property subject to the Declaration but **only** that part which had been subdivided into "Lots" and depicted on the official "Plat".

¶ 2.03 the Declaration provided that the "Subdivision Plat" could be amended by the Developer to subdivide and add additional "Lots" to the Subdivision (Declaration, ¶ 2.03, Exhibit 20, R. p. 607). The Declaration also reserved to the Developer "the right to develop and submit additional phases to this Declaration." (Declaration, ¶ 2.03, Exhibit 20, R. p. 607). The additional phases that could be added to the Subdivision were limited to the undeveloped land described on Exhibit A to the Declaration and any property contiguous thereto. (Declaration, ¶ 2.03, Exhibit 20, R. p. 607).

If undeveloped parcels B and D were *already* a part of the Subdivision, there would have been no reason to require that this same land be subdivided into "Lots" and submitted as an additional phase of the Subdivision pursuant to the "develop and submit" language in ¶2.03 of the Declaration.

It is undisputed by Respondents themselves that, until one month before trial, the Subdivision, as defined in the Declaration, consisted **only** of the 44 Lots as shown on the official Plat, as defined in the Declaration. (R. p. 607; R. p. 286, lines 8-24). Pursuant to the Declaration, the Developer had the right "to develop and submit additional phases ....." to the Subdivision by taking certain specified steps outlined in the Declaration. (R. p. 41).

Consistent with these provisions of the Declaration, the Developer testified that, until a month before trial when the official Plat was purportedly amended, "the only owners within the development were the owners of the forty-four lots depicted on this official plat". (R. p. 294, lines 18-21). The Developer agreed that the owners of the remainder of the real estate subjected to the Declaration, undeveloped parcels B and D, depicted on the official Plat as "Phase II" and "Future Development", were not Members of the Association. (R. p. 291, line 16 – 292, line 4).

Accordingly, Developer, agreed both: (1) that the "Subdivision" was limited at any given point in time to the land that had been subdivided into Lots as shown on the official Plat and (2) that the only persons who were Members of the Association and entitled to use the amenities of the Association were the Owners of the Lots depicted on the official Plat.

Under the Declaration, **only** the "Developer" has the "right" to amend the official Plat and to "develop and submit additional phases" so as to create Lots in the Subdivision in addition to the 44 existing Lots. (R. p. 41). As previously set forth, when Porter and Jimmy divested themselves of the undeveloped land, the Developer's personal "right" granted by the Declaration to "develop and submit" additional phases to the Subdivision

was extinguished. Accordingly as of 2002, the right to amend the official Plat to add additional "Lots" and to expand the number of "Members" in the Subdivision was extinguished and no future owner of the undeveloped land could create and incorporate additional Lots into the Subdivision.

Even if that right had not been extinguished, the evidence established that there has been no compliance with the explicit provisions of the Declaration for adding Lots to the Subdivision. The specific terms of the Declaration provide that the undeveloped land could be brought into the Subdivision and the Owners of those newly created lots become Members of the Association only through compliance with the "develop and submit" language of the Declaration.

The language used in the Declaration clearly contemplates that if phases in addition to the 44 Lots are to be "submitted", they must first be "developed" [14] and then the inclusion documented by:

> . . .filing a copy of the plat signed by the Developer showing such additional phases or in the alternative filing with the Clerk of Court for Beaufort County, South Carolina his intention to add additional phases to the development.

(R. p. 607).

There was no evidence that any "plat signed by the Developer", other than the original one showing the 44 Lots, had ever been filed. In fact, the only amended plat filed concerning the undeveloped land was filed by Richard Ratcliff, who purchased the land from McNeal L.P. and who was not and has never contended to be the "Developer" as defined in the Declaration. (R. p. 289, line 1-17)[15].

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[14] "Development" contemplates the platting of lots and installation of the infrastructure necessary to support a residential or commercial community not merely ownership of raw land.

[15] Neither Porter, the original Developer, nor McNeal L.P., the purported successor developer, had any interest in the 20 lots in Phase II that the Ratcliff purported to "develop and submit". Ratcliff was not the Developer or a successor developer, and thus had no right under the Covenants to "develop and submit" additional "Lots" to the development or to make the owners of such lots "Members" of the Association. Porter testified that he had no

The unambiguous provisions of the Declaration allowed the "Developer", and not some third party, to develop and submit additional Lots to the Subdivision and provided the mechanism by which it could be accomplished. The evidence demonstrated that there was no compliance with the specific requirements of the Declaration to add additional Lots to the existing Subdivision.

This construction of the Declaration is perfectly consistent with the practical difference between a "Lot" and the other undeveloped property subject to the Declaration. The Declaration imposes restrictions and obligations and confers privileges only upon Lots and the Owners of Lots.

The obligation to pay assessments to the Association is imposed only upon Owners of a "Lot". (Declaration, ¶8.02, R. p. 614). Only the Developer, the Association and the Owners (and not the owners of the undeveloped or Phase II land) benefit from the reservation of the easements created in ¶ 3.02, 3.03, and 3.04 of the Declaration. (R. p. 607 – 608). Only Owners of Lots have the right to the use and enjoyment of the common areas owned by the Association. (Declaration, ¶ 3.04, R. p. 608)

Only Lots are subject to the jurisdiction of the architectural review committee. (Declaration, ¶ 9.01, R. p. 618). Only Lots are subjected to use restrictions. (Declaration, ¶ 10.01, R. p. 620). The Declaration specifically provides that the Declaration is for the benefit of the Developer, the "Owners" of Lots within the Subdivision, and their mortgagees, and specifically provides that no third party shall have any rights in the "Property" (which includes the undeveloped parcels) or in the operation or continuation thereof or in the enforcement of any of the provisions hereof... and that the "Owners" shall

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responsibility for any of the expenses of Phase II and no legal right to the income or profits of Phase II (Porter, R. p. 323, lines17 - 21; Porter, R. p. 324, lines 7 - 13).

have the right to change the provisions of this Declaration without the approval of any adjoining owner or third party. (Declaration, ¶2.01, Exhibit 20, R. p. 628).

The unambiguous provisions of the Declaration provide that only the Owners of platted Lots are entitled to the benefits conferred by the Declaration and the obligations imposed. Unless the Developer exercised his personal right to develop the additional Property described in the Declaration, amend the Plat, and create more "Lots", no such rights or obligations would flow to owners of any of that undeveloped land, without regard to whether it was subject to the Declaration or not. The Developer did not do so before he divested himself of that land and that right was extinguished.

This result is not an undue burden on McNeal, McNeal L.P., Ratcliff or any future takers of the undeveloped land. Read as a whole, the Declarations govern the use of Lots and the operation of the Association, the Members of which are only the "Owners" of "Lots". They do not control the use or operation of the undeveloped parcels. Not one aspect of the Declarations imposes any significant restriction or obligation upon that land since none of it was ever subdivided into "Lots" and added as a phase of the Subdivision. That is why the Declaration provides that the land that Developer acquired from Lewis H. Wright and/or Mary P. Logan (undeveloped parcels "B" and "D") could be developed and submitted as additional phases "to this Declaration". (Declaration, ¶2.03, Exhibit 20, R. p. 607).

Likewise, the Declarations do not confer any benefits upon the undeveloped land. Any future owner is not materially restricted in its use of the Property by the Declarations, but neither is it entitled to piggy-back upon the benefits enjoyed by Owners who are

Members of the Association and who bear the costs of maintaining the Association property.[16]

The Court of Appeals Opinion should be reversed and this Court should find that, under the unambiguous provisions of the Declarations, only the "Developer" had the ability to "develop" and "submit" additional portions of the Property to the Subdivision, that that right was extinguished when the Developer sold the remaining Property subject to the Declaration, and that, in any event, there was no compliance with the specific requirements of the Declaration for bringing additional Lots into the Subdivision.

IV.

The Court of Appeals erred in failing to apply the rule of law that, after the time reasonably necessary to protect its financial interest in a development, a developer has a duty to transfer control of the affairs of the Subdivision to the homeowners whose financial interests are at stake.

The Court of Appeals failed to address the Homeowners' argument that, when the Developer no longer had any financial interest in the Subdivision, his right to control the affairs of the Subdivision and the Association that owns the common areas terminates in favor of the property owners. By 2002, neither Porter nor Jimmy personally had any financial interest in the development or in the undeveloped property that had been conveyed to McNeal and McNeal L.P. by that time. When a developer is no longer at risk, financially, he must surrender control to the owners, who then have the financial risk associated with the ownership of property.

> (2) After the time reasonably necessary to protect its interests in completing and marketing the project, the developer has a duty to transfer the common property to the association, or the members, and to turn over control of the association to the members other than the developer.

Restatement (Third) of Property: Servitudes, § 6.19 (2005).

[16] The value of doing so is obvious. The Association owns waterfront amenities which the Owners and Members are entitled to use and enjoy. The land acquired by McNeal, McNeal L.P., and Ratcliff would clearly be more valuable with access to the amenities that have been maintained by the Owners of the 44 Lots.

The principle that a developer's rights terminate when he no longer has a financial interest in the development has been recognized in South Carolina and other jurisdictions in a variety of contexts. *See: Queen's Grant II Horizontal Property Regime v. Greenwood Development* Corp., 368 SC 342, 362-363, 628 SE 2d 902, 914 (Ct. App. 2006) [when a developer no longer has any property interest in the development, a reserved right to amend restrictive covenants is extinguished]; *Orange Beach Marina, Inc. v. Warner*, 500 So. 2d 1068 (Ala. 1986) [purported amendment to covenants by developer ineffective where developer had no continuing interest in the land]. *Smith v. First Savings of Louisiana, FSA*, 575 So. 2d 1033 (Ala. 1991) [when developer divested himself of any remaining proprietary or pecuniary interest in the development, homeowners allowed to amend covenants and remove him as the sole member of the architectural control committee]; *Beaver Lake Ass'n. v. Beaver Lake Corp.*, 264 N.W. 2d 871 (Neb. 1978) [by-law provision allowing the developer to assert control of association board of directors nullified after developer divested itself of unsold lots].

In its Opinion affirming the circuit court, the Court of Appeals condoned the continuing control of both the Association, which owned and was responsible for maintaining all of the common areas in the 44 Lot Subdivision, and the architectural review committee in the Subdivision, by a Developer who personally had no financial interest in the development and by a purported successor developer who had no financial interest in the Subdivision, had not validly acquired any of the Developer's rights, and specifically denied any responsibility to the Owners of the 44 Lots for the prior actions of the original Developer. In reaching its conclusion, the Court of Appeals did not even address the rule articulated in the Restatement cited above or any of the case law authorities cited above, all of which had been provided to it in Petitioner's briefing. Because the Opinion of the Court

of Appeals sanctions a breach of the duty to turn over control and conflicts with the applicable precedent, the Opinion of the Court of Appeals must be reversed.

V.

The Court of Appeals erred when it failed to apply the basic principles of contract construction and simultaneously found the Declaration to be unambiguous, but affirmed the circuit court's reliance on extrinsic evidence to construe and interpret them.

In its Opinion, the Court of Appeals found that the circuit court found the Declarations unambiguous and "properly interpreted the Declarations in accordance with the rules of construction".[17] The Court of Appeals then found that "While the circuit court relied upon evidence presented at trial in its order, the evidence relied upon was used to determine the rights of both parties pursuant to the Declarations. The circuit court did not use extrinsic evidence to ascertain the intention of the parties." *Cullen* at 384, 482.

That aspect of its Opinion is nonsensical. The rights of the parties stem from the Declaration. Those rights, in an unambiguous document, are determined from the document itself, and not from extrinsic evidence. The consideration of extrinsic evidence was error and this Court of Appeals should have rejected the circuit court's reliance upon such evidence. The Declaration should have been applied in accordance with its clear language and strictly construed with all doubts resolved against restrictions. *Koontz v. Thomas,* 333 S.C. 702, 708, 511 S.E. 2d 407, 410 (Ct. App. 1999); *Arcadian Shores Single Family Homeowners Association, Inc. v. Cromer,* 373 S.C. 292, 299, 644 S.E. 2d 778, 782 (Ct. App. 2007), *reh. denied.*

The assertion by the Court of Appeals in its Opinion that the circuit court did not use extrinsic evidence "to ascertain the intention of the parties" is plainly wrong.

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[17] At no point in its Order did the circuit court actually make any finding with respect to the threshold inquiry of whether the Declaration, or any aspect of it, was or was not ambiguous. The Court of Appeals supplies that omission and finds "where the language of the contracts was clear and unambiguous" that the circuit court must have considered the Declaration unambiguous. The position of the Respondents also was that the Declaration was unambiguous. (Respondents/Appellants Final Brief, p. 17).

On the issue of who was the "Developer", the circuit court relied upon the testimony of Anthony Porter as to his intent, as well as on the "Supplemental Declaration", which was signed by the Developer years after conveying the land and which purported to modify covenants on land that the Developer did not own. (R. p. 21, 22). After first finding that the circuit court had construed the Declaration as unambiguous, the Court of Appeals then affirmed the conclusion of the circuit court with respect to the definition of "Developer" on the basis of evidence wholly extrinsic to the Declaration. As recited by the Court of Appeals, the circuit court relied upon the testimony of Anthony Porter that it was his "intention" that Jimmy Porter be included within the definition of "Developer".

Under Article 1, ¶ 1.12, the definition of Developer is set forth:

"Developer" *shall mean and refer to (a) Anthony R. Porter…..*

(R. p. 39)

No extrinsic evidence could be considered to vary or contradict this clear definition and nothing within the non-operative sections of the Declaration can change that definition. The Court of Appeals erred when it affirmed the circuit court that found otherwise.

The circuit court also relied upon the testimony of Anthony Porter with respect to his intent on the issue of control of the Association, rather than confining its analysis to the provisions of the Declaration itself. (R. p. 15, 16). The circuit court relied upon "documentary and testimonial evidence" to resolve the issue of whether, under the Declaration, additional lots could be annexed to the existing Subdivision, rather than limiting the analysis to the purportedly unambiguous Declaration. (R. p. 19). Rather than interpreting the Declaration with respect to who were "Members" of the "Association" and thus entitled to the use of amenities owned by the Association, even though the Declaration is clear on that point, the circuit court relied upon the testimony of Porter and McNeal as to their "intention". (R. p. 23).

There is no legal difference between using extrinsic evidence to determine the rights of the parties pursuant to the Declaration and using such evidence to determine intent. Any use of extrinsic evidence to interpret rights under an unambiguous Declaration violates the rules of construction and is error.

Since the Court of Appeals found the Declaration unambiguous, it cannot affirm the circuit court's construction of it based on extrinsic evidence. *South Carolina Department of Natural Resources v. Town of McClellanville*, 345 S. C. 617, 623, 550 S. E. 2d 299, 302-303 (2001).

The Opinion of the Court of Appeals must be reversed since it erroneously affirmed the use of extrinsic evidence to construe the unambiguous Declaration.

CONCLUSION

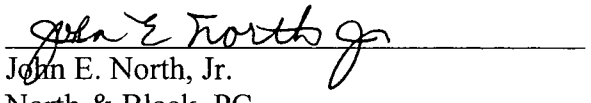
The Opinion of the Court of Appeals conflicts with the precedent of this Court, with its own prior holdings, and with the well established rule of law that, after the "Developer" conveyed his interest in the property to which the Declaration applied, the personal rights reserved to the Developer in the Declaration were extinguished and could no longer be exercised by any subsequent owner of the land. Despite the finding that the Declaration was unambiguous, the Court of Appeals approved the reliance of the circuit court on clearly extrinsic evidence in deciding the issues presented to it and ignored the clear language of the Declaration that should have protected the Homeowners from dealing with a succession of developers claiming the rights, but not the obligations, of the original Developer.

For all of the reasons set forth herein, the Petitioners respectfully request that this Court reverse the Opinion of the Court of Appeals, and declare that, after the Developer had conveyed his interest in the Property, the personal rights reserved to him in the Declaration to add that portion of the Property to the Subdivision and to continue to control

the Association and the architectural review committee had been extinguished. The Petitioners further request that this Court hold that the purported Assignment by which third parties seek to obtain the benefit of the Developer's personal rights was a nullity and that the purported successor developer did not in any other way succeed to the Developers rights under the Declaration. The Petitioners further request that this Court hold that the Subdivision consists solely of the original 44 Lots platted by the Developer and that the right to control the Association belongs to the Owners of those 44 Lots. Finally, the Petitioners request that this matter be remanded to the circuit court for an award of attorney fees and expenses as the successful parties pursuant to S.C. Code § 33-7-400.

Respectfully submitted,

Robert L. Cullen, Andrew A. Corriveau, and Andrea Hucks, Petitioners



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STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen Tevis Mullen, Circuit Court Judge
Civil Action No.: 2004-CP-07-633
390 S.C. 470, 702 S.E. 2d 378 (Ct. App. 2010)

Robert L. Cullen, Andrew A. Corriveau,
and Andrea Hucks,.....Petitioners,

v.

J. Bennett McNeal, B. McNeal Partnership, L.P.,
Anthony R. Porter, and Wright's Point Home
Owners Association,.....Respondents.

PROOF OF SERVICE

I hereby certify that on August 6, 2014, I served a copy of the Petitioners' Brief on Certiorari via United States Mail, first class, postage prepaid, addressed as follows:

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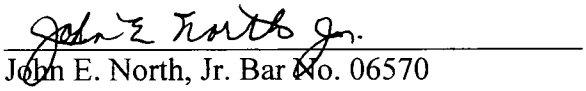
Robert L. Cullen, Andrew A. Corriveau, and
Andrea Hucks, Petitioners



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